COUNTY AGENDA REQUEST

Department:	Human Resources	Presenter(s):	County Administrator Jack Krakeel
Meeting Date:	Thursday, March 22, 2012	Type of Request:	Old Business

Wording for the Agenda:

Consideration of staff's request for authorization to engage the Benefits Law Group for legal work requirements associated with the implementation of the Early Retirement Plan, and to authorize the Chairman to sign the Engagement Letter.

Background/History/Details:

Pursuant to the Board's direction during the 2012 Retreat, staff has been in communications with the County's Pension Plan Administrator - GebCorp. Recognizing that there will be significant legal work that will need to be accomplished with respect to both employer and employee, the County Administrator recommends that the Board of Commissioners engage the legal firm that represents the County's Plan Administrator in order to proceed with the production of documents required for an Early Retirement Plan. These documents include plan amendments, individualized disclosure documents, election forms, and waivers to employees.

Please see attached documentation.

What action are you seeking from the Board of Commissioners?

Authorization of the County Administrator's request to engage the Benefits Law group for legal work requirements associated with the implementation of the Early Retirement Plan, and to authorize the Chairman to sign the Engagement Letter.

If this item requires funding, please describe:

The estimated cost is approximately $10,000 to $12,000.

Has this request been considered within the past two years?	Yes	If so, when?	Saturday, March 10, 2012
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

BENEFITS LAW GROUP, P.K. KEESLER, P.C.

March 14, 2012

Mr. Jack Krakeel
County Administrator
Fayette County
140 Stonewall Avenue West
Suite 100
Fayetteville, GA 30214

Re: Legal Representation for Fayette County

Dear Mr. Krakeel

You have asked me to assist you with the Fayette County early retirement incentive program. The primary purpose of this letter is to confirm our understanding with you with respect to our representation and fee arrangement for the services we will render. While this is a formality, we also believe it is helpful in structuring a healthy business relationship.

Our firm's fees will be based on the usual hourly billing rates, as they may be adjusted from time to time, of the attorneys and paralegals in our firm who work on the matter. The current hourly billing rates of the attorneys and paralegals at Benefits Law Group are as follows:

Patricia K. Keesler	$375
Susan Reisner	$350
Terri W. Taylor	$310
Susan L. Sherman	$290
Jack M. Martin	$240
Gwendolyn Chapman	$140
Cheryl A. Withers	$ 80

While we generally make fee adjustments on January 1 of each year, we reserve the right to increase or decrease rates at any time.

Although the time required to properly perform the services we provide is an important factor in establishing our fees, it is only one of the factors. Whenever we send our billing statements, you can be sure that we have carefully reviewed all of the charges and that our fee represents a fair and reasonable charge for the legal services we have rendered.

In addition to the fees, you will be charged for all expenses attributable to the services rendered. These expenses will include, but are not limited to, actual court costs, travel time and costs, external delivery and courier services, express mail, air courier services, facsimiles and document reproduction. Additionally, charges for computerized research tools, such as Westlaw and

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Checkpoint, will be billed based upon rates that reflect the time the system is used, and the extent and nature of research required.

The Georgia and American Bar Associations' Codes of Professional Responsibility describe a number of factors that should be considered in establishing reasonable fees for legal services. One factor is whether or not the fee is contingent upon the outcome of the matter at hand. Please note that our fee arrangement in connection with your work is not contingent. Thus, the amount of our fees will not contain any risk premium.

We will invoice on a monthly basis for all fees and expenses. Bills will be payable fifteen (15) days after receipt. Bills are considered past due thirty (30) days after receipt. Interest will accrue monthly at a rate of 18% per annum on all past due accounts. Additionally, it is specifically understood between you and our firm that, subject to general standards of professional responsibility of the legal profession, our firm will have the right to terminate our representation if any fees and/or expenses are not paid within sixty (60) days after an invoice is rendered. If our firm exercises this right, you shall be liable for all fees and expenses incurred to the date of such exercise. All bills will show, on a daily basis, the services rendered, by whom, and the time expended in connection therewith.

If the foregoing description of our engagement and fee arrangement is consistent with your understanding, please so indicate your agreement by dating, signing and returning the enclosed copy of this letter.

We appreciate the opportunity to work with you. Please do not hesitate to call if you have any questions regarding these or any other matters.

Very truly yours,

Patricia K Keesler

Patricia K. Keesler

Enclosure

CLIENT ACKNOWLEDGMENT

Date:_____

Signature:_____

As we discussed, when a member jurisdiction desires to implement an Early Retirement Incentive Program (ERIP), GEBCorp provides the jurisdiction with some, but not all of the guidance necessary for implementation. Please see below: (1) a list of what is supplied by GEBCorp, (2) a list of the steps the jurisdiction will need to take to implement the program, (3) an estimated time line for implementation, (4) an estimate of my fees for legal advice and documents for the ERIP. I have also attached an engagement letter for Fayette County should the County decide to engage my firm for legal services with respect to the ERIP.

(1) GEBCorp provides:

- General Explanation of ERIP programs (not legal advice)
- Sample Notice to Employees to be used as a guide by the jurisdiction (sample limited to retirement plan issues)
- Proposed Plan Amendment and Board Resolution based on changes required to the pension plan document.
- Cost studies
- Individual Benefit Calculations

(2) Jurisdiction responsibilities:

- Determine elements of ERIP incentives (retirement and non retirement incentives, eligible group, retirement dates, timetable, etc.)
- Analyze cost studies
- Make policy decisions regarding retirement dates, exceptions for key employees, rehires, etc.
- Provide GEBCorp with details of program affecting pension plan (through Plan Amendment Checklist provided by GEBCorp)
- Provide any other affected providers with details of program (eg. health insurers)
- Prepare Board Resolution approving ERIP
- Prepare or review required Defined Benefit Plan amendment
- Prepare amendments to any other plans affected in ERIP (e.g. Health Plans)
- Review Individual benefit calculations supplied by GEBCorp
- Prepare Notice to Employees, Election Forms, and ADEA waivers
- Prepare list of eligible employees for ADEA waiver
- Distribute Notice to Employees
- Schedule group and individual meetings
- Collect ADEA waivers and election forms within required time periods
- Process retirements

(3) It is my understanding the County has already determined the eligible group and additional benefits to be provided, as well as estimated costs. The County should plan on at least two months for the preparation of all plan amendments, individualized disclosure documents, election forms and waivers to be finalized. Each participant must be provided at least 45 days to consider the program plus a 7 days revocation period. If the program is approved next week by the County Commissioners, I would estimate the required packages could be ready to distribute by May 14th. The employees would have to submit the forms on or before June 29th and have until July 6th as the last day of the revocation period (for those who wait until the last day to make their elections). Retirements could be processed as they come in, after the 7 day revocation period. I also caution that this is an ambitious timeline and delays should be factored into any deadlines set by the County.

(4) I estimate that my legal fees for preparation and review of the legal documents would be in the $10,000-12,000 range. This would include reviewing or writing board resolutions, plan amendments, employee waivers and election forms and required notices. For other legal consulting services or additional research requested by the County related to the early retirement program including rehire issues, plan design, health plan issues or employment law issues, etc. my rate is $375/hr. I have attached an engagement letter for the County if the County wished to engage my firm to assist with the legal issues arising from implementation of the ERIP.