

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS
AND
THE AMERICAN LEGION, DEPARTMENT OF WISCONSIN**

This Memorandum is made and entered into between the State of Wisconsin, Department of Veterans Affairs (hereinafter referred to as the “DVA”) and The American Legion, Department of Wisconsin (hereinafter referred to as the “Legion”).

WHEREAS, it is the intention of the parties to this Memorandum that the grant provided hereunder shall be used for the operation of Camp American Legion;

WHEREAS, the Legion leases State-owned property in the Town of Lake Tomahawk in Oneida County and conducts the operation of Camp American Legion, including premises described in attached Exhibits A and B;

WHEREAS, the Legion agrees to operate Camp American Legion for the benefit of Wisconsin veterans of the armed forces of the United States and their dependents in accordance with the Lease Agreement (Amendment) between the Legion and the State of Wisconsin, Department of Natural Resources, dated August 6th, 2015;

NOW THEREFORE, in consideration of their mutual and dependent agreements, the parties hereto agree as set forth in the following pages, which are annexed and made a part thereof.

ARTICLE 1. GRANT

The DVA agrees to provide one grant of up to \$75,000 to the Legion in accordance with the terms of this agreement and the requirements under Wis. Stat. §45.41(5).

ARTICLE 2. LEGION RESPONSIBILITIES

The Legion agrees to ensure that the grant will be used for the operation of Camp American Legion. The Legion will assist the DVA in making any reports regarding the use of the grant that the Legislature or other interested parties may require.

The Legion will ensure insurance coverage for Inland Marine on all camp equipment, including building contents.

The Legion agrees to provide the DVA with an annual Census and Season Review report prepared on a calendar year basis.

The Legion will retain all records regarding the expenditures of the grant for at least six (6) years after the use of the grant. Grant funds shall be maintained in a separate account subject to audit by the DVA. Above and beyond the six-year record retention period, the Legion agrees to the following:

- Should DVA inform the Legion that this Agreement and/or any expenditures of the grant are subject to a legislative inquiry, the Legion agrees to retain all records regarding this Agreement and the expenditures

of the grant until such time as DVA informs the Legion that the legislative inquiry is resolved.

- Should DVA inform the Legion that this Agreement and/or expenditures associated with this Agreement should be retained due to pending or threatened litigation, the Legion agrees to retain all records regarding this Agreement and the expenditures of the grant for as long as the litigation or investigation is active.

The Legion understands that pursuant to s. 45.47, Stats., failure to comply with the above requirements; the DVA may, in addition to any other legal remedy available to the DVA, reduce future grant payments, suspend future grant payments, or terminate future grant payments relating to future grant applications provided to the applicant as authorized under s. 45.41, Stats.

ARTICLE 3. DVA RESPONSIBILITIES

Subject to Article 2, the DVA agrees to tender the grant no later than June 30 of the upcoming fiscal year.

The DVA will allocate a portion of the grant to ensure risk management and self-insurance for property and buildings with the Wisconsin Department of Administration.

ARTICLE 4. SHARED RESPONSIBILITIES

The DVA and the Legion agree to coordinate activities to minimize interference with each party's duties and maximize the utility and cost-effectiveness of the use of the grant. The DVA and the Legion will provide a single contact person for coordination. Such coordination includes, but is not limited to, reviewing grant expenditures and providing reports and explanations to Wisconsin legislators, the Wisconsin Legislature, or both.

Both Parties shall respect, as far as possible, the privacy rights of all veterans under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its subsequent regulations and other applicable Wisconsin State laws pertaining to the privacy of veterans.

ARTICLE 5. STANDARD CONTRACT TERMS AND CONDITIONS

Open Records Law. Both Parties understand and acknowledge that all records pertaining to and including this Agreement are subject to Wisconsin Public Records Law, Wis. Stat. §§ 19.31-19.39. The Legion will fully cooperate with any request for records should DVA receive an Open Records Request pertaining to this Agreement for records that the Legion holds.

Governing Law; Validity. The validity, interpretation, and performance of this Agreement shall be governed in all respects by the laws of the State of Wisconsin without giving effect to conflicts of law principles that would result in the application of the substantive laws of another jurisdiction. Both Parties shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations that are in effect during the period of this Agreement and that in any manner affect the work or its conduct.

Non-delegation. No right or duty in whole or in part of the Legion under this Agreement may be assigned or delegated to a third party over which the Legion does not have direct control and supervision without the prior written consent of DVA.

Independent Contractor. The Legion shall perform its services hereunder as an independent contractor, and nothing contained in this Agreement shall be construed to create an employer/employee relationship between the parties. The Legion shall maintain exclusive control over personnel and salary policies relative to its employees. All salaries, health insurance, retirement benefits, car expenses, worker's compensation, or disability benefits relative to such personnel shall be paid by the Legion.

Non-waiver. No waiver of default by DVA of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the Legion shall be construed or shall operate as a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained to be performed, kept, and observed by the Legion.

Compliance with Applicable Laws. The Legion shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations that are in effect during the Period of Performance of this agreement and that in any manner affect the work or its conduct. DVA may take enforcement action, including but not limited to recouping past payments or suspending or canceling the Agreement if the Legion violates any applicable federal and state law, local law, ordinance, regulation, or requirement or does not follow applicable guidance from DVA.

Cancellation. DVA reserves the right to cancel this Agreement in whole or in part without penalty due to non-appropriation of funds or for the Legion's failure to comply with this Agreement's terms, conditions, and specifications.

Hold Harmless. The Legion will indemnify and hold harmless DVA and all of its officers, agents, and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the Legion, or anyone hired by the Legion, in prosecuting work under this Agreement.

Ambiguities. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. No provision of this Agreement will be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or drafted such provision. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

Electronic Signature Authorization. A signed copy of this Agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement. This Agreement may be conducted electronically, and the parties authorize their electronic signatures to act as their legal signatures of this Agreement. This Agreement will be considered signed by a party when that party's electronic signature is transmitted. Such signature shall have the same effect as an original handwritten signature. The parties are not required to sign this Agreement by electronic means or use an electronic signature, but if the parties elect to do so, then each party's authorization is hereby given pursuant to this paragraph.

ARTICLE 6. MODIFICATIONS

The Parties agree that this Agreement may not be modified, altered, amended, or otherwise changed except upon written consent by each of the Parties hereto.

ARTICLE 7. NOTICES

Except if a party in writing designates another official, notices and demands required or permitted to be given hereunder shall be given by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, addressed to:

A) DVA:

Jeremy Lyon, Division Administrator
Division of Veterans Benefits
Wisconsin Department of Veterans Affairs
PO Box 7843
Madison, WI 53713-7843
jeremy.lyon@dva.wisconsin.gov

B) LEGION:

Karl Stuvengen, Commander
PO Box 388
2930 American Legion Dr.
Portage, WI 53901
commander@wilegion.org

ARTICLE 8. ENTIRE AGREEMENT

The written Memorandum constitutes the entire agreement between the DVA and the Legion and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

Article 9. REPRESENTATION ON AUTHORITY OF PARTIES/SIGNATORIES CLAUSE

Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

In Witness Whereof, the parties hereto have hereunto subscribed their names and dates of said signatures.

Christopher J. McElgunn, Deputy Secretary
Wisconsin Department of Veterans Affairs

Date

Karl Stuvengen, Commander
The American Legion, Department of Wisconsin

Date