

RESOLUTION NO. 17-109

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RATIFYING AND APPROVING A CONTRACT AGREEMENT BETWEEN THE CITY AND M.T. CAUSLEY, INC. FOR FLORIDA DBPR LICENSED PROFESSIONAL SUBSTITUTE STAFFING ON A SOLE SOURCE BASIS PURSUANT TO SECTION 2-797(1) OF THE CODE OF ORDINANCES; APPROVING NECESSARY BUDGET TRANSFERS AND AMENDMENTS TO INCREASE FUNDING BY \$25,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY DOCUMENTS UPON CONSENT OF THE CITY ATTORNEY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, due to several personnel vacancies, and increased requests for plan review and inspections, the Building Official recommends approval of an expenditure in excess of \$20,000.00 for private inspection services for FY 16-17; and

WHEREAS, only Florida DBPR licensed profesionas may perform construction inspections, plan reviews or function as a Building Official, and the City has found over a period of many years that M.T. Causley, LLC is the only company willing to provide substitute staffing for the City Building Department; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Commission, in accordance with Section 2-797(1)(b) of the Code of Ordinances, hereby ratifies and approves the attached Agreement between the City and M.T. Causley, LLC for independent licensed inspectors and plan examiners for the Building Department on an as-needed basis.

Section 2: That a budget amendment to provide additional funding in amount of \$25,000.00 is authorized to be transferred from the City Manager's General Fund Contingency account, 001-1900-519.9801, to the Building Department Professional Services account, 001-2401-524.31.

Section 3: That the City Manager is authorized to execute necessary documents upon consent of the City Attorney.

Section 4: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 4th day of April, 2017.

Authenticated by the Presiding Officer and Clerk of the  
Commission on 5th day of April, 2017.

Filed with the Clerk on April 5, 2017.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Richard Payne	<u>Absent</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>

ATTEST:

  
CHERYL SMITH, CITY CLERK

  
CRAIG CATES, MAYOR



## **THE CITY OF KEY WEST**

**Director of Building**

P.O.Box 1409, Key West, FL 33040

# **MEMORANDUM - BLDG.**

**DEPT.**

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## **EXECUTIVE SUMMARY**

**DATE: March 23, 2017**

**TO: Jim Scholl, City Manager**

**FROM: Ron Wampler, CFM, CBO, and Director of the Building Department**

**SUBJECT: Approval of an M.T. Causley, LLC contract agreement to provide Florida DBPR Licensed Professional Substitute Staffing and an additional budget allowance for FY 2017.**

**COPY TO: Greg Veliz, Assistant City Manager  
Mark Finigan, Director of Finance**

**ATTACHMENTS: Contract Agreement and Proposed Rates for 2017**

### **ACTION STATEMENT**

Ratify the contract with M.T. Causley, LLC for substitute staffing pursuant to City of Key West Code of Ordinance Section 2-797(1)(b) Sole Source and approve an additional \$25,000.00 transfer of the City Manager's General Fund contingency amount to the Building Department FY 2017 expense budget. Authorize the City Manager to approve any necessary budget transfer/amendment and to execute the necessary documents.

### **BACKGROUND**

Florida adopted the 2001 Florida Building Code after Hurricane Andrew devastated Homestead, Florida in 1999. Key West hurricane season is subject to possible 180mph wind pressures and tidal flood surges that will threaten the health, safety and welfare of our visitors and citizens. Only Florida DBPR licensed professionals may perform construction inspections, construction plan reviews or function as a Building Official. For over 14 years the only company willing to provide substitute staffing for the City Building Department has been M.T. Causley, LLC.

#### **PURPOSE AND JUSTIFICATION**

The City Building Department Professional Staff is minimal but highly dedicated and consists of 3 inspectors, 1 plans examiner and 1 CBO that fill Florida Professional Licensed positions of 4 inspector positions, 4 plans examiner positions and one CBO position. Substitute licensed professionals are necessary due to permanent staff vacations, sick leaves, professional training meetings, retirements, etc...Permanent job openings are posted on our City web page.

#### **FINANCIAL ISSUES**

Professional licensed substitute staff rates are included in the attached report. Due to retirement of a staff member that fills 2 inspector positions (electrical and mechanical) and 2 plans examiner positions (electrical and mechanical) and a newly vacant position, substitute staffing will be necessary. Staggering workdays and types of inspections may require several substitutes that will vary with anticipated daily workload. I am requesting a contingency budget increase for the remainder of FY 2017 of \$25,000.

#### **RECOMMENDATION**

City Building Department staff recommends approving the contract with M.T. Causley, LLC to provide licensed professional substitute staffing and an additional budget allowance of \$25,000 for the remainder of FY 2017. Staff also recommends authorizing the City Manager to approve any necessary budget transfer/amendment and to execute the necessary documents.

## **M.T. CAUSLEY, LLC**

**BUILDING DEPARTMENT &  
GOVERNMENTAL SERVICES**

**THIS AGREEMENT** is made by and between the **CITY OF KEY WEST FLORIDA**, a Florida municipal corporation, with a physical address of 3140 Flagler Avenue, Key West, FL 33040, hereinafter referred to as "City" and **M.T. CAUSLEY, LLC**, a Florida corporation, with an address of 97 NE 15 Street, Homestead, FL 33030, hereinafter referred to as "MTC".

**WHEREAS**, the City desires to utilize the services of independent inspectors and plan examiners to provide inspection and plan review services to its Building Department on an as-needed basis; and

**NOW THEREFORE**, in consideration of the foregoing and mutual covenants contained in this agreement, the parties agree that:

**Services.** MTC agrees to provide the following services:

- a. MTC will provide the City inspectors and plan examiners whose duties shall include building, mechanical, electrical, plumbing and gas field inspections and plan review services necessary to meet the needs of the City. Staff provided by MTC shall include, but not be limited to, Plan Examiners and Inspectors who shall be assigned to provide plan review and inspection work for the City on an as-needed basis.
- b. Professional staff shall be certified by the State of Florida and meet the requirements set forth in chapter 468 of the Florida Statute.
- c. MTC shall provide:
  - i. Salary and benefits of staff provided to the City
  - ii. Field communication equipment
  - iii. Vehicle or mileage/allowance
  - iv. Supplemental system and support and administrative coordination
  - v. City office availability for meeting the public by appointment or walk-ins
  - vi. Certificate of Insurance showing all coverages with a minimum of \$ 1 million of general liability and omissions coverage.

**Specific Provisions.** THAT the parties hereby agree to the following specific provisions:

- a. **Payment.** In consideration of the performance of this Agreement, the City agrees to pay MTC for services rendered at the rate or basis described in Exhibit A, Rate Sheet, attached hereto and incorporated herein by reference.
- b. **Commencement and Completion.** This Agreement will become effective on the date this Agreement is executed, 8/22, 2016. This Agreement shall be for a period of two years (2) from the date hereof. City shall have the option to renew this Agreement for two (2) additional one-year periods.

- c. **Office Space.** The City shall provide MTC office space, desks, chairs, file cabinets, local phone service and use of photocopier and fax machine for MTC during the term of this agreement. MTC shall be responsible for its long distance phone charges other than those related to City business, office supplies and office equipment necessary for the performance of its responsibilities. The location and size of MTC's office area shall be determined as mutually agreeable to the City.
- d. **Employment.** During the term of this agreement, and for a period of one year after termination of this agreement, the City shall not negotiate with or hire any individual who is employed with MTC at the termination of this agreement. The City shall not negotiate with or hire any individual who was employed by MTC during the term of this agreement for at least one year after termination of their employment with MTC.
- e. **Authorized Work.** This agreement shall not authorize the performance of any construction work within the City by persons or organizations not duly licensed. MTC shall not issue a building permit to any contractor, subcontractor, or others for the performance of work in the City who are not properly licensed and authorized to do such work. MTC will not authorize or allow any such development that is in violation of any City, State or Federal law.
- f. **Termination.**
- i. **Termination at Will:** This Agreement may be terminated by the City or MTC at any time without cause by giving written notice not less than 30 days by the City and 60 days by MTC, prior to the date of termination; provided that this provision shall not relieve either party from its obligations of this Agreement through the date of the actual termination. At the time of termination, collected permit fees shall be paid proportionally to MTC and any uncollected permit fees will be paid proportionately as they are collected. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- g. **Notices.** All notices to the parties under this Agreement shall be in writing and sent certified mail to:
- i. **CITY:** The City of Key West Florida  
Attn: Carolyn Walker  
3140 Flagler Ave  
Key West, FL 33040
- CONTRACTOR:** M.T. Causley, LLC.  
Attn: Michael Causley, Pres.  
97 N. E. 15 Street  
Homestead, FL 33030
- h. **Insurance.**
- i. MTC agrees to maintain such insurance as will fully protect both MTC and the City from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature, made by anyone whomever, that may arise from operations carried on under this Agreement, either by MTC, any

subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

- a. The insurance required by the terms of this Agreement shall in no event be less than: (a) Workers' Compensation as required by Laws of the State of Florida with Employers' Liability with a limit of \$100,000.00 each accident, \$100,000.00 each employee, \$500,000.00 policy limit for disease; (b) Commercial General Liability (CGL) insurance with a limit of not less than \$1,000,000.00 each occurrence; if such CGL insurance contains a general aggregate limit, it shall apply separately to this project in the amount of \$600,000.00; CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground exposures, personal injury and advertising injury; fire damage liability shall be included at \$100,000.00; c) Professional Liability insurance with a minimum of \$1,000,000 per occurrence; d) Commercial Automobile Liability insurance with the minimum combined single limit of \$1,000,000.00 each occurrence.
- b. MTC shall furnish the City with copies of endorsements, which are to be signed by a personal authorized by that insurer to bind coverage on its behalf. The City is to be specifically included as an additional insured or loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy. All endorsements must be on file with and approved by the City before commencement of any work activities.

**General Provisions.** THAT the parties hereby agree to the following general provisions:

- a. **Representations of MTC.** MTC represents that it has sufficient manpower and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which MTC operates, and that all technical personnel have State of Florida certification within their discipline(s). MTC warrants that its services under this Agreement shall be performed in a thorough, efficient, and workmanlike manner, promptly and with due diligence and care, and in accordance with all applicable codes and laws.
- b. **Representations of the City.** The City represents that it is duly organized and existing as a Municipal Corporation political subdivision of the State of Florida. Further, the City has the full power and authority to enter into the transactions contemplated by this Agreement and has the ownership and/or control over the property which is the subject of this Agreement or which shall be serviced thereby.



c. Independent contractor.

- i. It is specifically agreed that MTC is deemed to be an independent contractor and not a servant, employee, joint adventurer or partner of the City for the purposes set forth in this subsection and it is further agreed that no agent, employee, or servant of MTC shall be deemed to be the agent, employee, or servant of the City. Accordingly, none of the benefits, if any, provided by the City to its employees, including but not limited to compensation insurance and unemployment insurance are available from the City to the employees, agents or servants of MTC. MTC will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants and sub-contractors during the performance of this Agreement; MTC shall not be deemed to be an agent of the City pursuant to Florida Statute 468.619(5). Although MTC is an independent contractor, the work contemplated herein must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. MTC agrees to comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to MTC, MTC'S business, equipment or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The City will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of MTC.
  - ii. MTC agrees that it shall bear the responsibility for verifying the employment status, under the Immigration Reform and Control Act of 1986, of all persons it employs in the performance of this Agreement.
2. Acceptance of work product, payment and warranty. Upon receipt of a periodic work product, together with an invoice sufficiently itemized to permit audit, the City will diligently review same. Payment, found to be due MTC, will be paid to MTC within fifteen (15) days after the date of receipt of the invoice. MTC warrants that the data utilized by MTC (other than as provided by the City) is from a source, and collected using methodologies, which are generally recognized in MTC'S industry or profession to be a reliable basis and foundation for MTC'S work product. MTC shall notify the City in writing should it appear, in MTC'S professional judgment that the data or information provided by the City for use in MTC'S work product is incomplete, defective or unreliable. MTC guarantees to amend, revise or correct to the satisfaction of the City any error appearing in the work as a result of MTC's, failure to comply with the warranties and representations contained herein. Neither inspection nor payment, including final payment by the City shall relieve MTC from its obligations to do and complete the work product in accordance with this Agreement.
3. Public records. All records prepared or maintained by MTC in accordance with the Scope of Services, shall be deemed to be public records. MTC shall allow public access to such documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should MTC assert any exemptions to the requirements of Chapter 119 and related statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon MTC. The City reserves the right to unilaterally cancel this Agreement for refusal by MTC to allow public access to all such documents, subject to the Provisions of Chapter 119, Florida Statutes, and made or received by MTC in

conjunction with this Agreement. All documents hereinabove referred to shall be maintained and kept for public inspection at the City of Key West City Hall.

**Miscellaneous Provisions.** the parties hereby agree to the following miscellaneous provisions:

- a. **Discrimination.** That MTC shall assure that no person shall be excluded, on the grounds of race, color, creed, national origin, handicap, age or sex, religion, ancestry, marital status, gender, gender identification, sexual orientation, and physical characteristics from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under this Agreement. MTC shall take all measures necessary to effectuate these assurances.
- b. **Severability.** That, should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- c. **Entire Agreement.** That this Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations or agreements to the contrary. MTC recognizes that any representations, statements or negotiations made by the City staff do not suffice to legally bind the City in a contractual relationship unless they have been reduced to writing, authorized and signed by the authorized City representatives.
- d. **Construction.** Should any provision of this Agreement be subject to judicial interpretation, it is agreed that the court interpreting or considering such provision will not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared the same, as all parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, and/or the negotiation of specific language and therefore the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- e. **Attorney's Fees.** In the event of any litigation to enforce the terms of this Agreement, and to the extent allowed by law without waiving the City's sovereign immunity, the prevailing party shall be entitled to reasonable attorney's fees and costs which are directly attributed to such litigation both at the trial and appellate level.
- f. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of MTC'S work product, services, or materials shall not be construed to operate as a waiver of any of the City's rights under this Agreement, or of any cause of action the City may have arising out of the performance of this Agreement.
- g. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public

enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision shall not apply if the "Scope of Work" of this Agreement specifies that performance by MTC is specifically required during the occurrence of any of the events herein mentioned.

- h. **Headings.** All headings are for clarification only and are not to be used in any judicial construction of this Agreement or any paragraph.
- i. **Binding Nature of Agreement.** This Agreement shall be binding upon the successors and assigns of the parties hereto.
- j. **Law; Venue.** This Agreement is being executed in the City of Florida and shall be governed in accordance with the laws of the State of Florida.
- k. **Indemnification.** MTC agree to indemnify, defend, and hold harmless the City from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorney's fees and costs, but only to the extent caused by, arising out of, or relating to the work of MTC.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement as of the day and year last executed below.

  
Michael T. Causley, President  
M.T. Causley, LLC.

August 18, 2016  
Date

Acknowledged and accepted

  
City Manager

22 August 2016  
Date

Approved as to form and legality:

  
City Attorney

8/9/16  
Date



## Proposed Rates for City of Key West FY 10.1.15 – 10.30.16

SERVICE	HOURLY MINIMUM	HOURLY RATE
Building Accessibility/Plans Examiner	8	\$70
Building Inspector	8	\$70
Mechanical Plans Examiner	8	\$70
Mechanical Inspector	8	\$70
Electrical Plans Examiner	8	\$70
Electrical Inspector	8	\$70
Plumbing Plans Examiner	8	\$70
Plumbing Inspector	8	\$70
Building Official	8	\$95
ENGINEERS	8	Structural Engineer - \$135
	8	Civil Engineer - \$135
	8	MEP Engineer \$135
Permit Clerk	8	\$48
Office manager	8	\$58
Courier Service		\$44
Project review and/or consulting are available in our office on an hourly basis, plus expenses.	NO MINIMUM	
<ul style="list-style-type: none"> <li>• After 5:00 pm and on Saturdays shall be billed at one and a half times the hourly rate.</li> <li>• Sundays and holidays shall be billed at two times the hourly rate.</li> <li>• Services provided on Holidays and peak season will be invoiced an additional up-charge fee.</li> </ul>		
Services provided in the event of a natural disaster will be provided at the aforementioned hourly rate plus expenses i.e. lodging, transportation, meals, etc for any relocated personnel.		



## Proposed Rates for City of Key West FY 2017

SERVICE	HOURLY MINIMUM	HOURLY RATE
Building Accessibility/Plans Examiner	8	\$75
Building Inspector	8	\$75
Mechanical Plans Examiner	8	\$75
Mechanical Inspector	8	\$75
Electrical Plans Examiner	8	\$75
Electrical Inspector	8	\$75
Plumbing Plans Examiner	8	\$75
Plumbing Inspector	8	\$75
Building Official	8	\$95
ENGINEERS	8	Structural Engineer - \$135
	8	Civil Engineer - \$135
	8	MEP Engineer \$135
Permit Clerk	8	\$48
Office manager	8	\$58
Courier Service		\$44
Project review and/or consulting are available in our office on an hourly basis, plus expenses.	NO MINIMUM	
<ul style="list-style-type: none"> <li>• After 5:00 pm and on Saturdays shall be billed at one and a half times the hourly rate.</li> <li>• Sundays and holidays shall be billed at two times the hourly rate.</li> <li>• Services provided on Holidays and peak season will be invoiced an additional up-charge fee.</li> </ul>		
Services provided in the event of a natural disaster will be provided at the aforementioned hourly rate plus expenses i.e. lodging, transportation, meals, etc for any relocated personnel.		
During peak season, City will be responsible for lodging expenses in the event full time staff is required.		