



# Gaston County

Gaston County  
Board of Commissioners  
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## County Attorney

### Board Action

File #: 17-127

Public Hearing - RE: Commissioner Brown - County Attorney - To Approve Issuance by the Public Finance Authority of its Education Revenue Bonds (Mountain Island Charter School) Series 2017 in an Aggregate Principal Amount Not to Exceed \$45,000,000

#### STAFF CONTACT

Charles L. Moore - County Attorney - (704) 866-3194

#### BUDGET IMPACT

N/A

#### BUDGET ORDINANCE IMPACT

N/A

#### BACKGROUND

Mountain Island Charter School is pursuing a bond financing through the Public Finance Authority, a national issuer, to refinance its existing tax exempt bonds and to finance the construction of additional improvements on its campus. In order to complete the financing, the tax code requires that there be a public hearing held by the elected officials of the jurisdiction in which the project is located, followed by a resolution approving the issuance of the Bonds for purposes of the Code ("TEFRA approval").

#### POLICY IMPACT

N/A

#### ATTACHMENTS

Resolution

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	Brown	Fraley	Grant	Hovis	Kelgher	Philbeck	Worley	Vote
2017-096	04/25/2017	TP	TK	A	A	A	A	A	A	A	U

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A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

## EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

A regular meeting of the Board of Commissioners of the County of Gaston, North Carolina (the "Board") was held in the Harley B. Gaston, Jr., Public Forum, Gaston County Courthouse, 325 Dr. Martin Luther King Jr. Way, Gastonia, North Carolina 28052, at 6:00 p.m. on April 25, 2017, after proper notice, and was called to order by the Chairman.

Present: Chairman Chad Brown presided with Commissioners Ronnie Worley, Vice-Chairman; Allen R. Fraley, Don Grant, Bob Hovis, Tom Keigher and Tracy L. Philbeck

Absent: \_\_\_\_\_

\* \* \* \* \*

At 6:00 p.m., the Chairman announced that the Board would proceed to hold a public hearing and would hear anyone who wished to be heard on the proposed issuance by the Public Finance Authority, a public authority existing under the laws of the State of Wisconsin (the "Authority"), of its Education Revenue Bonds (Mountain Island Charter School) Series 2017 (the "Series 2017 Bonds"), in an aggregate principal amount not to exceed \$45,000,000, the proceeds of which will be loaned to Mountain Island Charter School SOAR Foundation, a North Carolina nonprofit corporation (the "Borrower").

The proceeds of the Series 2017 Bonds will be used to (i) refund the outstanding principal amount of the North Carolina Capital Facilities Financing Agency Educational Facilities Revenue Bond (Mountain Island Charter School Project) Series 2013 (the "Series 2013 Bond"), (ii) refund the North Carolina Capital Facilities Finance Agency Educational Facilities Revenue Bond (Mountain Island Charter School Project) Series 2014 (the "Series 2014 Bond" and, together with the Series 2013 Bond, the "Prior Bonds"), and (iii) finance the acquisition, construction, improvement, and equipping of certain educational facilities of Mountain Island Charter School, Inc., on its campus located at 13440 Lucia Riverbend Highway (the "Campus"), including the construction of an approximately 75,800 square foot two-story elementary school building and related outdoor play spaces, renovation of the Administration Building to add additional classrooms; the construction of site and roadway improvements to include traffic control measures at the intersection of Lucia Riverbend Highway and State Hwy 16, removal of modular classroom buildings located on the Campus; the construction of athletic facilities, including a track and internal field, baseball and softball fields and related site improvements located on the Campus and/or on unimproved land located north of Johnson Street, northeast of Henderson Street, southwest of State Hwy 16 and west of Catawba Street in Mount Holly, Gaston County, North Carolina (collectively, the "Facilities"). The proceeds of the Prior Bonds were also used to acquire, construct and equip site improvements, road improvements and buildings on the Campus.

On April 11, 2017, a notice of public hearing was published in the *Gaston Gazette*, a copy of the affidavit of publication being attached, setting forth a general, functional description of the type and use of the facilities to be financed or refinanced, the maximum principal amount of the Series 2017 Bonds, the initial owner and operator of the Facilities and the location of the Facilities, among other things.

After the Board had heard all persons who had requested to be heard, the public hearing was closed. A certificate and summary of remarks made at the public hearing is attached.

Commissioner Brown introduced the following resolution, a copy of which had been distributed to each Commissioner and the title of which appeared on the agenda:

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF GASTON, NORTH CAROLINA, APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF ITS EDUCATION REVENUE BONDS (MOUNTAIN ISLAND CHARTER SCHOOL) SERIES 2017 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$45,000,000**

**WHEREAS**, Mountain Island Charter School SOAR Foundation, a North Carolina nonprofit corporation (the "Borrower"), has requested that the Public Finance Authority, a public authority existing under the laws of the State of Wisconsin (the "Authority"), issue its Education Revenue Bonds (Mountain Island Charter School) Series 2017 (the "Series 2017 Bonds"), in an aggregate principal amount not to exceed \$45,000,000, and loan the proceeds thereof to the Borrower to (i) refund the outstanding principal amount of the North Carolina Capital Facilities Financing Agency Educational Facilities Revenue Bond (Mountain Island Charter School Project) Series 2013 (the "Series 2013 Bond"), (ii) refund the North Carolina Capital Facilities Finance Agency Educational Facilities Revenue Bond (Mountain Island Charter School Project) Series 2014 (the "Series 2014 Bond" and, together with the Series 2013 Bond, the "Prior Bonds"), and (iii) finance the acquisition, construction, improvement, and equipping of certain educational facilities of Mountain Island Charter School, Inc., on its campus located at 13440 Lucia Riverbend Highway (the "Campus"), including the construction of an approximately 75,800 square foot two-story elementary school building and related outdoor play spaces, renovation of the Administration Building to add additional classrooms; the construction of site and roadway improvements to include traffic control measures at the intersection of Lucia Riverbend Highway and State Hwy 16, removal of modular classroom buildings located on the Campus; the construction of athletic facilities, including a track and internal field, baseball and softball fields and related site improvements located on the Campus and/or on unimproved land located north of Johnson Street, northeast of Henderson Street, southwest of State Hwy 16 and west of Catawba Street in Mount Holly, Gaston County, North Carolina (collectively, the "Facilities");

**WHEREAS**, pursuant to Section 147(f) of the Code, prior to their issuance, the Series 2017 Bonds are required to be approved by the "applicable elected representative" of a governmental unit having jurisdiction over the area in which the Facilities are located, after a public hearing held following reasonable public notice;

**WHEREAS**, pursuant to Section 66.0304(11)(a) of the Wisconsin Statutes, prior to their issuance, bonds issued by the Authority must be approved by the governing body or highest ranking executive or administrator of the political jurisdiction within whose boundaries the Facilities are to be located;

**WHEREAS**, the Board of Commissioners (the "Board") of the County of Gaston, North Carolina (the "County") is the "applicable elected representative" of the County under the Code for the Facilities located within the County;

**WHEREAS**, the Borrower has requested that the Board approve the Authority's issuance of the Series 2017 Bonds and the financing or refinancing of the Facilities located within the County in order to satisfy the requirements of Section 147(f) of the Code;

**WHEREAS**, the Borrower has requested that the Board approve the financing or refinancing of the Facilities and the issuance of the Series 2017 Bonds in order to satisfy the requirements of Section 4 of the Amended and Restated Joint Exercise of Powers Agreement Relating to the Public Finance

Authority, dated as of September 28, 2010 (the "Joint Exercise Agreement"), and Section 66.0304(11)(a) of the Wisconsin Statutes;

**WHEREAS**, the Board, following notice duly given in the form attached hereto as Exhibit A (the "TEFRA Notice"), held a public hearing today regarding the Authority's issuance of the Series 2017 Bonds and the financing or refinancing of the Facilities and now desires to approve the Authority's issuance of the Series 2017 Bonds and the financing or refinancing of the Facilities in accordance with the Code;

**WHEREAS**, the Series 2017 Bonds shall not be deemed to constitute a debt or the County or a pledge of the faith and credit of the County, but shall be special limited obligations of the Authority payable solely from the loan repayments to be made by the Borrower to the Authority, and shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power of the County is pledged to the payment of the principal of or interest on the Series 2017 Bonds; and

**WHEREAS**, the Board of Commissioners has determined that approval of the issuance of the Series 2017 Bonds is to satisfy the requirements of Section 147(f) of the Code, Section 66.0304(11)(a) of the Wisconsin Statutes, and Section 4 of the Joint Exercise Agreement, and shall in no event constitute an endorsement of the Series 2017 Bonds or the Facilities or the creditworthiness of the Borrower, nor shall such approval in any event be construed to obligate the County for the payment of the principal of or premium or interest on the Series 2017 Bonds or for the performance of any pledge, mortgage or obligation or agreement of any kind whatsoever which may be undertaken by the Authority, or to constitute the Series 2017 Bonds or any of the agreements or obligations of the Authority an indebtedness of the County, within the meaning of any constitutional or statutory provision whatsoever;

**BE IT RESOLVED** by the Board as follows:

**Section 1.** Pursuant to and in accordance with the requirements of Section 147(f) of the Code and Section 66.0304(11)(a) of the Wisconsin Statutes and Section 4 of the Joint Exercise Agreement, the Board hereby approves (a) the Authority's issuance of the Series 2017 Bonds in an aggregate principal amount not to exceed \$45,000,000 and (b) the financing or refinancing of the Facilities.

**Section 2.** The County has no responsibility for the payment of the principal of or interest on the Series 2017 Bonds or for any costs incurred by the Borrower with respect to the Series 2017 Bonds or the Facilities.

**Section 3.** This resolution is effective immediately on its passage.

On motion of Commissioner Philbeck, seconded by Commissioner Keigher, the foregoing resolution entitled "**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF GASTON, NORTH CAROLINA, APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF ITS EDUCATION REVENUE BONDS (MOUNTAIN ISLAND CHARTER SCHOOL) SERIES 2017 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$45,000,000**" was duly adopted by the following vote:

AYES: COMMISSIONERS BROWN, WORLEY, KEIGHER, PHILBECK, HOVIS, GRANT AND FRALEY

NAYS: NONE

STATE OF NORTH CAROLINA

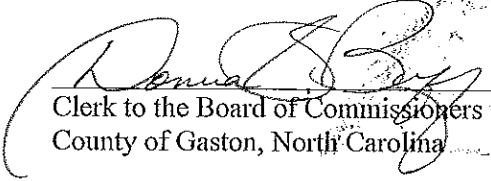
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ss:

COUNTY OF GASTON )

I, Donna S. Buff, Clerk to the Board of Commissioners of the County of Gaston, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true copy of so much of the proceedings of the Board of Commissioners of the County of Gaston, North Carolina at a regular meeting held on April 25, 2017, as it relates to the adoption of a resolution entitled "RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF GASTON, NORTH CAROLINA, APPROVING THE ISSUANCE BY THE PUBLIC FINANCE AUTHORITY OF ITS EDUCATION REVENUE BONDS (MOUNTAIN ISLAND CHARTER SCHOOL) SERIES 2017 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$45,000,000" and the holding of a public hearing related thereto, and that said proceedings will be recorded in the minutes of the Board of Commissioners of the County of Gaston, North Carolina.

WITNESS my hand and the seal of the County of Gaston, North Carolina, this the 25<sup>th</sup> day of April, 2017.

  
Clerk to the Board of Commissioners  
County of Gaston, North Carolina

(SEAL)

## EXHIBIT A - FORM OF TEFRA NOTICE

NOTICE OF PUBLIC HEARING  
FOR THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF GASTON, NORTH CAROLINA  
WITH RESPECT TO EDUCATION REVENUE BONDS  
(MOUNTAIN ISLAND CHARTER SCHOOL) SERIES 2017  
TO BE ISSUED BY THE PUBLIC FINANCE AUTHORITY  
IN AN AMOUNT NOT TO EXCEED  
\$45,000,000

Notice is hereby given that on April 25, 2017, a public hearing, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), will be held by the Board of Commissioners of the County of Gaston, North Carolina (the "Board") with respect to the proposed issuance by the Public Finance Authority (the "Authority"), a commission organized under and pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes, as amended, of its Education Revenue Bonds (Mountain Island Charter School) Series 2017, in one or more series (the "Series 2017 Bonds"), in an amount not to exceed \$45,000,000. The hearing will commence at 6:00 p.m., or as soon thereafter as the matter can be heard, and will be held in the Harley B. Gaston, Jr., Public Forum, Gaston County Courthouse, 325 Dr. Martin Luther King Jr. Way, Gastonia, NC 28052.

The Series 2017 Bonds are expected to be issued pursuant to Section 66.0304 of the Wisconsin Statutes, as amended, by the Authority, and the proceeds from the sale of the Series 2017 Bonds will be loaned to Mountain Island Charter School SOAR Foundation, a North Carolina nonprofit corporation (the "Borrower"), and used to (i) refund the outstanding principal amount of the North Carolina Capital Facilities Financing Agency Educational Facilities Revenue Bond (Mountain Island Charter School Project) Series 2013 (the "Series 2013 Bond"), (ii) refund the North Carolina Capital Facilities Finance Agency Educational Facilities Revenue Bond (Mountain Island Charter School Project) Series 2014 (the "Series 2014 Bond" and, together with the Series 2013 Bond, the "Prior Bonds"), and (iii) finance the acquisition, construction, improvement, and equipping of certain educational facilities of Mountain Island Charter School, Inc. ("MICS"), on its campus located at 13440 Lucia Riverbend Highway (the "Campus"), including the construction of an approximately 75,800 square foot two-story elementary school building and related outdoor play spaces, renovation of the Administration Building to add additional classrooms; the construction of site and roadway improvements to include traffic control measures at the intersection of Lucia Riverbend Highway and State Hwy 16, removal of modular classroom buildings located on the Campus; the construction of athletic facilities, including a track and internal field, baseball and softball fields and related site improvements located on the Campus and/or on unimproved land located north of Johnson Street, northeast of Henderson Street, southwest of State Hwy 16 and west of Catawba Street in Mount Holly, Gaston County, North Carolina (collectively, the "Facilities").

The Facilities are located or to be located at 13440 Lucia Riverbend Highway, Mount Holly, Gaston County, North Carolina and/or on unimproved land located north of Johnson Street, northeast of Henderson Street, southwest of State Hwy 16 and west of Catawba Street in Mount Holly, Gaston County, North Carolina. The Facilities are or will be owned by the Borrower and leased to and operated by MICS.

The Series 2017 Bonds will be special limited obligations of the Authority payable solely from the loan repayments to be made by the Borrower to the Authority, and certain funds and accounts established by the bond indenture for the Series 2017 Bonds.

The public hearing will provide an opportunity for all interested persons to express their views, both orally and in writing, on the proposed issuance of the Series 2017 Bonds and the financing or refinancing of the Facilities. Any person interested in the issuance of the Series 2017 Bonds may appear and be heard or submit written comments. Any person wishing to submit written comments regarding the proposed issuance of the Series 2017 Bonds, the financing or refinancing of the Facilities or any matter related thereto should do so within 10 days after the date of publication of this notice by mailing said written comments to the Board of Commissioners, c/o the Clerk to the Board of Commissioners of Gaston County, North Carolina, P.O. Box 1578 Gastonia, NC 28053-1578. This notice is given pursuant to the provisions of Section 147 of the Code. Additional information concerning the Facilities may be obtained from Mountain Island Charter School, 13440 Lucia Riverbend Hwy, Mount Holly, North Carolina 28120.

Clerk to the Board of Commissioners of Gaston  
County, North Carolina

Certificate and Summary

The undersigned Clerk of the Board of Commissioners of Gaston County, North Carolina, hereby certifies:

1. Notice of a public hearing (the "Hearing") to be held on April 25, 2017, with respect to the issuance of a Bond by the Public Finance Authority (the "Authority") for the benefit of Mountain Island Charter School SOAR Foundation, Inc. (the "Borrower") was published on April 11, 2017, in the *Gaston Gazette*.

2. The presiding officer of the Hearing was Chairman Brown.

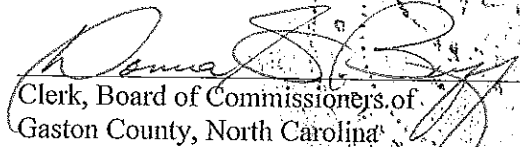
3. The following is a list of the names and addresses of all persons who spoke at the Hearing:

None heard.

4. The following is a summary of the oral comments made at the Hearing:

None heard.

IN WITNESS WHEREOF, my hand and the seal of Gaston County, this 25th day of April, 2017.

  
Clerk, Board of Commissioners of  
Gaston County, North Carolina

(SEAL)