TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM November 14, 2016

TO: Mayor and Board of Commissioners

FROM: Debora P. Diaz, Town Manager

REF: Public Hearing

1. Proposed amendment to beach nourishment municipal service district and first required vote (Attached PH-1)

The Town proposes to remove 13 properties from the established municipal service district (MSD), and to adopt a map depicting the new boundaries of the MSD. This map will reflect removal of a total of 37 properties from the established MSD, including 24 properties that were removed from the district on June 2, 2016 in Consent Judgments as a result of compromise settlement of litigation matters. All 37 of these properties are within or adjacent to the southern-most 1,000 linear feet of the MSD, commonly known as *The Taper*. Within *The Taper* properties were designated to receive lesser amounts of nourishing sand than the properties within the district to the north, outside of *The Taper*. *The Taper* properties were taxed at the same rate as properties within the district receiving the full benefit of sand placement.

At the conclusion of the public hearing, the Board of Commissioners' first vote on the attached ordinance, *An Ordinance Reducing the Town of Kill Devil Hills, North Carolina Beach Erosion Control and Flood and Hurricane Works Municipal Service District, including four exhibits: A – properties removed as a result of Consent Judgments; B – properties to be removed by adoption of the ordinance; C – map depiction of all properties; and, D – map depiction of the revised MSD*, will be appropriate, and a motion will be in order.

The second vote will be scheduled for Monday, December 12, 2016.

TOWN OF KILL DEVIL HILLS

Land Where Flight Began

TOWN OF KILL DEVIL HILLS, NORTH CAROLINA
NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENTS TO THE BEACH NOURISHMENT
MUNICIPAL SERVICE DISTRICT

NOTICE is hereby given that on Monday, November 14, 2016 at 5:30 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road, the Kill Devil Hills Board of Commissioners will hold a public hearing to consider amending the Municipal Service District (MSD) related to the Town of Kill Devil Hills beach erosion control and flood and hurricane protection works project.

The Town proposes to remove 13 properties from the established MSD, and to adopt a new map depicting the new boundaries of the MSD. The new map will reflect removal of 37 properties, in total, from the established MSD. Of the 37 properties being removed, 24 properties were removed from the MSD as of July 1, 2016 as a result of Consent Judgments filed in particular Dare County court actions on June 2, 2016. The Town has determined that, as a result of the aforesaid court judgments, the remaining 13 properties are required to be removed from the MSD. No other changes to the Municipal Service District are proposed.

The new MSD map, including documentation on all the said properties' removal from the MSD, is available for public inspection at the Administration Building, in the Office of the Town Clerk, 102 Town Hall Drive, Kill Devil Hills, NC 27948, during normal business hours, 8 am – 5 pm, Monday thru Friday, 252-449-5302. It may also be viewed on the Town's website, www.kdhnc.com, and on the Town's Facebook page. Further, a copy of the new map will be available for public inspection in the Dare County Branch Library in Kill Devil Hills, 400 Mustian Street, off Colington Road.

Any persons desiring to be heard on the proposed removal of 13 properties from the established MSD related to the Town of Kill Devil Hills beach erosion control and flood and hurricane protection works project should appear at the time and place specified above.

Posted this 26th day of October 2016.

Mary E. Quidley
Town Clerk

Copies to: Mayor and Board of Commissioners, TM, TA in their packet materials; all department heads; all Town bulletin boards; KDH Sunshine List, including all local news media; KDH Electronic Distribution List; Facebook; website; file

ATTACHMENT PH-1

Ordinance Number _____

AN ORDINANCE REDUCING THE
TOWN OF KILL DEVIL HILLS, NORTH CAROLINA
BEACH EROSION CONTROL AND
FLOOD AND HURRICANE WORKS MUNICIPAL SERVICE DISTRICT

WHEREAS, Chapter 160A, Article 23 of the North Carolina General Statutes sets forth the rules and procedures with which municipalities within the State of North Carolina must comply in order to establish a municipal service district; and

WHEREAS, the statutes provide that the town may define a service district for the purpose of beach erosion control and flood and hurricane protection works; and

WHEREAS, in response to a need for action in order to protect structures of historic significance, maintain tax and economic base, protect town infrastructure including facilities for public recreational access the Board of Commissioners of the Town of Kill Devil Hills formally defined and adopted a municipal service district by resolution at the conclusion of a public hearing held during a regular meeting on Monday, April 13, 2015; and

WHEREAS, the beach erosion control and flood and hurricane protection works project, overall, entails dredging and placement of approximately 911,600 cubic yards of sand along 2.6 miles of Kill Devil Hills' northern beaches, with a tapering of the amount of sand to occur in the southern-most area approximately 1,000 feet ending just north of Prospect Avenue, commonly known as "The Taper" portion of the project; and

WHEREAS, owners, in legal actions, separately and together, of 24 (twenty-four) properties, which are identified in Exhibit A, hereby attached to and made a part of this ordinance, which are located within or adjacent to The Taper, disputed the need and the benefit associated with the sand to be placed on their properties; and

WHEREAS, in compromise settlement of the disputed claims, and directed by court order, those 24 properties were removed from the service district on the 2nd day of June 2016; and

WHEREAS, there remain 13 (thirteen) properties, for a total of 37 parcels lying on 30 pieces of land within the original approximately 1,000 feet of The Taper, which are identified in Exhibit B, hereby attached to and made a part of this ordinance; and

WHEREAS, the Board of Commissioners of the Town of Kill Devil Hills acknowledges that when the municipal service district was established properties within The Taper were designated to receive lesser amounts of nourishing sand than the properties within the district to the north, and outside of The Taper, yet were also to be taxed at the same rate as properties within the district receiving the full benefit of sand placement; and,

WHEREAS, in response to the removal of the 24 properties as shown on Exhibit A and in order to promote and preserve a uniform application of the tax associated with the heretofore named municipal service district, the Board of Commissioners of the Town of Kill Devil Hills has determined that it is necessary to remove the 13 properties as shown on Exhibit B from the initially established municipal service district; and,

WHEREAS, subsequent to the adoption of this ordinance, the 13 properties as shown on Exhibit B shall no longer be subject to the tax associated with the heretofore named municipal service district for the tax year 2017 and moving forward; and,

WHEREAS, the Town of Kill Devil Hills has taken all measures mandated by Chapter 160A-538.1, Article 23 of the North Carolina General Statutes as it relates to reducing service districts.

NOW THEREFORE, for this reason, and also in order to create one contiguous tract that includes all properties located within or adjacent to the original approximately 1,000 feet of The Taper in accordance with the findings stated above, and designated by Exhibits A and B and a map delineating the inclusive tract which is a total of 37 parcels lying on 30 properties identified as Exhibit C, hereby attached to and made a part of this ordinance, the Board of Commissioners hereby ordains and adopts:

AN ORDINANCE AMENDING THE TOWN OF
KILL DEVIL HILLS, NORTH CAROLINA
BEACH EROSION CONTROL AND FLOOD AND
HURRICANE WORKS MUNICIPAL SERVICE DISTRICT

Table of Special Ordinances.

Table III. Beach Erosion Control and Flood and Hurricane Works Municipal Service District [Beach Nourishment] amendment.

Section One.

To amend the Town of Kill Devil Hills' Municipal Service District for the purpose and in the manner so stated above by removing 13 properties from The Taper, designated in Exhibit B; to adopt a map, Exhibit C, which represents and illustrates the total 37 parcels, 24 identified in Exhibit A (removed from the Municipal Service District previously by court order), and, 13 identified in Exhibit B (to be removed by adoption of this ordinance); and, to adopt a new map, Town of Kill Devil Hills Beach and Erosion Control and Flood and Hurricane Protection Works Municipal Service District Amended 2016, Exhibit D, which is hereby attached to and made a part of this ordinance.

This amendment to the Town of Kill Devil Hills Town Code shall be in full force and effect from and after the _____ day of _____, 2016. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills by two separate votes at two consecutive public meetings held on the ___ day of _____, 2016 by a vote of _____ in favor and _____ opposed; and, the _____ day of _____, 2016 by a vote of _____ in favor and _____ opposed.

SEAL

_____
Sheila F. Davies
Mayor

ATTEST:

_____
Mary E. Quidley, Town Clerk

APPROVED AS TO FORM:

_____
Casey C. Varnell, Town Attorney

The undersigned hereby certifies that the foregoing official ordinance designated AN ORDINANCE AMENDING THE TOWN OF KILL DEVIL HILLS, NORTH CAROLINA BEACH EROSION CONTROL AND FLOOD AND HURRICANE WORKS MUNICIPAL SERVICE DISTRICT was placed in the Kill Devil Hills Town Code Book on the _____ day of _____, 2016 at _____ .m.

_____
Mary E. Quidley, Town Clerk

EXHIBIT A

PIN	PARCEL	No.	UNIT No.		STREET	OWNER	Ownership	
988415645827	004050000	1315		N	VA DARE TRL	MORRISON FARM ASSOC LIMITED PARTNERSHIP	95%	NORTH
988415645827	004050000	1315		N	VA DARE TRL	MORRISON FARM ASSOC II LTD PARTNERSHIP	5%	
988415645772	004054001	1309		N	VA DARE TRL	MORRISON FARM ASSOC LIMITED PARTNERSHIP	95%	
988415645772	004054001	1309		N	VA DARE TRL	MORRISON FARM ASSOC II LTD PARTNERSHIP	5%	
988415645698	004054000	1305		N	VA DARE TRL	MORRISON FARM ASSOC LIMITED PARTNERSHIP	95%	
988415645698	004054000	1305		N	VA DARE TRL	MORRISON FARM ASSOC II LTD PARTNERSHIP	5%	
988415646556	004055000	1303		N	VA DARE TRL	MORRISON FARM ASSOC II LTD PARTNERSHIP	95%	
988415646556	004055000	1303		N	VA DARE TRL	MORRISON, MYRA NEAL	5%	
988415649477	004076000	1215			WINDSONG WAY	STEPHENSON, FAYE E.	100%	
988415740403	004077000	1213			WINDSONG WAY	TIME OUT 25, LLC	100%	
988415648304	004078000	1211			WINDSONG WAY	KOTCHEY, IRENE N CO-TRUSTEES & KENNETH C	100%	
988415648206	004057001	1203		N	VA DARE TRL	BUONTEMPO, RICHARD A & MARGARET M	100%	
988415648212	004057000	1201		N	VA DARE TRL	SEAGARD PROPERTIES, LLC	100%	
988415649035	003711000	1111		N	VA DARE TRL	LAMBODERA HOLDING	100%	
988415639968	003710000	1109		N	VA DARE TRL	6/5 DEFENSE, LLC & EURE FAMILY, LLC	100%	
988415639994	009156000	1105		N	VA DARE TRL	OH WELL LLC	100%	
988415730827	003709000	1103		N	VA DARE TRL	GASTON INVESTMENTS, INC	100%	
988415730851	003708000	1101		N	VA DARE TRL	RMW INVESTMENTS LLC	100%	
988415732739	008078000	1023C		N	VA DARE TRL	FOUR ROSES, LLC	100%	
988415730628	008077000	1023B		N	VA DARE TRL	JACKSON, GEORGE S & BLAIR F	100%	
988415639633	008076000	1023A		N	VA DARE TRL	TEMPLE, MARY LOU KIMBALL TRUSTEE	100%	
98841573165201	003707102	1019	102	N	VA DARE TRL	MOST, CHARLES J JR CO-TRUSTEES & TINA MARIE	100%	
98841573165202	003707103	1019	103	N	VA DARE TRL	BERTTULA, RAYMOND EUGENE & SCHADE, CYNTHIA B	100%	
98841573165203	003707100	1019	100	N	VA DARE TRL	HOBBS, LINDA A TRUSTEE of the LINDA HOBBS TURST U/A 9/17/04	100%	
98841573165205	003707300	1019	300	N	VA DARE TRL	HAMILTON, JENIFER A	100%	
98841573165206	003707101	1019	101	N	VA DARE TRL	BOHON, WILLIAM R SR & DONNA	100%	
98841573165207	003707201	1019	201	N	VA DARE TRL	CHESSMAN, RANDOLPH M & BETSY R	50%	
98841573165207	003707201	1019	201	N	VA DARE TRL	SARSFIELD, DEREK R & AUDREY C	50%	
98841573165208	003707301	1019	301	N	VA DARE TRL	WOODSON, THOMAS L & PATRICIA M	100%	SOUTH

Spring 2016

Exhibit A

EXHIBIT B

PIN	PARCEL	No.	UNIT No.	STREET	OWNER	Ownership
988415645861	004052000	1311	N	VA DARE TRL	BRADLEY, NANCY WEYL	100%
988415645317	004070000	1229		WINDSONG WAY	KING, TODD WHITE	100%
988415645481	004071000	1227		WINDSONG WAY	MCGINN, MICHAEL J & GAIL J	100%
988415646444	004072000	1225		WINDSONG WAY	FERGUSON, JANET ANDREWS	100%
988415647419	004073000	1223		WINDSONG WAY	WINTON, JOSEPH E & DOROTHY A	100%
988415649536	004074000	1219		WINDSONG WAY	KILL DEVIL HILLS, LLC	100%
988415649542	004075000	1217		WINDSONG WAY	JAMISON, BERNARD F TRUSTEES & STEIGER, JAMES G	100%
988415647321	004079000	1209		WINDSONG WAY	DREAM TIME OBX LLC	100%
988415646257	004080000	1207		WINDSONG WAY	BIRDSONG, WILLIAM MCLEMORE & ELIZABETH CARROLL	100%
988415645284	004081000	1205		WINDSONG WAY	WRIGHT, GARY & LINDA M	100%
988415648184	003712000	1115	N	VA DARE TRL	OMPG1, LLC	100%
988415648098	003711007	1113	N	VA DARE TRL	BIAANU OMMG LLC	100%
98841573165204	003707200	1019	200 N	VA DARE TRL	KELLY, MAUREEN T	100%

Fall 2016

Exhibit B

2016 Town of Kill Devil Hills
Beach Erosion Control and Flood and Hurricane Protection Works Municipal Service District Amendment

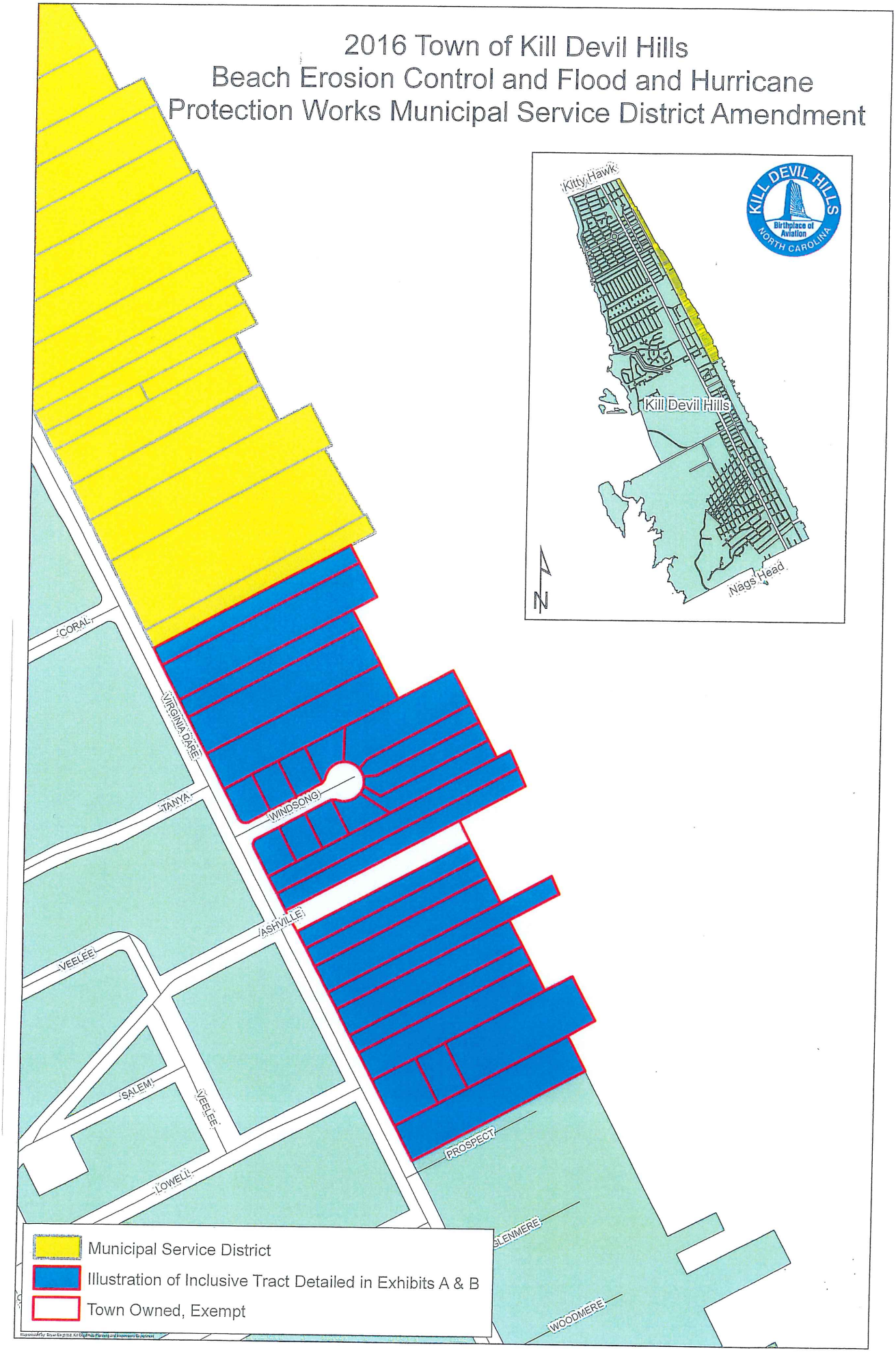

Exhibit C

Town of Kill Devil Hills
Beach Erosion Control and Flood and Hurricane Protection Works Municipal Service District Reduction

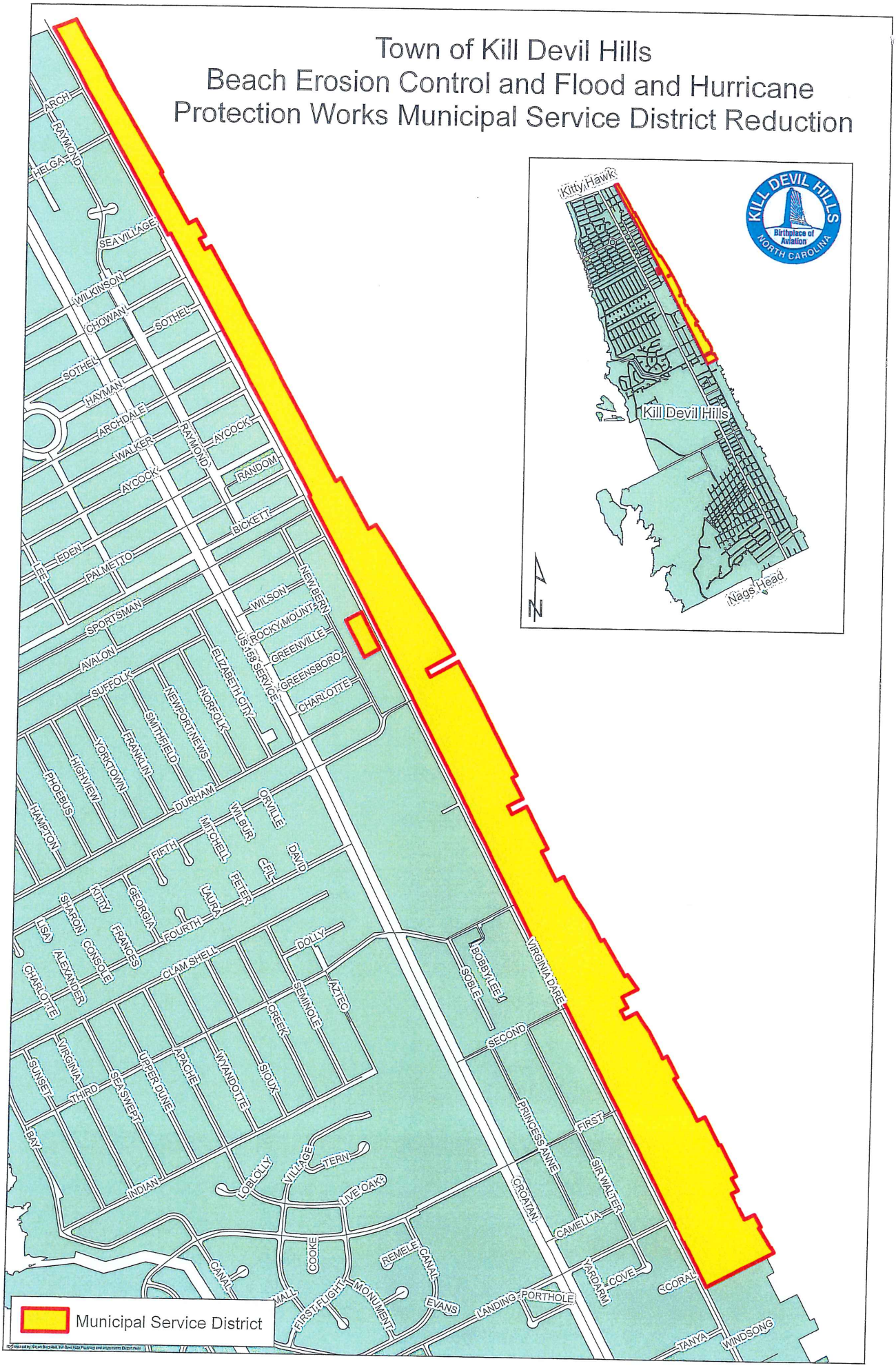

Exhibit D