

TAX INCREMENT FINANCING
AGREEMENT
BETWEEN
VILLAGE OF BELMONT, WISCONSIN

and

CAREY INVESTMENTS, LLC

ARTICLE I
INTERPRETATION AND DEFINITIONS

1. Rules of interpretation.

Unless the context clearly indicates to the contrary or unless otherwise provided herein, the following rules of interpretation shall apply to this Agreement:

(a) The terms defined in this Agreement which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document; provided, that nothing contained in this sentence shall be construed to authorize any such renewal, extension, modification, amendment or restatement other than in accordance with this Agreement.

(b) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection and exhibit references are to this Agreement unless otherwise specified. Whenever an item or items are listed after the word “including”, such listing is not intended to be a listing that excludes items not listed.

(c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing person shall include individuals, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

(d) Captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

2. Definitions.

- (a) “Village,” the Village of Belmont, Wisconsin;
- (b) “Village Board,” the governing body of Belmont, Wisconsin;
- (c) “Developer,” Carey Investments, LLC, its successors and assigns;
- (d) “Developer’s Incentive,” Funds provided by the Village in the total amount of \$105,00 for the construction of a commercial building on property owned by Developer in the Village of Belmont more particularly described in Exhibit B attached hereto. Improvements to Village infrastructure will be the subject of a separate agreement.

(e) “Project,” “Development” or “Development Project,” the construction of a commercial building valued at not less than \$750,000 (excluding land value).

(f) Project Area. The Project Area consists of the area described in Exhibit B, attached hereto.

(g) Project Improvements. In accordance with the terms and conditions of this Agreement, to satisfy those conditions which are the basis for eligibility and designation of the Project Area as a commercial or industrial development area, the Developer shall cause the Project Area to be developed. The Developer shall construct or cause to be constructed a commercial building according to design standards mutually agreed upon between the Developer and the Village. The cost of the Project Improvements shall be paid for by the Developer and Village through a Developer’s Incentive.

(h) “Project Costs,” include the sum total of all reasonable or necessary costs incurred or estimated to be incurred incidental to the development of the commercial building. Such costs include, but are not limited to the following:

- (1) Costs of studies, surveys, plans and specifications;
- (2) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services.
- (3) Cost of construction of public works or improvements;
- (4) Financing costs, including capitalized interest costs.

(i) “Reimbursable Project Costs,” the portion of Project Costs which pursuant to this Agreement are to be funded or reimbursed with the Developer’s Incentive, and which costs are set for in Exhibit A attached hereto;

(j) “Total Initial Equalized Assessed Value,” that amount certified by the Village Assessor which equals the most recently ascertained equalized land assessed value of each taxable lot, block, tract or parcel or real property within the Project Area more particularly described herein as of January 1, 2019.

ARTICLE II

RESPECTIVE OBLIGATIONS

In addition to any obligations found elsewhere in this Agreement, the Village and the Developer shall comply with the following to-wit:

1. Development Schedule.

It is the intention of the parties that development activities for Project Area be substantially commenced and completed on or before December 31, 2020.

2. Developer's Duties. Subject to the conditions precedent set forth in Article II, Section 4 herein, Developers duties are as follows:

(a) Developer shall comply with all Village development requirements, all applicable laws, ordinances, rules and regulations, and the provisions of this Agreement.

(b) Developer shall complete all development activities on or before the date set forth under Article II, Section 1 above.

3. Village's Duties. Subject to Developer's full compliance with all of its covenants and agreements and the satisfaction of the conditions precedent in Article II, Section 4 herein, Village hereby agrees as follows:

(a) Village shall take all reasonable actions to cooperate with Developer in the Developer's duty to complete the Project.

(b) At such time as Village and its advisors shall determine it is appropriate that the Village release funds for the Developer's Incentive, Village shall release the funds for the Project Improvements.

4. Conditions Precedent.

(a) To Village's Duties. The Village shall not disburse the Developer's Incentive nor shall the Village reimburse Developer or any other entity for any Project Costs until satisfactory guarantees to complete the Project Improvements have been provided by the Developer and approved by the Village.

(b) To Developer's Duties. Developer's obligations hereunder are expressly.

ARTICLE III

PROJECT COSTS AND OBLIGATIONS; REPRESENTATIONS

1. Project Costs and Obligations. The Developer agrees that upon Substantial Completion of the Project, the Project shall have a fair market value as of January 1, 2021, of not less than \$750,000 (exclusive of land costs) as verified by the Village Assessor; and shall provide to the Village satisfactory evidence thereof upon substantial completion. During the term of this Agreement, the Developer shall reasonably repair and maintain the Project so as to preserve and maintain the fair market value thereof, so as not to fall below the amounts hereinafter described. Developer shall not, by act or omission, take any action or omit to take any action that will result

in a substantial diminution of the fair market value of the Project.

2. Cash Grant Repayment by Developer. Attached hereto and marked as Exhibit C and incorporated herein, is a Schedule entitled "Tax Incremental Cash Flow Proforma Estimated Revenues Based on Projected Values (herein as "Cash Flow").

Illustrated on the Proforma in the column entitled "Total Valuation" is the anticipated fair market value of the Parcel and Project for each Revenue Year shown thereon. The Cumulative Increment will generate sufficient tax increment to repay the Cash Grant of principal and interest for each tax year.

In the event the fair market value of the Project for tax purposes in any Revenue Year beginning with the year 2021 should be less than the amount shown on Proforma such that the Village does not realize at least the "Cumulative Increment" amount for each Revenue Year, then in such events, the Developer shall pay to the Village, upon demand by "Deficient Notice", a payment for each such year equal to the difference between the "Cumulative Increment" amount(s) of projected TIF Revenue to be generated as set forth on Proforma and the Revenue Payments based on the increment actually received by the Village for such Revenue Year.

3. Revenue Generation. The Developer acknowledges that the Cash Grant is being provided by the Village in reliance upon the future generation of general property taxes which will generate revenues for the Village on the amount disbursed for or on behalf of the Developer under this Agreement. During the term of the TIF District, the Developer shall guaranty the use by any subsequent purchaser of the Property for purposes sufficient at all times to avoid an Annual Tax Increment Deficit and shall take no action which would negatively affect the value of the Property.

4. Construction Representation. The construction of the Project would not be undertaken by the Developer, and in the opinion of the Developer, would not be economically feasible within the reasonably foreseeable future, without the financial assistance provided by the Village and the benefits given to the Developer hereunder.

5. Payment of Taxes. The Developer shall, following the date of execution of this Agreement and during the term hereof, pay in a timely manner as and when due any and all real estate taxes, special assessments, utilities and other obligations for which a lien could be placed against the Parcel, Project or personal property thereon because of nonpayment thereof. Nothing in this Agreement shall impair any statutory rights of the Village with respect to the assessment, levy,

priority, collection, and/or enforcement of real estate property taxes. In addition, the Developer agrees to pay timely to the Village all special assessment that may be assessed or levied in connection with the Property under the applicable special assessment laws, rules, regulations, ordinances and rates in effect at the time said special assessment are assessed or levied.

ARTICLE IV
SPECIAL MATTERS

1. Compliance with Laws. At all times during the term of this Agreement and until termination of the Development Plan, but subject to the Developer's rights to contest the same in any manner permitted by law, the Developer, its members and principals, at its sole cost and expense, shall comply in every respect with all applicable laws, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in force or which may be enacted hereafter which pertain to the Development.

2. Certificate of Compliance. Upon the completion of the Project, the Developer shall submit a report certifying that the Project Improvements have been completed and that it is in compliance with all other provisions of this Agreement. The Village may conduct an investigation, and if the Village determines that the Project has been completed, and that all of Developer's duties pursuant to this Contract have been performed, then it shall issue a Certificate of Completion and Compliance and certify Project Costs as eligible for reimbursement. If the Village determines that the Project has not been completed, or that Project Costs have not been incurred as certified, or that the Developer is not in compliance with the terms of this Agreement, then it shall not issue a Certificate of Completion and Compliance and shall specify in writing the reason or reasons for withholding its certification. Upon request of the Developer, the Village shall hold a hearing at which the Developer may present new and/or additional evidence.

The certification by the Village shall be a conclusive determination of the satisfaction and termination of the covenants in this Agreement, with respect to the obligations of the Developer to complete the Project Improvements within the dates for the beginning and completion thereof, but shall not prevent Village from action in the event of any subsequent default by Developer in the performance of any of its other obligations under this Agreement.

3. Sale or Disposition of Project Property.

(a) Village Approval of Purchasing Entity. No sale, transfer or other conveyance of any property in the Project Area may be made without the prior written approval of Village, which

approval will not be unreasonably withheld. The Village's right of approval of any transferee shall be in force as long as the Developer's Incentive remains unreimbursed in whole or in part. Without limiting the generality of the foregoing, the Village may require that any transferee demonstrate to the Village's reasonable satisfaction, that it has sufficient financial, management, property ownership and operation capabilities, and that it is interested in the long-term viability of the subject land use. In addition, as a condition precedent to the transfer of any property interest within the boundaries of the Project Area to any transferee, the Developer shall require the transferee to enter, and shall deliver to Village, an agreement between Village and such transferee in a form as specified by the Village, or upon other terms requested by such transferee and acceptable to the Village, obligating the transferee to comply with the obligations in this Agreement relating to the property. Upon execution of such agreement between the Village and transferee, the Developer shall be released from its obligations in this Agreement relating to said transferred property. The Village shall exercise its right to approve or deny any proposed sale or transfer within sixty (60) days from the date of receipt notice from the Developer. In the event the Village fails to act within said sixty (60) days, the proposed sale or other transfer shall be deemed approved.

(b) Obligation to Ameliorate Existing Conditions. The Developer's undertakings pursuant to this Agreement shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable against purchasers or other transferees as if such purchaser or transferee were originally a party to and bound by this Agreement.

(c) Incorporation. The restrictions set forth above in subsections (a) and (b) of this Article IV, Section 3 shall be incorporated into any deed or other instrument conveying an interest in real property, other than a lease agreement, within Project Area and shall provide that said restrictions shall constitute a benefit held by both the Developer and the Village. Failure of the Developer to require that such restrictions be placed in any such deed or other instrument shall in no way modify, lessen or diminish the obligations and restrictions set forth herein.

4. Lease of Project Property.

(a) The Developer, or any third party, may lease real property within the Project Area. The Developer, or any third party, shall insert in any such lease the following language and shall have such lease signed by the lessee indicating acknowledgment and agreement to the following provision:

Taxes: Tenant acknowledges that the Leased premises are a part of a Tax Increment Financing district (“TIF District”) created by Belmont, Wisconsin (the “Village”) and that certain taxes generated by Tenant’s occupancy will be applied toward the costs of improvements for the Development.

Developer shall enforce said provision to the maximum extent permitted by law. At least five (5) days prior to its execution, the Developer shall provide a certification to the Village, signed by Developer and each such tenant, confirming that the lease includes the provisions satisfying the Developer’s obligation as set forth in this Article IV, Section 4. Failure of the Developer to require that such restrictions be placed in any such lease shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Project Area.

5. Assignment of Developer’s Obligations.

(a) The Developer represents that its undertakings pursuant to this Agreement are for the purpose of development in accordance with the Project Plan.

(b) Without limiting the rights of the Developer or any third party under this Agreement, the Developer agrees that this Agreement and the rights, duties and obligations hereunder may not and shall not be assigned by the Developer except upon terms and conditions agreeable to the Village. Any proposed transferee shall have all of the qualifications and financial responsibility, as determined by the Village, necessary and adequate to fulfill the obligations of the Developer, and, if the proposed transfer relates to a portion of the Project Area on which Project Improvements are underway, such obligations to the extent that they relate to such property. Any proposed transferee shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the Village assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to a portion of the Project Area, such obligations, conditions and restrictions to the extent that they relate to such portion). In the event this Agreement is assigned in whole or part and approved as set forth herein, the Developer shall be released from any further obligations set forth herein accruing after the date of such assignment.

6. Transfer of Interests in Developer. Developer shall, prior to the sale, conveyance or other transfer of any interest in Developer (including without limitation any stock if Developer is a corporation or membership interests if Developer is a limited liability company), deliver to Village a request for approval of such transfer, and no such transfer shall be permitted except with the prior approval of Village. Upon submission by Developer of any request for transfer to Village, Village shall have the right to request such documentation and information as Village shall determine to be

necessary or desirable to determine whether such transfer is acceptable to Village. Any purported transfer by Developer or any party owning any interest in Developer of any interest without the consent of Village shall be null and void. In addition, Village may require the Developer, as a condition precedent to the transfer of any interests in the Developer, to require the transferee to enter into an agreement with Village, upon terms acceptable to the Village, obligating the transferee to comply with the requirements of the Development Plan and the obligations in this Agreement relating to the property. Notwithstanding the foregoing, Developer or Developer's members, or any one of them, may, without notice to or approval of Village, transfer interests in Developer to any related party, affiliate or trust, if such transfer does not result in a material change in the controlling interests of Developer.

7. Insurance and Reconstruction. Developer shall keep the Project Improvements adequately insured against loss or damage occasioned by fire, extended coverage perils (to specifically include damage coverage for wind storm, hail storm and similar natural disaster hazards as the Village may reasonably require) for as long as this Agreement is in force and the Village has not recovered its expenses for this project by Tax Increment Financing. In the event buildings or improvements owned by Developer are damaged or destroyed, Developer agrees to repair or rebuild same to maintain the value of the Project Improvements at the same level as they were prior to the loss or damage.

8. Permitted Uses. The Developer shall take such action as is from time to time necessary to permit only such uses within the Project Area which conform to and are permitted by this Agreement.

ARTICLE V

INDEMNIFICATION; DEFAULT; REMEDIES

1. Indemnification.

(a) The Developer shall indemnify, protect, defend and hold the Village and its officers, directors, members, commissioners, employees and agents (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any acts or omissions of the Developer, its constituent members or partners, their employees, agents,

independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with the ownership, use or occupancy and development of the Project Area or any portion thereof and the Project Improvements.

(b) In the event any suit, action, investigation, claim or proceeding (collectively, an “Action”) is begun or made as a result of which the Developer may become obligated to one or more of the Indemnified Parties hereunder, the Indemnified Party shall give prompt notice to the Developer of the occurrence of such event, but the failure to notify the Developer will not relieve the Developer of any liability that it may have to an Indemnified Party. After receipt of such notice, the Developer may elect to defend, contest or otherwise protect the Indemnified Party against any such Action, at the cost and expense of the Developer, utilizing counsel of the Developer’s choice. The Indemnified Party shall have the right, but not the obligation, to participate, at the Indemnified Party’s own cost and expense, in the defense thereof by counsel of the Indemnified Party’s choice. In the event that the Developer shall fail timely to defend, contest or otherwise protect an Indemnified Party against such Action, the Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Indemnified Party after notice to the Developer asserting the Developer’s failure to timely defend, contest or otherwise protect against such Action), the Indemnified Party may submit any bills for fees and costs received from its counsel to the Developer for payment and, within five (5) business days after such submission, the Developer shall transfer to the Indemnified Party sufficient funds to pay such bills. The Developer acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

(c) An Indemnified Party shall submit to the Developer any settlement proposal that the Indemnified Party shall receive. The Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that the Developer consents to such settlement. Neither the Developer nor the Indemnified Party will unreasonably withhold its consent to a proposed settlement.

(d) The Developer expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon the Developer in order to induce the Village to enter into this Agreement. To the fullest extent permitted by law, an Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or

provided pursuant to, this Agreement. If such court action is successful, the Indemnified Party shall be reimbursed by the Developer for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

(e) The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

(f) The Village shall have no obligation or liability to the architect, contractor, or subcontractor, or any other party retained by the Developer in the performance of Developer's obligations and responsibility under the terms and conditions of this Agreement. The Developer specifically agrees that no representations, statements, assurances, or guarantees will be made by the Developer to any third party or by any third party, which is contrary to this provision.

2. Default.

(a) If the Developer or Village does not comply with provisions of this Agreement, in that the Developer or the Village shall do, permit to be done, or fail or omit to do, or shall be about so to do, permit to be done, or fail or omit to have done, anything contrary to or required of it by this Agreement, and if, within thirty (30) days after notice of such default by the non-defaulting party to the defaulting party, the defaulting party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said thirty (30) day period (but in any event if the defaulting party shall not have cured such default within one hundred twenty (120) days), then the non-defaulting party may institute such proceedings as may be necessary in its opinion to cure the default including, but not limited to, proceedings to compel specific performance by the party in default of its obligations and, in the case of default by the Developer, the Village is granted the right to terminate this Agreement, the right to apply any deposit or other funds submitted by the Developer to the Village in payment of the damages suffered by it, the right to withhold or apply funds from the Special Allocation Fund to such extent as is necessary to protect the Village from loss or to ensure that the Project is fully and successfully implemented and the right to withhold issuance of a Certificate of Completion and Compliance. If any action is instituted by the either party hereunder, the non-prevailing party in such action shall pay any and all costs, fees and expenses, including attorneys' fees incurred by the prevailing party in enforcing this Agreement.

(b) The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative and the exercise by either party of any one or more of

such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by either party shall apply to obligations beyond those expressly waived.

(c) The Developer (for itself, its successors and assigns, and for all other persons who are or who shall become liable, by express or implied assumption or otherwise, upon or subject to any obligation or burden under this Agreement), waives to the fullest extent permitted by law and equity all claims or defenses otherwise available on the ground of being or having become a surety or guarantor, whether by agreement or operation of law. This waiver includes, but is not limited to, all claims and defenses based upon extensions of time, indulgence or modification of terms of contract.

(d) Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by either party of any specific default by the other party shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

ARTICLE VI

MISCELLANEOUS

1. Notice. Any notice required by this Agreement shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to the Village shall be addressed to:

Alice Gilman
Village of Belmont
P. O. Box 6
222 S. Mound Avenue
Belmont, WI 53510

Notices to Developer shall be addressed to:

Carey Investments, LLC
255 Powell Road
Mineral Point, WI 53565

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days' written notice thereof.

2. Modification. The terms, conditions, and provisions of this Agreement and of the Project Plan can be neither modified nor eliminated except in writing and by mutual agreement between the Village and Developer. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

3. Effective Date. This Agreement shall become effective on the date set forth herein and will expire upon full satisfaction of all obligations under this Agreement.

26. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

27. Validity and Severability. It is the intention of the parties hereto that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of Wisconsin, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Contract shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. All exhibits attached hereto are hereby incorporated into this Agreement by reference.

28. Time and Performance are of the Essence. Time and exact performance are of the essence of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

VILLAGE OF BELMONT

COUNTERSIGNED:

Alice Gilman, Village Clerk

By: _____
Bradley Bockhop

CAREY INVESTMENTS, LLC

ATTEST:

_____, Member

By: _____
_____, Member

ACKNOWLEDGEMENT

STATE OF WISCONSIN)
) SS
COUNTY OF LAFAYETTE)

Personally came before me this _____ day of _____ 2019, the above named Bradley Bockhop, Village President, and Alice Gilman, Village Clerk, to me known to be the persons and officers who executed the foregoing instrument and acknowledged the same.

_____(print)
Notary Public, State of Wisconsin
My Commission expires _____:

ACKNOWLEDGEMENT

STATE OF WISCONSIN)
) SS
LAFAYETTE COUNTY)

Personally came before me this _____ day of _____ 2019, the above named _____ and _____, as Members of Carey Investments, LLC, to me known to be the persons and officers who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My commission _____

This document drafted by: Eileen A. Brownlee
1038 Lincoln Avenue
Fennimore, WI 53809

EXHIBIT A

List of all costs to be paid for by TIF Funding:

1. Infrastructure Improvements:

A. Site Excavation	\$	47,650.00
B. Parking Lot Subbase (Gravel)	\$	43,200.00
C. Storm Sewer	\$	7,200.00
D. Exterior Concrete	\$	1,950.00
	\$	
Total Infrastructure Improvements =		\$ 100,000.00

2. Administrative Costs:

A. Attorney	\$	
B. Accountant	\$	
C. Engineering & Planning	\$	5,000.00
Total Administrative Costs =		\$ 5,000.00

4. Interest:

Total Capitalized Interest Costs =		\$ 0.00
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TOTAL COSTS = \$ 105,000.00

EXHIBIT B

Legal Description of the Project Area:

All that property shown on Certified Survey Map No. _____ recorded in the Office of the Register of Deeds for Lafayette County, Wisconsin, on November ____, 2019, as Document No. _____.

(Certified Survey Map Attached)

EXHIBIT C

**Tax Incremental Cash Flow Proforma
Estimated Revenues Based on Projected Values**

(Document Attached)