DEVELOPMENT CORPORATION OF HARLINGEN, INC.
BOARD OF DIRECTORS’ REGULAR MEETING
January 16, 2018

Notice is hereby given that the above Board of Directors will hold a Regular Meeting on Tuesday, January 16, 2018 at 5:30 p.m., at City Hall, Town Hall, 2nd floor, 118 East Tyler Avenue, Harlingen, Texas.

The Development Corporation of Harlingen, Inc., hereinafter “HEDC”, reserves the right to meet in Executive Session on any agenda item should the need arise, and if applicable, pursuant to authorization by Title 5, Chapter 551 of the Texas Government Code. Development Corporation meetings are available to all persons regardless of disability. If you require special assistance, please contact the HEDC office at (956) 216-5081 or e-mail us at info@harlingenedc.com at least 24 hours in advance of the meeting.

AGENDA ITEMS

Call Meeting to Order

Roll Call

Pledge of Allegiance

Recognition of Guest(s)

Public Comment

1. Consent Agenda.

The following items are of a routine or administrative nature. The Board has been furnished with background material on each item and/or it has been discussed at a previous meeting. All items will be acted upon by one vote, without being discussed separately, unless separate discussion of any item is requested by a Board Member. Items withdrawn from the Consent Agenda for individual consideration will be heard in their normal sequence after the remainder of the Consent Agenda has been acted upon.

a. Consider and take action to approve the December 19, 2017 regular meeting minutes.

b. Consider and take action to approve the November 30, 2017 financial statements.

2. Presentation, consideration and discussion of staff reports:

a) Report on commercial development activities over the past few months including, but not limited to:
   1) Commercial Development activities
   2) Marketing activities

b) CEO’s report on recent and upcoming economic development activities:
   1) Free Trade Bridge facility update
   2) Other trade shows and events
   3) Industrial recruitment consultant’s update

3. Consider and take action to approve and enter into Addendum to Agreement between the Development Corporation of Harlingen, Inc. and Texas State Technical College related to the NCCER training and authorizing the CEO and Manager to execute the Addendum.

4. Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.072), regarding the purchase, lease or value of real estate, if the deliberation in an open meeting would have a detrimental effect on the position of the Development Corporation of Harlingen Inc. in negotiations with a third person regarding some of the following projects; and/or Contemplated or pending litigation, or matters where legal advice is requested of the Attorney on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of
the State Bar of Texas clearly conflicts with the Act, Section 551.071 of the Texas Open Meetings Act. and/or Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.087) regarding commercial and financial information from business prospects with which the Board is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives relating to Cardone Industries, Inc., SDC TX, LLC., and/or GLH, L.P.

5. Action on executive session, if necessary.

6. Consider and take action to approve an Amendment to the Performance Agreement dated November 29, 2017 with Cardone Industries, Inc. and SDC TX, LLC. and GLH, L.P., providing for the conveyance of approximately 2.79 acres to SDC TX, LLC and authorizing the Chief Executive Officer and Manager to execute the Amendment and any related conveyance documents required to carry out the terms of the Amendment.

7. Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.074), personnel, involving the appointment, employment, evaluation, reassignment, or duties of the position of Manager/CEO.

8. Personnel action on Executive Session item #6 regarding Manager/CEO, if necessary.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Board of Directors of the above named Corporation is a true and correct copy of said notice posted on the bulletin board at City Hall of said City of Harlingen, Texas in a place convenient and readily accessible to the general public at all times and on the Corporation’s Internet Website and said Notice was posted on Friday, January 12, 2018, at or before 5:00 p.m. and remained so posted for at least 72 hours preceding the time of said meeting.

[Signature]
Raudel Garza, Manager and Chief Executive Officer
Development Corporation of Harlingen, Inc.
Regular Meeting
December 19, 2017

On the 19th of December 2017, at 12:00 p.m. the Development Corporation of Harlingen, Inc. Board of Directors convened at the University Center, 2424 Boxwood Street, Room 128, Harlingen, Texas. The following board members were present:

Present
Dr. Gilbert Leal
Eliseo Gonzales
Lupita Gutierrez-Garza

Absent
Mickey Boland
Michael Lamon

Staff
Raudel Garza, Manager and CEO
Kayla Thomas, Tania Hernandez and MaryAnn Villarreal

Call Meeting to Order
President Dr. Gilbert Leal called the meeting to order; a quorum was established, and the following proceedings were held.

Roll Call
President Dr. Gilbert Leal announced that he, Mr. Eliseo Gonzales and Ms. Lupita Gutierrez-Garza were present. Mr. Mickey Boland and Mr. Michael Lamon were absent.

Recognition of Guests
President Dr. Leal acknowledged Mayor Chris Boswell, Commissioner Victor Leal, Commissioner Michael Mezmar, Commissioner Ruben De La Rosa, Assistant City Manager Gabe Gonzales and Rick Kelley and thanked them for attending the meeting.

Public Comment
None.

1. Consent Agenda.

The following items are of a routine or administrative nature. The Board has been furnished with background material on each item and/or it has been discussed at a previous meeting. All items will be acted upon by one vote, without being discussed separately, unless separate discussion of any item is requested by a Board Member. Items withdrawn from the Consent Agenda for individual consideration will be heard in their normal sequence after the remainder of the Consent Agenda has been acted upon.

a. Consider and take action to approve the November 6, 2017 special meeting minutes.
b. Consider and take action to approve the October 31, 2017 financial statements.
c. Consider approval of amendment to current agreement with Terry M. Trevino extending the contract until September 30, 2018 and providing a 30-day termination clause.
Motion was made by Ms. Gutierrez-Garza and seconded by Mr. Gonzales to approve consent agenda #1. Motion carried unanimously.

2. Discussion and presentation regarding the University of Texas Rio Grande Valley’s Internship Program (Mark Kroll and Maria Leonard).

Mr. R. Garza introduced Maria Leonard from the University of Texas Rio Grande Valley. Ms. Leonard gave a presentation on their internship program.

3. Discussion and presentation regarding Harlingen Industrial Park Phase III Declaration of Covenants Conditions and Restrictions and take action to appoint two Board Members and the HEDC Manager and CEO to the Park’s Architectural Review Committee.

Motion was made by President Dr. Leal to appoint Mr. Boland, President Dr. Leal and Mr. R. Garza to the Harlingen Industrial Park Phase III - Park’s Architectural Review Committee. Motion carried unanimously.

4. Consider and take action to approve a year-long marketing services contract with Multiview.

Motion was made by Ms. Gutierrez-Garza and second by Mr. Gonzales to approve the marketing services contract with Multiview. Motion carried unanimously.

5. Consider and discuss staff reports:

a) Report on commercial development activities over the past few months including, but not limited to:
   1) Construction activities
   2) Marketing activities
   3) Retention and recruitment activities

Ms. K. Thomas gave an update on the commercial development activities.

b) Consider CEO’s report on economic development activities:
   1) Update on cold storage inspection facility construction
   2) Upcoming trade shows and events
   3) Consultant’s report

Mr. R. Garza gave an update on the cold storage inspection facility at the Free Trade International Bridge at Los Indios and the marketing efforts by the County and other stakeholders. He spoke about the upcoming travel for next year and mentioned the consultant’s report in the packet.

6. a. Executive Session pursuant to Chapter 551, Subchapters D., V.T.C.A. Government Code (Section 551.072), regarding the purchase, lease or value of real estate, if the deliberation in an open meeting would have a detrimental effect on the position of the Development Corporation of Harlingen Inc. in negotiations with a third person regarding some of the following projects: and/or Executive Session pursuant to Chapter 551, Subchapter D., V.T.C.A. Government Code (Section 551.087) regarding commercial and financial information from business prospects with which the Board is conducting economic development negotiations and/or to discuss or deliberate financial or other incentives to business prospects known as:
   a) United Launch Alliance
b) Cardone Industries
c) Project Wilson
d) Harlingen Industrial Foundation, Inc.
e) Project STMF

At 12:48 p.m., motion was made by Ms. Gutierrez-Garza and seconded by Mr. Gonzales to convene into executive session under Government Code (Section 551.072), and (Section 551.087). Motion carried unanimously.

At 1:53 p.m., President Dr. Leal announced the board had completed its executive session under Government Code (Section 551.072), and (Section 551.087) declared the meeting open to the public.

7. Consider and take action, if any, on the following projects:
   a) United Launch Alliance
   b) Cardone Industries
c) Project Wilson
d) Harlingen Industrial Foundation, Inc.
e) Project STMF

Motion was made by Ms. Gutierrez-Garza and seconded by Mr. Gonzales to approve an Amendment to the Agreement discussed in Executive Session. The Amendment granted United Launch Alliance a one-time waiver on the retention requirement in the original Agreement. Motion carried unanimously.

No action was taken on Agenda #7 b) through e).

There being no further business to discuss, motion was made by Ms. Gutierrez-Garza and seconded by Mr. Gonzales to adjourn the meeting at 1:53 p.m.

Development Corporation of Harlingen, Inc.

Dr. Gilbert Leal, President

ATTEST:

Raudel Garza, Manager and CEO
Agenda Date: January 16, 2018

Development Corporation
Executive Summary

I. Agenda Item: Consider and take action to approve Financial Reports for period Ending November 30, 2017.

II. Brief Overview:

Reviewing the Balance Sheet (PAGE 1), an analysis of the fund balance indicates a designated reserve of $2,000,000, an unencumbered Fund Balance of $3,626,959 and a non cash Fund Balance of $4,211,450. Total assets are shown at $40,691,568. Liabilities are reported at $30,853,158. During the month the cash NOW Accounts and the TexPool Account earned 0.73% and 1.0506 % interest respectively. From the Statement of Revenues, Expenditures, and Changes in Fund Balance (PAGE 2), revenues are reported at $436,782 and total expenditures (Page 3) at $130,770 - generating revenues over expenditures in the amount of $308,011.

Development Corp. Sales tax receipts received from Texas State Comptrollers for the month of November was $365,762 an increase of $46,541 or 14.57% (Page 4). In the month of November, Brownsville experienced a 1.73 % increase and McAllen a 3.18% increase from the prior year.

III. Budget
   Item Budgeted_____Yes______No____X____N/A. If yes, fund (s) & Amount. If no, Sources of funding, amount requested & funds remaining.

IV. Finance Director Comments: ☑ Approved____Disapproved____N/A None

VI. Staff Recommendation:
   Staff recommends approval of financial reports as presented.

NAME: ELVIA TREVINO
DEPARTMENT: Finance
TITLE: Finance Director
## Development Corporation of Harlingen, Inc.

### Summary- Interim Financial Statements

For Month Ending November 30, 2017

### Balance Sheet

<table>
<thead>
<tr>
<th>Assets</th>
<th>Current Amount</th>
<th>Year to Date Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash &amp; Investments</td>
<td>$4,920,534</td>
<td>$780,854</td>
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<tr>
<td>Receivables - Sales Tax</td>
<td>$365,762</td>
<td></td>
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<tr>
<td>Receivables- Other &amp; TIFRZ No. 3</td>
<td>$447,754</td>
<td>$7,712</td>
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<tr>
<td>Receivables - Loans</td>
<td>$331,384</td>
<td>$61,554</td>
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<tr>
<td>Prepaid Expense</td>
<td>$2,111</td>
<td></td>
</tr>
<tr>
<td>Assets (Land, Bldg &amp; Improvmts)-Deprec</td>
<td>$34,624,022</td>
<td>$50,735</td>
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<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$40,691,568</strong></td>
<td><strong>$901,010</strong></td>
</tr>
</tbody>
</table>

### Liabilities and Fund Balance

| Liabilities & Payables                     | $35,119        |                     |
| Bonds Payable Less Issue Discount          | $26,948,945    |                     |
| Long Term Payable-BPS Land                 | $2,008,216     |                     |
| Frost Bank Loan                            | $1,815,000     |                     |
| Accrued Leave (Sick/Vacation)              | $45,880        |                     |
| **Total Liabilities**                      | **$30,853,158**|                     |

### Fund Balance

| Designated Reserve                         | $2,000,000     |                     |
| Unencumbered Fund Balance                  | $3,626,959     |                     |
| Non-Cash Fund Balance                      | $4,211,450     |                     |
| **Total Fund Balance**                     | **$9,838,409** |                     |

| **Total Liabilities & Fund Balance**       | **$40,691,568**|                     |

### Statement of Revenues and Expenditures

<table>
<thead>
<tr>
<th>Revenues</th>
<th>Current Amount</th>
<th>Year to Date Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Tax</td>
<td>$368,255</td>
<td>$80,854</td>
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<tr>
<td>Investment &amp; Interest</td>
<td>$3,883</td>
<td>$772</td>
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<tr>
<td>Rentals</td>
<td>$35,675</td>
<td>$61,554</td>
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<tr>
<td>Inter-Fund Reimb.&amp; Miscell Revenue</td>
<td>$30,969</td>
<td>$50,735</td>
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<tr>
<td>Transfer From Fund Balance</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td><strong>Total Revenues</strong></td>
<td><strong>$438,782</strong></td>
<td><strong>$901,010</strong></td>
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</table>

<table>
<thead>
<tr>
<th>Expenditures</th>
<th>Current Amount</th>
<th>Year to Date Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Employee Benefits</td>
<td>$44,109</td>
<td>$62,235</td>
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<tr>
<td>City Reimbursement</td>
<td>$4,667</td>
<td>$9,666</td>
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<td>Professional Services</td>
<td>$10,905</td>
<td>$14,145</td>
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<tr>
<td>Services &amp; Charges</td>
<td>$6,946</td>
<td>$23,066</td>
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<td>Marketing</td>
<td>$15,887</td>
<td>$20,305</td>
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<td>Other</td>
<td>$18,578</td>
<td>$24,314</td>
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<tr>
<td><strong>Total Operations</strong></td>
<td><strong>$100,219</strong></td>
<td><strong>$155,761</strong></td>
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</table>

<table>
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<tr>
<th>Contracts</th>
<th>Current Amount</th>
<th>Year to Date Amount</th>
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</thead>
<tbody>
<tr>
<td>Fox Valley Molding</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Qualtron Data Services Group, LLC</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>United Launch Alliance</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>BPS Land -380 Agreement</td>
<td>$5,448</td>
<td>$11,104</td>
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<tr>
<td>Other</td>
<td>$19,104</td>
<td>$319,773</td>
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<tr>
<td><strong>Total Expenditures</strong></td>
<td><strong>$130,771</strong></td>
<td><strong>$669,088</strong></td>
</tr>
</tbody>
</table>

| Revenues Less Expenditures                    | **$308,011**   | **$231,933**        |
December 2017

Visits
978
% of Total: 100.00% (978)

Pageviews
1,913
% of Total: 100.00% (1,912)

Pages / Visit
1.96
Avg for View: 1.96 (0.00%)

Avg. Visit Duration
00:01:45
Avg for View: 00:01:45 (0.06%)

Device
desktop | mobile | tablet

Visits by Visitor Type
New Visitor | Returning Visitor

Top Pages Viewed
- Harlingen, Texas - The Harlingen Economic Development Corporation
- Making History in Harlingen - Harlingen, TX: The Harlingen Economic Development Corporation
- CARDONE Industries makes history in Harlingen, TX - Announces construction of distribution center.
- Harlingen Economic Development Corporation
- City of Harlingen, TX Demographics - Population Median Income
- Harlingen, Texas Property Taxes - Cameron County Appraisal District
- Staff - Harlingen, TX: The Harlingen Economic Development Corporation
- News Archives - Harlingen, TX: The Harlingen Economic Development Corporation
- Major Employers in Harlingen, TX: Health Care, Agriculture, Economy

Visits by City
- Harlingen: 220
- San Antonio: 81
- Houston: 76
- Austin: 51
- Brownsville: 32
- McAllen: 32
- Dallas: 22

Visits from around the World

Traffic Source
- Source / Medium: Sessions
  - google / organic: 492
  - (direct) / (none): 230
  - myharlingen.us / referral: 95
  - bing / organic: 46
  - m.facebook.com / referral: 41
  - yahoo / organic: 25
  - facebook.com / referral: 10
  - m.facebook.com / referral: 9

Bounce Rate
66.16%
Avg for View: 66.16% (0.00%)
## FIELD OBSERVATION REPORT

<table>
<thead>
<tr>
<th>PROJECT:</th>
<th>Refrigerated Inspection Facility</th>
<th>LOCATION:</th>
<th>Los Indios Port of Entry</th>
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</thead>
<tbody>
<tr>
<td>DATE:</td>
<td>01/05/2018</td>
<td>REPORT #:</td>
<td>5</td>
</tr>
<tr>
<td>CONDUCTED BY:</td>
<td>Sergio R. Láinez, AIA, MBA</td>
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</tr>
</tbody>
</table>

**WORK IN PROGRESS:**
Back fill for primary electrical conduit and encasement being completed.

Transformer pad being framed.

**DISCUSSIONS ON SITE:**
Subgrade for transformer pad was discussed. The contractor will make sure the transformer pad will comply with AEP requirements.
Backfilling electrical primary conduit and casing.
View of stub up for MDP with concrete casing.
View of electrical concrete casing and transformer pad.
Overhead doors and dock levelers have been installed. Interior of structure is 90% complete. Electrical services is needed for completion.
Los Indios Port of Entry

Weekly Report 12/31/2017-1/6/2018
From Fred Lozano

Monday: Holidays

Tuesday: No concrete available they are scheduled to pour Wednesday. Sub-Contractor is cleaning up trench securing PVC and making sure its jacked off the ground. Cooler no work.

Wednesday: Concrete has arrived and trench is being filled with 24" of concrete trench should be poured by the end of the day. Electrical sub working on cooler.

Thursday: Sub Contractor completed concrete and is covering trench according to specs. Electrical contractor is on site. Spoke with IT Engineering (General Contractor). To complete cooler he needs power, fire alarm, dock cushions and cooler start up.

Friday:

Sub-Contractor is forming and working on transformer pad which will be inspected on Monday by AEP. Electrical sub on site is installing conduits in transformer pad to panel.

Work is it almost at a standstill so reports are minimal pending the following:

- Fire Alarm approval will take two days to install waiting on GSA’s Mike Vargas for approval of schematic.
- AEP- Pull wire connect power. Pending shut down schedule and who is affected by AEP and GSA
- Dock Cushions Arrive next week install one day
- Start up once storage building is energized a scheduled startup date can be set. Startup takes two days.
Event Report

Business Development Opportunities

Business Development Consultant
Terry M. Treviño

December 2017
Event Report

Business Development Opportunities

Terry M. Trevino

SPACEMO 2017

On Dec. 6th Marv Esterly with Valley International Airport and I attended SpaceCom 2017 in Houston, Texas. SpaceCom is where space innovations meet industry. The SpaceCom conference was designed to connect businesses that may not normally work together. This is the first time I attend SpaceCom and it was very interesting, however, the exhibit hall was very empty with little walking traffic and had approximately 60 exhibitors. NASA took approximately ¼ the space with their exhibit...which was extraordinary. Attached below you will find a list of exhibitors. In my opinion the show did not demonstrate a good opportunity for leads. I will also defer to Mr. Esterly’s feedback on this opportunity.

A few photos from the show:
<table>
<thead>
<tr>
<th>EXHIBITORS BY BOOTH NUMBER</th>
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<tbody>
<tr>
<td>200</td>
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<tr>
<td>312</td>
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<td>748</td>
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<td>755</td>
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</tbody>
</table>
December Monthly Project Status Report

Business Development Opportunities

Terry M. Trevino, Consultant

Outreach to contacts

December was a short month due to the Holiday Season and availability of our target markets, however it was good opportunity to follow up with e-mail, phone calls and send out Holiday Cards to contacts made throughout 2017.

Conferences

SPACECOM 2017

On Dec. 6th Marv Esterly with Valley International Airport and I attended SpaceCom 2017 in Houston, Texas. SpaceCom is where space innovations meet industry. The SpaceCom conference was designed to connect businesses that may not normally work together. This is the first time I attend SpaceCom and it was very interesting, however, the exhibit hall was very empty with little walking traffic and had approximately 60 exhibitors. NASA took approximately ¼ the space with their exhibit...which was extraordinary. Attached below you will find a list of exhibitors. In my opinion the show did not demonstrate a good opportunity for leads.

Marketing/leads

Per my previous report our Project Red & White contact asked me to contact him once we have more info on a proposed development. He asked for us to please provide a firm date of completion and he assured me that the cold storage facilities are greatly needed.

In November and December, we have spoken and have been in contact, however and again, I am waiting on information from the County bridge system.

SLP Follow up initiatives

Completed research and review of information provided and from Fabtech, not yet completed, I received the information Nov. 28th, this is still ongoing through December and January.
Additionally, I have been working with Justin Thompson and Site Location Partnership since November on setting up Site Selector visits for the remaining 4 meetings for HEDC. In December we discussed dates and possible meetings of interest. The meetings will be scheduled for January and I will continue to work on this effort.

**Marketing**
Continued efforts with HEDC staff regarding all marketing material to be developed for distribution. Marketing Material for the Cold Storage Facility was created by Kayla Thomas and provided to me. I used the information and distributed it to the above in my regional and conference meetings and with prospects. Presentations provided and distributed to the prospects were created by me with approval by HEDC staff.

**Projects/RFPS**

**Project HOPS**
Follow up several phone calls with no response.

**Project SACargo**
Submitted a PowerPoint to Project SACargo in November. I spoke to him multiple times and worked to provide information regarding the airport.

I continued follow up and SA Cargo folks were very happy with the information and have indicated interest to schedule a site visit possibly in February.

**Status Summary**

The month of December was very productive with e-mail and phone meetings, which are providing Harlingen with visibility to the San Antonio, Austin and beyond markets. I look forward to 2018 and the upcoming marketing events, opportunities and lead generation events which I hope will bring a huge economic impact to the City of Harlingen!
Tasks/Organizations

The Incentive Compliance tracking system recommendation was submitted in December.

Team Texas (Membership & Leads)

Select USA (Opportunities)

Area Development Site Selectors Forum (Marketing & Leads)

Free Trade Alliance locally and in San Antonio (Membership in Process and Opportunities in October)

Certified Commercial Investment Members CCIM (Marketing & Leads)

Mexican Entrepreneur Association (AEM) (Marketing & Leads)
ADDENDUM TO THE AGREEMENT

The following terms and conditions are incorporated into and form a part of the Development Corporation of Harlingen, Inc. Agreement (the "Agreement") with Texas State Technical College to which they are attached for all purposes. "HEDC" means Development Corporation of Harlingen, Inc., and the City of Harlingen, Texas; and "TSTC" means Texas State Technical College, an institution of higher education and an agency of the State of Texas.

1. **Venue; Governing Law.** McLennan County or Travis County, Texas will be the proper place of venue for suit on or in respect of the Agreement, as required by the Chapter 135 of the Texas Education Code. The Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.

2. **Representations and Warranties by HEDC.** If HEDC is a corporation or a limited liability company, HEDC warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of HEDC has been duly authorized to act for and bind HEDC.

3. **Loss of Funding.** Performance by TSTC under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of Texas State Technical College System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then TSTC will issue written notice to HEDC and TSTC may terminate the Agreement without further duty or obligation hereunder. HEDC acknowledges that appropriation, allotment, and allocation of funds are beyond the control of TSTC.

4. **FERPA Protection of Confidential Data.** If applicable, HEDC will abide by the limitations on re-disclosure of personally identifiable information from education records set forth in The Family Educational Rights and Privacy Act [FERPA 34 CFR § 99.33 (a)(2)]. 34 CFR 99.33 (a)(2) states that the officers, employees and agents of a party that receives education record information from the Institution may use the information, but only for the purposes for which the disclosure was made. Covered data and information (CDI) includes paper and electronic student education record information supplied by Institution, as well as any data provided by Institution’s students to the HEDC. HEDC acknowledges that the Agreement allows the HEDC access to CDI. HEDC agrees to hold CDI in strict confidence. HEDC shall not use or disclose CDI received from or on behalf of Institution (or its students) except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by Institution. HEDC agrees not to use CDI for any purpose other than the purpose for which the disclosure was made. Upon termination, cancellation, expiration or other conclusion of the Agreement, HEDC shall return all CDI to Institution or, if return is not feasible, destroy any and all CDI. HEDC shall, within one day of discovery,
report to Institution any use or disclosure of CDI not authorized by this agreement or in writing by Institution. HEDC's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the CDI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what HEDC has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action HEDC has taken or shall take to prevent future similar unauthorized use or disclosure. HEDC shall provide such other information, including a written report, as reasonably requested by Institution.

5. **Breach of Contract Claims.** To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 shall be used by TSTC and HEDC to attempt to resolve any claim for breach of contract made by HEDC that cannot be resolved in the ordinary course of business. The Chief Business Officer of TSTC shall examine HEDC’s claim and any counterclaim and negotiate with HEDC in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the execution of this Agreement by TSTC nor any other conduct, action or inaction of any representative of TSTC relating to this Agreement constitutes or is intended to constitute a waiver of TSTC’s or the State’s sovereign immunity to suit; and (ii) neither TSTC nor HEDC have waived the right to seek redress in the courts.

6. **Limitations.** The Parties are aware that there may be constitutional and statutory limitations on the authority of TSTC (a state agency) to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on TSTC’s property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; insurance requirements and confidentiality (collectively, the “Limitations”), and terms and conditions related to the Limitations will not be binding on TSTC except to the extent authorized by the laws and Constitution of the State of Texas.

7. **Texas Public Information Act.** Notwithstanding any provisions of this Agreement to the contrary, the HEDC understands that TSTC will comply with the Texas Public Information Act, Gov’t Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. TSTC agrees to notify HEDC within twenty-four (24) hours of receipt of a request for information related to HEDC’s work under this Agreement. The HEDC will cooperate with TSTC in the production of documents responsive to the request. The HEDC may request that TSTC seek an opinion from the Attorney General of the State of Texas. However, TSTC will not honor HEDC’s request for an opinion if the request is not based upon a reasonable interpretation of the Texas Public Information Act. Additionally, the HEDC will notify TSTC General Counsel within twenty-four (24) hours of receipt of any third party requests for information that was provided by the State of Texas for use in conducting this Agreement. This Agreement and all data and other information generated or otherwise obtained in the performance of its responsibilities under this Agreement may be subject to the Texas Public Information Act. HEDC agrees to
maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers.

8. **Counterparts.** This Agreement may be executed in one or more counterparts and may be electronically transmitted. Each counterpart shall be deemed an original and all of which shall constitute one and the same document.

Addendum Controlling. In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this Addendum will control.

**TSTC**  
Texas State Technical College

By: ________________________________  
Jeff Kilgore  
Vice Chancellor/Chief Marketing Officer

Date: ______________________________

**HEDC**  
Development Corporation of Harlingen, Inc.

By: ________________________________  
Dr. J. Gilbert Leal President  
President

City of Harlingen, Texas

By: ________________________________  
Chris Boswell  
Mayor of Harlingen

Date: ______________________________