



# Huntsville, Alabama

308 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 12/21/2023

**File ID:** TMP-3676

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**Department:** Community Development

**Subject:**

**Type of Action:** Approval/Action

Resolution authorizing the Mayor to execute a professional services agreement between the City of Huntsville and Frye Environmental, LLC for professional consulting services related to HUD environmental requirements.

Resolution No.

**Finance Information:**

**Account Number:** 2100707100515520PN20001100007

**City Cost Amount:** \$ 0

**Total Cost:** \$ 9,875.00

**Special Circumstances:**

**Grant Funded:** \$ 9,875.00

**Grant Title - CFDA or granting Agency:** Urban Development Action Grant

**Resolution #:** N/A

**Location: (list below)**

**Address:** N/A

**District:** District 1  District 2  District 3  District 4  District 5

**Additional Comments:**



**RESOLUTION NO. 23-\_\_\_\_\_**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Professional Services Agreement by and between the City of Huntsville and Frye Environmental, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as “Professional Services Agreement between the City of Huntsville and Frye Environmental, LLC.,” consisting of ten (10) pages with the date of December 21, 2023 appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

**ADOPTED** this the 21st day of December 2023

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President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the 21st day of December 2023

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Mayor of the City of Huntsville,  
Alabama

**PROFESSIONAL SERVICES  
AGREEMENT BETWEEN THE  
CITY OF HUNTSVILLE AND  
FRYE ENVIRONMENTAL, LLC**

STATE OF ALABAMA    )  
  )  
COUNTY Of MADISON    )

This Agreement is made this 21st of December 2023, between Frye Environmental, LLC, Inc. (hereinafter referred to as “Consultant”), and the City of Huntsville, a municipal corporation in the State of Alabama (hereinafter referred to as “City”).

**RECITALS**

WHEREAS, the City of Huntsville, Alabama incorporated has a requirement as a grant recipient and participating jurisdiction for the U.S. Department of Housing and Urban Development to comply with federal environmental regulations; and

WHEREAS, Frye Environmental, LLC offers professional services to develop policies and procedures and to provide guidance on compliance with HUD environmental regulations and has previously provided similar professional services for these services;

WHEREAS, the City desires to retain Frye Environmental, LLC to provide professional consulting services on a recurring basis during the term of this agreement for HUD Environmental Consulting Services;

**WITNESSETH**

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties do hereby agree as follows, to -wit:

**1.0    Professional Environmental Consultation Services**

Provide on-call professional environmental consultation services to update Forms, Procedures, and Records for the City of Huntsville Community Development HUD Program for regulatory environmental compliance.

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: December 21, 2023

**2.0 Scope of Services.** Frye Environmental, LLC agrees to provide to the City of Huntsville the following services on a recurring basis regarding HUD Environmental regulatory compliance.

Consultant specifically agrees to:

(1) Provide Consultation regarding HUD Environmental Reviews  
Including but not limited to the following:

- a) Action Plan
- b) HOME funded Single Family New construction
- c) HOME funded Multi-Family Projects
- d) CDBG Public Services
- e) CDBG funded Deferred Maintenance Rehab
- f) CDBG-CV Funded Projects
- g) ESG Funded Projects
- h) Public Housing Programs-Responsibility Entity
- i) Public Housing Capital Fund Projects
- j) Choice Neighborhood Grants

**3.0** In consideration of the services rendered hereunder, the City shall pay to Frye Environmental, LLC the sum of One hundred twenty-five Dollars (\$125.00) per hour for services related to HUD Environmental Compliance Consultation. Professional Services shall not exceed 79 hours or \$9,875.00.

**4.0** The term of this agreement shall be eighteen (18) months commencing on December 21st, 2023 and continuing through for a period of eighteen (18) months thereafter.

**5.0** In the performance of this work it is understood between the parties that Frye Environmental, LLC and its employees, agents, subcontractors and consultants, if any, shall be acting as independent contractors and not as an employee of the City of Huntsville. Frye Environmental, LLC shall have no authority to obligate the City to any indebtedness or other obligation.

**6.0** All notices to be delivered hereunder shall be delivered to the other party by placing the same in the United States Mail, First Class postage prepaid, by prepaid overnight service through Federal Express, DHL or United Parcel Services or by hand delivery, to the addressee, addressed as follows:

Sandra Frye  
Frye Environmental, LLC  
26 Placer Drive,  
Dahlonega, GA 30533

Scott Erwin  
City of Huntsville, Director of Community Development  
P.O. Box 308, 308 Fountain Circle  
Huntsville, Alabama 35804

**7.0** The contract between the City and Frye Environmental, LLC consists of this written Agreement and any documents or drawings furnished by the City and referenced herein. This written Agreement constitutes the entire agreement between the City and Frye Environmental, LLC with reference to the Scope of Work delineated within. Except to the extent specifically excluded herein, this Contract supersedes any bid or proposals documents and all prior written or oral communication, representation and negotiations, if any, between the City and Frye Environmental, LLC.

**8.0** This contract shall be effective on the date this Agreement is executed by the last party to execute it.

**9.0** Nothing contained in this Contract shall create, or be interpreted to create privity or any other contractual agreement between the City and person or entity other than Frye Environmental, LLC.

**10.0** This agreement may be terminated by either party without cause prior to the completion of the project upon thirty (30) days written notice of the intent to terminate to the other party. Notice to terminate shall be given to the City by written notification mailed to Mr. Scott Erwin, Director of Community Development, City of Huntsville, Alabama at 308 Fountain Circle, Huntsville, Alabama 35801. Notice to terminate shall be given to Frye Environmental, LLC by written notification mailed to Ms. Sandra Frye, Frye Environmental, LLC 5 Bolen Hall Lane Hilton Head. In the event of such termination without cause, Frye Environmental, LLC shall be compensated for all services actually performed in a timely manner prior to receipt of the notice of termination provided however, that such compensation shall be conditioned upon Frye Environmental, LLC providing in a timely manner to the City all documents developed and copies of the work product produced pursuant to the Contract which were performed in furtherance of the Scope or Work up to the receipt of the notice of termination. In such event, Frye Environmental, LLC shall promptly submit the City its invoice for final payment.

**11.0** This agreement may be terminated by either party upon seven (7) days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination.

**12.0** The failure of the City to insist in one or more instances upon the performance of any term of this Contract is not a waiver of the City's right to future performance of such terms, and Frye Environmental, LLC's obligations for future performance of such shall continue in effect.

**13.0** If Frye Environmental, LLC persistently fails or refuses to perform the work in accordance with this contract, the City may order Frye Environmental, LLC to stop the

work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the City orders that work be resumed. In such event, Frye Environmental, LLC shall immediately obey such order.

**14.0** Frye Environmental, LLC shall carry insurance of the following kinds and amounts in addition to any other forms of insurance or bonds required under the terms of the contract specifications. Frye Environmental, LLC shall procure and maintain for the duration of the job until final acceptance by the City, or as later indicated, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Frye Environmental, LLC, its agents, representatives, employees or subcontractors.

**A. MINIMUM SCOPE OF INSURANCE:**

**1. General Liability:**

Insurance will be written on an occurrence basis. Claims-made coverage will be accepted only on an exception basis after the City's approval. General Liability Coverage and City's Contractors Protective Insurance should be written by the same insurance company.

**Commercial General Liability**

Products and Completed Operations  
Contractual  
Personal Injury  
Broad Form Property Damage

**2. Professional Liability:**

Insurance may be written on a "claims-made" basis, providing coverage for negligent acts, errors or omissions in the performance of professional services. Coverage will be maintained for three years after completion of the professional services and Certificates of Insurance will be submitted to the City within reasonable economic terms. For purposes of this provision, reasonable economic terms shall mean that such coverage is carried by at least 25% of the firms within the discipline of concern in the United States. Such coverage shall be carried on a continuous basis including prior acts coverage to cover the subject project. The professional liability insurance shall contain contractual liability coverage.

**3. Automobile Liability:**

Business Automobile Liability providing coverage for all owned, hired and non-owned autos. Coverage for loading and unloading shall be provided under either automobile liability or general liability policy forms.

**4. Workers' Compensation Insurance:**

Statutory protection against bodily injury, sickness or disease or death sustained by employee in the scope of employment. Protection shall be provided by a commercial insurance company or a recognized self-insurance fund authorized before the State of Alabama Industrial Board of Relations. Waivers of subrogation in favor of the City shall be endorsed to Worker's Compensation coverage.

**5. Employers Liability Insurance:**

Covering common law claims of injured employees made in lieu of or in addition to a worker's compensation claim.

**B. MINIMUM LIMITS OF INSURANCE:**

**1. General Liability:**

Commercial General Liability on an "occurrence form" for bodily injury and property damage:

\$ 2,000,000 General Aggregate Limit  
\$ 1,000,000 Products - Completed Operations Aggregate  
\$ 1,000,000 Personal & Advertising Injury  
\$ 1,000,000 Each Occurrence

**2. Professional Liability:**

Insurance may be made on a "claims-made" basis:

\$ 100,000 Per Claim - Land Surveyors  
\$ 250,000 Per Claim - Other Professionals

**3. Automobile Liability:**

\$ 500,000 Combined Single Limit per accident for bodily injury and property damage.

**4. Workers' Compensation:**

As Required by the State of Alabama Statute

**5. Employers Liability:**

\$ 100,000 Bodily Injury by Accident or Disease  
\$ 500,000 Policy Limit by Disease



**C. OTHER INSURANCE PROVISIONS:**

The City is hereby authorized to adjust the requirements set forth in this document in the event it is determined that such adjustment is in the City's best interest. If the insurance requirements are not adjusted by the City prior to the City's release of specifications with regard to the project in question, then the minimum limits shall apply.

The policies are to contain, or be endorsed to contain, the following provisions:

**1. General Liability and Automobile Liability Coverage's Only:**

- a. The City, its elected and appointed officials, employees, agents and specified volunteers are to be covered as Additional Insureds, as their interests may appear, as respects: liability arising out of activities performed by or on behalf of Frye Environmental, LLC for products used by and completed operations of Frye Environmental, LLC; or automobiles owned, leased, hired or borrowed by Frye Environmental, LLC. Additional insured status shall be through ISO Additional Endorsement CG 20 10 11 85 or equivalent that is sufficient to provide the coverage required by this Agreement.
- b. Frye Environmental, LLC's insurance coverage shall be primary insurance as respects the City, its elected and appointed officials, employees, agents and specified volunteers, as their interests may appear. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or specified volunteers shall be excess of Frye Environmental, LLC's insurance and shall not contribute to it.
- c. Frye Environmental, LLC's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**2. All Coverages:**

- a. Frye Environmental, LLC is responsible to pay all deductibles. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Cancellation of coverage for non-payment of premium will require ten (10) days written notice to the City.

- b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, employees, agents or specified volunteers.

**D. ACCEPTABILITY OF INSURERS:**

Insurance is to be placed with insurers with an A. M. Best's rating of no less than **B+ V**.

**E. VERIFICATION OF COVERAGE:**

Frye Environmental, LLC shall furnish the City with Certificates of Insurance reflecting the coverage required by this document. The A. M. Best Rating and deductibles, if applicable, shall be indicated on the Certificate of Insurance for each insurance policy. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

**F. CONSULTANTS AND/OR SUBCONTRACTORS WORKING FOR THE CONTRACTOR:**

Frye Environmental, LLC shall include all subcontractors and/or consultants as insureds under its policies or shall furnish separate certificates and/or endorsements for each subcontractor and/or consultant.

**G. HOLD HARMLESS AGREEMENT:**

**1. Other Than Professional Liability Exposures:**

Frye Environmental, LLC, to the fullest extent permitted by law, shall indemnify and hold harmless the City, its elected and appointed officials, employees, agents and specified volunteers against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to personal injury, including bodily injury sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and (2) is caused by any negligent act or omission of Frye Environmental, LLC or any of their consultants, or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable.

**2. Professional Liability:**

Frye Environmental, LLC agrees that as respects negligent acts in the performance of professional services, to indemnify and hold harmless the

City, its officers, agents, and employees from and against any and all claims, demands, losses and expenses, including, but not limited to attorneys' fees of any kind or nature resulting from any negligent acts, solely of Frye Environmental, LLC or any subconsultants or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable. Nothing contained in this agreement shall make S & A responsible to the City or any third-party for any claims, suits or expenses arising out of the negligent, intentional, reckless, or wrongful acts of the City or its agents, including its misuse of Standard's work product.

**15.0** This agreement shall be governed by the law of the State of Alabama. Proper venue of any action to enforce this agreement shall be in the Circuit Court of Madison County, Alabama or the United States District Court for the Northern District of Alabama, Northeastern Division.

**16.0** The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by Frye Environmental, LLC.

**17.0** This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

**18.0** When a word, term or phrase is used in this Contract, it shall be interpreted or construed. First, as defined herein; second, if not defined, according to its generally accepted meaning within the Contractual industry; and third, if there is no generally accepted meaning in the Contractual industry, according to its common and customary usage.

**19.0** The words "include," "includes," or "including," as used in this Contract, shall be deemed to be followed by the phrase, "without limitation."

**20.0** The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

**21.0** Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

**22.0** Time limitations contained herein, or provided for hereby, are of the essence of this Agreement.

**23.0** The reports, drawings, specifications and other documents or things prepared by Frye Environmental, LLC for the Project shall become and be the sole

property of the City. Frye Environmental, LLC shall be permitted to retain copies thereof for its records and for its future professional endeavors.

**24.0** Frye Environmental, LLC shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the City. Subject to the provisions of the immediately preceding sentence, the City and Frye Environmental, LLC, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

**25.0** Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

**26.0** The City may, at any time by written order, make changes within the general scope of this contract in any one or more of the following:

1. Description of the services to be performed;
2. Time of performance;
3. Place of Performance.

If any change causes an increase or decrease in the fixed sum amount or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the City shall make an equitable adjustment in the fixed sum amount or delivery schedule or other affected terms and shall modify the contract accordingly. Frye Environmental, LLC must assert its right to an adjustment under this clause within 14 calendar days from the date of receipt of the written order.

**27.0** Frye Environmental, LLC shall obtain the City's written consent before placing any subcontract for furnishing any of the work called for in this contract. Consent by the City to any subcontract shall not constitute approval of the acceptability of any subcontract terms or conditions, acceptability of any subcontract price or of any amount paid under any subcontract, nor relieve Frye Environmental, LLC of any responsibility for performing this contract.

**28.0** The Services will comply with any and all applicable federal, state, and local laws as the same exist and may be amended from time to time.

**29.0** In consideration of the signing of this Agreement, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, sex, disability or national origin with reference to the subject matter of this contract, no matter how remote. This nondiscrimination provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Agreement

**30.0** Frye Environmental, LLC, including its officers, employees, agents, and any other personnel providing services through Frye Environmental, LLC pursuant to this agreement agree to hold all materials and information both for any proposal and for any contract services with the City in the strictest confidence, and to take all necessary steps to assure and maintain the security of any information, test materials or other materials received, used, or developed pursuant to this contract.

**31.0** The Parties agree that any form of electronic signature, including but not limited to signatures via facsimile, standing, or electronic mail, may substitute for the original signature and shall have the same legal effect as the original signature.

**IN WITNESS WHEREOF**, the parties have executed this agreement on this the 21st day of December 2023.

**FRYE ENVIRONMENTAL, LLC**

DATE: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**CITY OF HUNTSVILLE**  
a municipal corporation  
in the State of Alabama

DATE: \_\_\_\_\_

By: \_\_\_\_\_  
Tommy Battle, Mayor  
City of Huntsville, Alabama

ATTEST:

\_\_\_\_\_  
Shaundrika Edwards, City Clerk  
City of Huntsville, Alabama