

Ordinance 2023-72

An Ordinance Approving a Redevelopment & Economic Incentive Agreement by, between, and among the Village of Northbrook, Northbrook Court NewCo LLC, and Northbrook Anchor Acquisition, LLC, and Providing for the Issuance of Notes, Terms of Notes, and Execution of Note Orders in Connection Therewith

Passed by the Board of Trustees, 10/30/2023
Printed and Published 10/31/2023

Printed and Published in Pamphlet Form
by Authority of the
President and Board of Trustees
VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

I hereby certify that this document
was properly published on the date
stated above.

/s/ Debra J. Ford
Village Clerk

Ordinance No. 2023-72

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

An Ordinance Approving a Redevelopment & Economic Incentive Agreement by, between, and among the Village of Northbrook, Northbrook Court NewCo LLC, and Northbrook Anchor Acquisition, LLC, and Providing for the Issuance of Notes, Terms of Notes, and Execution of Note Orders in Connection Therewith

shall be, and is hereby, adopted as follows:

Section 1. RECITALS.

Northbrook Court Newco, LLC and Northbrook Anchor Acquisition, LLC (collectively, “**Owner**”) are the owners of a 96.42-acre parcel of property (“**Property**”) that is part of the 104.12-acre area commonly known as the Northbrook Court Shopping Mall (“**Northbrook Mall Property**”) and on which a 399,045 square foot retail shopping mall is currently located (“**Northbrook Court Mall Building**”).

Owner has proposed a plan for the redevelopment of the Property with a project that contemplates the ultimate replacement or adaptive reuse of the Northbrook Court Mall Building and surrounding concrete parking lot with a sustainable neighborhood environment characterized by diverse, high-quality architecture, and a mix of uses including retail shopping, lodging, dining, fitness, entertainment, new housing, and accessory uses on the Property to be known, and defined herein, as the “**Northbrook Court Planned Development**.”

Owner has requested financial assistance from the Village to enable commencement of construction of the Northbrook Court Planned Development, due to the age and condition of the Northbrook Court Mall Building, the need for new public/private infrastructure, as well as the necessary cost of quality materials to achieve the luxury retail components of the retail development and surrounding new neighborhood community and the costs of creating the additional public benefits associated with the Northbrook Court Planned Development.

To stimulate and induce the development of the Property, the Village has agreed to finance certain costs related to the Northbrook Court Planned Development through TIF and Business District revenues and Municipal Sales Tax Revenue, all in accordance with the terms and provisions of

the TIF Act and the Business District Law. The Village has adopted all necessary and required ordinances to allow for said TIF and Business District financing.

In consideration of the agreement by the Village to finance certain costs through TIF and Business District revenues and Municipal Sales Tax Revenue, the Village and Owner have agreed to execute a Redevelopment and Economic Incentive Agreement (“*Agreement*”).

The President and Board of Trustees have considered the Agreement and find and determine that it is in the best interest of the Village and the public to approve the Agreement. These matters pertain to the Village’s government and affairs and are approved pursuant to the Village’s home rule powers under the Illinois Constitution of 1970.

Section 2. APPROVAL OF AGREEMENT.

The Agreement by and between the Village and Owner shall be, and is hereby, approved in substantially the form attached hereto as *Exhibit A*.

Section 3. EXECUTION OF AGREEMENT.

The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Agreement upon receipt of at least five copies fully executed by Owner and any other person or entities whose consent is required. If documents are not received by the Village Clerk within 30 days after the date of adoption of this Ordinance, then this authority to execute and seal shall, at the option of the President and Board of Trustees, be null and void.

Section 4. RECORDATION OF AGREEMENT.

The Village Manager is hereby directed to record the Agreement with the Cook County Clerk upon satisfactory completion of all administrative details relating thereto.

Section 5. TERMS RELATED TO NOTES.

(a) Delegation to Village Manager. The Agreement provides for the issuance of various series of notes and obligations (collectively, the “*Notes*”) payable from the revenue sources described in the Agreement. In connection with the issuance of the Notes, the President and Board of Trustees hereby delegate to the Village Manager (“*Designated Officer*”) the authority to take such actions as may be required to effectuate the issuance of the Notes, which actions include, but are not limited to:

(i) Creating necessary accounts, including, but not limited to senior lien and junior lien accounts within the Northbrook Court II Tax Increment Financing District Special Tax Allocation Fund and the Northbrook Court Business District Tax Allocation Fund, and any subaccounts thereof which may be necessary to properly secure the Notes in accordance with the terms of the Agreement, including accounts related to the payment of capitalized interest or any debt service reserve in connection with any Notes, and to provide for the operation of said accounts and subaccounts with respect to the revenue sources pledged to the payment of the particular Notes;

(ii) Establishing necessary provisions related to the registration of the Notes, including the appointment of a note registrar and paying agent with respect to the Notes, which note registrar and paying agent shall be the Village Chief Financial Officer or a bank or trust company authorized to do business in the State of Illinois (“*Registrar*”);

(iii) Establishing necessary provisions effectuating the redemption of the Notes in accordance with the terms set forth in the Agreement;

(iv) Determining the final principal amounts of each of the Notes, the due dates of the payments of interest on or principal of each of the Notes, and any other terms of the Notes not set forth in the Agreement.

(b) Execution of the Notes. The Designated Officer is hereby authorized to proceed, without any further authorization or direction whatsoever from the President and Board of Trustees, to deliver the Notes as directed in the Agreement. Officers of the Village are hereby authorized to proceed, without any further official authorization or action by the President and Board of Trustees, to approve or execute, or both, such documents as shall be necessary to effectuate the issuance and delivery of the Notes, including the Notes in the form set forth in the Agreement, with such insertions, deletions, additions, modifications or changes as they shall reasonably determine to be desirable, necessary and in the best interests of the Village, their approval or execution thereof to constitute ratification by the President and Board of Trustees of any such insertion, deletion, addition, modification or change with no further official action, authorization or determination of the President and Board of Trustees. The agreements in the Agreement for the sale of the Notes to the parties noted in the Agreement are hereby ratified, approved and confirmed, it being hereby expressly found that no person holding any office of the Village either by election or appointment is in any manner financially interested, either directly in his own name or indirectly in the name of any other person, association, trust or corporation, in said agreement with any of said parties for the purchase of the Notes.

Officers of the Village as may be necessary are hereby further authorized to execute such documents, including, specifically, such closing documents and certifications as shall be required by bond counsel to render their opinion relating to the validity of the Notes and the treatment of interest on any Notes issued such that such interest is exempt from federal income taxation purposes with respect to the holders thereof under the Internal Revenue Code of 1986, as amended ("***Tax-Exempt Notes***").

In connection with the issuance of the Notes, the Designated Officer shall prepare a "***Note Order***", which shall include the pertinent details of the Notes including the items noted in Section 5(a) of this Ordinance. The Note Order shall be made available to the President and Board of Trustees at the next public meeting thereof, but such action shall be for information purposes only, it being the express intent of the President and Board of Trustees that the Designated Officer shall be fully authorized to sell, execute and deliver the Notes as herein provided without further official action of the President and Board of Trustees. The Note Order shall be delivered, along with the typewritten Notes executed by the Village as provided in this Ordinance, to the Registrar and shall provide the Registrar with the direction necessary to authenticate the Notes in accordance herewith.

All proceeds of a series of the Notes shall be deemed fully expended upon the date of the issuance of a series of the Notes.

(c) Matters Related to Tax Exemption. The Village hereby covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of Tax-Exempt Notes) if taking, permitting or omitting to take such action would cause any of the Tax-Exempt Notes to be an arbitrage bond or a private activity bond within the meaning of the Internal Revenue Code of 1986, as amended, or would otherwise cause the interest on the Tax-Exempt Notes to be included in the gross income of the recipients thereof for federal income tax purposes.

The Village also agrees and covenants with the purchasers and holders of the Tax-Exempt Notes from time to time outstanding that, to the extent possible under Illinois law, it will comply with whatever federal tax law is adopted in the future which applies to the Tax-Exempt Notes and affects the tax-exempt status of the Tax-Exempt Notes.

The President and Board of Trustees hereby authorize the Designated Officer to make such further covenants and certifications as may be necessary to assure that the use thereof will not cause the Tax-Exempt Notes to be arbitrage bonds and to assure that the interest in the Tax-Exempt Notes will

be exempt from federal income taxation. In connection therewith, the Village and the President and Board of Trustees further agree: (i) through their officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (ii) to pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Tax-Exempt Notes; and (iii) to file such forms, statements, and supporting documents as may be required and in a timely manner.

Section 6. SEVERABILITY.

If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance will remain in full force and effect, and are to be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

Section 7. EFFECTIVE DATE.

The approval of this Ordinance shall be in full force and effect following its passage by the Board of Trustees in the manner provided by law.

PASSED: This 30 day of October, 2023.

	RESULT:	ADOPTED BY CONSENT VOTE [7 TO 0]
MOVER:	Dan Pepoon, Trustee	
SECONDER:	Bob Israel, Trustee	
AYES:	Ciesla, Israel, Collison, Ross, Hebl, Pepoon, Ebhomielien	

ATTEST:

/s/ Debra J. Ford
Village Clerk

/s/ Kathryn L Ciesla
Village President

EXHIBIT A

AGREEMENT