



Jeffrey W. Cown, Director

EPD Director's Office

2 Martin Luther King, Jr. Drive
Suite 1456, East Tower
Atlanta, Georgia 30334
404-656-4713

Jan 08, 2024

Bradley T. Boyer, P.E.
Schnabel Engineering, LLC
6445 Shiloh Rd., Suite A
Alpharetta, GA 30005

SUBJECT: Contract for Seismic Stability Analysis
Review
Lake Petit Dam
Pickens County

Dear Mr. Boyer:

Please find enclosed an executed contract for the above referenced project between your organization and the Georgia Environmental Protection Division. The contract amount is **\$18,000**. The contract extends through March 29, 2024, by which time all deliverables will be complete and invoiced.

Thank you for your participation in this project. If you have any questions or concerns regarding this contract, please contact David Griffin at 470-524-0663.

Sincerely,

Jeffrey W. Cown

Jeffrey W. Cown
Director

JWC:dmg

Enclosure (1 electronic version)

CONTRACT BETWEEN THE
GEORGIA ENVIRONMENTAL PROTECTION DIVISION
AND
SCHNABEL ENGINEERING, LLC

THIS PROFESSIONAL SERVICES AGREEMENT, hereinafter referred to as “Agreement” or “Contract”, entered into on January 8, 2024 by and between the Georgia Environmental Protection Division of the Department of Natural Resources, hereinafter referred to as the “DIVISION”, and SCHNABEL ENGINEERING, LLC, hereinafter referred to as the “CONTRACTOR.”

WITNESSETH:

WHEREAS, the DIVISION and the CONTRACTOR may jointly enter into contractual agreements; and

WHEREAS, the DIVISION has identified a need to obtain professional engineering services; and

WHEREAS, the DIVISION desires to engage the CONTRACTOR to render certain professional services as described in ATTACHMENT A, all of which are incorporated herein by this reference (hereinafter referred to collectively as the “Scope of Work” or “Services”);and

WHEREAS, the CONTRACTOR is qualified and desires to perform the professional engineering services in support of the Georgia Safe Dams Program;

NOW, THEREFORE, the DIVISION and the CONTRACTOR, in consideration of the premises and the mutual promises and benefits flowing each to the other as hereinafter stated, agree as follows:

1) SCOPE OF WORK

- a. CONTRACTOR agrees to perform in a satisfactory and proper manner, in accordance with the standard of care ordinarily exercised by similar individuals performing similar services, the professional services identified in Attachment A hereby made a part of the Contract by reference.
 - i. Attachment A constitutes the full extent of the activities to be performed under this agreement by the DIVISION’s selected CONTRACTOR during the initial term of this contract.
 - ii. Should a discrepancy or dispute arise regarding the performance of the tasks to be conducted by SCHNABEL ENGINEERING, LLC, the applicable provisions of this Contract’s Attachment A shall be referenced for resolution.

- b. The CONTRACTOR agrees that registered and/or licensed professionals in its own organization shall perform all studies and investigations, or the CONTRACTOR agrees to employ, without additional cost to the DIVISION, the services of registered and/or licensed professionals regularly engaged in delivering such professional services (e.g., engineers, geologists, and GIS professionals). Documents so prepared shall bear the stamp of responsible registered and/or licensed professionals.
- c. In the event of modifications to the full extent of services referenced in paragraph 1) a. above, this Agreement shall be renewed or amended as provided for in paragraph 23) below subject to satisfactory performance.

2) TERM AND TERMINATION

- a. **Term.** The “Term” of this Agreement will begin on the date noted above (hereinafter referred to as “Effective Date”) and continue until completion of tasks identified in Attachment A, but no later than March 29, 2024 (hereinafter referred to as the “Termination Date”), unless terminated earlier under the provisions of this Agreement. This Agreement may be renewed and amended as provided for in paragraph 23) below subject to availability of funding and satisfactory performance.
- b. **Termination for Cause.** If, through any cause other than force majeure, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Contract, the DIVISION shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. In that event, all finished or unfinished documents, data, databases, source code, documentation, commentary, studies, surveys, drawings, maps, models, photographs, and reports prepared by the CONTRACTOR under this Contract shall, at the option of the DIVISION, become the property of the DIVISION, and the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in which funds were accrued or encumbered up to the actual date of termination. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the DIVISION for damages sustained by the DIVISION by virtue of any breach of this Agreement by the CONTRACTOR and the DIVISION may withhold any payments under this Agreement to the CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due the DIVISION from the CONTRACTOR is determined. Any use of incomplete documents shall be at the sole risk of the DIVISION.

3) COMPENSATION

- a. **Total Compensation.** The total compensation under this Agreement shall not

exceed **\$18,000**. Said amount shall constitute full and complete compensation for the CONTRACTOR's services as provided in the Scope of Work unless renewed or amended as provided for in paragraph 23) below subject to availability of funding and satisfactory performance.

- b. **Compensation for Scope of Work.** The DIVISION, as determined by the source of funding, shall pay the CONTRACTOR for services set forth in the Scope of Work.
 - i. CONTRACTOR may alter the distribution of compensation between individual tasks noted in the Scope of Work to be consistent with services actually rendered, if approved in writing by the DIVISION, but the total amount referenced in paragraph 3) a. shall not be exceeded.
 - ii. The amount referenced in paragraph 3) a. includes compensation for CONTRACTOR's services and services of the CONTRACTOR's subcontractors, if any. Appropriate amounts have been incorporated in the total compensation to account for labor, overhead, profit, reimbursable expenses and any other expenses necessary to complete services.
 - iii. The portion of the amount billed for the CONTRACTOR's services will be based upon the CONTRACTOR's documentation of the proportion of the total services actually completed during the billing period to the total compensation referenced in paragraph 3) a. and shall be subject to review and approval by the DIVISION.
- c. **Obligations Owed to Third Parties.** The CONTRACTOR represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the CONTRACTOR pursuant to the Agreement are or will be fully satisfied by the CONTRACTOR so that the DIVISION will not have any obligations with respect thereto.
- d. **Payment:** Payments shall be made as follows:
 - i. **Invoices.** CONTRACTOR shall submit an invoice and a brief progress report each month for services rendered in the immediate preceding month. The CONTRACTOR shall certify in writing the accuracy of each invoice. Payment shall be made by the DIVISION upon determination that Scope of Work items required by the Contract, including deliverable and reporting requirements of various categories and kinds of information, for the period have been provided and have been approved by the DIVISION. The DIVISION will review and approve invoices within 30 days of receipt. Any invoice not approved by the DIVISION shall not be paid.
 - ii. **Invoices are to be submitted to:**
David M. Griffin, P.E.
GA Environmental Protection Division
2 Martin Luther King Jr. Drive, Suite 1052 East
Atlanta, Georgia 30334

- e. **Maximum Amount Payable for Fees.** Payment for the completion of the Scope of Work contemplated under this Agreement shall not exceed the amount referenced in paragraph 3) above unless otherwise agreed to in writing by both Parties. In no event shall the DIVISION be liable for fees or reimbursements in excess of the listed amount.
- f. **Funding.** Notwithstanding any other provision of this Agreement, the CONTRACTOR hereto acknowledges that the DIVISION, as an agency of the State of Georgia, is prohibited from pledging the State's credit. In the event that the source of payment no longer exists or is insufficient with respect to the Services, this Agreement shall terminate without further obligation of the DIVISION as of that moment. The DIVISION shall remain obligated to pay for Services performed and accepted by the DIVISION prior to such termination. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the CONTRACTOR under this Agreement shall, at the option of the DIVISION, become the property of the DIVISION. Any use of incomplete documents shall be at the sole risk of the DIVISION. The determination of the DIVISION of the events stated above shall be conclusive.

The DIVISION shall provide notice to the CONTRACTOR as soon as it becomes aware that the source of payment no longer exists or is insufficient with respect to the services.

Notwithstanding any other provision of this Agreement, the CONTRACTOR hereto acknowledges that the DIVISION, as an agency of the State of Georgia, is prohibited from pledging the State's credit. In the event that the amount of funding allocated to the compensatory portion of this project is increased with respect to the Services, this Agreement shall be renewed or amended as provided for in paragraph 23) below subject to satisfactory performance.

The DIVISION shall provide notice to the CONTRACTOR as soon as it becomes aware that the amount of payment allocated for compensation has increased with respect to the services.

- g. **Changes.** The DIVISION may, from time to time, require changes including any increases or decreases in the amount of the CONTRACTOR's compensation, which are mutually agreed upon in writing as provided for in paragraph 23) below.
- h. **Taxes.** The State is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on the CONTRACTOR's employee's wages. The DIVISION is exempt from State and Local Sales and Use Taxes on the services. Tax Exemption Certificates will be furnished upon request. CONTRACTOR or an authorized subcontractor shall provide the DIVISION with a sworn verification regarding the filing of unemployment taxes or persons assigned by the

CONTRACTOR to perform Services, which verification is incorporated herein by reference.

- i. **Certification Regarding Sales and Use Tax.** By executing the Agreement, the CONTRACTOR certifies that it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the Georgia Code; or (b) not a “retailer” as defined in O.C.G.A. Section 48-8-2. The CONTRACTOR also acknowledges that the DIVISION may declare the Agreement void if the above certification is false. The CONTRACTOR also understands that fraudulent certification may result in the DIVISION or its representative filing for damages for breach of contract.
- 4) **COPYRIGHT.** No reports, maps, databases, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the CONTRACTOR. Any such reports, maps, databases, and other documents shall constitute a “work made for hire” pursuant to the U.S. Copyright Act of 1976, as amended, and the CONTRACTOR agrees that the DIVISION is the original and sole owner of all rights, including without limitation copyright, in and to such reports, maps, databases, and other documents. If for any reason such reports, maps, databases, and other documents are found not to be “works made for hire,” than the CONTRACTOR hereby assigns to the DIVISION all right, title, and interest in and to such reports, maps, databases, and other documents without further consideration of any kind. The CONTRACTOR agrees to execute all further documents and to take all further steps deemed advisable by the DIVISION to secure and protect the DIVISION’s rights as stated herein.
- 5) **DOCUMENTS.** Provided that the CONTRACTOR has been paid for the Services, the DIVISION shall have the right to use the documents, maps, databases, photographs, drawings, and other materials (including, but not limited to, models, software, or other digital work products) resulting from CONTRACTOR efforts on this Agreement. The CONTRACTOR acknowledges that, in accordance with the Agreement, the DIVISION is the original and sole owner of all rights in and to such documents, maps, databases, photographs, drawings, and other such materials including, but not limited to, models, software, or other digital work products. The DIVISION acknowledges that the reuse of any such materials by the DIVISION on any extension of this project or any other project shall, with the exception of the obligations of the CONTRACTOR, be at the DIVISION’s sole risk unless otherwise agreed to in writing by all parties. The CONTRACTOR shall have the right to retain copies of all such materials.
- 6) **INTELLECTUAL PROPERTY.** The CONTRACTOR agrees it will not use the name or any intellectual property, including, but not limited to, the DIVISION’s trademarks or logos in any manner, including commercial advertising or as a business reference, without the express prior written consent of the DIVISION.
- 7) **TITLE TO PROPERTY.** The DIVISION maintains complete ownership of and access to all data supplied to the CONTRACTOR. The CONTRACTOR represents and warrants

that title to any property assigned, conveyed, or licensed to the DIVISION is good and that transfer of title or license to the DIVISION is rightful, and that all property shall be delivered free of any security interest or other lien or encumbrance. Title to any supplies, materials, or equipment shall remain with the CONTRACTOR until fully paid for by the DIVISION. All outreach materials developed for public inspection, Open House meetings, and review by local officials produced by the CONTRACTOR personnel in performance of Services, including, but not limited to, charts, graphs, diagrams, electronic reproductions, and other project documentation shall be deemed to be "work made for hire" and shall be the property of the State of Georgia.

8) PERSONNEL.

- a. The CONTRACTOR represents that it has, or will secure, all personnel required in performing the Services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the DIVISION.
- b. All of the Services required hereunder will be performed by the CONTRACTOR or under its supervision, and all the personnel engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- c. None of the work or Services covered by this Agreement shall be subcontracted without prior written approval of the DIVISION.
- d. The DIVISION, or its authorized representatives shall have the right to enter into the premises of the CONTRACTOR and/or all subcontractors, or any places where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate the performance under this Agreement.

9) DEBARRED, SUSPENDED, AND INELIGIBLE STATUS. The CONTRACTOR certifies that the CONTRACTOR and/or any of its subcontractors have not been debarred, suspended, or declared ineligible by any agency of the State of Georgia or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch. 1 Subpart 9.4. The CONTRACTOR will immediately notify the DIVISION if the CONTRACTOR is debarred, suspended, or declared ineligible by any agency of the State of Georgia, or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a Federal entity.

10) WARRANTY AND INDEMNITY.

- a. **Warranty.** The CONTRACTOR warrants to the DIVISION that the Services will be performed in a workmanlike manner, consistent with that level of care and skill ordinarily exercised by other providers of similar services and with sound principles commonly used by similar professionals under similar circumstances at the time the Services are provided and further warrants that the work will be performed as intended and described in the Scope of Work.

The CONTRACTOR warrants that he has not employed or retained any company or person, other than a *bona fide* employee working solely for him, to solicit or secure this Agreement and that he has not paid or agreed to pay any person,

company, corporation, individual, or firm, other than a *bona fide* employee working solely for him, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this Agreement.

- b. **Indemnification.** The CONTRACTOR agrees to indemnify and hold harmless the State and State officers, employees, and agents (collectively "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements, and judgments, including reasonable value of the time spent by the Attorney General's Office, related to or arising from:
- i. Any negligent or wrongful act or omission of the CONTRACTOR or any employee, agent, or subcontractor utilized or employed by the CONTRACTOR;
 - ii. The negligence or fault of the CONTRACTOR in design, testing, development, manufacture, or otherwise with respect to the Services provided under the Agreement;
 - iii. The CONTRACTOR's negligent performance or attempted performance of the Agreement, including any employee, agent, or subcontractor utilized or employed by the CONTRACTOR;
 - iv. Any failure by the CONTRACTOR to make all reports, payments, and withholdings required by Federal and State law with respect to social security, employee income and other taxes, fees, or costs required by the CONTRACTOR to conduct business in the State of Georgia or the United States;
 - v. Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or,
 - vi. Any failure by the CONTRACTOR to adhere to the confidentiality provisions of this Agreement.

11) INSURANCE. The CONTRACTOR will be required to procure and maintain business insurance during the period of the Agreement, which protects the CONTRACTOR and the State of Georgia from any claims or bodily injury, property damages or personal injury, which arise out of operations under this Agreement. All policies must be issued by an insurance company licensed to do business in Georgia (professional liability insurance through the London Market is acceptable), with a minimum AM Best rating of A-, and signed by an authorized agent. Insurance coverage is at the CONTRACTOR's own expense. The insurance must list the State as additional insured. The CONTRACTOR is required to submit proof of Insurance coverage in the form of a signed insurance certification document to the DIVISION before the issuance of a final Notice to Proceed. All policies shall contain a provision that coverage afforded under the policies shall not be cancelled, allowed to lapse, or allowed to expire until thirty (30) calendar days after written notices has been given to the State certificate holder on the Certificate of Insurance. All such coverage shall remain in full force an effect during the initial term of the agreement and any renewal or extension thereof.

Insurance coverage requirements are as follows:

Workers Compensation (WC):	Statutory Limits
Bodily Injury by accident-per employee	\$100,000
Bodily Injury by disease-per employee	\$100,000
Policy Limits	\$500,000
	\$1,000,000
Professional Liability	
Commercial General Liability (CGL):	
General Aggregate including Products & Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000
Automobile Liability	
Combined Single Limit	\$1,000,000

The insurance certification must provide the following information:

- A. Name and address of authorized agent.
- B. Name and address of insured.
- C. Name of insurance company (licensed to operate in the State of Georgia;professional liability insurance through the London Market is acceptable).
- D. Description of coverage in standard terminology.
- E. Policy period.
- F. Policy number.
- G. Limits of Liability.
- H. Name and address of Certificate Holder.
- I. Acknowledgement of Notice of Cancellation to the State.
- J. Signature of authorized agent.
- K. Telephone number of authorized agent.
- L. Details of policy exclusions in comments section of Insurance Certificate.

12) CONFIDENTIALITY AND OPEN RECORDS. No reports, information, or material given to or prepared by the CONTRACTOR under this Agreement shall be made available to any person by the CONTRACTOR without the prior written approval of the DIVISION. Professional papers and conference presentations must be pre-approved in writing by the DIVISION. This Agreement constitutes written approval to respond to requests for access to public records made pursuant to the Georgia Open Records Act (O.C.G.A. §50-18-70, *et seq.*, hereinafter referred to as the "Act") notwithstanding the confidentiality provisions of this paragraph.

The CONTRACTOR acknowledges that public records, as defined by the Act, received or maintained by the CONTRACTOR (or received or maintained by any entity performing work on behalf of the CONTRACTOR ("subcontractors")) in the performance of a service or function for or on behalf of the DIVISION pursuant to this Agreement shall be made available for inspection and copying by a member of the public, as required by the Act.

The CONTRACTOR acknowledges that certain public records that it or its subcontractors receive or maintain in the performance of this Agreement may be exempt from disclosure under the Act. In order to facilitate timely responses to future requests to review public records under the Act, the CONTRACTOR and the DIVISION shall work together to identify records received or maintained by the CONTRACTOR in the performance of this Agreement that are exempt from disclosure under the Act.

No later than 60 days after creation of a record received or maintained in the performance of this Agreement, for which the CONTRACTOR asserts disclosure is not required, the CONTRACTOR shall notify the DIVISION in writing of said assertion. The DIVISION, as applicable, shall review the identified records and make a determination as to whether the records are exempt from disclosure under the Act. The CONTRACTOR acknowledges that the final determination as to whether a record is exempt from disclosure under the Act shall be made by the DIVISION, as applicable, and agrees to comply with said determination.

The CONTRACTOR shall design and maintain databases and all other records in a manner that facilitates redaction of information for which the DIVISION has determined that disclosure is not required by the Act.

No provision of this Agreement shall be interpreted to relieve the CONTRACTOR of its obligation to respond in a timely manner to all requests under the Act for access to records received or maintained by the CONTRACTOR or any subcontractors in the performance of a service or function for or on behalf of the DIVISION pursuant to this Agreement.

The CONTRACTOR must promptly advise the DIVISION in writing within 24 hours of a request for access to records under the Act. Said notification shall not delay response by the CONTRACTOR.

The CONTRACTOR acknowledges that non-compliance with the Act may constitute a criminal act.

Failure to comply with the Act is a material breach of this Agreement, which may result in termination for cause.

13) RECORD RETENTION AND ACCESS. The CONTRACTOR shall maintain books, records, and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the DIVISION throughout the term of the Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The CONTRACTOR shall permit the Auditor of the State of Georgia or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt, and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the CONTRACTOR relating to orders, invoices, or payments, or any other documentation or materials pertaining to the Agreement,

wherever such records may be located during normal business hours and with reasonable notice. The CONTRACTOR shall not impose a charge for audit or examination of the CONTRACTOR's books and records. If an audit discloses incorrect billings or improprieties, the DIVISION reserves the right to charge the CONTRACTOR for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

14) TIME OF THE ESSENCE. All time limits stated herein are of the essence. A reference to day, month, or year shall mean calendar day, month, or year.

15) NOTICE. Any notice (the word "notice", as used herein shall include, but not be limited to, statements, demands, requests, consents, approvals, and authorizations) hereunder given by either party to the other party shall be in writing and shall be sent by email or United States Certified Mail, return receipt requested, postage prepaid, addressed to the party to be notified as follows:

In case of the DIVISION, to:

**David M. Griffin, P.E.
GA Environmental Protection Division
2 Martin Luther King Jr. Drive, Suite 1152 East
Atlanta, Georgia 30334
david.griffin@dnr.ga.gov**

In case of the CONTRACTOR, to:

**Bradley T. Boyer, P.E.
Schnabel Engineering, LLC
6445 Shiloh Road, Suite A
Alpharetta, GA 30005
bboyer@schnabel-eng.com**

The sender of such notice shall require the United States Postal Service to "show to whom, date, and address of delivery" of said notice. The day upon which any such notice is so mailed shall be treated as the date of service. Either party may from time to time by notice to the other party designate a different address to which notices shall be sent.

16) DRUG FREE WORKPLACE. The CONTRACTOR hereby certifies as follows:

- a. The CONTRACTOR will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Contract; and,
- b. If the CONTRACTOR has more than one employee, including the CONTRACTOR, the CONTRACTOR shall provide for such employee(s) a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. Section §50-24-1, *et seq.*, throughout the duration of this Agreement; and
- c. The CONTRACTOR will secure from any subcontractor hired to work on any job assigned under this Agreement the following written certification: "As a part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name)

certifies to the CONTRACTOR that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Agreement pursuant to paragraph 7 of subsection (b) of Code Section §50-24-3."

The CONTRACTOR may be suspended, terminated, or debarred if it is determined that:

- a. The CONTRACTOR has made false certification here in above; or
- b. The CONTRACTOR has violated such certification by failure to carry out the requirements of O.C.G.A. Section §50-24-3(b).

17) ASSIGNMENT. The CONTRACTOR shall not transfer or assign all or any of its right, title, or interest in this Agreement or delegate any of its duties or obligations hereunder without the prior written consent of the DIVISION. The DIVISION may transfer or assign all or any of its right, title, or interest in this agreement to another agency or authority of the State of Georgia without written notice to the CONTRACTOR.

18) NO AGENCY. In carrying out its obligations under this Agreement, the CONTRACTOR is acting as an independent contractor and is responsible for full performance in accordance with the terms and conditions of this Agreement. This Agreement shall not be construed as making any party the agent of the other, or as creating a partnership, joint venture or similar relationship between the parties, and neither party shall have the power to obligate or bind the other party in any manner whatsoever. No party shall represent to third parties that it is an agent, a partner, or in a joint venture with any other party.

19) PROHIBITION AGAINST CONTINGENT FEES. As required pursuant to O.C.G.A. §50-22-6(d), the CONTRACTOR warrants that he has not employed or retained any company or person, other than a *bona fide* employee working solely for him, to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a *bona fide* employee working solely for him, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this Agreement.

20) INTEREST OF CONTRACTOR. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance required under the Agreement. It is specifically agreed and understood that for the purposes of this Agreement, the CONTRACTOR shall be an independent contractor and nothing in this Agreement shall be construed as creating a joint venture, partnership, or employment relationship between the parties.

21) DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM. To ensure that all disadvantaged business enterprises (DBEs) have an opportunity to compete for all subcontracting opportunities associated with this Agreement and in keeping with Federal Guidance (40 CFR Part 33, Subpart C), the following "Good Faith Efforts" shall be utilized by the CONTRACTOR.

- a. Ensure that DBEs are made aware of subcontracting opportunities to the fullest extent practicable through outreach and recruitment activities.

- b. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules where the requirements permit, in a way that encourages and facilitates participation by DBEs.
- c. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This might include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- d. Encourage contracting with a consortium of DBEs when a contract is too large for one firm to handle individually.
- e. Use the services and assistance of the Georgia Department of Transportation (GDOT), Small Business Administration (ABS), and the Minority Business Development Agency of the Department of Commerce (MBDA).

Documentation of the "Good Faith Efforts" must be detailed in order to allow for satisfactory review and should at a minimum include:

- a. Name, address, and telephone number of each DBE firm solicited;
- b. If advertised in a newspaper, submit a copy of the ad, indicate the name of the newspaper, and the dates that the ad ran;
- c. Specify the part of the project being subcontracted and the area of subcontracting still uncommitted if applicable;
- d. Solicitation letters must have return receipts;
- e. Telephone logs must include the firm name, contact person, telephone number, and date called, while faxes must include a fax confirmation report.

22) SEVERABILITY. If any provision of this Agreement should be ruled void or unenforceable or contrary to public policy by any court, then the remaining part of such provision and all other provisions of this Agreement shall survive and be enforceable, and any invalid portion shall be construed or reformed to preserve as much of the original words, terms, purpose, and intent as shall be permitted by law.

23) ENTIRETY. No representations, statements, or warranties other than those herein expressed have induced the making, execution, and delivery of this Agreement. This instrument embodies the entire understanding of the DIVISION and the CONTRACTOR and there are no further or other agreements or understandings, written or oral, in effect between the DIVISION and CONTRACTOR, relating to the subject matter hereof. This Agreement may be renewed, amended, or modified only by a written instrument of equal formality signed by the DIVISION and the CONTRACTOR.

24) COMPLIANCE WITH THE LAW.

- a. The CONTRACTOR, its employees, agents, and subcontractors shall comply with all applicable Federal, State, and local laws, rules, ordinances, regulations, and orders now or hereafter in effect when performing under the Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The CONTRACTORS, its employees, agents, and subcontractors shall also comply with all Federal, State, and local laws regarding business permits and licenses that may be required to carry out the work performed under the Agreement. The CONTRACTOR and the CONTRACTOR's personnel shall also comply with all State policies and standards in effect during the performance of the Agreement, including, but not limited to, policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics. Further, the provisions of O.C.G.A. Section §45-10-20, *et. Seq.*, have not and must not be violated under the terms of this Agreement.
- b. The Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. §50-5-85.

25) RECITALS. The parties agree that the foregoing recitals are true and correct and incorporated herein by this reference.

26) CHOICE OF LAW. This Agreement shall be deemed to have been made in the State of Georgia and shall be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of Georgia, without application of conflicts of law of principles.

27) SURVIVAL OF REPRESENTATIONS AND WARRANTIES. The representations, covenants, and warranties made in this Agreement shall survive the expiration or termination of this Agreement, except as may be expressly indicated otherwise.

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IN WITNESS WHEREOF, the DIVISION and CONTRACTOR, have hereunto, acting by and through their duly authorized officers or agents, set their hands the day and year of the first above written.

GEORGIA ENVIRONMENTAL PROTECTION DIVISION

Jeffrey W. Cown

Jeffrey W. Cown
Director

SCHNABEL ENGINEERING, LLC

Printed Name: Joseph Scot Monroe

Title: Executive VP

Signature: 

ATTACHMENT A

Scope of Work

The review of the Seismic Stability Analysis for Lake Petit Dam in Pickens County prepared by Geosyntec Consultants shall be in general conformance with the proposal submitted by the CONTRACTOR dated September 15, 2023 (Schnabel reference number 23170093.00P, attached and incorporated hereto, and shall include the following:

- Review of provided data, model inputs, methodology, and model outputs relevant to the seismic analysis presented in the Geosyntec Report.
- Evaluation of the results of the seismic analysis presented in the Geosyntec Report.
- Preparation of report presenting Schnabel's opinion of the appropriateness of the seismic analysis as prepared by Geosyntec Consultants. The report will also include comments regarding the seismic analysis for consideration by the DIVISION.
- A meeting with Geosyntec and the DIVISION to discuss the report prepared as part of this engagement. This meeting shall be held after submittal of the CONTRACTOR's report to the DIVISION and prior to the end of the Term of this agreement.
- Additional meetings or review of additional documents by the CONTRACTOR are not included in this Scope of Work.
- The Seismic Stability Analysis Review must be completed and report submitted to the DIVISION by February 29, 2024.