

Testimony to the  
**Senate Committee on Judiciary & Ballot Measure 110 Implementation**  
**In Support of SB 213**

March 22, 2021

Good morning Chair Prozanski, Vice Chair Thatcher and members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation. For the record, my name is Todd George representing NV5 Global, Inc., a full service engineering firm, which includes former companies Quantum Spatial, WHPacific, and GeoDesign. We have been in business in Oregon for over 50 years and employ approximately 300 people there. I am writing today to strongly support the -2 amendment to Senate Bill 213.

Senate Bill 213 will bring fairness to professional services contracts by ending the inclusion of duty to defend clauses in public and private agreements. This duty to defend clause is onerous as it requires the design professional be responsible to defend an owner or other party against claims asserted by a third-party even if the design professional is not negligent. This duty to defend clause is not fair, equitable or inclusive.

This requirement in professional services contracts is not fair to design firms of any size, but it is especially damaging to emerging and small businesses that typically don't have the ability to advocate against these contract requirements. We find these duty to defend clauses to be a major deterrent to compete for certain projects, many of which are with governmental agencies.

In our firm's experience when duty to defend clauses are added to contracts it often times results in public agencies not receiving the full benefit of the consulting industry competition, as many firms simply opt out when such clauses are considered non-negotiable by the agency. This in turn translates to higher costs to the agencies and higher costs for infrastructure in general.

We respectfully ask this committee to support the -2 amendment to SB 213 and send this bill to the Senate floor. This is good business policy that will assist firms across the state in being able to engage in construction projects, including many government-funded projects, by removing this onerous duty to defend clause.

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

Thank you.

Sincerely,



**TODD GEORGE**  
 Chief Operating Officer