

Final Documents
for
Disincorporation of
Damascus

Metro proposal number: CL2316

This is a non-standard boundary proposal document that HAS NOT been filed with the Oregon Secretary of State. The purpose of the packet is to reflect the July 18th, 2016 disincorporation of the City of Damascus. The packet contains an assortment of documents reflecting the disincorporation.

Canvass Results Report Amended

Official Election-Write-ins Labeled with a (W)

Run Time 8:38 AM

Run Date 6/16/2016

Clackamas County Oregon

Official Ballot

5/17/2016

Page 577

Official results

Registered Voters
122253 of 242270 = 50.46 %

Precincts Reporting
119 of 119 = 100.00 %

State Measure

Measure 3-93 City of Damascus

(Referred to the People by the Legislative Assembly) - NON

| Precinct | Yes | No | Cast Votes | Overvotes | Undervotes | Write-in | Election Day Voting Ballots Cast | Total Ballots Cast | Registered Voters | Turnout Percentage |
|---------------|-------------|-------------|-------------|-----------|------------|----------|----------------------------------|--------------------|-------------------|--------------------|
| 400 | 636 | 279 | 915 | 0 | 19 | 0 | 934 | 934 | 1383 | 67.53 % |
| 401 | 450 | 335 | 785 | 0 | 9 | 0 | 794 | 794 | 1141 | 69.59 % |
| 402 | 619 | 331 | 950 | 0 | 16 | 0 | 966 | 966 | 1382 | 69.90 % |
| 403 | 248 | 65 | 313 | 1 | 6 | 0 | 320 | 320 | 514 | 62.26 % |
| 412 | 769 | 296 | 1065 | 0 | 25 | 0 | 1090 | 1090 | 1860 | 58.60 % |
| 414 | 112 | 94 | 206 | 0 | 2 | 0 | 208 | 208 | 354 | 58.76 % |
| Totals | 2834 | 1400 | 4234 | 1 | 77 | 0 | 4312 | 4312 | 6634 | 65.00 % |

Damascus disincorporation

Residents of the city of Damascus voted to disincorporate on May 17. At this time, barring intervening circumstances, the formal disincorporation is scheduled for July 18.

When that happens, its lands, businesses and current city residents will revert to Clackamas County jurisdiction, as was the case prior to the city's incorporation in 2004.

Understandably, there are many questions about this transition. Please find answers to some of the significant questions surrounding this unprecedented disincorporation.

All questions should be directed to Public Information Officer Tim Heider at 503-742-5911.

Tax rates

How will property tax rates change?

Damascus last levied a tax rate of \$2.80 per \$1,000 of assessed value (for the 2015-2016 tax year). The maximum tax rate that the city could have approved in the future is \$3.88 per \$1,000.

Currently, the county property tax rate within city limits is \$2.4042 per \$1,000. Upon disincorporation, the county rural rate of \$2.9766 per \$1,000 of assessed value applies.

The net effect of eliminating the Damascus city tax and applying the rural tax rate is a reduction of \$2.23 per \$1,000. When taking into account all fees on a Real Property Tax Statement, this results in a reduction of approximately 14%.

For a home with an assessed value of \$300,000, that represents an approximate savings of \$669 annually. Damascus had an actual average assessed value of \$260,500 last year. For a house at that value, the approximate savings would be \$580.

Finances, assets and parks

Who will oversee existing city funds?

Damascus currently is contracting with a local private financial service to manage its finances. The expected date that Clackamas County will assume management of the city's finances and accounts is July 17.

What will happen to the funds?

Existing city funds will be used to satisfy financial obligations such as payroll, rent, utilities, and outstanding bills. Approximately \$3 million will be placed in a special county account and used to pay certain obligations related to transitioning Damascus employees to the county payroll (for up to one year), the continuation of law enforcement and other services that will be integrated into the County's structure. Approximately \$2.5 million in the city's road fund will be transferred to Clackamas County for exclusive use on roads within the former city.

Once all financial obligations are realized, unspent money will be refunded to property taxpayers (who meet certain criteria) based on previous property taxes paid. There will be an announcement about this in the future from the [Clackamas County Assessor](#).

What about city property and parks?

City assets, including city property, will transfer to Clackamas County.

There are four park properties located in the city. Two of these – Trillium Creek Park and the Orchard Summit Open Space – are already owned and operated by the [North Clackamas Parks and Recreation District \(NCPRD\)](#) and are unaffected. Another, Damascus Centennial Park, is privately owned.

The last park asset, to be transferred to the county, is the Vogel house and property at Vogel and Foster Roads. This land/property will be deeded over, and at this time the plan is to work with NCPRD and Metro to determine the long range plan for the property. In the short term, we will work to set up an intergovernmental agreement with NCPRD to maintain the property.

Marijuana

How will disincorporation effect the zoning regulations for marijuana-related facilities and businesses?

Damascus did not adopt any land use regulations restricting marijuana production, processing, wholesaling or retailing facilities. Upon disincorporation, the Board of County Commissioners has approved a plan to consider applying the county's current Comprehensive Plan and Zoning and Development Ordinance, including recently-adopted marijuana land use regulations to any land de-annexed or disincorporated from Damascus.

Read the [Planning & Zoning memo](#) (dated April 25) to commissioners outlining the proposed plan. The specific approval standards for marijuana land uses are codified in [Section 841](#) of the Clackamas County Zoning and Development Ordinance.

Law enforcement

Will Damascus still receive law enforcement services?

Yes. There will be no interruption in law enforcement services within the disincorporated area. Under an existing agreement, the Clackamas County Sheriff's Office will continue to provide dedicated patrols and police services. That contract will remain in place for one year. At that time, Damascus will return to a rural level of service similar to the level that existed prior to incorporation.

If sections of the Damascus community wish to create new Enhanced Law Enforcement Districts in the future and pay a special rate, a vote of the citizens of that area would be required and the Sheriff's office would have to agree to it.

Roads and traffic

How will Damascus roads be managed?

Clackamas County will become responsible for addressing future transportation needs, including road maintenance. As a result, the county will handle all complaints and manage traffic control devices. The Clackamas County Department of Transportation and Development will gather information about plans the city may have regarding local roads.

Damascus employees

Will city employees lose their jobs?

The county has committed to hiring the remaining city employees to work for the county for up to one year. As of early May, there are 9 employees.

Wastewater services

Are there changes to sewer services?

Currently, Clackamas County Service District No. 1 (CCSD#1) serves a portion of Damascus (the Carver area) that was already annexed to the district when the city formed. The remainder of the city is not eligible to receive service until a comprehensive plan is adopted. CCSD#1 has a policy requiring unincorporated areas to annex into a city before allowing them to annex, so affected properties will need to follow that two-step process before receiving service. Disincorporation will not change service to existing customers, and will not materially change our ability to serve future customers. CCSD#1 continues to provide direct wastewater service to those areas within the district, and does not anticipate

disincorporation materially changing future service plans.

Building codes and enforcement

Does the process of securing building permits, or code enforcement, change at all?

There is no impact on building codes at all, as Damascus never assumed responsibility for building codes. The Clackamas County [Building Codes Division](#) will continue to provide permitting, plan review and inspection services.

Clackamas County will also continue providing [Code Enforcement](#) by working to prevent, detect, investigate, resolve and enforce violations of statutes or ordinances related to public health, safety and welfare, business activities, building standards, land-use and neighborhood livability.

Dogs and pets

Are there any changes related to dog ordinances or related pet operations?

Damascus residents will fall under jurisdiction of the county [barking dog resolution process \(5.01.070 F\)](#). Further, any rescue entities operating within the city would be required to license with [Clackamas County Dog Services](#). Dogs will continue to be required to be licensed as per [Clackamas County license requirements](#).

Garbage and recycling

Will local garbage management change?

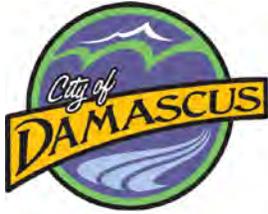
The Board of County Commissioners will assume the role of managing the solid waste collection system (County Code [10.04 & 10.05](#)). Collection providers will not change. Customers wishing to adjust their service may do so as usual, by calling their provider (Hoodview Disposal & Recycling, 503-668-8300; Waste Management of Oregon, 800-808-5901).

Fees for service will align with county fees. Fees in Damascus have been very similar to fees in Clackamas County. Many residential customers will see no change, while others may see a small increase (up to about 40 cents per month). Businesses or residents may request assistance with recycling, waste reduction, or garbage service through the county's [Resource Conservation & Solid Waste program](#).

Municipal/Justice Court

In summer 2014, all Damascus Municipal Court [cases were transferred](#) to Clackamas County Justice Court. [Justice Court](#) hears violations, including traffic citations, small claims and evictions filed in Clackamas County.

Share this page   



City of Damascus

19920 SE Highway 212
Damascus, OR 97089

www.damascusoregon.gov

Phone: 503-658-8545
Fax: 503-658-5786

PUBLIC NOTICE

RE: Disincorporation of City of Damascus and final invoicing.

On May 17, 2016 electors of City of Damascus voted to disincorporate the City. The City has until July 17, 2016 to satisfy all current and pending debts and obligations for which the City is liable as noted in the following excerpt from House Bill 3086:

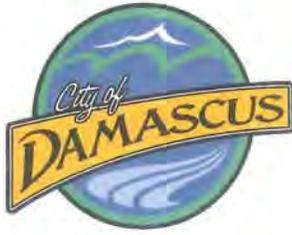
SECTION 1. (1) As soon as practicable after the operative date determined under section 2 of this 2015 Act and until the 60th day following the operative date, the City of Damascus shall post notices in at least two public locations in the city and on the website of the city stating that:

- (a) Under subsection (2) of the city is required to satisfy all current and pending debts and obligations for which the city is liable; and
- (b) Persons believing themselves to be creditors of the city should present claims to the city as soon as possible to ensure that all valid debts and obligations for which the city is liable will be timely paid.

Section 2. Notwithstanding ORS 221.650, during the period that begins on the 30th day following the operative date determined under section 2 of this 2015 Act and ends on the 60th day following the operative date:

- (a) The City of Damascus shall expend moneys in the funds of the city to satisfy:
 - (A) Current and pending debts and obligations for which the city is liable, including, but not limited to, debt service payments, lease obligations, financial arrangements and similar obligations;
 - (B) Outstanding obligations relating to employment of city employees, including pension and other employee benefit obligations; and
 - (C) Other debts, obligations, liabilities and expenses requiring financial satisfaction by a disincorporating city.

Debtors are directed to submit a final invoice to be received at City Hall by July 8, 2016. Please call the Finance Department at 503-658-8545 if you have any questions.

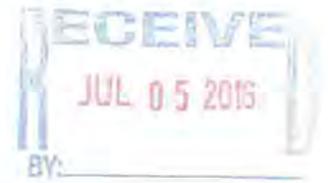


City of
Damascus

19920 SE Highway 212
Damascus, OR 97089

www.ci.damascus.or.us

Phone: 503-658-8545
Fax: 503-658-5786



LETTER OF TRANSMITTAL

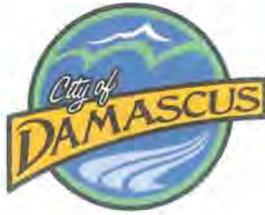
DATE: June 27, 2016

TO: Martha Bennett, Chief Operating officer
600 NE Grand Av.
Portland, OR 97232

FROM: Gene Green, City Manager

SUBJECT: Termination of Agreements due to disincorporation of
the City of Damascus.

COMMENTS: Please find enclosed 3 termination notices between the City of
Damascus and Metro as well as a copy of a termination notice for an
LOU for Solid Waste Rate Review between the City of Damascus and
Clackamas County.



City of
Damascus

19920 SE Highway 212
Damascus, OR 97089

www.damascusoregon.gov

Phone: 503-658-8545
Fax: 503-658-5786

June 20, 2016

Metro

Martha Bennett, Chief Operating Officer
600 NE Grand Ave.
Portland, OR 97232-2736

RE: TERMINATION OF AGREEMENT Between the Local Share Partner and Metro for Land Acquisition Services: City of Damascus Disincorporates

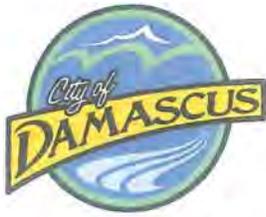
On May 17, 2016, electors of City of Damascus voted to disincorporate the City. The City has until July 17, 2016, to satisfy all current and pending debts and obligations for which the City is liable and surrender its charter.

Please consider this letter as NOTICE OF TERMINATION of the City of Damascus' IGA between The Local Share Partner and Metro for Land Acquisition Services as of June 30, 2016.

Please call Dan O'Dell Department at 503-658-8545 if you have any questions.

Sincerely,

Gene Green
City Manager



City of
Damascus

19920 SE Highway 212
Damascus, OR 97089

www.damascusoregon.gov

Phone: 503-658-8545
Fax: 503-658-5786

June 20, 2016

DLCD
Metro Regional Solutions Center
Attn: Jennifer Donnelly, Regional Representative
1600 SW Fourth Ave., Suite 109
Portland, OR 97201

Metro

Martha Bennett, Chief Operating Officer
Metro Long Range Planning
600 NE Grand Avenue
Portland, OR 97232

RE: Disincorporation of City of Damascus, termination of MOU re Development and Adoption of the Damascus Comprehensive Plan and CET Grant (see attached grant)

On May 17, 2016, electors of City of Damascus voted to disincorporate the City. The City has until July 17, 2016, to satisfy all current and pending debts and obligations for which the City is liable as noted in the following excerpt from House Bill 3086:

- (a)----- the city is required to satisfy all current and pending debts and obligations for which the city is liable; and**
- (b)Persons believing themselves to be creditors of the city should present claims to the city as soon as possible to ensure that all valid debts and obligations for which the city is liable will be timely paid.**

Please consider this letter as NOTICE OF TERMINATION of the City of Damascus' Memorandum of Understanding regarding development and adoption of the Damascus Comprehensive Plan.

Sincerely,

Gene Green
City Manager

**CONSTRUCTION EXCISE TAX GRANT
INTERGOVERNMENTAL AGREEMENT
Metro – City of Damascus**

This Construction Excise Tax Grant Intergovernmental Agreement (“CET Grant IGA”) is effective on the last date of signature below, and is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, OR, 97232-2736 (“Metro”), and the City of Damascus (“the City”), located at 19920 SE Highway 212, Damascus OR 97089, collectively referred to as “Parties.”

WHEREAS, Metro has established a Construction Excise Tax (“CET”) which imposes an excise tax throughout the Metro regional jurisdiction to fund local comprehensive planning needs associated with property that was included into urban growth boundary (“UGB”) between 2002 and 2005;

WHEREAS, the CET is collected by local jurisdictions when issuing building permits, which the local jurisdictions then remit to Metro pursuant to Construction Excise Tax Intergovernmental Agreements to Collect and Remit Tax (“CET Collection IGAs”) entered into separately between Metro and the local collecting jurisdictions;

WHEREAS, in creating the purpose and amount of the CET, Metro worked with local jurisdictions, and received their estimates as to the total dollar amounts needed to fund their local comprehensive planning needs associated with new inclusions into the UGB between 2002 and 2005;

WHEREAS, the CET will expire when the total amount of CET collected by all jurisdictions and remitted to Metro is \$6.3 million dollars, which is estimated to take approximately three years from the date of its passage in July 2006; and

WHEREAS, Metro will distribute 100% of the CET expected to be remitted to Metro as grants or reimbursements to local jurisdictions, based on CET Grant Requests submitted by local jurisdictions that set forth their expected completion of certain milestones associated with Title 11 of Metro Code Chapter 3.07, the Urban Growth Management Functional Plan; and

WHEREAS, as part of the CET process Metro has met with all of the applicable local jurisdictions regarding their local comprehensive planning funding needs associated with new inclusions into the urban growth boundary between 2002 and 2005, and the total final grant requests submitted by the local jurisdictions significantly exceed the total estimates upon which the CET was based, and therefore the total CET dollars will be apportioned among the requesting jurisdictions; and

WHEREAS, Metro Code Chapter 7.04 and the CET Administrative Rules provide that the CET revenues will be distributed to provide funding towards local jurisdictions’ eligible expenses required for compliance with Title 11 of Metro Code Chapter 3.07, the Urban Growth Management Functional Plan; and

WHEREAS, the City has submitted a CET Grant Request to Metro for its Comprehensive Plan Project (“Project”), and the parties wish to set forth the funding amounts, timing, and procedures for receiving grant funding from the CET fund for some of the City’s planning expenditures for that Project.

NOW THEREFORE, the Parties hereto agree as follows:

1. Metro Grant. Metro shall provide grant funding to the City for certain approved eligible expenses associated with Title 11 compliance (Metro Code Chapter 3.07, the Urban Growth Management

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

JAMES DE YOUNG, a resident of
Damascus,

Plaintiff-Appellant,

v.

KATE BROWN, in her official capacity
as Governor of Oregon; STATE OF
OREGON; CLACKAMAS COUNTY, a
political subdivision of the State of
Oregon; DAMASCUS, a municipal
corporation,

Defendants-

Respondents.

Clackamas County Circuit Court No.:
CV 16CV12583

NOTICE OF APPEAL

1.

Plaintiff James De Young, hereby gives notice of appeal from the judgment entered in this case on July 11, 2016, by the Honorable Katherine E. Weber, Circuit Court Judge in the Clackamas County Circuit Court.

2.

The parties to this appeal are:

Appellant: James De Young.

Respondents: Kate Brown, in her official capacity as Governor of Oregon;

The State of Oregon;

Clackamas County, a political subdivision of the State of Oregon; and

Damascus, a municipal corporation

3.

The names, bar numbers, addresses, telephone numbers, and email addresses of the parties' attorneys are as follows:

Attorney for Appellant:

Tyler Smith, OSB No. 075287
Tyler Smith & Associates, P.C.
181 N. Grant St., Ste. 212
Canby, Oregon 97013
Tel (503) 266-5590
Fax (503) 212-6392
Tyler@RuralBusinessAttorneys.com

Attorney for Respondent Kate Brown and the State of Oregon:

J. Nichole DeFever, OSB No. 030929
Department of Justice
Senior Assistant Attorney General
1515 SW Fifth Ave STE 410
Portland, Oregon 97201
Tel (971) 673-1880
Fax (971) 673-5000
Nicole.DeFever@doj.state.or.us

Attorney for Respondent Clackamas County:

Stephen Madkour, OSB No. 941091
Clackamas County Counsel
2051 Kaen Rd
Oregon City, OR 97045
Tel (503) 655-8362
Fax (503) 742-5397
smadkour@co.clackamas.or.us

Attorney for Respondent City of Damascus:

Peter Watts, OSB No. 025368

Jordan Ramis, PC

2 Centerpointe Dr 6th Fl,

Lake Oswego, OR 97035

Tel (503) 598-7070

Fax (503) 598-7373

peter.watts@jordanramis.com

4.

The Appellant designates the record in its entirety, including the trial court file, all exhibits, and the record of all oral proceedings.

5.

This appeal is timely and otherwise properly filed before the Court of Appeals because it is commenced within thirty days of July 6, 2016, the date of entry of the judgment being appealed.

6.

Attached to this Notice of Appeal is a copy of the judgment from which this appeal is being taken.

DATED this 11 day of July 2016

Tyler Smith & Associates, P.C.

By /s/ Tyler Smith _____

Tyler Smith, OSB# 075287

Attorney for Appellant

181 N. Grant St. STE 212, Canby, OR 97032

Phone: 503-266-5590, Fax: 503-212-6392

CERTIFICATE OF SERVICE

I certify that on the 11th day of July, 2016, I caused a true copy of the Notice of Appeal and attached Judgment to be served by first class mail on the following parties at the addresses set forth below:

J. Nichole DeFever, OSB No. 030929
Department of Justice
Senior Assistant Attorney General
1515 SW Fifth Ave STE 410
Portland, Oregon 97201
Attorney for Respondents Kate Brown and the State of Oregon

Stephen Madkour, OSB No. 941091
Clackamas County Counsel
2051 Kaen Rd
Oregon City, OR 97045
Attorney for Respondent Clackamas County

Peter Watts, OSB No. 025368
Jordan Ramis, PC
2 Centerpointe Dr 6th Fl,
Lake Oswego, OR 97035
*Attorney for Respondent City of
Damascus*

Trial Court Administrator:
Clackamas County Circuit Court
Office of the Trial Court Administrator
807 Main Street, Room 310
Oregon City, OR 97045

Transcript Coordinator:
Clackamas County Circuit Court
Patricia Clark
807 Main Street, Room 310
Oregon City, OR 97045

DATED this 11 day of July 2016.

Tyler Smith & Associates, P.C.

By /s/ Tyler Smith

Tyler Smith, OSB# 075287
Attorney for Appellant
181 N. Grant St. STE 212, Canby, OR 97032
Phone: 503-266-5590, Fax: 503-212-6392

CERTIFICATE OF FILING

I certify that on the 11th day of July 2016, I caused this Notice of Appeal and attached Judgment to be electronically filed with the Appellate Court Administrator, Appellate Records Section.

Tyler Smith & Associates, P.C.

By /s/ Tyler Smith _____

Tyler Smith, OSB# 075287

Attorney for Appellant

181 N. Grant St. STE 212, Canby, OR 97032

Phone: 503-266-5590, Fax: 503-212-6392

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

JAMES DE YOUNG, a resident of Damascus,
Plaintiff,
v.

Case No. 16CV12583

GENERAL JUDGMENT

KATE BROWN, in her official capacity as
Governor of Oregon; STATE OF OREGON;
CLACKAMAS COUNTY, a political
subdivision of the State of Oregon;
DAMASCUS, a municipal corporation,
Defendants.

ORS 20.140 - State fees deferred at filing

The court granted the State Defendants’ motion for summary judgment, and denied plaintiff’s motion for summary judgment in a letter opinion dated June 29, 2016, and the subsequent Order. As that ruling resolves all legal matters in the complaint, now, therefore,

IT IS HEREBY ADJUDGED that judgment is given to defendants, and the court declares that it adopts all arguments made on behalf of the State of Oregon in its Motion for Summary Judgment and Reply. The court further declares that House Bill 3085 was properly before the voters as State Measure 93 and that the results of the election will stand.

Signed: 7/11/2016 11:25 AM



Submitted by: J. Nicole DeFever
Senior Assistant Attorney General
Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on July 6, 2016, I served the foregoing GENERAL JUDGMENT upon the parties hereto by the method indicated below, and addressed to the following:

Tyler Smith
Tyler Smith & Associates PC
181 N Grant St. Ste. 212
Canby, OR 97013
Of Attorney for Plaintiff

HAND DELIVERY
 MAIL DELIVERY
 OVERNIGHT MAIL
 E-SERVE

Peter O Watts
Jordan Ramis PC
2 Centerpointe Dr 6th Fl
Lake Oswego, OR 97035
Of Attorney for the City

HAND DELIVERY
 MAIL DELIVERY
 OVERNIGHT MAIL
 E-SERVE

Stephen L Madkour
Clackamas County Counsel
2051 Kaen Rd
Oregon City, OR 97045
Clackamas County Counsel

HAND DELIVERY
 MAIL DELIVERY
 OVERNIGHT MAIL
 E-SERVE

s/ J. Nicole DeFever
J. NICOLE DEFEVER #030929
Senior Assistant Attorney General
Trial Attorney
Nicole.DeFever@doj.state.or.us
Of Attorneys for Defendants

1 **CERTIFICATE OF READINESS**

2 This proposed *General Judgment* is ready for judicial signature because:

3 1. [] Each opposing party affected by this *judgment* has stipulated to the *judgment*, as
4 shown by each opposing party's signature on the document being submitted.

5 **2. [x] Each opposing party affected by this *judgment* has approved the *judgment*, as**
6 **shown by signature on the document being submitted or by written**
7 **confirmation of approval sent to me.**

8 3. [] I have served a copy of this *judgment* on all parties entitled to service and
9 provided written notice of the objection period, and:

10 a. [] No objection has been served on me within that time frame.

11 b. [] I received objections that I could not resolve with the opposing party
12 despite reasonable efforts to do so. I have filed with the court a copy of the
13 objections I received and indicated which objections remain unresolved.

14 c. [] After conferring about objections, [*role and name of opposing party*]
15 agreed to file any remaining objection with the court by [*date*], which
16 predated my submission.

17 4. [] The relief sought is against an opposing party who has been found in default.

18 5. [] An order of default is being requested with this proposed judgment.

19 6. [] Service is not required by statute, rule, or otherwise.

20
21 s/ J. Nicole DeFever

22 J. NICOLE DEFEVER #030929
23 Senior Assistant Attorney General
24 Trial Attorney
25 Tel (971) 673-1880
26 Fax (971) 673-5000
Nicole.DeFever@doj.state.or.us
Of Attorneys for Defendants