



## MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 09/23/13)

APPROVED: MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS

AGENDA # R-5 DATE 3/6/14  
MARINA BAKER, ASST BOARD CLERK

### Board Clerk Use Only

Meeting Date: 3/6/14  
Agenda Item #: R.5  
Est. Start Time: 9:55 am  
Date Submitted: 1/23/14

**Agenda Title:** **Authorizing the County Attorney to Initiate a Lawsuit Against Colorado CustomWare, Inc.**

*Note: Title should not be more than 2 lines but sufficient to describe the action requested. Title on APR must match title on Ordinance, Resolution, Order or Proclamation.*

### Requested

Meeting Date: March 6, 2014 Time Needed: 10 minutes

Department: Non-Departmental Division: County Attorney

Contact(s): Jenny Madkour

Phone: 503-988-3138 Ext. 83138 I/O Address: 503/5/500

### Presenter

Name(s) & Title(s): Lindsay Kandra, Assistant County Attorney and Randy Walruff, County Assessor

### General Information

#### 1. What action are you requesting from the Board?

Approval for the County Attorney to file a breach of contract and negligence lawsuit against Colorado CustomWare, Inc. in Multnomah County Circuit Court.

#### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

In 2009, the County entered into a services contract with Colorado CustomWare, Inc. (CCI). CCI was hired to develop a software platform to replace the system that is currently used by the Department of Assessment, Recording and Taxation (DART).

CCI repeatedly failed to perform services and develop the software in a timely manner, despite seven amendments to the contract's deliverable schedule. In mid-May, CCI informed the County that it would cease work under the contract unless the County made a payment to CCI. DART's project management team refused to authorize further payment because it determined that CCI had not performed the services necessary to trigger further payment by the County. CCI ceased work under the contract and the County subsequently declared CCI in default and terminated the Contract.

**3. Explain the fiscal impact (current year and ongoing).**

As of May of 2013, the County had paid CCI approximately \$2 million and has not received any usable software code from CCI.

The lawsuit will be requesting: (1) return of the sums paid to CCI, (2) reimbursement of the costs expended by the County, including labor and legal costs, (3) liquidated damages authorized by the contract, (4) delivery of the partially developed code to the County and (5) other remedies as allowed by law.

The litigation would be handled by the County Attorney's Office with some assistance from outside counsel specializing in technology litigation.

**4. Explain any legal and/or policy issues involved.**

On February 22, 2007, the Board adopted Resolution 07-037 delegating to the County Attorney authority to initiate legal proceedings upon approval by the Board of County Commissioners.

**5. Explain any citizen and/or other government participation that has or will take place.**

Not applicable.

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**Required Signature**

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**Elected  
Official or  
Department**

**Director:** Jenny Madkour /s/

**Date:** 1/23/14

*Note: Please submit electronically. Insert names of your approvers followed by /s/ - we no longer use actual signatures. Please insert date approved.*