

HABERSHAM COUNTY BOARD OF COMMISSION

EXECUTIVE SUMMARY

SUBJECT: Renewal of Agreement for Piedmont University's use of recreation facilities for their swim team.

DATE: July 21, 2025

☒ **RECOMMENDATION**

☐ **POLICY DISCUSSION**

☐ **STATUS REPORT**

☐ **OTHER**

BUDGET INFORMATION:

ANNUAL-

CAPITAL-

COMMISSION ACTION REQUESTED ON:

PURPOSE: *This is a request to renew the contract allowing Piedmont University to use the Natatorium and support amenities for their swim team.*

BACKGROUND / HISTORY: *This is a separate agreement from the one that is done for general recreation facility usage by Piedmont staff and student body.*

FACTS AND ISSUES:

- *This has been a renewable annual contract provided a protocol is followed prior to the current term ending. This had not been followed up on in the past so this Agreement will set a new anchor-point for that protocol. There does not exist, a copy of this Agreement that is not a .pdf that has been copied over several times. This will give us a clean copy to work with moving forward.*
 - *The Agreement will be exactly the same in substance with the exception that we will not look to receive 20% of any corporate sponsorships they obtain. They typically do not get any anyways.*
 - *COMPENSATION: An annual fee of \$4,000 is assessed and is paid in two installments.*
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OPTIONS: (1) approval of your recommended action or request; (2) denial of your recommended action or request; or (3) A Commission defined alternative.

RECOMMENDED SAMPLE MOTION: *Motion to approve the renewal of Piedmont University's Agreement for the use of the Aquatic Center's Natatorium and support amenities for their swim team.*

DEPARTMENT:

Prepared by: Terry Lannon

Director _____

ADMINISTRATIVE

COMMENTS: _____

DATE: _____

County Manager



AGREEMENT FOR THE USE OF FACILITIES IN THE PROVISION OF PROGRAM SERVICES:

“Piedmont University – Athletics Department Swim Program”

Terms of Agreement: July 14, 2025 – July 13, 2026

This agreement is made effective the latest date signed below by and between Habersham County a political subdivision of the State of Georgia, (hereinafter referred to as “Habersham”), acting by and through its Parks and Recreation Department (“HCRD”) and Piedmont University (hereinafter referred to as “Organization”):

WHEREAS, the parties desire to place in writing the terms of their agreement regarding the Organization’s request to utilize Habersham Recreation Facilities to provide for a competitive swim team, competitive stroke development and competition opportunities utilizing property described as Ruby C. Fulbright Recreation and Aquatic Center Lap Pool; and

WHEREAS, Organization has the proven expertise, training and certification to render such programming and services and agrees to operate in accordance with the Habersham Policies and Procedures.

NOW THEREFORE, and in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereby agree as follows:

- I. **Grant and Description of Premises.** HCRD grants to Organization and Organization accepts from HCRD the privilege of conducting the Organization’s scheduled Competitive Swim Team in the HCRD facilities as stated above. Facilities included in this agreement are the lap pool, locker rooms and associated restrooms. This agreement does not grant the use of the Colorado Timing System for authorized events. The specific dates and times of all uses are to be determined in advance and in conjunction with the HCRD.
- II. **Use of Premises.** The Organization shall use subject property to conduct Piedmont activities only. Organization shall not use or permit HCRD facilities to be used for any other purposes without obtaining the prior written consent of HCRD. Such requests must be submitted no less than seven business days prior to the special use.
- III. **Services to be Provided.** Organization will provide a competitive swim team and competition swim meets. HCRD or Organization may request changes in the scope of services to be performed by the Organization under this Agreement. However, no change shall be effective and enforceable unless mutually agreed upon by written amendment to this Agreement executed by both parties and attached hereto.
- IV. **No Employment Contract.** Nothing contained in this Agreement shall be construed in such a manner so as to constitute the Organization as a agent or employee of HCRD, it being the intent of the parties that Organization shall remain an independent organization no shall either party have any authority to bind the other in any respect except as specifically provided for herein. It is acknowledged by the Organization that all employees, agents and volunteers of the Organization are not employees or agents of HCRD.

V. Responsibilities of Organization

A. General:

1. The said property shall be subject to the rules and regulations of Habersham and HCRD. Habersham reserves the right to adopt and implant additional park and rules and regulations at any time during the term of this agreement.
2. Organization shall maintain the subject properties and the improvements located thereon so as to return the same to HCRD at the end of the agreement term in the same condition as they now exist subject to ordinary wear and tear.
3. The Organization's maintenance obligation includes litter control during scheduled activities and removal of all personal items belonging to the Organization's participants must be the obligation of the Organization to maintain the subject premises in conformance with all relevant codes and ordinances of Habersham, including applicable health codes.
4. The Organization must provide supervision for Piedmont swim participants prior to, during and following their assigned swim times. Piedmont swimmers determined to be disruptive to other guests or activities will be required to leave the facility immediately in the company of an Organization representative.
5. The Organization will abide by HCRD staff determination as to the availability of the Aquatic Center in case of server weather.
6. The Organization agrees to abide HCRD policy that prohibits any food or beverage (water excepted) in the pool area.
7. The Organization will make no permanent changes to the facilities without the expressed written consent of HCRD.
8. The Organization may not offer any activities or programs which conflict or compete with programs offered by HCRD. Any instructional component must be provided exclusively to those members participating in competitive events for the enhancement of the participants' competitive skills.
9. The Organization will assume responsibility for the cost of repair to any damage sustained to facility areas resulting directly or indirectly from their use.
10. Inspection of facilities will be made by Organization and HCRD representatives immediately prior to scheduled program and immediately following program service.
11. The Organization will provide its own storage for equipment at the aquatic center.
12. The Organization will provide its own timing system for swum meets.

B. Expenses:

The Organization agrees to pay all expenses incurred in conducting programming and ancillary services.

C. Hours of Operation:

The Organization shall schedule all activities and ancillary services during the normal operating hours posted only unless prior written approval is made between the Organization and HCRD. The Organization further agrees that there will possibly be designated times throughout the year where scheduling conflicts will occur in the programming and agrees that these conflicts will be discussed and worked out to the best interest of both programs if possible. If the scheduling conflicts cannot be resolved HCRD Director will make the final decision on program scheduling. The Organization agrees to ensure that an Organization representative is present at all times during schedule activities on said property.

D. Nondiscrimination:

The Organization shall not discriminate against any program participant employee and/ or sub-contractor because of race, creed, color, national origin, gender, affectional or sexual orientation, age, marital status, religion or disability by refusing to furnish such person any service or privilege offered to or enjoyed by area residents. Neither Organization nor his/her employees and/or sub-contractors shall publicize the services provided under the Agreement in any manner that would directly or by inference reflect on the acceptability of any person for instruction, programming and ancillary services based on race, creed, color, national origin, gender, affectional or sexual orientation, age, marital status, religion or disability.

E. Concessions:

The Organization agrees to follow all county and state regulations governing public health codes and standards. HCRD will provide all necessary concessions; the Organization will be unable to provide any sale of food or beverage on the property without approval from HCRD.

F. Subcontractors

The Organization shall at all times use only those persons of good moral character as employees, volunteers, and/or independent sub – contractors that HCRD considers to be unfit or otherwise objectionable. HCRD requires members of the Organization and/or all sub-contractors to submit to a criminal background check and/or drug test to determine the suitability of their employment. All program personnel shall be neatly dressed at all times and shall conduct themselves courteously in their relations with the public. All personnel engaged by Organization shall be fully qualified for the specific service(s) they are to provide and shall be authorized or permitted to work under applicable state and local laws. If required, Organization assumes full responsibility for making all required income tax, social security and other deductions and related payments and shall also file all required returns and forms needed to fulfill these responsibilities.

G. Publicity:

The Organization agrees that all program advertisements, publications, and public notices will recognize Ruby C. Fulbright Recreation & Aquatic Center as location but will not express any endorsement or sponsorship of the Organizations program by Habersham or HCRD. HCRD will permit the continued hanging of small sponsor banners in the Aquatic Complex, but all banners must be placed in approved locations only.

H. Complaints and Incidents:

The Organization agrees to listen to public complaints about the Organization program and work out a fair solution to any and all issues. The Organization agrees to notify HCRD by the quickest means practicable of any incidents and/or accidents associated with subject facilities.

I. Fees:

The Organization may charge reasonable fees in order to conduct its business. All program fees will be made payable to Organization and will be collected and posted by the Organization.



J. Scheduling of Facilities:

The Organization agrees that all facilities will be scheduled through HCRD. The agreed upon lane usage for the current contract period is defined in Section VIII. Any necessary or required change to this schedule during the contract period will be provided in writing with a minimum of 15 days' notice given to the Organization. Should scheduling conflicts occur in programming the Organization agrees that these conflicts will be discussed and worked out to the best interest of both programs if possible. If the scheduling conflicts cannot be resolved, the HCRD Director will make the final decision on program scheduling.

K. Programming:

The scheduled activities of the Organization shall be for Piedmont swimmers training and competitions only.

L. Reports:

By July 15th of each year, the Organization shall provide HCRD with a program service and financial reports for the preceding agreement year. Such reports shall include a summary of all program measures including, but not limited to, statistics on program participants revenue, expenditures, and scholarship donations. Personal information on participants is not requested or required.

VI. Responsibilities of HCRD

A. Publicity:

HCRD will offer publicity opportunities to the Organization as available. The Organization is granted permission to hang sponsor banners in the Aquatic Center provided the appropriate fee has been paid to the County for that right on an annual basis.

B. Equipment and Facility Use:

HCRD will furnish Organization with pool and support amenities in a safe manner consistent with regulated and acceptable health standards deemed necessary to the conduct of the program and mutually agreed upon by the Organization and HCRD. Additionally, HACRD assumes responsibility to maintain present equipment such as leachers, lane ropers, and starting blocks.

C. Maintenance:

HCRD shall be responsible for the normal support and preventive maintenance of the premises, including plumbing, electrical repairs, and replacement.

D. Equipment:

HCRD assumes responsibility for the upkeep of all pool equipment such as, but not limited to, boilers, heaters, and chlorination system, and will operate the pool within the recommended temperature range for recreational use (78 – 83 degrees). HCRD does not at any time guarantee a specific temperature nor is HCRD able to adjust the temperature of the pool for specific activities or use. HCRD does not at any time guarantee a specific temperature nor is HCRD able to adjust the temperature of the pool for specific activities or use. Should a failure occur in the pool mechanical system, the Organization will be notified at the earliest opportunity by HCRD staff.

E. Utilities:

HCRD shall provide public utilities (water and electricity) for uses of the park by the Organization and by the general public.

VII. Compensation:

- A. A fee of \$25.00 per team participant, per month not to exceed \$1,000 per month, will be assessed to the organization and submitted to HCRD by the 15th of the month. All participants active or inactive are required to sign in at the front desk to maintain proper count of swim participants for pool usage reports.
- B. Fees assessed to the Organization are payable to HCRD by the 15th day of the month following the end of the month. Any request for additional use of the facility, outside the schedule outlined in the agreement, must be negotiated separately.

VIII. Facility Usage:

- A. During the agreement year, the Organization will utilize lanes which have been mutually agreed upon.
- B. All rosters will be verified, and members and members will be required to check in.
- C. The Organization shall not have the right to schedule the use of the facility on the subject properties without granted approval by HCRD.
- D. The Organization may schedule use of the property at other times by submitting a written request to HCRD. Such requests shall be approved by HCRD provided a conflicting use has not been scheduled by HCRD and any additional fees are agreed up by the Organization and HCRD is compensated in advance of the use.
- E. All of the subject property shall be available for public use by the citizen at all times not scheduled for Organization activities. HCRD reserves the right to schedule and utilize subject property, including structures and other facilities, for uses at all times not scheduled by the Organization.
- F. The Organization may modify this schedule from time to time with the approval of HCRD.
- G. The Organization shall provide HCRD with at least four weeks, notice when requesting dates and times for swim meets. A separate facility use agreement will be in place for all swim meets.

- IX. Proprietary Materials,** the Organization shall have the right to control use of personal property and equipment owned by the Organization and store in any authorized structures located on subject property. All personal property and equipment of the Organization shall remain the personal property of the Organization and shall be removed from the subject property within seven dates of any cancellation or termination of this agreement.

- X. Term,** The term of this agreement shall be July 14, 2025, to July 13, 2026. This agreement shall automatically renew annually for an additional term provided Organization gives 90 days' written notice of HCRD of its intention renew and/or execute another agreement prior to the expiration of the term in effect. HCRD shall have 0 days to review the current agreement and in its sole discretion accept or reject said request for renewal or negotiate any changes at that time. If HCRD does not object to the extension, this agreement shall renew as provided above. Nor withstanding the above, the fees/ compensation may be subject to revision by addendum hereto annually without the necessity of a new agreement.



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- XI. Termination for Cause.** the Organization must support HCRD rules and regulations and HCRD may terminate the Agreement for cause, which shall include fraud, theft drug use, criminal activity, insubordination to HCRD, moral offenses or any other offenses deemed damaging to the image or mission of HCRD, failing to fulfill the obligations under this agreement in a timely manner, or the Organization's violating any of the material provisions of the agreement. Termination by HCRD for cause shall be initiated by giving written notice to the organization. Termination for cause in the sole discretion of HCRD shall be effective immediately upon notice by HCRD.

Either party to the agreement may provided notice to the other at the addresses indicated in paragraph (XV) below, that the party deems the other party to the Agreement to be in violation of the agreement.

- A. The notice shall specify the nature of the alleged violation and the corresponding provision in this agreement. Within seven days, the other party shall respond in writing regarding the allegations of violation of the agreement. If the alleged violations have been cured, the response shall note. If after the exchange of notice of violations have been cured, the response shall so note. If after the exchange of notice of violations and response, either party considers the issue to not be resolved, that party shall notify the other of the date, time, and place of a meeting (to be held within HCRD and not sooner than seven days from the date of said notice of meeting and not more than 4 days subsequent to the date of said notice of meeting) at which representatives of the patties shall discuss the alleged violation and the response there to.
- B. Irrespective of the foregoing, in the event HCRS determines that any condition on the subject premises constitutes an immediate health hazard to the members of the public, HCRD shall have the right to immediately take action to correct said condition. In that situation, HCRD shall notify the representative of the Organization identified in paragraph XV below by telephone, facsimile transmission or other method designed to provide the most expedient notice to the Organization.
- C. In the event the meeting of the parties pursuant to the procedures in sub paragraph, the above does not resolve the alleged violation, either party may pursue any available judicial remedy. Upon final determination that the other parties in violation of the agreement, either party shall have the right to terminate the agreement on seven days' notice to the other.

- XII. Indemnification.** the Organization hereby agrees to defend, indemnify and hold HCRD its agents and employees, harmless from any all claims, suits, liens, demands, debts, damages, loss or expense, including but not limited to, attorney's fees and litigations expenses, suffered or incurred by HCRD as a result of the Organization's failure to perform in accordance with the agreement documents and arising out of and resulting from Organization's performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of Organization, a sub-contractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable.

- XIII. Insurance.** the Organization is required to provide HCRD with a copy of the certificate of insurance for a Commercial General Liability policy with a \$1,000,000 per occurrence minimum and a \$1,000,000 aggregate, with HCRD manned as additional insured on that policy. The insurance company used must be at least an A minus 6, Class VI, best rated company; HCRD must be provided 30 days written notice of policy cancellation.



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XIV. **Conflicts of Law.** This agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Georgia.

XV. **Entire Agreement.** This agreement contains the entire understanding of the parties and superseded all previous verbal and written agreement. No other agreement, statement or promise not contained herein relating to the subject matter of the agreement shall be valid or binding. Any notice required under this agreement shall be provided to the other party at the indicated address

Habersham County Parks and Recreation (HCRD), 120 Paul Franklin Road, Clarkesville, Ga 30523

Organization – Piedmont University, 1021 Central Avenue, Demorest, Ga 30535

XVI. **Contractor Information:**

Name: Teddy Guyer - swim coach

Address: 1021 Central Ave City: Demorest Zip Code: 30535

Phone Number: 828-273-3669 Email: TGuyer@Piedmont.edu

Approved by the Habersham County, Georgia Board of Commissioners on the _____ day of _____, 2025 and executed this _____ day of _____, 2025, in the witness whereof the said Party hereto has set its hand, affixed its seal and delivered these presents.

BOARD OF COMMISSIONERS OF HABERSHAM
COUNTY, GEORGIA

By: _____

Attest: _____

Brandalin Carnes, County Clerk

In witness where of the said party hereto has set its hand, affixed its seal and deliver these presents

CONTRACTOR NAME

By: [Signature] 7/1/2025

Attest: _____