

FINDINGS OF MIDDLESEX DISTRICT ATTORNEY MARIAN RYAN REGARDING THE CIRCUMSTANCES SURROUNDING THE DEATH OF TIMOTHY WHITE AT THE EDITH NOURSE ROGERS MEMORIAL VETERANS HOSPITAL IN BEDFORD, MA

The Middlesex District Attorney's Office and the Massachusetts State Police Detectives Unit assigned to the Middlesex District Attorney's Office have concluded the investigation into the circumstances surrounding the death of Timothy White. Mr. White was found dead on June 12, 2020, in Building 5 of the Edith Nourse Rogers Memorial Veterans Hospital located at 61 Springs Road in Bedford.

I. Scope of the Review

This investigation was conducted pursuant to Massachusetts General Law Chapter 38 Section 4, which entrusts the District Attorney's Office with jurisdiction to direct and control death investigations in Middlesex County.

The primary goal of the investigation was to determine the facts and circumstances surrounding the death of Timothy White. It also sought to identify what, if any, shortcomings existed in policies and protocols, which resulted in the delay in locating the body of Mr. White.

II. Summary of Facts

On Friday, June 12, 2020, at 8:00 a.m., Massachusetts State Police assigned to the Middlesex District Attorney's Office were notified that Mr. Timothy White, a 62-year-old Veteran residing on the campus of the Edith Nourse Rogers Memorial Veterans Hospital located at 61 Springs Road in Bedford, had been found dead in a stairwell of Building 5 where he lived. Trooper Anthony DeLucia of the Massachusetts State Police responded and initiated an investigation into the circumstances surrounding the disappearance and death of Mr. White.

A new resident of Building 5, who did not know that the stairwell in which Mr. White was located was alarmed and not intended for nonemergency exit, had discovered Mr. White. When found, Mr. White was wearing white sneakers, blue jeans, a Red Sox jersey and a dark-colored baseball cap. Those were the same clothes, which he had been wearing when last seen on May 8, 2020. It appeared that he had been seated on the stairs and his walker was nearby.

It was immediately apparent, based on the decomposition of the body that Mr. White had been in the stairwell for a considerable length of time. The Office of the Chief Medical Examiner (OCME) was contacted and accepted jurisdiction.

During the investigation, Trooper DeLucia learned that parts of Building 5 are leased from the United States Department of Veterans Affairs Hospital (VA Hospital) to Caritas

Communities (Caritas).¹ On May 13, 2020, Ms. [REDACTED], an employee of Caritas, received a call from [REDACTED], who works with the homeless veterans who reside in the Caritas portion of Building 5. Mr. [REDACTED] told Ms. [REDACTED] that a resident, [REDACTED], was concerned that he had not seen fellow resident Timothy White for a few days. Ms. [REDACTED] then spoke with [REDACTED], another Caritas employee, who advised her to contact [REDACTED], the Director of Social Work for the VA Hospital. Ms. [REDACTED] also reported that Mr. [REDACTED] advised her to contact the Bedford Police Department and report Mr. White as a missing person.

Having received that advice, on May 13, 2020, at 5:50 p.m., Ms. [REDACTED] made a recorded call to the Bedford Police to report Timothy White missing.^[2] During the seven-minute call, [REDACTED] identified herself and said that she wanted to report a missing person. She added that the person had not been seen for five days, which was unusual for him. When the dispatcher inquired as to whether Caritas should be calling the Bedford Veterans Administration Police (VA Police), [REDACTED] replied that [REDACTED] had told her that this was a matter for the Bedford Police.

III. Medical Evidence

On June 13, 2020, Dr. Richard Atkinson of the OCME conducted an autopsy on the body of Timothy White. He found no trauma and no foul play was suspected. He noted that the [REDACTED] decomposition had set in. He had no date range for when death occurred, although he stated that it was plausible/possible that Mr. White was there for 30 days depending on the environmental conditions, etc. Dr. Atkinson also indicated that, given the state of the body, he was unable to say whether Mr. White has been alive, but perhaps incapacitated, for any period of time before his death.

Toxicology findings were: [REDACTED] but not confirmed due to specimen quality; products of decomposition, [REDACTED]

[REDACTED] The cause and manner of death were deemed "undetermined" by Dr. Atkinson. The autopsy did reveal [REDACTED]

IV. Family Notification

^[1] The VA leases back from Caritas space in Building 5 for seven homeless veterans.

^[2] According to Bedford Chief of Police Robert Bongiorno, Bedford police had not been dispatched to the VA Hospital campus to take a missing person report in the past 30 years. He noted that the VA Police have had the ability to enter a missing person into Criminal Justice Information Services (CJIS) themselves since 1990.

On June 12, 2020 at 2:14 p.m., [REDACTED], one of Mr. White's daughters, was notified of her father's death by Dr. [REDACTED] of the VA Hospital in Bedford. On Saturday, June 13, 2020, Trooper DeLucia spoke to [REDACTED], by phone. She told him that she had been contacted on June 12 by a nurse from the VA who told her that her father had passed away. Although it was not expressly said, she had the impression that he was found in his room and that there had been nothing unusual. She later spoke to the Medical Examiner's Office and it was then that she learned that her father had been deceased for some time before he was found. Later in the day she received a call from her aunt who told her that she had seen a media report and learned that Mr. White was found in the stairwell. Ms. [REDACTED] was understandably upset that she had not been given complete information. She further said that she had not had contact with her father because he had lost his phone and she had no way to reach him. She reported that her father had been transported and hospitalized for [REDACTED] in January 2020 and that his phone and wallet had been lost during that process.

V. **Bedford Police Response**

Bedford Police Officer Brian Ricci was dispatched in response to Ms. [REDACTED]'s call and was joined there by Sergeant Paul Saunders. Given COVID concerns, Officer Ricci met Ms. [REDACTED] outside and spoke with her there. As documented in the Bedford Police report, Ms. [REDACTED] said that Mr. White had not been seen since Friday, May 8, 2020, at around 3:00 p.m. He had never been known to leave the residence without explanation. She stated that Mr. White is [REDACTED]. She reported that she had checked his room and was unable to locate him. Since he did not have a cell phone, there was no way to contact him directly. Ms. [REDACTED] also said she had spoken to Mr. White's daughter, [REDACTED], who also did not have a way to contact her father and had not spoken with him since February 2020. Ms. [REDACTED] added that she had checked with several residents of Building 5 and that no one had additional information about Mr. White's location. She had also spoken to an on campus friend of Mr. White's, [REDACTED], and he reported that he had last spoken with Mr. White during the week of May 6 and did not know his whereabouts.

Ms. [REDACTED] described Mr. White as a white male, 5'11", 170 lbs., last seen wearing white sneakers, blue jeans, a Red Sox jersey and a dark-colored baseball cap. He had a [REDACTED] and utilized a walker to get around. [REDACTED] did not have a vehicle on the campus.

After Officer Ricci took the missing person report, he went to the Bedford VA Police station and informed Lieutenant Carroll of the report. According to Ricci, Carroll said that he would put out a BOLO ("Be On the Look Out") message to the other VA officers on the grounds. Officer Ricci then returned to the Bedford Police station and the missing person report was entered into Criminal Justice Information Services (CJIS) on May 13, 2020.

Over the following days, Bedford Police checked various walking trails, businesses and other locations looking for Mr. White. They also checked the identity of men with walkers whom they had observed around town to make certain that they were not Mr. White. On May 14, Bedford Chief of Police Bongiorno called VA Police Chief Shawn Kelley and left him a message advising that Mr. White had not been seen in the community. He said that the Bedford Police would continue their search and suggested that the VA police dogs be used to search the VA property. There was no response from Chief Kelley until an email on May 27, 2020 at 8:24 a.m. Chief Kelley thanked Chief Bongiorno for his voice mail and explained that a problem with his phone had prevented him from retrieving his messages. He thanked the Chief for his suggestion of having the dogs search the campus. Trooper DeLucia later learned that no search of the VA premises with the dogs was ever conducted.

Meanwhile, Bedford Detective Lieutenant Scott Jones had expanded the search for Mr. White beyond the local Bedford community to other areas of Massachusetts where Mr. White had lived in the past. That expanded search provided no information of assistance in locating Mr. White.

The Bedford Police Department has a policy/procedure regarding missing persons reports. The responding officer takes a report from a parent or other responsible person, which is to include information concerning the circumstances of the disappearance, where, when and by whom the person was last seen, and seeks to obtain permission, if applicable, for a scene search. A building search was not done of Building 5 on May 14, 2020, by the Bedford Police for two reasons. First, the report was that Mr. White was not on the premises and had not had contact with the program for several days. It was determined that the last time that Mr. White's key fob had been utilized anywhere on the Caritas premises was May 7, 2020. Additionally, his room had already been checked by Ms. [REDACTED]. Secondly, given the COVID-19 situation, Building 5 was in "lockdown," meaning that only residents and staff were granted access to the premises.

VI. Facility Background

Although Building 5 is on the hospital grounds and part of that complex, it is leased to the Caritas Communities program. Caritas is a community of adults who rent rooms and live independently. Timothy White, who was a Veteran, lived in Unit 17, Building 5. As part of his lease, Mr. White, in addition to his room, had access to the common areas on his floor.

Except in an emergency, everyone coming to Building 5 is expected to enter and leave through the front door. The stairwell where Mr. White was found can only be entered from inside the building and leads to an exterior door with a push bar handle. Opening that door activated an audible alarm which required a key to silence it. There was no keypad or keyhole on the exterior side of the door. Thus no one could enter the building through that door unless someone inside opened the door and allowed access.

As part of the follow-up investigation, Sergeant Colton Reeder of the VA Police provided a "Memorandum of Record" to VA Police Chief Shawn Kelley, dated June 16, 2020. In that memorandum, Reeder said that on May 14, 2020, at 6:15 p.m., he came on duty and was informed by Lt. Carroll that the Bedford Police had taken a report of a missing person. Reeder said that he was familiar with Timothy White and that he was aware that he had several health problems. Reeder was informed that the Bedford Police would be entering Mr. White's information into CJIS. There was a log entry from the VA Police dispatcher, Alexander Griffin, noting that Bedford Police had been on the property and met with Lt. Carroll concerning the missing person. He stated that an advisory email was sent to all Bedford VA Police officers concerning the missing person report with a photo of Mr. White. Reeder said that he conducted routine exterior searches of VA property and an unreported foot search of the property to the tree line. He noted that he felt that he should be careful not to involve himself in another agency's investigation. He did continue to mention that Timothy White was still missing in roll calls of his shifts.

During the investigation, Trooper DeLucia learned that there had been longstanding issues between the Caritas staff and the VA Police. Personnel from Caritas had reported that the VA Police were coming into Building 5 and harassing the residents concerning possible drug use and other issues. At one point, all VA Police officers had been provided with key fobs to allow access to the building. Every one of those fobs was eventually reported lost. When that happened, Caritas announced that, for security and cost reasons, there would be a lockbox with a key fob so that officers would have access to a key that was to be returned after entrance was gained.

There were also issues related to residents propping the stairwell door open. This created a security issue and, when COVID-19 became a concern, the decision was made to install the audible alarms. This was to ensure that no one entered without being screened. Work orders for the alarms were generated by the VA on March 27, 2020 and installed by them on March 28, 2020.

There were monthly meetings on these issues between Caritas and the Bedford VA thru February 2020. Caritas advised that they did not want the VA Police in the building unless there was a safety issue and Caritas requested their presence. Routine patrols of Building 5 by the VA Police had ceased. However, this arrangement was complicated by the fact that the VA Hospital leased seven temporary homeless beds in Building 5 and that area was within the jurisdiction of the VA Police.

For their part, the VA had had problems with Caritas and the building, including issues with abandoned cars, cleanliness and upkeep of the premises. This conflict had come to the attention of the VA in Washington, D.C. and Caritas was placed in CURE – a remediation program with Caritas given written notice of the issues and 90 days to take corrective action. Caritas met expectations and the VA in Washington, D.C., on the recommendation of the Bedford VA liaison, had closed out the CURE.

VII. Massachusetts State Police Investigation

As part of the investigation being conducted by Massachusetts State Police Detectives assigned to the Middlesex District Attorney's Office, Trooper DeLucia asked Ms. [REDACTED] if she had ever checked the stairwell for Mr. White. Ms. [REDACTED] said that no one used the stairs so she did not think to do it. She said she had initially thought that Mr. White had gone somewhere with a friend but, after the 4th or 5th day, she thought that a missing person report should be filed. She knew that Mr. White had no phone and no transportation. In fact, she had set up an UBER account for him so he could go to medical appointments. She said that on May 7, he took an UBER to an appointment and she saw him return to the facility. On May 8, she talked to him in the day room about a phone call that he had been expecting.

On the evening of June 18, 2020, which was the night before Trooper DeLucia and Lt. O'Rourke from the State Police Middlesex Detective Unit were scheduled to meet with Ms. [REDACTED] and counsel for Caritas Communities, Caritas Communities issued a press release of questionable origin. (Appendix 2)². That statement claimed that: "Veteran's Affairs officials have accepted responsibility for the Bedford hospital stairwell" where a man was found dead weeks after he went missing." In response to the confusion that was generated by the statement, on the following day investigators requested and were provided a copy of the Caritas/VA lease.

VIII. Review of the Lease

The lease provided by Caritas (Appendix 3) was signed in 2004 and describes a 55-year agreement between the VA and Vietnam Veterans Workshop, Inc. The lease is for "PROPERTY" described as certain real estate of approximately 23,686 square feet of interior space, excluding roof and exterior walls and walkways in Building 5, depicted as **Shaded area in Exhibit A** and all of the buildings, improvements, facilities, structures and other improvements which are constructed, erected or placed on the Property." (Exhibit A, Lease page 5, paragraph O). The shaded diagram, found on page 36, indicates that the lessee shall have exclusive use of the shaded areas. It appears that the stairwells are the non-shaded areas. A common-sense reading would suggest that, although Caritas did not have exclusive access to the stairwell, it nevertheless had joint access to the stairwell.

According to [REDACTED], the VA's Lease Site Manager (LSM), the stairwells are only accessed by Caritas, or the company that preceded them, and Caritas had paid to make those stairs fire compliant. Taking those factors into account, the Lease Site Management personnel in Bedford always believed that Caritas was responsible for those stairwells.

However, an email chain provided to investigators concerning the installation of the alarms on the exterior doors shows that the alarms were ordered and installed by the

² During the investigation, the Massachusetts State Police were also assisted by the U.S. Department of Veterans Affairs, Office of Inspector General, Northeast Field Office in setting up interviews.

VA. [REDACTED], Director of Social Work for the Bedford VA Hospital, in the following email claims the stairwells and exterior door as VA property.

From: [REDACTED]
Sent: Monday, March 23, 2020 7:13 AM
To: Kelley, Shawn J. Bedford VAMC [REDACTED] <[REDACTED]>; [REDACTED] <[REDACTED]>
Cc: [REDACTED]
Subject: RE: Propped Doors

I have asked for alarms to be purchased for the fire exit doors so that propping them open would no longer be an option. Bldg. 5 staff are policing as best they can but there are 5-6 of these doors with no cameras or alarms so difficult to police all of them. Reminder the stairwells and exterior doors are VA property not Caritas.

Thanks

(Emphasis added.)

IX. Review of Public Information

On Monday, June 15, 2020, Caritas Communities issued a press release (Appendix 1) that indicted that:

“On the morning of May 14, a Caritas employee visited the VA Police office on campus and reported the person missing. Caritas had been working with the VA and the Bedford Police to ascertain the whereabouts of this resident. On Friday, June 12, the body of the 62-year-old missing man was found in an emergency-exit stairwell outside the space leased by Caritas. It is one of several stairwells that are outside the leased premises of Caritas Communities and are solely controlled by the VA. A statement released today by the VA that the resident was found “on the Bedford VA campus in an area leased and operated by a private company” is inaccurate. Caritas Communities is cooperating fully with the investigation. The name of the man has not been released by authorities. Caritas Communities is deeply saddened and offers our condolences to the family and friends of the Veteran.”

The first highlighted portions of the statement were shown by the investigation to be inaccurate. No one from Caritas visited the VA Police station on May 14, 2020, to report Mr. White was missing. The Caritas employee, Ms. [REDACTED], reported him missing on May 13, to the Bedford Police. The second highlighted area is misleading because, although according to the lease the VA is responsible for the stairwell, some

improvements were made to the stairwell at Caritas' expense and direction. Further, the email from Mr. [REDACTED] claims ownership of the stairwell by the VA.

Trooper DeLucia later interviewed [REDACTED], Director of the VA's Enhanced Use/Lease Program in Washington, D.C. Mr. [REDACTED] was clear that pursuant to the lease entered into in 2004, the VA and not Caritas had responsibility for the stairwell. He said that the VA's initial statement that the stairwell was Caritas' responsibility was wrong. He was asked why such a complicated provision would be included in the lease. He said that this lease preceded his time with the agency but added that, although there are approximately 100 such VA leases with external service providers nationwide, that this is the only one with this provision. Mr. [REDACTED] said that he had inherited it and agreed that it did not make sense and would likely never be used in any new lease.

X. **Conclusion**

Given the delay in discovering Mr. White's body in the stairwell, the Medical Examiner was not able to determine whether he died of natural causes where he was found or if he was injured or incapacitated for a period of time before death, either from dehydration or lack of medical treatment. Therefore, no assessment of whether his death was the product of wanton or reckless conduct can be made by this Office.

However, it is clear that Mr. White's family suffers the terrible fate of not knowing how he died or whether anything could have been done to assist him. A number of factors converged to create this situation, some which are understandable and some of which must be addressed.

Although Caritas did not have a responsibility to monitor residents, upon realizing that Ms. [REDACTED] had not seen Mr. White and learning that his friend was concerned, Ms. [REDACTED] did check with Mr. White's family and friends, look in his room and file a missing person's report. There appears to be no explanation as to why other areas of Building 5, particularly the common areas, were not searched. The door to the stairwell was close to Mr. White's room. He required the use of a walker and presumably might have had difficulty with stairs, and, although not a sanctioned egress, the door in the stairwell was known to have been used by the residents. In fact, that use was of such concern that the door had recently been alarmed by the VA.

There is no evidence that Officer Ricci was familiar with the interior of Building 5 and COVID concerns caused him to remain outside while speaking with Ms. [REDACTED]. However, he had learned that Mr. White had not been seen on the property for several days, that his key fob had not been used for almost a week, that his room had been checked and that the building was in lockdown and presumably had limited usable entrances/exits.

Under normal circumstances, a search of the building either by Bedford Police or by the VA Police would likely have been done on May 13, 2020. Officer Ricci did consult with

the VA Police and have Mr. White's information entered into CJIS. The Bedford Police also searched in town for Mr. White, checked his former locations, updated the VA Police and offered a suggestion regarding the use of the VA dogs.

The situation between the VA and Caritas is untenable. Had clearer guidelines been in place, patrols of the building by the VA Police would likely have included the stairwell, which presumably would have led to the discovery of Mr. White's body.

In missing person cases, where time may be of the essence, the failure to call for the VA Police, who are on campus and would have knowledge of the buildings, was unreasonable. Even if the VA Police would have needed the assistance of Bedford Police to enter information into CJIS that could easily have been dealt with as an interagency request for assistance.

As already discussed, the lease provision, which is not sensible and clearly not understood, created an unnecessary obstacle to the resolution of this situation. The lease provision also appears to have been used by both Caritas and the VA to place blame for the failure to search the stairwell on the other. This was not constructive, painful for Mr. White's family and confusing to the public. It also served to divert attention and resources away from the need to address this situation.

One positive result of the examination of this experience is that it did have an impact on the parties' response to a subsequent missing person report. On Monday, August 24, 2020, a similar missing person report was handled as a cooperative effort by Caritas, VA Police and Bedford Police. On that date, Caritas Case manager [REDACTED] and House Manager [REDACTED] reported that another Building #5 resident had not been seen for approximately 48 hours. Bedford Police Sergeant Vitale arrived on the scene and spoke with [REDACTED] and [REDACTED]. During the reported incident, VA Police completed a K9 search and an overall building search of Building #5. The Bedford Police Search and Lost Person Questionnaire was filled out while the VA Police were performing their search of the premises. That resident later returned on his own to Building #5.

In contrast to what occurred during the White incident, the parties, from the outset, worked cooperatively to investigate the whereabouts of the missing resident. It appears that they were able to build upon lessons learned in the investigation of Mr. White's disappearance.

XI. Recommendations:

- A. Communication must be improved with families. Given the emotional nature of the news that the facility is delivering when speaking with family members about either the disappearance or death of a resident, it has an obligation to provide them with clear and complete information at the earliest possible time. Caritas must develop a set of clear guidelines regarding such notifications, distribute them to staff and train staff appropriately.

- B. Any public communication regarding such incidents, whether by the VA or any other entity should not contain details or information, which has not been previously provided to the family.
- C. Clear guidelines should be developed, published to staff and be the subject of staff training regarding the processes to be followed when a resident cannot be located.
- D. Processes should be implemented for the regular patrol of common areas of the buildings, specifically stairwells, elevators and other places where a person would not be readily visible.
- E. Agreement should be reached between the VA and Caritas regarding access to and responsibility for common areas.

APPENDIX 1

FOR IMMEDIATE RELEASE

Monday, June 15, 2020

A statement from Caritas Communities:

Caritas Communities is a nonprofit homelessness prevention organization that provides Single Room Housing for 1,000 individuals annually throughout Greater Boston. The Bedford Veterans Quarters is a Caritas Communities residential facility leased from the VA in one portion of one building on the VA campus in Bedford, and provides single room occupancy housing to formerly homeless veterans. It is not a hospital or rehabilitation center but an independent-living residence. Residents are free to come and go as they please and have no obligation to inform the staff of their whereabouts. They regularly go to work, grocery shopping, visiting family and other normal activities. They also frequently participate in programs and use facilities available to them on the VA campus.

Caritas Communities provides on-site staffing to refer and help residents connect to counselling, medical treatment, employment and other services at the VA. Caritas Communities is committed to the health and safety of our residents and follows strict protocols when a resident is discovered missing.

On May 13, 2020, at about 1 p.m., Caritas notified VA officials in Bedford of a missing BVQ resident. Caritas notified the Bedford Police of the missing person later that afternoon. On the morning of May 14, a Caritas employee visited the VA Police office on campus and reported the person missing. Caritas had been working with the VA and the Bedford Police to ascertain the whereabouts of this resident. On Friday, June 12, the body of the 62-year-old missing man was found in an emergency-exit stairwell outside the space leased by Caritas. It is one of several stairwells that are outside the leased premises of Caritas Communities and are solely controlled by the VA. A statement released today by the VA that the resident was found "on the Bedford VA campus in an area leased and operated by a private company" is inaccurate.

Caritas Communities is cooperating fully with the investigation. The name of the man has not been released by authorities. Caritas Communities is deeply saddened and offers our condolences to the family and friends of the Veteran.

ABOUT CARITAS COMMUNITIES

Caritas Communities works to prevent homelessness by providing very low-

income individuals with permanent housing, support, a sense of community and expanded opportunities. For more than 35 years, Caritas has helped fill the need for safe, secure housing in Greater Boston. Caritas has 33 buildings in 17 Greater Boston communities, housing more than 1,000 individuals annually. Caritas provides on-site support services, emergency rental assistance, veterans-specific housing and services, and on-site property management. Caritas enables working people on minimum wage, veterans experiencing post-service challenges, and low-income elderly and disabled citizens to live in a clean, safe home that they can afford. To learn more, please go to www.caritascommunities.org.

###

APPENDIX 2

SHARE

JUNE 18, 2020

Nonprofit says VA has accepted responsibility for stairwell where missing veteran was found dead



Brynne Connolly

BEDFORD, MASS. (WHDH) - The nonprofit organization, Carnitas Communities, released a statement Thursday night alleging that Veteran's Affairs officials have accepted responsibility for the Bedford hospital stairwell where a man was found dead weeks after he went missing.

Carnitas said there was some initial confusion about who controlled access to the stairway in the building that they lease space in from the VA. However, after a conversation with officials in Washington on Wednesday, the VA admitted their initial statement on the matter was incorrect and the maintenance of the stairwell is on them, according to the release.

"Caritas searched all areas to which we had access. Though the stairwell is adjacent to our space, it is not our property. The area of the stairwell in which our resident was found is not visible from our premises. We had no idea that the resident had entered the stairwell, which is strictly off-limits to our residents other than as an emergency exit," Karin Cassel, Executive Director of Caritas Communities wrote in a statement.

The 62-year-old man was found by another resident on June 12 after being reported missing in May, according to the Middlesex District Attorney's Office. The man was living in a part of the facility that is not operated by the Department of Veteran Affairs and Caritas Communities, which runs the facility, said it was "deeply saddened" in a statement.

Investigators say the man was last seen May 8. Caritas Communities reported him missing May 13.

He was discovered about five weeks later in the stairwell about 20 yards from his apartment wearing the same clothes he was last seen in.

Caritas provides housing for low-income individuals.

The primary relationship between Caritas and its residents is that of landlord and tenant.

“We are heartbroken at the loss of this Veteran, and the pain his family is experiencing,” the release read. “We care deeply for our residents at the BVQ and all of our houses.”

(Copyright (c) 2020 Sunbeam Television. All Rights Reserved. This material may not be published, broadcast, rewritten, or redistributed.)

APPENDIX 3

Enhanced Use Lease, VAMC Bedford
Single Residency Occupancy (SRO)
9/10/2004

ENHANCED-USE LEASE

of Certain Real Property and Facilities
at the Edith Nourse Rogers VA Medical Center
Bedford, Massachusetts

DATED: September 10, 2004

ENHANCED-USE LEASE
Of Certain Real Property and Facilities
Of the Edith Nourse Rogers Veterans Affairs Medical Center, Bedford, MA

This **Enhanced-Use Lease** (hereinafter referred to as the "Lease"), is made and entered into this 10th day of September, 2004 by and between the Secretary of the Department of Veterans Affairs, an officer of the United States on behalf of the **Department of Veterans Affairs** (the "Department" or "VA"), and the **Vietnam Veterans Workshop, Inc.** a not for profit corporation organized under the laws of Massachusetts ("VWV"), **Boston, MA**, for the portion of a building as described in Exhibit A;

WHEREAS, the Department has jurisdiction and control of certain real property and facilities known as the **Edith Nourse Rogers VA Medical Center, Bedford, Massachusetts, (the "VAMC")** which provides health care services to the nation's veterans. The VAMC is located at 200 Springs Road, Bedford, MA, 01730. The property subject to this lease is approximately 23,686 square feet of Building 5 depicted as **Shaded Area in Exhibit A**.

WHEREAS, 38 U.S.C. Sec. 8161, et seq. "Enhanced-Use Leases of Real Property," permits the Department to enter into long-term leases of certain property under its jurisdiction and control; and

WHEREAS, the VWV desires to rehabilitate the space outlined in Exhibit A into a single room occupancy (hereafter "SRO") for the purpose of providing permanent housing to homeless veterans in the community and to be financially responsible for the rehabilitation, construction, maintenance, repair and operation of the facility; and

WHEREAS, a long-term use of the property as an SRO at the Bedford VAMC through an *Enhanced-Use* lease, as authorized by the provisions of 38 U.S.C. 8161, et seq., by the VWV would result in the availability of housing to a veteran homeless population and result in significant cost avoidance to the Department by reducing reliance on inpatient and domiciliary resources and permit more cost effective outpatient services. The cost reductions will permit more resources to be directed toward direct patient care.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED AND ACCEPTED, IT IS HEREBY AGREED THAT the Department grants to the VWV a fifty-five (55) year Enhanced-Use lease, with a twenty (20) year option to extend the term of the Lease, of that certain real property depicted as shaded area in Exhibit A attached hereto and incorporated by reference herein, under its jurisdiction and control, subject to the terms and conditions set forth in this Lease.

ARTICLE 1 - EXHIBITS AND DEFINITIONS

Exhibits: The following constitute the Exhibits to this Lease. Each of the Exhibits is attached to this Lease and is incorporated by this reference:

- A. Exhibit "A": Legal Description of Property
- B. Exhibit "B": Design and Specifications For The Single Room Occupancy Complex
- C. Exhibit "C": Construction Plan and Schedule
- D. Exhibit "D": Notice of Lease
- E. Exhibit "E": Operations. Addendum "A," Rules and Regulations; Addendum "B," Individualized Service Plan; Addendum "C," Drug Free Housing Statement; Addendum "D" Tenant Selection Plan

Definitions:

- A. "COMMENCEMENT OF CONSTRUCTION": means that date that the VVW, its construction contractor, any subcontractor, or builder associated with the Project commences any reasonable act on the Property aimed at, or which effectively establishes, builds, erects, constructs, raises, develops, or furthers any portion of the Project's development.
- B. "CONSTRUCTION AND INITIAL OCCUPANCY PERIOD": means the period of time beginning on the Commencement of Construction and ending after twenty-four (24) months or on the Lease-Up Date, whichever occurs first.
- C. "CONGRESS" means the Congress of the United States of America.
- D. "DEPARTMENT" means the United States Department of Veterans Affairs.
- E. "DESIGNATED VA REPRESENTATIVE" or "DVR": means the individual of the Department who: (i) is designated by the Secretary to act on matters of Lease administration but (ii) is not designated to execute amendments or modifications to the Lease unless the individual has or acquires such authority through a written Delegation of Authority from the Secretary.
- F. "EFFECTIVE DATE" means the date this Lease is executed by both parties.
- G. "FORCE MAJEURE": means any of the following that directly cause any of Lessee's obligations hereunder not to be performed in a timely manner: (i) an earthquake, hurricane, tornado, flood, or other similar act of God; (ii) fire; (iii) strikes or similar labor disputes provided such strike or similar dispute is beyond Lessee's control

and provided Lessee takes all steps reasonably possible to remediate such strike or similar dispute; (iv) acts of the public enemy; (v) inability to obtain labor or materials or clear access to the Project by reason of acts or omissions of any governmental body not caused by Lessee's actions or omissions; (vi) rebellions, riots, insurrections or civil unrest; (vii) unusually severe weather conditions that actually cause similar construction or development activities in the area of the Project to be suspended; or (viii) an unknown environmental hazard or unknown hazardous substance (i.e., a hazardous substance, covered by any environmental law or regulation, whose existence on the Property is unknown to Lessee by the Effective Date) affecting the Property.

H. "HAZARDOUS MATERIALS" means (i) "hazardous substances", as defined by the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. Sec. 9601 et seq.; (ii) "hazardous wastes", as defined by the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sec. 6902 et seq.; (iii) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended or hereafter amended; (iv) more than 100 gallons of crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); (v) any radioactive materials, including any source, special nuclear or by-product material as defined at 42 U.S.C. Sec. 2011 et seq., as amended or hereafter amended; and (vi) asbestos in any form or condition.

I. "IMPROVEMENTS": means any existing improvements on the Property, and any development, renovations, refurbishment and/or rehabilitation activities made on or to the Property as defined in the Design and Specifications For The Single Room Occupancy Complex (Exhibit B) that the Lessee will provide to the Department in accordance with Article 9 of this Lease.

J. "LEASE" means this Enhanced-Use Lease between the Department and VVW.

K. "LEASEHOLD MORTGAGE": means a leasehold mortgage and security agreement granting a lien on the Improvements, including any amendments or supplements thereto as permitted under the indenture, or any subsequent leasehold mortgage to a subsequent lender in accordance with the terms of this Lease.

L. "LEASEHOLD MORTGAGEE": means a Lender providing financing for the construction and operation of the SRO, including the holder of a leasehold mortgage, that is a bank or other nationally recognized financial institution authorized to do business in the United States or otherwise approved by the Department.

M. "LEASE-UP DATE" means the date on which the first referred tenant becomes a resident in the SRO facility.

N. "LENDERS" means the U.S. Department of Housing and Urban Development (HUD), Federal Home Loan Bank, Commonwealth of Massachusetts, and/or institutional lenders who may provide financing for the construction and operation of the SRO.

O. "PROPERTY" means that certain real property of approximately 23,686 square feet of interior space, excluding roof and exterior walls and walkways in Building 5 depicted as **Shaded area in Exhibit A** and all of the buildings, improvements, facilities, structures or other improvements which are constructed, erected or placed on the Property.

P. "PROJECT" means the necessary activities related to the rehabilitation, construction, maintenance, repair and operation of the SRO, to include demolition and removal of structures and hazardous materials on the Property.

Q. "SECRETARY" means the Secretary of Veterans Affairs or the individual delegated the authority to act for and on behalf of the Secretary of Veterans Affairs.

R. "SINGLE ROOM OCCUPANCY" or "SRO" means a 60-unit residential development consisting of a single room and associated facilities such as a community kitchen, management quarters, counseling, recreation and supportive services spaces, all of which as depicted in Exhibit B.

S. "VAMC" means the Edith Nourse Rogers Hospital Veterans Affairs Medical Center, Bedford, MA.

T. "VETERAN" means a person who has served in the active military, naval, or air service within the meaning of 38 U.S.C. Section 101(2), and who was discharged or released therefrom under conditions other than dishonorable.

U. "VWV" is the Vietnam Veterans Workshop, Inc., of Boston, MA.

ARTICLE 2 - TERM

The term of this Lease shall be for a period of fifty-five (55) years commencing on the effective date of this Lease. Such term may be extended by agreement by both parties, each at their sole discretion, for an optional period of an additional twenty (20) years. The parties agree that they shall engage in good faith negotiations commencing no later than two years prior to the expiration of the Lease term, with the goal of reaching agreement on the twenty (20) year optional period.

ARTICLE 3 - PROPERTY TO BE LEASED TO VWV

The Property subject to this Lease shall constitute all real property, facilities, portions of buildings, structures, and utility systems on the Property as described and depicted in Exhibit A.

ARTICLE 4 - OPERATIONS

It is the understanding of both parties that the VVW is undertaking this lease to achieve public interest objectives that are mutually beneficial, namely to:

- A. improve the availability of affordable housing to low income and special needs veterans in the greater Boston area;
- B. assure through a community based, not-for-profit effort, that all low-income and special needs veterans have access to safe, supportive and affordable housing in the greater Boston area.

Accordingly, in consideration of the rights, benefits, and privileges accruing to the VVW resulting from this Lease, all exhibits thereto and of its use of the Property, the VVW agrees to undertake and complete certain actions and activities and provide the following consideration, all of which shall constitute fair consideration for this Lease:

1. The VVW, at its sole cost, responsibility, and at no cost or liability to the Department, shall use the Property, or cause it to be used, to rehabilitate, construct, maintain, repair and operate an SRO, as specifically described in Exhibits B, C, and E of this Lease [note: Exhibit E is comprised of four separate documents, identified as "SRO Rules and Regulations," "Individualized Service Plan," "Drug-Free Statement," and Tenant Selection Plan" collectively referred to as Exhibit E] which by this reference are made a part of this Lease, in accordance with this Lease and all attachments and exhibits; and
2. Establish, in consultation with VA, specific procedures, regulations, rules, and/or standards to ensure that eligible veterans receive 100% priority placement into all of the services offered within the Property; ensure that veterans receive such services or any privileges, accommodations, or activities provided in as good or better a manner as all other persons or organizations on the Property; and ensure that such veteran eligibility placement and occupancy is in accordance with the criteria contained in Exhibit E.
3. The VVW shall be responsible for all costs associated with or pertaining to the demolition and removal of all material, including hazardous waste materials, on the effective date of this Lease.
4. During the term of the Lease: (i) obtain at its own expense all State and local permits, licenses, and approvals (including those approvals of VA) necessary for rehabilitation and construction of the Property; (ii) assure that all

applicable Federal, State and local requirements are met during operation of the Property (including the latest version of the National Fire Protection Association (NFPA) 101 Life Safety Code); (iii) assure that its construction and operation activities do not negatively affect activities or operations conducted by the VAMC, and use all reasonable and commercial efforts to conduct any of its construction activities involving noise, dirt, or other emissions that could negatively affect activities or operations conducted by the VAMC to times falling within normal VAMC business hours; and (iv) assure that the Property is operated as a drug-free environment and take action promptly when this requirement is not met by occupants.

ARTICLE 5 - REPRESENTATIONS AND COMMITMENTS

- A. The VVW and the Department hereby represent, warrant, and covenant that:
1. Each party has complied with all applicable laws and requirements in connection with the execution, delivery, and performance of this Lease; and
 2. Each party is duly authorized to execute and deliver this Lease; and
 3. This Lease constitutes a legal, valid and binding obligation of each party, enforceable in accordance with its terms subject to equitable principles, which could affect specific performance.
 4. Upon expiration or termination of this Lease, title to the structures and other permanent Improvements constructed or placed on the Property and the fixtures annexed thereto shall immediately vest in and become the property of the Department, as part of the real estate and Property, without any additional compensation therefore and without any instrument of conveyance. VVW covenants and agrees, upon demand by the Department, on or after termination of the Lease (except pursuant to Article 22 of this Lease), to execute any instruments requested by the Department to effectuate the conveyance of such structures or permanent Improvements constructed or placed on the Property and the fixtures annexed thereto.
 5. Estoppel Certificates. The Department and VVW hereby agree from time to time, each after not less than thirty (30) days prior written notice from the other or any Leasehold Mortgagee, to execute, acknowledge and deliver, without charge to the other party, the Leasehold Mortgagee or any other person designated by the other party, a statement in writing certifying:
 - a. that this Lease is unmodified and in full force and effect, or if there have been modifications, identifying the same and the nature thereof;

b. that to the knowledge of such party there exists no defaults, or if there are any defaults, specifying the same;

c. the amount of rent, utilities or other charges, and the latest date on which the rent, utilities or other charges were paid; and

d. whether such party has knowledge of any claims outstanding against the other party hereunder, except for continuing obligations under this Lease, and if such party has any such claims, specifying the same.

B. The VVW acknowledges and agrees that:

1. The VVW is a not for profit corporation organized under the laws of the Commonwealth of Massachusetts.
2. The VVW has inspected the Property, is fully familiar with the physical condition of the Property including the presence of hazardous materials (if any) on the Property and accepts all of such Property "as is"; and
3. The Department has made no representations or warranties concerning the condition of the Property or the presence (or lack thereof) of lead, asbestos or other hazardous material and other contaminants on the Property, the fitness or suitability for any particular use or access to the Property, and the Department shall not be liable for any latent or patent defect in such Property, nor has it agreed to alter or improve such Property; and
4. Utilities: During the term of the lease, and so long as VA is in control of the VA Medical Center property, VA will use its best efforts to provide uninterrupted flow of utilities, but VVW acknowledges that VA will not be liable for damages due to or caused by interruption of utilities service.

VVW shall be responsible for all costs (i.e. direct costs, insurance, taxes or assessments) associated with establishing/constructing any infrastructures, distribution lines and systems, connections, meters, taps, etc., necessary for providing utilities to the Property.

VA will provide the following utility commodities to the Property: heat (through central heating system), electricity and water.

VA may terminate delivery of utilities services only upon 120 days written notice and only (a) in case of transfer of ownership from the United States, (b) transfer of control of the VAMC from VA to another party, or (c) substantial change in the mission of VA such that VA is no longer empowered to carry out medical care at the VA Bedford site.

VVW acknowledges that, upon the occurrence of the contingencies listed in the preceding paragraph, VA has no obligation to provide or insure provision of utilities.

5. No changes, revision, modification, or amendment will be made to the Lease except as provided in this Lease.
6. VVW will at minimum, by May 31st after the close of each of its respective annual fiscal years on which VVW operates, provide VA with its financial statements, annual reports, and any related financial disclosure documents, so VA can review them to ensure that VVW is not undergoing, or about to undergo, an adverse financial condition or circumstances which would negatively impact its ability to perform its Lease obligations. Additionally, VVW agrees that it will immediately contact VA telephonically and in writing if a material adverse change to its financial condition occurs.
7. The Department acknowledges and agrees that to the extent the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), the Resource Conservation Recovery Act, as amended ("RCRA"), or other applicable law properly impose liability, loss, expense, or damage, or cost upon VA for any matter relating to any hazardous material or otherwise of an environmental nature on or affecting the Property due to (1) VA's status as a federal owner of the Property, (2) acts of VA and/or former owners on or affecting the Property, or (3) acts of government contractors on or affecting the Property that occurred while VA had jurisdiction and control of the Property, VA shall indemnify the Lessee, its directors, officers, trustees, members, employees, agents, successors, and assigns ("Indemnitees") for any liability, loss, expense, damage, or cost incurred or suffered by the Indemnitees and arising from any of the foregoing acts set forth in clauses (1), (2), and/or (3) and properly assessable against VA under CERCLA, RCRA, or other applicable environmental law. The Lessee shall immediately notify VA upon receipt of any notices, claims, or other information that identifies any environmental problems on or related to the Property which may require VA action and/or expenditure of funds.

Consistent with the Anti-Deficiency Act (31 U.S.C. Section 1341), the payments of VA with respect to this indemnification shall not exceed appropriations available to VA which can be lawfully expended for such purposes at the time of the claim; and nothing in this Lease may be construed as implying that Congress will at a later date appropriate funds to meet any deficiencies.

8. Notwithstanding Article 5(B)(7) of this Lease, to the extent the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), the Resource Conservation Recovery Act, as amended ("RCRA"), or any other applicable law imposes liability, loss, expense, or damage, or cost upon VA for any matter relating to any hazardous material or otherwise of an environmental nature on or affecting the VAMC and/or the

Property due to acts of the Lessee and/or Lessee's contractors relating to the Project, including any environmental remediation, which occur after the Effective Date, Lessee shall indemnify and hold VA harmless for any liability, loss, expense, damage, or cost incurred or suffered by VA and properly assessable against Lessee under CERCLA, RCRA, or other applicable environmental law. Lessee shall immediately notify VA upon receipt of any notices, claims, or other information which identifies any environmental problems on or related to the Property which may require Lessee and/or VA action and/or expenditure of funds. The indemnifications set forth in this Article shall survive the termination of this Lease.

9. VVW will at its sole cost and expense, rehabilitate, construct and begin operations in the SRO within 24 months after the Effective Date in a good and workmanlike manner pursuant to the Construction Plan and Schedule at Exhibit C.
10. VVW shall be solely responsible for renovating/constructing the Project in accordance with this Lease, and all applicable State of Massachusetts and local building code and safety standards. During renovation/construction, however, the Department may, at reasonable times and with a VVW representative present, inspect the work to ensure compliance, to include the NFPA 101 Life Safety Code and applicable fire alarm and sprinkler codes and standards. Such inspections by the Department shall not relieve VVW of its sole responsibility for compliance. In addition, upon completion of the work, VVW shall, at VVW's sole cost and expense, assure that its architect or professional engineer registered or licensed with the State of Massachusetts files a Final Construction Control Affidavit with appropriate State of Massachusetts officials indicating that the work was performed in accordance with this Lease and Title 780 CMR. VVW acknowledges and agrees to provide a copy of such Final Construction Control Affidavit to the Department before occupying the SRO, and the Department will provide written notice of receipt of such Final Construction Control Affidavit within 24-hours of receipt by the Department.
11. The VVW will assure that its rehabilitation, construction, maintenance, repair and operation activities do not negatively affect activities or operations conducted by the VAMC, and use all reasonable and commercial efforts to conduct any of its rehabilitation, construction, maintenance, repair and operation activities involving noise, dirt, or other emissions that could negatively affect activities or operations conducted by the VAMC to times falling within normal VAMC business hours.
12. The Department shall be responsible for the provision of police patrol and protection, fire protection and inspection, and emergency services to the Property at its sole cost and expense.

Police: Concurrent jurisdiction exists with the Town of Bedford Police Department so enforcement of local and state laws is the responsibility of both VA and the Town of Bedford Police. First calls for emergency police assistance

should be made to the VAMC Police at (781) 786-2335 and for non-emergency assistance to (781) 687-2404.

Fire: The Department will include the Property in its annual fire drill and hazard inspections upon receipt of a written request from VVW. VVW will maintain connectivity to the existing VAMC fire alarm and fire protection (sprinkler) systems. Per NFPA standards any changes that are made to the existing sprinkler system must be certified by a licensed contractor.

Emergency: Emergency health care calls should be made through the Town of Bedford "911" emergency response system.

13. VVW shall pay rent to the Department as follows:

a. During the period between the Effective Date and the Commencement of Construction, VVW will owe no rent payments to the Department.

b. During the Construction and Initial Occupancy Period, VVW shall pay rent to the Department in an amount computed at \$.785 per square foot per year multiplied by 23,686 (the square footage VVW is leasing). This amount shall be divided by twelve (12) and the resulting amount shall be due and payable to the Department in advance monthly on the first day of each month of such period.

c. During the first twelve (12) month period after the Construction and Initial Occupancy Period, VVW shall pay rent to the Department in an amount computed at \$3.14 per square foot per year multiplied by 23,686 (the square footage that VVW is leasing). This amount shall be divided by twelve (12) and the resulting amount shall be due and payable to the Department in advance monthly on the first day of each month.

d. Annual Rent Payment Computation. Rent due and payable to the Department for the balance of the Lease term shall be recomputed annually in accordance with the following formula: The total dollar cost to the Department for utilities dedicated to all buildings on the VAMC campus for the preceding twelve (12) month period will be divided by the total square feet of all buildings on the VAMC campus (presently 1,141,000) to determine the annual utility cost per square foot to the Department for all buildings on the VAMC campus. The annual utility cost per square foot to the Department for all buildings on the VAMC campus will then be multiplied by the total square feet of space in Building No. 5 leased to VVW (23,686) to determine the annual rent due and payable by VVW to the Department. The annual rent due by VVW to the Department will then be divided by twelve (12) to determine the rent

due and payable by VVW to the Department in advance monthly on the first day of each month.

c. Rent due and payable monthly to the Department shall be delivered to the Billing Office: Chief, Finance Officer (04); ENRM Veterans Hospital; 200 Springs Road, Bedford, MA 01370.

ARTICLE 6 - USE

A. The Property may be used by the VVW for the purposes of rehabilitation, construction, maintenance, repair and operation of the SRO as described in Exhibits B, C and D, which by this reference are made a part of this Lease. No other uses shall be permitted on the Property without the prior approval and determination of the Secretary of the Department of Veterans Affairs.

B. Consistent with the above, and subject to the remainder of this Lease, Lessee shall and may peacefully and quietly have, hold, and enjoy the Property for the Lease term, without disturbance from the Department, and free from any encumbrance created or suffered by the Department, except to which this Lease is made subject in accordance with Articles 16 and 23.

ARTICLE 7 - VVW IMPROVEMENTS OR CONSTRUCTION ON THE PROPERTY

A. **IMPROVEMENTS.** The VVW, at its sole expense, will commence and complete the Design and Specifications For The Single Room Occupancy Complex attached as **Exhibit B**. Further, VVW, at its sole cost and expense, will commence and complete the development and **construction** of the SRO in accordance with the Construction Plan and Schedule attached as **Exhibit C**. All construction activities which may impact VA activities, including but not limited to activities relating to the use of any roadways or pedestrian walkways, or connection with electricity, water, steam, or sewer services, shall be coordinated in advance with the designated VA representative. Any damage to existing structures or facilities which results from activities relating to the Project shall be the sole responsibility of VVW, and any affected structures or facilities shall be immediately repaired or replaced in a manner acceptable to the Department.

B. **CONSTRUCTION DOCUMENTS.** The VVW agrees that prior to undertaking construction of the SRO and for any subsequent construction on the Property where the cost exceeds TWO HUNDRED THOUSAND DOLLARS (\$200,000), it will provide the Department's designated representative with a complete copy of all construction documents at least sixty (60) days prior to undertaking such construction.

- C. **ACCESS TO PROJECT SITE:** The VVW agrees to permit the Department's representatives, agents, and employees access to and right of entry onto the Property before, during and after construction undertaken pursuant to this ARTICLE for the purposes of monitoring, observing, and making inquiries in order for the Department to determine compliance with the Lease. It is understood by the parties that such activity does not relieve the VVW of its responsibility for managing any onsite construction.
- D. **"AS-BUILT DRAWINGS".** Upon completion of any construction, the VVW shall provide to the Department's designated representative one complete set of reproducible drawings (all disciplines) illustrating the original and the then-current configuration of the improved facility. The as-built drawings will incorporate all significant changes made over the life of the facility. The title block shall be dated and noted as "As-Built Drawings." One electronic copy of the "As-Built Drawings" in CD format "read only" in AUTOCAD 2004 shall also be transmitted to the VAMC Facility Manager. The Department shall have the right to review the "As-Built Drawings" for accuracy and completeness, and request that the Lessee make any and all necessary revisions, additions, and/or modifications to them if the Department reasonably finds and accurately deems them to be incomplete or inaccurate.
- E. **MECHANICS AND LABOR LIENS.** VVW agrees that VVW will not permit any claim of lien made by any mechanic, materialman, laborer, or other similar liens to stand against the Property for work or materials furnished to VVW or VVW's sublessees in connection with any construction, improvements, or maintenance or repair thereof made by VVW or any agents or sublessees of VVW upon the Property. VVW shall cause any such claim of lien to be fully discharged within thirty (30) days after the date of filing thereof, provided, however, that in the event VVW, in good faith, disputes the validity or amount of any such claim of lien, and if VVW shall give to Department such security as Department may reasonably require to insure payment thereof and prevent any sale, foreclosure, or forfeiture of the Property or any portion thereof by reason of such nonpayment. VVW shall not be deemed to be in breach of this requirement so long as VVW is diligently pursuing a resolution of such dispute with continuity and, upon entry of final judgment resolving the dispute, if litigation or arbitration results there from, discharges said lien within the time limits specified above.
- F. **LESSEE'S CONTRACTS FOR CONSTRUCTION:** The VVW agrees that any and all general construction contracts for the rehabilitation and construction of the Project and Property, as well as any subsequent construction on the Property, shall contain clauses indemnifying and holding the Department harmless for any causes of action or damages arising as a result of any actions of the contractor(s).

ARTICLE 8 - GENERAL MAINTENANCE OBLIGATION

- A. The VVW, at its own expense, shall at all times protect, preserve, housekeep, and repair the Property, and shall keep same in good order and condition. All structures shall be maintained to a standard comparable to and consistent with maintenance provided for surrounding VAMC facilities and property. The VVW shall at all times exercise due diligence in the protection of the Property against damage or destruction by fire or other causes. The Premises shall at all times be maintained in a tenantable, safe, and sanitary condition.
- B. Such housekeeping and repair includes, but is not limited to, interior systems. The VVW shall provide the labor, material, and supervision to adequately maintain the structure, windows, doors and any other necessary building appurtenances to provide watertight integrity, structural soundness, acceptance appearance, and continuing usability. The VVW shall make all capital repairs, alterations and replacements as necessary to maintain the usable condition of the Property throughout the term of this Lease. Repairs to the property will be in accordance with applicable codes and generally accepted trade practices. Alterations, additions or improvements to any portion of the premises will be undertaken with the Department's consent.

ARTICLE 9 - OCCUPANCY PROVISIONS

- A. HOUSEKEEPING, REPAIR, CAPITAL REPAIR AND OPERATION OF THE SRO. The VVW is solely responsible for operation of the SRO and for all housekeeping, repair (including capital repair and replacement) and for the operation of the SRO.
- B. MAINTENANCE AND OPERATION PLAN. The VVW shall prepare and provide to the Department a "Maintenance and Operation Plan" within fifteen (15) days after the Lease-up Date. Such Maintenance and Operation Plan shall be subject to the Department's review, approval and final acceptance, which review, approval, or final acceptance shall not be unreasonably withheld, delayed, conditioned, or denied. The Department shall provide the VVW with such final acceptance in writing. The Department, however, reserves the right to unilaterally amend any provisions of the Maintenance and Operation Plan which it deems to be in violation of 38 U.S.C. Section 8161, et. seq., or which is contrary to the Department's mission, activities, land use plans at the VAMC, or which it reasonably deems to be outside the scope of this Lease. Upon the Department's final acceptance, subsequent changes to such Maintenance and Operation Plan shall only be made by a written modification approved and executed by both the Department and the VVW, or its assignee.
- C. FUNDED MAINTANENCE ACCOUNT. Commencing on the first day of "Lease Up," the VVW shall establish and maintain a Funded Maintenance Account in an interest-bearing account in a financial institution approved by the Department, which may be a Leasehold Mortgagee. The Funded Maintenance Account shall be funded

to the amount of \$2.00 per square foot per annum for the rentable area on the Property, except that the VVW shall not be required to increase the Funded Maintenance Account to an amount in excess of \$19,500.00. The financial institution holding such account shall include the Department as a recipient of all account statements. The account shall be available for use by the VVW to make necessary capital repairs and replacements to the Property through-out the term of this Lease, including but not limited to repairs to, renovation of, or reconstruction of, the systems and structural elements of the Project and its related improvements. The VVW shall provide written notice to the Department in accordance with the terms of the Lease prior to using funds from the Funded Maintenance Account. It is understood that this account shall be available only for the use as provided herein and shall not be used or pledged as collateral for any other purpose. It is also understood that the establishment of the Funded Maintenance Account or its use does not in any manner limit the VVW's responsibilities under this Lease and the VVW remains responsible for any necessary costs in excess of the Funded Maintenance Account. Upon termination of this Lease and the condition that the VVW has completed all of the capital repairs and replacements necessary under the Maintenance and Operation Plan referenced in this Article 9, the VVW shall be entitled to recoup any balance remaining in the Funded Maintenance Account.

- D. HAZARDOUS SUBSTANCES. The VVW shall be fully and completely liable to the Department for any and all clean-up costs, and any and all other charges, fees and penalties (criminal and civil) imposed by any governmental authority with respect to the VVW's use, disposal, transportation, generation, and/or sale of hazardous substances in or about the Property. VVW shall indemnify, defend, save and hold the Department harmless from any and all of the costs, fees, penalties, and charges assessed or imposed upon the Department as a result of Lessee's use, disposal, transportation, generation, and/or sale of hazardous substances in the Property.

ARTICLE 10 - INDEMNIFICATION BY VVW, GOVERNMENT NON-LIABILITY

- A. Except for damages or injuries resulting or arising from the acts of its officers, agents or its employees properly cognizable under the Federal Tort Claims Act, neither the United States nor the Department shall be responsible for damages to the Property or for injuries to persons which may arise on the Property exclusive of those areas under the exclusive and direct control of the Department.
- B. The VVW, to the extent such is consistent with applicable Federal and State laws, policies and regulations, agrees to indemnify, save, hold harmless and defend the United States and the Department and its respective officers, agents and employees, from and against all claims, demands or actions, liabilities, judgments, costs and attorneys' fees, arising out of, claimed on account of, or in any manner predicated upon personal injury, death or property damage resulting from, related to, caused by

or arising out of construction (or defective construction), possession, and/or use of the Property, or any activities or omissions conducted, or services furnished by the VVW or its sublessees, agents, employees, licensees, or invitees in connection with or pursuant to this Lease.

ARTICLE 11 - RISK OF LOSS AND INSURANCE

A. ALL RISK. The VVW shall, in any event and without prejudice to any other rights of the Department, bear all risk of loss of or damage to their respective properties under its direct control arising from any causes whatsoever with or without fault, including but not limited to, fire; lightning; storm; tempest; explosion, impact; aircraft; vehicles; smoke; riot; civil commotion; flood; labor disturbances; earthquake; malicious damage; or any other casualty or act of God to the fullest extent permitted by law. Such insurance shall be maintained at all times in an amount as specified in this ARTICLE. Provided always, however, that the VVW shall bear all risk of loss of or damage to such property for the entire term of the Lease for any work or other responsibilities required to be performed under the provisions of this Lease, except as otherwise provided for by the Federal Tort Claims Act. In addition, the VVW shall maintain at its sole expense, all that insurance further required in accordance with this ARTICLE. Maintenance of insurance required in accordance with this ARTICLE shall effect no limitation on the VVW's liability with respect to any loss or damage resulting from the willful misconduct, lack of good faith or negligence of the VVW or any of its officers, agents, servants, employees, subtenants, licensees, or invitees or by any failure on the part of the VVW to fully perform its obligations under this Lease.

B. INSURANCE.

1. VVW INSURANCE. The VVW at its expense shall carry and maintain with regard to the Property and the Premises during the entire period this Lease shall be in effect, the following insurance:
 - a) all-risk property and casualty insurance against the risks enumerated in Paragraph A herein above in an amount at all times equal to at least 100% of the full replacement value of the improvements to the Property as specified above;
 - b) public liability and property damage insurance, including but not limited to, insurance against assumed or contractual liability under this Lease, with respect to the Property and the Premises as specified above, to afford protection with limits of liability in amounts approved from time to time by the Department, but not less than one million dollars (\$1,000,000) in the event of bodily injury and death to any number of persons in any one accident, and not less than one million dollars (\$1,000,000) for property damage;

- c) workmen's compensation or similar insurance in form and amounts required by law;
 - d) all other types of insurance imposed by applicable legal requirements or customarily carried and maintained by owners and operators of similar properties, and as the Department may reasonably require for its protection.
 - e) All amounts of insurance required by this Article shall be adjusted annually, to reflect increases in 100% of the full replacement value of the SRO and any other improvements on the Property. VVW agrees that it will not subrogate to its insurance carrier any right or action that it has or may have against the Department for any loss covered by insurance, nor will the VVW, if it is suffering (or about to suffer) such loss, prosecute any suit against the Department by reason of such loss for which it is covered by insurance. The VVW agrees to notify its insurance carrier(s) of the provisions of this Article.
2. **VVW CONTRACTOR'S INSURANCE.** During the entire period this Lease shall be in effect, the VVW shall require any contractor performing work on the Property to carry and maintain at no expense to the Department;
- a) comprehensive general liability insurance, including but not limited to, contractor's liability coverage and contractual liability coverage, of at least one million dollars (\$1,000,000) with respect to personal injury or death, and one million dollars (\$1,000,000) with respect to property damage;
 - b) workmen's compensation or similar insurance in form and amounts required by law; and
 - c) any other insurance as the Department may reasonably require to protect itself and its personnel in the discharge of its duties and obligations hereunder.
3. **POLICY PROVISIONS.** All insurance which this Lease requires the VVW to carry and maintain or cause to be carried or maintained pursuant to this Paragraph B shall be in such forms, for such amounts, for such periods of time, and with such insurers as the Department shall approve. All policies or certificates issued by the respective insurers for public liability and all-risk property insurance will name the Department and the VVW as insured or joint loss payees as their respective interests appear, and shall provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the VVW or the Department or any other person, provide that no cancellation, reduction in amount, or material change in coverage thereof shall be in effect until at least thirty (30) days after receipt by the Department of written notice thereof, and shall be reasonably satisfactory to the Department in all other respects. In no circumstances will the VVW be entitled to assign to any third party rights of action which the VVW may have against the Department.

4. DELIVERY OF POLICIES. The VVW shall deliver promptly to the Department a certificate of insurance or a certified copy of each policy of insurance required by this Lease and shall also deliver no later than thirty (30) days prior to the expiration of any such policy, a certificate of insurance or a certified copy of each renewal policy covering the same risks, together with appropriate evidence of payment or the premiums therefore.

C. LOSS OR DAMAGE.

1. Partial Casualty Damage or Taking. In the event of partial destruction of structures or other improvements on the Property during the term of this Lease by fire or other casualty, or in the event less than 25% of the Property shall be taken by eminent domain or appropriated by public authority, and subject to the rights of any Leasehold Mortgagee, the VVW shall repair, reconstruct or replace the damaged portion of the Property to its condition prior to such destruction, or shall construct new improvements in place of what was damaged or destroyed, all in accordance with Article 7. The VVW shall also secure and close so much of such damaged or destroyed structures and improvements until repaired, reconstructed or replaced. All available proceeds from insurance as a result of such fire or other casualty or taking shall be used by the VVW towards such restoration of the Property.
2. Substantial Casualty Damage or Taking. In the event of a total or substantial destruction or taking of the Property during the term of this Lease by fire or other casualty, or taking by eminent domain or appropriation by public authority, and subject to the rights of any Leasehold Mortgagee, the VVW shall repair, reconstruct or replace the damaged portion or all of the Property to its condition prior to such destruction, or shall construct new improvements in place of what was damaged or destroyed, all in accordance with Article 7. The VVW shall also secure and close so much of such damaged or destroyed structures and improvements until repaired, reconstructed or replaced. All available proceeds from insurance as a result of such fire or other casualty or taking shall be used by the VVW toward such restoration of the Property.
3. Notwithstanding the foregoing provisions of Article 11(C)(2) above, however, if VVW is prevented from repairing, reconstructing or replacing the damaged portion or all of the Property to its condition prior to such destruction due to Force Majeure, the VVW shall have the option either to (1) use any proceeds available as a result of such fire or other casualty or taking to repair, reconstruct or replace the portions of the Property or all of the Property destroyed or taken to its condition prior to such destruction or taking or to construct new improvements in place of what was damaged or destroyed or taken, all in accordance with Article 7, or (2) not to rebuild, in which event the Lease shall terminate ninety (90) days after such fire or other casualty or taking and the insurance proceeds shall be applied (i) first, to the costs and expenses incurred in recovering such proceeds, (ii) second, to the demolition of any remaining improvements on the Property,

(iii) third, to any Leasehold Mortgagee in repayment of obligations of the VVW secured by the Property, (iv) fourth, to the Department in the amount of rent, utilities, and ancillary services due and payable through the term of this Lease, and (v), fifth, to the VVW in the amount of the Appraised Fair Market Value of the remainder of VVW's leasehold estate under this Lease as if the Lease had not terminated, and (vi) sixth, to the Department.

4. If VVW is obligated to or chooses to repair the damaged portions of the Property or to construct new improvements, then commencing on the date of such fire or other casualty or taking and during the period of such repair, reconstruction and replacement, there shall be an equitable adjustment of any rent due by VVW to the Department in proportion to the loss of usable floor space on the Property.

ARTICLE 12 - RESTORATION AND SURRENDER

- A. The VVW shall vacate the Premises and remove any personal property of the VVW there from on or before the expiration or termination of this Lease. If the VVW shall fail, refuse or neglect to remove such personal property, then upon the expiration or termination of this Lease such personal property shall, at the option of the Department, either become the property of the Department without compensation therefore, or the Department may cause it to be removed and/or destroyed at the expense of the VVW, and no claim for damages against the Department, its officers or agents shall be created or made by or on account of such removal and/or destruction.
- B. The VVW, upon the expiration or termination of this Lease, shall terminate its operations of the Premises and vacate and surrender the possession thereof to the Department. Title to all improvements situated upon the Property shall thereupon immediately vest in the Department without compensation therefore. During the period prior to surrender, all obligations assumed by the VVW under this Lease shall remain in full force and effect. No claim for damages against the Department or its officers or agents shall be created or made on account of such expiration or termination of this Lease.

ARTICLE 13 - BONDS OF SECURITY

No less than fifteen (15) days prior to the commencement of construction, the VVW shall furnish evidence of a Payment Bond between the VVW and the construction contractor, with a sum equal to one hundred percent (100%) of the VVW's total costs of construction. The bond of any surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety of Federal bonds will be accepted. The Department of Veterans Affairs shall be named as co-beneficiary on all Payment Bonds (including subcontract bonds) obtained by the VVW. The Department shall have the right to approve or reject any and all terms and conditions of any and all bonds obtained

by the VVW pursuant to this Lease. In addition, the terms and conditions of the Payment Bond shall be subject to the prior approval of the Department, which approval shall not be unreasonably withheld or delayed.

ARTICLE 14 - NOTICES

All notices, or other correspondence required under or arising from the terms of this Lease from the Department or the VVW shall be served on or mailed to that party's designated representative who shall notify the Department's designated representative in writing of any change in the address or office to be notified. All notices or other correspondence required or arising from the terms of this Lease from the VVW to the Department shall be served on or mailed to the Department's designated representative at the facility and a copy sent to the Office of Asset Enterprise Management who shall notify the other designated representatives in writing of any change in the office to be notified. The designated representatives shall be:

Department: Department of Veterans Affairs
ATTN: Mr. Edward L. Bradley III
810 Vermont Avenue, N.W.
Washington D.C. 20420
Phone: (202) 273-9489
Fax: (202) 273-9374
ATTN: Designated VA Representative

CC: Department Mike Harrison, Chief Acquisition & Logistics (90)
Facility Edith Nourse Rogers Memorial Veterans Hospital
Representative: 200 Springs Road Bedford, MA 01730
Phone: (781) 687-2501
Fax: (781) 687-3260

VVW: Chief Executive Officer
Vietnam Veterans Workshop, Inc.
17 Court St. Boston, MA 02108
Phone: (617) 371-1772
Fax: (617) 371-1771

ARTICLE 15 - ASSIGNMENT AND SUBLETTING

- A. The VVW hereby agrees that all of the covenants, conditions, obligations and liabilities contained in this Lease shall be binding upon and inure to the benefit of any successors and assigns of the VVW, including, without limitation, a

Leasehold Mortgagee or purchaser in foreclosure to the same extent as if the successors and assigns were in each case named as a party to this Lease.

- B. The VVW may not convey, transfer or assign this Lease or any interest therein, or in the Premises, or grant an interest, privilege or license in connection with this Lease, without the prior written consent of the Department, which consent shall not be unreasonably or arbitrarily withheld or delayed so long as such assignee or purchaser is determined by the Department to be a responsible party. Factors to be considered by the Department in making a responsibility determination include, but are not limited to, a determination that the proposed successor's or assignee's net worth is determined acceptable by the Department, and a determination that the proposed successor or assignee consists of reputable individuals who have no conflicts of interest with the Department.
- C. Any succession or assignment carried out as described in (A) and (B) above; is contingent upon the execution of an affidavit by the assignee which states that assignee agrees to comply with all terms, covenants, conditions, obligations and liabilities contained in this Lease. The successor/assignee shall be deemed to have assumed all of the obligations of the VVW under this Lease, but no assignment thereunder shall relieve the VVW of any of its obligations thereunder.

ARTICLE 16 - ENCUMBRANCE OF THE PROPERTY

A. Prohibition Against Encumbrance of the Property:

1. Nothing contained in this Lease authorizes the VVW to encumber in any manner, during the term of this Lease, the Department's fee interest in the Property. The Department's fee interest in the Property may not be subordinated or otherwise made subject to any deed of trust, mortgage, or other lien, or other encumbrance granted, suffered, or permitted by the VVW.

2. The VVW covenants that it shall not create or cause to be created a mortgage, lien, or other encumbrance to be placed upon the Property, other than such mortgage, lien, or encumbrance to be placed on the VVW's Leasehold Interest therein pursuant to paragraph B of this Article. The creation of any mortgage, lien, or encumbrance, other than permitted by paragraph B of this Article, shall be deemed an event of default on the date of its execution or filing of record.

B. Encumbering the VVW's Leasehold Interest:

1. The VVW may encumber its leasehold interest to the extent necessary to provide financing for the costs of rehabilitation, construction, maintenance, repair and operation of the Property as specified in this Lease. However, any loan involving a security interest in the leasehold may not be closed until the Department has approved

the financing.

2. Promptly after assigning this Lease or encumbering the Property as provided herein, VVW shall furnish the Department a written notice setting forth the name and business address of the Leasehold Mortgagee.
3. The making of leasehold mortgages shall not be deemed to constitute an assignment, nor shall any Leasehold Mortgagee not in possession be deemed an assignee of the leasehold estate so as to require such Leasehold Mortgagee to assume the obligations of the VVW hereunder; but the purchaser at a sale of the leasehold estate pursuant to an assignment in lieu of foreclosure shall be deemed to be an assignee of the VVW and shall be deemed the successor to (but only for the period of its leasehold ownership) the obligations of the VVW hereunder from and after the date of such purchase or assignment. Such purchaser shall be fully bound by the provisions of this Lease, except to the extent that any unperformed obligations of VVW at the time of foreclosure are personal in nature and incapable of being performed by the Leasehold Mortgagee or purchaser.
4. VVW agrees to make all payments and perform all obligations required or secured by any Leasehold Mortgage as and when the same are required to be made or performed thereunder.
5. The Department recognizes that VVW's ability to obtain construction, acquisition, standing, and/or permanent mortgage loan financing for the Project and the Property may be in part dependent upon the acceptability of the terms of this Lease to the Lender concerned. Accordingly, the Department agrees that during the period of time beginning on the Effective Date and expiring on the last day of the sixth (6th) month following the Effective Date, the Department shall, if so requested by VVW, and if doing so will not in the sole discretion of the Department adversely affect the Department's interests hereunder, join with VVW in amending this Lease so as to meet the needs or requirements of any Lender which is considering making or which has made a loan secured by a Mortgage affecting the Property.
6. In the event that VVW shall be unable to obtain such financing and the Department's approval of any proposed amendments to the Lease during this period, VVW may request from the Department an extension of time in the amount of up to three (3) additional months. The Department may approve such an extension at its sole discretion. If, upon the expiration of the initial six (6) month period for VVW to obtain financing and the Department's approval of any amendments to the Lease, including any extension of time previously authorized by the Department in its sole discretion, VVW shall not be able to obtain financing for the Project and the Department's approval of any proposed amendments to the Lease, the Department and VVW acknowledge and agree that VVW shall restore and surrender the Property in accordance with Article 12, but shall not be in default of this Lease under Article 18 solely for such inability to obtain financing or the Department's approval of proposed amendments to the Lease, and the Department and VVW shall mutually

agree to terminate this Lease immediately at no cost to the Department or the United States.

7. In no event shall VVW commence construction on the Property without approved financing for all costs necessary to complete the Project."

8. VVW shall comply with all provisions of the Lease during the term of the Lease, including the period of time described in Article 16 B(5) and (6) above for VVW to obtain financing and the Department's approval for any amendments to the Lease. Such provisions shall include, but are not limited to provisions at Article 8, General Maintenance Obligation, Article 10, Indemnification by VVW; Government Non-Liability, and Article 11, Risk of Loss and Insurance.

C. Discharge:

If a lien, claim, demand or encumbrance (other than an encumbrance permitted under this Article) is placed upon the VVW's leasehold interest, the VVW shall initiate appropriate action to quiet any such claim not later than (30 days) prior to the expiration or termination of this Lease.

Any expenses incurred by the Department as a result of any lien, claim, demand or encumbrance placed upon the VVW's leasehold interest shall be repaid to the Department by the VVW. Such amount to include interest in an amount equal to the rate of interest for "90 Day U.S. Treasury Bills" on the date of discharge, due within 15 days from the date that the VVW is given written notice of the discharge by the Department. For purposes of this paragraph, notice shall be deemed to have been given by the Department on the date set forth in the notice document.

D. All loan documents and other documents establishing a security interest shall require that the rights of any holder of any obligation secured by the VVW's leasehold interest through a security interest to include mortgage or deed of trust, shall provide the Department, prior to any termination sale or transfer, notice of the intent to terminate the loan and giving the Department the opportunity to redeem the leasehold for an amount not in excess of the fair value of the leasehold, less expenses associated with the termination of the leasehold, less expenses associated with the termination of that loan or the total indebtedness allowable, pursuant to local law, whichever is less. Such an offer shall remain open for twenty-one (21) days following written notice to the Department. If the Department takes advantage of the option, the Department shall acquire an interest in the leasehold equivalent to the VVW's interest, which would have been extinguished by the loan termination. If the Department does not elect to redeem the leasehold interest being foreclosed, through failure to act within twenty-one (21) days or through written notice of an intent not to redeem, then the loan holder will be permitted to proceed with loan termination.

E. Any loan document and security instrument used to establish a security interest in the

leasehold that does not include the provisions recited in this Article shall constitute an event of default by the VVW.

ARTICLE 17 - TAXES

- A. The Department's interest in this Lease, and in the Property shall not be subject, directly or indirectly, to any State or local laws relative to taxation, fees, assessment or special assessments.
- B. In addition, the VVW shall pay and discharge, at least thirty (30) days prior to delinquency, all taxes, general and special assessments, and other charges of every description that during the term of this Lease may be levied or assessed against the Property and all interests therein and all improvements and other property thereon, whether belonging to the Department or Lessee, or to which either of them may become liable in relation thereto prior to the delinquency date thereof. The VVW agrees to protect and hold harmless the Department and the Property and all improvements in, on, or about the same from all liability for any and all such taxes, assessments, and charges, together with any interest, penalties, or other sums thereby imposed, and from any sale or other proceeding to enforce payment thereof. During the term of the Lease and at its sole cost and if the Department so requests, Lessee shall cause all taxes, assessments, and other charges levied or imposed upon any personal property situated in, on, or about the Property to be taxed or assessed separately from the Property and not as a lien thereon.
- C. It is understood that it is the intent of the parties that this be an absolute net Lease, and that the Department shall not be obligated to pay any charges, impositions, or assessments directly or indirectly made against the Property during the term hereof.
- D. In the event that Lessee is not required to make deposits on account of real estate taxes with the holder of any mortgage permitted by Article 16 of the Lease, and in the event that Lessee fails at any time during the term of the Lease to pay real estate taxes when due, then the Department shall have the right upon written notice to the Lessee, to require that one quarter of the estimated real estate taxes be deposited quarterly with the Department at the time that payment of rent becomes due, or in the alternative, that Lessee deposit negotiable securities or other collateral to guarantee the payment of such taxes, so that there shall be sufficient sums available to pay same at least thirty (30) days prior to the due date of such taxes

ARTICLE 18 - EVENTS OF DEFAULT BY VVW

- A. The following actions shall also be considered events of default by VVW:

1. The failure or refusal of the VVW to discharge any lien, claim, demand, or encumbrance, or to initiate appropriate action, to quiet any such claim not later than 30 days prior to the expiration or termination of this Lease, whether or not the Department exercises its right of discharge, or the failure or refusal of the VVW to make timely repayment to the Department of those sums expended to effectuate such discharge.
2. Any misrepresentation made by VVW in this lease or failure of the VVW to perform or observe any consideration, covenant, or condition required by this Lease to be performed or observed, and such failure is not cured within ninety (90) days after the VVW receipt of written notice thereof from the Department; provided that such cure period shall be extended by the Department for an additional sixty (60) days if such default cannot be reasonably cured within ninety (90) days and the VVW is diligently attempting to cure the default.
3. The filing of a voluntary or involuntary petition under any Federal or State Bankruptcy insolvency or similar law. The filing of a voluntary or involuntary petition in bankruptcy shall result in the automatic termination of the Lease.
4. Failure to provide annual financial statements in accordance with Article 5 (B)(6).
5. Failure to pay any monetary obligation due under the provisions of this Lease, and such failure continues for a period of forty-five (45) days after the Department gives written notice to VVW that the same is due and payable.
6. The Project and related improvements are not substantially completed within twenty-four (24) months after the Effective Date, as such date is extended by events of Force Majeure or by mutual agreement of the parties. Notwithstanding the foregoing, VVW may substantially complete the improvements within thirty (30) days after receiving notice from the Department, in which case this Lease shall not terminate.
7. The creation of a mortgage, lien or other encumbrance upon the underlying land in violation of paragraph Article 16, or the creation of any loan documents or other such instrument which creates such encumbrance which fails to contain the provisions set forth in Article 16.

ARTICLE 19 - REMEDIES FOR DEFAULT BY THE VVW

- A. Upon the occurrence of an event of default by the VVW, the Department may exercise any right, remedy, or privilege which may be available to it under this Lease or under applicable Federal, State or local law. All remedies shall be cumulative and the election of one shall not preclude the exercise of another, at the same time or subsequently. Failure to exercise a remedy shall not constitute a waiver thereof. The VVW shall remain liable to the extent permitted by law with respect to all covenants and indemnities of this Lease.

- B. Any loss, expense or other cost incurred by the Department resulting from a default by the VVW shall constitute an amount owed to the Department.
- C. Simultaneously with the giving to the VVW of any process in any action or proceeding brought to terminate or otherwise in any way affect this Lease or of any notice of (i) cure, (ii) default, or (iii) a termination of the Lease, the Department will give a duplicate copy of such notice to the Leasehold Mortgagee, and no such notice to the VVW or process shall be effective unless a copy of such notice or process is sent to the Leasehold Mortgagee. The Leasehold Mortgagee shall have the same period after the sending of a notice to it for remedying the default as is given the VVW after notice to it, plus fifteen additional days thereafter.
- D. The Department agrees to accept performance on the part of the Leasehold Mortgagee as though it had been done or performed by the VVW. No payment made to the Department by the Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due by VVW under the terms of this Lease. The Leasehold Mortgagee having made any such payment to the Department pursuant to the Department's wrongful, improper, or mistaken notice or demand shall be entitled to the return of any such payment or portion thereof provided it shall have made demand therefore not later than one year after the date of its payment.
- E. If the Leasehold Mortgagee is unable to cure pursuant to the provisions noted above in this Article, the Department agrees that it will not terminate this Lease, except based on a default by the VVW in the payment of money (in connection with which the Leasehold Mortgagee shall have the right to notice and cure as provided above), without first giving to the Leasehold Mortgagee reasonable time, but no less than 120 days from the date of such notice, within which to cure any non-monetary default that is reasonably susceptible of cure. For clarity, nothing herein shall preclude the Department from exercising any rights or remedies under this Lease, including termination, with respect to any default in the payment due to the Department under this Lease of rent by the VVW during any period of such forbearance.

ARTICLE 20 - EVENTS OF DEFAULT BY THE DEPARTMENT

An event of default by the Department shall occur upon its failure to perform or observe any covenant or condition required by this Lease to be performed or observed, and such failure is not cured within ninety (90) days after the Department's receipt of written notice thereof from the VVW; provided that such cure period shall be extended by the VVW for an additional thirty (30) days if such default cannot be reasonably cured within ninety (90) days and the Department is diligently attempting to cure the default.

ARTICLE 21 -DISPUTES

A. This Lease is subject to the Contract Disputes Act of 1978 (41 U.S.C. Sections 601-613) (the "Disputes Act").

B. Except as provided in the Disputes Act, all disputes arising, under or relating to this Lease shall be resolved under this Article.

C. "Claim," as used in this Article, means a written demand or written assertion by one of the parties seeking, as a matter of right, the payment of money in a sum certain; the adjustment or interpretation of contract terms, or other relief arising under or relating to this Lease. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the VVW seeking the payment of money exceeding \$50,000 is not a claim under the Disputes Act until certified as required by subparagraph (D) below. A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim under the Disputes Act. The submission may be converted to a claim under the Disputes Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

D. A claim by the VVW shall be made in writing and submitted to the Designated VA Representative for a written decision. A claim by the Department against the VVW shall be subject to a written decision by the Designated VA Representative. For VVW claims exceeding \$50,000, the VVW shall submit with the claim a certification that:

1. the claim is made in good faith;
2. supporting data are accurate and complete to the best of the VVW's knowledge and belief; and
3. the amount requested accurately reflects the contract adjustment for which the VVW believes the Department is liable.

E. For VVW claims of \$50,000 or less, the Designated VA Representative must, if requested in writing by the VVW, render a decision within 60 days of the request. For VVW-certified claims over \$50,000, the Designated VA Representative must, within 60 days, decide the claim or notify the VVW of the date by which the decision will be made.

F. The Designated VA Representative's decision shall be final unless the VVW appeals or files suit as provided in the Act.

G. If the claim is resolved in favor of the VVW, the Department shall pay interest on the amount found due and unpaid from:

1. the date the Designated VA Representative receives the claim (properly certified if required), or

2. the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Designated VA Representative receives the claim and then at the rate applicable for each 6 month period as fixed by the Treasury Secretary during the pendency of the claim.

H. The VVW shall proceed diligently with performance of this Lease, pending final resolution of any request for relief, claim, appeal or action arising under or relating to the Lease, and comply with any decision of the Designated VA Representative.

ARTICLE 22 - DISPOSAL OF PROPERTY TO THE VVW

Should at any time during the term of this Lease or within thirty (30) days after the end of the term of this Lease, if the Department determines that the Property is no longer needed by the Department, the Department may seek to dispose of the Property to the VVW pursuant to the provisions of 38 U.S.C. Section 8164.

ARTICLE 23 - SUBJECT TO EXISTING AND FUTURE EASEMENTS AND RIGHT OF WAY

A. This Lease is subject to all existing easements and rights of way, whether or not recorded, for location of any type of facility over, across, in, or upon the Property or any portion thereof, and to the right of the Department, upon consultation with the VVW, to grant such additional easements or rights of way over, across, in, or upon the Property; and such approval shall not be unreasonably or arbitrarily withheld or delayed, provided that any such additional easements or rights of way shall not be inconsistent with the VVW's quiet use and enjoyment of the Property under this Lease, and shall be conditioned on the assumption by the grantee thereof of liability to the Department and to the VVW for such damages as the Department or the VVW shall suffer for property destroyed or property rendered uninsurable as a result of grantee's exercise of its rights thereunder.

B. There is hereby reserved to the holders of such easements and rights of way as presently in existence, whether or not recorded, outstanding or which may hereafter be granted, to any workers officially engaged in the construction, installation, maintenance, operation, repair, or replacement of facilities located thereon, and to any Federal, State, or local official such reasonable rights of ingress and egress over the Property as shall be necessary for the performance of their duties with regard to such facilities.

C. The VVW, and its employees, contractors, suppliers, service people, sublessees, invitees, and assigns shall be permitted ingress and egress to and from the Property and shall be subject to VAMC security requirements and other operating procedures and restrictions including without limitation, designated access road and parking space

restrictions.

The VVW must contact the DVA Security Unit to coordinate contractor parking permits.

ARTICLE 24 - LEASE SUBJECT TO GENERAL PROVISIONS

This Lease and VVW's occupancy of this Property shall be subject to the terms and conditions of the General Provisions attached hereto and by this reference made a part of this Lease.

GENERAL PROVISIONS

ARTICLE 25 - ASSIGNMENT OF CLAIMS

- A. The VVW, under the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this Lease to a bank, trust company or other financing institution, including any Federal lending agency. This assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.
- B. Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.
- C. The VVW shall not furnish or disclose to any assignee under this contract any classified document or information related to work under this contract until the DVR authorizes such action in writing.

ARTICLE 26 - COMPLIANCE WITH LAWS AND REGULATIONS

The VVW, and any assignees and sublessees, warrants that it will be responsible for and will obtain, prior to the commencement of operations and use of the Property and prior to undertaking any repair, construction, capital repairs or improvement on the Property all applicable VA rules and regulations necessary for such use and activities on the Property. In addition, the VVW, and any assignees and sublessees, will at all times during the existence of this Lease comply, at its sole cost and expense, with the provisions of any and all Federal, State, and local statutes, ordinances, rules and regulations which may be

applicable to its use of the Property or any of the responsibilities under taken pursuant to this Lease.

ARTICLE 27 - EQUAL OPPORTUNITY CLAUSE

A. During performance of this Lease, the VVW agrees as follows:

1. The VVW shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.
2. The VVW shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. This shall include but not be limited to employment; upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
3. The VVW shall post in conspicuous places available to employees and applicants for employment notices to be provided by the DVR that explain this clause.
4. The VVW shall, in all solicitations or advertisements for employees placed by or on behalf of the VVW, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
5. The VVW shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, notice to be approved by the DVR advising the labor union or workers' representative of the VVW's commitments under this clause and post copies of the notice in conspicuous places available to employees and applicants for employment.
6. The VVW shall comply with Executive Order 11246, as amended, and the rules, regulations and orders for the Secretary of Labor.
7. The VVW shall furnish to the Leasing Agent all information required by Executive Order 11246, as amended, and by the rules, regulations and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the effective date of this Lease, unless filed within 12 months preceding that date.
8. The VVW shall permit access to its books, records, and accounts by the Department of Veterans Affairs or the Office of Federal Contract Compliance Programs (OFCCP) for the purpose of investigation to ascertain the VVW's compliance with the applicable rules, regulations and orders.

9. If the OFCCP determines that the VVW is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this Lease may be canceled, terminated or suspended in whole or in part, and the VVW may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended, the rules, regulations and orders of the Secretary of Labor, or as otherwise provided by law.
 10. The VVW shall include the terms and conditions of subparagraph A.1 through 11 of this clause in every subcontract or purchase order that is not exempted by rules, regulations or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
 11. The VVW shall take such actions with respect to any subcontract or purchase order as the Leasing Agent may direct as a means of enforcing these terms and conditions, including sanction for noncompliance; provided, that if the VVW becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the VVW may request the United States to enter into the litigation to protect the interest of the United States.
- B. Notwithstanding any other clause in this Lease, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

ARTICLE 28 - FACILITIES NONDISCRIMINATION

- A. As used in this section, the term "facility" means restaurants, cafeterias, restrooms, and any other facility of a public nature in the building in which the space covered by this Lease is located.
- B. The VVW agrees that it will not discriminate by segregation or other wise against any person or persons because of race, color, religion, sex or national origin in furnishing, or by refusing to furnish, to such person or persons the use of any facility, including any and all services, privileges, accommodations and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any facility customarily furnished by the VVW solely to occupants, employees, guests and invitees.
- C. It is agreed that upon the VVW's noncompliance, the Department may take appropriate action to enforce compliance, may terminate this Lease or may pursue such other remedies as may be provided by law. In the event of termination, the VVW shall be liable for all excess costs of the Department in acquiring space, including, but not limited to, the cost of moving to such substitute space. Substitute space shall be obtained in as close proximity to the VVW's building as is feasible and moving costs will be limited to the actual expenses thereof as incurred.

D. It is further agreed that from and after the date hereof the VVW will, at such time as any Lease is to be entered into or a concession is to be permitted to operate, include or require the inclusion of the foregoing provisions of this section in every such Lease or concession pursuant to which any person other than the VVW operates or has the right to operate any facility. Nothing herein contained, however, shall be deemed to require the VVW to include or require the inclusion of the foregoing provisions of this section in any existing Lease or concession arrangement or one in which the leasing party other than the VVW has the unilateral right to renew or extend the Lease or arrangement, until the expiration of the existing Lease or arrangement and unilateral right to renew or extend. The VVW also agrees that it will take any and all lawful actions as expeditiously as possible, with respect to any such Lease as the leasing agency may direct, as a means of enforcing the intent of this section, including but not limited to termination of the Lease or concession and institution of court action.

ARTICLE 29 - OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

ARTICLE 30 - GRATUITIES

The right of the VVW to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the contractor, its agency, or another representative:

1. Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official or employee of the Government; and
2. Intended by the gratuity, to obtain a contract or favorable treatment under a contract.

The facts supporting this determination may be reviewed by any court having lawful jurisdiction. If this contract is terminated, the Government is entitled to pursue the same remedies as in a breach of the contract. The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE 31 - COVENANT AGAINST CONTINGENT FEES

The VVW warrants that no person or agency has been employed or retained to solicit or obtain this contract upon a Lease or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to obtain consideration, or otherwise recover, the full amount of the contingent fee.

"BONA FIDE EMPLOYEE" as used in this clause, means a person, employed by the VVW and subject to the VVW's supervision and control as to time, place and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contract nor holds out as being able to obtain any Government contract or contracts through improper influence.

"CONTINGENT FEE" as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"IMPROPER INFLUENCE" as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

**ARTICLE 32 - EXAMINATION OF RECORDS BY
COMPTROLLER GENERAL**

The Comptroller General of the United States or a duly authorized representative from the General Accounting Officer shall, until 3 years after termination of this Lease, have access to and the right to examine any of the contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract.

The VVW agrees to include in first-tier subcontracts under this contract a clause to the effect that the Comptroller General or a duly authorized representative from the General Accounting Officer shall, until three (3) years after final payment under the subcontract, have access to and the right to examine any of the subcontractor's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

These periods of access and examination for records relating to (1) appeals under the Disputes clause, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the Comptroller General or a duly authorized representative from the General Accounting Office has taken exception shall continue until such appeals, litigation, claims, or exceptions are disposed of.

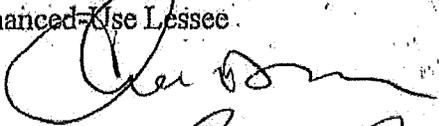
ARTICLE 33 - MISCELLANEOUS PROVISIONS

- A. If this Lease or any term or provision thereof or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.
- B. All of the covenants, conditions and obligations contained in the Lease shall be binding upon and inure to the benefit of the respective successors and assigns of the VVW to the same extent as if each successor and assign were in each case named as a party to this Lease. Any person, corporation or other legal entity acquiring any or all of the rights, titles and interest of the VVW in and to the Premises shall thereby become liable under and be fully bound by all of the provisions of this Lease.
- C. The parties herein agree that nothing herein shall, nor shall any prior agreements between the VVW and the Department, be deemed or construed by the parties hereto or by any third party as creating or authorizing the creation of any partnership or joint venture between the Government and the VVW, it being understood and agreed that no provision of this Lease, nor any act of the Department or the VVW hereafter, shall be deemed to create any relationship between the Department and the VVW other than as set out herein.
- D. The specified remedies to which each party may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which each party may be lawfully entitled. The failure of each party to insist in any one or more cases upon the strict performance of any of the covenants of the Lease shall not be construed as a waiver of relinquishment for the future of such covenant or option.
- E. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same instrument.
- F. All headings used in the Lease are for convenience only and do not constitute legally enforceable rights or obligations.
- G. This Lease shall be governed by the laws of the United States.
- H. This Lease, together with any Exhibits, contains and embodies the entire Lease of the parties hereto, and no representations, inducements or agreements between the parties, oral or otherwise, not contained in this Lease and its Exhibits shall be of any force or affect.

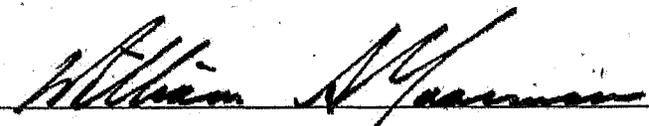
- I. This Lease may not be modified or changed in whole or in part in any manner other than by an amendment to the Lease in writing and duly signed by both parties hereto. In addition, this Lease shall not be surrendered to the Department or cancelled by the VVW, nor shall the Department accept a surrender of this Lease without the prior written consent of the Leasehold Mortgagee.
- J. The parties agree that they will not record this Lease, but will execute, acknowledge and deliver a sufficient notice of Lease in statutory form, substantially in the form of Exhibit D.

IN WITNESS THEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

THE VIETNAM VETERANS WORKSHOP, INC.
Enhanced-Use Lessee.

 Chairman of Board
 Michael C. Gilbert CEO
By: Chief Executive Officer
Title/Name

THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
The Enhanced-Use Lessor

By: 
Name: William A. Moorman

Title: Acting Assistant Secretary for Management

Pursuant to a Delegation of Authority dated January 27, 2003

IN WITNESS THEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

THE VIETNAM VETERANS WORKSHOP, INC.

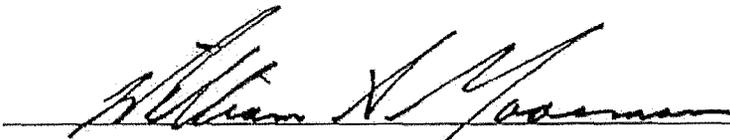
Enhanced-Use Lessee

 Shane C. McWest, CEO

By: Chief Executive Officer
Title/Name

THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

The Enhanced-Use Lessor

By: 

Name: William A. Moorman

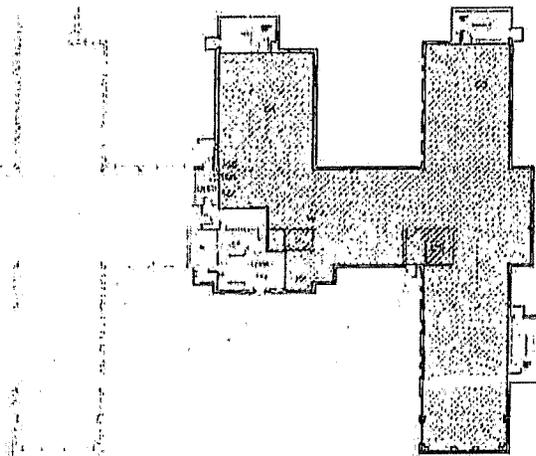
Title: Acting Assistant Secretary for Management

Pursuant to a Delegation of Authority dated January 27, 2003

EXHIBIT A PROPERTY DESCRIPTION

The lease will allow exclusive use of approximately 23,686 square feet (sq. ft.) of floor space in Building Number Five (5) of the Edith Nourse Rogers Memorial Veterans Hospital located in Bedford, Massachusetts. The space consists of 8,520 sq. ft. on the first floor and 15,166 sq. ft. on the second floor. It includes all the space north of the centerline of the main lobby, and inclusive of the entire center wing on each floor. This lease also includes exclusive use of one traction elevator completely contained within the described space. Further it includes all existing appurtenances such as doors, hardware, plumbing fixtures, lights, etc. See diagrams of Bldg. #5 below for diagrams of the space included in the lease by floor

Bldg. # 5 Shaded area Shows SRO Space
1st Floor



Bldg. # 5 Shaded area Shows SRO Space
2nd Floor

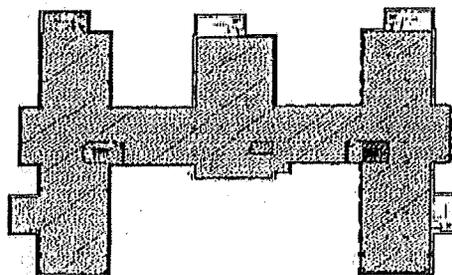


EXHIBIT B
DESIGN AND SPECIFICATIONS FOR THE
SINGLE ROOM OCCUPANCY COMPLEX

The following documents are presented as the design and specifications for the SRO project:

SRO Asbestos Abatement.tif

SRO Basic Methods & Requirement - Electrical Part 1.tif

SRO Basic Methods & Requirement - Electrical Part 2.tif

SRO Bulk Sample Analyses.tif

SRO Lead-Based Paint Determination.tif

SRO Light Fixture Lamh & Ballast Removal & Disposal.tif

SRO Light Fixture PCB Ballast-Mercury Lamp Survey.tif

SRO Quarters a ENRM YA.tif

**EXHIBIT C
CONSTRUCTION PLAN AND SCHEDULE**

The following is the construction schedule for the SRO project:

SRO Construction Schedule.tif

**EXHIBIT D
NOTICE OF LEASE**

Pursuant to the provisions of M.G.L. Ch. 183, Section 4, notice is hereby given of the following lease:

1. PARTIES TO LEASE:

Landlord: Secretary of Veterans Affairs, an officer of the United States

On behalf of Department of Veterans Affairs
200 Springs Road
Bedford MA 01730

Tenant: Vietnam Veterans Workshop, Inc.
17 Court Street
Boston MA 02108

2. DATE OF LEASE EXECUTION: SEPT. 10, 2004

3 TERM: Fifty-Five (55) Years.

4. COMMENCEMENT DATE: SEPT. 10, 2004

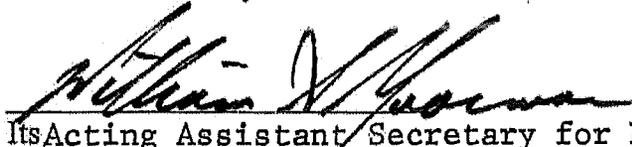
5. DESCRIPTION OF PREMISES: The land and improvements thereon situated in Bedford MA known as Building No. 5 of the Edith Nourse Rogers Memorial Veterans Hospital, as more particularly described on Exhibit A, together with all necessary easements for parking, access, utilities, sewer and drainage required for residential use of the premises for sixty (60) single room occupancy units.

6. RIGHTS OF EXTENSION OR RENEWAL: One twenty (20) year option to extend in accordance with the terms of the Lease to the Premises between Landlord and Tenant.

This instrument is not intended to vary the terms and conditions of the aforementioned Lease. EXECUTED as a sealed instrument this 10th day of SEPT., 2004.

LANDLORD: Secretary of Veterans Affairs

By:


Its Acting Assistant Secretary for Management

Pursuant to a Delegation of Authority dated: January 27, 2003

TENANT: Vietnam Veterans Workshop, Inc.

**EXHIBIT D
NOTICE OF LEASE**

Pursuant to the provisions of M.G.L. Ch. 183, Section 4, notice is hereby given of the following lease:

1. PARTIES TO LEASE:

Landlord: Secretary of Veterans Affairs, an officer of the United States

On behalf of Department of Veterans Affairs
200 Springs Road
Bedford MA 01730

Tenant: Vietnam Veterans Workshop, Inc.
17 Court Street
Boston MA 02108

2. DATE OF LEASE EXECUTION: SEPT 10, 2004

3 TERM: Fifty-Five (55) Years.

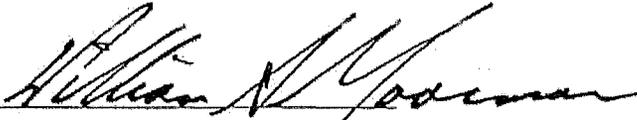
4. COMMENCEMENT DATE: SEPT 10, 2004

5. DESCRIPTION OF PREMISES: The land and improvements thereon situated in Bedford MA known as Building No. 5 of the Edith Nourse Rogers Memorial Veterans Hospital, as more particularly described on Exhibit A, together with all necessary easements for parking, access, utilities, sewer and drainage required for residential use of the premises for sixty (60) single room occupancy units.

6. RIGHTS OF EXTENSION OR RENEWAL: One twenty (20) year option to extend in accordance with the terms of the Lease to the Premises between Landlord and Tenant.

This instrument is not intended to vary the terms and conditions of the aforementioned Lease. EXECUTED as a sealed instrument this 10th day of SEPT, 2004.

LANDLORD: Secretary of Veterans Affairs

By: 

Its Acting Assistant Secretary for Management

Pursuant to a Delegation of Authority dated: January 27, 2003

TENANT: Vietnam Veterans Workshop, Inc.

By: *Charles C. Hilbert, CFO*
Its

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.
12th City, 2004

Then personally appeared the above-named *CHRISTOPHER DAMZ*, as *DIANE C. GIUBERT*, as *BOARD CHAIRMAN* of the Vietnam Veterans Workshop, Inc., known to me to be the person described and acknowledged the foregoing to be his/her free act and deed and that of said corporation, before me.

VINCENT B. MALONEY, JR.
Notary Public
My Commission Expires
November 4, 2005

Vincent B. Maloney, Jr.
Notary Public
My Commission

Expires 4/11/2005

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.
_____, 200__

Then personally appeared the above-named _____, as _____ of the U.S. Department of Veterans Affairs and acknowledged the foregoing to be his free act and deed as _____ as aforesaid, and the free act and deed of said Department, before me.

_____, 200__
Notary Public
My Commission

Expires

By: [Signature]
Its CEO

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.
12/11/04, 2004

Then personally appeared the above-named CHRISTINE DANIEL
DIANE C. LIBERT, as
BOARD CHAIRMAN
CEO of the Vietnam Veterans Workshop, Inc., known to me to be the
person described and acknowledged the foregoing to be his/her free act and deed and that
of said corporation, before me.

[Signature]

Notary Public
My Commission

Expires 4/11/2005

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.
_____, 200__

Then personally appeared the above-named _____, as
_____ of the U.S. Department of Veterans Affairs and acknowledged the
foregoing to be his free act and deed as _____ as aforesaid, and the
free act and deed of said Department, before me.

_____, 200__
Notary Public
My Commission

Expires

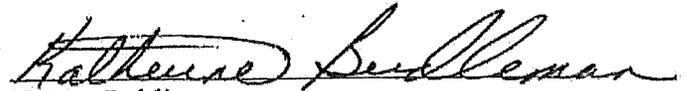
Washington, D.C.

Before me, a Notary Public, in and for Washington, D.C., on this day appeared William A. Moorman, who is personally well known to me to be the Acting Assistant Secretary For Management, Department of Veterans Affairs, United States of America, and the person who executed the foregoing instrument by virtue of the authority vested in him by section 38 U.S.C. Section 8161 et. seq., and I having first made known to him the contents thereof, he did acknowledge the signing thereof to be a free and voluntary act and done on behalf of the Secretary of the Department of Veterans Affairs for the uses, purposes and considerations therein set forth.

Given under my hand and seal of office, this 10th day of September 2004.

My commission expires:

6/14/04


Katherine Sullivan
Notary Public

Washington, D.C.

Before me, a Notary Public, in and for Washington, D.C., on this day appeared William A. Moorman, who is personally well known to me to be the Acting Assistant Secretary For Management, Department of Veterans Affairs, United States of America, and the person who executed the foregoing instrument by virtue of the authority vested in him by section 38 U.S.C. Section 8161 et. seq., and I having first made known to him the contents thereof, he did acknowledge the signing thereof to be a free and voluntary act and done on behalf of the Secretary of the Department of Veterans Affairs for the uses, purposes and considerations therein set forth.

Given under my hand and seal of office, this 10th day of September 2004.

My commission expires:

6/14/05

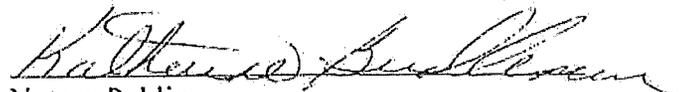

Notary Public

EXHIBIT E
OPERATIONS

Vietnam Veterans Workshop, Inc. (VWV)
Bedford VA
Veterans SRO Project
Rules and Regulations
Addendum A - Page 1

As a resident of the VWV Bedford VA - Single Room Occupancy (SRO) Project, the tenant is expected to follow the established rules and regulations. These rules have been instituted in order that all tenants can live in a safe, peaceful community. Any violation of these rules and regulations could result in the loss of tenancy. As a condition of the lease, the tenant must adhere to the following rules and regulations:

- 1.) All tenants are assigned a case manager. The tenant should meet with the case manager at least once every two weeks.
- 2.) A tenant's meeting will be held every Month on the Third Tuesday evening at 6 PM. All tenants are encouraged to attend. They are held on the Main floor.
- 3.) All rooms will be inspected on the first Tuesday of every month to insure that the rooms satisfy health and safety, requirements. Dirt and garbage that attract insects and create an unsafe environment for residents and must be removed on ~ regular basis.
- 4.) The tenant is expected to keep the room neat and clean at all times. Trash must be removed to a designated spot in the common area daily. All food must be kept in a tenant's closed cabinet located in the kitchen. The common area kitchen must be cleaned after use. The laundry room must be cleaned after use. The bathroom sink and shower must be wiped clean so that the facilities are clean for the next person. Newspapers and magazines must be picked up in the common area. Ashtrays must be emptied after use in the common areas.
- 5.) Alcohol intoxication is prohibited on the SRO property. If found to be under the influence of alcohol, a detox program will be offered and be required as a condition of continued tenancy. If a tenant refuses the detox, or after the detox the tenant continues to be intoxicated, this will constitute a basis for terminating the tenant's lease. In addition there will be no drinking of alcohol in the common areas.
- 6.) Physical violence, verbal threatening, abusive behavior, or derogatory racial comments of any nature will not be tolerated and are strictly prohibited. Any occurrence could result in the loss of tenancy.

- 7.) Illegal activities on the premise may result in the loss of tenancy.
- 8.) Smoking will not be allowed in a tenant's room and will only be allowed in the designated common areas of each floors. In addition, the stairwells and elevators are non-smoking areas.

Addendum A- Page 2

- 9.) The tenant's room is considered his home. All tenants must respect one another. As a result, the volume on televisions and stereos must be kept at the lowest level for listening after 11 PM.
- 10.) The tenant must receive permission from the Project Manager before removing any furnishings owned by the VVW Bedford VA - SRO Project. Stealing from your neighbors or from the VVW Bedford VA - SRO Project will be grounds for the termination of the tenant's lease.
- 11) Guest visits by family or friends is expected and encouraged. However, overnight guests may not exceed two nights per week by the same person. Guests who are not staying over night will not be allowed in the building after midnight and must leave by that hour.
- 12.) Guests must enter and exit through the appropriate door dependent on the time of day. Guests must sign the guest log book and he/she escorted by the tenant to the appropriate floor. The tenant is responsible for the guest's actions at all times. Anyone that a tenant allows into the building is considered a guest. It is the tenant's responsibility to insure that the guest respects the quiet and privacy of the other residents. The tenant is solely responsible for payment for any damages resulting from the actions of his/her guest. All guest must be accompanied by a tenant on Bedford Veterans Affairs Medical Center property.
- 13.) Cooking is confined to the kitchen facilities only. The use of hot plates, crockpots, microwave ovens, toaster ovens, electric skillets, or other devices, which heat or cook food in the individual rooms, is strictly prohibited.
- 14.) The use of electric heaters in the rooms is also prohibited as these items are a fire hazard.
- 15.) Fire doors must remain closed at all times. The areas around them must also be kept clear at all times except in the case of an emergency. The only official entrances and exits to be utilized are the front/main doors, do not use the side fire door for entering or exiting.
- 16.) Services provided by the Vietnam Veterans Workshop, Inc. New England Shelter for Homeless Veterans (NESHV) at 17 Court Street Boston, MA are available to all of the VVW Bedford - SRO Project's tenants. In order to receive services, the tenant must go to 17 Court Street or talk to the case manager that will be in your building weekly. The tenant must observe all rules and regulations of the NESHV in order to receive services.

Addendum - Page 3

I have read and understand the above rules and regulations. While I am a tenant of the VVW Bedford VA - SRO Project, I agree to comply with these rules and regulations. I understand that any violation of these rules or regulations could terminate the terms of my lease. As a result, I could be evicted.

Tenant's Signature

Date

Project Manager's Signature

Date

Vietnam Veterans Workshop, Inc.
Veterans SRO Project
Individualized Service Plan
Addendum B - Page 1

This plan is an agreement between ___ in Apt. # ___ and the Vietnam Veterans Workshop for the period of his tenancy in the Veterans SRO Project. The plan will be updated semi-annually. The Service Plan outlines specific supportive services that you may need in order for you to make a successful transition to SRO living.

()
Sobriety: _____

() Financial
Management: _____

() Medication
Administration: _____

() Mental
Health: _____

() Living
Skills: _____

()
Bathing: _____

()
Dressing: _____

()
Shopping: _____

Laundry: _____

Meal
Preparation: _____

Housework: _____

Vocational
Rehabilitation: _____

Other: _____

**Vietnam Veterans Workshop, Inc.
Veterans SRO Project
Individualized Service Plan
Addendum B - Page 2**

Additional Comments: _____

I agree to comply with this service plan and will meet with my case manager at least every two weeks.

Tenant's Signature

Case Manager's Signature

Project Manager's Signature

**Vietnam Veterans Workshop, Inc.
Veterans SRO Project
Drug Free Housing Statement
Addendum C-Page1**

In consideration of the execution or renewal of a lease of the dwelling unit identified in the lease, Owner and Tenant agree as follows:

1. Tenant, guest or other person under the tenant's control, shall not engage in criminal activity, including drug related criminal activity; on or near project premises. "Drug related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with the intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act 21 U.S.C. 802).
2. Tenant, guest or other person under the tenant's control shall not engage in any act intended to facilitate criminal activity, including drug related criminal activity, on or near project premises.
3. Tenant will not engage in the manufacture, sale, or distribution of illegal drugs at any location, whether on or near project premises or otherwise.
4. Tenant will not permit the dwelling to be used for the manufacture, sale, or distribution of illegal drugs at any location, whether on or near project premises or otherwise.
5. Tenant, guest or other person under the tenant's control shall not engage in acts of violence or threats of violence, including, but not limited to, the unlawful discharge of firearms, on or near project premises.
6. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL VIOLATION OF THE LEASE AND GOOD CAUSE FOR TERMINATION OF TENANCY.
A single violation of any of the provisions of this addendum shall be deemed a serious violation and a material noncompliance with the lease. It is understood and agreed that a single violation shall be cause for termination of the lease. Unless otherwise provided by law, proof of violation shall be a preponderance of the evidence.
7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of the addendum shall govern.

8. This lease addendum is incorporated into the lease executed or renewed this day between owner and tenant.

Tenant Signature _____

Address: _____

Apt. #: _____

_____ Date: _____, 200_____
Project Manager's Signature

**Vietnam Veterans Workshop, Inc.
Bedford Department of Veterans Affairs
Single Room Occupancy
Tenant Selection Plan
Addendum D**

1. Outreach & Marketing

The Vietnam Veterans Workshop (VWV) Single Room Occupancy (SRO) program will target homeless veterans from the Bedford area.

The target population will have completed a four to six month program at the Bedford Department of Veterans Affairs Medical Center (Bedford VAMC) or the Vietnam Veterans Workshop (VWV). Additionally, veterans will be receiving both case management and housing search services at the VWV. The following is a list of Community agencies/organizations to be contacted.

<u>Community Agencies/ Organization</u>	<u>Racial/Ethnic Market</u>
NESHV Bedford VAMC	Black / White / Hispanic / Asian Black / White / Cape Verdian / Native American / Hispanic
Brockton VAMC	Black / White / Cape Verdian / Native American / Hispanic
Crescent House Transitional Residence Lowell, MA	Black / White / Cape Verdian / Native American / Hispanic

The Outreach and Marketing Plan will continue to reach groups of diverse racial, religious, gender, age, national origin, sexual preference, and familial status and disability backgrounds. The success at reaching diverse populations will be monitored through evaluating the make-up of the application group.

2. Application Procedures

VWV Housing Specialist will be responsible for making applications available to all interested veterans. Applications will be accepted on an on-going basis until the available 60 subsidies are reached. When all the subsidies have been assigned, a Waiting List will be created based on the date of applications received.

The VVW reserves the right to limit the number of applications accepted for the Waiting List. Those on the Waiting List will be contacted periodically to verify continued interest and eligibility. As people drop from the Waiting List due to either of the previous reasons or have moved into other permanent housing a new client will be placed on the Waiting List.

3. Selection

The screening and selection process will involve two distinct steps. The first, carried out by VVW, is to determine preliminary eligibility (as noted below). The second, carried out by the agency administering the subsidies, Metropolitan Boston Housing Partnership (MBHP) is to determine subsidy eligibility. Those who provide the required documentation for eligibility will be interviewed by the VVW Housing Specialist on a first come first served basis. Those who are deemed eligible will be referred to MBHP for income verification and criminal organizations record information (CORI) screening.

4. Determination of Preliminary Eligibility

Eligibility will be based on the following:

- Verification of homelessness as defined by HUD (a HUD form from the Bedford VA Domiciliary, shelter or transitional program).
- Verification of veterans status.
- Evidence of stability, including written documentation of at least four months current and consecutive sober time at the time of the initial application, verification of savings (to determine financial eligibility for occupancy if the applicant maintains a savings or an equivalent type of account), and a letter of reference from the referral source.

The VVW Housing Specialist will review all applications. An application will be considered complete once all the above documentation has been received and any additional information required by MBHP. A completed application is necessary to be placed on the Waiting List.

5. Appeal Process

If an applicant is denied admission to the housing, written notice containing a clear statement of the reason for denial will be provided within three business days. If an applicant wishes to appeal the decision he/she will have seven business days after receipt of such notification. This appeal will be conducted by MBHP or the New England Shelter for Homeless Veterans Housing Committee. The six members of that committee include homeless and formerly homeless veterans. The final decision will be provided in writing within three business days of the presentation of the appeal.

If the applicant feels that with the final decision that he/she has been discriminated against, the applicant may contact the Massachusetts Commission Against Discrimination or the U.S. Department of Housing and Urban Development.

6. Nondiscrimination and equal opportunity requirements

All activities undertaken in the application, review and appeal process will be done in compliance with all town, state, and federal fair housing laws.

VIETNAM VETERANS WORKSHOP, INC.

SINGLE ROOM OCCUPANCY (SRO) BEDFORD VA PROJECT

**SRO's LOCATED AT 200 SPRINGS ROAD
BUILDING 5 BEDFORD VAMC, BEDFORD MA**

We Plan to Soon Advertise Applications for Projected July, 2006 Occupancy

- Shared Kitchen and Bathroom
- All Utilities Included in Rent
- Handicapped Units Available
- Rent Based on Income
- One Month Security Deposit Required



**You Must Be: Single (Male Female)
Homeless A Veteran**

**You Must Also: Have an Income at or Below \$22,950
Have Entered and Completed or Presently in a Residential Program
Have Documentation to being Clean and Sober for the Past Six Months
Provide Proof of Veterans Status**

For More Information Regarding the Official Application Intake Period Contact:

**Walter Walsh - Property Manager
Vietnam Veterans Workshop, Inc
New England Shelter for Homeless Veterans
17 Court Street, Boston, MA 02108
617-371-1747**

Yes!! Please put me on your mailing list for the Official Application Intake Period:

Name: _____ Phone #: _____

Address: _____ Apt.: _____ Client File #: _____

City, State: _____ Zip Code: _____

