

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION
OF A REDEVELOPMENT AGREEMENT WITH PROVENA HOSPITALS
AND FOX DEVELOPMENT CORPORATION**

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

Section 1. That a Redevelopment Agreement between the City of Urbana, Illinois, Provena Hospitals, an Illinois not-for-profit corporation and Fox Development Corporation, an Illinois Corporation, in the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.


PASSED by the City Council this 17th day of December,
2001.

AYES: Chynoweth, Hayes, Huth, Otto, Patt, Wyman

NAYS:

ABSTAINS:

APPROVED by the Mayor this _____ day of _____, December _____,
2001.



Phyllis D. Clark
Phyllis D. Clark, City Clerk

Robert J. Satterthwaite
Deputy Clerk

Tod Satterthwaite
Tod Satterthwaite, Mayor

REDEVELOPMENT AGREEMENT

by and between the

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

and

**PROVENA HOSPITALS,
AN ILLINOIS NOT-FOR-PROFIT CORPORATION
and
FOX DEVELOPMENT CORPORATION,
AN ILLINOIS CORPORATION**

Dated as of November 1, 2001

Document Prepared By:

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EXHIBIT D	Agreement for Use of Right-of-Way

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (including any exhibits and attachments hereto, collectively, this **“Agreement”**) is made and entered into as of November 1, 2001, but actually executed by each of the parties on the dates set forth beneath their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the **“City”**), and each of the following: **Provena Hospitals**, an Illinois not-for-profit corporation (**“Provena”**), as fee owner of the Development Area (as defined below) and/or as lessor under one or more ground leases of portions of such Development Area; and **Fox Development Corporation**, an Illinois corporation (**“Fox”**), as lessee under a ground lease of that portion of the Development Area upon which Office Building One (as defined below) is to be constructed, as each of their respective interests may appear. (As relates to the Office Building One portion of the Private Development (as defined below), Provena and Fox are, collectively, the **“Developer”**, and, with respect to any other portion of the Private Development, such term refers to Provena and, if such portion is subject to a ground lease, the lessee under any such ground lease).

RECITALS

WHEREAS, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (Section 5/11-74.4-1 et seq. of Chapter 65 of the Illinois Compiled Statutes, as supplemented and amended (the **“Act”**), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City has designated the North Campus and King Park Neighborhood Redevelopment Project Area (as more particularly described in Exhibit A hereto, the **“Redevelopment Project Area”**) and approved a related redevelopment plan (entitled **“North Campus and King Park Neighborhood Redevelopment Plan”**) and project, as such related development plan (entitled **“North Campus and King Park Neighborhood Redevelopment Plan, First Amended and Restated”**) has subsequently been supplemented and amended, (the **“Redevelopment Plan”** and **“Redevelopment Project”**); and

WHEREAS, in connection with the Redevelopment Project, Redevelopment Plan and Redevelopment Project Area, the City Council of the City (the **“Corporate Authorities”**): (i) on

December 18, 1989, adopted Ordinance No. 8990-59, “An Ordinance Approving a Redevelopment Plan and Redevelopment Project; Designating a Redevelopment Project Area; and Adopting Tax Increment Allocation Finance”, which has been duly filed with the County Clerk of Champaign, County, Illinois, who has certified the property tax increment base to the City, and (ii) on December 3, 1990, adopted Ordinance No. 9091-65, “An Ordinance Adopting and Approving a Redevelopment Plan and Redevelopment Project, First Amended and Restated, for Redevelopment Project Area Number Three” (collectively, the “**TIF Ordinances**”); and

WHEREAS, as contemplated by the Redevelopment Plan and the Redevelopment Project, the Developer proposes to acquire, construct and install (or cause to be done) at least one (1) office building, and may acquire, construct and install a second office building, and other free-standing retail facilities as deemed appropriate (including the related real estate and appurtenant facilities), as accomplished in one or more phases; and

WHEREAS, the Developer is unwilling to undertake the such development without certain tax increment finance (“**TIF**”) incentives from the City, which the City is willing to provide, and the City has determined that it is desirable and in the City’s best interests to assist the Developer in the manner set forth herein and as this Agreement may be supplemented and amended.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms and phrases used in this Agreement shall have the meaning provided in the above Recitals and from place to place herein, including as follows:

“**Corporate Authorities**” means the City Council of the City.

“**Development Area**” means, collectively, the real estate consisting of such part of “**Block 1**” and such part of “**Block 2**” as described in Exhibit B hereto, upon or within which the Private Development is to be located.

“Eligible Costs” means those site preparation costs and those interest costs paid and incurred by the Developer which are related to the acquisition, construction and installation of the Private Development and which are authorized to be reimbursed or paid from the Fund as provided in Section 5/11-74.4-3(q)(2) and (11) of the Act, including the amount of any such site preparation costs or interest costs which have not been reimbursed or paid as prior **“Reimbursement Amounts”**.

“Fund” means the **“Special Tax Allocation Fund for Redevelopment Project Area Number Three”** established under Section 5/11-74.8 of the Act and the TIF Ordinances.

“Incremental Property Taxes” means those incremental real property taxes derived from the Redevelopment Project Area under Section 5/11-74.4-8 of the Act.

“Independent” or **“independent”**, when used with respect to any specified person, means such person who is in fact independent and is not connected with the City or the Developer as an officer, employee, partner, or person performing a similar function, and whenever it is provided in this Agreement that the opinion or report of any independent person shall be furnished, such person shall be appointed or approved by the City, and such opinion or report shall state that the signer had read this definition and that the signer is independent within the meaning hereof.

“Private Development” means, collectively, the following facilities to be acquired, constructed and installed in one or more phases by the Developer: (i) the office building having not less than 45,000 square feet to be located within or upon part of Block 1 of the Development Area (the **“Office Building One”**); (ii) if constructed, the office building having not less than 40,000 square feet to be located within or upon part of Block 2 of the Development Area (the **“Office Building Two”**); and (iii) if constructed, any other free standing building or structure to be located within the Development Area designed and intended to be devoted exclusively to the retail sale of goods, wares or merchandise (a **“Retail Facility”**).

“Reimbursement Amounts” means, collectively, amounts to be reimbursed or paid from the Fund to the Developer by the City under and pursuant to Section 3.1 (a) (b) and (c) of this Agreement.

“**Related Agreements**” means all option, land acquisition, development, redevelopment, construction, financing, franchise, loan, ground lease and lease agreements, whether now or hereafter existing, executed by the Developer in connection with the Private Development.

“**Requisition**” means a request by the Developer for an annual payment or reimbursement of Eligible Costs pursuant to the procedures set forth in Section 5.1 of this Agreement.

Section 1.2. Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) definitions include both singular and plural.
- (b) pronouns include both singular and plural and cover all genders; and
- (c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

(a) **Organization and Standing.** The City is a home rule municipality duly organized, validly existing and in good standing under the Constitution and laws of the State of Illinois.

(b) **Power and Authority.** The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City’s Corporate Authorities. This Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that any and all financial obligations of the City under this Agreement shall be limited to the availability of such

Incremental Property Taxes therefor as may be specified in this Agreement and that such enforceability may be further limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.

(e) Governmental Consents and Approvals. No consent or approval by any governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2. Representations and Warranties of Provena. In order to induce the City to enter into this Agreement, Provena makes the following representations and warranties to the City:

(a) Organization. Provena is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the State of Illinois.

(b) Power and Authority. Provena has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action on the part of Provena's board of directors. This Agreement is a legal, valid and binding agreement, obligation and undertaking of Provena, enforceable against Provena in accordance with its terms, except to the extent that such enforceability may be limited by law, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease,

license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which Provena is a party or by which Provena or any of its assets may be bound.

(e) **Consents.** No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by Provena of this Agreement or the performance thereof by Provena.

(f) **No Proceedings or Judgments.** There is no claim, action or proceeding now pending or to the best of its knowledge, threatened before any court, administrative or regulatory body, or governmental agency (a) to which Provena is a party and (b) which will, or could, prevent Provena's performance of its obligations under this Agreement.

Section 2.3. Representations and Warranties of Fox. In order to induce the City to enter into this Agreement, Fox makes the following representations and warranties to the Village:

(a) **Organization.** Fox is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois, and is duly qualified to transact business in, and is in good standing under, the laws of each of the other states where Fox is required to be qualified to do business.

(b) **Power and Authority.** Fox has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action on the part of Fox's board of directors. This Agreement is a legal, valid and binding agreement, obligation and undertaking of Fox, enforceable against Fox in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) **No Violation.** Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease,

license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which Fox is a party or by which Fox or any of its assets may be bound.

(e) **Consents.** No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by Fox of this Agreement or the performance thereof by Fox.

(f) **No Proceedings or Judgments.** There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which Fox is a party and (2) which will, or could, prevent Fox's performance of its obligations under this Agreement.

Section 2.4. Authorized Representatives of Developer. Unless and until the City receives written notice to the contrary from Provena, signed by both Provena and Fox, all parties mutually covenant and agree that Fox shall be the authorized representative of the Developer under this Agreement in connection with all matters arising under this Agreement pertaining to Office Building One and that Provena shall be the authorized representative of the Developer under this Agreement in connection with all matters arising under this Agreement pertaining to Office Building Two and any Retail Facility. Any such authorized representative shall have the authority to act for and on behalf of the Developer on any such matters or other obligations of the Developer under this Agreement, and the City may rely upon such authority.

Section 2.5. Related Agreements. The Developer shall deliver true, complete and correct copies of all Related Agreements (redacted by the Developer to protect any confidential or proprietary information) in existence as of the date hereof within 30 days of the execution of this Agreement, and thereafter shall deliver copies of any additional Related Agreements (redacted as aforesaid) within 20 days from the date of the execution thereof. Upon request of the City, the Developer shall make available for inspection and review an unaltered copy of all such redacted Related Agreements. The Developer represents and warrants to the City that such Related Agreements now executed and delivered are in full force and effect and have not been cancelled or terminated and that the Developer is not aware of any of its obligations under any of such existing

Related Agreements required to be performed on or before the date hereof which have not been performed by the Developer or the other parties thereto.

Section 2.6. Disclaimer of Warranties. The City and the Developer acknowledge that neither has made any warranties to the other, except as set forth in this Agreement. The City hereby disclaims any and all warranties with respect to the Private Development, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability or sufficiency of the Incremental Property Taxes for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of any projections of Incremental Property Taxes, and the Developer assumes all risks in connection with the practical realization of any such projections of Incremental Property Taxes.

ARTICLE III

CITY'S COVENANTS AND AGREEMENTS

Section 3.1. City's Financial Obligations. The City shall have the obligations set forth in this Section 3.1 relative to financing Eligible Costs in the Development Area. Upon the submission to the City by the Developer of a Requisition for Eligible Costs incurred and paid, the City, subject to the terms, conditions and limitation set forth in this Section 3.1 immediately below, agrees to reimburse the Developer from the Fund such Reimbursement Amounts as are paid and incurred by the Developer and are directly related to the Private Development in the Development Area as follows:

(a) such Reimbursement Amounts in connection with Office Building One shall not exceed in any one calendar year seventy percent (70%) of the Incremental Property Taxes actually received by the City for such calendar year which are directly attributable to Office Building One in the Development Area;

(b) such Reimbursement Amounts in connection with Office Building Two shall not exceed in any one calendar year eighty percent (80%) of the Incremental Property Taxes actually received by the City for such calendar year which are directly attributable to the Office Building Two in the Development Area;

(c) such Reimbursement Amounts in connection with any Retail Facility shall not exceed in any one calendar year one hundred percent (100%) of the Incremental Property Taxes actually received by the City for such calendar year which are directly attributable to any such Retail Facility in the Development Area; reduced by the applicable portion of such amount which is directly attributable to any such Retail Facility, as is prorated on a day for day basis for any period in any such calendar year that any such Retail Facility is not continuously operated or otherwise open for business on a regular continuing basis as a Retail Facility, unless the Corporate Authorities subsequently agree in writing; provided, however, that any such reduction as provided above shall not be applicable to any temporary or interim periods of fourteen (14) or less continuous days; and

(d) all such annual payments of the Reimbursement Amounts pursuant to (a), (b) and (c) of this Section 3.1 above shall not exceed all Eligible Costs qualifying as redevelopment project costs under Section 5/11-74.3(q) (2) and (11) of the Act, which are directly attributable and allocable to Office Building One, Office Building Two or any Retail Facility constituting the Private Development in the Development Area.

The obligations of the City to reimburse the Developer for any Reimbursement Amounts under this Section 3.1 shall terminate upon reimbursement by the City in connection with the Requisition therefor submitted by the Developer in accordance with Section 5.1 of this Agreement on or after September 1, 2012 for calendar year 2011.

Section 3.2. City's Obligation to Vacate. The City hereby covenants and agrees with the Developer to vacate by ordinance, in one or more phases as requested by the Developer, without compensation to the City therefor (but having a donated value of \$18.00 per square foot), those parts of the street and alley as shown on the vacation plat attached hereto as Exhibit C, provided, however, that any such ordinance shall either not be adopted or not become effective, as the case may be, unless and until the Developer either singularly or collectively shall: (i) be then an owner (or a lessor and lessee under a long-term ground lease) of record of any and all real estate abutting on either side of any part of such street or alley, or otherwise have a sufficient ownership interest therein so that title in and to any such part of such street or alley to be vacated pursuant hereto shall vest in the Developer (or any lessor and lessee of any such long-term ground lease) at the time of

such vacation; and (ii) have fulfilled all conditions precedent as set forth in Section 3.5 of this Agreement with respect to any part of such street or alley to be vacated in connection with the construction of Office Building One within the Development Area. It is further expressly understood and agreed by and between the parties that any ordinance vacating any part of such street or such alley by the Corporate Authorities shall contain provisions that the vesting of title in such part of such street or such alley so vacated shall be subject to all existing easements for all public utilities (including any of the City with respect to sewer lines and electrical conduit for street lighting, if any), their successors and assigns, to operate, maintain, renew, and reconstruct their facilities within that part of such right-of-way so vacated unless the Developer or other abutting property owner or owners shall compensate such utilities (or the City) for such reasonable expense as shall be incurred by such utilities (or the City) in connection with the rearrangement, removal or relocation of such facilities, and that any such ordinance shall also reserve to the City rights which shall survive the passage of such ordinance to enter upon any part of such street or such alley for the purpose of removing parking meter heads, street lights, brick pavers, and any other equipment or materials of the City that the City may choose to remove. Any such rights of the City to enter upon any part of such street or alley to remove any such equipment and material shall terminate on the thirtieth (30th) day following either the effective date of any such ordinance or the receipt of written notification from the Developer that it has commenced construction of any applicable phase of the Private Development, whichever is later.

Section 3.3. Agreement For Use of Right-of-Way. The City further covenants and agrees to grant to the Developer a limited right to install not more than two (2) skywalks over the dedicated Park Street right-of-way, one from the hospital building located at 1400 W. Park Street, Urbana, Illinois to Office Building One and the other from such hospital building to Office Building Two, such right to be in such form and substance as that set forth in Exhibit D attached hereto and hereby incorporated herein by this reference thereto.

Section 3.4. Traffic Signalization. In the event that traffic signalization is ordered or required by the Illinois Department of Transportation or any governmental entity at the intersection of University Avenue (U.S. Route 45) and Mathews Avenue in connection with the acquisition,

construction and installation of the Private Development, the City agrees to indemnify and hold the Developer harmless from any and all costs related to such traffic signalization.

Section 3.5. Conditions Precedent. The City's agreements, obligations and undertakings set out in this Agreement, including in particular those contained in Sections 3.1, 3.2, 3.3 and 3.4 hereof, are expressly contingent upon the Developer, on or before October 1, 2002, having entered into a contract for the acquisition, construction and installation of Office Building One at a cost of construction of not less than \$5,500,000, having obtained a financing commitment for such acquisition, construction and installation of Office Building One and having commenced such acquisition, construction and installation in a timely manner as to satisfactorily assure that such acquisition, construction and installation of Office Building One is substantially completed on or before September 30, 2003. If the Developer shall fail to fulfill its obligations under this Section 3.5, the City shall have no further obligations under this Agreement and this Agreement shall thereupon terminate and be of no force or effect.

Section 3.6. Defense of Redevelopment Project Area. In the event that any court or governmental agency having jurisdiction over enforcement of the Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including any payments of any Reimbursement Amounts to be made by the City are contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement. Anything herein to the contrary notwithstanding, the Developer agrees that the City may, to the extent permitted by law, use any Incremental Property Taxes, including any unpaid Reimbursement Amounts, if available, to be redirected to reimburse the City for its defense costs, including without limitation attorneys' fees and expenses.

ARTICLE IV

DEVELOPER'S COVENANTS

Section 4.1. Agreement to Construct the Private Development. The Developer covenants and agrees to acquire, construct and install, or cause to be acquired, constructed and installed, Office Building One of the Private Development in the manner and with the effect set

forth in this Agreement, including at the times set forth in Section 3.5 of this Agreement, substantially in accordance with such site plans as may subsequently be approved by the City in writing.

Section 4.2. Acquisition, Construction and Installation of Private Development. The Developer shall at all times acquire, construct and install each portion of the Private Development in conformance with this Agreement and all applicable laws, rules and regulations, including all subdivision, zoning, environmental or other land use ordinances of the City. Any agreement of the Developer related to the acquisition, construction, installation and development of any portion of the Private Development with any other party or parties to any such agreements shall, to the extent applicable, contain provisions substantially similar to those required of the Developer under this Agreement.

Section 4.3. City's Right to Audit Developer's Books and Records. The Developer agrees that the City or its agents shall have the right and authority to review and audit, from time to time (at the applicable Developer's principal office during normal business hours) the Developer's books and records relating to the total amount of all costs paid or incurred by the Developer for the Private Development and the total amount of related Eligible Costs, including, if any, loan agreements, notes or other obligations in connection with any indebtedness of the Developer directly related to such costs paid or incurred by the Developer for the Private Development in order to confirm that any site preparation costs or interest costs claimed to have been paid and incurred by the Developer were directly related and allocable to the costs of Office Building One, Office Building Two or any Retail Facility constituting Private Development that was financed by the Developer and in fact paid and incurred by the Developer.

Section 4.4. Indemnity. Fox agrees to forever indemnify and defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of contract brought against the City arising from any alleged claims, acts or omissions of the Developer in connection with this Agreement to the extent it relates to Office Building One, including the acquisition, construction and installation of the Office Building One, whether or not suit is filed. With respect to matters related to either of Office Building Two or the Retail Facility,

the Developer of either of them, respectively, agrees to forever indemnify and defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of contract brought against the City arising from any alleged claims, acts or omissions of such Developer in connection with this Agreement and related to either of those portions of the Private Development, including the acquisition, construction and installation of the applicable portion of the Private Development, whether or not suit is filed.

Section 4.5. Compliance With All Laws. The Developer agrees that in the use, occupation, operation and maintenance of the Private Development, the Developer will comply with all applicable federal and state laws, rules and regulations and City ordinances.

Section 4.6. Real Estate Tax Obligations. The Developer agrees to pay and discharge, promptly and when the same shall become due, all general real estate taxes, and all applicable interest and penalties thereon, that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of the Private Development. The Developer, including all other claiming by or through it or either of them, hereby covenants and agrees not to file any application for property tax exemption for any part of the Private Development under any applicable provisions of the Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.), as supplemented and amended, unless the City and the Developer shall otherwise have first entered into a mutually acceptable agreement under and by which the Developer shall have agreed to make a payment in lieu of taxes to the City, it being mutually acknowledged and understood by both the City and the Developer that any such payment of taxes (or payment in lieu thereof) by the Developer is a material part of the consideration under and by which the City has entered into this Agreement. This covenant of the Developer shall be a covenant that runs with the land upon which the Private Development is located and shall be in full force and effect until December 31, 2022, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to such land the City shall execute and deliver to such party an instrument, in

recordable form, confirming for the record that this covenant has terminated and is no longer in effect.

ARTICLE V

PAYMENT FOR ELIGIBLE COSTS

Section 5.1. Payment Procedures. The City and the Developer agree that the Eligible Costs constituting the Reimbursement Amounts shall be paid solely, and to the extent available, from Incremental Property Taxes attributable to Office Building One, Office Building Two and any Retail Facility constituting the Private Development within the Development Area that are deposited in the Fund and not otherwise. The City and the Developer intend and agree that any Reimbursement Amounts be disbursed by the Comptroller of the City for payment to the Developer shall be in accordance with the procedures set forth in this Section 5.1 of this Agreement.

The City hereby designates the City's Chief Administrative Officer, or the designee thereof, (the "CAO") as its representative to coordinate the authorization of disbursement of any annual Reimbursement Amounts for the Eligible Costs. Payments to the Developer of any Reimbursement Amounts for Eligible Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a "Requisition") submitted by the Developer on or after September 1 of each year, beginning September 1, 2003 with respect to Eligible Costs incurred in the calendar year 2002. Each such Requisition shall be accompanied by such documentation by the contractor to whom any such site preparation costs within the Development Area are paid, by the lending institution to whom any such interest costs are paid or by an Independent accountant acceptable to the CAO which shows and verifies both the total costs paid and incurred by the Developer for the site preparation costs within the Development Area as well as the total interest cost paid and incurred by the Developer in connection with any financing of the Private Development in the Development Area for the immediately preceding calendar year.

Section 5.2. Approval and Resubmission of Requisitions. The CAO shall give the Developer written notice disapproving any of the Requisitions within ten (10) days after receipt thereof. No such approval shall be denied except on the basis that either of the following have not been sufficiently documented or specified herein: (i) the amount of the total site preparation costs

or interest costs paid and incurred by the Developer during the preceding calendar year, or (ii) such site preparation costs or total interest costs being directly related to the costs paid or incurred by the Developer for Office Building One, Office Building Two or any Retail Facility constituting the Private Development in the Development Area. If a Requisition is disapproved by such CAO, the reasons for disallowance will be set forth in writing and the Developer may resubmit any such Requisition with such additional documentation or verification as may be required. The same procedures set forth herein applicable to disapproval shall apply to such resubmittals.

Section 5.3. Time of Payment. The City shall pay the Reimbursement Amounts to the Developer within thirty (30) days of the approval of the Requisition as set forth in Section 5.2 above.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1. Defaults - Rights to Cure. Failure or delay by either party to timely perform any term or provision of this Agreement shall constitute a default under this Agreement. The party who so fails or delays must, upon receipt of written notice of the existence of such default, immediately commence to cure, correct or remedy such default and thereafter proceed with diligence to cure such default. The party claiming such default shall give written notice of the alleged default to the party alleged to be in default specifying the default complained of. Except as required to protect against immediate, irreparable harm, the party asserting a default may not institute proceedings against the other party until thirty (30) days after having given such notice. If such default is cured within such thirty (30) day period, the default shall not be deemed to constitute a breach of this Agreement. If the default is one which cannot reasonably be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of such default, so long as there is diligent proceeding to cure such default. If such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Agreement. However, a default not cured as provided above shall constitute a breach of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default or alleged default or breach

shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

Section 6.2. Remedies. In the event of a breach of this Agreement by the Developer under any of the terms and provisions hereof, the City shall have the right to terminate this Agreement by giving written notice to the Developer of such termination and the date such termination is effective; provided that termination by the City shall be limited to termination as the same relate to the portion of the Private Development from which the default arises and not with respect to any other portion of the Private Development then in existence. (For example, if a default is made by the Developer of Office Building One in relation to an obligation related to Office Building One, but the Developer of Office Building Two has not defaulted in its obligations related to Office Building Two, the City's termination right shall extend only to termination of this Agreement as it related to Office Building One). Except for such right of termination by the City, the only other remedy available to either party in the event of a breach of this Agreement by the other party under any of the terms and provisions hereof shall be to institute legal action against the other party for specific performance or other appropriate equitable relief. Except for any Reimbursement Amounts which become due and payable in accordance with the provisions of Article V hereof, under no circumstances shall the City be subject to any monetary liability or be liable for damages (compensatory or punitive) under any of the other provisions, terms and conditions of this Agreement.

Section 6.3. Costs, Expenses and Fees. If either party defaults in the performance of its obligations hereunder, and is determined in breach of this Agreement by a court of competent jurisdiction, each of the parties agree that the defaulting party shall pay the non-defaulting party's costs, expenses and fees of enforcing the defaulting party's obligations under this Agreement, including but not limited to reasonable fees of accountants, attorneys, engineers and other professionals.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.1 Entire Contract and Amendments. This Agreement (together with the Exhibits A to D, inclusive, attached hereto) is the entire agreement between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, and may not be modified or amended except by a written instrument executed by all of the parties. In particular, the City and Provena mutually covenant and agree that, upon the execution and delivery of this Agreement, all rights and obligations of either the City or Provena Properties, Inc., an Illinois corporation, under and pursuant to a certain Redevelopment Agreement dated as of September 1, 1993, as amended by Amendment No. 1 dated August 1, 1994, and Amendment No. 2 dated as of November 17, 1999, with respect to "Block 1" of the "Development Area" (as such terms are defined therein), are hereby superseded and of no force and effect, except to the extent that the provisions thereof may affect the City's financial obligations under Section 3.1(b) thereof for calendar year 2000 (payable or reimbursable in 2001).

Section 7.2. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 7.3. Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 7.4. Special and Limited Obligation. This Agreement shall constitute special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources or general taxing power are pledged.

The City pledges to the payment of its obligations hereunder only such amount of the Incremental Property Taxes attributable to the Private Development in the Development Area as is set forth in Section 3.1(a), (b) and (c) hereof, if, as and when received, and not otherwise.

Section 7.5. Time and Force Majeure. Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute “unavoidable delays”): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City, or for any other reasons not within the Developer’s or the City’s control.

Section 7.6. Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 7.7. Cooperation and Further Assurances. The City and the Developer covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

Section 7.8. Notices and Communications. All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail and sent by registered or certified mail, postage prepaid, return receipt requested, (b) personally delivered, (c) sent by a nationally recognized overnight courier, delivery charge prepaid or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Developer at their respective addresses (or at such other address as each may designate by notice to the other), as follows:

- (i) In the case of the Developer, to:

Provena Hospitals
1400 West Park Street
Urbana, Illinois 61801
Attn: Chief Financial Officer
Tel: (217) 337-2143
Fax: (217) 337-4514

and, with respect to Office Building One

Fox Development Corporation
1909 Fox Drive
Champaign, IL 61820
Attn: David Cocagne
Tel: (217) 351-1430
Fax: (217) 356-0556

- (ii) In the case of the City, to:

City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
Attn: Chief Administrative Officer
Tel: (217) 384-2454
Fax: (217) 384-2363

Whenever any party hereto is required to deliver notices, certificates, opinions, statements or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

Section 7.9. Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respectively authorized successors and assigns; provided, however, that Developer may not assign its rights under this Agreement without the express written consent of the City, which shall not be unreasonably withheld or delayed.

Section 7.10. No Joint Venture, Agency, or Partnership Created. Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the City, the Developer or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

Section 7.11. Verification of Tax Increment. The City and Developer shall fully cooperate in connection with obtaining certified copies of all real estate tax bills for the taxable property constituting the Private Development.

Section 7.12. Illinois Law; Venue. This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois.

Section 7.13. No Personal Liability of Officials of City. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the Corporate Authorities nor any official of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 7.14. Repealer. To the extent that any ordinance, resolution, rule, order or provision of the City's Code of Ordinances or any part thereof is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling.

Section 7.15. Term. This Agreement shall remain in full force and effect until December 1, 2012, or until otherwise earlier terminated pursuant to the terms hereof. Anything to the contrary notwithstanding, however, the provisions of Sections 4.4 and 4.6 of this Agreement shall survive termination of this Agreement in accordance with the express provisions of such Sections.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers as of the date set forth below.



**CITY OF URBANA, CHAMPAIGN COUNTY,
ILLINOIS**

By: Tal Sattelmeyer
Mayor

ATTEST:
Phyllis D. Clark
City Clerk

Date: _____

**PROVENA HOSPITALS, an Illinois not for profit
corporation**

(SEAL)

By: [Signature]
Its: _____

ATTEST:

Judith Pecovich
Secretary

Date: 5-17-02

EXHIBIT A

Legal Description of Redevelopment Project Area

Exhibit A

LEGAL DESCRIPTION

All that part of Sections 7 and 8, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, described as follows.

Beginning at the intersection of the south right-of-way line of University Avenue and the east right-of-way line of Wright Street; thence North to the centerline of University Avenue, thence East to the centerline of Wright Street; thence North along said centerline to the north right-of-way of Beslin Street; thence East along the said north line to the west right-of-way line of Mathews Street; thence North along said line to the north right-of-way line of Dublin Street; thence East along said line to the west right-of-way line of Goodwin Avenue; thence North along said line to the north line extended West of the Lincoln Avenue Mobile Home Park (also being known as Permanent Parcel number 91-21-07-226-016), said line being 349.75 feet South of the south right-of-way line of Bradley Avenue; thence East along said line to the west line of the Northeast Quarter of the Northeast Quarter of said Section 7; thence South along said west line to the south line of said quarter quarter section; thence East along said line to a point being 248 feet, more or less, West of the East line of said quarter quarter section; said point also being the northwest corner of Permanent Parcel number 91-21-07-226-010; thence South along the west line of said parcel 103 feet; thence East along the south line of said parcel extended to the east right-of-way line of Lincoln Avenue; thence South along said line 127.1 feet to the north line extended of Permanent Parcel number 92-21-07-226-012; thence West along said north line 382.22 feet to the northwest corner of said parcel; thence South along the west line of said parcel 131.08 feet to the southwest corner of said parcel; thence East along the south line of said parcel 382.22 feet extended to the east right-of-way line of Lincoln Avenue; thence South along said line 1141.56 feet to the north line extended of Permanent Parcel number 92-21-07-282-021; thence West on the said north line 368.6 feet to the northeast corner of Lot 1 of Carman's Third Subdivision; thence South along the east line of said subdivision 368.05 feet to the northwest corner of Lot 8 of said subdivision; thence East along the north line of Lots 8 and 9 to the northeast corner of said Lot 9; thence South along the east line of said Lot 9 extended to the south right-of-way line of Fairview Avenue; thence West along said line to the east right-of-way line of Goodwin Avenue; thence South along said line to the north right-of-way line of Church Street; thence East along said line to the east right-of-way line of Lincoln Avenue; thence South along said line to the intersection with the southwesterly right-of-way line of the Consolidated Railway Corporation railroad right-of-way; thence northwesterly along said line to the northwest corner of Lot 9 of Stipe's Subdivision; thence South along the west line of said lot to the southwest corner of said lot; thence West along the north line of Lots 7 and 8 of said subdivision to the northwest corner of Lot 7; thence South along the west line of Lot 7 extended to the south right-of-way of University Avenue; thence West on said line to the point of beginning.

EXHIBIT B

Legal Description of Development Area

The Development Area is such part of the real estate in the City of Urbana, Illinois, generally bounded by Park Avenue to the north, Mathews Avenue to the east, University Avenue to the south and Wright Street to the west, more particularly described as follows:

Block 1:

Block 38 of the Seminary Addition to Urbana, Champaign County, Illinois, as shown on a plat recorded in Deed Record Book Y at Page 208 in the Office of the Recorder, Champaign County, Illinois

and

Block 2:

Block 39 of the Seminary Addition to Urbana, Champaign County, Illinois, as shown on a plat recorded in Deed Record Book Y at Page 208 in the Office of the Recorder, Champaign County, Illinois

EXHIBIT C

Vacation Plat of Streets and Alleys

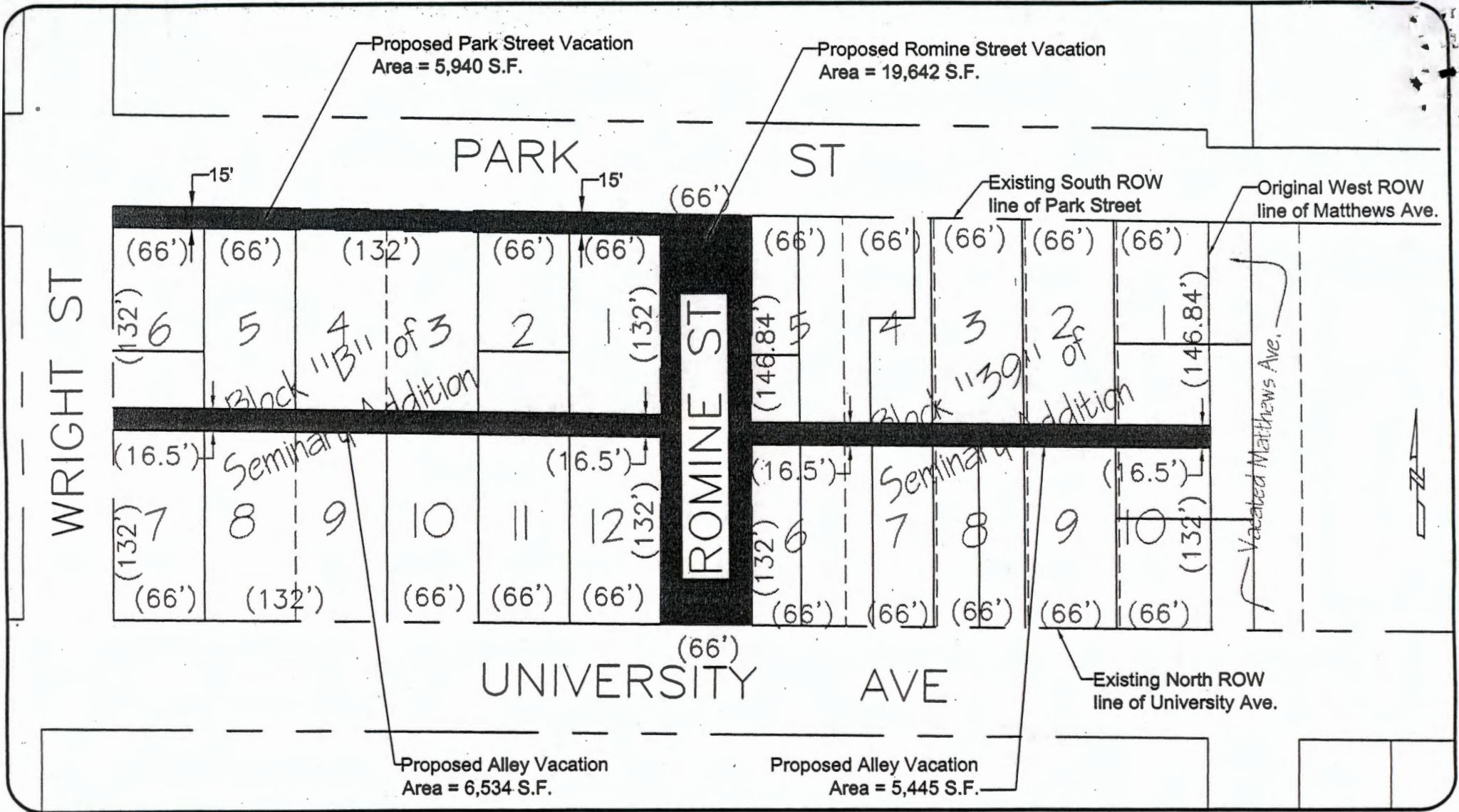


Exhibit "C"

PLAT MAP SHOWING PUBLIC
 RIGHT-OF-WAY VACATED
 BY ORDINANCE NO. 2001-XXX
 CITY OF URBANA, ILLINOIS
 DATE: November 5, 2001

City of Urbana
 Public Works Dept.
 Engineering Division

Drawn by: BWF

Date: 10/31/01



EXHIBIT D

Agreement for Use of Right-of-Way