

offices, a board room and three guest rooms that can be reserved by family members visiting residents of the home. The grounds include a deer park and trout pond. VVH is licensed by the Centers for Medicare and Medicaid Services and the Veteran's Administration. Application (App.), 2-4.

2. VVH was founded in 1884 and the first residents admitted to the facility were Civil War veterans. VVH cares for Veterans, their spouses or widows, and Gold Star parents. Most residents of the facility are Vermonters, predominantly from southern Vermont, but also includes residents from New York and Massachusetts. At its inception the facility was a working farm for Veterans. App. 2.

3. Although situated on a main thoroughfare in Bennington, the Facility sits back from the road, limiting visibility of the facility and expansive grounds. Approximately two years ago, VVH noticed increased activity of individuals not employed by VVH and suspected illegal activity occurring in the late evening and overnight hours. Due to this suspect activity, the facility contracted with the local sheriff's department to provide on-site security during the evening and overnight hours. Currently VVH does not have a security system and has only a handful of doors that have card access, leaving residents and staff at risk. App., 7. As such the facility has specific requirements related to physical security that are not being met by the existing infrastructure. The project is needed to protect residents, staff, and visitors. App., 15.

4. The goal of the project is to maintain a welcoming and hospitable home for its residents while incorporating appropriate safety and security to protect residents, staff, and visitors. The project will evaluate and implement the safety and security needs of the building; will determine goals and objectives that meet current practices, codes, ADA rules, federal regulations; and will address Veterans Administration (VA) inspection deficiencies related to interior fire door concerns. Currently, the interior fire doors are old and do not seal properly when closed and therefore require replacement. App., 8.

5. Additionally, the lighting of the employee parking lot is poor and there are 60 exterior entryways, most without secure card access and easily breached when locked. The project will replace exterior doorways; evaluate 560 internal doorways; and add secure card access control and closed-circuit television, door locks, monitoring systems, emergency call boxes, and intrusion alarms. Remote ability to contact local law enforcement will also be included in the project. This is especially important for after normal business hours when the receptionist and administrative staff are not available in the event of an emergency. App., 8.

6. The design team will evaluate the security of the facility based on code and regulatory requirements, focusing on doors, windows, cameras, panic buttons/lock down, site and elevators. To organize this task, a comprehensive naming convention for the ten-wing facility was implemented. Then a key plan was created to illustrate the wing designations referenced throughout the project documentation. New door references are prefixed with a letter designation of each wing for quick orientation. App., 8.

7. Numerous codes apply to this project, including Vermont Adopted Codes and Standards; Vermont Fire and Building Safety Code, 2015 edition; Vermont Electrical Safety Rules, 2017 edition; Vermont Elevator Safety Rules, 2014 Edition; Vermont Access Rules (ADA), 2012 edition; NFPA 1 Fire Code, 2015 edition; NFPA 101 Life Safety Code, 2015 edition; the International Building Code, IBC, 2015 edition; and the NFPA 70 National Electrical Code, 2017 edition. App., 9.

8. The current fire evacuation plan will be evaluated and modified by VVH in coordination with the building access control upgrades associated with this project. Prior fire and smoke door inspection and testing reports are now outdated and many doors do not comply with current codes. Most of the cross-corridor doors have magnetic hold-open and push-pull hardware; instead, these doors must be self-closing and self-latching. Doors with latching hardware are missing auto flush bolt and functional door coordinators. Additional issues include clearly defining rating requirements at openings before repair or replacement can be completed; determining fire ratings for cross-corridor doors; replacing missing or illegible labels at openings, as needed; bringing door clearances into compliance; repairing and replacing holes and modifications left by previous magnetic locks installations; and replacing the majority of fire and smoke door assembly pairs documented in existing door reports. App., 9-10.

9. Scope of work on doors and hardware includes upgrading doors with knobs to lever sets complying with current Vermont Access Rules (ADA) requirements; installing weatherstripping on all exterior doors scheduled to remain; and replacing all existing five button keypad locksets with 12-button keypad locksets, Kaba Powerplex 2000. The new locksets are individually programmable, self-powered units. Existing resident room entry doors and hardware in Wings A, B, and C will be replaced with new room doors and mortise passage set; resident room entries (on D Wing) will reuse existing room entry door but replace existing lever set and deadbolt with interior access control. This will allow residents freedom to enter an exit the facility and their resident room with the use of a single access control card; the chapel will upgrade to a new pair of wide style aluminum doors with hold-opens and closers with upgraded ADA compliant push/pull hardware. App., 10

10. Multiple objectives will be accomplished by installing a functional, robust, access control system on the interior and exterior doors at VVH. Of primary concern in the context of security is controlling the physical space. With an appropriate access control system in place, these variables provide residents and staff with the best possible security for protection. The administration of such a system does not require physical keys or constant re-keying of locks and allows for precise oversight of the facility's doors. As much as possible, different types of keys, PIN pad doors, etc. will be eliminated and replaced by an access control system. This is important in lockdowns. Under current lockdown protocol, facilities personnel must physically go to doors and lock them with keys. This is an inefficient and dangerous situation. Integrating interior and exterior doors into a properly managed access control system will resolve this issue. App., 10-11.

11. A facility-wide access control system with 16 exterior doors, 37 interior doors, monitoring for other exterior doors with 24/7 locks and master keying system with restricted keyways, and SFIC format hardware will be installed. The project also includes window security. The system will monitor open/closed status with the ability to send notifications to personnel if found to be open outside of a set schedule. The system will monitor windows in the Administrative Building, East Wing, and Crispe Building. Seven exterior cameras will be installed to monitor the main entrance, gated courtyard, employee entrance, loading dock area, and Crispe entrance (P wing). Nine interior cameras will monitor the main entrance, Med rooms, and Pyxis (Omnicell) rooms, A, B, C, D, E, M and N wings. Monitoring will be stored on a server and not live streamed for staff observation. On site server storage of monitored data for rapid VVH retrieval will be implemented when required with possible EMS connection in the future. App., 11.

12. The lockdown system will be tied into the access control system which will include one at the front reception desk and four 24/7 at Nurses Stations on A, B, C and N wings. This system/integration will allow key personnel and EMS to be notified automatically in the event of a lockdown. All exterior doors will be integrated into this lockdown system to prevent intrusion or outside threats. In the event of a threatening intrusion into the building, interior cross-corridor or traffic doors may be locked as well. App., 12.

13. The project also includes: replacement of all metal halide pole top lighting heads with LED heads; mounted wall or canopy lighting at all egress doors; replacement of flood light luminaries with full cut-off luminaries; installation of blue lights with capability of calling police in the event of an emergency; evaluation of compliance of the existing emergency power system; and replacement of the existing chain link fence and gate at the entrance to the A-wing courtyard with a new seven foot high aluminum fence and gate assembly; conversion of two Dover elevators from key switch to card/fob operation; installation of video intercom at the main entrance and a master station for answering after hours that allow for mobile and remote answering. The project also includes unified signage system for doorways including door number and braille. App., 12.

14. The design work including construction plans and specifications has been completed by Freeman French Freeman Architects and reviewed by VVH staff and the State of Vermont Building and General Services. The project is expected to commence as early as September of 2021 and be completed one year following the actual start of the project. App., 13.

15. The cost of the project is \$2,623,375. The Veterans' Administration will fund \$1,705,194 (65%) of the project with the State of Vermont funding \$918,181 (35%) of the project. App., 13. The short-term financial impact due to the project will increase depreciation expense by approximately \$235,131 annually over the useful life of this capital improvement. App., 17. The project will not increase rates. VVH has not increased its charges since FY 2018 and its FY 2022 budget request also did not include a rate increase. App., 17. The project is being undertaken in the most cost-effective manner possible. The State of Vermont owns VVH and is using the bidding process and should award the project to the lowest qualified bidder. The project costs developed by the architect are in line with projected cost estimates developed by VVH staff for the grant

funding process from the Veterans' Administration. App., 15 The useful life of this project is approximately 11 years. July 12, 2021, Response to Questions (Resp.), 1.

16. Since VVH is owned and operated by the State, liability coverage is through the State's Risk Management Department and VVH's budget is reviewed annually and approved by the Vermont legislature. Additionally, since VVH is responsible for residents' funds, VVH has a separate Surety Bond for up to \$250,000. App., 15-16.

17. The project is needed because the facility has specific requirements related to physical security that are not currently being met by the existing infrastructure. The facility is set back from a main road, limiting the ability for the public to notice any unusual activity. Approximately two years ago, VVH noticed an increase in activity of individuals not employed by VVH and suspected illegal activity occurring in the late evening and overnight hours. To address concerns in the short term, VVH contracted with the local sheriff's department to provide onsite security during the evening and overnight hours. The facility currently does not have a security system in place and only a handful of doors have card access leaving residents and staff at risk. App., 7. Currently any one of the 60 exterior doors could be breached without staff being aware of such a breach until confronted by an individual who does not belong in the facility. Although a sheriff is on the property in the evening hours, a comprehensive security and access system is needed to ensure the safety of residents, staff, and visitors. The new security and access control system ensures that the facility is meeting the current community safety and security needs and the system will allow for upgrades and updates as needed to address future safety needs. App., 14-15, 18.

18. The security and access project will improve safety and security and in turn quality, for patients, staff, and visitors. App., 16, 18. The new security and access system will allow staff to proactively respond to unauthorized access to the facility, the risk of harm to patients and staff is reduced and contact with local law enforcement of emergency services is immediate and efficient. It is widely known that controlled substances are maintained on the property. Breaching any one of the 60 exterior doors places residents and staff in an unsecure environment. App., 18. In addition, currently VVH is paying \$156,000 for contracted security coverage. Once the new system is implemented, that contracted service will not be necessary. App., 16. The project will not have an adverse impact on existing services provided by VVH. App. 18.

19. The project primarily involves replacing and upgrading the electronic security and access systems, replacing doors, frames, hardware. Where appropriate, energy efficiency measures have been planned for and incorporated into the project such as replacing exterior light luminaries with high efficiency LED fixtures, sealing and weatherstripping exterior doors and windows where applicable. App., 9-12,15

20. The project has no effect on staffing and will not increase the cost of medical care or have an undue impact on the affordability of medical care for consumers. Included in the application was a letter of support for the project from the Department of Disabilities, Aging and Independent Living. App., 5, 16.

21. Due to the nature of the project, the project will not negatively impact hospitals or other clinical settings. App., 17.

22. Less expensive alternatives do not exist. VVH has investigated other alternatives and a comprehensive electronic security and access system with lockdown card readers and master key system is much less expensive to implement facility-wide rather than by piecemeal. Although the project will increase depreciation expense by approximately \$235,131 annually over the useful life of this capital improvement, by implementing a comprehensive security and access system VVH will save \$156,000 annually for contracted security coverage by a sheriff. The cost of the project is outweighed by ensuring security and detecting unauthorized access to the facility so that residents, staff and visitors remain safe while in the building. App., 17-18.

Standard of Review

Vermont's CON process is governed by 18 V.S.A. §§ 9431-9446 and Green Mountain Care Board Rule 4.000 (Certificate of Need). An applicant bears the burden of demonstrating that each of the criteria set forth in 18 V.S.A. § 9437 is met. Rule 4.000, § 4.302(3).

Conclusions of Law

I.

Under the first statutory criterion, an applicant must show that the proposed project aligns with statewide health care reform goals and principles because the project takes into consideration health care payment and delivery system reform initiatives; addresses current and future community needs in a manner that balances statewide needs (if applicable); and is consistent with appropriate allocation of health care resources, including appropriate utilization of services, as identified in the Health Resource Allocation Plan (HRAP). 18 V.S.A. § 9437(1).

Given the nature of the project, the Applicant has shown to the extent applicable that the proposed project aligns with statewide health care reform goals and principles. Implementation of the project will ensure that a comprehensive security and access system will be implemented to ensure the safety of the residents and staff. Without this system, the 60 exterior doors in particular could be breached at any time without staff being aware until an intruder confronts them inside the building. *See Findings*, ¶¶ 5, 17, 18.

The project is also consistent with the HRAP,¹ which identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. *See HRAP Standards*: 1.9 (costs and methods are necessary and reasonable); 1.10 (the project is energy efficient); 5.3 (nursing homes shall seek a written recommendation from the

¹ The Vermont legislature in Act 167 (2018) made several changes to the State's CON law. *See* <https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT167/ACT167%20As%20Enacted.pdf>. As amended by Act 167, 18 V.S.A. § 9437(1)(C) continues to reference the HRAP, which is in the process of being updated. In the interim, we consider the current HRAP standards.

Department of Disabilities, Aging and Independent Living) 5.4 (the applicant is sufficiently capitalized and insured to protect residents). *See Findings, ¶¶ 15, 16, 19, 20.*

Based on the information above, we conclude that the applicant has met the first criterion.

II.

Under the second statutory CON criterion, an applicant must demonstrate that the cost of the project is reasonable because the applicant's financial condition will sustain any financial burden likely to result from completion of the project and because the project will not result in an undue increase in the costs of medical care or an undue impact on the affordability of medical care for consumers. The Board must consider and weigh relevant factors, such as "the financial implications of the project on hospitals and other clinical settings, including the impact on their services, expenditures and charges [and whether such impact] is outweighed by the benefit of the project to the public." Under the second statutory criterion, the applicant must also demonstrate that less expensive alternatives do not exist, would be unsatisfactory, or are not feasible or appropriate; and if applicable, that the project has incorporated appropriate energy efficiency measures. 18 V.S.A. § 9437(2).

We conclude that the project's total cost of \$2,623,375 is reasonable. The Veterans Administration will fund \$1,705,194 (65%) of the project with the State of Vermont funding \$918,181 (35%) of the project. VVH is state owned and operated and is an agency in Vermont state government. Findings, ¶ 15.

We further find that the project will not unduly increase the costs of care, will not unduly impact the affordability of care for consumers, and any fiscal impact is outweighed by the benefit of the project to the public. Findings, ¶¶ 15, 20, 22. There will not be an increase in charges or rates for services linked to the project. Although depreciation expense will increase by \$235,131 annually, implementation of the security and access system will save \$156,000 annually as the contracted security with the sheriff will no longer be needed once the system is functional. Findings, ¶¶ 3, 15, 17, 18. Due to the nature of the project, there is no impact on hospitals and other clinical settings. The benefits of the project to the residents, staff, and their families are tangible and meaningful. Findings, ¶¶ 18, 21, 22.

Given the nature of the project, appropriate energy efficiency measures where applicable and appropriate will be implemented. We conclude that the applicant has satisfied this criterion.

Finally, the applicant has demonstrated that less expensive alternatives do not exist. A piecemeal approach to implementing security and access would continue to leave the building, residents, and staff exposed to intruders and an unsafe environment. Findings, ¶ 22.

We conclude that the applicant has satisfied the second criterion.

III.

Under the third criterion, an applicant must show that “there is an identifiable, existing, or reasonably anticipated need for the proposed project that is appropriate for the applicant to provide.” 18 V.S.A. § 9437(3).

The facility currently does not have a comprehensive security and access system in place. With this project VVH is implementing specific requirements related to physical security that are not currently being met by the existing antiquated infrastructure. With an increase in activity of individuals not employed by VVH first being observed beginning two years ago, it is suspected that illegal activity is occurring in the late evening and overnight hours which in turn, places residents and staff in a very unsafe environment. With 60 exterior doors alone, it is not possible for the contracted sheriff to monitor these doors making them vulnerable to intrusion. Leaving staff vulnerable to be surprised by an intruder is inherently unsafe for staff and residents. The new security and access control system ensures that the facility is meeting the current community safety and security needs and in compliance with codes. The system will allow for upgrades and updates as needed to address future safety needs. Findings, ¶¶ 5, 17, 18.

For the reasons stated above, we conclude that applicant has satisfied the third criterion.

IV.

The fourth criterion requires that an applicant demonstrate that the proposed project will improve the quality of health care in Vermont, provide greater access to health care for Vermonters, or both. 18 V.S.A. § 9437(4).

The project improves the quality of health care indirectly by creating a safer environment for residents and staff ensuring that only authorized personnel are in the building at any given time. Findings, ¶¶ 4, 18.

To the extent that it applies, we find that the applicant has met this criterion.

V.

The fifth criterion requires that an applicant demonstrate that the project will not have an undue adverse impact on any other services it offers. 18 V.S.A. § 9437(5).

The project is necessary to protect the safety of both residents, visitors and staff. The project will not have an adverse impact on any other services that VVH offers. The project is planned for and is fully financed by Veterans Administration which will fund \$1,705,194 (65%) of the project by the State of Vermont with an allocation of \$918,181 (35%). Findings, ¶ 15.

We find that this criterion has been satisfied.

VI.

The sixth criterion was repealed, effective July 1, 2018. *See* 18 V.S.A. § 9437(6) (repealed).

VII.

The seventh statutory criterion requires that an applicant adequately consider the availability of affordable, accessible transportation services to the facility, if applicable. 18 V.S.A. § 9437(7).

Given the nature of the project, we find that this criterion is not applicable.

VIII.

The eighth statutory criterion states that if the application is for the purchase or lease of new Health Care Information Technology, it must conform to the Health Information Technology Plan. 18 V.S.A. § 9437(8).

As the project does not involve the lease or purchase of a new Health Care Information Technology, this criterion is not applicable.

IX.

Finally, an applicant must show that the proposed project will support equal access to appropriate mental health care that meets standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care, as appropriate. 18 V.S.A. § 9437(9).

Due to the nature of the project, this criterion is also not applicable.

Conclusion

Based on the above, we conclude that the applicant has demonstrated that it has met each of the required statutory criterion under 18 V.S.A. § 9437. We therefore approve the application and issue a certificate of need, subject to the conditions outlined therein.

SO ORDERED.

Dated: September 3, 2021 at Montpelier, Vermont.

s/ Kevin Mullin, Chair)
)
 s/ Jessica Holmes)
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 s/ Robin Lunge)
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 s/ Tom Pelham)
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 s/ Maureen Usifer)

GREEN MOUNTAIN
CARE BOARD
OF VERMONT

Filed: September 3, 2021

Attest: Jean Stetter, Administrative Services Director