

**MEMORANDUM OF UNDERSTANDING AND AGREEMENT**

<b>CITY OF KILLEEN TEXAS</b>	§	<b>KNOW ALL MEN BY THESE</b>
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<b>COUNTY OF BELL</b>	§	<b>PRESENTS</b>

**THIS AGREEMENT**, hereinafter referred to as the "Agreement", by and between the City of Killeen, hereinafter referred to as "City" and the KILLEEN ECONOMIC DEVELOPMENT CORPORATION, hereinafter referred to as "KEDC" both acting by and through their undersigned duly authorized officers for the purpose herein provided, shall be effective on the date of approval and execution by and on behalf of the City.

**WHEREAS**, the KEDC and Solix Inc. have previously entered into an agreement entitled PERFORMANCE AGREEMENT BETWEEN THE KILLEEN ECONOMIC DEVELOPMENT CORPORATION AND SOLIX INC. ("Performance Agreement"), dated January 2, 2014, for Solix to lease the building located at 402 E. Avenue D, Killeen, Texas, ("Property") and maintain a certain number of jobs in exchange for the extension of streetscaping, parking lot improvements, signage, and grants (See exhibit "A"); and

**WHEREAS**, Section II.A. of the Performance Agreement provides that the KEDC will pay an amount up to Three Hundred Thousand Dollars (\$300,000.00) to the City of Killeen to fund the design and construction of the Downtown Improvements, Phase II project generally located along Avenue D from Gray Street to 10<sup>th</sup> Street in front of the Property ("Project");

**WHEREAS**, the City and the KEDC mutually desire to complete the Project on Avenue D to 10<sup>th</sup> Street to facilitate economic redevelopment, promote public health, safety and welfare, and to enhance the quality of life for the Citizens of Killeen;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms, conditions, stipulations, covenants and restrictions hereinafter set forth, the City and the KEDC agree as follows:

**Article 1 – Generally**

A. The City shall adhere to all applicable laws and regulations throughout the design and construction of the Project.

B. In accordance with the Performance Agreement, the KEDC will advance funds to enable the City to commence with the design of the Project.

The proposed budget for this project is as follows:

	Engineering Costs	Construction Cost*
Streetscaping	\$ 79,250	\$ 391,767
Drainage	\$141,260	\$1,012,600
Total	\$220,510	\$1,404,367
Total Estimated Funds Needed		\$1,624,877
KEDC Contribution		\$300,000
City of Killeen Contribution		\$1,324,877

\* Construction costs are estimated. Actual costs are dependent upon receipt of competitive bids.

C. Contemporaneously with the execution of this Agreement, KEDC will advance funds to the City in the amount of \$300,000. Said funds shall be deposited into a line item account by the City and shall be utilized exclusively for the Project.

D. Notices. Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email, or other commercially reasonable means and will be effective when actually received. KEDC and City may change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

Killeen Economic Development Corporation:

Killeen Economic Development Corporation  
PO Box 548  
Killeen, TX 76540  
Phone: (866) 790-4769

City of Killeen:

City of Killeen  
Attn: City Manager  
101 N. College Ave.  
Killeen, Texas 76541  
Phone: (254) 501-7620

## Article 2 – Miscellaneous

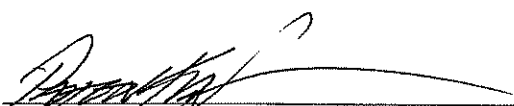
This Agreement shall be governed by the laws of the State of Texas. Venue shall be in Bell County, Texas. No waiver of a breach of any of the covenants contained in this Agreement shall be construed to be a waiver of any prior or succeeding breach of the same covenant or of any other covenant of this Agreement. No modification, release, discharge or waiver of any provision hereof shall be of any force or effect, unless in writing, signed by all parties to this Agreement. If any term, covenant or provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such provision. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed. This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and assigns.

**SIGNED, ACCEPTED AND AGREED TO** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the undersigned Parties who acknowledge that they have read and understand this Agreement and the undersigned Parties hereby execute this legal document voluntarily and of their own free will.

City of Killeen

\_\_\_\_\_  
Glenn Morrison, City Manager

Killeen Economic Development Corporation

  
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Patton Kaufman, President