

ORDINANCE NO. 09-81 AC CMS

**AN ORDINANCE APPROVING A LOAN TO GREENFIELD SOLAR FROM
THE OBERLIN BUSINESS ASSISTANCE REVOLVING LOAN PROGRAM**

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1. That the proposed loan between the City of Oberlin, Ohio, and GreenField Solar, as approved by the Oberlin Community Improvement Corporation as agent for the City of Oberlin and its Business Assistance Revolving Loan Program, and as set forth in the Loan Agreement attached hereto as Exhibit A and incorporated herein by reference, is hereby approved, and the City Manager is hereby authorized and directed to execute same on behalf of the City, said loan being in an amount not to exceed \$75,000.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or related to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this council and of any committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, or to provide for the usual daily operation of a municipal department, to wit:

“to authorize a loan that will enable the relocation of a new firm to Oberlin, Ohio that will provide jobs and tax revenue to the City as soon as possible”,
and shall take effect immediately upon passage.

PASSED: 1st Reading- October 19, 2009
2nd Reading- November 2, 2009 (E)
3rd Reading-

ATTEST:


Belinda B. Anderson
CLERK OF COUNCIL


David E. Sonner
PRESIDENT OF COUNCIL

POSTED: 11/03/2009

EFFECTIVE DATE: 11/02/2009

LOAN AGREEMENT

THIS AGREEMENT is made and entered into on this 20th day of November, 2009, by and between the **CITY OF OBERLIN, OHIO**, an Ohio Charter Municipality, hereinafter referred to as the "City", **GREENFIELD SOLAR CORP.**, a Nevada for-profit corporation licensed to do business in the State of Ohio, hereinafter referred to as "GreenField Solar", and **NEIL SATER**, as guarantor, hereinafter referred to as "Guarantor" under the following terms and conditions:

WITNESSETH:

WHEREAS, the City has established a Business Assistance Revolving Loan Program which is funded through the interest accruing upon State of Ohio Small Cities Community Development Block Grant funds which the City previously received from the State; and,

WHEREAS, GreenField Solar is the participating party in said Oberlin Business Assistance Revolving Loan Program and desires to borrow **Seventy-Five Thousand Dollars (\$75,000.00)** in Oberlin Business Assistance Revolving Loan Program funds under certain conditions.

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions contained herein, the City and GreenField Solar do hereby mutually agree as follows:

1. The City will loan to GreenField Solar, consistent with the Oberlin Business Assistance Revolving Loan Program guidelines and all pertinent and applicable Federal, State, and local laws, the sum of **Seventy-Five Thousand Dollars (\$75,000.00)**. Said monies will be advanced to GreenField Solar immediately upon the execution and delivery to the City of the Promissory Note referred to below in that same amount, the execution of security agreements required to be executed by GreenField and the recordation of financing statements required to be

executed by GreenField Solar pursuant to the loan application and this Agreement, and the approval for the loan given by the Oberlin Community Improvement Corporation, agent for the City concerning said Oberlin Business Assistance Revolving Loan Program. Said monies represent funds for the acquisition of equipment, fixtures and furniture for the business known as **“GreenField Solar”** located at **132 Artino Street**, Oberlin, Ohio and shall be fully due and payable ten (10) years from that date which is thirty (30) days subsequent to the receipt by GreenField Solar of said loan monies. The debt represented by said loan monies shall take the form of a Promissory Note signed by the authorized agent of GreenField Solar and by Guarantor, and shall be payable to the City in monthly payments as set forth in a loan payment schedule to be attached to the Promissory Note at the time of its execution, such being sufficient to amortize said loan over said ten (10) year period, with interest only due for the first six (6) months. The Promissory Note shall draw interest at the U.S. Prime rate as listed in the Eastern print edition of the Wall Street Journal as of the effective date of this agreement, minus one percent (1%) per annum. At any time during the life of this loan, the entire outstanding balance may be paid in full without GreenField Solar incurring a penalty. A copy of the Promissory Note to be signed is attached hereto as “Exhibit A” and incorporated herein by reference.

2. The funds provided by the City to GreenField Solar are to be used for the project as set forth in the application for funding and its attachments which was filed by GreenField Solar with the Oberlin Community Improvement Corporation, the agent for the City concerning said Oberlin Business Assistance Revolving Loan Program. The recitals and conditions set forth in said application and all exhibits attached thereto are incorporated herein by reference. Pursuant to said application and its exhibits, **Seventy-Five Thousand Dollars (\$75,000.00)** is to be used by GreenField Solar for the acquisition of equipment, fixtures and furniture.

3. GreenField Solar agrees that the funds received by it pursuant to this Agreement shall only be used for those eligible activities set forth in the Oberlin Business Assistance Revolving Loan Program guidelines, as may further be restricted by the State of Ohio, Department of Development, in the original Grant Agreement between the City and the State of Ohio, Department of Development, which allowed the City to initiate the program, all of which are incorporated herein by reference.

4. Prior to the receipt of the loan funds, GreenField Solar agrees that the City shall receive, as security for the loan, a security interest in all equipment, furniture, inventory and accounts receivable as identified in the Security Agreement attached hereto. The lien and security interest shall be in the amount of **Seventy-Five Thousand Dollars (\$75,000.00)**. The Security Agreement by which such lien and security interest is created shall be in the form attached hereto as "Exhibit B" and incorporated herein by reference.

5. As further conditions for said loan, GreenField Solar agrees to provide the City with the following:

- (a) A copy of the executed lease to the business premises currently known as General Plug and located at 132 Artino Street, Oberlin, Ohio, a copy of the memorandum thereof, and proof of filing of such lease/memorandum with the Lorain County Recorder;
- (b) Proof satisfactory to counsel for OCIC of GreenField Solar's separate "equity" commitment to the project in the amount of **Seventy-Five Thousand Dollars (\$75,000)**.

6. Closing of the loan shall occur at the City's Planning and Development Office, 69 South Main Street, Oberlin, Ohio, on or about the 20th day of November, 2009, or at such later date as the parties may agree. Closing shall not occur until all conditions of this agreement have been met.

7. GreenField Solar agrees and understands that this project and the funds expended by the City for same may be audited by the Federal government and the State of Ohio for compliance with all applicable statutes and regulations. GreenField Solar agrees and understands that all finding or findings for the recovery of these monies, if any, made against the City as a result of said audit or audits will be the direct and full responsibility of GreenField Solar. In that regard, GreenField Solar agrees to prepare and retain, and permit the City to inspect as it deems necessary, original invoices, canceled checks, and other evidences of the expenditure of the monies being loaned herein, and will cooperate with the City throughout the life of the loan and will ensure the cooperation of its employees in such efforts.

8. GreenField Solar agrees to save the City harmless from any and all liabilities and claims caused by or resulting from GreenField Solar's obligations or activities in furtherance of any work or purchases described in the application filed with the Oberlin Community Improvement Corporation, as agent for the City, concerning this project. Further, GreenField Solar will reimburse the City for any judgments which may be obtained against the City resulting from any work that may be performed by GreenField Solar pursuant to the application, or the use of any work product of GreenField Solar, including judgments for infringement of patent or copyrights. Further, GreenField Solar agrees to defend against any such claims or legal actions if called upon by the City to do so, at GreenField Solar's sole cost and expense.

9. GreenField Solar understands and agrees that one of the conditions of the Oberlin Business Assistance Revolving Loan Program, established pursuant to authority received from the State of Ohio, Department of Development, pursuant to the Ohio Small Cities Community Development Block Grant program, is the creation or retention of jobs. In that regard, GreenField Solar stipulates and agrees that it will use its commercially reasonable best efforts to

create, or cause to be created, at least five (5) additional full-time equivalent employment positions as a result of the completion of the project contemplated in the Application and the Agreement set forth herein, consistent with representations made in the Application. Further, GreenField Solar stipulates and agrees to use its best efforts to ensure that fifty-one percent (51%) of said jobs created or retained will be filled with persons of low and moderate income. GreenField Solar shall permit the City to review employment practices and records to monitor compliance with this Agreement.

10. GreenField Solar understands and agrees that the entire balance of the outstanding principal and all accrued interest and charges shall, at the option of the City, become immediately due and payable upon the relocation of Borrower's primary Oberlin business facility to any location outside the corporate limits of the City of Oberlin, Ohio, or as a result of any default by GreenField Solar of any of the terms and conditions of this agreement or any documents executed pursuant thereto.

11. It is understood and agreed by GreenField Solar that the City shall not have any obligation to disburse any funds pursuant to this Agreement, or pursuant to any documents executed in connection with the subject matter of this Agreement, should, for any reason, the State of Ohio Small Cities Community Development Block Grant funds, or any portion thereof, which constitutes the funding received by the City for said loan, are revoked or ordered returned to the State of Ohio.

12. Neither approval by the City of this loan, Loan Agreement, or any other documents associated therewith, shall constitute a warranty or representation by the City, or any of their agents, representatives, or employees, as to the technical sufficiency, adequacy, or safety of the equipment being purchased with said loan proceeds, nor shall any such action or approval

by the City, the Oberlin Community Improvement Corporation, as agent for the City, or any other action by the City or its agents, constitute a warranty or representation as to the structural soundness of the building involved in the business of GreenField Solar or any other physical condition or feature pertaining to the business of GreenField Solar . All acts, including any failure to act, relating to this project by any agent, representative, or employee of the City and the Oberlin Community Improvement Corporation to assure proper allocation and use of the funds advanced pursuant to this Agreement, are not intended for the benefit of GreenField Solar , their agents, employees, tenants, or any other third party.

13. No failure by the City to exercise and no delay in exercising any right, power, or privilege under or pursuant to this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

14. This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed to be an original.

15. This Agreement is made, executed, and delivered in the State of Ohio, and Ohio laws shall govern its interpretation, performance and enforcement.

16. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is directly or indirectly interested.

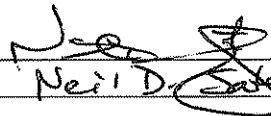
action duly taken by the shareholders, directors and/or officers of the corporation, who, pursuant to the organizational documents and pursuant to law have authority to delegate such authority.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the date as above written

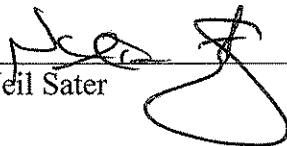
CITY OF OBERLIN, OHIO

By: 
Eric Norenberg, City Manager

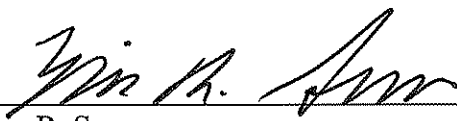
GREENFIELD SOLAR CORP.

By: 
Neil D. Sater, Its President

GUARANTOR:


Neil Sater

Approved as to form:


Eric R. Severs
Oberlin Law director

PROMISSORY NOTE

\$75,000.00

November 20, 2009

For value received, **GREENFIELD SOLAR CORP.**, a Nevada for-profit corporation licensed to do business in the State of Ohio, hereinafter referred to as "Maker", promises to pay to the order of the **CITY OF OBERLIN, OHIO**, an Ohio Charter Municipality, hereinafter referred to as "Holder", at its principal office located at 85 South Main Street, Oberlin, Ohio 44074, or such other place as the Holder hereof shall designate, the sum of **Seventy-Five Thousand Dollars (\$75,000.00)**, derived from monies received from the Oberlin Business Assistance Revolving Loan Program, as approved by the Ohio Department of Development, pursuant to the Ohio Small Cities Community Development Block Grant Program, or so much of said proceeds as shall be actually advanced to Maker pursuant to that certain Loan Agreement of even date herewith between the Maker and the Holder, said Agreement being incorporated herein by reference, and being made a part hereof.

The term of the loan shall be ten (10) years from the date of the closing of the loan, which shall be designated as thirty (30) days from the date that Maker receives the monies from Holder for payment of the eligible expenses incurred in the project as set forth in the Agreement mentioned hereinbefore.

The money shall be repayable in One Hundred Twenty (120) monthly installments as outlined in the attached "Loan Payment Schedule", such including interest at the rate

of Two 1/4 percent (2.25 %) per annum. For the first six (6) payments, Maker shall pay an amount equal to the accrued interest only, with interest deemed to first accrue from the date of closing (thirty days after the date Maker receives funds) and with the first payment due thirty (30) days from the date of closing. Each of the next five (5) monthly payments of interest only shall be due on the same day of each succeeding month thereafter. Each of the next one hundred and fourteen (114) payments shall be made on the same day of each month thereafter, and shall be in such equal monthly amount of principal and interest as shall amortize the loan over such nine (9) year, six (6) month period. The amortization shall be computed on the basis of the "US Rule". At any time during the term of the loan, the entire outstanding balance may be paid in full without Makers incurring a penalty.

In the event that Maker sells, transfers, or assigns all or substantially all of the business now known as "GreenField Solar", or should there be a foreclosure upon or other disposition of all or substantially all of the assets of the business outside of the ordinary course of business transferred to Maker, the balance of the loan monies evidenced by this Note shall be immediately due and payable.

It is expressly agreed that if default be made in the performance of any covenant or condition of this Note and the Payment Schedule attached hereto, or in the Agreement between the Maker and the Holder as mentioned hereinbefore, or the mortgage or Security Agreement securing payment of this Note, and such default remains uncured for

more than thirty (30) days after notice thereof, then, and in that event, the unpaid balance of the aforesaid principal sum, plus all accrued interest, shall at the option of the Holder, at once become and be due and payable, anything hereinabove contained to the contrary notwithstanding.

Maker for himself, his successor and assigns, in the event of default hereunder, hereby waives all exemption laws of the State of Ohio, or any other state or territory of the United States insofar as the laws of such state or territory may permit, and hereby irrevocably authorizes any attorney or any Court of record to appear for it in any Court, whether it be a Court of law or of equity in the State of Ohio or any other state or territory of the United States, and confess judgment against Maker, his assigns, in favor of the Holder hereof for the amount appearing due and payable thereon after maturity, and reasonable attorney's fees on such amount unpaid hereon and cost of suit, and release all errors and waive all rights of appeal and stay of execution.

The Maker and Endorsers hereof do hereby jointly and severally waive presentment, protest and demand, notice of protest, notice of demand and of dishonor and non-payment of this Note, and expressly agree that his Note or any payment thereunder may be extended from time to time without in any way affecting the liability of the Maker and the Endorsers.

The rights and remedies of the Holder, as provided herein, shall be cumulative and concurrent and may be pursued singularly, successively or together at the sole discretion

of the Holder and may be exercised as often as occasion theretofore shall occur, and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release of the same.

Any required notice shall be sent certified mail to Maker at the following address:

132 Artino Street
Oberlin, Ohio 44074

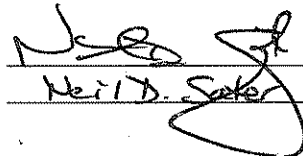
IN WITNESS WHEREOF, this Note has been duly executed by the undersigned

Neil D. Sater on the day and year above written.

MAKER:

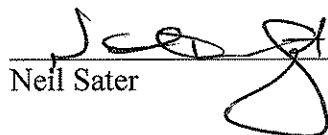
GREENFIELD SOLAR CORP.

By:


Neil D. Sater, Its President

GUARANTEE

The undersigned persons in their individual capacities, and not as agents or representatives of the Maker, do hereby jointly and severally guarantee payment of this Promissory Note. None of the provisions of the sixth paragraph above relative to waiver of exemptions and confession of judgment shall apply to the undersigned as Guarantors.


Neil Sater

SECURITY AGREEMENT

THIS AGREEMENT is made and entered into on this 20th day of November, 2009, by and between **GREENFIELD SOLAR CORP.**, a Nevada for-profit corporation licensed to do business in the State of Ohio, hereinafter called "Debtor", and the **CITY OF OBERLIN, OHIO**, an Ohio Charter Municipality, its successors and assigns, hereinafter called "Secured Party".

Debtor hereby grants to Secured Party, a security interest in the Debtor's property specifically described in Exhibit "A" attached hereto and made a part hereof, used in the business of Debtor at 132 Artino Street, Oberlin, Ohio, whether now owned or hereafter acquired, (hereinafter called "Collateral"), to secure the payment of **Seventy-Five Thousand Dollars (\$75,000.00)** as provided in a note of even date herewith, and also to secure the payment and performance of any and all obligations due or to become due hereafter, arising out of a certain Loan Agreement entered into by and between the Debtor and the Secured Party on the 20th day of November, 2009.

Debtor warrants and agrees that:

1. The Collateral will be kept at 132 Artino Street, Oberlin, Ohio. Debtor will notify Secured Party of any change in the location of the Collateral within Ohio and will not remove the Collateral from Ohio without the prior written consent of the Secured Party. The Secured Party may examine the Collateral at any time, wherever located, during standard business hours and upon reasonable prior notice to the Debtor.

2. The Collateral is to be used primarily for Debtor's business purposes.
3. The Debtor's place of business in Ohio is 132 Artino Street, Oberlin, Ohio.
4. Except for the security interest granted herein, Debtor is, and as to Collateral to be acquired after the date hereof, shall be, the owner of the Collateral free from any lien, security interest or encumbrance, and the Debtor shall defend the Collateral and proceeds thereof against all claims and demands of all persons at any time claiming the same or any interest therein adverse to Secured Party.
5. Debtor will not sell, offer to sell or otherwise transfer or encumber the Collateral without the prior written consent of the Secured Party; will keep the Collateral in good order and repair and will not waste or destroy the Collateral.
6. No financing statement covering the Collateral, other than the one naming the City as the Secured Party pursuant to this Agreement is on file in any public office, and upon the request of the Secured Party, Debtor will join with the Secured Party in executing one or more financing statements pursuant to the Ohio Uniform Commercial Code in a form satisfactory to Secured Party and will pay the cost of filing the same in all public offices wherever filing is deemed necessary or desirable by Secured Party.
7. Debtor will keep the Collateral insured at all times against loss by fire and/or other hazards concerning which, in the judgment of the Secured Party, insurance protection is reasonably necessary, in a company or companies satisfactory to Secured Party and in amounts sufficient to protect Secured Party against loss or damages to said

Collateral that such policy or policies of insurance will be delivered to Secured Party, together with loss payable clauses in favor of Secured Party as their interest may appear, in form satisfactory to Secured Party.

8. At its option, Secured Party may discharge taxes, liens, or security interests or other encumbrances at any time levies are placed upon the Collateral, may pay for insurance on the Collateral and may pay for the maintenance and preservation of the Collateral. Debtor agrees to reimburse Secured Party on demand for any payment made, or any expense incurred by Secured Party pursuant to the foregoing authorization. Until default, Debtor may have possession of the Collateral and use it in any lawful manner not inconsistent with this Agreement and not inconsistent with any policy of insurance thereon.

9. Upon the happening of any of the following events or conditions, namely, (i) default in the payment or performance or obligation or of any covenant or liability contained or referred to herein or in any Promissory Note evidencing any of the obligations; (ii) any warranty, representation or statement made or furnished to Secured Party by or on behalf of Debtor in connection with this Agreement or to induce Secured Party to make a loan to Debtor proving to have been false in any material respect when made or furnished; (iii) loss, theft, substantial damage, destruction, sale or encumbrance of any of the Collateral, or the making of any levy, seizure or attachment thereof or thereon; (iv) death, dissolution, termination of existence, insolvency, business failure,

appointment of a receiver, assignment for the benefit of any creditor, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against, Debtor or any guarantor or surety for Debtor, thereupon, or at any time thereafter (such default not having been previously cured) Secured Party at their option may declare all of the obligations to be immediately due and payable and shall then have the remedies of a secured party under the laws of the State of Ohio, including, without limitation thereto, the right to take possession of the Collateral, and for that purpose, Secured Party may, so far as Debtor can give authority therefor, enter upon any premises on which the Collateral or any part thereof may be situated and to remove the same therefrom. Secured Party may require Debtor to make the Collateral available to Secured Party at place to be designated by Secured Party which is reasonably convenient to both parties. Secured Party will give Debtor at least five days prior written notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made, and at any such public or private sale Secured Party may purchase the Collateral.

10. This Agreement and the security interest in the Collateral created hereby shall terminate when the obligations have been paid in full. No waiver by Secured Party of any default shall be effective unless in writing nor operate as a waiver of any other default of or of the same default on a future occasion. All rights of Secured Party shall inure to the benefit of heirs, executors, administrators, successors and assigns of Secured

Party; and all obligations of Debtor shall bind the heirs, executors, administrators, successors and assigns of Debtor. If there be more than one Debtor, their obligations hereunder shall be joint and several. This Agreement shall take effect when signed by Debtor.

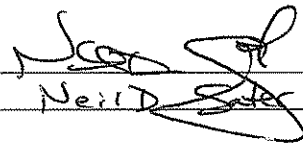
11. This Security Agreement contains the entire agreement between the parties; and no oral agreements shall be binding.

THIS SECURITY AGREEMENT is made and entered into this 20th day of November, 2009.

DEBTOR:

GREENFIELD SOLAR CORP.

By:

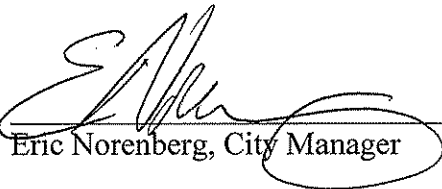


Neil D. Suter, Its President

SECURED PARTY:


CITY OF OBERLIN, OHIO

By:



Eric Norenberg, City Manager

Approved as to form:



Eric R. Severs
Oberlin Law director