

## 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 Krey Younger, and I represent Central Geotechnical, LLC., which is a geotechnical engineering firm in the Portland/Tigard area. We are a **Service-Disabled Veteran-Owned**, emerging small business with 18 total employees. 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 emerging small businesses. How is this fair when Oregon and federal guidelines require involvement of small, minority, and women-owned businesses?

Do we not have insurance? Yes, absolutely; engineers, architects, and land surveyors have an industry-specific type of insurance for errors and omissions. That insurance will defend us and our design but will only cover legal costs of others if we are found negligent and only up to the proportion of our negligence. Given that the "duty to defend" requirement to shoulder the defense burden for the owner, regardless of our culpability, is uninsurable; one such claim has a significant chance of forcing us to shutter our doors. We want more quality, public project work, we want to employ more able Oregonians, we want to help solve issues related to the State's degrading infrastructure, housing shortage, and necessary improvements public works facilities. The question we ask ourselves every day: Is it worth the risk when we can't control the quality of work from others?

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.



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Thank you.

Sincerely,

Central Geotechnical Services, LLC.

A handwritten signature in black ink, appearing to read "KDY", is positioned above the typed name.

Krey D. Younger, P.E., G.E.  
Vice President