

STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND   §

**AGREEMENT FOR PROFESSIONAL FEASIBILITY STUDY**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter “County”), a body corporate and politic under the laws of the State of Texas, and Conventions, Sports & Leisure International, LLC (hereinafter “Contractor”), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor conduct a feasibility study concerning a potential new multi-purpose facility located adjacent to the Fort Bend County Fairgrounds in Fort Bend County, Texas (hereinafter “Services”); and

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262 of the Texas Local Government Code; and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

**AGREEMENT**

**Section 1. Scope of Services**

Contractor shall render Services to County subject to and in accordance with the proposal letter dated February 2, 2018, (attached hereto as Exhibit A).

**Section 2. Personnel**

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

### **Section 3. Compensation and Payment**

3.1 Contractor's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is fifty-one thousand dollars and no/100 (\$51,000.00), including forty-five thousand dollars and no/100 (\$45,000.00) for professional fees; and out-of-pocket expenses such as travel costs, postage, telephone, report preparation and reproduction, billed separately at cost at an amount not to exceed six thousand dollars and no/100 (\$6,000.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an amendment.

3.2 All performance of the Scope of Services by Contractor including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Contractor based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Contractor shall submit to County staff designated by Facilities Management & Planning Director, one (1) electronic (pdf) and/or one (1) original copy of the invoice showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed; provided, however, County agrees not to withhold payment for any undisputed amounts.

### **Section 4. Limit of Appropriation**

4.1 Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of fifty-one thousand dollars and no/100 (\$51,000.00), specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed fifty-one thousand dollars and no/100 (\$51,000.00).

### **Section 5. Time of Performance**

The time for performance of the Scope of Services by Contractor shall begin with receipt of the Notice to Proceed from County and end no later than four (4) months thereafter. Contractor shall complete the tasks described in the Scope of Services within this time or within such additional time as may be extended by the County.

## **Section 6. Modifications and Waivers**

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

## **Section 7. Termination**

7.1 Termination for Convenience – County may terminate this Agreement at any time upon thirty (30) days written notice.

### **7.2 Termination for Default**

7.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) business days after receipt of notice from County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

7.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

## **Section 8. Ownership and Reuse of Documents**

Except as otherwise set forth in Exhibit A, all documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

## **Section 9. Inspection of Books and Records**

Upon not less than fifteen (15) days prior written notice, Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor (at County's sole cost and expense) for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four (4) years.

## **Section 10. Insurance**

10.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide, to the extent commercially reasonable to obtain, that such insurance shall not be canceled, except on thirty (30) days' prior written notice to County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Best rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.2 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.3 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.1.4 Professional Liability insurance with limits not less than \$1,000,000.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

### **Section 11. Indemnity**

**CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY AGAINST ALL THIRD PARTY LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.**

### **Section 12. Confidential and Proprietary Information**

12.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

12.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has

had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

12.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

12.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

12.5 Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such (which shall include the fees described herein) provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

### **Section 13. Independent Contractor**

13.1 In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

13.2 Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

## **Section 14. Notices**

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Facilities Management & Planning  
Attn: Director  
301 Jackson Street, Suite 301  
Richmond, Texas 77469

With a copy to: Fort Bend County  
Attn: County Judge  
401 Jackson Street  
Richmond, Texas 77469

Contractor: Conventions, Sports & Leisure International, LLC  
520 Nicollet Mall, Suite 520  
Minneapolis, MN 55402

With a copy to: Conventions, Sports & Leisure International, LLC  
Attn: General Counsel  
61 Broadway, Suite 2400  
New York, NY 10006

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

## **Section 15. Compliance with Laws**

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals

in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

### **Section 16. Performance Representation**

16.1 Contractor represents to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the local professional standard of care.

16.2 Contractor represents to County that the Services will be provided in accordance with Exhibit A and materially conform to all requirements and specifications therein.

### **Section 17. Assignment**

17.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

17.2 Neither party may delegate any performance under this Agreement.

17.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

### **Section 18. Applicable Law**

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

### **Section 19. Successors and Assigns**

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

### **Section 20. Third Party Beneficiaries**

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

**Section 21. Severability**

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

**Section 22. Publicity**

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

**Section 23. Captions**

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**Section 24. Conflict**

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

**Section 25. Certain State Law Requirements for Contracts**

25.1 Agreement to Not Boycott Israel Chapter 2270 Texas Government Code: By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

25.2 Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

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IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

FORT BEND COUNTY

Conventions, Sports & Leisure International, LLC

\_\_\_\_\_  
Robert E. Hebert, County Judge

  
\_\_\_\_\_  
Authorized Agent - Signature

\_\_\_\_\_  
Date

Bill Krueger  
\_\_\_\_\_  
Authorized Agent - Printed Name

Principal  
\_\_\_\_\_  
Title

ATTEST:

3/5/2018  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Laura Richard, County Clerk

APPROVED:

\_\_\_\_\_  
James Knight  
Facilities Management/Planning Director

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Marcus D. Spencer, First Assistant County Attorney

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$\_\_\_\_\_to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

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## Exhibit A



February 2, 2018

Mr. James Knight  
Director of Facilities  
Fort Bend County  
301 Jackson Street, Suite 301  
Richmond, Texas 77469

Dear Mr. Knight:

This letter ("Letter") sets forth our understanding of the terms and objectives of the engagement of Conventions, Sports & Leisure International ("CSL") and Fort Bend County, Texas ("Client") to conduct a feasibility study concerning a potential new Multipurpose Facility located adjacent to the Fort Bend County Fairgrounds. This Letter also provides the nature and limitations of the services to be provided and the related fee arrangement.

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### Scope of Services

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CSL will perform the following services. The scope of work for this study has been structured to provide the County with a detailed analysis of market demand, supportable program and development options, utilization levels, financial operations, economic impact, and funding alternatives associated with the potential new Multipurpose Facility.

The study tasks to be completed are as follows:

- Task 1. Market Demand Analysis
- Task 2. Supportable Building Program Analysis
- Task 3. Utilization Analysis
- Task 4. Financial Operations Analysis
- Task 5. Economic and Fiscal Impact Analysis
- Task 6. Funding Alternatives Analysis
- Task 7. Preparation of Reports/Presentations

A description of the scope of services and methods to be applied to each study task and step is provided on the following pages.

## **Task 1. Market Demand Analysis**

The purpose of this task is to identify and evaluate the likely event markets for the potential new Multipurpose Facility. The specific steps to be conducted as part of this task are summarized below and on the following pages.

### Step 1. Study Kickoff and Initial Project Planning

As an initial step, we will work with you and other stakeholders to establish the specific project goals and timeframe. We will collaborate and coordinate with the Client in the identification and determination of stakeholder and interview candidate lists for in-person and telephone interviews.

An initial planning meeting will take place in Fort Bend County to collect pertinent project data and coordinate a project workplan. This is a critical first-step, and we will spend several days in the community conducting local interviews, reviewing existing data, touring the site, and visiting other destination visitor industry amenities.

We will conduct initial in-person, one-on-one interviews in Fort Bend County with key project stakeholders to obtain background information related to the project. These meetings will focus on analyzing conditions with regard to local market characteristics, facility needs and the opportunities that future investment in event facility infrastructure may represent.

Specifically, through this process, we will:

- establish a working group that will include representatives of local project leaders;
- assemble important project related data;
- gain initial insight and perspective into local conditions that will impact the research process;
- establish the format and content of our deliverable products; and
- modify the work plan, if necessary, to reflect any appropriate changes arising from the information obtained in the steps noted above.

### Step 2. Existing Fort Bend County Fairgrounds Analysis

As the preliminary envisioned site is adjacent to the existing Fort Bend Fairgrounds, we will analyze the existing/historical physical and operational characteristics of the Fort Bend County Fairgrounds. There may be opportunities to consolidate facility management and operations between the new Multipurpose Facility and the Fairgrounds. This analysis will help inform the competitive positioning, future demand levels and estimates of the incremental level/mix of business that the project could potentially generate. This analysis will also include a site visit and interviews with Fairgrounds and Fair management and staff, you and other involved stakeholders.

As the information is available, the collection and review of data will include, but will not be limited to:

- Information provided by the Client, Fairgrounds, Fair and other stakeholders.
- Fairgrounds physical components, configuration, functionality, amenities and related issues.
- Event characteristics:
  - Number of events by type
  - Utilization days (move-in, event, move-out)
  - Space used, by area
  - Attendance
  - Origin of attendees
  - Length of stay
  - Historical growth characteristics
  - Square footage and daily occupancy by type of space
  - Event seasonality
- Booking reports (tentative, definite, licensed events by year).
- Lost business lists/reports.
- Rental and service rates and any associated discounting practices.
- Operational policy, procedure and reporting structures.
- Operating revenues.
- Operating expenses.
- Capital improvements and long-term facility planning data.

The results of this step will provide an assessment of the capacity, performance and limitations of the existing Fairgrounds and, importantly, benchmark data for subsequent steps. We will also review the existing Fairgrounds program and preliminarily identify any potential programmatic and functional deficiencies relative to state-of-the-industry multipurpose fairgrounds and/or event complexes.

### Step 3. Existing Market Conditions Analysis

The purpose of this step is to define and evaluate the local market characteristics of Fort Bend County and the greater Houston marketplace (including Fort Bend, Brazoria, Wharton, Harris, Colorado, Austin, and Waller Counties), as well as the existing event facility infrastructure (i.e., exhibition, arena/entertainment, convention, conference, meeting, fairgrounds, equine/livestock, sports/recreation, civic and spectator and other multipurpose event facilities).

Initially, the analysis will focus on demographic/socioeconomic attributes and will be instrumental in understanding how the local market area is presently positioned in the exposition, spectator/entertainment, civic, equine/livestock/ag, meeting, and local event industries (i.e., events with attendance bases that are primarily locally-based).

Additionally, the primary components of a successful facility destination/event package will be evaluated in order to assess the area's ability to support added/improved exposition,

entertainment, sports/recreation, convention, meeting, equine/livestock/ag and other event activity. This aspect of the analysis is critical in understanding the community's visitor industry resources and infrastructure. The analysis will include a review of Fort Bend County and greater Houston market data, both current and projected, to assess the area's ability to accommodate added event activity (i.e., typically economic impact generating events that have a significant portion of out-of-town attendance). Characteristics to be evaluated as part of this analysis step include the following:

- committable, quality hotel properties and guest rooms;
- existing/planned local exposition, conference, entertainment, sport/recreation, event and hotel facilities;
- hotel cost structures;
- key demographic and socioeconomic characteristics and trends, such as population, disposable income, retail sales, entertainment spending, corporate base and other such indicators;
- proximity issues to major metropolitan markets;
- air, rail, ground transportation and shuttle access;
- entertainment offerings and attractions;
- key community resources; and
- other such characteristics.

Further, as the information is available, we will collect and review data associated with existing local exposition, spectator/entertainment, sports/recreation, conference, civic, spectator and multipurpose event facilities.

Information collected and analyzed will include, but will not be limited to the following:

- existing exposition, spectator/entertainment, sports/recreation, multipurpose, exhibition, civic, conference, meeting, and event facility physical components, configuration and related issues;
- event characteristics (type, number, length of stay, origination of attendees/participants/spectators);
- square footage and occupancy/utilization by type of space;
- event seasonality;
- lost business information;
- rental and service rates;
- operating revenues and expenses; and,
- capital improvements and long-term facility planning data.

The results of this step will be used in combination with data prepared throughout the study to assess Fort Bend County's competitive position within the state and regional marketplace and its ability to accommodate additional event demand. By understanding the type of business currently accommodated within the community, we can focus our

recommendations on facility development that could *add* to the overall level of events, attendees and economic impact.

#### Step 4. Industry Characteristics and Trends Analysis

The exposition, sports/recreation, entertainment, equine/livestock/ag, convention, civic, and meetings industries have undergone significant change over the past two decades. Issues impacting the industry, including fluctuating demand for space and facilities, amenities, hotel availability, service levels and other such characteristics, have been joined by events such as a major economic recession, credit market crisis and evolving industry demand. In addition, supply growth has impacted demand levels in individual markets.

The purpose of this step is to evaluate recent trends in the industry that may impact facility opportunities and event levels in Fort Bend County. Throughout this step, we will evaluate these and related trends, summarizing the potential impact on the potential Multipurpose Facility. An evaluation of these trends will be important in "framing" and placing overall market demand estimates into the context of the industry, presently and into the foreseeable future.

#### Step 5. Competitive and Comparable Facility and Market Analysis

In evaluating the market demand for a potential new Multipurpose Facility, it is important to gain an understanding of the competitive and comparable facility environment. Within this step, we will assemble and review the operational and physical characteristics of existing and planned facilities in the region that could compete with the proposed project. Projects around the country that may offer some element of comparable insight will also be evaluated. The type of data that will be assembled for comparable and competitive projects includes the following:

- facility type and marketing focus;
- exhibit, meeting/conference and multipurpose space and capacities;
- sport and recreation space and capabilities;
- equine, livestock, agricultural and exposition physical elements and capabilities;
- fixed and temporary seating components;
- future expansion plans;
- layout, staging and design features;
- event characteristics (levels, attendance, utilization, future bookings, etc.);
- ancillary services and amenities;
- operating revenues and expenses;
- rental terms;
- available parking;
- area demographics;
- hotel availability, quality and proximity to the facility;
- visitor industry tax rates (i.e., hotel/motel tax);
- destination market organization resources;
- location characteristics and transportation access; and,

- other such characteristics.

In addition, as a part of this analysis, a number of case studies will be developed concerning comparable facilities in communities similar to Fort Bend County addressing the respective facilities' level of use, rates, financing, source of public subsidies, size and operating expense, as well as other key facility/market information.

This analysis will assist in providing data as to how Fort Bend County could compete within specific event and use markets, as well as later assisting in the evaluation of the associated financial operations, operation structure, marketing, and economic and fiscal impacts of a potential new Multipurpose Facility.

#### Step 6: In-Person Interviews and Outreach

The purpose of this step is to develop primary industry market research specific to Fort Bend County. We will conduct initial one-on-one meetings in Fort Bend County with key parties to obtain background information related to the project and to better understand current objectives and priorities with regards to the project. These interviews could include individuals such as County officials and representatives, chamber of commerce and tourism officials, hospitality industry stakeholders and partners, elected and appointed government officials, potential local user groups (e.g., Fair, school district, sports & recreation organizations/leagues, 4H/equine/livestock groups, etc.), representatives of key attractions and business interests, officials and leadership among other local academic institutions, and other such individuals and organizations. These meetings will focus on analyzing existing conditions throughout Fort Bend County and the regional marketplace, multipurpose event facility usage and needs and identifying potential opportunities that future investment in event facilities may represent.

#### Step 7: Telephone Surveys

We will interview via telephone a significant sample of potential users of a potential new Multipurpose Facility located adjacent to the Fairgrounds, both locally and from a state and regional basis. This analysis will be critical in assessing the market potential for and the potential impact of a new Multipurpose Facility. Such interviews are an important component of our study approach, allowing us to go beyond simply relying on competitive and comparable facility data. This direct feedback comes from the actual potential customer base for a potential new Multipurpose Facility in Fort Bend County, and measures interest and perceptions of respective markets. This level of primary market research is critical to understanding how Fort Bend County is perceived by various segments comprising the Facility's likely event markets and the unique market opportunities that exist for the potential Multipurpose Facility project.

The analysis may include organizations or individuals from the following event segments:

- expositions/exhibitions, including public/consumer shows, tradeshow, conventions, and other such flat floor activity;
- equine/livestock/agricultural events/shows;
- amateur sports associations and tournament producers;
- various youth and adult recreational sports and recreation organizations, associations, leagues, and clubs;
- other national, regional, and local tournament organizers;
- local school districts, colleges and universities
- concert and live entertainment promoters;
- cultural events and festivals;
- corporate and trade events;
- educational uses and activities;
- community banquets, meetings, festivals and related events;
- local civic, service club, and religious organizations; and
- other such events and activities.

Event organizer survey results will be analyzed to provide summaries of the following data specific to added facilities:

- likelihood of utilizing the potential Multipurpose Facility;
- reasons for not choosing Fort Bend County or the new Facility;
- space and/or seating levels required to attract the event;
- overall hotel room requirements;
- other important community requirements to attract the event;
- event seasonality;
- length of event data;
- attendance (exhibitor, attendee, participant, spectator) data;
- past facility use;
- requirement/preference for amenities;
- issues with respect to transportation and accessibility;
- perceptions the local area; and
- other related event information and relevant opinions.

By combining the results of this step with the analysis results generated in previous steps, we will be able to identify the event markets that represent the primary sources of demand for the potential new Multipurpose Facility, upon which future facility recommendations and event estimates are made.

## **Task 2. Supportable Building Program Analysis**

The purpose of this task is to synthesize findings of the previous task to analyze and translate market demand into a market supportable facility program for a potential new Multipurpose Facility in Fort Bend County.

We will prepare an analysis of the market supportable building/complex program, based on market demand and related data developed as part of the market analysis determined through previous tasks. In developing the facility program, we will balance the importance of matching the size of the facility with existing/anticipated future market conditions, financing choices and economic impact-generating and local needs ability of the potential facility development. The proposed development program will be compared with the program that is determined to be market supportable. If indicated, we will recommend program/scope adjustments. We would be able to outline several development scenarios that could form the foundation for the remaining tasks of study.

The analysis will focus on:

- square footage, configuration, and finish/amenity apportionment of the proposed Multipurpose Facility;
- fixed and temporary seating levels;
- size of support space, staging areas and other functional areas;
- (if applicable) square footage and configuration of various other facilities, structures, and amenities (such as exposition and meeting/conference facilities, indoor/outdoor arenas, show rings, warm-up areas, spectator seating areas, barns, stalls, show offices, storage, parking and RV spaces, etc.);
- size and type of concession, catering, kitchen, and/or food court space;
- food service areas;
- amount and type of other revenue-producing areas;
- space configuration, event and patron amenities and aesthetic features;
- theme/brand possibilities;
- storage space and other such supporting infrastructure needs;
- possibilities for future expansion; and,
- important technological and other amenities.

This data will also be used to identify any external factors that could significantly affect the ability of a new Multipurpose Facility in Fort Bend County to maximize its potential. Factors to be identified include:

- availability of quality hotel rooms;
- parking needs;
- transportation infrastructure/accessibility;
- proximity to restaurants, retail, nightlife and other amenities/attractions;
- event attendee transportation within the area; and,
- other such characteristics.

Should any existing complementary facilities/amenities/infrastructure be deemed inadequate, we will conduct a preliminary assessment of such items/issues and discuss potential methods of facilitating their development/creation, including incentivizing private sector participation and/or creative public/private partnerships to enhance the visitor industry infrastructure to adequately support any future event facility investment.

### **Task 3. Utilization Analysis**

The purpose of this task is to analyze and estimate levels of event activity, attendance, and occupancy for the potential new Multipurpose Facility in Fort Bend County. We will prepare a utilization analysis for the Multipurpose Facility for up to three development scenarios, as defined in the previous task. Specifically, we will develop a computer-based model incorporating comparable facility data and the estimated levels of event utilization and attendance derived from the market analysis in order to develop estimates that will form the basis for the subsequent analysis of financial operating characteristics and economic impacts.

Based on the results of the market demand and supportable building program analyses we will quantify the level and characteristics of events and activities that could be attracted to and retained at a potential Multipurpose Facility in Fort Bend County during a stabilized year of operations and for the initial years of operation. The market potential will be presented for those sources of demand that are identified as being supportable in Fort Bend County. The measures of event demand to be focused on will include:

- event and activity levels by event/use segment;
- potential attendance (including visitor) levels by activity or use;
- origin of attendees/exhibitors/participants (i.e., local vs. non-local) and associated traffic levels;
- length of event and use data;
- facility space and functionality requirements (exhibit, meeting, banquet, seating, staging, technology, etc.) by event type;
- hotel requirements;
- parking requirements; and
- seasonality data.

### **Task 4. Financial Operations Analysis**

We will prepare a financial operating analysis for the potential Multipurpose Facility under up to three scenarios, including one or more scenarios that could entail consolidated operations of the new Facility with the existing Fairgrounds under common management.

We will utilize a computer-based model incorporating comparable facility data and the estimated levels of event utilization and attendance generated in the previous task in order to analyze and estimate operating revenues and expenses associated with the potential Multipurpose Facility.

Revenues including rental, food service, event service, parking, advertising and sponsorship revenues, and other such sources will be estimated. Expenses including salaries (permanent and

event driven staff costs), utilities, maintenance, supplies, insurance, contract service costs and others will be estimated. Further, we will work with you to develop other non-operating revenue/expense assumptions in order to provide initial estimations of the financial return/risk structures associated with the project.

We will present estimates of financial performance for potential new Multipurpose Facility operations for a stabilized year of operations, as well as the first several years of operation. The comparison of revenues and expenses will enable you to evaluate the level of facility-supportable revenues or public subsidies that may be required for annual facility operations.

### **Task 5. Economic and Fiscal Impact Analysis**

In this task, we will estimate the economic and fiscal (tax) impacts associated with the operation of a potential new Multipurpose Facility in Fort Bend County. The operation of such an event facility typically attracts a number of out-of-town visitors (attendees, exhibitors, participants, guests, etc.) to the community. The non-local visitors brought into the community by event facility operations represents the basis for added local economic and fiscal impacts.

As part of this analysis, we will develop estimates of total incremental out-of-town attendees, exhibitors, participants, and spectators to Fort Bend County generated as a result of new facility operations. We will then apply appropriate per-visitor spending estimates using industry data adjusted for Fort Bend County conditions. The resulting delegate spending levels will be segmented by industry and applied to economic impact multipliers.

The multipliers, specific to Fort Bend County and provided by leading input/output multiplier models, will be used to estimate total economic output, earnings and employment generated as a result of new Multipurpose Facility operations. From these economic impact variables, we will apply appropriate local, regional and statewide tax rates to estimate the added tax revenue generated as a result of the project.

The completion of the economic and fiscal impact analysis will allow for a comparison of key costs and benefits associated with the development and operation of a new Multipurpose Facility in Fort Bend County. We will present estimates of economic impacts associated with the facility's operations for a stabilized year and for the initial years of operation.

### **Task 6. Funding Alternatives Analysis**

The development of public assembly facilities throughout the country typically involves a significant level of public funding. Many communities are willing to provide for such funding given the potential economic and fiscal impacts of the project.

As part of this analysis, we will identify and summarize financing sources and the extent to which facility development may require funding from external sources to fund project operations and debt service. The analysis will focus on both financing mechanisms (type of bonds or certificates) and the project revenue sources (hotel, sales, restaurant, car rental and other such taxes) that could be used to fund potential facility development and ongoing operations.

Typically, funding for public assembly facilities is tied to the industries that benefit from facility operations. We will evaluate potential funding sources available for construction of the project,

including an analysis of revenues streams associated with Texas and Fort Bend County that could be available to fund this type of project. This analysis will focus on numerous sources of revenue for project funding including taxes on hotel, car rental, food and beverage sales, special assessments and other such mechanisms. Order-of-magnitude estimates of revenue potential from each viable revenue source will be prepared and potential funding sources will be prioritized.

Importantly, potential partnering and private funding/development options as used by similar communities will be identified and analyzed, including the feasibility of developing the potential facility as a joint venture with one or more public or private parties. In the past several years, CSL has been involved with many similar projects around the country that have incorporated creative partnerships with the private sector to assist in defraying facility development and/or operating costs. Some additional potential private sector funding possibilities for the potential facility development that will be identified and analyzed will include sponsorships, naming rights, franchising, branding, upfront service provider fees and facility component build-outs. We will provide general recommendations for possible financing structures, including opportunities to pursue public/private partnerships, addressing common issues typically raised by potential investors and rating agencies in these types of financing arrangements.

#### **Task 7. Preparation of Reports/Presentations**

In this final task, we will prepare a final written report summarizing our findings and conclusions for all tasks. We will summarize these matters in a draft report, which will be submitted to you prior to finalizing the document. If the study is terminated prior to completing all tasks outlined herein, we will prepare a written report encapsulating the work conducted up until the point of termination. Within the report, an executive summary will be included at the outset, and each task will include an introduction, conclusion, methodology, recommendations and resources utilized.

In addition to the written report, we will present one or more oral presentations that could be made at the conclusion of all tasks to the project stakeholders. A presentation may also be made that could include a presentation and/or press conference to a larger group of constituents.

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### **Professional Fees and Expenses**

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Total professional fees for any engagement will depend on the number of hours required to complete the project and skill levels of the assigned personnel.

Professional fees associated with the scope of work outlined herein will not exceed \$45,000. Out-of-pocket expenses, including travel costs, postage, telephone, report preparation and reproduction will be billed separately at cost, and will not exceed \$6,000 (unless expressly authorized by you). These fee and expense figures assume two visits by CSL project leaders to Fort Bend County. Professional fees and out-of-pocket expenses will be billed and are payable on a monthly basis.

Should additional work be required beyond the scope of services detailed herein, professional fees will be billed on an hourly rate basis. Total professional fees for additional services will depend on the number of hours required to complete the services and skill levels of the assigned personnel.

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### **Timing**

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We would expect to be able to complete the scope of services outlined herein within 12 to 14 weeks, reflecting the extensive amount of primary market research and subsequent analysis required to draw informed conclusions.

In addition, regular progress updates will be forwarded to you in-person or via conference call during the study period. Furthermore, we anticipate completing the contracted elements in full, performing all work as set forth in the ultimate final contract. In the event that a decision not to proceed occurs within the time frame finally agreed upon for any engagement, we will cease our work, and bill you for time incurred on the project at that point in time.

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### **Conditions of Work**

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**1. Information and Data.** CSL is entitled to assume, without independent verification, the accuracy of all information and data that the Client provides to CSL. All information and data to be supplied will be complete and accurate to the best of the Client's knowledge. CSL will use information and data furnished by others if CSL in good faith believes such information and data to be reliable; however, CSL shall not be responsible for, and CSL shall provide no assurance regarding, the accuracy of any such information or data. CSL shall be providing advice and recommendations to the Client; however, all decisions in connection with the implementation of such advice and recommendations shall be the Client's responsibility. CSL shall have no responsibility for any decisions made by the Client relating to the project or CSL's services hereunder. CSL shall have no responsibility for any assumptions provided by the Client, which assumptions shall be the Client's responsibility. The reports may include estimates of annual operating results based upon courses of action that the Client expects to take prior to and during the period under analysis. The Client is responsible for representations about its plans and

expectations, and for the disclosure of significant information that might affect the estimated results.

**2. Reports.** Any reports prepared by CSL are valid only when presented in their entirety and only for the purpose stated therein. It is expressly understood that (a) CSL's reports, suggestions, analyses and conclusions, if any, do not, in whole or in part, constitute a fairness or solvency opinion or a feasibility report and (b) CSL will not perform any review, audit or other attestation procedures with respect to financial information as defined by the American Institute of Certified Public Accountants and will not issue any opinion, report or other form of assurance with respect to any financial information. There will usually be differences between the estimated and actual results because events and circumstances frequently do not occur as expected, and those differences may be material. Should the Client have any reservations with regard to the estimates, we will discuss them with the Client before the report is issued. Any partially completed work products and drafts presented to the Client are for internal use only.

**3. Confidentiality.** CSL will maintain the fact of this engagement along with all aspects of the engagement in strict confidence, not disclosing to any third party. Client understands and agrees that CSL shall be the owner of all methods, techniques, processes and skills and adaptations thereof (including, without limitation, generalized features of the sequence, structure and organization) of any work product resulting from CSL's services. CSL understands and agrees that Client shall be the sole owner of all products resulting from or related to CSL's services, including, without limitation, all survey data, feasibility studies, revenue potential analyses, market demand analyses, and any other documents or summaries of the findings or results of any analysis related to this agreement. All confidential information provided by the Client shall remain Client's sole property. CSL will preserve the confidential nature of information received from the Client in accordance with CSL's established policies and practices. Neither Client nor CSL shall reference the other's name or anything related to this engagement without the other's prior written consent, except as may be required by law in which case, consent of the other party shall not be required. The Client agrees that any reports, analyses or other documents prepared by CSL will be used only in compliance with these terms, conditions, applicable laws, and regulations.

**4. Property.** To the extent that CSL utilizes any of its property (including, without limitation, proprietary databases, proprietary information, any hardware or software) in connection with its services, such property shall remain the property of CSL, and the Client shall not acquire any right or interest in such property. CSL shall have ownership (including, without limitation, copyright ownership) and all rights to use and disclose its ideas, concepts, know-how, methods, techniques, processes and skills, and adaptations thereof (including, without limitation, generalized features of the sequence, structure and organization) in conducting its business, and the Client shall not assert or cause to be asserted against CSL or its personnel any prohibition or restraint from so doing. However, all products resulting from or related to CSL's services, including, without limitation, all survey data, feasibility studies, revenue potential analyses, market demand analyses, and any other documents or summaries of the findings or results of any analysis related to this agreement shall be deemed works for hire that Client owns.

**5. Limitation on Warranties.** This is a consulting services agreement. CSL represents and warrants that it shall provide the services in good faith using commercially reasonable efforts. CSL disclaims and Client hereby expressly waives any and all claims based on any other representations and warranties, whether express, implied or otherwise, including, without limitation, warranties of merchantability and fitness for a particular purpose.

**6. Indemnification.** The Client and its affiliates shall indemnify and hold harmless CSL, its members, principals, and employees from and against any and all causes of actions, losses,

damages, claims, liabilities, costs, and expenses (including, without limitation, legal fees and expenses) which may be asserted, brought against, paid or incurred by any of them at any time in any way arising out of or relating to CSL's services, except to the extent it is finally judicially determined that such losses have resulted from the willful misconduct of CSL. CSL and its affiliates shall indemnify and hold harmless the Client, its members, principals, and employees from and against any and all causes of actions, losses, damages, claims, liabilities, costs, and expenses (including, without limitation, legal fees and expenses) which may be asserted, brought against, paid or incurred by any of them at any time in any way arising out of or relating to CSL's services, except for provision 5 and/or to the extent it is finally judicially determined that such losses have resulted from the willful misconduct of the Client.

**7. Limitation on Damages.** CSL, its members, principals, and employees shall not be liable to the Client for any losses, damages, claims, liabilities, costs, or expenses in any way arising out of or relating to this engagement for an aggregate amount in excess of the Fees paid by the Client to CSL for its services. In no event shall CSL, its members, principals, or employees be liable for consequential, special, indirect, incidental, punitive, or exemplary loss, damage, cost, or expense (including, without limitation, lost profits and opportunity costs). The provisions of Section 6 and this Section 7 shall apply regardless of the form of action, whether in contract, statute, tort (including, without limitation, negligence), or otherwise, and shall survive the completion or termination of this engagement. The Client, its members, principals, and employees shall not be liable to CSL for any losses, damages, claims, liabilities, costs, or expenses in any way arising out of or relating to this engagement for an aggregate amount in excess of the Fees paid by the Client to CSL for its services. In no event shall the Client, its members, principals, or employees be liable for consequential, special, indirect, incidental, punitive, or exemplary loss, damage, cost, or expense (including, without limitation, lost profits and opportunity costs). The provisions of Section 6 and this Section 7 shall apply regardless of the form of action, whether in contract, statute, tort (including, without limitation, negligence), or otherwise, and shall survive the completion or termination of this engagement.

**8. Subsequent Work.** CSL, by reason of the performance of its services, is not required to furnish additional work or services, or to give testimony, or to be in attendance in court with reference to the assets, properties, or business interests in question. CSL will have no responsibility to update any report, analysis, or other document relating to its services for any events or circumstances occurring subsequent to the date of such report, analysis, or other document.

**9. Cooperation.** The Client shall cooperate with CSL in connection with the performance of its services, including providing CSL with reasonable and timely access to the Client's information, data, and personnel.

**10. Non-Exclusivity.** Nothing in this report, including these Terms and Conditions, shall be construed as precluding or limiting in any way the right of CSL to provide consulting or other services of any kind or nature whatsoever to any person or entity as CSL in its sole discretion deems appropriate.

**11. Force Majeure.** CSL shall not be liable for any delays or failures to perform its services resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war, or other violence, or any law, order, or requirement of any governmental agency or authority.

**12. Independent Contractor.** CSL is an independent contractor and not an employee, agent or partner of Client. CSL is not authorized directly or indirectly to represent to any person that

Consultant has the authority to bind the Client to any agreement or course of conduct. However, CSL shall have the right to use subcontractors, as necessary.

**13. Inconsistencies.** In the event of any conflict or inconsistency between the provisions set forth in the Letter and these Terms and Conditions, the provisions of these Terms and Conditions shall govern.

**14. Complete Agreement.** The Letter, including these Terms and Conditions, constitutes the entire agreement between the Client and CSL with respect to the subject matter thereof and hereof, and supersedes all other oral or written representations, understandings, and agreements between the Client and CSL relating to the subject matter thereof and hereof. The Letter, including these Terms and Conditions, cannot be changed, except by written instrument signed by both the Client and CSL. The Letter, including these Terms and Conditions, shall be binding on the Client and CSL, and the Client's and CSL's permitted successors and assigns; however, neither the Client nor CSL may assign the Letter, including these Terms and Conditions, without the prior written consent of the other, except that the Client and CSL may assign the Letter, including these Terms and Conditions, to any successor to all or substantially all of the business or assets of such party.

**15. Governing Law.** The Letter, including these Terms and Conditions, shall be governed by and construed under the laws of the State of Texas.

**16. Counterparts.** This Letter may be executed in counterparts, or by facsimile or telecommunicated counterparts, each of which shall be deemed an original and both of which, when taken together, shall constitute the same agreement.

**17. Consent and Good Faith Dealings.** The parties hereby covenant, each to the other, that each will deal with the other equitably, and will take into account the reasonable commercial expectations of the other in the exercise of rights and obligations hereunder. When consent or approval is requested for any action, the party from whom approval is sought shall give full and fair consideration to the financial issues raised by the other party and shall act in a fair, timely and non-capricious manner. Unless other indicated specifically in this Letter, consent and approvals shall not be unreasonably withheld, delayed or conditioned.

\* \* \* \* \*

If you are in agreement with the aforementioned, please indicate by signing in the space provided below, and returning this letter to CSL International. If you would like to discuss this letter, please contact Bill Krueger at 612-294-2003 or bkrueger@cslintl.com.

Very truly yours,

Conventions Sports & Leisure International, LLC

Handwritten signature in cursive script that reads "CSL International".

Acknowledged and Accepted by:

FORT BEND COUNTY, TEXAS

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date