

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 21 May 2008

SUBJECT: Agreement with volunteer fire departments

ATTACHMENT(S): Proposed Agreement

SUMMARY OF REQUEST:

On 16 April 2008, representatives of Henderson County's volunteer fire departments proposed an agreement whereby *ad valorem* property tax rates for the County's fire districts would be unaltered as a result of the change by the Board of Commissioners from the *per capita* to the *ad valorem* method of local option sales tax distribution, and the fire departments would give up to the County their shares of the local option sales tax receipts. Attached is a proposed agreement.

Highlights of the agreement include:

- 1) *Ad valorem* fire district property tax rates remaining at fiscal year 2008 levels.
- 2) Henderson County retaining all the local option sales tax revenue otherwise payable to the fire districts.
- 3) An annual term, which automatically renews unless either (i) the county or (ii) seven of the fire departments notify the other parties of their intent to not renew.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Consideration of the proposed agreement.

If the Board is so inclined, the following motion is suggested:

I move that the Board enter into the proposed Agreement with Henderson County's Volunteer Fire Departments which is attached to this agenda item.



AGREEMENT

THIS AGREEMENT is made this the _____ day of _____, 2008, by and between the County of Henderson, a body corporate and politic, by and through its Board of Commissioners (hereafter “the County”) and Bat Cave Volunteer Fire and Rescue Department, Inc., a North Carolina nonprofit corporation, Blue Ridge Fire & Rescue, Inc., a North Carolina nonprofit corporation, Dana Volunteer Fire and Rescue Department, Inc., a North Carolina nonprofit corporation, Edneyville Volunteer Fire and Rescue Department, Inc., a North Carolina nonprofit corporation, Etowah-Horseshoe Volunteer Fire Department, Inc., a North Carolina nonprofit corporation, Fletcher Fire and Rescue Department, Inc., a North Carolina nonprofit corporation, Gerton Volunteer Fire Department and Rescue, Inc., a North Carolina nonprofit corporation, Green River Volunteer Fire & Rescue Department, Inc., a North Carolina nonprofit corporation, Mills River Fire & Rescue Department, Inc., a North Carolina nonprofit corporation, Mountain Home Fire & Rescue Department, Inc., a North Carolina nonprofit corporation, Saluda Volunteer Fire & Rescue, Inc., a North Carolina nonprofit corporation, and Valley Hill Volunteer Fire and Rescue Department, Inc., a North Carolina nonprofit corporation (hereafter the twelve (12) nonprofit corporations are “the Departments”).

Statement of Facts and Circumstances

1. Pursuant to various special elections held over the years, thirteen (13) fire protection districts were formed within Henderson County, North Carolina, each authorizing the County to levy and collect a special *ad valorem* tax on all taxable property in each such district, at rates which vary among the districts.

2. Pursuant to N.C. Gen. Stat. §69-25.5, the County provides fire protection within the thirteen (13) fire protection districts by contracting with the Departments, paying over to them all of the special *ad valorem* taxes collected within the districts contracted for by each of the Departments (less a prorated assessment to each for a fire training facility operated by the County). The County contracted with the Departments for the fire protection districts as follows:

<u>Fire District</u>	<u>Department</u>
Bat Cave	Bat Cave Volunteer Fire and Rescue Department, Inc.
Blue Ridge	Blue Ridge Fire & Rescue, Inc.
Dana	Dana Volunteer Fire and Rescue Department, Inc.
Edneyville	Edneyville Volunteer Fire and Rescue Department, Inc.
Etowah-Horseshoe	Etowah-Horseshoe Volunteer Fire Department, Inc.
Fletcher	Fletcher Fire and Rescue Department, Inc.
Gerton	Gerton Volunteer Fire Department and Rescue, Inc.
Green River	Green River Volunteer Fire & Rescue Department, Inc.
Mills River	Mills River Fire & Rescue Department, Inc.
Mountain Home	Mountain Home Fire & Rescue Department, Inc.
Raven Rock	Saluda Volunteer Fire & Rescue, Inc.
Valley Hill	Valley Hill Volunteer Fire and Rescue Department, Inc.
Valley Hill II	Valley Hill Volunteer Fire and Rescue Department, Inc.

3. Beginning with the 2008-2009 fiscal year, the County will elect the “*ad valorem* method” of distribution of local option sales taxes between the County, its municipalities and the other districts levying *ad valorem* property taxes within Henderson County (including the fire protection districts) under Chapter 105 of the North Carolina General Statutes.

4. Under the “*ad valorem* method” of distribution of local option sales taxes, each fire protection district receives a prorated share of the total local option sales tax revenue, based upon each district’s share of the total of all *ad valorem* property taxes levied in the previous fiscal year by all taxing authorities within Henderson County (including the County, its municipalities, any special tax districts, and the fire protection districts).

5. Under the “*ad valorem* method” of distribution of local option sales taxes, the County would reduce the amount of *ad valorem* property taxes to be received in the 2008-2009 fiscal year by the fire protection districts (by reducing the tax rate within such districts), such that the new *ad valorem* property taxes, when added to the anticipated local option sales tax revenue to be received by such districts, approximates the amount of revenue which would otherwise be generated, in the absence of the local option sales tax revenues, by the *ad valorem* property tax alone in such districts.

6. This rate resetting would result in a lower portion of sales tax revenue being allocated to the fire protection districts in the 2009-2010 fiscal year, requiring the *ad valorem* property tax rate for the fire protection districts to be increased for the 2009-2010 fiscal year to maintain even revenue neutral status.

7. The annual raising and lowering of the tax rate in the fire protection districts would continue for a period of several years, even if local option sales tax revenue was not subject to annual fluctuation.

8. Local option sales tax revenue is subject to significant fluctuation from year to year, while *ad valorem* property tax revenue, presuming an unchanged tax rate, is a far more stable funding source.

9. In order to maintain high-quality fire protection service for the residents of the fire protection districts, the Departments require stable funding. Stability is required to allow them to purchase needed equipment (often on long-term, financed contracts) and supplies.

10. The experience of the Departments is that the best method of funding the fire protection needs of the fire protection districts to maintain high-quality fire protection is by *ad valorem* property tax alone.

11. The Departments have requested that the County not adjust the fire tax rates within the fire protection districts based on the local option sales tax revenues to be received by the Departments as a result of the County’s election of the “*ad valorem* method” of local option sales tax revenue under Chapter 105 of the North Carolina General Statutes. In return, the Departments have proposed that the County retain all of the local option sales tax revenue allocable to the fire protection districts.

12. The County is in agreement with the proposal of the Departments, and this agreement is to memorialize this agreement.

Statement of Agreement

1. The County shall not adjust the property tax rates within the fire protection districts based on the County's election of the "*ad valorem* method" of local option sales tax revenue under Chapter 105 of the North Carolina General Statutes.

2. The County shall retain all of the local option sales tax revenue otherwise payable to the fire protection districts or the Departments.

3. This agreement shall be in effect for the 2008-2009 fiscal year.

4. This agreement shall automatically renew from fiscal year to fiscal year unless either (i) the County or (ii) any seven (7) of the Departments give notice to all other parties of their intent to terminate the agreement by not later than the fifteen day of January next prior to the beginning of the fiscal year for which the agreement is to be terminated.

5. This agreement shall be deemed to have been prepared equally by the parties hereto and shall not be construed more strictly against any of them.

6. This agreement constitutes the entire agreement of the parties hereto and may not be amended or terminated except as is stated herein or by a written instrument, duly approved by resolution of all of the parties.

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IN WITNESS WHEREOF, this Agreement was executed by all parties on or before the date first above indicated.

HENDERSON COUNTY

By: _____
Chairman, Board of Commissioners

Attest:

Clerk to the Board of Commissioners

BAT CAVE VOLUNTEER FIRE AND RESCUE
DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

BLUE RIDGE FIRE & RESCUE, INC.

By: _____
President

Attest:

Secretary

DANA VOLUNTEER FIRE AND RESCUE
DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

EDNEYVILLE VOLUNTEER FIRE AND RESCUE
DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

ETOWAH-HORSESHOE VOLUNTEER FIRE
DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

FLETCHER FIRE AND RESCUE DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

GERTON VOLUNTEER FIRE DEPARTMENT AND
RESCUE, INC.

By: _____
President

Attest:

Secretary

GREEN RIVER VOLUNTEER FIRE & RESCUE
DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

MILLS RIVER FIRE & RESCUE DEPARTMENT, INC.

By: _____
President

Attest:

Secretary

MOUNTAIN HOME FIRE & RESCUE DEPARTMENT,
INC.

By: _____
President

Attest:

Secretary

SALUDA VOLUNTEER FIRE & RESCUE, INC.

By: _____
President

Attest:

Secretary

VALLEY HILL VOLUNTEER FIRE AND RESCUE
DEPARTMENT, INC.

By: _____
President

Attest:

Secretary