

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORMANDY PARK AND
THE CITY OF DES MOINES FOR FINANCE AND ADMINISTRATIVE SERVICES**

WHEREAS, the City of Normandy Park (hereafter “Normandy Park”) is a municipal corporation organized under the laws of the State of Washington; and

WHEREAS, the City of Des Moines (hereafter “Des Moines”) is a municipal corporation organized under the laws of the State of Washington; and

WHEREAS, the Parties Finance Departments have similar operational needs and can provide savings to taxpayers through contracting for shared services; and

WHEREAS, Chapter 39.34 RCW (“The Interlocal Cooperation Act”) permits municipal corporations to contract with one another to perform any act that each is independently authorized to perform; and

WHEREAS, each Party has agreed to compensate the other Party for expenses incurred while utilizing the procedures offered under this Agreement; and

WHEREAS, this Agreement represents a collaborative effort to share resources by defining the terms and condition under which one Party may use the services of the other Party’s staff member; and

NOW, THEREFORE, in consideration for the mutual covenants and promises set forth in this Agreement, and in the exercise of authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW, Normandy Park and Des Moines do hereby agree to the following:

1. Purpose. The purpose of this Agreement is to utilize the provisions of state law to enable the parties to take advantage of economies of scale in sharing resources to provide for financial department services to the other party as needed.

2. Definitions.

“Providing Party” means the Party that has received a request to provide services.

“Requesting Party” means the Party that requests services from the Providing Party.

3. Scope of Work. The following process shall be followed by the Parties when seeking to engage in joint operations or contracted services under this Agreement.

i. Requests for Services. The Requesting Party shall submit a written request to the Providing Party setting forth the requested scope of work, requested duration or frequency of work, the

estimated cost of the work and budgeted amount for the work, any additional specifications or standards that must be considered, and a date by which a response is requested. If the Requesting Party is limited in the amount of money it can spend on the request due to a budget appropriation, the Requesting Party must specify that limitation in its request.

- ii. Acceptance of Request for Services. The Providing Party shall respond to the written request for services through a written acceptance or denial. Should the Providing Party fail to respond to the Requesting Party by the date specified in the request, the Requesting Party's request shall expire and be void. An acceptance shall include the agreed upon scope of work, the total estimated direct cost for the work, the estimated indirect cost (all administrative charges and overhead), whether a deposit will be required and if so, for what purpose, and the duration and/or schedule for the work and any specifications or standards that will be applicable. The written acceptance shall require the signature of each such Party's respective City Manager/City Administrator.
 - iii. Modifications to Scope, Schedule, and Budget. Any modifications to the project scope, schedule, and budget contained in the signed written acceptance, shall only be made by mutual agreement of the Parties. Any costs incurred by the Providing Party in excess of the agreed budget amount shall not be invoiced to the Requesting Party until and unless the Providing Party has received a letter from the Requesting Party with approval to increase the budget amount for the service.
4. Administration. The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

The City of Des Moines's representative shall be Anthony Piasecki, City Manager.

The City of Normandy Park's representative shall be Chris Gaddis, Acting City Manager.

5. Notice. Any notice or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent by certified or registered mail, return receipt requested, addressed as follows, or to such other address as may be designated by the addressee by written notice to the other party:

To Des Moines: Anthony A. Piasecki, City Manager
City of Des Moines
21630 11th Avenue South
Des Moines, WA 98198

To Normandy Park: Chris Gaddis, Acting City Manager
City of Normandy Park
801 SW 174th Street
Normandy Park, WA 98166

6. Payment. The Parties shall pay for services provided pursuant to the following provisions:
- i. Payments for Materials and Services. Each Requesting Party shall pay for actual direct and related indirect costs including any overhead and administrative charges, for services provided by the Providing Party. All costs shall be part of the written acceptance pursuant to Section 3. Any indirect costs may be waived by the Providing Party at its discretion.
 - ii. Billing Statement. The Providing Party shall submit monthly invoices to the Requesting Party on a form agreed upon by the Parties and shall contain the amount of services purchased with the corresponding dates, during the preceding month. Payment shall be made by the Requesting Party each month within thirty (30) days of receipt of the invoice.
 - iii. Disputes. In the event there is a dispute regarding the amount of money owed among the Parties, the dispute shall be forwarded to each Party's City Manager/City Administrator for resolution. In the event there is no resolution after review by the Parties' City Managers/City Administrator, the Parties shall seek mediation through a mutually agreed mediation service, and each Party shall bear its own costs for mediation. If mediation is unsuccessful, any Party may pursue any legal remedy available from a court of competent jurisdiction. Any dispute that has gone to mediation and mediation was unsuccessful in resolving the dispute shall be grounds for any Party to terminate this Agreement for breach.
 - iv. Reconciliation. Within thirty (30) days of submitting the last invoice for a service rendered under this Agreement, the Parties shall reconcile their respective accounts and provide a copy of the reconciliation to the other Parties. If the Parties' reconciliations do not match, the Parties shall schedule a meeting within fourteen (14) days of receipt of the reconciliation statement to resolve the

discrepancy(ies). If the discrepancy(ies) cannot be resolved, the Parties shall utilize the dispute process set forth in Subsection 6.3. Final payment and reconciliation of all accounts for all services rendered under this Agreement shall occur within ninety (90) days of the effective date of termination of this Agreement; or, no later than ninety (90) days after any service was rendered.

7. Term. This Agreement shall become effective as of the last date this Agreement is (a) approved by the legislative body of Des Moines and the legislative body of Normandy Park; and (b) subsequently executed by each Party according to that Party's adopted policies and procedures. This Agreement shall remain in full force and effect until terminated as provided herein.

8. Termination. The Parties may terminate this Agreement as follows:

i. Termination by Notice. Either Party may terminate its participation in this Agreement by providing the other Party with sixty (60) days advance written notice of the effective date of such termination. The Party providing such notice shall remain responsible for any costs incurred under this Agreement, including any costs to which the Party is contractually obligated under any joint undertaking that extends beyond the sixty (60) day termination date provided in the notice of termination.

ii. Termination by Mutual Written Agreement. This Agreement may be terminated in its entirety at any time by written agreement that is executed by the Parties.

iii. Termination for Breach. Either Party may terminate its participation in this Agreement with fourteen (14) days advance written notice to the other Party for material breach of the terms of this Agreement, provided that disputes regarding billing statements shall be handled pursuant to Subsection 6.3 and shall not be deemed a breach of this Agreement except as set forth in Subsection 6.3.

9. Indemnification and Hold Harmless.

Des Moines agrees to defend, indemnify, and hold harmless Normandy Park and its employees, officials, agents, and volunteers from any and all losses, claims, liabilities, lawsuits, or legal judgments arising from or caused by any negligent or tortious actions or inactions, and any and all losses, claims, liabilities, lawsuits, or legal judgments arising from any willful or knowing violation of law by Des Moines or any of its employees, officials, agents, or volunteers while performing its duties and obligations under this Agreement. All costs related to the negligence, or tortious actions or inactions of Des

Moines shall be paid by Des Moines or its insurer. This provision shall survive the expiration of this Agreement. This provision shall also survive and remain in effect in the event that a court or other entity with jurisdiction determines that this Interlocal Agreement is not enforceable. This obligation shall not include such claims, costs, damages or expenses which are caused by the sole negligence of Normandy Park or its officers, agents, employees, assigns, contractors, licensees, invitees, volunteers or employees. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Des Moines and Normandy Park, its officers, officials, employees, and volunteers, the Des Moines liability hereunder shall be only to the extent of the Des Moines' negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Des Moines' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Normandy Park agrees to defend, indemnify, and hold harmless Des Moines and its employees, officials, agents, and volunteers from any and all losses, damages, claims, liabilities, lawsuits, or legal judgments arising from or caused by any negligent or tortuous actions or inactions, and any and all losses, claims, liabilities, lawsuits, or legal judgments arising from any willful or knowing violation of law by Normandy Park or any of its employees, officials, agents, or volunteers while performing its duties and obligations under this Agreement. All costs related to the negligence, or tortuous actions or inactions of Normandy Park shall be paid by Normandy Park or its insurer. This provision shall survive the expiration or earlier termination of this Agreement. This provision shall also survive and remain in effect in the event that a court or other entity with jurisdiction determines that this Interlocal Agreement is not enforceable. This obligation shall not include such claims, costs, damages or expenses which are caused by the sole negligence of Des Moines or its officers, agents, employees, assigns, contractors, licensees, invitees, volunteers or employees. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Normandy Park and Des Moines, its officers, officials, employees, and volunteers, the Normandy Park's liability hereunder shall be only to the extent of the Normandy Park's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Normandy Park's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

10. Actions Contesting Agreement. Each party shall appear and defend any action or legal proceeding brought to determine or contest: (i) the validity of this Agreement and/or (ii) the legal authority of Normandy Park and/or Des Moines to undertake the activities contemplated by this Agreement. If both parties to this Agreement are not named as parties to the action, the party named shall give the other party prompt notice of the action and provide the other an opportunity to intervene. Each party shall bear any costs and expenses taxed by the court against it; any costs and expenses assessed by a court against both parties jointly shall be shared equally.

11. Independent Contractor. Each party to this Agreement is an independent contractor with respect to the subject matter herein. Nothing in this Agreement shall make any employee of Normandy Park a Des Moines' employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Des Moines' employees by virtue of their employment. Nothing in this Agreement shall make any employee of Des Moines a Normandy Park employee for any purpose, including but not limited to for withholding taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Normandy Park employees by virtue of their employment. At all times pertinent hereto, employees of Des Moines are acting as Des Moines employees and employees of Normandy Park are acting as Normandy Park employees.

12. Partial Invalidity. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect. Notwithstanding the foregoing, this Agreement shall be subject to re-negotiation as provided in this Agreement.

13. Assignability. The rights, duties, and obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

14. Entire Agreement. This Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof. There are no other representations, agreements, or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the parties hereto.

15. Captions. The section and paragraph captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

DATED this 9th day of Jan, 20 15.

CITY OF DES MOINES

By 
Anthony Piasecki, City Manager
By direction of the City Council

Taken 1/8/15

Attest:

Bonnie Wilkins, City Clerk

Approved as to Form:

City Attorney

CITY OF NORMANDY PARK


Chris Gaddis, Acting City Manager
By direction of the City Council

Taken Acting City Manager

Attest:

Debbie Burke, City Clerk

Approved as to Form:

City Attorney