




Interoffice Memorandum

October 26, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Eric Ushkowitz, Economic Development Administrator 
Office of Economic, Trade & Tourism Development

SUBJECT: November 13, 2018 – **Consent Agenda Item**
Approval of Grant Agreement for FY 2019 between Orange
County, Florida and the National Center for Simulation

Funding in the amount of \$37,142 was provided in the FY 2018-19 adopted budget for the National Center for Simulation. In order to expedite the disbursement of funds, it is required that the Board approve the grant agreement.

This agreement has been reviewed by the Orange County Attorney's Office.

ACTION REQUESTED: Approval and execution of Orange County, Florida and National Center for Simulation FY 2019 Grant Agreement and authorization to disburse \$37,142 as provided in the FY 2018-19 adopted budget.

**ORANGE COUNTY, FLORIDA
AND
NATIONAL CENTER FOR SIMULATION**

FY 2019 GRANT AGREEMENT

NOV 13 2018

THIS AGREEMENT, is made and entered into this ____ day of November 2018, by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida, hereinafter referred to as the "County" and the Training & Simulation Technology Consortium, Inc., a Florida non-profit corporation whose FEI/EIN Number is 59-3239132, doing business as the National Center For Simulation, hereinafter referred to as "NCS."

WITNESSETH:

WHEREAS, NCS is not for profit trade association comprised of governmental, academic and industry members which promotes modeling and simulation technology expansion, supports education and workforce development and provides business development support to its members; and

WHEREAS, NCS has applied to the County for a donation of funds for the operations of such NCS programs; and

WHEREAS, the County has determined that such programs serve a public interest and support the development of the modeling, simulation and training sector of the Central Florida economy through education, training, and promotion and to that end, the County has appropriated funds to be donated to the NCS for such purposes; and

WHEREAS, the County desires to enter into an agreement with the NCS whereby the NCS will receive and disburse said funds of the County in accordance with the terms and conditions herein set forth; and

WHEREAS, the NCS has available the necessary qualified and trained personnel, facilities, materials and supplies to perform its obligations as set forth in this Agreement;

THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties agree as follows:

Section 1. County Payment. The County has appropriated for the period commencing October 1, 2018 and ending September 30, 2019, the total sum of Thirty-Seven Thousand One Hundred and Forty-Two (\$37,142.00) to be administered and disbursed by the NCS solely for the purposes set forth in Exhibit "A". Any funds not spent or encumbered by

September 30, 2019 for the designated purpose set forth in Exhibit "A", shall be returned to the County. The County's contributions of \$37,142.00 to NCS shall be made in one (1) installment upon execution of this Agreement and the County's receipt of an original invoice from the NCS. By March 31, 2019, the NCS will provide the Orange County Economic Development Administrator with a written status report describing the use of the County contribution under this Agreement. Additional status reports and other information related to the County's contribution will be provided by the NCS as may be requested by the County.

Section 2. NCS's Obligation.

2.1 Representation of NCS. The NCS represents that it will use its best efforts to develop and promote small businesses in Central Florida, which should include partnering with Orange County Economic Development and Business Development Offices. NCS shall expend funds paid hereunder solely for the purposes set forth in Exhibit "A."

2.2 No Lobbying. NCS shall not expend any funds paid under this Agreement for any lobbyist, as such term is defined in section 2-351 of the Orange County Code, to engage in any lobbying activities designed to influence decisions or other foreseeable actions of the Board of County Commissioners or the governing body of any other municipality located within Orange County. Furthermore, NCS agrees that it shall not undertake, or cause to be undertaken, or participate in, any lobbying before the state legislature in order to advocate for or influence legislative decision making inconsistent with legislative priorities adopted by the Board of County Commissioners, without the prior written consent of the Board or the County Administrator.

2.3 NCS as Independent Contractor. The parties expressly acknowledge that the NCS is acting as an Independent Contractor, and nothing in this Agreement is intended or shall be construed to establish an agency, partnership or joint venture relationship between the parties.

2.4 Unlawful Discrimination. The NCS, in performing its obligations under this Agreement shall not unlawfully discriminate against any worker, employee, applicant or member of the public because of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin.

2.5 Accounting. The NCS will utilize such accounting procedures and practices in maintenance of the records of receipts and disbursements of the funds contributed by the County as will be in accordance with generally accepted accounting principles.

2.6 Non-Profit Status. The NCS agrees to maintain its corporate, non-profit status in the State of Florida throughout the term of this Agreement. If the NCS should, during the term of this Agreement, lose its corporate status, it shall immediately notify the County in writing, and the County reserves the right to terminate this Agreement immediately.

2.7 Right to Inspect and Audit Accounts. During the term of this Agreement, the NCS, with respect to the receipt and expenditure of funds provided under this

Agreement, shall permit County staff and the Orange County Comptroller and her staff to inspect and audit the NCS's books and accounts at any time during normal working hours, provided that reasonable notice is given to the NCS prior to any such inspection. Any costs incurred by NCS as a result of a County audit shall be the sole responsibility of and shall be borne by the NCS. In addition, should the NCS provide any or all of the County's funds to sub-recipients, then, and in that event, the NCS shall include in written agreements with such sub-recipients a requirement that records of the sub-recipient be open to inspection and audit by the County or the County's designee.

2.8 Maintenance of Records; Audit. For a period ending five (5) years after the expiration or termination of this Agreement, the NCS shall make all records and documents relating to this Agreement available for inspection and copying by the County or any agent designated by the County.

2.9 Assignment. The NCS may not assign its rights hereunder, without the prior written consent of the County. Failure to comply with this section may result in immediate termination of this Agreement.

2.10 Indemnification. The NCS agrees to indemnify and save harmless the County from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including reasonable attorney's fees, attorneys on appeal of any kind and nature arising or growing out or in any way connected with the performance by NCS under this Agreement.

Section 3. Term and Termination. The term of this Agreement shall begin on October 1, 2018 and shall continue until September 30, 20189. However, this Agreement can be terminated by either party at any time, with or without cause, upon no less than fifteen (15) days notice in writing to the other party. Said notice shall be delivered by certified mail or in person to the business address of the party upon whom such notice is served. In the event of such termination NCS shall remit to the County any unspent funds paid hereunder.

Section 4. Miscellaneous.

4.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written are merged herein. No other agreement, whether verbal or written, with regard to the subject matter hereof, shall be deemed to exist.

4.2 Waivers. Performance of this Agreement by either party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

4.3 No Third Party Beneficiaries. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties to the Agreement.

4.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation occurring as a result of this Agreement shall be held in the Ninth Circuit Courts in and for Orange County, Florida, and shall be governed by the laws of the State of Florida.

4.5 Severability. It is agreed by and between the parties that if any covenant, condition or provision contained in this agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenants, conditions or provisions herein contained.

4.6 Notice. Whenever notice or communication shall or may be given to either party, such notice shall be in writing and shall be delivered or sent to:

COUNTY: Orange County
Office of Economic, Trade & Tourism Development
ATTN: Eric Ushkowitz, Economic Development Administrator
201 S. Rosalind Avenue, 5th Floor
Orlando, Florida 32802
Phone: (407) 836-7370
Fax: (407) 836-7399

NCS: NATIONAL CENTER FOR SIMULATION
ATTN: Lieutenant General Thomas L. Baptiste, USAF (Ret)
National Center for Simulation
3039 Technology Parkway, Suite 213
Orlando, Florida 32826
Phone: (407) 384-6111
FAX: (407) 384-0043

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IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set below.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 11.13.18

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Laketa Lewis*
for Deputy Clerk
Clerk/Deputy Clerk of the Board

Date: NOV 13 2018

**TRAINING & SIMULATION TECHNOLOGY
CONSORTIUM, INC.**

d/b/a

NATIONAL CENTER FOR SIMULATION

By: *Thomas H. Baptiste*
THOMAS H. BAPTISTE

Title: President / CEO

Date: 22 OCT 2018

EXHIBIT A

NATIONAL CENTER FOR SIMULATION

ACTIVITY FOR WHICH ORANGE COUNTY FUNDING IS PERMITTED

County funds will be used to address the possibility of cutbacks and closures of military installations; to support the development of the modeling, simulation, and training sector; and to support the design and implementation of local economic diversification strategies. The County's contribution will be used solely to fund general operating expenses of NCS and support the following types of activities: 1) using the County contribution as part of a local match for Enterprise Florida Community Defense Alliance grants; 2) building a critical mass in medical and healthcare simulation to support the UCF Medical School and other medical city activities; 3) collaborating with UCF, The Corridor, and the Orlando Economic Partnership on a booth at the Interservice/Industry Training Simulation and Education Conference (I/ITSEC) at the Orange County Convention Center; 4) working to secure additional research and development projects and grants for Central Florida; 5) supporting the convergence of digital media technology with the modeling, simulation, and training industry; 6) supporting middle and high school programs in technology; and 7) membership development and community outreach.