

HABERSHAM COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY

SUBJECT: TEFRA Hearing – Piedmont University Bond

DATE: May 4, 2023

☒ **RECOMMENDATION**

☐ **POLICY DISCUSSION**

BUDGET INFORMATION:

☐ **STATUS REPORT**

ANNUAL-

☐ **OTHER**

CAPITAL-

COMMISSION ACTION REQUESTED ON: May 15, 2023

PURPOSE: The action being requested to be taken by the Habersham County Commissioners at the meeting on May 15 is to approve the TEFRA hearing that was held earlier on May 15 which is a technical requirement of the US tax code to continue the tax-exempt status of the payments on the Piedmont University bond financing which benefits both the school and South State Bank. The hearing is set to allow the public to comment on the proposed industrial revenue bond financing. It is anticipated, as is usually the case, that no one from the public will appear and there will be no comment from the public.

BACKGROUND / HISTORY: The Habersham County Development Authority (“Authority”), pursuant to a Bond Resolution adopted February 7, 2013 (the “Bond Resolution”) entered into a Loan Agreement (the “Loan Agreement”), dated as of February 1, 2013, with Piedmont University, Inc. (f/k/a Piedmont College, the “Borrower”), a Georgia nonprofit corporation, and in connection therewith the Authority issued its \$10,000,000 principal face amount Bond (Piedmont College Project) Series 2013 (the “Bond”) and loaned the proceeds from the sale of such obligation to the Borrower to finance or refinance the cost of acquiring, constructing and installing the facilities referred to in the Loan Agreement (the “Project”) and under the terms of the Loan Agreement, the Authority receives payments from the Borrower, which are assigned and pledged to the holder of the Bond (the “Bondholder”), currently South State Bank, as security for the payment of the principal of, premium (if any) and interest on the Bond, pursuant to the Loan Agreement; and at the request of the Borrower and the Bondholder, the Authority has previously entered into a First Amendment to Bond and Loan Agreement dated as of August 31, 2017 (the “First Amendment to Bond and Loan Agreement”) with respect to such documents in order to revise the amortization payment amounts on the Bond and for other related purposes; and at the request of the Borrower and the Bondholder, the Authority has also previously entered into a Second Amendment to Bond and Loan Agreement dated as of March 1, 2023 (the “Second Amendment to Bond and Loan Agreement”) with respect to such documents in order to extend the maturity date of the Bond to June 1, 2023, to change the rate of interest applicable to the Bond to 6.0%, to provide for amortization of the Bond during the extension period and for other related purposes; and, at the request of the Borrower and the Bondholder, the Authority has now determined to enter into a Third Amendment to Bond and Loan Agreement (the “Third Amendment to Bond and Loan Agreement”) with respect to such documents in order to extend the maturity date of the Bond to

October 1, 2023, to change the rate of interest applicable to the Bond, which rate is anticipated to be 5.64%, to provide for amortization of the Bond during the Extension Period (as defined in the Third Amendment to Bond and Loan Agreement), and for other related purposes.

FACTS AND ISSUES: AS WITH ALL INDUSTRIAL REVENUE BOND FINANCING NEITHER THE AUTHORITY NOR THE COUNTY IS LIABLE FOR PAYMENT OF THE BOND FINANCING. THE BOND HOLDER, SOUTH STATE BANK IN THIS CASE, LOOKS SOLELY TO PIEDMONT UNIVERSITY FOR PAYMENT. THE AUTHORITY IS MERELY ACTING AS A FACILITATOR FOR THE TRANSACTION TO GAIN THE TAX-EXEMPT STATUS OF THE BOND PAYMENTS FOR THE SCHOOL AND THE BANK PURSUANT TO US TAX LAWS.

OPTIONS:

- 1) Approve recommendation
 - 2) Deny recommendation
 - 3) Commission defined alternative
-
-

RECOMMENDED SAMPLE MOTION: Motion to approve the TEFRA hearing that was held on May 15, 2023.

DEPARTMENT:

Prepared by: Patti McLarty

Director: _____

**ADMINISTRATIVE
COMMENTS:** _____

DATE: _____

County Manager

**APPROVAL BY
THE BOARD OF COMMISSIONERS OF HABERSHAM COUNTY, GEORGIA
OF THE PLAN FOR FINANCING OR REFINANCING FACILITIES
BY THE ISSUANCE OF THE HABERSHAM COUNTY DEVELOPMENT AUTHORITY
REVENUE BOND (PIEDMONT COLLEGE PROJECT), SERIES 2013**

WHEREAS, the Board of Commissioners of Habersham County, Georgia (the “Board”) has been informed by officials of The Habersham County Development Authority (the “Issuer”) that the Issuer has previously issued its Revenue Bond (Piedmont College Project) Series 2013 (the “Bond”) in the original aggregate principal amount of \$10,000,000, to finance the original costs associated with the acquisition, construction, and installation of a new student center (the “Project”), which Project is owned and operated by Piedmont University, Inc. (f/k/a Piedmont College, Inc.), a Georgia non-profit corporation (the “School”), located on or near the 191.25-acre campus of the School located at 165 Central Avenue, Demorest, Georgia; and

WHEREAS, the Issuer, the holder of the Bond, and the School desire now to amend the Bond and certain of the documents related thereto, in order to extend the maturity of the Bond from June 1, 2023 to October 1, 2024 and to adjust the interest rate on the Bond; and

WHEREAS, the Issuer has approved the amendments to the Bond and related documents in a resolution dated May 4, 2023 (the “Resolution”); and

WHEREAS, the amendments to the Bond and related documents shall cause the Bond to be “reissued” for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, under Section 147(f) of the Code and regulations thereunder, Habersham County, Georgia (the “County”) must approve the plan for financing or refinancing facilities by the proposed reissuance of the Bond because it is the governmental unit on behalf of which the Bond is to be reissued by the Issuer and because it is the governmental unit having jurisdiction over the area in which the Project is located; and

WHEREAS, the County will approve the plan for financing or refinancing facilities by the proposed reissuance of the Bond (the “Plan of Financing”) only if its applicable elected representative approves the Plan of Financing following a public hearing held in a location which, under the facts and circumstances, is convenient for residents of the County and for which there was reasonable public notice; and

WHEREAS, the Board is the applicable elected representative of the County, because it is the elected legislative body of the County; and

WHEREAS, on May 15, 2023, at 9:00 a.m., at the Board of Commissioners Meeting Room, Room 211, in the Administration Building, 130 Jacob’s Way, Clarkesville, Georgia 30523, the Issuer, through its designated public hearing officer, conducted a public hearing on (i) the approval of the amendment of the Bond and related documents as provided in the Resolution and

(ii) the Plan of Financing and the location and nature of the facilities to be refinanced with the proceeds of the Bond, notice of which was published in The Northeast Georgian on May 3, 2023;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF HABERSHAM COUNTY, GEORGIA (THE “BOARD”) ACTS AS FOLLOWS:

1. The Board hereby approves the Plan of Financing by the reissuance of the Bond as follows:

The Bond originally financed the costs associated with the acquisition, construction, and installation of the Project, and the Bond as reissued will refinance the outstanding principal amount of the Bond; and

- (b) the Bond will be reissued or modified in the principal amount of not to exceed \$5,606,647.18.

3. This approval is solely for the purpose of complying with, and is to be construed in accordance with, the provisions of Section 147(f) of the Code, and shall not result in or impose any pecuniary liability upon or constitute a lien upon the property of or a claim against the County, the State of Georgia or any political subdivision thereof.

APPROVED this 15th day of May, 2023.

Chairman, Board of Commissioners
of Habersham County Georgia

THIRD SUPPLEMENTAL BOND RESOLUTION

WHEREAS, The Habersham County Development Authority (the “Authority”) has been created pursuant to the Development Authorities Law, O.C.G.A. Tit. 36, Chapt. 62 (the “Act”), and is now existing and operating as a public body corporate and politic; and

WHEREAS, the Authority was created for the purpose of developing and promoting for the public good and general welfare trade, commerce, industry and employment opportunities, and said Act empowers the Authority to issue its revenue obligations and loan its funds in furtherance of the public purpose for which it was created; and

WHEREAS, after careful study and investigation, at a meeting open to the public for which due and reasonable public notice was given, the Authority, in furtherance of the public purpose for which it was created, pursuant to a Bond Resolution adopted February 7, 2013 (the “Bond Resolution”) entered into a Loan Agreement (the “Loan Agreement”), dated as of February 1, 2013, with Piedmont University, Inc. (f/k/a Piedmont College, the “Borrower”), a Georgia nonprofit corporation, and in connection therewith the Authority issued its \$10,000,000 principal face amount Bond (Piedmont College Project) Series 2013 (the “Bond”) and loaned the proceeds from the sale of such obligation to the Borrower to finance or refinance the cost of acquiring, constructing and installing the facilities referred to in the Loan Agreement (the “Project”); and

WHEREAS, under the terms of the Loan Agreement, the Authority receives payments from the Borrower, which are assigned and pledged to the holder of the Bond (the “Bondholder”), currently South State Bank, as security for the payment of the principal of, premium (if any) and interest on the Bond, pursuant to the Loan Agreement; and

WHEREAS, at the request of the Borrower and the Bondholder, the Authority has previously entered into a First Amendment to Bond and Loan Agreement dated as of August 31, 2017 (the “First Amendment to Bond and Loan Agreement”) with respect to such documents in order to revise the amortization payment amounts on the Bond and for other related purposes; and

WHEREAS, at the request of the Borrower and the Bondholder, the Authority has also previously entered into a Second Amendment to Bond and Loan Agreement dated as of March 1, 2023 (the “Second Amendment to Bond and Loan Agreement”) with respect to such documents in order to extend the maturity date of the Bond to June 1, 2023, to change the rate of interest applicable to the Bond to 6.0%, to provide for amortization of the Bond during the extension period and for other related purposes; and

WHEREAS, at the request of the Borrower and the Bondholder, the Authority has now determined to enter into a Third Amendment to Bond and Loan Agreement (the “Third Amendment to Bond and Loan Agreement”) with respect to such documents in order to extend the maturity date of the Bond to October 1, 2023, to change the rate of interest applicable to the

Bond, which rate is anticipated to be 5.64%, to provide for amortization of the Bond during the Extension Period (as defined in the Third Amendment to Bond and Loan Agreement), and for other related purposes; and

NOW, THEREFORE, BE IT RESOLVED THAT:

Section 1. The Authority's execution, delivery and performance of and under the Third Amendment to Bond and Loan Agreement are hereby authorized. The Third Amendment to Bond and Loan Agreement shall be in substantially the form attached hereto as Exhibit "A," subject to such changes, insertions or omissions, including changes to the interest rate up to 7.15% applicable during the Extension Period, as may be approved by the Chair or Vice Chair of the Authority and the execution of the Third Amendment to Bond and Loan Agreement by the Chair or Vice Chair and Secretary or Assistant Secretary of the Authority, which is hereby authorized, shall be conclusive evidence of any such approval.

Section 2. The payments to be received by the Authority under the terms of the Loan Agreement, as amended by the First Amendment to Bond and Loan Agreement, the Second Amendment to Bond and Loan Agreement, and the Third Amendment to Bond and Loan Agreement are determined to be sufficient to pay the principal of, premium (if any) and interest on the Bond as the same become due and payable, and all of such payments hereby are pledged and assigned to the Bondholder for the purpose of payment of the Bond and in addition for such other purposes as are more fully set forth and provided for in the Loan Agreement. The Bond may be redeemed in whole or in part prior to maturity on any Business Day.

Section 3. It is anticipated that interest on the Bond will accrue on a tax-exempt basis during the Extension Period, and in that connection the Authority is hereby authorized to execute a tax and non-arbitrage certificate (the "Tax Certificate") and form 8038.

Section 3. The Chair, or in his absence the Vice Chair, of the Authority is hereby authorized, empowered and directed to accept other assignments, instruments and contracts in order to effectuate the purposes of the transaction herein described, and to do and perform all other actions and things, and all other agreements, documents, undertakings, certificates, filings, financing statements, recordings, Internal Revenue Service certifications and elections, instruments, certified proceedings and closing papers, including but not limited to the Tax Certificate and 8038, ("Additional Documents") relating to the transactions contemplated by the foregoing, and the Secretary or Assistant Secretary of the Authority is authorized, empowered and directed to attest the signatures of such Chair or Vice Chair, as and if necessary, with the signatures of such officers to be conclusive evidence of their authority to do and perform such actions and things and to execute, deliver and seal such Additional Documents.

Section 4. All acts and doings of the officers of the Authority which are in conformity with the purposes and intents of this Third Supplemental Bond Resolution and in the furtherance of the modification of the Bond contemplated hereby and the related documents shall be, and the same hereby are, in all respects approved and confirmed.

Section 5. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof.

Section 6. The Bond Resolution is hereby supplemented by the terms set forth herein and in the Third Amendment to Bond and Loan Agreement. All resolutions or parts thereof of the Authority in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

(Execution on Following Page)

Adopted this 4th day of May, 2023.

**THE HABERSHAM COUNTY
DEVELOPMENT AUTHORITY**

Attest:

Secretary

By: _____
Chair

[SEAL]

EXHIBIT “A”

Third Amendment to Bond and Loan Agreement

SECRETARY'S CERTIFICATE

I, _____, Secretary of The Habersham County Development Authority, DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a Third Supplemental Bond Resolution adopted on May 4, 2023, by the said Authority in a meeting duly called and assembled, after due and reasonable public notice given in accordance with the procedures of the said Authority and the provisions of law, which was open to the public and at which a quorum was present and acting throughout, and that the original of said Third Supplemental Bond Resolution appears of public record in the Minute Book of the Authority which is in my custody and control.

Given under my hand and seal of the aforementioned Authority, this 4th day of May, 2023.

**THE HABERSHAM COUNTY
DEVELOPMENT AUTHORITY**

Secretary

[SEAL]

THIRD AMENDMENT TO BOND AND LOAN AGREEMENT

This Third Amendment to Bond and Loan Agreement (this "Amendment"), dated as of _____, 2023, among THE HABERSHAM COUNTY DEVELOPMENT AUTHORITY (the "Issuer"), SOUTH STATE BANK (the "Bondholder"), and PIEDMONT UNIVERSITY, INC. (f/k/a Piedmont College, the "Borrower"),

WITNESSETH:

WHEREAS, the Issuer adopted a Bond Resolution on February 7, 2013 (the "Bond Resolution"), pursuant to which the Issuer has issued its \$10,000,000 principal face amount of The Habersham County Development Authority Revenue Bond (Piedmont College Project) Series 2013 (the "Bond"); and

WHEREAS, the Issuer and the Borrower have entered into a Loan Agreement, dated as of February 1, 2013, as amended by a First Amendment to Bond and Loan Agreement, dated as of August 31, 2017 and a Second Amendment to Bond and Loan Agreement, dated as of March 1, 2023, (collectively, the "Loan Agreement") pursuant to which the Issuer loaned to the Borrower the proceeds of the Bond, and the Borrower has agreed to make loan payments sufficient to pay the principal of, redemption premium (if any) and interest on the Bond as the same become due and payable; and

WHEREAS, by a Third Supplemental Bond Resolution, adopted on May 4, 2023 (the "Third Supplemental Bond Resolution"), the Issuer authorized this Amendment; and

WHEREAS, pursuant to this Amendment, (i) the maturity date of the Bond will be extended to October 1, 2024, (ii) the interest rate applicable to the Bond during the Extension Period (defined below) will be 5.64%, it being the intent of the parties that such interest accrue on a tax-exempt basis during the Extension Period, (iii) and the amortization of the Bond during the Extension Period will be provided for, and the corresponding amendments will be made to the Loan Agreement to reflect such changes; and

WHEREAS, the owner of the Bond has consented to the amendments made by this Amendment.

NOW, THEREFORE, in consideration of the premises and the respective agreements hereinafter contained, and notwithstanding anything in the Loan Agreement to the contrary, the Issuer, the Bondholder and the Borrower agree as follows:

1. The maturity date of the Bond is hereby extended from June 1, 2023 to October 1, 2024. The Bond shall bear interest at the rate of 5.64% per annum for the period commencing on May ____, 2023 through the final maturity of the Bond (such period, the "Extension Period"). Principal and interest on the Bond will be payable during the Extension Period as set forth on Exhibit "A" hereto. The final installment of principal on the Bond in the amount of \$5,267,727.95 (or the

principal amount of the Bond then outstanding, if different) plus all accrued and unpaid interest thereon shall be due and payable on October 1, 2024. The Bond may be redeemed prior to maturity in whole or in part on any Business Day.

2. It is anticipated that interest on the Bond received by the Bank during the Extension Period will be excludable from the gross income of the Bank for federal income tax purposes. The parties acknowledge and agree that all covenants, warranties and other provisions with respect to establishing and maintaining the tax-exempt status of interest on the Bond which are contained in the Bond Resolution (as defined in the Third Supplemental Bond Resolution), the Loan Agreement, and such other documents, instruments and legal opinions related to the Bond, shall remain in full force and effect and that each of such provisions shall be binding on the parties, as applicable.
3. In entering into this Amendment or in the performance of the agreements of the Issuer herein contained, any obligation the Issuer may thereby incur for the payment of money shall not be a general debt, liability or obligation of it, or a debt, liability or obligation of the State of Georgia or any political subdivision thereof, but shall be payable solely out of the revenues derived from the Loan Agreement or otherwise from the Project that is the subject of the Loan Agreement.
4. The terms and provisions of the Loan Agreement are hereby amended to reflect the amended maturity date and interest rate applicable to the Bond, as contemplated by this Amendment, including without limiting the generality of the foregoing the obligations of Section 5.3 of the Loan Agreement, whereby the Borrower agrees to make loan payments which will enable the Issuer to pay the amount payable as principal of, premium (if any), and interest on the Bond as provided in the Bond. The Loan Agreement is expressly amended by reference to the terms and provisions and the Bond as amended by this Amendment.
5. By executing this Amendment, the parties hereto consent to the amendments made hereby and by the Third Supplemental Bond Resolution, and waive any other rights of notice of such amendments. The amendments made hereby shall be effective only upon the execution of this Amendment by each of the parties hereto and consent hereto by the owner of the Bond.
6. The Bond and the Loan Agreement, as amended by the express provisions hereof, are hereby confirmed and ratified as in full force and effect in accordance with their terms. Any and all provisions of the Bond or the Loan Agreement in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded.
7. The Deed to Secure Debt and Security Agreement by and between the Borrower and the Bondholder is hereby ratified and reaffirmed by the Borrower in

accordance with its terms, taking into account the amendments made to the Bond and the Loan Agreement by this Amendment.

8. This Amendment shall inure to the benefit of and shall be binding upon the Issuer, the Bondholder, the Borrower and their respective successors and assigns.
9. This Amendment shall be governed by and interpreted in accordance with the laws of the State of Georgia.

(Signatures On Next Page)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in their respective names, and their respective seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

**THE HABERSHAM COUNTY
DEVELOPMENT AUTHORITY**

By: _____
Chair

Attest: _____
Secretary

[SEAL]

SOUTH STATE BANK

By: _____[SEAL]
Title:

PIEDMONT UNIVERSITY, INC.

By: _____
President

Attest: _____
Vice President of Administration and Finance
[SEAL]

EXHIBIT "A"

DEBT SERVICE SCHEDULE DURING EXTENSION PERIOD

Date	Interest Due	Principal Due	Total Payment Amount
June 1, 2023	13,175.62	33,191.89	46,367.51
July 1, 2023	26,195.24	20,172.27	46,367.51
August 1, 2023	26,970.44	19,397.07	46,367.51
September 1, 2023	26,876.24	19,491.27	46,367.51
October 1, 2023	25,917.65	20,449.86	46,367.51
November 1, 2023	26,682.26	19,685.25	46,367.51
December 1, 2023	25,729.02	20,638.49	46,367.51
January 1, 2024	26,486.42	19,881.09	46,367.51
February 1, 2024	26,389.86	19,977.65	46,367.51
March 1, 2024	24,596.53	21,770.98	46,367.51
April 1, 2024	26,187.10	20,180.41	46,367.51
May 1, 2024	25,247.51	21,120.00	46,367.51
June 1, 2024	25,986.52	20,380.99	46,367.51
July 1, 2024	25,052.46	21,315.05	46,367.51
August 1, 2024	25,784.02	20,583.49	46,367.51
September 1, 2024	25,684.05	20,683.46	46,367.51
October 1, 2024	24,758.32	5,267,727.95	5,292,486.27

**CLOSING MEMORANDUM AND
INDEX FOR CLOSING TRANSCRIPT**

MODIFICATION OF:

**\$10,000,000 ORIGINAL PRINCIPAL AMOUNT
THE HABERSHAM COUNTY DEVELOPMENT AUTHORITY
REVENUE BOND
(PIEDMONT COLLEGE PROJECT)
SERIES 2013**

May __, 2023

*Containing a transcript of the proceedings and a listing
of closing documents, certificates and required filings.*

**CLOSING MEMORANDUM AND
INDEX FOR CLOSING TRANSCRIPT**

Modification of:

\$10,000,000 Original Principal Amount
The Habersham County Development Authority
Revenue Bond
(Piedmont College Project)
Series 2013
(the "Bond")

Closing Date: May __, 2023

The following documents were delivered by the parties indicated at the bond closing held in the offices of Smith, Gambrell & Russell, LLP, Promenade, Suite 3100, 1230 Peachtree Street, N.E., Atlanta, Georgia, on the Closing Date.

The parties to the transaction and their respective counsel are listed below.

AUTHORITY:	The Habersham County Development Authority Cornelia, Georgia
BORROWER:	Piedmont University, Inc. (f/k/a Piedmont College, Inc.) Demorest, Georgia
BOND AND BORROWER'S COUNSEL:	Smith, Gambrell & Russell, LLP Atlanta, Georgia
BANK:	South State Bank Cornelia, Georgia
COUNSEL TO THE BANK:	The Weber Firm, LLC Gainesville, Georgia
AUTHORITY COUNSEL:	Sanders, Ranck & Skilling, P.C. Toccoa, Georgia

INDEX OF CLOSING DOCUMENTS

A. BASIC DOCUMENTS

1. Third Supplemental Bond Resolution adopted by the Authority on May 4, 2023, authorizing the Amendment of the Bond
2. Third Amendment to Bond and Loan Agreement, dated as of May ____, 2023, by and between the Authority, the Bank, and the Borrower

B. CLOSING DOCUMENTS FURNISHED BY THE AUTHORITY

3. Closing Certificate of the Authority
4. Non-Arbitrage Certificate of the Authority
5. Internal Revenue Service Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues
6. Evidence of Compliance with the Public Approval Requirements of the Internal Revenue Code of 1986, as amended:
 - (a) Approval Resolution of the Board of Commissioners of Habersham County, Georgia
 - (b) Notice of Public Hearing attached to Affidavit of Publication

C. CLOSING DOCUMENTS FURNISHED BY THE BORROWER

7. Confirmation of Department of Community Affairs
8. Small Issuer Qualification Certificate
9. Closing Certificate of the Borrower
 - (a) Resolutions of the Board of Trustees of the Borrower
 - (b) Certificate of Existence
 - (c) Articles of Incorporation of the Borrower
 - (d) Bylaws of the Borrower
10. Tax and Non-Arbitrage Certificate of the Borrower

D. CLOSING DOCUMENTS FURNISHED BY THE BANK

11. Consent of the Bank, as Holder of the Bond, to the Amendment of the Bond

E. LEGAL OPINIONS

12. Opinion of Bond Counsel
13. Opinion of Counsel to Authority

CLOSING CERTIFICATE OF THE AUTHORITY

Dated: May ____, 2023

We, the undersigned, DO HEREBY CERTIFY that we are the duly elected, qualified and acting officers of The Habersham County Development Authority (the "Authority"), that set forth below are our official titles and genuine signatures and that we officially signed a Revenue Bond in the original face amount of \$10,000,000, designated The Habersham County Development Authority Revenue Bond (Piedmont College Project), Series 2013, on April 3, 2013 (the "Bond"). The Bond is payable as to principal and interest and subject to redemption prior to maturity as set forth in the Third Supplemental Bond Resolution and the Amendment each as hereinafter described. The Bond bears the official signatures of the undersigned officers of the Authority and the seal of the Authority is impressed or imprinted upon the Bond. We have this day executed and delivered a Third Amendment to Bond and Loan Agreement, dated as of July 1, 2017 (the "Amendment"), which alters the provisions of the Bond and of the Bond Resolution and Loan Agreement described below to extend the maturity of the Bond and provide for a rate of interest on the Bond.

WE FURTHER CERTIFY as follows:

1. The Authority is a public body corporate and politic, duly created pursuant to the Development Authorities Law, O.C.G.A. Tit. 36, Ch. 62 (the "Act").
2. The Authority is composed of seven (7) directors appointed currently serving pursuant to the terms of the Act, whose names and offices are as follows:

<u>Name</u>	<u>Office</u>
Gail Thaxton	Chair
Bill Duff	Vice Chair
Bryan Ferguson	Secretary
Jim Butterworth	Director
Jeff Bruns	Director
C. Allen Whitener	Director
Kelly Woodall	Director

3. No litigation or proceeding of any kind is now pending or threatened in any court or other public body in any manner contesting, questioning or affecting (i) the terms, provisions, enforceability or validity of (a) the Bond, or (b) Resolution of the Authority adopted on February 7, 2013 with respect to the issuance of the Bond (the "Bond Resolution"); or (c) the Loan Agreement dated as of February 1, 2013 (the "Loan Agreement"), between Piedmont University, Inc. (f/k/a Piedmont College, Inc. the "Borrower") and the Authority; or (d) the Third Supplemental Bond Resolution, adopted May 4, 2023 (the "Third Supplemental Bond Resolution") by the Authority; (e) the Amendment (the Loan Agreement, the Third Supplemental Bond Resolution and the Amendment being hereinafter sometimes referred to as the "Bond Documents"); or (f) any prior amendment or supplement to the Bond, the bond Resolution or the Loan Agreement; (ii) the proceedings and authority under which the Bond was issued; (iii) the

power of the Authority to carry out the transactions contemplated by the Bond Documents; or (iv) the legal existence of the Authority or the titles of the present officers to their respective offices.

4. The Bond and the Loan Agreement are in full force and effect. No authority or proceedings for the issuance of the Bond has been modified, repealed, revoked or rescinded, and the Bond Resolution and Third Supplemental Bond Resolution are in full force and effect.

5. The Bond Documents, respectively, have been duly authorized, executed and delivered by the Authority; there exists no default or "Event of Default," as defined therein, and each is in full force and effect and constitutes the valid and binding special obligation of the Authority, and is entitled to the benefits of the same.

6. The Authority has full power and authority (a) to enter into, execute, deliver and perform its obligations under the Bond Documents and (b) to carry out and consummate all other transactions contemplated thereby.

7. The Authority's execution and delivery of the Bond Documents and all other agreements contemplated thereby, and its compliance with the provisions thereof and performance of the covenants contained therein, do not and will not conflict with or constitute on the part of the Authority a violation of, breach of, or default under any existing constitutional provision, statute, court or administrative regulation or order, agreement or other instrument to which the Authority is subject or a party or by which the Authority is bound. No director or employee of the Authority has a pecuniary interest, either direct or indirect, in the transaction for which the Bond is issued, or has violated O.C.G.A. §§ 45-10-3 or 45-10-23 in connection with the authorization and issuance of the Bond.

8. The Authority has obtained all consents, approvals, authorizations, licenses and orders of governmental or regulatory authorities, if any, which are necessary or appropriate to enable the Authority to execute, deliver and perform its obligations under the Bond Documents and to carry out the transactions contemplated thereby, and each of the same is in full force and effect.

9. Each of the representations and warranties of the Authority contained in the Bond Documents is true, accurate and complete in all material respects on and as of this date, and the Authority has complied with or performed each of its covenants, obligations and agreements under the Bond Documents.

10. The information statement required by Internal Revenue Code of 1986, as amended (the "Code"), Section 149(e) with respect to the technical or "deemed" reissuance of the Bond has been or will be filed by mail with the Secretary of Treasury, or his designee, and to the best of our knowledge is true, correct and complete. The Board of Commissioners of Habersham County, Georgia approved the reissuance of the Bond following a public hearing thereon for which due and reasonable public notice was given.

[Execution on Following Page]

WITNESS our hands and the official seal of the Authority on the date first above written.

Official Title of Authority

Signature

Chair

Secretary

[SEAL]

NON-ARBITRAGE CERTIFICATE OF THE AUTHORITY

Dated: May ___, 2023

I, the undersigned, hereby certify that I am the duly elected, qualified and acting officer, as indicated below, of The Habersham County Development Authority (the "Authority"), and that I have all authority necessary to execute this Certificate on behalf of the Authority; and I hereby certify for and on behalf of the Authority that:

1. I am familiar with the Habersham County Development Authority Revenue Bond (Piedmont College Project), Series 2013, in the original aggregate principal amount of \$10,000,000 (the "Bond"), now outstanding in the principal amount of \$5,606,647.18. I, either alone or with others, was responsible for the issuance and sale of the Bond.

2. The Bond was issued pursuant to the Bond Resolution, dated as of February 7, 2013 (the "Bond Resolution"), by the Authority. The proceeds of the Bond were used by the Authority for the purpose of acquiring, constructing, improving, and equipping of certain educational campus improvements and related property in Habersham County, and to pay the costs of issuance of the Bond (the "Project") pursuant to the Loan Agreement, dated as of February 1, 2013, between the Authority and Piedmont University, Inc. (f/k/a Piedmont College, Inc. the "Borrower") (the "Loan Agreement").

3. The Bond was modified by a First Supplemental Bond Resolution, adopted by the Authority on August 3, 2017 in order to amend the amount of the amortization payments on the Bond. The Bond was further modified pursuant to a Second Supplemental Bond Resolution, adopted by the Authority on March 1, 2023 in order to extend the maturity of the Bond and to provide for a taxable rate of interest during the extension period. The Bond will now be modified by a Third Supplemental Bond Resolution, adopted by the Authority on May 4, 2023, and a Third Amendment to the Bond and Loan Agreement dated of even date herewith among the Borrower, the Authority and SouthState Bank, as holder of the Bond (such documents together, the "Amendment") in order to further extend the maturity dated of the Bond and to provide for a new, tax-exempt rate of interest during such extension period. The Amendment will cause the Bond to be deemed "reissued" pursuant to the Internal Revenue Code of 1986, as amended. The proceeds of the deemed reissuance of the Bond will be deemed applied to currently refund the full principal amount of the Bond outstanding on the date hereof.

4. The Authority has not been notified of any listing of it by the Internal Revenue Service as an issuer whose certification of its bonds with respect to arbitrage matters may not be relied upon.

5. To the best of my knowledge, information and belief, based on current facts, estimates, and circumstances, the above expectations are reasonable and the facts, estimates and circumstances set forth in the Tax and Non-Arbitrage Certificate of the Borrower of even date herewith are reasonable, and there are no other facts, estimates or circumstances that would change such expectations. Certain facts and estimates in this Certificate are based upon information provided by the Borrower. The Authority is not aware of any facts or circumstances that would

cause it to question the accuracy of the representations made therein by the Borrower. The representations contained in this Certificate are made for the benefit of the Lender (and any subsequent purchasers of the Bond), Bond Counsel and others and may be relied upon by Lender, Bond Counsel and others in determining whether or not the Bond as reissued constitute "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and whether or not the interest on the Bond is subject to income taxation by the United States under existing statutes, regulations, and decisions.

6. On the basis of the foregoing, it is not expected that the proceeds of the Bond, as reissued, will be used in a manner that would cause the Bond to be "arbitrage bond" under Section 148 of the Code, and regulations promulgated under that section.

WITNESS my signature as an officer of the Authority on the date first above written, being the date of reissuance of the Bond.

**THE HABERSHAM COUNTY
DEVELOPMENT AUTHORITY**

By: _____
Chair

**SMALL ISSUER
QUALIFICATION CERTIFICATE**

The undersigned officer of The Habersham County Development Authority (the "Authority") hereby certifies, with respect to that certain \$10,000,000 original aggregate principal amount Revenue Bond (Piedmont College Project) Series 2013 originally issued by the Authority on April 3, 2013 (currently outstanding in the principal amount of \$5,606,647.18) and reissued on even date herewith (the "Bond"), that the Bond as reissued has been and is hereby designated as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code. The Authority, together with any subordinate entities, and the entities that issue obligations on behalf of the Authority, has not issued other tax-exempt bonds or other obligations in the current calendar year, and the Authority does not currently expect that it and such other entities will issue such tax-exempt obligations such that all of such obligations, taken together with the Bond as reissued, would exceed \$10,000,000 in such calendar year.

IN WITNESS WHEREOF, we have set our hands this May ___, 2023.

**THE HABERSHAM COUNTY
DEVELOPMENT AUTHORITY**

By: _____ Chair

[SEAL]

BORROWER'S CLOSING CERTIFICATE

Dated: May ___, 2023

The undersigned, Piedmont University, Inc. (f/k/a Piedmont College, Inc., the "Borrower"), HEREBY CERTIFIES as follows:

1. The Borrower is a Georgia nonprofit corporation and is party to that certain Loan Agreement dated as of February 1, 2013 (the "Loan Agreement") and the other Bond Documents (as defined in the Loan Agreement) to which it is a party (collectively, and as amended prior to the date hereof, the "Original Bond Documents"). The Borrower has full power and authority to execute and deliver and carry out and perform its obligations under the Third Amendment to Bond and Loan Agreement, dated as of July 1, 2017, among the Borrower and the Habersham County Development Authority (the "Authority") and South State Bank, as lender (the "Lender"), the Tax and Non-Arbitrage Certificate of the Borrower of even date herewith, and related documents (said documents, together, being sometimes hereinafter referred to as the "Borrower Documents").

2. Each of the Original Bond Documents is in full force and effect, is binding on and enforceable against the Borrower in accordance with its respective terms, and no event of default or default exists and is continuing thereunder. The Borrower Documents have been duly authorized, executed and delivered by and on behalf of the Borrower and no default or "Event of Default" (as defined respectively therein) exists under any of the Borrower Documents. The Borrower Documents constitute the legal, valid and binding obligations of the Borrower, enforceable in accordance with their terms, except as the enforceability thereof may be affected by judicial discretion in the application of equitable principles and by bankruptcy, insolvency and similar laws affecting the rights of creditors generally.

3. There is no action, suit, proceeding, inquiry or investigation of any kind, now pending or, to the best of its knowledge, threatened, before any court, quasi-judicial or administrative body or regulatory agency, against or with reference to the Borrower or challenging or questioning the validity or enforceability of any of the Borrower Documents or seeking to enjoin any of the transactions contemplated therein.

4. There have been no material adverse changes in the business, properties or financial condition of the Borrower, whether or not arising from transactions in the ordinary course of business, and the Borrower has not incurred any material liabilities or entered into any material transactions, except in the ordinary course of its business, since the end of its most recent fiscal year for which financial statements have been furnished to the Bank.

5. Each of the representations and warranties of the Borrower contained in the Borrower Documents is true, accurate and complete in all material respects at and as of the date hereof, and the Borrower has substantially complied with or performed each of its covenants, obligations and agreements under the Borrower Documents to be complied with on or before the date hereof.

6. The Borrower's execution and delivery of the Borrower Documents and other agreements contemplated thereby and the compliance with the provisions thereof and performance of the covenants contained therein do not and will not conflict with or constitute on the part of the Borrower a violation of, breach of or default under its Articles of Incorporation or Bylaws, or under any existing law, court or administrative regulation or order, agreement or other instrument to which the Borrower is subject or a party or by which the Borrower is bound.

7. The execution and delivery of the Borrower Documents by the Borrower does not violate, conflict with, result in the breach of or default under any applicable statute, regulation, rule, order, or other legal requirement applicable to the Borrower or any agreement by which the Borrower or its properties are bound, or result in the creation or imposition of any lien, charge or encumbrance upon the assets of the Borrower, other than as contemplated in the Borrower Documents.

8. Attached hereto as Exhibit "A" is a true and correct copy of resolutions of the Executive Committee of the Board of Trustees of the Borrower adopted April 20, 2023, and such resolutions have not been modified and are full force and effect. Attached hereto as Exhibit "B" is a true and correct copy of the Certificate of Existence of the Borrower. The Articles of Incorporation and Bylaws of the Borrower, as amended through and in effect on the date hereof, are of full force and effect and in the form attached hereto as Exhibit "C" and Exhibit "D" respectively.

[Remainder of Page Intentionally Left Blank]

9. The following persons are the officers of the Borrower and counsel to the Borrower, as described below, and their specimen signatures also appear below:

<u>Name:</u>	<u>Title:</u>	<u>Signature:</u>
_____	_____	_____
_____	_____	_____

WITNESS my hand and seal on the date first above written.

PIEDMONT UNIVERSITY, INC.

By: _____
Title: _____

By: _____
Title: _____

TAX AND NON-ARBITRAGE CERTIFICATE OF BORROWER

Dated: May ___, 2023

I, the undersigned officer of Piedmont University, Inc. (the “Borrower”) do hereby certify that I have the authority necessary to execute this Certificate on behalf of the Borrower. I hereby further certify as follows:

1. General.

1.1 I am familiar with The Habersham County Development Authority Revenue Bond (Piedmont College Project) Series 2013 (the “Bond”), in the original aggregate principal amount of \$10,000,000, now outstanding in the principal amount of \$5,606,647.18, issued and sold by The Habersham County Development Authority (the “Authority”) pursuant to the Bond Resolution adopted February 7, 2013 (the “Original Bond Resolution”). The Bond was issued in the form of a \$10,000,000 original principal amount bond (the “Bond”) that was designated as a “qualified tax-exempt obligation” under I.R.C. § 265(b)(3)(D)(ii).

1.2 The proceeds of the Bond were allocated to finance the acquisition, construction, renovation, furnishing and equipping of certain educational campus facilities of the Borrower located in Habersham County, Georgia consisting of a new student center and Purcell Hall dormitory improvements (the “Refinanced Project”), and to pay costs of issuance of the Bond.

1.3 The amortization payments and certain other aspects of the Bond have been previously modified pursuant to a First Supplemental Bond Resolution adopted by the Authority on August 3, 2017 (the “First Supplemental Bond Resolution”), and pursuant to a Second Supplemental Bond Resolution adopted by the Authority on March 1, 2023 (the “Second Supplemental Bond Resolution”). In particular, under the Second Supplemental Bond Resolution, the maturity of the Bond was extended to June 1, 2023, the interest rate on the Bond was modified for the extension period described therein, and the interest accruing on the Bond during such period was determined to be includable in the gross income of the holder thereof for federal income tax purposes. The maturity date of the Bond and the interest rate applicable to the Bond are now being further modified on the date hereof (the “modification”) pursuant to a Third Supplemental Bond Resolution adopted by the Authority on May 4, 2023 (the “Third Supplemental Bond Resolution”). Pursuant to the Third Supplemental Bond Resolution, the maturity date of the Bond is being further extended to October 1, 2024, the interest rate is being modified, and the interest accruing on the Bond during the new extension period is to be qualified as excludable from the gross income of the holder thereof for federal income tax purposes.

1.4 The Third Supplemental Bond Resolution and modification of the Bond will cause the Bond to be deemed “reissued” for purposes of the Internal Revenue Code of 1986, as amended. The Borrower recognizes that a deemed reissuance of the Bond is treated as a current refunding of the Bond under the Internal Revenue Code of 1986, as amended. All proceeds of the Bond, as reissued, shall be deemed immediately allocated to the current refunding of the Bond on the same date.

1.5 The Borrower entered into Loan Agreement, dated as of February 1, 2013, with the Authority, as amended by a First Amendment to Bond and Loan Agreement dated August 31, 2017

a Second Amendment to Bond and Loan Agreement dated March 1, 2023, and by a Third Amendment to Bond and Loan Agreement dated as of the date hereof, each among the Borrower, the Authority and South State Bank, as holder of the Bond (together, the "Loan Agreement"), which provides for payments at such times and in such amounts as will be fully sufficient to pay the principal of, premium (if any) and interest on the Bond as the same become due and payable.

1.6 Unless the context otherwise requires, terms used herein defined in the Internal Revenue Code of 1986, as amended (the "Code") or the regulations thereunder shall have such defined meanings.

2. Sources and Uses of Funds.

2.1 The original proceeds of the Bond were used to pay the costs of the Refinanced Project and associated costs of issuance, as set forth on Exhibit "A" attached hereto and made a part hereof.

2.2 Except for the Bond, there are no other obligations issued by or on behalf of the State of Georgia or any political subdivision thereof to finance or refinance the costs of the Refinanced Project.

3. Gross Proceeds.

3.1 The gross proceeds of the Bond are expected to consist solely of the proceeds of the reissuance of the Bond. The proceeds of the Bond means the sum of: (i) the sale proceeds of the Bond, as reissued, plus (ii) any investment proceeds of the Bond, plus (iii) any transferred proceeds of the Bond, as the terms "sale proceeds," "investment proceeds" and "transferred proceeds" are defined in Treasury Regulation § 1.148-1(b).

3.2 Except as described in Section 6 of this Certificate, there are no replacement proceeds of the Bond.

3.3 Except as described in Section 4.2 of this Certificate, no investment proceeds of the Bond are expected.

3.4 There are no transferred proceeds of the Bond.

3.5 The proceeds of the reissuance of the Bond will not exceed the amount necessary for the costs of currently refunding the principal amount of the Bond outstanding immediately prior to the reissuance.

4. Disbursements of Funds, Schedule of Expenditures

4.1 The principal amount of the Bond, as reissued at par without accrued interest, will be deemed expended in full on the date hereof for the purpose of currently refunding the principal amount of the Bond which was outstanding immediately prior to reissuance.

4.2 No portion of the sale proceeds of the Bond was allocated to reimbursement to the Borrower, and no investment earnings on the proceeds of the Bond have been achieved.

5. Purposes and Allocations

5.1 The sale proceeds of the reissuance of the Bond are allocated to the current refunding of the Bond on the date hereof as described in Section 3.1 above.

5.2 As of the date hereof, all of the original proceeds of the Bond have been spent. At least 85% of the original spendable proceeds of the Refunded Bond was spent within three years of its issue date, and none of such proceeds was invested at a guaranteed yield for four years or more.

5.3 No “excess gross proceeds” of the portion of the Bond allocable to refunding purposes are expected, and in no event will any such proceeds exceed one percent of the “sale proceeds” (as such terms are defined in Treasury Regulation § 1.148-1(b)) of such portion of the Bond.

5.4 Neither the Authority nor any other entity acting on behalf of, or at the request of, the Borrower has issued any obligations, other than the Bond as reissued, the proceeds of which have been or were to be applied to the refunding of all or any portion of the Bond as described herein.

5.5 The only obligation being refunded with the reissuance proceeds of the Bond is the Bond. No device is being employed in connection with the reissuance of the Bond in order to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.

6. Replacement Proceeds.

6.1 The reissuance proceeds of the Bond are not being used to establish, directly or indirectly, any working capital reserve for the Borrower. No “sinking fund” or “pledged fund” (as such terms are defined in Treasury Regulation § 1.148-1 (c)(2)), debt service fund, redemption fund, reserve fund, revolving fund or any similar fund or account has been or will be created or established with moneys or property derived from the Authority, the Borrower or any related party from which the principal of, premium (if any) or interest on, the Bond are reasonably expected to be paid, directly or indirectly.

6.2 No stock or other “security” as defined in Section 165(g)(2)(A) and (B) of the Code, annuity contract, “investment-type property” as described or defined in Section 148(d)(2)(D) of the Code and Treasury Regulation § 1.148-1(d), or any other obligation (other than an obligation described in Section 103(a) of the Internal Revenue Code of 1954, as amended, or Section 103(a) of the Code which is not a “specified private activity bond” within the meaning of Section 57(a)(5)(C) of the Code), will be pledged or negatively pledged directly or indirectly as security for the payment of principal of, premium (if any) and interest on the Bond, or is expected to be used directly or indirectly to pay the principal of, premium (if any) or interest on the Bond.

6.3 None of the reissuance proceeds of the Bond are expected to be used directly or indirectly to acquire “higher yielding investments” or to replace funds which were or are to be used directly or indirectly to acquire “higher yielding investments” within the meaning of Section 148(a) of the Code.

6.4 There are no amounts which have direct nexus to the Bond or to the purpose for which the Bond are being reissued to conclude that the amounts would have been used for the purposes for which the Bond is being reissued if the proceeds of the Bond were not used or to be used for that purpose.

7. Composite Issues.

7.1 There are no other obligations heretofore issued or to be issued by or on behalf of any state, territory or possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia, which:

- (a) are to be sold less than 15 days prior to or after the date of reissuance and sale of the Bond;
- (b) are to be sold pursuant to the same plan of financing with the Bond; and
- (c) are reasonably expected to be paid from the same source of funds as the Bond determined without regard to guarantees from third parties.

8. 501(c)(3) Status.

8.1 The Borrower is a nonprofit corporation organized under the laws of the State of Georgia, and duly organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (no part of the activities of which involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of Section 501 of the Code), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

8.2 The Borrower is not an organization operated for the primary purpose of carrying on a trade or business (as defined in Section 502(b) of the Code) for profit within the meaning of Section 502(a) of the Code. The Borrower is not a "private foundation" within the meaning of Section 508(b) or 509(a) of the Code.

8.3 As described in a letter dated June, 1931, as confirmed in a letter dated February 7, 1992 from the Internal Revenue Service, the Borrower is an organization described in Section 501(c)(3) of the Code (or its predecessor), which letter (the "Determination Ruling") has not been revoked, rescinded, modified or amended as of the date hereof. The Borrower has complied at all times with the terms, conditions and limitations in the Determination Ruling, in the application therefor and in the Code since the date of its incorporation, and the facts and circumstances which formed the basis of the Determination Ruling as represented to the IRS by the Borrower continue to exist. The Borrower has taken all actions necessary and made all filings with the IRS required in order to maintain the Determination Ruling in full force and effect. A copy of the Determination Ruling is attached hereto as Exhibit "C."

8.4 The Borrower is not aware of any fact or circumstance which would cause it to expect that (i) it will not continue to be recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Code, (ii) that more than 5% (if any) of its revenues will be treated as “unrelated trade or business income” within the meaning of Section 512 of the Code or that any of its businesses or activities constitute an “unrelated trade or business” within the meaning of Section 513 of the Code, or (iii) that the Determination Ruling described in paragraph 8.3 is no longer valid or that any of the material facts upon which such letter was based have changed. The Borrower has not received any notice from the Internal Revenue Service or the Department of Treasury questioning in any way its status as an entity described in Section 501(c)(3) of the Code.

8.5 All property which is to be provided (directly or indirectly) by the “net proceeds” (as defined in Section 150 of the Code) of the Bond is property which is or is to be owned by a governmental entity or an organization described in Section 501(c)(3) of the Code and exempt from taxation under Section 501(a) of the Code (a “501(c)(3) organization”). The Borrower covenants that no use will be made (directly or indirectly) of the proceeds of the Bond or of the facilities being financed thereby which would cause the Bond to be a “private activity Bond” within the meaning of Section 141(a) of the Code if (i) organizations described in Section 501(c)(3) of the Code were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying Section 513(a) of the Code, and (ii) paragraphs (1) and (2) of Section 141(b) of the Code were applied by substituting “5%” for “10%” each place it appears and by substituting “net proceeds” for “proceeds” each place it appears. The Borrower has not entered into leases, management contracts or similar arrangements with respect to property provided (by financing or refinancing) by the Bond (other than management contracts within the safe harbors provided for in Revenue Procedure 97-13, if applicable, or Revenue Procedure 2016-44 that would cause the limitation referred to in the sentence immediately preceding to be exceeded.

8.6 The Borrower is an organization described in Section 501(c)(3) of the Code and the Borrower is not a private foundation within the meaning of Section 509(a) of the Code. The Borrower has been operated at all times as an organization described in Section 501(c)(3) of the Code exempt from federal income taxes except for unrelated business income subject to taxation under Sections 511-514 of the Code. The Borrower has filed its IRS Form 990 annually when due and has filed with the IRS all other required tax and information returns in a timely manner. At no time has the Borrower undertaken any activities that would jeopardize its status as an organization described in Section 501(c)(3) of the Code.

8.7 No portion of the net proceeds of the Bond is to be, or will be, used directly or indirectly to provide residential rental property for family units within the meaning of Section 145(d) of the Code.

9. Qualified User Test

9.1 Either (a) no more than five percent (5%) of the net proceeds of the Bond is to be used for any private business use; or (b) the payment of the principal of, or the interest on, no more than five percent (5%) of the net proceeds of the Bond is (under the terms of the Loan Agreement or any underlying arrangement) directly or indirectly (1) secured by any interest in (A) property

used or to be used for a private business use, or (B) payments in respect of such property, or (2) to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. The Borrower has not entered into leases, management contracts or similar arrangements with respect to property provided (by financing or refinancing) by the Bond (other than management contracts within the safe harbors provided for in Revenue Procedure 2017-13 that would cause the limitation referred to in the sentence immediately preceding to be exceeded).

9.2 No proceeds of the Bond are to be used for any private business use, which use is not related to any government use of such proceeds.

9.3 The amount of any proceeds of the Bond that are to be used for any private business use will not exceed the proceeds of the Bond that are to be used for the government use to which such private business use relates.

9.4 The amount of any proceeds of the Bond that are to be used (directly or indirectly) to make or finance loans to persons other than qualified users will not exceed the lesser of five percent (5%) of the proceeds of the Bond or \$5,000,000.

10. Management Contracts

The Borrower will not enter into any management contract involving the Refinanced Project unless it is described within the safe harbors provided in Revenue Procedure 2017-13 or unless the Borrower has received an unqualified opinion of nationally recognized bond counsel or a ruling of the Internal Revenue Service to the effect that such arrangement will not cause the interest on the Bond to become includable in the gross income of the owners thereof.

11. Change in Use

The Borrower does not expect to sell or otherwise dispose of the Refinanced Project prior to the final maturity date of the Bond. The Borrower expects that the term of the Bond is no longer than is reasonably necessary for the purposes of the issue, i.e., the provision of the school services of the Borrower.

12. Future Use Arrangements

The Borrower covenants that it will not enter into any leases, subleases or other use arrangements for the Refinanced Project, or alter any existing such arrangement, with any person, other than a qualified user, without receiving an unqualified opinion of nationally-recognized bond counsel or a ruling of the Internal Revenue Service to the effect that such arrangement will not cause the interest on the Bond to become includable in the gross income of the owners thereof.

13. Limitation on Maturity.

13.1 The weighted average maturity of the Bond is _____ years.

13.2 Attached hereto as part of Exhibit "B" is a schedule listing components of the financed facilities having a useful life, their estimated cost and their anticipated economic useful

lives as of the date of this Certification. Based upon the experience of the Borrower in operating the same or similar components under similar circumstances, such guidelines are a reasonable estimate of the remaining economic useful life of such components.

13.3 The remaining weighted average maturity of the Bond, as modified on the date hereof, does not exceed by more than 120% the remaining weighted average useful life of the assets financed or refinanced with the Bond (24.8 years).

14. Rebate Requirement.

14.1 The Borrower hereby covenants and agrees that, except to the extent that gross proceeds (as described in Section 3.1 of this Certificate) of the Bond are expended or allocated to expenditures for the governmental purpose for which the Bond is issued in accordance with one of the spending exceptions to the rebate requirement in Treasury Regulation § 1.148-7, each five years beginning on the date of issuance of the Bond, or on such other date as may be permitted by applicable temporary, proposed or final Treasury Regulations (each such date a “computation date”) it shall, on behalf of the Authority, compute the Rebate Amount (as described in Section 15.2 of this Certificate) with respect to the Bond and, within 60 days thereafter, make installment payments to the United States in an amount that, when added to the future value, as of the computation date, of previous rebate payments made with respect to the Bond, equals at least 90% of the Rebate Amount with respect to the Bond as of such date. The final installment (the “Final Rebate”) shall be paid not later than the latest of (i) the date 60 days after the final computation date or (ii) if the Bond is retired within three years after the date of issuance thereof, within 60 days after the final computation date of the Rebate Amount which computation date need not occur before the end of eight months after the date of issuance of the Bond, and shall be in an amount sufficient to pay all of the Rebate Amount as of the final computation date.

14.2 The Rebate Amount with respect to the Bond is an amount equal to the sum of:

(1) the excess of:

(a) the aggregate amount earned from the date of the issuance of the Bond on all non-purpose investments in which gross proceeds of the Bond are invested (other than amounts attributable to the excess described in this clause) over

(b) the amount that would have been earned if the yield on such gross proceeds had been equal to the yield on the Bond; plus

(2) any income attributable to the excess described in Section 15.2(i) above (whether or not such income exceeds the yield on the Bond).

14.3 The Rebate Amount shall be computed in accordance with Section 148(f) of the Code and Treasury Regulation § 1.148-0 to § 1.148-11, as the same may be modified, amended or superseded from time to time with respect to the Bond.

14.4 Generally, the Rebate Amount with respect to the Bond as of any computation date is the excess of (x) the future value as of the date of computation of all non-purpose receipts with

respect to the Bond; over (y) the future value as of the date of computation of all payments on non-purpose payments with respect to the Bond, computed as required by Treasury Regulation 1.148-3(c).

14.5 Each payment of the Rebate Amount required under the provisions of this Certificate and Section 148(f) of the Code shall be (i) filed with the Internal Revenue Service Center at the place or places designated by the Commissioner of Internal Revenue, presently Ogden, Utah 84201, and (ii) accompanied by a copy of the form provided by the Commissioner for such purpose, presently IRS Form 8038-T, except as may be otherwise provided by applicable Treasury Regulations.

15. Certain Uses of Proceeds.

15.1 The Bond is not, and will not be, “federally guaranteed” within the meaning of Section 149(b) of the Code.

15.2 No portion of the Bond is reasonably expected to be used, nor will any of such proceeds intentionally be used, directly or indirectly, to make or finance loans to two or more ultimate borrowers within the meaning of Section 149(f)(4) of the Code.

15.3 The Bond will not be a “hedge bond” because not less than 85% of the “spendable proceeds” (within the meaning of Section 149(g) of the Code) of the Bond not being used for refunding purposes will be spent for the governmental purpose for which the Bond is issued (as described in paragraph 1.2 of this Certificate) within a three-year period beginning on the date of issuance of the Bond.

15.4 No portion of the Bond is to be used to provide, directly or indirectly, any airplane, skybox or other private luxury box, health club facility, a facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off-premises.

15.5 No costs of issuance of the Bond are being paid from the proceeds of the Bond.

16. Miscellaneous.

16.1 The Employer Identification Number of the Borrower is 52-1367808.

16.2 All facilities financed from the proceeds of the sale of the Bond are located entirely within the boundaries of Habersham County, Georgia.

16.3 No portion of the Bond is being used, directly or indirectly, in connection with a transaction or a series of transactions that attempts to circumvent the provisions of Section 148 of the Code or the proposed, temporary or final Treasury Regulations applicable thereto (i) enabling the Authority or Borrower to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage and (ii) increasing the burden on the market for tax exempt obligations. The Bond is not being issued sooner, nor will it remain outstanding longer, than is reasonably necessary for the purposes for which the Bond is issued.

16.4 I have examined the Information Return for Tax-Exempt Private Activity Bond, Internal Revenue Service Form 8038 being filed pursuant to Section 149(e) of the Code with respect to the Bond and, to the best of my knowledge, all information set forth therein is true and complete.

16.5 To the best of my knowledge, information and belief there are no other facts, estimates or circumstances that would materially change any of the foregoing certifications. Representations contained in this Certificate are made for the benefit of bond counsel and others, and may be relied upon by Smith, Gambrell & Russell, LLP, as bond counsel, counsel to the Borrower and others in determining whether the interest on the Bond is excluded from gross income for federal income tax purposes.

[Execution on following page]

IN WITNESS WHEREOF, this Certificate has been executed on behalf of the Borrower by the undersigned on the date first above written.

PIEDMONT UNIVERSITY, INC.

By: _____
Title: _____

Appendices, exhibits and schedules:

Exhibit "A" - Sources and Uses of Funds
Exhibit "B" - Weighted Average Lives
Exhibit "C" - IRS Determination Letter

[Tax and Non-Arbitrage Certificate]

EXHIBIT "A"

ORIGINAL SOURCES AND USES OF FUNDS

Uses of Funds:

Project Costs	\$10,000,000
Bond-Funded Costs of Issuance	-0-
Closing Costs from Equity	65,502

<u>TOTAL</u>	<u>\$10,065,502</u>
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Sources of Funds:

Bond	\$10,000,000
Equity	65,502

<u>TOTAL</u>	<u>\$10,065,502</u>
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EXHIBIT "B"

Calculation of Weighted Average Life of Assets Financed

(1)	(2)	(3)	(4)	(5)
<u>Type of Property</u>	<u>Expected Allocation of Proceeds</u>	<u>[Reserved]</u>	<u>Estimated Useful Life</u>	<u>Column (2) x Column (4)</u>
Building	\$10,000,000		35	350,000,000
TOTALS	<u>\$10,000,000</u>			

Original Weighted Average Life = (Total Col. (5)/Total Col. (2)): 35.00 years

Time Elapsed: 10.2 years

Remaining Weighted Average Life: 24.8 years

EXHIBIT “C”

IRS DETERMINATION RULING

CONSENT OF BONDHOLDER

The undersigned beneficial owner of The Habersham County Development Authority Revenue Bond (Piedmont College Project) Series 2013 (the "Bond"), in the original principal face amount of \$10,000,000, hereby consents to (1) the Third Amendment to Bond and Loan Agreement, dated as of May __, 2023, among The Habersham County Development Authority, Piedmont University, Inc. and South State Bank, and (2) the Third Supplemental Bond Resolution adopted by The Habersham County Development Authority on May 4, 2023. The undersigned waives further notice of such proposed amendment and supplement. The undersigned expressly retains all other rights with respect to the Bond and under the related documents.

Dated: May __, 2023

SOUTH STATE BANK

By: _____
Title:

[BOND COUNSEL OPINION]

May ___, 2023

South State Bank
Cornelia, Georgia

The Habersham County Development Authority
Cornelia, Georgia

Piedmont University, Inc.
Demorest, Georgia

Re: \$10,000,000 aggregate principal amount The Habersham County Development
Authority Revenue Bond (Piedmont College Project), Series 2013

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the modification of the above-captioned Bond (the “Bond”). We have examined:

(a) The Third Supplemental Bond Resolution of the Habersham County Development Authority (the “Authority”), adopted on May 4, 2023, with respect to the modification of the Bond (the “Third Supplemental Bond Resolution”);

(b) the Third Amendment to Bond and Loan Agreement, dated as of May ___, 2023, among the Authority, Piedmont University, Inc. (f/k/a Piedmont College, Inc., the “Borrower”) and South State Bank, as holder of the Bond (the “Third Amendment to Bond and Loan Agreement”);

(c) such other papers, laws and legal materials as we have deemed necessary, proper or appropriate to form the opinions herein expressed.

The documents referred to in subparagraphs (a) and (b) are together referred to herein as the “Authority Documents.”

In our examination, we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals, and conformity to original documents of all documents submitted to us as certified or photostatic copies. As to questions of fact material to our opinion, we have relied upon (a) certified proceedings and other certifications of public officials furnished to us, and (b) representations and certifications of the Borrower relating to, among other things, the allocation and use of the proceeds of the Bond, the design, scope, function, cost and reasonably expected remaining economic useful life of the facilities financed or refinanced by the Bond and the actual and intended use of all such facilities by the Borrower.

In rendering the opinions expressed herein, we have relied upon certain representations and covenants of the Borrower and the Authority, including representations and covenants with respect to the allocation and use of the proceeds of the Bond and compliance with certain arbitrage and arbitrage rebate requirements.

The modification of the Bond pursuant to the Authority Documents will cause the Bond to be deemed "reissued" pursuant to the Internal Revenue Code of 1986, as amended, and the regulations thereto. The proceeds of the Bond as reissued are allocated as described in the Borrower's Tax and Non-Arbitrage Certificate of even date herewith.

The Authority has designated the Bond as reissued as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Based upon and subject to the foregoing, and subject to the qualifications hereinbelow set forth, we are of the opinion that, under existing law:

1. The Authority is a public body corporate and politic under the laws of the State of Georgia.

2. The modification of the Bond has been duly authorized by the Authority in accordance with the Constitution and laws of the State of Georgia, and the Bond as modified constitutes the valid and binding limited obligation of the Authority, except that the rights of the holder of the Bond and the enforceability thereof may be subject to the exercise of judicial discretion in appropriate cases, principles of equity and applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights.

3. The Bond constitutes only the limited obligation of the Authority as provided therein and in the Bond Resolution (as amended), and does not constitute an indebtedness by or on behalf of the State of Georgia or of any political subdivision thereof (including Habersham County, Georgia), or a pledge of the faith and credit of any thereof. The Bond is payable solely from the special funds provided therefor and do not directly, indirectly or contingently obligate the Authority, the State of Georgia or any political subdivisions thereof (including Habersham County, Georgia) to levy or to pledge any form of taxation whatsoever or to make any appropriation for the payment thereof, and no holder of the Bond has the right to compel the exercise of the taxing power of the State of Georgia or any political subdivisions thereof (including Habersham County, Georgia) to pay the same or the premium or interest thereon.

4. Under the Constitution and laws of the State of Georgia, the Authority Documents have been duly authorized, executed and delivered by the Authority and constitute the valid, binding and enforceable obligations of the Authority, except as enforcement thereof may be limited by the exercise of judicial discretion in appropriate cases, applicable bankruptcy, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights, and general rules of law and equity that may limit the enforcement of certain remedies.

5. The interest on the Bond accruing during the Extension Period (as defined in the Third Amendment to Bond and Loan Agreement) is excluded from gross income for federal income tax purposes under the Code. Moreover, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals; however, such interest is taken into account in determining the annual adjusted financial statement income of certain

corporations for the purpose of computing the alternative minimum tax imposed on corporations for tax years beginning after December 31, 2022. The opinion set forth above in this paragraph is subject to the condition that the Authority and the Borrower comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bond in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Authority and the Borrower have covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bond in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bond. We express no opinion regarding other federal tax consequences arising with respect to the Bond.

7. The interest accruing on the Bond during the Extension Period is exempt from income taxation by the State of Georgia.

This opinion is delivered on the date hereof and is based upon the facts represented and the law as of the date hereof. No undertaking is made to amend, supplement or otherwise change this opinion based upon any event or change in circumstances or laws subsequent to the date hereof.

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By: _____
Benjamin J. Brooks

[OPINION OF AUTHORITY COUNSEL]

April ___, 2013

South State Bank
Cornelia, Georgia

Piedmont University, Inc.
Demorest, Georgia

Smith, Gambrell & Russell, LLP
Atlanta, Georgia

The Habersham County Development Authority
Cornelia, Georgia

Re: \$10,000,000 aggregate principal amount The Habersham County Development Authority
Revenue Bond (Piedmont College Project), Series 2013

Ladies and Gentlemen:

We have acted as counsel to The Habersham County Development Authority (the “Authority”) in connection with the modification of the captioned Bond (the “Bond”). Terms used herein that are defined in the Bond Resolution adopted by the Authority on February 7, 2013 (the “Bond Resolution”) shall have the meanings given those terms in that Bond Resolution.

We have examined (i) the Third Supplemental Bond Resolution of the Authority, adopted on May 4, 2023, with respect to the modification of the Bond (the “Third Supplemental Bond Resolution”), (ii) the Third Amendment to Bond and Loan Agreement, dated as of May ___, 2023, among the Authority, Piedmont University, Inc. (f/k/a Piedmont College, Inc., the “Borrower”) and South State Bank, as holder of the Bond (the “Third Amendment to Bond and Loan Agreement”), and (ii) certain other certificates and documents submitted to us by or on behalf of the Authority and the Borrower. Further, we have made such examination of the Constitution and laws of the State of Georgia as we have deemed necessary in order to deliver this opinion.

We have also examined and relied upon such documents, corporate records, certificates of officers and other instruments and legal matters as we have deemed necessary for the purposes of the opinions expressed herein.

In our examination, we have assumed the genuineness of all signatures (other than the signatures of the Authority officials) and the authenticity of all documents submitted to us as originals, and conformity to original documents of all documents submitted to us as certified or photostatic copies. As to various questions of fact material to our opinions, we have relied solely upon the representations of

the Authority contained in the Authority Documents (defined below) and upon certifications of officers or other representatives of the Borrower and the Authority.

Based upon such investigation as we have deemed appropriate, we are of the opinion that as of this date:

1. The Authority is a public body corporate and politic validly organized and existing under the Constitution and laws of the State of Georgia, and has all requisite power and authority (i) to adopt the Third Supplemental Bond Resolution, (ii) to enter into the Third Amendment to Bond and Loan Agreement (such documents together, the "Authority Documents") and (iii) to carry out the transactions contemplated by the Authority Documents.

2. The Third Supplemental Bond Resolution has been duly adopted by the Authority and has not been repealed, revoked, rescinded or amended, and no further action of the Authority is required for its continued validity.

3. Under the Constitution and laws of the State of Georgia, the execution, delivery and performance of the Authority Documents have been authorized by all necessary actions on the part of the Authority, and, assuming that they are the respective legal, valid, binding and enforceable obligations of the other parties thereto, the Authority Documents constitute legal, valid, binding and enforceable obligations of the Authority, except that the enforceability thereof may be subject to (a) the exercise of judicial discretion in accordance with the general principles of equity, and (b) bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights.

4. The modification of the Bond, the adoption of the Third Supplemental Bond Resolution and the execution and delivery by the Authority of the Authority Documents and the compliance by the Authority with the terms thereof and of the Bond do not and will not conflict with, or result in any violation or breach of any of the provisions of, or constitute a default under, any activating resolution or bylaw of the Authority or any constitutional provision, statute, agreement, indenture, guaranty, mortgage, deed of trust, resolution or other agreement or other instrument to which the Authority is a party or by which it is bound, or any license, judgment, decree, order, law, statute, ordinance or governmental rule or regulation applicable to the Authority, or result in the creation or imposition of any lien, charge encumbrance or security interest on the property of the Authority (other than as contemplated by the Bond Resolution).

6. To the best of our knowledge, the Authority is not in default in any material respect under any agreement or other instrument to which it is a party or by which it may be bound.

7. To the best of our knowledge all consents, approvals, orders or authorizations, if any, of any governmental authority required on the part of the Authority in connection with the adoption of the Third Supplemental Bond Resolution, the execution and delivery of the Authority Documents, the modification of the Bond and the consummation of the transactions contemplated thereby have been obtained, and to the best of our knowledge the Authority has complied with all applicable provisions of law requiring any designation, declaration, filing, registration and/or qualification with any governmental authority in connection with the foregoing and the offer, sale, execution or delivery of the Bond, provided, however, no opinion is given concerning any requirement for registration of the Bond

under federal or state securities laws, nor is any opinion given as to the necessity for qualification of any document under the Trust Indenture Act of 1939.

8. There are no proceedings pending or, to the best of our knowledge, threatened against the Authority in any court or before any governmental authority or arbitration board or tribunal, that could materially and adversely affect the transactions contemplated by or that would adversely affect the validity and enforceability of the Bond, the Authority Documents or any agreement or instrument to which the Authority is a party and that is contemplated by the foregoing, or to contest the legal existence or powers of the Authority or the title to any of their offices of any officer of the Authority.

9. All actions taken by the Authority in connection with the Third Supplemental Bond Resolution, the Authority Documents and the Bond are legal and valid in all respects and none of the proceedings had, or actions taken, with respect to any of the foregoing have been repealed, revoked or rescinded.

No one is authorized to rely upon this opinion other than the addressees hereof. This opinion is delivered on the date hereof and is based upon the facts represented and the law as of the date hereof. No undertaking is made to amend, supplement or otherwise change this opinion based upon any event or change in circumstances or laws subsequent to the date hereto.

Very truly yours,

NOTICE OF PUBLIC HEARING

You are hereby notified that on May 15, 2023, at 9:00 a.m., at the Board of Commissioners Meeting Room, Room 211, in the Administration Building, 130 Jacob's Way, Clarkesville, Georgia 30523, a Public Hearing will be held concerning modifications to The Habersham County Development Authority Revenue Bond (Piedmont College Project), Series 2013 in the original principal face amount of \$10,000,000, and currently outstanding in the amount of \$5,606,647.18. The bond originally financed the costs associated with the acquisition, construction, and installation of a new student center, owned and operated by Piedmont University, Inc. (f/k/a Piedmont College, Inc.), a Georgia non-profit corporation, located on or near the 191.25-acre campus of the School located at 165 Central Avenue, Demorest, Georgia.

The maturity date on the bond is being extended and the rate of interest applicable to the bond is being adjusted, which modifications shall cause the bond to be reissued for federal income tax purposes. The proceeds of the bond as reissued in an amount not to exceed \$5,606,647.18 will be used to currently refund the bond and refinance the project described above. The bond as reissued will not be a general obligation of the State of Georgia, Habersham County, Georgia or the Authority, nor will such bond be payable in any manner by taxation, but will be payable solely from payments received pursuant to a loan agreement with Piedmont University, Inc., which owns and operates the facility. **NO PERFORMANCE AUDIT OR PERFORMANCE REVIEW SHALL BE CONDUCTED WITH REGARD TO THE BOND.** Any person having views on the proposed bond reissuance or the nature or location of the project may be heard at such public hearing or may submit written comments at the hearing.

**THE HABERSHAM COUNTY
DEVELOPMENT AUTHORITY**

