MEMORANDUM OF UNDERSTANDING

2015

Between the OREGON STATE BOARDS OF
EXAMINERS FOR ENGINEERING AND LAND SURVEYING
&
GEOLOGIST EXAMINERS

1. **Parties.** The parties to this Memorandum of Understanding (MOU) are the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) and the Oregon State Board of Geologist Examiners (OSBGE). The parties are collectively referred to as the Boards.

2. **Agreement Period.** This MOU commences on the Effective Date and shall continue, unless terminated as provided herein, through four full calendar years. This MOU will automatically renew, pursuant to the same terms and conditions, at the end of the initial term hereof and on subsequent anniversaries of the end of the initial term for additional one (1) year terms unless terminated by either party as provided herein.

3. **Committee Establishment and Purpose.** The Boards recognize that the respective statutory definitions and authorities for regulation of the practices of engineering, engineering geology, and geology provide for areas of professional overlap. Therefore, the Boards hereby ratify the establishment of a Joint Compliance Committee (JCC) to assist in evaluation of potential compliance matters associated with work in the engineering and geology practice overlap. The purpose of the JCC, as set forth in this MOU, is to provide a forum for the Boards to collaborate in carrying out their statutory missions to protect the welfare of the public in safeguarding life, health, and property. Through this MOU, the Boards agree to utilize the JCC to discuss and evaluate any complaints or information relating to potential violations of the respective Boards' statutes and rules, and to make recommendations to the Boards thereon.

4. **Organization.** Each Board is responsible for appointing representatives to the JCC, and each Board may designate up to three representatives, not including an alternate. At least one appointee of each Board shall be a current Board member. Further, the JCC shall be run by Co-Chairs who shall lead the meetings and, with the assistance of the Boards' Administrators, establish the meeting agendas. The OSBGE shall designate one of its appointees as Co-Chair; the OSBEELS shall designate one of its appointees as Co-Chair. With regard to all appointees, the appointing Board shall be responsible for providing any non-Board member representatives with training to support their participation as JCC members.
    a. **JCC Alternate Representatives.** Each Board may appoint an alternate representative to the JCC. The primary role of an alternate is to serve as a backup representative for the appointing Board, however an alternate may attend meetings and participate in deliberations but only vote as prescribed in Subsection e. Each Board will notify the other Board of the individual appointed as alternative, if one is appointed.
    b. **Terms.** There are no set term limits for representatives appointed to the JCC. Each Board is responsible for determining when the term of a representative to the JCC starts and ends. The Boards will keep each other timely informed of anticipated changes in JCC representatives.
    c. **Meetings.** The JCC shall meet a minimum of three times per year, in February, May, and October. Members may appear by telephone, if necessary. Either Board may request a special meeting of the JCC.
    d. **Meeting Quorum.** The JCC shall require a minimum of two representatives of each Board as a meeting quorum.
    e. **Voting.** Each Board shall designate two voting representatives per meeting.

Alternates can serve in the capacity of a voting representative when necessary, as determined by the Board Administrator or Board Chair for the respective Board. JCC action will require an affirmative majority of the voting representatives.

f. **JCC Authority.** The JCC does not have authority to take disciplinary action on behalf of either Board. The JCC is charged with providing recommendations regarding possible disciplinary action for consideration by the Boards. The Boards grant the JCC the authority to request additional information of respondents, complainants, or other parties involved in complaint cases, conduct interviews, make recommendations to the Boards, schedule additional meetings of the JCC, and take other actions as necessary to fully evaluate complaint cases . The OSBEELS Administrator and OSBGE Administrator may carry out administrative functions for the JCC on behalf of their respective Boards, and each Board shall be mindful of delegating administrative tasks only to the Administrator of that Board.

g. **Written Recommendations.** The JCC will provide its recommendations on complaint cases in writing. JCC recommendations may provide input on potential violations and possible Board actions or highlight policy or other issues that the JCC believes need to be further evaluated by one or both Boards. The JCC may assign a member to prepare a written recommendation, request that staff of the Recipient Board[i] prepare a written recommendation, or some combination thereof. Written recommendations may be included in investigation reports or developed as stand-alone documents depending on the case. Written recommendations will be ratified or modified by the JCC. To ensure timely action on open cases, the JCC may direct that a draft written recommendation be shared with the Lead Board or Boards to facilitate the investigatory process. The JCC will ratify or modify such draft recommendations at or prior to its next meeting.

h. **Meeting Minutes**. JCC meetings are public meetings, and meeting minutes will be prepared to ensure compliance with the Oregon Public Meetings Law. The Board hosting the JCC meeting will develop the draft minutes such that the task is alternated between Board staffs. The Board Administrators will determine the format and content for the minutes per requirements of the Public Meetings Law. The JCC will review and approve minutes at its next meeting. Minutes are subject to permanent retention, and OSBEELS and OSBGE will each keep copies for the respective public records.

5. **<u>The JCC shall:</u>**
   a. Conduct a preliminary review to determine whether the evidence attached to the complaint or the information is sufficient and the allegation(s) are within the jurisdiction of one or both Boards.
   b. Consider the following factors during the preliminary review.
      1. Is the respondent practicing within the scope of his/her profession?
      2. Is the respondent practicing within his/her area of competence?
      3. Is the quality of work up to accepted professional standards?
      4. Does the practice of the respondent negatively impact the welfare of the public (i.e., life, health, safety, and property)?
      5. Is additional information needed to answer these questions?
   c. Review each case and may request additional information from the

complainants, respondents, or other parties involved in the complaint. Requests for additional information will generally be processed through the office of the Recipient Board unless otherwise requested by the JCC.

d. Provide recommendations to the Boards regarding whether the complaint evidence is sufficient for the case to proceed and, if so, identifying which Board will serve as the Lead Board[ii] or whether the Boards should conduct independent investigations.[iii]

e. Through the Board Administrators, notify the Boards if the JCC is unable to provide a written recommendation for a case. The Recipient Board will determine any next steps in its own investigatory process for such cases. If the Recipient Board decides to gather additional information, it may request that the JCC re-evaluate the case taking into account the additional information. However, the Recipient Board has no obligation to consult the JCC a second time.

6. **The OSBEELS shall:**

a. Upon receipt or initiating a complaint case, the OSBEELS Administrator will notify the OSBGE Administrator in writing of the need for JCC review and will identify for the JCC whether the respondent is registered with either or both Boards or is unregistered.

b. For cases where OSBEELS has been identified as the Lead Board, OSBEELS will timely notify OSBGE of its decision for a case that has gone through the Law Enforcement Committee (LEC) process. In the event that OSBEELS' LEC decision is contrary to the JCC recommendation, an OSBEELS JCC representative will be prepared to discuss the Board's decision at the next regularly scheduled JCC meeting.

c. If OSBEELS does not follow a recommendation made by the JCC, OSBEELS staff will prepare written documentation in consultation with the Board's legal counsel. The OSBEELS Administrator will provide a copy of the documentation to the JCC and OSBGE Administrator.

d. The Board Administrators will facilitate discussion of the documentation by the OSBGE Chair and OSBEELS President. If the Board Administrators determine that significant issues remain in dispute, then the Boards will follow the process in 9.

7. **The OSBGE shall:**

a. Upon receipt or initiating a complaint case, the OSBGE Administrator will notify the OSBEELS Administrator in writing of the need for JCC review and will identify for the JCC whether the respondent is registered with either or both Boards or is unregistered.

b. For cases where OSBGE has been identified as the Lead Board, OSBGE will timely notify OSBEELS of its decision for a case that has gone through the investigative process. In the event that OSBGE's decision is contrary to the JCC recommendation, an OSBGE JCC representative will be prepared to discuss the Board's decision at the next regularly scheduled JCC meeting.

c. If OSBGE does not follow a recommendation made by the JCC, OSBGE staff will prepare written documentation in consultation with the Board's legal counsel. The OSBGE Administrator will provide a copy of the documentation to

the JCC and OSBEELS Administrator.

d. The Board Administrators will facilitate discussion of the documentation by the OSBGE Chair and OSBEELS President. If the Board Administrators determine that significant issues remain in dispute, then the Boards will follow the process in 9.

8. **Amendments.** The terms of this MOU shall not be waived, altered, modified, supplemented, or amended in any manner except by writing signed by the parties.

9. **Disputes.** Any disputes arising between the parties from this MOU shall be resolved by the OSBGE Chair and OSBEELS President with assistance from the OSBEELS Administrator and the OSBGE Administrator. If a resolution is not achieved through this effort within 3 months, each Board will proceed with any independent action within its statutory authority and that it deems necessary and appropriate from the standpoint of carrying out its statutory mission.

10. **Termination.**
    a. Mutual Consent. The MOU may be terminated at any time by mutual consent of both parties.
    b. Written Notice. Any party may terminate this agreement with 60 days written notice.

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[i] The Recipient Board is the Board initially receiving the complaint or that otherwise initiated the complaint case.

[ii] The Lead Board is the Board that the JCC identifies as the Board whose rules or statutes were violated and has the authority to sanction. In deciding on a case, the Lead Board will conduct its own investigation based upon its authorizing statute and/or rules, including but not limited to the JCC recommendation, if any. All this information will guide the Lead Board in determining the type and scope of enforcement action, if any.

[iii] In independent investigations, both Boards are considering action. In independent investigations, the Boards will work collaboratively through the Board Administrators and in consultation with their respective counsel.

The Boards are in agreement that this MOU is sufficient to authorize the organization of a JCC and that the individuals who sign below are authorized by their Board to do so.

Mari Lopez, Administrator
Oregon State Board of Examiners for
Engineering and Land Surveying
670 Hawthorne Ave. SE, Suite 220
Salem, OR 97301

8/13/2015
Date

Christine Valentine, Administrator
Oregon State Board of Geologist
Examiners
707 13th Street SE, Suite 114
Salem, OR 97301

7/29/15
Date

Jason Kent, PE
Board President

8/13/2015
Date

Peter L. Stroud, RG, CEG
Board Chair

7/29/15
Date