

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: September 5, 2017

SUBJECT: Mills River Fire and Rescue, Inc. Tax Exempt Loan Agreement

PRESENTER: Fire Marshal, Kevin Waldrup

ATTACHMENTS: 1) Resolution for First Citizens Bank
2) Mills River Fire & Rescue Public Hearing Notice

SUMMARY OF REQUEST:

At the May 16, 2017 Meeting of the Fire and Rescue Advisory Committee, Mills River Fire & Rescue presented a proposal to purchase a new Engine/ Pumper as part of their FY 17-18 budget. The total amount financed will be \$571,000 at a fixed interest rate of 2.45% for 7 years. Mills River Fire & Rescue held a public hearing to discuss the loan agreement on July 10, 2017 at 7:00 p.m. at their department.

As part of the budget process the Fire & Rescue Advisory Committee has unanimously approved the purchase of the truck.

Mills River Fire & Rescue respectfully request the Board of Commissioners adopt the attached resolution for the financing with First Citizens Bank.

BOARD ACTION REQUESTED:

The Board is requested to approved the attached resolution for First Citizen's Bank for a tax-exempt loan.

Suggested Motion:

I move the Board approve the attached resolution to First Citizen's Bank on behalf of Mills River Fire & Rescue.

COUNTY APPROVAL

STATE OF NORTH CAROLINA
COUNTY OF Henderson

CERTIFICATE OF CLERK RE APPROVAL OF TAX-EXEMPT LOAN TO VOLUNTEER FIRE DEPARTMENT BY BOARD OF COMMISSIONERS

The undersigned, being the duly qualified Clerk of Henderson County, North Carolina, does hereby certify that the following is a true and accurate copy of a Resolution passed by the Board of Commissioners of Henderson County, North Carolina, at its regular/special meeting on the 5th day of September, 2017, which Resolution was duly introduced, seconded, and approved, and that said Resolution remains in full force and effect:

"NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Commissioners of Henderson County, North Carolina does hereby approve (within the scope of the qualifying language set forth below) a tax-exempt loan to the Mills River Fire & Rescue, Inc. [name of Volunteer Fire Department] (the "VFD") from First-Citizens Bank & Trust Company in the principal amount of \$ 571,000.00, which loan is for the following purpose (check applicable purpose):

1. for the construction of a fire station for the VFD, (cross out the following if not applicable) including the purchase of the underlying real property.
2. the purchase by the VFD of a fire truck or fire trucks, and

which fire truck(s) and/or fire station will be owned and operated by the VFD at the following address:

121 School House Road
(Street Address)
Mills River North Carolina 28759
(City and State)

RESOLVED, FURTHER, that the approval of the loan to the VFD set forth above is given solely for purposes of the public approval requirements for tax-exempt financing applicable to the VFD because of Section 150(e)(3) and Section 147(f) of the Internal Revenue Code of 1986, as amended, and such approval does not obligate the County or its Board of Commissioners in any way regarding repayment of the debt."

Duly certified by the execution hereof and the placing hereon of the seal of the said County, this the 5th day of September, 2017.

(Clerk's Seal)

CLERK
Henderson County, North Carolina

CERTIFICATION OF PUBLICATION

I, Alex Brown, affirming the following under the penalties of perjury state:

I am employed by Times-News, an affiliate of Gatehouse Media. The Times-News is a daily newspaper of general circulation published in the city of Hendersonville, county of Henderson, and state of North Carolina. I hereby certify that the advertisement annexed hereto was published in the editions of The Times-News on the following date or dates:

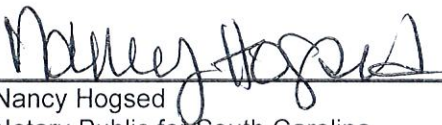
6/21

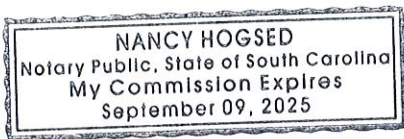
6/28

And that the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

(Signed) 
Alex Brown

Sworn to and subscribed before me
this 28th day of June, 2017.


Nancy Hogsed
Notary Public for South Carolina
My commission expires on: September 9th, 2025



NC VFD 13

NOTICE OF PROPOSED TAX-EXEMPT LOAN TO VOLUNTEER FIRE DEPARTMENT

TO ALL MEMBERS OF THE GENERAL PUBLIC WHO RESIDE WITHIN THE FIRE DISTRICT OF THE MILLS RIVER FIRE & RESCUE ("VFD"). A public hearing will be held on July 10, 2017 at 7 o'clock p.m. at Mills River Fire & Rescue, 121 Schoolhouse Road, Mills River, North Carolina for the purpose of approving a proposed tax-exempt loan by First-Citizens Bank & Trust Company to the VFD. At this meeting, you may submit written comments or participate orally. All members of the public are invited to attend. In connection with this public meeting, please note the following:

PURPOSE OF LOAN: The purchase of a fire truck or fire trucks.

AMOUNT OF LOAN: The maximum principal amount of the loan is \$571,000.

The VFD will own and operate the station or fire truck(s) to be financed at the VFD's address which is: 121 Schoolhouse Road, Mills River, NC 28759.

6/21, 6/28 590585

CERTIFICATE OF PUBLIC HEARING

I, the President/Vice President of the Mills River Fire & Rescue
[name of the Volunteer Fire Department] (the "VFD"), hereby certify to First-Citizens Bank & Trust Company that I, acting on behalf of the VFD, caused public notice to be published in at least one newspaper of general circulation available to residents within the jurisdiction of the VFD (attached hereto is the original **Affidavit of Publication** from the newspaper evidencing such notice); that the aforementioned public notice was published once a week for two successive calendar weeks (on the same weekday of each of the two weeks), with the first publication date at least fourteen days, but not more than thirty days, before the date of the public hearing; that the aforementioned public notice invited interested members of the general public to express their views, orally and in writing, regarding a proposed tax-exempt loan from First-Citizens Bank & Trust Company to the VFD; that I conducted said public meeting on the day, place and time as provided in the published notice; and that I provided a summary of any comments received from the general public at the public hearing regarding the proposed loan to the person(s) actually approving the loan prior to such approval.

Harold B. Nelson

Signature of President/Vice President

Harold B Nelson

Print or Type Name

MILLS RIVER FIRE & RESCUE

PUBLIC HEARING

July 10, 2017

Attached is the certification of publication advertising the public hearing concerning the \$571,000 maximum tax exempt loan for the purchase of a new fire apparatus.

The public hearing was held on 7/10/17 at 7 pm at Mills River Fire & Rescue. The Board Secretary was present at the hearing. There were no written or oral comments presented.

Submitted by, J.F. Edwards, Board Secretary

A handwritten signature in black ink, appearing to read "J.F. Edwards", written in a cursive style.

CERTIFICATE OF PUBLIC HEARING

I, the President/Vice President of the Mills River Fire & Rescue
[name of the Volunteer Fire Department] (the "VFD"), hereby certify to First-Citizens Bank & Trust Company that I, acting on behalf of the VFD, caused public notice to be published in at least one newspaper of general circulation available to residents within the jurisdiction of the VFD (attached hereto is the original **Affidavit of Publication** from the newspaper evidencing such notice); that the aforementioned public notice was published once a week for two successive calendar weeks (on the same weekday of each of the two weeks), with the first publication date at least fourteen days, but not more than thirty days, before the date of the public hearing; that the aforementioned public notice invited interested members of the general public to express their views, orally and in writing, regarding a proposed tax-exempt loan from First-Citizens Bank & Trust Company to the VFD; that I conducted said public meeting on the day, place and time as provided in the published notice; and that I provided a summary of any comments received from the general public at the public hearing regarding the proposed loan to the person(s) actually approving the loan prior to such approval.


Signature of President/Vice President

Howard B Alvarez
Print or Type Name

MILLS RIVER FIRE & RESCUE

PUBLIC HEARING

July 10, 2017

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Submitted by, J.F. Edwards, Board Secretary

A handwritten signature in black ink, appearing to read "J.F. Edwards", written in a cursive style.

**CERTIFIED COPY OF CORPORATE RESOLUTIONS TO AUTHORIZE
TAX-EXEMPT LOAN TO VOLUNTEER FIRE DEPARTMENT
TO PURCHASE A FIRE TRUCK(S)**

Mills River Fire & Rescue
(Name of Volunteer Fire Department)

I, the undersigned, do certify to First-Citizens Bank & Trust Company (the "Bank"):

- (i) that I am the Secretary/Assistant Secretary of the above-named Volunteer Fire Department (the "VFD"),
- (ii) that the VFD is a nonprofit corporation duly organized and existing under the laws of the State of North Carolina that has been approved by the Internal Revenue Service as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"),
- (iii) that Dr. Howard B. Norton is the President/Vice President of the VFD,
- (iv) that the following is a true copy of the resolutions duly adopted by the Board of Directors of the VFD effective on the 5 day of June, 2017,
- (v) that the following resolutions were adopted (check and initial one of the following)
 - 17 E at a duly authorized and held meeting of the Board of Directors at which a quorum was present and proper notice was given, OR
 - _____ by unanimous written consent, and
- (vi) that such resolutions have not been rescinded or modified and such resolutions are still in full force and effect:

WHEREAS, the Board of Directors of the VFD has determined that it is in the best interests of the VFD to borrow money from Bank to purchase a fire truck(s); and,

WHEREAS, in order to induce Bank to make said loan, the VFD is willing to grant to Bank a security interest in said fire truck(s) or such other property as may be satisfactory to Bank; and,

WHEREAS, Bank is willing to make said loan to the VFD; and,

WHEREAS, both Bank and the VFD intend that the interest to be received by Bank be considered tax-exempt interest pursuant to Section 103 of the Code.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the VFD is authorized to borrow from Bank the sum of \$ _____ to be used for the purchase of a fire truck(s); and,

RESOLVED FURTHER, that the VFD is authorized in connection with such loan to grant to Bank a security interest in said fire truck(s) or other property; and,

RESOLVED FURTHER, that the President/Vice President of the VFD, in conjunction with the Secretary/Assistant Secretary, as appropriate, are authorized to execute notes, security agreements and other documentation required by Bank on behalf of the VFD in connection with said loan, including without limitation, a Registered Promissory Note, a Security Agreement, the Internal Revenue Service Form 8038-G or 8038-GC, a Tax-Exempt Agreement, a Non-Arbitrage Certificate and a Certificate of Public Hearing; and,

RESOLVED FURTHER, that the Secretary/Assistant Secretary of the VFD be, and hereby is, authorized to certify to Bank the foregoing resolutions and that the provisions thereof are in conformity with the Articles of Incorporation and bylaws of the VFD and that there is no provision in the Articles of Incorporation or bylaws of the VFD limiting the power of the Board of Directors on behalf of the VFD to borrow the aforementioned sum from Bank and to give the aforementioned security therefor; and,

RESOLVED FURTHER, that the Secretary/Assistant Secretary of the VFD be, and hereby is, authorized to certify to Bank that Dr. Howard B. Norton is President/Vice President of the VFD; and,

RESOLVED FURTHER, that the appropriate officers of the VFD be, and hereby are, authorized to take all other steps necessary and desirable in connection with effecting the transactions contemplated by these resolutions.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said VFD, this the 5th day of June, 2017.

J. Fred Edward
Secretary

(Corporate Seal)

MILLS RIVER FIRE & RESCUE
MONTHLY BOARD MEETING MINUTES

June 5, 2017

Bids were previously accepted and reviewed for a new engine. The Board approved the purchase of an E-One Emax Pumper with accessories at an approximate cost of \$571,000. Jerry Moore recused himself from the discussion and vote. The apparatus will be financed with First Citizens Bank for 7 years at 2.45% interest. We will try to schedule the required public hearing for 7/10/17.

After receiving similar verbal HVAC contract quotes from Nicholson and the other from Comfort Solutions of WNC, the Board voted and authorized Treasurer, Joe Fowler to decide after both written quotes are received.

Chief Livingston will set up a visit for the Board to see the Pleasant Valley Fire Station on a Sunday afternoon. This station is similar to the one we are considering building in the future.

The following Board members were present:

Dr. Howard Norton Jerry Moore Joe Fowler John Benjamin

Tony Corn Fred Edwards Gary Livingston Jason Davis

Scott Burnette

Submitted by, J.F. Edwards, Board Secretary



TRANSMITTAL LETTER FOR
NOTICE OF PROPOSED TAX-EXEMPT
FINANCING FOR VOLUNTEER FIRE DEPARTMENT

6/2/17

Times-News
P.O. Box 490
Hendersonville, N.C. 28793

RE: Notice of Public Hearing

Ladies and Gentlemen:

Please publish the enclosed Notice of Proposed Tax-Exempt Loan to Mills River Fire & Rescue [name of the Volunteer Fire Department] once a week for two successive calendar weeks (on the same week day of each of the two weeks), with the first publication date to be at least 14 days, but not more than 30 days, before the date of the public hearing in the enclosed Notice.

Please send the billing statement for this service directly to the undersigned together with the Affidavit of Publication. If it is necessary to make payment before the Affidavit can be issued, please notify me immediately.

Yours very truly,

Mills River Volunteer Fire Department

By: Howard B. Norton
Signature

Print Name: Howard B. Norton

VFD Address: 121 Schoolhouse Rd.
Mills River, N.C. 28759

**NOTICE OF PROPOSED TAX-EXEMPT LOAN
TO VOLUNTEER FIRE DEPARTMENT**

TO ALL MEMBERS OF THE GENERAL PUBLIC WHO RESIDE WITHIN THE FIRE DISTRICT OF
THE Mills River Fire & Rescue [name of the Volunteer Fire Department]
("VFD"). A public hearing will be held on July 10, 2017, at 7 o'clock p.m. at
[include name of building (and room number, if applicable), street address and city or town]
Mills River Fire & Rescue, 121 Schoolhouse Rd., Mills River, NC
North Carolina for the purpose of approving a proposed tax-exempt loan by First-Citizens Bank & Trust
Company to the VFD. At this meeting, you may submit written comments or participate orally. All
members of the public are invited to attend. In connection with this public meeting, please note the
following:

1. **PURPOSE OF LOAN** (check applicable purpose):
 - (a) For the construction of a fire station for the VFD, (**cross out the following if not applicable**) including the purchase of land upon which the fire department will be built.
 - (b) The purchase of a fire truck or fire trucks.
2. **AMOUNT OF LOAN:** The maximum principal amount of the loan is \$ 571,000.

The VFD will own and operate the station or fire truck(s) to be financed at the VFD's address which is:

121 Schoolhouse Rd.
(Street Address)

Mills River, N.C. 28759
(City and State)