

**City of Fayetteville Staff Review Form**

**2021-0005**

**Legistar File ID**

**1/19/2021**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Summer Fallen

1/4/2021

AIRPORT SERVICES (760)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

Staff requests a resolution authorizing joint checks to H&H Inc., and their sub-contactor pursuant to the direction of their bond company.

**Budget Impact:**

		Airport	
<hr/>		<hr/>	
Account Number		Fund	
		Beacon/Windcone	
<hr/>		<hr/>	
Project Number		Project Title	
<b>Budgeted Item?</b>	<u>No</u>	Current Budget	\$ -
		Funds Obligated	
		Current Balance	\$ -
<b>Does item have a cost?</b>	<u>No</u>	Item Cost	
<b>Budget Adjustment Attached?</b>	<u>No</u>	Budget Adjustment	
		Remaining Budget	\$ -

**Purchase Order Number:** 2020-0262

**Previous Ordinance or Resolution #** 45-20 V20180321

**Change Order Number:** \_\_\_\_\_

**Approval Date:** \_\_\_\_\_

**Original Contract Number:** \_\_\_\_\_

**Comments:**



**MEETING OF JANUARY 19<sup>TH</sup>, 2021**

**TO:** Lioneld Jordan, Mayor  
**THRU:** Susan Norton, Chief of Staff  
Staff/Contract Review Committee  
**FROM:** Summer Fallen, Airport Services Manager  
**DATE:** January 4, 2021  
**SUBJECT:** **H&H Inc., Payment Request**

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**RECOMMENDATION:**

Staff requests approval for the Aviation Division to approve a resolution authorizing joint checks to H&H and their sub-contractors pursuant to the direction of their bond company.

**BACKGROUND:**

Resolution 45-20 authorized a contract with H&H Inc., for the construction of the Airport's Beacon and Windcone project. Upon substantial completion the final payment was held due to the notice of non-payment from one of the sub-contractors. The surety was then contracted, and the City has been given notice to issue payment to both H&H and the sub-contractor(s) that have yet to be paid.

**DISCUSSION:**

This authorization will allow the Airport and City to ensure that all parties receive payment for the work completed.

**BUDGET/STAFF IMPACT:**

**Attachments:**

Staff Review Form  
City Council Memo  
Resolution 45-20  
Surety Communication Documents (2)



113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

**Resolution: 45-20**

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**File Number: 2020-0050**

**BID #19-63 H&H ELECTRIC, INC.:**

A RESOLUTION TO AWARD BID #19-63 AND AUTHORIZE A CONTRACT WITH H&H ELECTRIC, INC. IN THE AMOUNT OF \$362,225.00 FOR THE BEACON AND WIND CONES PROJECT AT THE AIRPORT, TO APPROVE CHANGE ORDER NO. 1 TO CHANGE THE LOCATION OF THE POWER SUPPLY FOR THE PROPOSED BEACON AND REDUCE THE CONSTRUCTION COST TO \$281,550.00, TO APPROVE A BUDGET ADJUSTMENT RECOGNIZING AN 80-20 GRANT RECEIVED FROM THE ADA, AND TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$31,250.00

**WHEREAS**, on February 19, 2019, the City Council approved Resolution No. 46-19 which authorized the application for and acceptance of an 80/20 matching grant from the Arkansas Department of Aeronautics for the construction of the Beacon and Wind Cones Project at the Airport and the City was notified that it was awarded funding in the amount of \$250,000.00.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #19-63, authorizes Mayor Jordan to sign a contract with H&H Electric, Inc. in the amount of \$362,225.00 for the Beacon and Wind Cones Project at the airport, approves Change Order No. 1 to the contract reflecting the location change of the power supply for the proposed beacon and reducing the total contract amount to \$281,550.00, and further approves a project contingency in the amount of \$31,250.00.

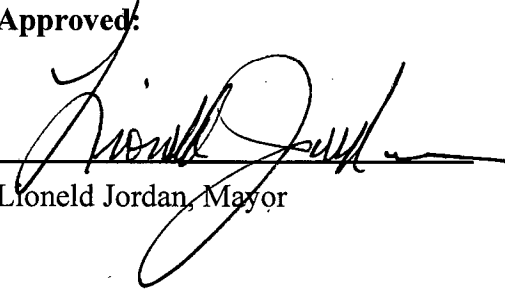
Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget

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adjustment, a copy of which is attached to this Resolution, recognizing the Arkansas Department of Aeronautics grant funds in the amount of \$250,000.00.

PASSED and APPROVED on 2/4/2020

**Approved:**

  
Lioneld Jordan, Mayor

**Attest:**

  
Kara Paxton, City Clerk Treasurer





## HOLLOWAY • MONAGHAN • KING

*Attorneys and Counselors*  
An Association of Professional Corporations

December 23, 2020

VIA E-MAIL AND FIRST CLASS MAIL

Hughey & Phillips Airfield Lighting [bmiller@hugheyandphillips.com](mailto:bmiller@hugheyandphillips.com)

Attn: Bruce Miller

4201 NW 124th Avenue

Coral Springs, FL 33065

Re: Our Client: Auto-Owners Insurance Company  
Principal: H & H Electric, Inc.  
Bond. No.: 66343355  
Obligee: City of Fayetteville, Arkansas  
Claim No.: 70-15-2020  
Project: Drake Field

Dear Mr. Miller,

This Law Firm is assisting Auto-Owners Insurance Company (“Auto-Owners”) in the above matter. Auto-Owners has received your e-mail to Garver Engineering dated December 22, 2020 in which you indicated that your company, Hughey & Phillips Airfield Lighting (“Hughey & Phillips”) had not been paid in full on the above project. Auto-Owners understands your company is asserting a claim against the payment bond issued by Auto-Owners naming H&H Electric, Inc. (“H&H”) as Principal (“Payment Bond”) related to the above. Included in the e-mail were copies of two (2) invoices from Hughey & Phillips to H&H.

Auto-Owners does not require a formal claim form and your e-mail constitutes the claim. In order for Auto-Owners to properly evaluate your client’s claim, Auto-Owners requests additional documentation. This documentation should include, to the extent that it exists, copies of:

1. All contracts;
2. All sub-contracts;
3. Purchase Orders;
4. Other agreements between the H&H and Hughey & Phillips;
5. Copies of all Requests for Payment;
6. Evidence of payments made by H&H or other parties, related to the Project;
7. Delivery tickets;

4111 SOUTH DARLINGTON • SUITE 900

TULSA, OKLAHOMA 74135-6330

(918) 627-6202 • (918) 627-6265 FAX

E-Mail • [bwarrick@hmkoklaw.com](mailto:bwarrick@hmkoklaw.com)

8. Bills of lading;
9. Invoices;
10. Statements of account;
11. Lien claims;
12. Notices of intent to lien;
13. Lien Waivers;
14. Sworn statements of account;
15. Statutory notices for non-payment, including all notices of claim sent to the contractor;
16. Contractor's sworn affidavits and architect Certificates for Payment;
17. The dates on which any materials that were provided by Hughey & Phillips;
18. Copies of all relevant documentation and correspondence between Hughey & Phillips and H&H.

This information should be sent to me at the address listed at the bottom on the first page of this letter via U.S. Mail or e-mail. By a copy of this letter to H&H's counsel, B.J. Walker and David Powell, Auto-Owners is seeking input from H&H and may review the documentation you provide with H&H, or other parties involved in the Project. Please be aware that Auto-Owners reserves its right to request additional documentation.

In the event that H&H, or another party on behalf of H&H, pays any additional amounts to you, Auto-Owners requests to be informed of those payments.

Please be advised that this letter is written for investigatory purposes only. It should not be construed by you, as an admission of liability or a promise to pay your company's claim in all or in part. Activities of Auto-Owners and its agents are undertaken with a full reservation of Auto-Owners' rights and defenses under the terms of its bond, the contract, and the law. This reservation of rights shall remain in full force and effect unless expressly revoked in writing by Auto-Owners.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at the address or telephone number listed above.

Yours very truly,

HOLLOWAY•MONAGHAN•KING



W. Brant Warrick

WBW

cc: Auto-Owners  
Kit Williams via email  
Andrea Foren via email  
David Powell via email  
B.J. Walker via email



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*Attorneys and Counselors*  
An Association of Professional Corporations

December 18, 2020

**VIA EMAIL AND FIRST CLASS MAIL**

Andrea Foren- Purchasing Manager  
City of Fayetteville, Arkansas  
113 West Mountain Street  
Fayetteville, AR 72701

**aforen@fayetteville-ar.gov**

Re: Bond. No.: 66343355  
Obligee: City of Fayetteville, Arkansas  
Claim No.: 70-15-2020  
Project: Drake Field

Dear Ms. Foren,

This Law Firm is assisting Auto-Owners Insurance Company (“Auto-Owners”) in its review of claims against the bond on the above project. Please direct all further correspondence on this matter to me at the address or email address listed below. Auto-Owners has received two claims against the Payment Bond on the above project and has received your emails of yesterday. Auto-Owners is reviewing those claims and your emails regarding the contract balances on the project. Auto-Owners is also requesting input from H&H Electric through its counsel.

In order to induce Auto-Owners to execute bonds naming it as principal, including the bonds on the above project, H&H Electric, among other things, signed a General Agreement of Indemnity in favor of Auto-Owners which in part assigned to Auto-Owners the contract funds on this project as collateral security. While Auto-Owners is reviewing this matter, we request that any additional payments of the contract balances be made only upon the express written consent by Auto-Owners through this law firm.

As we review this matter, please let me know if I should continue to direct future correspondence to you, to Adam White at Garver Engineering, or through Kit Williams.

4111 SOUTH DARLINGTON • SUITE 900  
TULSA, OKLAHOMA 74135-6330  
(918) 627-6202 • (918) 627-6265 FAX  
E-Mail • bwarrick@hmkoklaw.com

City of Fayetteville, Arkansas  
Andrea Foren  
December 18, 2020  
Page 2

I am, at this time, requesting a copy of the City of Fayetteville's contract with H&H Electric, including the incorporated general and special conditions, and copies of all pay request that H&H Electric has submitted.

Please be advised that this letter is written for investigatory purposes only. It should not be construed by you as an admission of liability or a promise to pay any claim in all or in part. Activities of Auto-Owners and its agents are undertaken with a full reservation of Auto-Owners' rights and defenses under the terms of its bond, the contract, the General Agreement of Indemnity, in law or equity. This reservation of rights shall remain in full force and effect unless expressly revoked in writing by Auto-Owners.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at the address or telephone number listed above.

Yours very truly,

HOLLOWAY•MONAGHAN•KING



W. Brant Warrick

WBW

cc: Auto-Owners  
Kit Williams  
David Powell  
B.J. Walker

**city\_attorney@fayetteville-ar.gov**  
**dpowell@roselawfirm.com**  
**bwalker@roselawfirm.com**





**MONTHLY INVOICE  
PREPARED BY  
GARVER**

PROJECT NAME:	FYV Windcones and Beacon ADA Grant No. 3775-19	INVOICE NUMBER:	4 - 2020
OWNER:	City of Fayetteville 113 West Mountain Street Fayetteville, Arkansas 72701	FROM:	10/01/20
CONTRACTOR:	H&H Electric, Inc. 158 Technic Circle Hot Springs, AR 71901	TO:	11/10/20
CONTRACT DATE:	February 4, 2020	GARVER PROJECT NUMBER:	19A13211
CONTRACT AMOUNT:		CONTRACT COMPLETION DATE:	Tentative 12/4/20
ORIGINAL:	\$ 362,225.00	DATE WORK BEGAN:	06/17/20
CHANGE ORDERS:	\$ (93,388.00)	SUBSTANTIAL COMPLETION:	11/11/20
REVISED:	\$ 268,837.00	CONSTRUCTION TIME:	
		ALLOTTED:	35 Calendar Days
		SUSPENDED:	106 Calendar Days
		USED:	41 Calendar Days

100% of Contract Amount Used To-date

117% of Contract Time Used To-Date

Weather Time Added This Invoice	0	Total Weather Time To Date	0
Other Delays Claimed This Invoice	0	Total Other Delays To Date	0

**CERTIFICATION, RECOMMENDATION, & APPROVAL**

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract referred to above have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by all prior Applications for Payment; (2) title of all Work, materials and equipment incorporated into said Work or otherwise listed in or covered by the Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Lien, security interest or encumbrance); (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective; (4) all contract labor standards requirements have been complied with by Contractor and by each subcontractor employing mechanics or laborers at the site of the work; and (5) the quantities shown on the attached Unit Price Schedule reflect the quantities complete at the closing date of this invoice period.

Certified By:  
CONTRACTOR: H&H Electric, Inc.

By: Rich Wiederspan

Date: 11/19/2020

Recommended By:  
ENGINEER: Garver

By: Adam Tuttle

Date: 12/7/2020

Approval for Payment By:  
OWNER: City of Fayetteville

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_

Total Amount of Work Done	\$ 268,837.00
Plus Materials Stored	\$ -
<b>TOTAL</b>	<b>\$ 268,837.00</b>
Less Retainage (0% of Total Amount of Work Done)	\$ -
Difference	\$ 268,837.00
Less Previous Payments	\$ 156,141.86
<b>AMOUNT DUE ON CONTRACT THIS INVOICE</b>	<b>\$ 112,695.14</b>

**WORK COMPLETED TO-DATE**  
**FYV WINDCONES AND BEACON**

INVOICE NUMBER: 4  
 TO: 11/10/20

ITEM NUMBER	DESCRIPTION	UNIT	ORIGINAL CONTRACT QUANTITY	UNIT PRICE	REVISED CONTRACT QUANTITY	QUANTITY THIS INVOICE	AMOUNT THIS INVOICE	QUANTITY TO-DATE	AMOUNT TO-DATE
C-105-6.1	Mobilization (Max 5% of Total Bid)	LS	1.00	\$ 15,000.00	1.00	0.25	\$ 3,750.00	1.00	\$ 15,000.00
SS-120-3.1	Construction Safety and Security	LS	1.00	\$ 300.00	1.00	1.00	\$ 300.00	1.00	\$ 300.00
SS-300-5.1	Lockout/Tagout and Constant Current Regulator Calibration Procedures	LS	1.00	\$ 500.00	1.00	1.00	\$ 500.00	1.00	\$ 500.00
SS-300-5.2	Electrical Vault Modifications	LS	1.00	\$ 3,000.00	0.00	0.00	\$ -	0.00	\$ -
SS-301-5.1	Existing Wind Cone and Foundation, Removed	EA	2.00	\$ 3,500.00	0.00	0.00	\$ -	0.00	\$ -
SS-301-5.2	Existing Beacon, Disconnected	EA	1.00	\$ 1,500.00	1.00	0.00	\$ -	1.00	\$ 1,500.00
SS-305-5.1	Directional Boring, 2-Way 2" Polyethylene Conduit	LF	200.00	\$ 206.00	0.00	0.00	\$ -	0.00	\$ -
SS-307-5.1	Beacon Radio Control System	LS	1.00	\$ 5,000.00	1.00	1.00	\$ 5,000.00	1.00	\$ 5,000.00
L-101-5.1	L-802A, Airport Rotating Beacon, In Place	EA	1.00	\$ 19,500.00	1.00	1.00	\$ 19,500.00	1.00	\$ 19,500.00
L-101-5.2	Beacon Baffle, Installed	LS	1.00	\$ 2,500.00	1.00	1.00	\$ 2,500.00	1.00	\$ 2,500.00
L-103-5.1	108' Monopole Beacon Tower and Foundation, in Place	EA	1.00	\$ 117,500.00	1.00	0.65	\$ 76,375.00	1.00	\$ 117,500.00
L-107-5.1	L-807(L), Style I-B, Size 2 Wind Cone and Foundation, in Place	EA	1.00	\$ 25,000.00	1.00	0.05	\$ 1,250.00	1.00	\$ 25,000.00
L-107-5.2	L-806(L), Style I-B, Size 1 Wind Cone and Foundation, in Place	EA	1.00	\$ 21,800.00	1.00	0.05	\$ 1,090.00	1.00	\$ 21,800.00
L-107-5.3	Segmented Circle Marker System, in Place	EA	1.00	\$ 22,000.00	1.00	0.00	\$ -	1.00	\$ 22,000.00
L-108-5.1	No. 8 AWG, 5 kV, L-824, Type C Cable, Installed in Trench, Duct Bank or Conduit	LF	9,000.00	\$ 1.50	2,316.00	0.00	\$ -	2,316.00	\$ 3,474.00
L-108-5.2	No. 6 AWG, Solid, Bare Copper Counterpoise Wire, Installed Above the Duct Bank or Conduit, Including Connections/Terminations	LF	2,750.00	\$ 1.50	782.00	0.00	\$ -	782.00	\$ 1,173.00
L-110-5.1	Non-Encased Electrical Conduit, 1-Way 2-Inch C	LF	2,250.00	\$ 20.00	782.00	0.00	\$ -	782.00	\$ 15,640.00
L-115-5.1	Electrical Junction Structure, L-867 Class 1, Size 16" Diameter by 24" Depth	EA	8.00	\$ 1,100.00	0.00	0.00	\$ -	0.00	\$ -
SP-C-00	Bonds and Insurance	LS	1.00	\$ 9,000.00	1.00	0.00	\$ -	1.00	\$ 9,000.00
CO-01.01	Core into Existing Taxiway Can	EA	0.00	\$ 200.00	2.00	0.00	\$ -	2.00	\$ 400.00
CO-01.012	Electrical Rack Construction	LS	0.00	\$ 8,550.00	1.00	0.10	\$ 855.00	1.00	\$ 8,550.00
<b>TOTALS</b>							<b>\$ 111,120.00</b>	<b>\$ 268,837.00</b>	

**MATERIALS STORED**  
 FYV WINDCONES AND BEACON

INVOICE NUMBER: 4  
 TO: 11/10/20

COMPANY NAME	DESCRIPTION OF STORED MATERIAL	INVOICE NO.	UNIT	UNIT PRICE	QUANTITY STORED	\$AMOUNT STORED	QUANTITY INSTALLED	\$AMOUNT INSTALLED	BALANCE REMAINING
H&H Electric, Inc.	L-802A, Airport Rotating Beacon, In Place	1	LS	\$6,310.71	1.0000	6,310.71	1.00	6,310.71	0.00
TOTAL						6,310.71		6,310.71	0.00