

October 16, 2020

TO: RAILS BOARD OF DIRECTORS

FROM: DEIRDRE BRENNAN

SUBJECT: INTERGOVERNMENTAL AGREEMENT WITH PRAIRIECAT

Please find attached a draft of an intergovernmental agreement with PrairieCat, for which we are seeking the Board's approval.

PrairieCat wishes to join the Illinois Municipal Retirement Fund (IMRF) in order to provide its employees with access to IMRF's retirement, disability, and death benefits. This would add an important benefit to its employees and better allow PrairieCat to attract and retain high quality employees over time.

On July 1, 2018 PrairieCat assumed financial responsibility for their staff, in line with RAILS priorities that LLSAPs seek more financial independence from RAILS. However, this step in the right direction resulted in PrairieCat becoming ineligible to belong to IMRF and for their employees to lose their participation benefits as well.

IMRF, pursuant to State law, requires that if any entity created under an intergovernmental cooperative agreement that joins IMRF, and is unable to pay the required employer contributions to the IMRF fund, then the participating municipalities (its members) shall make payment of the required contribution. IMRF, because of this provision, insisted that the PrairieCat IGAs with its members be amended to reference this obligation. This would be exceedingly difficult to obtain given the number of PrairieCat members, many of whom are not IMRF members.

IMRF has since indicated that it would accept an agreement between PrairieCat and RAILS, in which RAILS would agree to assume the responsibility of paying the PrairieCat IMRF Contribution in the event that PrairieCat was unable to pay.

Based upon a preliminary contribution rate communicated to PrairieCat and current PrairieCat payrolls, this monthly required contribution was approximate \$8,650.

Since RAILS supports PrairieCat and continuously monitors its financial situation, we would anticipate that a PrairieCat financial distress situation would be addressed and corrected well in advance of such a funding shortfall situation occurring. We ask the board to approve this Intergovernmental Agreement with PrairieCat.

**INTERGOVERNMENTAL AGREEMENT BETWEEN PRAIRIECAT AND THE
REACHING ACROSS ILLINOIS LIBRARY SYSTEM FOR THE GUARANTEE OF
POTENTIAL PRAIRIECAT OBLIGATIONS DUE THE
ILLINOIS MUNICIPAL RETIREMENT FUND**

THIS Intergovernmental Agreement (the “IGA”) is entered into this ____ day of _____, 2020, by and between PrairieCat (hereinafter called “PrairieCat”) and the Reaching Across Illinois Library System, (hereinafter called “RAILS”).

WITNESSETH:

WHEREAS, PrairieCat is an Intergovernmental Entity, authorized under the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*), as created by the Intergovernmental Agreement, dated _____, 2010 (the “PrairieCat IGA”); and

WHEREAS, RAILS is a regional library system and government agency providing services to libraries in the northern and west-central areas of the state of Illinois; and

WHEREAS, PrairieCat wishes to join the Illinois Municipal Retirement Fund (“IMRF”) in order to provide its employees with access to IMRF’s retirement, disability, and death benefits;

WHEREAS, RAILS has an interest in promoting, sharing, and expanding resource sharing between libraries to optimize use of tax dollars and other funding. By supporting PrairieCat, particularly in gaining membership to IMRF, RAILS ensures that PrairieCat provides an important benefit to its employees, allowing it to attract and retain high quality employees. Over time, IMRF’s benefit to PrairieCat will make PrairieCat a stronger organization, thereby aiding RAILS’ goal of expanding resource sharing in the state of Illinois;

WHEREAS, IMRF, pursuant to 40 ILCS 5/7-132(B)(b)(xx), requires that for any entity created under an intergovernmental cooperative agreement who joins IMRF, and is unable to pay the required employer contributions to the IMRF fund (the “PrairieCat IMRF Contribution”), the participating municipalities of said intergovernmental cooperative shall make payment of the PrairieCat IMRF Contribution and the payment shall be allocated as provided in the IGA, or if not so provided, equally among them;

WHEREAS, IMRF, in reviewing the application of PrairieCat to join IMRF, has insisted that the PrairieCat IGA be amended to reference the obligation of the participating municipalities of PrairieCat to pay the PrairieCat IMRF Contribution should PrairieCat be unable to pay the same, in accordance with 40 ILCS 5/7-132(B)(b)(xx);

WHEREAS, PrairieCat has communicated with IMRF the difficulty in getting all of its participating municipalities, some of which are not IMRF participants, to agree to such a contribution toward the PrairieCat IMRF Contribution, and instead suggested that RAILS would be willing to assume such obligation in the event that PrairieCat is unable to pay the PrairieCat IMRF Contribution;

WHEREAS, IMRF has indicated that it would accept an agreement between PrairieCat and RAILS, in which RAILS would agree to assume the responsibility of paying the PrairieCat IMRF Contribution in the event that PrairieCat was unable to pay said obligation; and

WHEREAS, PrairieCat and RAILS are each authorized to enter into this Agreement under 5 ILCS 220/3.

NOW, THEREFORE, in consideration of the matters set forth, the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, PrairieCat and RAILS hereby agree as follows:

1. Except as otherwise provided in Section 2 below, RAILS hereby irrevocably and unconditionally guarantees to PrairieCat, the payment of the PrairieCat IMRF Contribution, in the event that PrairieCat is unable to pay for said obligation.
2. RAILS shall only be responsible for paying the PrairieCat IMRF Contribution should PrairieCat lack the financial assets to pay for said obligation, upon a dissolution of PrairieCat, or upon a termination of the PrairieCat IGA. RAILS shall not be obligated to pay the PrairieCat IMRF Obligation should PrairieCat otherwise have sufficient assets to pay said obligation, but otherwise voluntarily chooses not to fund said obligation. For clarity, RAILS shall only be responsible for any PrairieCat employer contributions that are unpaid at the time of dissolution or termination of the PrairieCat IGA, and not any other costs owed to IMRF by PrairieCat.
3. RAILS shall not be liable to pay for the PrairieCat IGA until such time that PrairieCat has provided thirty (30) days advance written notification of its inability to pay for the PrairieCat IMRF Contribution, with said notice to include a certification from PrairieCat that it is unable to pay the PrairieCat IMRF Contribution, the reason for its inability to pay said obligation, and a statement of its current assets and liabilities at the time of the notice.
4. No payment made by any participating municipality of the PrairieCat IGA of any portion of the PrairieCat IMRF Contribution shall be deemed to modify, reduce, release, or otherwise affect the obligation of RAILS under this IGA, and RAILS shall remain liable for the PrairieCat IMRF Contribution up to the maximum liability until the PrairieCat IMRF Contribution is paid in full.
5. RAILS represents and warrants to PrairieCat that, on the date hereof and during the duration of this Agreement:
 - a. It is duly organized and validly existing under the laws of Illinois and it has full power and legal right to execute and deliver this Agreement and to perform the provisions herein;
 - b. Its execution, delivery, and performance of this Agreement have been and remain duly authorized by all necessary officers of RAILS and do not contravene any

provision any of its organizing documents, law, rule, or contractual restriction binding on it or its assets;

- c. No notice to, consent, authorization, or approval by, or filing with, any governmental authority having jurisdiction over RAILS is required for its execution, delivery, or performance of this Agreement; and
 - d. This Agreement is its legal, valid, binding obligation.
6. This Agreement shall continue unless and until RAILS or PrairieCat terminates the Agreement by providing the other with no less than six (6) months' prior written notice, provided that this Agreement shall only be terminated if PrairieCat is able to obtain an alternative guarantee of the PrairieCat IMRF Contribution that is accepted by IMRF, so that PrairieCat's standing with IMRF is not jeopardized.
 7. Any notice to PrairieCat or RAILS hereunder shall be in writing and mailed, postage prepaid to the following addresses and person(s) or to such other address or person's attention as PrairieCat or RAILS shall notify each other from time to time.

If to PrairieCat:

If to RAILS: Executive Director
Reaching Across Illinois Library System
125 Tower Drive
Burr Ridge, Illinois 60527

Any notice addressed as provided above shall be deemed given three days after the date when deposited in the U.S. mail, postage prepaid.

8. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held illegal or unenforceable, the validity of the remaining provisions shall not be affected.
9. This Agreement shall not be amended, supplemented, or otherwise modified except by a writing signed by each of PrairieCat and RAILS.
10. This Agreement constitutes the entire agreement between the two parties relating to the PrairieCat IMRF Contribution and supersedes all prior or simultaneous agreements, written or oral.
11. The validity and construction of this guarantee shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, PrairieCat and RAILS have executed this Agreement on the

_____ day of _____, 2020.

**Reaching Across Illinois
Library System**

Name: _____

Title: _____

Date: _____

PrairieCat

Name: _____

Title: _____

Date: _____

DRAFT