

RESOLUTION NO. 1053

RESOLUTION APPROVING AN AGREEMENT WITH ALTORFER INC. IN CONNECTION WITH A SIDEWALK.

WHEREAS, the OWNER is planning to construct an Altorfer dealership in the CITY, said dealership being located on property legally described on Exhibit "A" attached hereto and incorporated by this reference; and

WHEREAS, to that end, the OWNER has submitted a Site Plan to the CITY for approval; and

WHEREAS, the CITY is requiring OWNER to construct an 5-foot sidewalk (the "Sidewalk") along its westerly and southerly frontages; and

WHEREAS, both the CITY and OWNER have agreed to postpone construction of the Sidewalk until it will connect to a future sidewalk/trail on Baker Avenue and 300<sup>th</sup> Street; and

WHEREAS, it is now necessary to approve said agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned agreement is hereby approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 17<sup>th</sup> day of December, 2012.

  
Don Kessler, Mayor PRO TEM  
JIM OAKS

ATTEST:

  
Matt Muckler, City Administrator/Clerk

Prepared and return to: Kevin D. Olson, PO Box 5640, Coralville, Iowa 52241 (319)351-2277  
Return to: City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52358

## AGREEMENT

THIS AGREEMENT entered into by and between **Altorfer, Inc.**, 9670 Tabor Road, Clinton, Illinois 61727, hereafter referred to as "OWNER"; and the City of West Branch, Iowa, hereafter referred to as "CITY."

WHEREAS, the OWNER is planning to construct a new facility to conduct business in the CITY, said facility being located on property legally described on Exhibit "A" attached hereto and incorporated by this reference; and

WHEREAS, to that end, the OWNER has submitted a Site Plan to the CITY for approval; and

WHEREAS, the CITY is requiring OWNER to construct an 5-foot sidewalk (the "Sidewalk") along its frontage along 300<sup>th</sup> Street and Baker Avenue; and

WHEREAS, both the CITY and OWNER have agreed to postpone construction of the Sidewalk until it will connect to a future sidewalk and crosswalk to be constructed on Baker Avenue; and

WHEREAS, it is now necessary to enter into an agreement to outline the obligations of each party as it pertains to the future Sidewalk construction.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. CITY shall construct the Sidewalk in the future at a date chosen by the CITY.
2. Notwithstanding the foregoing, prior to construction of the sidewalk, CITY shall provide OWNER with a cost estimate for constructing the sidewalk and OWNER shall have the option of installing the sidewalk itself. If OWNER elects not to install the sidewalk itself, then CITY may proceed with construction the sidewalk. If CITY constructs the sidewalk, then CITY shall, after construction of said Sidewalk, submit an invoice to the OWNER for all reasonable costs associated with construction of a 5-foot sidewalk. The CITY shall pay

for any width over 5-feet. The CITY is wholly responsible for all costs associated with any related street improvements.

3. OWNER shall pay the amount of the invoice within 90 days for the 5-foot sidewalk to the CITY. In the event that the OWNER fails to pay said invoice, the OWNER expressly consents to the CITY certifying said invoice amount to the Cedar County Treasurer for collection with real property taxes. By its consent, the OWNER expressly waives its rights to notice, benefit or value as it pertains to special assessments as outlined in Chapter 384 of the Code of Iowa.

4. All Notices required under this Agreement shall be deemed delivered, when placed in the U.S. Mail, postage prepaid, to the following address:

OWNER:

Altorfer, Inc. Ag Division  
9670 Tabor Road  
Clinton, IL 61727

CITY:

City of West Branch, Iowa  
110 Poplar Street  
West Branch, Iowa 52358  
ATTN: City Administrator

5. This obligations in this agreement shall run with the land and bind each party's Successors and assigns.

Dated this 15 day of December, 2012.

OWNER:

Patrick Puntieri VP  
Altorfer Inc Ag Div

Patrick Puntieri VP  
Print name and title

Altorfer Inc

CITY:

Jim Oaks  
Don Kessler, Mayor PRO TEM  
JIM OAKS

ATTEST:

Matt Muckler  
Matt Muckler, City Administrator/Clerk

STATE OF IOWA, COUNTY OF CEDAR, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared ~~Don Kessler~~ and Matt Muckler, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as passed by Resolution of the City Council; and ~~Don Kessler~~ and Matt Muckler acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

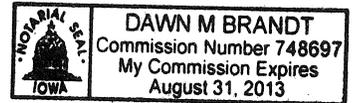
Jim OAKS DB

Jim OAKS DB

Dawn M. Brandt

A Notary Public in and for the State of Iowa

My commission expires:



STATE OF ILLINOIS, COUNTY OF Newitt, ss:

On this 15 day of December, 2012, before me, the undersigned, a Notary Public for the State of Illinois, personally appeared Pat Puntoni and \_\_\_\_\_, to me personally known, who being by me duly sworn, did say that they are the Pat Puntoni and \_\_\_\_\_ respectively, of the corporation executing the foregoing instrument, that no seal has been procured by the corporation; that the instrument was signed on behalf of the corporation by authority of its Board of Directors; and that Pat Puntoni and \_\_\_\_\_ as officers acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.



Richard F Kuntz  
Notary Public

**EXHIBIT "A"**  
**Legal Description of Property**

Lots 2, 3 and 4 to Part One of Rummells Commercial Subdivision to West Branch, Iowa, a resubdivision of Lots 1 and 2 to Part One of Rummells Commercial Subdivision, West Branch, Cedar County, Iowa.

AND

All of the land located in the south 365.00 feet of the west 450.00 feet of the Southwest Quarter of the Southwest Quarter of Section 8, Township 79 North, Range 4 West of the 5<sup>th</sup> P.M., Cedar County, Iowa

Except the south 40 feet of the east 400 feet of said west 450 feet thereof;

And further excepting a tract of land located in the south 365.00 feet of the west 450 feet of the Southwest Quarter of the Southwest Quarter of Section, Township 79 North, Range 4 West of the 5<sup>th</sup> P.M., of Cedar County, Iowa, and being more particularly described as:

Commencing as a point of reference of the Southwest corner of said Section 8; thence North  $00^{\circ}34'37''$  West (Bearings assumed for the purposes of this description) 40 feet along the west line of said Southwest Quarter of the Southwest Quarter; thence  $89^{\circ}59'39''$  East, 50 feet to the east line of Baker Avenue (County Road X-30) to the point of beginning; thence North  $00^{\circ}3'37''$  West, 71.22 feet along said east right-of-way; thence South  $30^{\circ}12'11''$  East, 53.05 feet; thence South  $55^{\circ}21'47''$  East, 44.62 feet to the north right-of-way line of 300<sup>th</sup> Street; thence South  $89^{\circ}39'59''$  West, 62.68 along said north right-of-way to the east right-of-way line of Baker Avenue to the point of beginning.