

Consultant Agreement between National Fire Protection Association and Broward County

THIS CONSULTANT AGREEMENT (together with any attachments referred to below, (the "Agreement") is entered into and made effective as of January 1, 2018 (the Effective Date) by and between National Fire Protection Association (NFPA), a Massachusetts non-profit corporation with its principal office located at 1 Batterymarch Park, Quincy MA 02169, and Broward County Board of Rules and Appeals, An agency of Broward County, a subdivision of the State of Florida, with a regular place of business at 1 North University Drive, Plantation FL 33324 ("Client"). NFPA and Client may each be referred to as to as a "party" and collectively as the "parties."

The Client wishes to retain NFPA to provide both Certification and non-certification courses pursuant to the terms and conditions of this Agreement.

In consideration of the promises and mutual covenants contained herein, the receipt and adequacy of which are mutually acknowledged, the parties, intending legally and equitably to be bound, agree as follows:

1. Services:

1.1. NFPA agrees to provide Training and Certification Courses (Course or Courses) for Client based on the mutually agreed upon Course schedule which is attached hereto as Exhibit A and collectively described as "Services".

1.2. Client agrees that NFPA shall only be required to provide the Services if the number of attendees registered is 25 or above (30) days prior to the course start date. Additional attendees may attend and may be charged additional per person fees.

1.3. In the event Client is unable to meet the minimum attendee requirements for a particular Course, the parties may mutually agree in writing to reschedule or cancel that Course. Client may register additional attendees within thirty (30) days of the Course date, provided, however, that the maximum number of registered attendees for any Course shall not exceed forty five (45).

2) **Term:** The term of this Agreement shall commence on the Effective Date and shall continue for a period of one year, unless this Agreement is earlier terminated in accordance with Section 6. This Agreement may be renewed or extended for an additional period by a written agreement signed by both parties. NFPA shall promptly inform Client in writing of any actual or potential delay in the timely performance of the Services, and the reason(s) for such delay.

3 **Cost of Services:** Client shall pay NFPA a base price for each course. The base price allows 25 attendees per session and includes all costs. Prices for Certification Classes include Application and testing fees of \$350 per person. Additional attendees are allowed and charged an additional per person fee over the base price. Attendance is capped at 45 attendees for all events. Fee schedule follows. See attachment A for tentative schedule:

- i. 4-day Certification Courses – Base price \$ 27,250
Price per student - \$1,090.00
Each additional attendee \$430
- ii. 3-day Certification Courses – Base price \$ 23,250
Price per student - \$930.00
Each additional attendee \$430
- iii. 2-day Certification Courses – Base price \$ 19,625
Price per student - \$785.00
Each additional attendee \$430
- iv. 2-day Non Certification Courses – Base price \$ 11,750
Price per student - \$470.00
Each additional attendee \$430
- v. 1-day Non Certification Courses – Base price \$ 7,125
Price per student - \$285.00
Each additional attendee \$430

4. **Payment and Invoicing:** NFPA shall submit invoices for each Course within thirty days of the conclusion of each Course. Invoices shall include: (i) the title of the Course; (ii) the date(s) of the Course, (iii) the actual number of attendees and (iv) the invoice total based on the base price plus any additional attendees over 25. Invoices shall be submitted to the Client Staff Contact, as set forth in Section 6. Client shall pay each invoice no later than thirty (30) days after receipt.

5. **Changes and Modifications:** Any material change to the Services or the terms of this Agreement must be set forth in a writing signed by both parties.

6. Termination

6.1 Termination for Convenience. Either party may terminate this Agreement for convenience at any time by giving the other party thirty (30) days' prior notice in writing. Client shall reimburse NFPA for any reasonable costs and expenses incurred by NFPA in the performance of the Services prior to the effective date of termination.

6.2) Termination for Material Breach. Either party may terminate this Agreement if the other party breaches any of its representations or warranties, or fails to observe or perform, or breaches any term or condition of this Agreement and does not cure such breach or failure within fifteen days after receipt of notice of such breach or failure. Client shall reimburse NFPA for any reasonable costs and expenses incurred by NFPA in the performance of the Services prior to the effective date of termination.

7 Contact Persons:

7.1 Client Staff Contact with respect to this Agreement is Bryan Parks, Chief Fire Code Compliance Officer. The Client Staff Contact may be changed by Client from time to time. Client will promptly notify NFPA in writing of any such change.

7.2 NFPA Staff Contact with respect to this Agreement is Robert Machado. The NFPA Staff Contact may be changed by NFPA from time to time. NFPA will promptly notify Client in writing of any such change.

8. NFPA Responsibilities: NFPA agrees to:

- Assign an instructor for each Course who meets or exceeds the minimum requisite skill sets established for each particular Course.
- Provide Client with an instructor biography and/or resume for each assigned instructor prior to the Course start date.
- Ship Course materials for each Course for the number of registered attendees, with shipping to be at NFPA sole expense, to the Course location prior to the Course start date-. Course materials shall include NFPA designated textbooks, instructor supplies and other auxiliary materials.
- Pay instructor fees and expenses for each Course instructor.

9. Client Responsibilities: Client agrees to:

- Confirm class delivery dates to NFPA at least forty five days prior to the Course start date
- Provide NFPA Staff Contact with a confirmation of registered attendees thirty (30) days prior to the Course start date. In the event additional attendees are registered within thirty (30) days prior to the Course start date, Client shall promptly notify NFPA Staff Contact.
- Provide a meeting room to conduct each Course. The meeting room shall accommodate

classroom-style seating for the number of expected attendees and shall comply with the Americans with Disabilities Act ("ADA") requirements. Meeting rooms shall be equipped with the following: LCD projector, screen, flip chart, and markers. Client shall provide any additional equipment reasonably requested by NFPA in advance of the Course.

- Provide on-site administrative assistance for the first half of the first day of each Course, including but not limited to, sign-in and NFPA Materials distribution
- Collect Course Participant Evaluation forms and mail them to NFPA in a pre-paid return envelope

10. **Cancellation:** In the event Client is unable to meet the minimum attendee requirements for a particular Course, the parties may mutually agree in writing to cancel that Course without penalty, provided that Client provides such notice at least thirty (30) days in advance. Client shall nevertheless be required to pay NFPA for all expenses incurred in connection with the Course in advance of such notification. In the event Client meets the minimum attendee requirements, but cancels a Course for any reason within thirty (30) days of the Course start date, Client shall be liable to NFPA for the applicable fees as set forth in Section 3. Either party may cancel without ramifications if there is an Act of God.

11. **Ownership of Material:** Client hereby acknowledges and agrees that NFPA is the sole owner of all right, title and interest in and to the NFPA Materials. Subject to the terms and conditions of this Agreement, NFPA hereby grants to Client only during the term of this Agreement, and Client hereby accepts from NFPA, a limited, non-exclusive, non-transferable, revocable right and license, with a limited right to sublicense such right and license to Client's designated employees ("Authorized Users") to use the NFPA Materials only in the form made available by NFPA and only in the manner set forth herein. Client and Authorized Users shall be permitted to use the NFPA Materials solely as is necessary to perform the Client's obligations hereunder, and in connection with the Services provided by NFPA hereunder. Client expressly acknowledges that the foregoing grant is provided on a non-exclusive basis, and NFPA shall retain the right to provide the NFPA Materials to, and to enter into similar business arrangements with, other entities or persons during the term of this Agreement.

Except as expressly permitted in this Agreement, Client may not

- (i) reverse engineer, decompile, disassemble, translate or create any derivative work of the NFPA Materials; or
- (ii) sublicense, distribute, or sell or use or permit use of the NFPA Materials for any other purpose or for or by any person or entity (including Client's affiliates and subsidiaries) other than Client's Authorized Users. Nothing in this Agreement shall convey to Client any further rights, title, or interest in and to the NFPA Materials, or any other NFPA interests, licenses or rights, and nothing herein shall be construed as granting to Client any exclusive rights or in limiting in any manner any of NFPA's rights or activities.

12. **Records:** NFPA shall retain and maintain all records and documentation relating to this Agreement for a period of two (2) years following the expiration or termination of this Agreement.

14. **Insurance:** Each party shall secure and maintain Insurance coverage in amounts sufficient to cover its obligations hereunder. NFPA Acknowledges that Client is self-insured and such self-insurance shall meet the requirements of this section.

15. **Covenants and Warranties:** Each party covenants, warrants, and represents that it shall comply with all laws and regulations applicable to this Agreement and all activities contemplated by this Agreement, that it has the full right and legal authority to enter into and fully perform this Agreement in accordance with its terms without violating the rights of any other person, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement. The provisions of this Section shall survive any termination or expiration of this Agreement.

16. **Independent Contractor:** The relationship of the parties is that of an independent contractor, and nothing in this Agreement shall be construed as creating any association, joint venture, partnership, or agency relationship of any kind between the parties. NFPA has the right to control and direct the means, manner and method by which the Services hereunder are performed.

17. **Force Majeure** Neither party shall be considered in breach of or in default under this Agreement and shall not be liable to the other party for any failure of or delay in the performance of its obligations under this Agreement when such failure or delay is due to an act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods), war, strikes < labor disputes, loss of power, embargoes, government orders, acts of terrorism, or any other similar event beyond a party's reasonable control (a "Force Majeure Event") that makes it illegal, impossible, or commercially impractical to provide the Course or otherwise fulfill a party's obligations under this Agreement; provided, however, if a Force Majeure Event occurs, the affected party shall, as soon as practicable: (1) notify the other party of the Force Majeure Event and its impact on the affected party's performance, and (2) use reasonable efforts to resolve any issues resulting from the Force Majeure Event and perform its obligations under this Agreement.

18. **Non Solicitation:** During the Term of this Agreement, Client agrees it shall not solicit or engage other vendors or service providers for the same or similar Services and Course offerings provided by NFPA under this Agreement.

19 **Entire Agreement:** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements relating to the subject matter hereof.

20. **Construction:** The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. Headings are provided for convenience only and do not expand or restrict the text of any applicable term.

21 **No Waiver:** No waiver by any party of any provision hereof shall be deemed a waiver of any other provision here to for of any subsequent breach by Client or NFPA of the same or any other provision. Any party's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of such party's consent to or approval of any subsequent act.

22. **Notices:** All notices, demands, and other communications hereunder shall be in writing and shall be delivered in person or deposited in the United States Mail certified or registered, with return receipt requested, or electronic mail as follows.

If to NFPA, to:

National Fire Protection Association
Robert Machado
1 Batterymarch Park
Quincy MA 02169
rmachado@nfpa.org

If to Client, to:

Broward County Board of Rules and Appeals
1 North University Drive
Plantation FL 33324
ATTN: Bryan Parks, CPPB bparks@broward.org

23. **No Assignment:** Neither party may assign its rights or duties under this Agreement without the other party's prior written consent. This Agreement shall bind the parties, their respective heirs, personal representatives, successors and assigns.

24. **Applicable Law:** This Agreement, and its validity, construction and performance shall be governed by and construed in all respects under the laws of the State of Massachusetts without regard to the laws that would otherwise apply under applicable choice-of-law principles. The parties hereto agree to submit to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts in connection with any matters arising out of this Agreement and to waive any objection to the propriety or convenience of venue in such courts.

25. **Execution of Agreement:** This Agreement, including any schedules, amendments, modifications, waivers, or notifications relating thereto, must be in writing signed by the parties and may be executed and delivered by facsimile, electronic mail, or other electronic means. Any such facsimile, electronic mail transmission, or communication via such electronic means shall constitute the final agreement of the parties and conclusive proof of such agreement, and shall be deemed to be in writing and to have the same effect as if signed manually. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall be deemed to constitute one instrument.

Signatures appear on following page.

National Fire Protection Association

Broward County Board of Rules and Appeals

Robert P. Machado
Signature

Signature

Robert P. Machado
Print Name

Print Name

Government Trng - Proj Mgr
Title

Title

1/17/2018
Date

Date

Exhibit A

Broward County Board of Rules and Appeals
Tentative NFPA Course Schedule for FY 2018

Date	Course	Length	Cost for 25 attendees	Per person price 25 attendees	Price per person for additional attendees	Total Cost 27 attendees
TBD	CFI 1	4 days	\$27,250	\$1,090	\$430	\$ 28,110
TBD	72 ITM	1 day	\$ 7,125	\$ 285	\$430	\$ 7,985
March 5-6	CFPS	2 day	\$19,625	\$ 785	\$430	\$ 20,485
March 5-6	NEC Changes for Elec Insp	1 day	\$ 7,125	\$ 285	\$430	\$ 7,985
April 23-26	CFI 1	4 days	\$27,250	\$1,090	\$430	\$ 28,110
June 4-5	NEC P.V.	2 days	\$11,750	\$ 470	\$430	\$ 12,610
July TBD	NFPA 54 & 58	2 days	\$11,750	\$ 470	\$430	\$ 12,610
July TBD	CFI 2	3 days	\$23,250	\$ 930	\$430	\$ 24,110
Sept 17-18	CFPE	3 days	\$23,250	\$ 930	\$430	\$ 24,110
Aug TBD	NFPA 30	1 day	\$ 7,125	\$ 285	\$430	\$ 7,985
Aug 7	NEC Update	1 day	\$ 7,125	\$ 285	\$430	\$ 7,985
Sept 17-18	CFPE	3 days	\$23,250	\$ 930	\$430	\$ 24,110
						\$ 206,195

All dates to be mutually agreed
Days listed for Certification classes do not include exam day. Exam will be scheduled for delivery after the final day of the training / prep course