



Testimony to the
Senate Committee on Judiciary in Support of SB 848

February 23, 2023

Good afternoon Chair Prozanski, Vice Chair Thatcher and members of the Senate Committee on Judiciary. For the record, my name is Jonathon Kusa and I am the President and CEO of Inter-Fluve, Inc. We have been in business since 1984 and employ approximately 27 people in Oregon. We are a small business with only 52 staff nationwide. **I am writing today to strongly support Senate Bill 848.**

Oregon's engineers, architects and land surveyors care deeply about our communities, which is why we invest in our local economy, creating jobs and housing for Oregonians. Right now, we are being forced into unfair contracting practices called "duty to defend" clauses, which require us to pay the legal expenses for those involved in construction projects even before fault is determined. This is detrimental to all design firms but especially women, minority and small businesses.

Our firm's experience with duty to defend has been that owners (especially public agencies) adhere to State guidance on this issue and rarely allow us to remove that language from our contracts. Consequently, we are faced with the choice of accepting significant liability or staying in business by accepting the work. This is not a good choice for us to make over and over again in the long term, it will likely eventually result in significant financial hardship.

We respectfully ask this committee to support SB 848. Passing this bill would eliminate bad and unfair contract practices and ensure everyone involved in a project pays their fair share of legal expenses. This isn't about shirking responsibility – it's about ensuring fairness so everyone is paying their own way and adequately protected by their insurance.

Thank you for your service and we are happy to be a resource if you have additional questions.

Sincerely,

Jonathon Kusa, President & CEO