RESOLUTION NO. 18-0431

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGECWOOD, WASHINGTON, AWARDING THE CONTRACT FOR THE CITY HALL BASEMENT IMPROVEMENT TO ALL PHASE INTERIORS, LLC IN THE AMOUNT OF $40,127.79

WHEREAS, the City Council determined that the City Hall Basement should be improved in order to accommodate a lease of a portion of City Hall to the Fire District; and

WHEREAS, the City has approved plans prepared by Gray and Osborne for the improvement of the City Hall Basement, and the Engineer’s Estimate for such work was $35,854.88; and

WHEREAS, the City utilized a competitive bidding process combined with the MRSC small works roster to obtain bids for the work;

WHEREAS, after one bid was received and opened, the City staff determined that the lowest responsible bidder was All Phase Interiors, LLC (Shoreline, WA) in the amount of $40,127.79; and

WHEREAS, Gray and Osborne and the Public Works Director analyzed the proposal and recommended that All Phase Interiors, LLC be awarded the contract as the lowest responsible bidder, based on its bid of $40,127.79;

WHEREAS, the City Council considered the recommendation of Gray and Osborne and the Public Works Director during its regular Council meeting of October 9, 2018; and voted to authorize the Mayor to sign the contract as described above;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGECWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council hereby authorizes the Mayor to execute the contract between the City of Edgewood and All Phase Interiors, LLC in the amount of $40,127.79 for the City Hall Basement Improvement, which is attached hereto as Exhibit A.

Section 2. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 9TH DAY OF OCTOBER, 2018

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk
Exhibit A
Agreement and Bond Forms
AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF EDGWOOD (hereinafter called the Owner) and ALL PHASE INTERIORS, LLC (hereinafter called the Contractor).

The Owner and the Contractor agree as follows:

ARTICLE 1. WORK.

This project consists of construction of a 144 square foot kitchen area within the basement of the City Hall building. The project also includes drywall, painting, doors, plastic laminate cabinets and countertops, ceiling modifications, and electrical.

ARTICLE 2. CONTRACT TIME.

The Contractor shall substantially complete the Work required by the Contract within 25 working days (the Substantial Completion Date) and physically complete the Work within 35 working days (the Physical Completion Date).

ARTICLE 3. LIQUIDATED DAMAGES.

The Owner and the Contractor recognize that time is of the essence and that the Owner will suffer financial loss if the Work is not completed within the time, plus any extensions thereof, allowed in accordance with the Contract. They also recognize the inconvenience, expense, and difficulties involved in a legal proceeding to prove the actual loss suffered by the Owner if the Work is not completed within the time allowed in the Contract. Accordingly, the Owner and the Contractor agree that as liquidated damages for delay, and not as a penalty, the Contractor shall pay the Owner $500.00 per day for each working day beyond the Substantial Completion Date that the Contractor achieves substantial completion of the Work and $500.00 for each working day beyond the Physical Completion Date that the Contractor achieves physical completion of the Work.

ARTICLE 4. CONTRACT PRICE.

The Owner shall pay the Contractor the amount(s) set forth in the Proposal (in United States dollars) for completion of the Work in accordance with the Contract.
ARTICLE 5. CONTRACT.

The Contract, which comprises the entire agreement between the Owner and the Contractor concerning the Work, consists of the following:

- This Agreement;
- The Contractor’s Proposal including the bid, bid schedule(s), information required of bidder, Proposal bond, and all required certificates and affidavits;
- The Performance Bond and the Public Works Payment Bond;
- The Contract Provisions, including 2018 WSDOT Standard Specification as referenced;
- The Plans (or drawings) consisting of a cover sheet and 5 plan sheets, as listed in the index on sheet 1 of the Plans;
- Addenda numbers 0, inclusive; and
- Change Orders issued after the effective date of this Agreement.

There are no Contract Documents other than those listed in this Article 5. The Contract may be amended only in writing by Change Order as provided in the Contract.

ARTICLE 6. MISCELLANEOUS.

For purpose of defending any work place injury claims by employees of the Contractor and Subcontractors, the Contractor waives any immunity granted under the State Industrial Insurance Law, RCW Title 51. This waiver has been specifically negotiated between the parties and is hereby acknowledged by the Contractor. ______________________(Contractor’s initials)

The Contractor shall not assign any rights under or interests in the Contract, including but not limited to rights to payment, without the prior written consent of the Owner. Unless specifically stated in a written consent to an assignment, no assignment will release or discharge the Contractor-assignor from any duty or responsibility under the Contract.

The Contract is binding upon the Owner and the Contractor, and their respective partners, successors, assigns and legal representatives.
IN WITNESS WHEREOF, Owner and Contractor have caused this Agreement to be executed the day and year indicated below.

CITY OF EDGEWOOD

By

Date 05 May 2019

ALL PHASE INTERIORS, LLC

License No. ALLPHI953BE

By

Title

Attest

Name and Address for giving notices (print)
PUBLIC WORKS PAYMENT BOND

to CITY OF EDGEWOOD, WA

Bond No. ____________

The CITY OF EDGEWOOD, Washington, (City) has awarded to ALL PHASE INTERIORS, LLC (Principal), a contract for the construction of the project designated as City Hall Kitchenette Build-Out in Edgewood, Washington (Contract), and said Principal is required under the terms of that Contract to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _______________________ (Surety), a corporation organized under the laws of the State of ________________ and licensed to do business in the State of Washington as surety and named in the current list of “Surety Companies Acceptable in Federal Bonds” as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City, in the sum of FORTY THOUSAND ONE HUNDRED TWENTY-SEVEN AND 79/100 US Dollars ($40,127.79) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW Titles 39.08 and 39.12 including all workers, laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties’ duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the officer executing on behalf of the surety.

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<tr>
<th>PRINCIPAL</th>
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<tbody>
<tr>
<td>Principal Signature</td>
<td>Surety Signature</td>
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<td>Printed Name</td>
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Name, address, and telephone of local office/agent of Surety Company is:

Approved as to form:

City Attorney, City of Edgewood       Date
CITY OF EDGEWOOD
MAINTENANCE BOND

Edgewood Project #: __________________________
Surety Bond #: ______________________________
Date Posted: _________________________________
Expiration Date: ____________________________

RE: Project Name: City Hall Kitchenette Build-Out
   Owner/Developer/Contractor: All Phase Interiors, LLC
   Project Address: 2224 104th Avenue East, City Hall, Edgewood, WA

KNOW ALL PERSONS BY THESE PRESENTS: That we, ________________________ (hereinafter called the "Principal"), and ________________________, a corporation organized under the laws of the State of ________________________, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Edgewood, Washington, in the sum of Forty Thousand One Hundred Twenty-Seven and 79/100 dollars ($40,127.79), lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents. THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal has constructed and installed certain improvements on public property in connection with a project as described above within the City of Edgewood; and

WHEREAS, in accordance with the contract between the Principal and the City of Edgewood, the Principal is required to post a bond for the 24 months following project completion in order to ensure that the project does not contain defects that require repair and to cover the cost of repair during that 24-month period; and

WHEREAS, such bond is needed in order to provide security for the obligation of the Principal to repair and/or replace said improvements against defects in workmanship, materials or installation for a period of twenty-four (24) months after written and final acceptance of the same and approval by the City;

NOW, THEREFORE, this Maintenance Bond has been secured and is hereby submitted to the City. It is understood and agreed that this obligation shall continue in effect until released in writing by the City of Edgewood, but only after the Principal has performed and satisfied the following conditions:

A. The work or improvements installed by the Principal and subject to the terms and conditions of this Bond are as follows: (insert complete description of work here)

   Construction of a 144 square foot kitchen area within the basement of the City Hall building, including drywall, painting, doors, plastic laminate cabinets and countertops, ceiling modifications and electrical.
B. The Principal and Surety agree that the work and improvements installed in the above-referenced project shall remain free from defects in material, workmanship and installation for a period of twenty-four (24) months after written and final acceptance of the same and approval by the City. Maintenance is defined as acts carried out to prevent a decline, lapse or cessation of the state of the project or improvements as accepted by the City during the twenty-four (24) month period after final and written acceptance, and includes, but is not limited to, repair or replacement of defective workmanship, materials or installations.

C. The Principal shall, at its sole cost and expense, carefully replace and/or repair any damage or defects in workmanship, materials or installation to the City-owned real property on which improvements have been installed, and leave the same in as good condition as it was before commencement of the work.

D. The Principal and the Surety agree that in the event any of the improvements or restoration work installed or completed by the Principal as described herein, fail to remain free from defects in materials, workmanship or installation, for a period of twenty-four (24) months from the date of acceptance of the work by the City, the Principal shall repair and/replace the same within ten (10) days of demand by the City, and if the Principal should fail to do so, then the Surety shall:

1. Within twenty (20) days of demand of the City, make written commitment to the City that it will either:

   a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or

   b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

   Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection D(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to make repairs or provide maintenance within the time period requested by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of repairing or maintaining the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to repair or maintain such improvements.

MAINTENANCE BOND
(Rev. 10/03/18)
CAM.90402MJNX/F0008.180.002
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E. **Corrections.** Any corrections required by the City shall be commenced within ten (10) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this bond as described in Section D above.

F. **Extensions and Changes.** No change, extension of time, alteration or addition to the work to be performed by the Principal shall affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder.

G. **Enforcement.** It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Pierce County Superior Court.

H. **Bond Expiration.** This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and until released in writing by the City at the request of the Surety or Principal.

DATED this ____ day of _____________________, 20__.

SURETY COMPANY  
(Signature must be notarized)  

DEVELOPER/OWNER  
(Signature must be notarized)  

By: ________________________________  
Its ________________________________  

By: ________________________________  
Its ________________________________  

Business Name: ________________________  
Business Name: All Phase Interiors, LLC  

Business Address: ________________________  
Business Address: ________________________  

City/State/Zip Code: ________________________  
City/State/Zip Code: ________________________  

Telephone Number: ________________________  
Telephone Number: ________________________
CITY OF EDGEWOOD

By: ___________________________ Date: ___________________________

Mayor

APPROVED AS TO FORM:

____________________________
Office of the City Attorney

____________________________
CHECK FOR ATTACHED NOTARY SIGNATURE

____ Individual (Form P-1)

____ Corporation (Form P-2)

____ Surety Company (Form P-2)
FORM P-1 / NOTARY BLOCK
(Use For Individual/Sole Proprietor Only)

STATE OF WASHINGTON  )
COUNTY OF KING   )

) ss.

I certify that I know or have satisfactory evidence that _____________________ is the person
who appeared before me, and said person acknowledged that (he/she) signed this instrument, and
acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the
instrument.

Dated:

________________________________________

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: ________________________________

My Commission expires: ______________
FORM P-2 / NOTARY BLOCK  (Use For Partnership or Corporation Only)

(Developer/Owner)
STATE OF WASHINGTON  )
) ss.
COUNTY OF  )

I certify that I know or have satisfactory evidence that __________________ is the person who appeared before me, and said person acknowledged as the __________ of __________________ that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: ______________________________

____________________________________
(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: __________________________
My Commission expires: _____________

(Surety Company)
STATE OF WASHINGTON  )
) ss.
COUNTY OF  )

I certify that I know or have satisfactory evidence that __________________ is the person who appeared before me, and said person acknowledged as the __________ of __________________ that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: ______________________________

____________________________________
(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: __________________________
My Commission expires: _____________

MAINTENANCE BOND
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