

MEMORANDUM

TO: Mayor Prussing and Council Members
FROM: City Comptroller
RE: Distribution of 2002 Year Taxes on Provena
DATE: September 8, 2010

After meeting with Champaign County Treasurer Dan Welch and Jerry Lyke (attorney for County handling this case), my recommendation and a status update follows:

Provena paid the County the amount of \$8,855,579.66 on Friday 7/9 for taxes and interest on property taxes for the Revenue Years 2002 thru 2008 (recall that taxes are actually paid one year behind, so 2008 revenue year taxes are paid in calendar year 2009). Accompanying this payment was a letter from Provena indicating that they are still disputing amounts for years 2003 and years after 2003. Recall that the Supreme Court decision concerned only year 2002.

On July 13, Dan Welch distributed this \$8.8 million to the 15 local governments that have Provena properties in their tax base with a letter advising these governments that the amounts for years 2003 and beyond are being challenged by Provena. Of the \$8.8 million, the City of Urbana received \$17,382.36 for the general fund (few properties are not in TIF) and \$8,669,128.19 for TIF3. Following is a breakdown of the amounts for each of the affected years:

Rev. Year	Gen. Fund	T.I.F. 3	Other Govt.	Total
2002	859.78	1,317,109.40		
2003	820.46	1,271,752.52		
2004	4,826.48	1,298,124.36		
2005	4,819.82	1,272,641.60		
2006	4,734.96	1,238,484.93		
2007	655.00	1,117,814.90		
2008	665.86	1,153,200.48		
Total	17,382.36	8,669,158.19	169,039.11@	8,855,579.66

@Of other governments, Urbana School District is largest amount of 58,469.61 (all 7 years)

Based on Provena's stated position and the Supreme Court ruling for year 2002, I am only reasonably confident that year 2002 can be considered as received and will not have to be refunded to Provena.

Therefore this amount can be distributed to the various taxing governments. The process under Illinois law is as follows: the City Council in a resolution (attached) designates a certain amount as surplus in the TIF and indicates it is not needed and should be distributed to the various taxing governments under provisions of Illinois law. It is important to note that once designated as surplus and distributed, there is no legal mechanism to recover these amounts back from the taxing governments. That is why I believe it is prudent to not distribute the amounts for years 2003 and beyond at this time. TIF 3 will hold and invest these disputed amounts until the legal status of any of these years are clarified (same for smaller amounts being held by City). Then a decision can be made on each of these amounts at that time.

I have calculated below the amounts that will be distributed to the various governments from the TIF3 surplus distribution (under Illinois law, this amount is distributed based on proportion of property tax levied for the most recent year) and have attached a resolution and budget ordinance amendment to accomplish this.

Urbana School District	681,831
City of Urbana	204,369
Urbana Park District	131,919
Champaign County	118,229
Parkland	80,251
MTD	41,357
Cunningham Township	29,766
Public Health	16,912
Forest Preserve	12,475
Total	1,317,109

Attached please find the 2 actions necessary to affect this surplus distribution, a resolution declaring the surplus and ordering the distribution and a budget ordinance amendment to reflect these amounts.

RESOLUTION NO. 2010-09-025R

A RESOLUTION DEEMING CERTAIN FUNDS IN THE NORTH CAMPUS AND KING PARK NEIGHBORHOOD AREA SPECIAL TAX ALLOCATION FUND (TAX INCREMENT REDEVELOPMENT PROJECT AREA NUMBER 3) AS “SURPLUS” FUNDS AND DIRECTING THE PAYMENT AND DISTRIBUTION THEREOF (SEPTEMBER 2010)

WHEREAS, pursuant to Ordinance No. 8990-59, adopted December 18, 1989, the City Council (the “**Corporate Authorities**”) of the City of Urbana, Champaign County, Illinois (the “**Municipality**”) adopted the Urbana North Campus and King Park Neighborhood Tax Increment Area Redevelopment Plan and related Redevelopment Projects, designated the Redevelopment Project Area, and authorized tax increment finance under the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 *et seq.*), as supplemented and amended (including the predecessor Act thereof, the “**TIF Act**”); and

WHEREAS, the Municipality is required under Sections 11-74.4-5(d) and 11-74.4-8 of the TIF Act to annually designate all funds deposited into the special tax allocation fund established under the TIF Ordinances that are not identified as being required, pledged, earmarked or otherwise designated for payment of or securing of obligations or anticipated redevelopment project costs as “surplus” funds and to cause the distribution thereof by paying the same to the taxing districts in the Redevelopment Project Area, the Illinois Department of Revenue and the Municipality in direct proportion to the amount of funds received from the collection of real estate taxes and from the State of Illinois and deposited into such special tax allocation fund, such amount to the taxing districts in the Redevelopment Project Area to be in the same manner and proportion as the most recent distribution by the County Collector of Champaign County, Illinois to the affected taxing districts of real property taxes from real property in the Redevelopment Project Area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, as follows:

Section 1. Findings. The Corporate Authorities find, determine and declare that the amount of funds deposited in the special tax allocation fund for the Redevelopment Project Area that is not required, pledged, earmarked or otherwise designated for payment of or securing of obligations or anticipated redevelopment project costs is \$1,317,109, such amount having been calculated and now deemed to be “surplus” funds for the year 2010 under and pursuant to Sections 11-74.4-5(d) and 11-74.4-8 of the TIF Act.

Section 2. Direction. The City Comptroller of the City be and the same is hereby authorized and directed to cause the payment and distribution of all such “surplus” funds in the manner and proportion as that specified in Sections 11-74.4-5(d) and 11-74.4-8 of the TIF Act.

Section 3. Effective Date. This Resolution shall become effective upon its passage and approval as required by law.

This Resolution is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said City Council on the ____ day of _____, 2010, A.D.

PASSED by the City Council this ____ day of _____, 2010.

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2010.

Laurel Lunt Prussing, Mayor

ORDINANCE 2010-

AN ORDINANCE REVISING THE ANNUAL BUDGET ORDINANCE

(TIF 3 SURPLUS DISTRIBUTION, 2010)

WHEREAS, the Annual Budget Ordinance of and for the City of Urbana, Champaign County, Illinois, for the fiscal year beginning July 1, 2010, and ending June 30, 2011, (the “Annual Budget Ordinance”) has been duly adopted according to sections 8-2-9.1 et seq. of the Illinois Municipal Code (the “Municipal Code”) and Division 2, entitled “Budget”, of Article VI, entitled “Finances and Purchases”, of Chapter 2, entitled “Administration”, of the Code of Ordinances, City of Urbana, Illinois (the “City Code”); and

WHEREAS, the City Council of the said City of Urbana finds it necessary to revise said Annual Budget Ordinance by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves; and

WHEREAS, funds are available to effectuate the purpose of such revision; and

WHEREAS, such revision is not one that may be made by the Budget Director under the authority so delegated to the Budget Director pursuant to section 8-2-9.6 of the Municipal Code and section 2-133 of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Annual Budget be and the same is hereby revised to provide as follows:

FUND:	Tax Increment Finance District 3 Fund	
ADD EXPENSE:	Surplus Distribution	\$1,317,109
ADD REVENUE:	Provena Tax Payment	\$1,317,109

Section 2. This Ordinance shall be effective immediately upon passage and approval and shall not be published.

Section 3. This Ordinance is hereby passed by the affirmative vote of two-thirds of the members of the corporate authorities then holding office, the "ayes" and "nays" being called at a regular meeting of said Council.

PASSED by the City Council this _____ day of _____,
_____.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
_____.

Laurel Lunt Prussing, Mayor