REQUEST FOR BOARD ACTION

ITEM NO. 16.

DATE OF MEETING: July 7, 2014

REQUESTED BY: Denise Mulhollen, HR Director

SHORT TITLE: Resolution Approving Recruiting Contract with Greene Resources, Inc.

BACKGROUND: Greene Resources, Inc. is an award-winning employment solutions firm with offices in Wilmington, Raleigh and Charleston, SC. Greene has been honored with numerous awards for growth, entrepreneurship and integrity. Some of the notable awards include: "Entrepreneur Magazine's 100 Hottest Companies in America", "North Carolina Association of Staffing Professionals Sales/Marketer of the Year" and "Pinnacle Business Award from the Greater Raleigh Chamber of Commerce." Greene works with their clients to understand their business, skill requirements and culture. They then work within set parameters to find the right candidates for the job.

Partnering with Greene to provide temporary contracted employees would provide cost savings to the County. By utilizing contracted workers, there would be savings in salaries, taxes, benefits, workers' compensation and LGERS contributions. A contracted worker with a defined end-date would mean no recurring costs to the County. PTO (Paid Time Off) and Holidays are not billed back to the client – these are paid by Greene. Greene would also provide time-savings to the County's departments as they administer the screening, background and drug testing services.

SPECIFIC ACTION REQUESTED: To consider a resolution to approve the Greene Resources, Inc. recruiting solutions contract agreement.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

CBW
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the Board hereby authorizes Greene Resources, Inc. to provide recruiting and placement services for the County. The Chairman/County Manager/Interim County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED_____ SECONDED_____

APPROVED_____ DENIED _____UNANIMOUS

YEA VOTES: Williams ___ McCoy ___ Brown ___ Tate ___ Ward ___

_____ 7/7/14
J. David Williams, Jr., Chairman Date

_____ 7/7/14
ATTEST Date

CONTRACT SERVICES AGREEMENT
GREENE RESOURCES, INC.

This Agreement entered into and effective as of this 30th day of May, 2014 by and between Greene Resources, Inc. with office located at 5036 New Centre Drive, Wilmington, NC 28403 (Agency) and Pender County Government ("Client") with offices at 805 S. Walker Street, Burgaw, NC 28425 hereinafter sometimes referred to collectively as "Parties" and singularly as "Party".

WHEREAS, Agency is engaged in the business of recruiting, screening, assigning and submitting personnel ("Contractor(s)") to perform services for clients, and providing to clients related employee management services ("Services"); and

WHEREAS, Client desires to engage Agency to provide such Services pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises, and covenants set forth, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Agency and Client agree to be legally bound, and agree as follows:

1. **Independent Contractors' Status.** The Parties acknowledge and agree that Agency is an independent vendor and that neither Agency nor its Contractors shall be agents or employees of Client. Nothing contained in this Agreement nor the relationship between the Parties shall create a fiduciary relationship between the Parties and neither Party shall act as an agent, legal representative, joint venture partner, employee or servant of the other except as expressly provided in this Agreement. Agency shall remain solely responsible for the Contractors' compensation, withholding and employment taxes including federal, state and local government and the filing of all applicable federal, state and local employment and withholding tax forms and returns.

2. **Term of Agreement.** This Agreement shall be for an initial term of twelve (12) months from the effective date of this Agreement as first stated above. This Agreement shall be automatically renewed for successive one-year terms unless modified or terminated in accordance with the provisions of this Agreement. Agency and Client agree to waive any notice prior to automatic renewal of this Agreement that may be required by state law.

3. **Work Orders.** Agency and Client shall agree upon the hourly bill rate, work location, work hours and other conditions related to the Services to be performed by the Contractors. The terms and conditions shall be set forth in the Work Order, the form of which is attached as Exhibit A to this Agreement and signed by the Parties. Subsequent Work Orders may be added to this Agreement and designated sequentially in subsets and identified as Exhibit A-1, A-2, and A-3. The additional Work Orders shall be made part of this Agreement and subject to the same terms and conditions as Exhibit A.

4. **Work Environment.** Client agrees to be responsible for providing a suitable work location and supplying all necessary facilities, equipment and materials necessary for the use of Contractors in order to perform the duties of their assignments.

5. **Invoicing and Payment.** Client agrees to pay Agency for its Services furnished under this Agreement in such amounts as provided in the Work Order. Agency shall invoice Client on a weekly basis, in arrears, for Services provided. Client agrees that all invoices shall be paid in full within twenty (20) days from invoice date. All invoices which remain unpaid for a period of thirty (30) days after invoice date shall accrue interest at the rate of one and one-half percent (1 ½%) per month (18% per annum).

Payment shall be remitted to:
Greene Resources, Inc. Corporate Office
805 Spring Forest Road, Suite 400, Raleigh, NC 27609

6. **Intellectual Property/Confidentiality.** Agency agrees that any intellectual property created, developed, conceived, or reduced to practice by any Agency Contractors during the term of the Contractors' assignment with Client, and delivered to Client, shall be considered the sole property of Client. Agency further agrees to assign its entire right, title and interest in any copyright arising as a result of the Services provided to Client in accordance with this Agreement. Agency also agrees to cooperate and assist Client in executing and completing all necessary and appropriate documents to register the copyright in the name of Client and to assign such copyright to Client or to any such party, which Client may designate. Such documents shall be prepared by Client or their designee, at Client's sole expense, and Agency and/or Agency's Contractors shall sign the documents only upon the request of Client. Agency and its Contractors agree that they will not disclose any confidential or privileged information of Client to which they have access without the prior consent of Client. Confidential Information as used herein is limited only to written or tangible information clearly marked Confidential, Proprietary or bearing a similar legend. Any written or tangible information not so designated shall not be treated as confidential information unless Agency receives written notification containing a summarization of the information deemed confidential in writing and delivered to Agency and Agency's Contractor within ten (10) days following disclosure to Agency or Agency's Contractors. Client shall disclose such Confidential Information only to those Agency Contractors, employees, agents and subcontractors who need to know the information for performance under this Agreement. Agency Contractors, employees, agents and subcontractors shall be required to sign a Confidentiality and Non-Disclosure agreement. Neither Agency nor Client shall have any obligation to keep confidential or refrain from using any information which: (a) was in its possession or known to it, without an obligation to keep the information confidential, before such information was disclosed to it by the other Party; (b) is, or becomes, public knowledge through no fault of its own; (c) is independently developed by or for it; (d) is disclosed by the other Party to others without any restriction on use and disclosure; or (e) is or becomes lawfully available to it from a source other than the other Party.

7. **Non-Solicitation.** Client agrees that it will not solicit for employment (directly or indirectly) any Agency Contractors as outlined in Exhibit A. Client agrees that any violation of this provision will necessarily cause Agency harm, and therefore should Client employ, engage or utilize the services of Agency Contractors, in any manner, directly or indirectly, without the prior written approval of Agency. Client shall pay Agency a liquidation fee as provided in Exhibit A. Existing candidates that were referred to Greene Resources by Pender County will not be subject to conversion fees as stated in paragraph 7 & exhibit A. -DH

8. **Termination.** Either Party shall have the right to terminate this Agreement upon thirty (30) days written notice. In addition, either Party shall have the right to terminate this Agreement upon default by the other Party if such default is not cured within ten (10) days following receipt of written notice of such default. The provisions of Sections 1, 5, 6, 7, 10, 11 and 14 shall survive any termination or expiration of this Agreement.

9. **Default.** The occurrence of any one or more of the following events shall constitute a default: (a) either Party's failure to perform any obligation contained in this Agreement; (b) either Party ceasing to do business as a going concern, making an assignment for the benefit of creditors, admitting in writing its inability to pay its debts as they become due, filing a petition in bankruptcy or appointment of a receiver, or in the appointment of a trustee or liquidator for the purposes of liquidating all or a substantial portion of its assets; (c) Client failure to pay any amount due to Agency within the time allowed under this Agreement.

10. **Indemnity.** Agency shall indemnify and hold harmless Client against all claims, losses, liabilities, damages, deficiencies, costs and expenses (including interest, penalties, reasonable attorneys fees and disbursements) (collectively "Losses") incurred by Client as a result of claims, actions or proceedings brought by any third Party arising out of any act or omission by Agency or Contractors of Agency occurring as a result of performance of this Agreement, unless the act or omission: (a) was required, requested or directed by Client, (b) arises out of any allegation of infringement by Agency of any patent, copyright, trademark, service mark, trade name, trade secret, or other proprietary right which alleged infringement does not result from the acts or actions of Agency or Contractors, or (c) relates to the employment by Agency of any person or the engagement of any subcontractor pursuant to the terms of this Agreement. Upon learning of any such claim, action, demand, or proceeding, Client shall immediately provide Agency with written notice of Client's demand for indemnity. Agency shall retain complete discretion to defend or resolve any claim, action or proceeding brought against Client or Agency for which Agency is required to indemnify Client.

Client shall provide Agency with all relevant information necessary to defend such claim and shall provide reasonable assistance to Agency for the investigation and defense of such claim.

Client shall indemnify and hold harmless Agency against all claims, losses, liabilities, damages, deficiencies, costs and expenses (including interest, penalties, reasonable attorneys' fees and disbursements) (collectively "Losses") incurred by Agency as a result of claims, actions, or proceedings brought by any third Party arising out of any act or omission by Client or any employee, subcontractor or agent of Client which relates to Client's receipt of Services under this Agreement, unless the act or omission: (a) was required or directed by Agency, (b) arises out of any allegations of infringement by Agency or its Contractors of patent, copyright, trademark, service mark, trade name, trade secret, or other proprietary right which infringement does not result from the acts of Agency or its Contractors (c) relates to the employment by Client or engagement by Client of any subcontractor in connection with this Agreement. Upon learning of any such claim, action or proceeding, Agency shall immediately give Client written notice of Agency's demand for indemnity. Client shall have complete discretion to defend or resolve any claim, action, or proceeding brought against Agency or Client for which Client is required to indemnify Agency hereunder. Agency shall provide Client with all relevant information, necessary to defend such claim and shall provide reasonable assistance and sand reasonable to Client for the investigation and defense of such claim.

11. **Limitation of Liability.** In any claim by Agency against Client arising out of or related to this Agreement, Client aggregate liability to Agency shall be limited to the total amount of fees and expenses due and payable to Agency for Services rendered to Client. In any claim by Client against Agency arising, out of or related to this Agreement, Agency's aggregate liability to Client shall be limited to the total amount of fees and expenses paid by Client to Agency for the related Work Order. Neither Party shall be liable to the other for any incidental, indirect, special, consequential, nor punitive damages under any circumstance, even if the Party against whom the claim is asserted has been advised of, knew, or should have known of the possibility of damages.

12. **Assignment and Successors.** This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and assigns, but this provision shall not be construed as allowing Agency or Client to convey or assign its rights or obligations hereunder without the prior written consent of both Parties.

13. **Notice.** Any notice, consent or other communication in connection with this Agreement shall be in writing and may be delivered in person, by regular U.S. Mail, by facsimile transmission with confirmation of receipt, or by overnight delivery service (such as Federal Express). The notice shall be effective upon receipt. Notices will be addressed as follows or such other address as may be designated in writing by the applicable Party by notice given in accordance with this Section.

Greene Resources, Inc.

Name: Samuel H. Duffort
Title: Chief Financial Officer
Address: 805 Spring Forest Road, Suite 400
Raleigh, NC 27609

Pender County Government

Name / Title: Mickey Duvall / County Manager
Name / Title: Claiburn Watson / Interim County Manager
Address: P.O. Box 1578
Burgaw, NC 28425

14. **Fees and Expenses.** If either Party institutes an action to enforce this Agreement or any of its terms, the prevailing Party shall also be entitled to receive from the non-prevailing Party, and the non-prevailing Party shall upon final judgment and expiration of all appeals immediately pay upon demand all reasonable attorney's fees and expenses of the prevailing Party.

15. **Vehicles.** Client will not request or permit any Contractor to use any vehicle, regardless of ownership, in connection with the performance of work for Client, other than as strictly required by the job description if provided as an Exhibit. Any modification to this provision shall be in writing and signed by both Parties prior to vehicle use.

16. **Valuables.** Client will not entrust any Contractor with unattended premises or valuables such as cash, negotiable instruments, keys, merchandise and confidential or trade secret information, other than as is strictly required by the job description if provided as an Exhibit.

17. **Entire Agreement.** This Agreement, including all exhibits attached hereto, constitutes the entire Agreement between the Parties concerning the matters included herein, and supersedes all prior and contemporaneous negotiations, agreements, representations and understandings of the Parties. This Agreement may be amended or modified only by written agreement of both Parties.

18. **Severability.** If any part of this Agreement is held invalid, illegal, or unenforceable by a court of complete jurisdiction the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision will be deemed modified only to the extent necessary to render such provision valid, legal and enforceable.

19. **Number and Gender.** All words used in this Agreement will be construed to be of such gender or number as the circumstances require.

20. **Governing Law.** This Agreement shall be deemed executed in the State of North Carolina regardless of the actual place of signature or the actual place of performance. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. The sole venue for any legal action shall be state court in Pender County, North Carolina. -DM

21. **Ambiguities.** The rule of construction that ambiguities in an agreement are to be construed against the drafter will not be invoked or applied in any dispute regarding the meaning or interpretation of any provision of this Agreement.

22. **Headings.** The headings of the Sections of this Agreement are inserted solely for the convenience of reference. The heading will in no way define, limit, extend or aid in the construction of the scope, extent or intent of this Agreement.

23. **Compliance.** Agency and Client agree to comply with all applicable federal, state, and local statutes, ordinances, and regulation including, but not limited to; the provisions of Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967, as amended; the American with Disabilities Act: the Family and Medical Leave Act of 1993; the Fair Labor Standards Act; and all other applicable employment related laws. E-Verify also. -DM

24. **Force Majeure.** Neither Party will be responsible for failure or delay in performance hereunder if the failure or delay is due to labor disputes, strikes, fire, riot, war, terrorism, acts of God or any other causes beyond the control of the non-performing Party.

IN WITNESS WHEREOF, Agency and Client have caused this Agreement to be executed as of the date first written above.

Greene Resources, Inc.	**Pender County Government**
By: _____	By: _____
Name: Samuel H. Duffort	Name: _____
Title: Chief Financial Officer	Title: _____
Date: _____	Date: _____

WORK ORDER
Pender County Government and Greene Resources, Inc.

Date: May 30, 2014
Contractor's Name: $18.20 DH
Bill Rate: Regular: ~~$13.30 – $14.70~~ per hour ($13%/hr. per emp. of Greene)
Start Date:

Contractor's Title: Income Maintenance Case Worker #1
Overtime: ~~$19.95 – $22.50~~ per hour $27.30
Expected End Date:

Additional Terms:

If Client decides to hire Contractor directly, Client must have approval to do so in writing from Agency which approval will not be unreasonably withheld, conditioned, or delayed. Any Contractor can be hired by Client without an additional fee after a conversion period of five hundred and twenty (520) hours worked for the positions of administrative, professional, clerical, non-licensed accounting; and one thousand forty (1040) hours worked for technical and licensed positions including but not limited to IT, engineering, and accounting. If Client wishes to hire a Contractor prior to the end of the conversion period, Client shall pay the agreed upon non-refundable liquidation fee to Agency as follows:

An amount equal to Agency's Per Hour Gross Margin multiplied by the total hours remaining in the liquidation period; (For purpose of this computation, Gross Margin shall be defined as the Contractor's Hourly Bill Rate minus the result of the Contractor's hourly pay rate multiplied by one point fourteen percent (1.14%).

If Client hires Contractor, Agency shall ensure that the Contractor is in compliance with standards set by the Work Order and the general standards of Client by conducting a social security trace, background report and 10-panel drug screen on the Contractors prior to the beginning of assignment with Client. Additional or more in-depth checks are available to be conducted at the request of Client.

Nothing in this agreement shall promise or guarantee a Contractor's employment with Agency for any specific length of time. The employment is at-will and either Agency or the Contractor has the option to terminate the employment relationship at any time, with or without cause, as long as there is no violation of applicable federal and state laws.

The Agreement and this Work Order constitute the complete and exclusive statement of the Parties' agreement about the Services under this Work Order and supersede all prior communications relating to the subject matter of this Work Order. In the event of any conflict between the Agreement and this Work Order, the terms and conditions of the Work Order shall control.

IN WITNESS WHEREOF, Agency and Client have caused this Exhibit A to be executed as of the date written below.

Greene Resources, Inc.	**Pender County Government**
By: _____	By: _____
Name: Samuel H. Duffort	Name: _____
Title: Chief Financial Officer	Title: _____
Date: _____	Date: _____