



Testimony to the
Senate Committee on Judiciary in Support of SB 1575

February 8, 2024

Good afternoon Chair Prozanski, Vice Chair Thatcher, and members of the Senate Committee on Judiciary. For the record, my name is Justin Monahan, representing Otak, Inc., an architecture, engineering, survey, and related services firm. We have been in business in Oregon since 1981 and employ around 200 professionals working for public and private clients throughout the state. I am writing today to strongly support Senate Bill 1575.

Our firm has had experience with duty to defend language in public contracts in the last few years. In one instance, a member of the public allegedly fell in a roadway that was being improved where we had a very limited role as an inspector of final sidewalks for compliance with the Americans with Disabilities Act. There were many other companies involved, including a general contractor and specialty concrete contractors. Nonetheless, the member of the public brought a claim against the City, which in turn advised us that we needed to defend the City from the entirety of the claim from day one, before anyone even knew the facts. That matter is ongoing.

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 that our clients argue requires 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 onerous for women, minority, veteran owned and emerging small businesses. As a result, not all Oregon firms are participating in public agency projects. This problem also affects the ability of firms to contribute to low-income public housing to help address Oregon's homelessness crisis and its associated infrastructure.

We respectfully ask this committee to support SB 1575. 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,

Otak, Incorporated

A handwritten signature in black ink, appearing to read "Justin Monahan". The signature is stylized and includes a large, prominent letter "J" at the beginning.

Justin Monahan, Esq.
General Counsel