

**RESOLUTION NO. 2017-08-050R**

**A RESOLUTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT**

**(Agreement between City of Urbana, Urbana Free Library, and  
Champaign County Regarding Cooperative Purchase of Internet Service)**

**WHEREAS**, the City of Urbana, Illinois (“City”) is a home rule unit of local government pursuant to the Illinois Constitution of 1970 and the Illinois Municipal Code. ILCS Const. Art. 7, § 6; 65 ILCS 5/1-1-9; and

**WHEREAS**, Champaign County, Illinois (“County”) is a unit of local county government; and

**WHEREAS**, The Urbana Free Library (hereinafter, the “Library”) is a local library and unit of the City and

**WHEREAS**, Section 10 of Article VII of the Illinois Constitution of 1970 and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* enables the parties hereto to enter into agreements among themselves and provide authority for intergovernmental cooperation; and

**WHEREAS**, the County, Library, and the City desire to cooperate in the purchase of Internet Service to reduce costs; and

**WHEREAS**, the City, Library, and County desire to enter into an Intergovernmental Agreement for the purpose of memorializing the respective Party’s rights and responsibilities with regards to the purchase of certain internet broadband service and the methods used to share costs in connection with obtaining such services.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

**Section 1.**

The aforesaid Intergovernmental Agreement shall be and hereby is authorized and approved in substantially the form and substance as the exhibit appended hereto and made a part hereof.

**Section 2.**

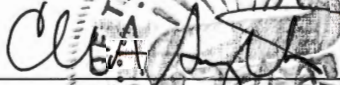
The Mayor of the City of Urbana, Illinois, shall be and hereby is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement in substantially the form and substance appended hereto and made a part hereof.

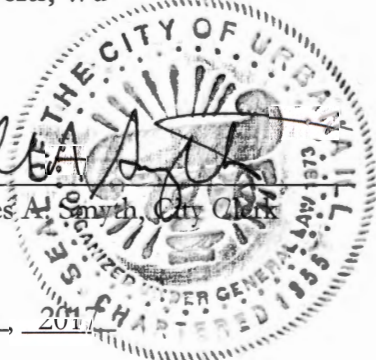
**PASSED BY THE CITY COUNCIL** this 21<sup>st</sup> day of August, 2017.

AYES: Ammons, Brown, Hazen, Miller, Roberts, Wu

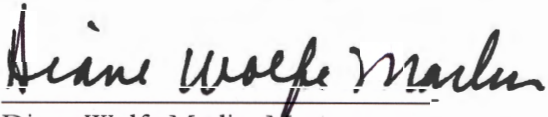
NAYS:

ABSTENTIONS:

  
\_\_\_\_\_  
Charles A. Smyth, City Clerk



**APPROVED BY THE MAYOR** this 23<sup>rd</sup> day of August, 2017.

  
\_\_\_\_\_  
Diane Wolfe Marlin, Mayor

**INTERGOVERNMENTAL AGREEMENT BETWEEN CHAMPAIGN COUNTY  
AND THE URBANA FREE LIBRARY AND THE CITY OF URBANA FOR  
BROADBAND SERVICE**

This Intergovernmental Agreement (hereinafter, "IGA") by and between Champaign County (hereinafter, the "County"), a body politic and corporate, the City of Urbana (hereinafter, the "City"), a home rule unit of municipal government, and The Urbana Free Library (hereinafter, the "Library"), a local library and unit of the City, (collectively, hereinafter, the "Parties") is made and entered into and is effective as of the latest date appearing below.

**WHEREAS**, pursuant to Article VII, Section 10 of the Illinois Constitution of 1970 and 5 ILCS 220/1, *et seq.* the Parties can enter into agreements which provide for joint cooperation by and among the Parties; and

**WHEREAS**, the Parties wish to enter into this IGA in order to seek and obtain bulk pricing rates for internet broadband services which the Parties deem appropriate and cost-effective; and

**WHEREAS**, the Parties believe that Illinois Century Network, a unit of the State of Illinois, (hereinafter, "ICN") can provide effective and appropriate internet broadband services at rates which are more competitive than rates which other sources of such services may charge.

NOW, for good, valuable and mutual consideration which each Party hereto acknowledges as having in hand received and in mutual exchange of the terms, conditions and covenants contained in this IGA, the Parties agree as follows:

**Section 1 – Joint Cooperation:**

The Parties shall jointly cooperate in seeking and obtaining bulk rates for and internet broadband services which the Parties deem appropriate.

**Section 2 – County as Lead Agency:**

The County shall serve as the lead agency for purposes of (i) seeking and obtaining reasonable and economical internet broadband service rates for such services as meets the Party's internet broadband service requirements; (ii) entering into one or more agreements with ICN or such other internet broadband service provider as the County deems will provide the requisite services at such rates, with such access, and at such bandwidth speeds as the Parties deem reasonable and appropriate; (iii) addressing with ICN or such other internet broadband service provider, as the case may be, issues regarding charges for, access to, and speeds of internet broadband services; and (iv) managing the distribution of internet broadband services to and among the Parties.

**Section 3 – Approval of Providers and Rates:**

The County, after undertaking reasonable due diligence, has determined and the Parties agree that ICN can and will provide internet broadband services to the Parties at reasonable rates and with such access and internet broadband speeds to meet the Parties' respective needs. However, during the term of this IGA and any extension or renewal thereof, the County shall have the authority to seek and obtain bids or other information from internet broadband services providers other than ICN. In the event that the County deems it appropriate to solicit bids and other information from internet broadband services providers other than ICN, the County shall share all such bids and information with the City and the Library. No County-internet broadband service provider agreement with ICN or any other provider may be terminated by the County without the prior unanimous written consent of the Parties.

**Section 4 – Sharing of Internet Broadband Services:**

The County shall make available to the City and the Library certain portions of the internet broadband service bandwidths as the Parties in writing agree shall be shared among them. In the event that any Party determines that it needs additional internet broadband bandwidth units, the County shall request ICN or such other internet broadband service provider, as the case may be, to amend the then existing agreement between the County and ICN or such other provider in order to provide the additional internet broadband bandwidth.

**Section 5 – Sharing and Billing of Costs:**

The County shall divide up among the Parties the costs which the County is charged by ICN or such other internet service provider, as the case may be. Each Party's cost shall be determined by applying the percentage (expressed as a decimal fraction) of the total internet broadband bandwidth allocated to each said Party respectively times the total cost charged to the County by ICN or such other internet broadband service provider. In the event a Party requests the County to request ICN or such other internet broadband service provider to increase internet broadband bandwidth and such service provider increases the total internet broadband bandwidth to accommodate the said Party's request, the County shall recalculate the costs charged to that Party using the same methodology as provided in this Section. Unless agreed to otherwise by and between the County and ICN or such other internet broadband service provider as the County selects, the said internet broadband service provider shall bill the County for the internet broadband services and the County, in turn, shall bill the City and the Library their respective pro rata shares of the total costs of providing such internet broadband services. The City and the

Library shall remit payment of such billed amounts to the County within thirty (30) days of their receipt of the County's respective billing invoices.

**Section 6 – Additional Equipment:**

The Parties recognize and understand that the County shall purchase a router of sufficient quality and capacity to provide for the efficient and effective distribution of such internet broadband services among the Parties in such internet broadband bandwidths as the Parties have agreed in writing. Each Party shall bear one-third (1/3<sup>rd</sup>) the cost and installation of such router. To the extent that the Parties mutually determine that additional equipment may need to be purchased in the future to assure efficient operation of the shared internet broadband service, before any such equipment is acquired, the Parties shall agree on what equipment shall be acquired and upon such agreement by the Parties, the County shall acquire such additional or replacement equipment and the Parties shall share equally in the cost and installation of such acquisition(s). Upon the acquisition by the County of the said router and any additional equipment as the Parties may agree, the County shall bill the City and the Library their respective pro rata shares of the costs of acquiring and installing said equipment and the City and the Library shall remit their reimbursements to the County within thirty (30) days of receipt of the County's billing invoice.

**Section 7 – Term and Termination:**

This IGA shall remain in full force and effect for a period of five (5) years and shall renew automatically for successive five (5) year terms until one or more of the Parties seek to terminate this IGA. If any Party wishes to terminate this IGA, the Party shall give written notice to the other Parties of the Party's intent to terminate and such notice shall be provided at least one hundred eighty (180) prior to the expiration of any five (5) year term. If the terms of any agreement between the County and ICN or such other internet service provider, as the case may be, will not allow the County to terminate its agreement with ICN or such other internet broadband service provider within the said one hundred eighty (180) day period for terminating this IGA, then the first date when the County may terminate its agreement with ICN or such other internet broadband service provider shall control when this IGA shall terminate. Upon termination by any Party of this Agreement, the County shall retain all rights, title and interest in and to the router and any equipment which has been acquired pursuant to this IGA. Notwithstanding the immediate foregoing, the County shall obtain an appraisal of router and any other equipment acquired pursuant to this Agreement and the County shall pay the City and the Library each one-third (1/3<sup>rd</sup>) the said appraised value of such router and equipment. Nothing

herein shall be deemed or construed as prohibiting those Parties which have not given notice to terminate from renegotiating this IGA to take effect upon the effective date of the termination of this IGA.

**Section 8 – Authorization to Enter into This IGA:**

Each Party to this IGA represents and warrants that the person who has executed this IGA on behalf of the Party for whom such execution was made was duly authorized to do so as of the date the person executed this IGA.

**Section 9 – Sole Agreement; Amendment:**

This IGA shall constitute the sole agreement by and between the Parties and shall supersede and replace any prior agreement, whether oral or in writing, by and between the Parties. This IGA may be amended or modify only by a writing duly executed by the Parties hereto and such amendment or modification, if any, shall be deemed effective as of the date the last Party executes any such amendment or modification.

**Section 10 – Default and Waiver:**

In the event any Party (“Non-Defaulting Party”) believes that another Party (“Defaulting Party”) is in default of any term, provision or covenant of this IGA, the Non-Defaulting Party shall send written notice to the Defaulting Party which describes the nature of the alleged default and which identifies the section of this IGA believed to be in default. The Defaulting Party shall, within fourteen (14) days of receipt of any notice of default, (i) cure the default identified in the notice of default; (ii) provide the Non-Defaulting Party with a timeframe in which to cure the default if the default cannot be cured within the aforesaid fourteen (14) day period; or (iii) provide the Non-Defaulting Party written evidence insofar as why the Default Party believes it is not in default as described in the notice of default. Any failure by a Party to notify another Party of the latter’s default shall not constitute a waiver of such default.

**Section 11 – Governing Law; Dispute Resolution:**

The laws of the State of Illinois shall govern any action for breach or to enforce, construe or interpret this IGA. Any action for breach or to enforce, construe or interpret this IGA shall be initiated and maintained in the Circuit Court for the Sixth Judicial Circuit, Champaign County, Illinois. However, prior to the initiating any such litigation, the Parties shall undertake good faith efforts to negotiate a resolution any dispute regarding this IGA.

**Section 12 – Notices:**

Any notice required to be given in this IGA shall be deemed effective as follows:

- i. If notice is provided by First Class U.S. Mail, such notice shall be deemed effective four (4) business days after placement of such notice with the United States Postal Service if such notice is placed in a properly addressed and stamped envelope.
- ii. If notice is provided by facsimile, such notice shall be deemed effective the business day after transmission of such facsimile if the sender's fax machine provides a printed receipt evidencing the intended recipient's receipt of the facsimile and if no such receipt is available, then the notice shall be deemed effective four (4) business days after its transmission.
- iii. If by personal or courier service delivery, such notice shall be deemed effective the business day after said notice was delivered to the recipient.

**Section 13 – Time of the Essence:**

Time is of the essence under this IGA.

**Section 14 – Invalidity of IGA:**

If any court of competent jurisdiction determines that this IGA is unlawful or invalid in whole for any reason, this IGA shall terminate. If any court of competent jurisdiction determines that one or more, but not all, provisions of the IGA are unlawful or invalid for any reason, the Parties shall endeavor to negotiate an amendment to this IGA which is consistent with any court finding but which will allow the Parties to effectuate the overall purpose of this IGA.

[ Signature Page Follows. ]

IN WITNESS WHEREOF, the parties hereto, pursuant to authority given by their respective governing bodies, have caused these presents to be executed by their duly authorized officers, duly attested, on the dates set forth below.

CHAMPAIGN COUNTY, ILLINOIS

By: C. Pius Weibel  
C. Pius Weibel, County Board Chair

Date: 20 July 2017

CITY OF URBANA, ILLINOIS

By: Diane Wolfe Martin  
Diane Wolfe Martin, Mayor

Date: 30 August 2017

Attest: Charles A. Smith  
Charles A. Smith, City Clerk

Date: 8/30/2017

URBANA FREE LIBRARY  
UNDER GENERAL LAWS  
CHARTERED 1855

By: Celeste Choate  
Celeste Choate, Executive Director

Date: 8/29/17