

# **STATE AGENCY ACTION REPORT ON APPLICATION FOR CERTIFICATE OF NEED**

## **A. PROJECT IDENTIFICATION**

### **1. Applicant/CON Action Number**

#### **Sunrise Community, Inc./CON #10541**

9040 Sunset Drive  
Miami, Florida 33173

Authorized Representative: Zachary S. Wray  
President and C.E.O.  
(305) 596-9040

### **2. Service District/County**

District 6 (Hardee, Highlands, Hillsborough, Manatee and Polk Counties)

## **B. PUBLIC HEARING**

A public hearing was not held or requested regarding the proposed project.

### **Letters of Support**

CON application #10541 includes six letters of support. The reviewer notes the following characteristics of these support letters:

- All six support letters are signed and are individually composed
- Four of the support letters have date ranges from May 7, 2018 to June 8, 2018 (the remaining two support letters are not dated)
- Four of the support letters indicate an address from outside District 6 (two being from District 11 and one each from District 2 and District 9), with one support letter indicating a District 6 address and one having no address
- Four of the support letters are signed by senior executives of organizations that serve or otherwise support/represent or provide support/assistance for individuals with intellectual, developmental, behavioral and/or other disabilities:
  - Florida Association of Rehabilitation Facilities
  - MACtown, Inc.
  - The Advocacy Network on Disabilities
  - The Mentor Network

- One support letter (and the only support letter with a District 6 address) is from the director of the Hardee County Economic Development Council (HCEDC)/Hardee County Industrial Development Authority (HCIDA)
- One support letter is from a parent whose adult child is stated to be in Florida's only Comprehensive Educational Transition Program (CETP<sup>1</sup>)

These six support letters are complimentary of Sunrise Community, Inc., its services to individuals with intellectual/developmental and related disabilities and strongly endorse the applicant's efforts to seek project approval.

### **Letters of Opposition**

The Agency received no letters of opposition, pursuant to the proposed project.

## **C. PROJECT SUMMARY**

**Sunrise Community, Inc. (CON application #10541)**, also referenced as SC or the applicant, a Florida non-profit<sup>2</sup> owner/licensee of 23 intermediate care facilities for the developmentally disabled (ICF/DD) in Florida (with a corresponding total of 46 programs), proposes to construct and operate a new 24-bed ICF/DD (three, eight-bed cluster homes with private rooms and bathroom) in District 6, Hardee County, Florida. SC is stated to have a total of 46 ICF DD facilities in Florida (8.52 percent of all ICF/DD facilities statewide), with 552 (26.65 percent) of the state's total ICF/DD bed supply.

For the purposes of this review, ICF/DD, Intermediate Care Facility for the Intellectually Disabled (ICF/ID) and Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) may be used interchangeably.

The proposal would increase the District 6 and State of Florida ICF/DD licensed bed count by 24 additional beds.

The proposed project, if approved, is expected to have issuance of license in September 2020 and initiation of service in October 2020 (Schedule 10 of the application).

<sup>1</sup> CETP is pursuant to section 393.18, Florida Statutes.

Project costs total \$8,169,400. The project involves 24,000 gross square feet (GSF) of new construction (no renovation space) with total construction costs of \$5,849,272. Costs covered are for land, building, equipment, project development, financing and start-up costs.

In Schedule C of CON application #10541, the applicant conditions the proposed project as follows:

1. The proposed location is Hardee County, part of Health Planning District 6, affording access due to its centralized location within the state.
2. Centers of Medicare and Medicaid affords all persons with intellectual disabilities support through the Medicaid Program. Thus, all the residents undergo an assessment by the Agency for Persons with Disabilities, and Medicaid becomes the primary payer. The forecast shows 100 percent Medicaid under the Statewide Medicaid Management Care Program.
3. The service area targeted to the dual diagnosis recipient who along with maladaptive behaviors, intellectual disability and psychiatric diagnosis require higher intensity and mix of services than those provided in current ICF/IID facilities.
4. Special features of the program include higher supervision on the basis of 24 hours, seven days a week. Intensive psychiatric services and psycho-social supportive care characterize the overall regimen of care. Medical management and medication administration provide additional support on individualized basis to help alleviate behaviors that may cause harm to self or others.

<b>Total GSF and Project Costs of CON Application #10541</b>					
<b>Applicant</b>	<b>CON app. #</b>	<b>Project</b>	<b>GSF</b>	<b>Costs \$</b>	<b>Cost Per Bed</b>
Sunrise Community, Inc.	10541	Establish a 24-bed ICF DD	24,000	\$8,169,400	\$340,392

Source: CON applications 10541 and the corresponding Schedules 1 and 9

**D. REVIEW PROCEDURE**

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by assessing the responses provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district (subdistrict), applications are comparatively reviewed to determine which applicant best meet the review criteria.

Ch. 59C-1.010(3)(b), Florida Administrative Code, allows no application amendment information subsequent to the application being deemed complete. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the Certification of the Applicant.

As part of the fact-finding, the consultant, Steve Love analyzed the application with consultation from the financial analyst Eric West of the Bureau of Central Services, who reviewed the financial data and Scott Waltz, of the Office of Plans and Construction, who reviewed the application for conformance with the architectural criteria.

**E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA**

The following indicate the level of conformity of the proposed project with the criteria and application content requirements found in Sections 408.035 and 408.037, Florida Statutes, and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code.

The reviewer presents the following analysis and review of CON application #10541.

**1. Fixed Need Pool**

**a. Does the project proposed respond to need as published by a fixed need pool? Ch. 59C-1.008, Florida Administrative Code.**

Need is not published by the Agency for ICF/DD beds.

SC contends that as of March 6, 2018, there were 202 residents at the Agency for Persons with Disabilities (APD)-licensed Carlton Palms with 58 clients having found community placements (page 1-1 of the application). The reviewer notes that Carlton Palms (District 3, Lake County) is the provider of the state's sole statutorily authorized Comprehensive Transitional Education Program (CTEP). The reviewer indicates that Carlton Palms is licensed by APD.

SC discusses lessons from Carlton Palms (pages 1-2 to 1-3 of the application). The applicant asserts the following challenges at Carlton Palms and states that, in summary:

- The facility is too large
- The client population is too diverse
- The staffing levels are too low
- The mix of professionals, trained staff and supportive personnel required for the large number of clients do not exist

The applicant maintains that based on the four factors above, “the mission fails” (page 1-3 of the application).

SC states that given the severe developmental conditions and compounding mental illness that clients at Carlton Palms exhibit, finding appropriate group homes<sup>3</sup> in community settings for all the displaced clients raises concerns. The applicant asserts that a subset of the clients expose themselves and others to potential dangers. SC emphasizes that, “For that smaller group of persons, a substitution for Carlton Palms offers the only option.”

The applicant indicates that per data from the Florida Association of Rehabilitation Facilities, as of April 2018, community settings for individuals with intellectual disabilities (private homes/facilities not operated by the state) had a total of 76 vacancies. Based on the applicant’s source data, the reviewer notes that of the total 35 facilities statewide, the largest single vacancy (six vacancies) is in Hillsborough County, with many facilities having just one vacancy. SC maintains that given the small size of most programs, compatible placements require both gender matching and age matching. SC points out that the degree to which the 35 referenced facilities have the capacity to provide both psychiatric as well as developmental support requires a case-by-case determination.

The applicant provides a graph to indicate statewide historical utilization and vacancy rates by month for the five-year period ending June 2017 (page 1-5, Figure 1-1, of the application without a source of the data noted). According to SC, for this five-year period, there were high occupancies, with an average of 96.64 percent and a low vacancy rate, with an average of 3.26 percent. The applicant stresses that while variations occur, the lowest occupancy rate reported for this same five-year period was 95.70 percent (January 2013). Again, SC does not state a source but provides a graph to indicate central region historical utilization and vacancy rates by month for the five-year period ending June 2017 (page 3-7, Figure 3-3, of the application). According to SC, for this five-year period, ICF/IID programs in the central region of the state have a higher occupancy rate than for the state (overall) at 97.8 percent and a lower, average vacancy rate of 2.18 percent.

<sup>3</sup> The reviewer notes that “group home facilities”, pursuant to Rule 65G-2.001(14), Florida Administrative Code and section 393.063(19), Florida Statutes, are not subject to CON review.

Based on the above stated occupancy and vacancy rates, SC maintains that no room exists to absorb clients from Carlton Palms.

SC comments that ongoing demand for the existing capacity of 2,017 beds reflect full utilization, with little capacity to accommodate clients from Carlton Palms. The reviewer notes that later in the application, SC indicates that these 2,017 beds are operated by the private sector, for the subject population.

The applicant indicates that one option for consideration is state-sponsored facilities. SC does not state a source but indicates that APD operates two developmental centers – Sunland in Mariana (Mariana, Jackson County/District 2) and Tacachale in Gainesville (Gainesville, Alachua County/District 3). SC mentions a third APD developmental center in Chattahoochee (Jackson County/District 2) that the applicant states is for the Development Disabilities Defendant Program (DDDP)<sup>4</sup>. The applicant notes that APD maintains a total of 735 beds (386 beds at the Tacachale facilities in Gainesville and 349 beds at the Sunland facilities in Mariana). The applicant does not include Chattahoochee (DDDP) facilities or beds in its APD developmental centers table (below).

**Number of Beds at APD’s Developmental Centers**

Tacachale – Facility I	104
Tacachale – Facility II	92
Tacachale – Facility IV	60
Tacachale – Facility V	42
Tacachale – Facility VII	32
Tacachale – Facility VII	56
<b>Total</b>	<b>386</b>
Sunland – Facility I	113
Sunland – Facility II	121
Sunland – Facility III	44
Sunland – Facility IV	20
Sunland – Facility V	51
<b>Total</b>	<b>349</b>

Source: CON application #10541, page 1-6, Table 1-2

SC states that the Tacachale and Sunland Developmental Centers represent large campus programs that continue to support an institutional model of care for persons with intellectual disabilities. The applicant notes that the national and state policy directives focus on removing persons with disabilities from large institutions in preference to small community settings. The reviewer notes that APD’s preference for small, community settings for placing residents from Carlton Palms is

<sup>4</sup> According to the website <http://www.apd.myflorida.com/ddc/dddp/>, DDDP is dedicated to empowering persons with developmental disabilities charged with a felony crime and is the only admissions facility in the State of Florida for residents with MR that have alleged offenses.

borne out in the two APD news releases referenced in item E.3.a of this report. The applicant emphasizes that Florida is among the states that promote community and support individuals in their own homes or other family homes.

The applicant indicates a source<sup>5</sup> to illustrate that in the year 2000, Florida reported 4,662 persons with intellectual or developmental disabilities in facilities of 16 or more beds in contrast to the 2,651 in such facilities in 2015. SC points out that this decline represents a reduction of 2,011 (43 percent) of persons in large programs. Using the same source, SC provides a graph (page 1-7, Figure 1-2 of the application) to show national average annual numeric and percentage decreases in the number of people with, “IDD in PRFs or State Psychiatric Facilities”, in five-year intervals from 1965 to 2015, stating that this decline is similar to what Florida achieved. Again, using the same source, SC provides another graph (page 1-7, Figure 1-3 of the application) to show national average annual per person expenditures for state-operated IDD facilities serving 16 or more people, in five-year intervals, from 1950 to 2015, stating that costs continue to rise for state-operated IDD facilities with fewer individuals and higher costs of services and resident care requirements. The reviewer notes that according to the applicant’s Figure 1-3, in 1985, nationally, the average annual cost per resident was approximately \$50,000 but by 2015, it was approximately \$250,000.

SC asserts that the APD’s objective is to develop six-bed group homes to be able to serve the clients of Carlton Palms. The reviewer also notes that group homes - previously stated pursuant to Rule 65G-2.001(14), Florida Administrative Code and section 393.063(19), Florida Statutes - are licensed by APD and are not subject to CON review. The applicant provides a table (page 1-8, Table 1-3 of the application) to indicate that at present there are 38 group homes (having six licensed beds each) with 228 beds statewide.

The applicant comments that private providers develop group homes so the cost of construction is borne by the owner. While the applicant states that, among other requirements, the owner of a group home must have a license as an assisted living facility (ALF) or an adult family care home (AFCH), the reviewer notes that neither ALF nor AFCH licensure is subject to CON review.

<sup>5</sup> Status and Trends: Residential Services for Persons with Intellectual and Developmental Disabilities, Institute on Community Integration (UCDSS), University of Minnesota, National Residential Information Systems Project (RISP).

SC asserts that the foregoing analysis establishes that high utilization in existing beds affords little ability to take on the influx of persons that the closure of Carlton Palms creates. The applicant notes that the use of state-operated developmental centers, also highly occupied, would reverse years of shifting away from their use with a result of increasing per person expenditures<sup>6</sup>. SC contends that the information above underscores the need to expand capacity:

- Increase the numbers of group homes
- Increase the numbers of ICF IID providers

The applicant summarizes as follows (page 1-9 of the application):

1. Carlton Palms clients possess characteristics that combine intellectual disabilities with psychiatric conditions producing maladaptive behaviors that for some produce self-inflicted harm or harm to others.
2. Existing programs have few vacancies to accommodate displacements from Carlton Palms.
3. Special needs and supports entail a comprehensive mix of services across professions and necessitate higher security and safety precautions for all.
4. These needs render group homes, for the most part, unable to provide the high intensity and mix of medical and social supports for such persons. The result is that only some displaced persons would be appropriately served in group homes.
5. The state sponsored development centers do not have capacity expansion to absorb the influx or higher costs if they could expand, which reverses years of attaining community placements.
6. The closure of 230 beds at a facility that had high occupancy does not result in removing the need for capacity to treat such individuals.

The applicant emphasizes that as a result, expansion must occur and that a reevaluation of the role that ICF/IID facilities play as a community option. SC states that with the capacity to provide additional medical and nursing care for the dual diagnosis subgroup, the ICF/IID becomes a necessary addition to the resources that a community can provide.

The Agency notes that SC does not identify any given number of Carlton Palms residents who cannot be successfully transitioned to a local community group home. Additionally, APD does not identify any of its APD customers at Carlton Palms that cannot be successfully transitioned to a local group home. The Agency indicates that the applicant provides no documentation to confirm that APD is in support of placing APD

<sup>6</sup> The reviewer notes that the two APD news releases referenced in item E.3.a. of this report make no mention of utilizing state-operated developmental centers to address placing residents being transitioned from Carlton Palms.



customers into a non-APD licensed facility (as proposed by the project). CON application #10541 is premature, in that SC has not allowed APD to carry through with its ongoing efforts to complete the successful placement of the remaining APD customers at Carlton Palms. The reviewer notes that according to Schedule 10 of the application, SC expects to commence services pursuant to this proposal in October 2020. If approved and not petitioned by an adversely affected party, commencement of services in October 2020 would allow the APD approximately 24 months to place any remaining APD customers at Carlton Palms – this is presuming that APD is not successful in closing Carlton Palms by March 2019, as planned.

SC contends that the advantages of the project are as follows:

- Affords flexibility allowing each eight-bed home to host clients that have similar needs--achieving a manageable size while avoiding mixing dissimilar individuals
- Provides the ability to share resources and expenses
- Creates critical mass for professionals as they move during the workday from home to home, providing continuity of care
- Attain a workforce size that can be recruited and retained in numbers that reduce the length of time in filling vacancies
- Establishes a locus of control, accountability and supervision that allows for quality assurance and utilization review processes

SC asserts that, “While the impetus for the project arises from the pending closure of Carlton Palms, individuals with similar conditions will continue to require services from APD” (page 1-12 of the application). The reviewer notes that according to the two APD news releases referenced in item E.3.a of this report, APD has mechanisms and procedures in place to address the needs of APD’s customers that do not expressly state ICF/IID placements.

According to SC, the shift of persons from Carlton Palms, using the 145 persons not yet placed, produces a rate of 0.69 persons per 100,000. The applicant provides below an estimate, by county, for “YE” 2021 and YE 2022, for dual diagnosis. For YE 2021, the number of dual diagnosis cases is 151 and 153 by YE 2022. The reviewer collapses all of Florida discreet county estimates into the total provided (below).

**Forecast of Demand for ICF IID Services and Dual Diagnosis Individuals  
with Intellectual Disabilities  
First Two Years of Proposed Project**

<b>Area</b>	<b># Dual Diagnosis YE 2021</b>	<b># Dual Diagnosis YE 2022</b>
Statewide Total	151	153

Source: CON application #10541, page 1-25, Table 1-8

The reviewer notes that according to CON application #10541, Schedule 10, the first year of operation ends October 2021 and year two would end October 2022. Therefore, the applicant's Schedule 10 is inconsistent with the applicant's Table 1-8 in that the first two years of operation do not agree.

In the following table, the reviewer captures the applicant's demand estimates specific to each District 6 county and generates a total column for year end (YE) 2021 and YE 2022. The estimated total number of dual diagnosis cases is 19 for each year.

**Forecast of Demand for ICF IID Services and Dual Diagnosis Individuals  
with Intellectual Disabilities  
First Two Years of Proposed Project**

<b>District 6 by County</b>	<b># Dual Diagnosis YE 2021</b>	<b># Dual Diagnosis YE 2022</b>
Hardee	0	0
Highlands	1	1
Hillsborough	10	10
Manatee	3	3
Polk	5	5
<b>District 6 Total</b>	<b>19</b>	<b>19</b>

Source: CON application #10541, page 1-25, Table 1-8 (partial)

The reviewer notes that for YE 2021 and for YE 2022, the applicant estimates zero demand in Hardee County - the county location of the proposed project.

- b. If no Agency policy exists, the applicant will be responsible for demonstrating need through a needs assessment methodology which must include, at a minimum, consideration of the following topics, except where they are inconsistent with the applicable statutory or rule criteria:**
  - 1. Population demographics and dynamics;**
  - 2. Availability, utilization and quality of like services in the district, subdistrict, or both;**
  - 3. Medical treatment trends; and**
  - 4. Market conditions.**

***Population Demographics and Dynamics:***

SC provides a graph to indicate that, District 6, the location of the proposed project, is currently (in 2018) the third largest district by population (2,547,469 residents). The applicant notes that by 2023 District 6 will continue to be the third largest district by population (estimated at 2,762,368 residents), with a statewide population going from 20,533,262 residents (2018) to 21,878,409 residents (2023). SC maintains that by 2023, District 6 will have 12.6 percent of the state's

total population. The applicant indicates its source 1988-2012 Microsoft Corporation and its suppliers to generate the numerical insert within the larger graph. The reviewer reproduces the numerical totals in the larger graph, by district, in descending order, from 2018 to 2023. See the figure below.

**Total Population Estimates and Percentages 2018 to 2023 by District**

<b>District</b>	<b>2018</b>	<b>2023</b>	<b>Percent of Population 2023</b>
11	2,790,753	2,942,256	13.4
7	2,694,258	2,940,182	13.4
6	2,547,469	2,762,368,	12.6
4	2,108,384	2,255,655	10.3
9	2,083,870	2,219,599	10.1
3	1,768,225	1,913,144	8.7
8	1,751,234	1,895,949	8.7
10	1,831,969	1,882,059	8.6
5	1,451,499	1,507,630	6.9
2	769,100	788,344	3.6
1	736,501	771,223	3.5
<b>TOTAL</b>	<b>20,533,262</b>	<b>21,878,409</b>	<b>100.0</b>

Source: CON application #10541, page 3-5, Figure 3-1

The applicant states that the proposed project location (District 6) abuts the following Agency Districts – 5, 7, 8 and 9. SC indicates that these five districts (5, 6, 7, 8 and 9) comprise 52 percent of the state’s total population (as of 2023) and therefore this makes the proposed location (Hardee County) a good choice to treat those with dual diagnosis. The applicant states that a total of two Sunrise Community facilities are proximate to Hardee County, within a 54-mile radius of its Bartow program. SC contends that the circumference around the facilities in Bartow (Polk County) reaches into the following counties: Pasco, Pinellas, Hillsborough, Lake, Sumter, Osceola, Orange, Hardee, Highlands and Desoto. According to the applicant, the catchment area for the services places it proximate to population centers, health care resources, social services and personnel.

SC provides a table (page 1-13, Figure 1-4) titled, “Trends in In-Home and Residential Supports for Persons with Intellectual or Developmental Disabilities”, with data ranging from 1977 to 2015. SC contends that based on this profile table, regarding care for persons with intellectual disabilities residing in Florida, for the year 2015, the state caseload is 57,112 persons, an increase from 55,442 in 2013 of 1,670 persons (3.0 percent). Based on this same table for 2015, the applicant states a rate of 159.2 persons per 100,000 for Medicaid waiver participants and a rate of 13.6 per 100,000 persons for ICF/IID recipients.

The applicant asserts that the two rates are inverse to each other – as the number of persons grows receiving services under the waiver, a subsequent decline occurs for persons receiving ICF/DD services. SC emphasizes that over time, the increase in waiver services slows as does the decline in ICF/DD services. The applicant stresses that the importance of the slowing indicates that both service components are reaching a balance within the system of care, with population increasing the impetus for growth as the caseload increases.

SC contends that the closure of Carlton Palms, a waiver service, impacts the ability of the system to handle displaced persons. The applicant indicates that the number of persons in the year 2015 waiting for the Medicaid waiver is 21,331. SC stresses that, “pressures remain to find waiver-capable settings and the qualified funding for the services.”

The applicant utilizes the most recent (2018 to 2023) Claritas, Inc., population estimates, by county and age cohort, to project a compound annual growth rate (CAGR) of 1.3 percent per year. SC contends that since the program of care for persons with intellectual disabilities is statewide, the forecast uses all counties to measure future demand. The reviewer collapses all the discreet Florida counties into the totals shown below.

**Population Estimates  
2018 - 2023**

	<b>2018 Total Population</b>	<b>2023 Total Population</b>	<b>CAGR</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
State Total	21,107,181	22,528,389	1.3%	21,385,773	21,666,127	21,950,316	22,238,392

Source: CON application #10541, page 1-17, Table 1-4

The reviewer notes that while the applicant’s narrative and table title indicate the table provides population estimates for 2018 to 2023, the year columns in the table are from 2019 to 2022. The reviewer also notes that the applicant does not discuss ICF/DD referral patterns or plans specific to placements for the remaining residents at Carlton Palms or that APD would necessarily make placements of APD’s customers from Carlton Palms to the proposed project, if approved. The applicant provides no documentation to verify that APD would necessarily seek to place any of the remaining APD customers at Carlton Palms in an ICF/DD, in rural Hardee County, as proposed by SC. See item E.3.a of this report for additional discussion of timing and likely APD customer placement at the proposed project – a non-APD licensed facility.

***Availability, utilization and quality of like services in the district, subdistrict, or both:***

SC points out that the response to availability, utilization and quality of like services appears in the applicant’s foregoing analysis and therefore will not be repeated here. However, the applicant summarizes that the state provides a range of services under Medicaid and Medicaid Waiver for Home and Community Based Services. SC comments that the state accommodates persons in a variety of settings, with the largest being support for persons to remain with their families. The applicant indicates that the range of services provides for the best option to find an appropriate site that meets each person’s needs.

The applicant contends that, “the group home program, as with all of the housing options that persons with intellectual disabilities have, reflect high utilization and little capacity to absorb the displacement from Carlton Palms” (page 1-18 of the application). The reviewer again notes that group homes are not subject to CON review.

In the following table, the applicant indicates the constraint on capacity that exists. The reviewer notes that the table provides discreet totals for each month from January 2014 to April 2015, with rates ranging from 95 percent to 96 percent for any given month. The reviewer collapses each discreet month into the total provided. See the table below.

**Caseloads January 2014 to April 2015  
Office of Medicaid  
Social Services Estimating Conference (SSEC) as of August 2015**

	<b>Six Beds</b>	<b>Cluster</b>	<b>Private</b>	<b>Total</b>
Total	3,409	7,400	20,833	31,642
Average	213	463	1,302	1,978

Source: CON application #10541, page 1-19, Table 1-5

SC states about 145 clients remain at Carlton Palms (203 residents as of March less 58 placements of May 10 = 145 remaining). The applicant concludes that an additional 24 group homes would be needed to absorb the displacements (145 clients/six-bed arrangements = 24 group homes needed). SC indicates that this minimum number (24) does not consider expansion consistent with population growth. The reviewer again notes that group homes are not subject to CON review.

Below is a chart of the ICF/DD facilities located in District 6 (Hardee, Highlands, Hillsborough, Manatee and Polk Counties). As indicated, Hardee and Manatee Counties have no ICF DD facilities and no licensed ICF DD beds.

**ICF/DDs in District 6  
(Hardee, Highlands, Hillsborough, Manatee and Polk Counties)**

Facility Name	City	County	ZIP Code	Licensed Beds
N/A	NA	Hardee	N/A	N/A
Florida Mentor	Avon Park	Highlands	33825	24
Hillsborough County Developmental Center	Tampa	Hillsborough	33613	64
Life Concepts, Inc.	Brandon	Hillsborough	33510	24
Life Concepts, Inc.	Tampa	Hillsborough	33613	24
N/A	N/A	Manatee	N/A	N/A
Sunrise Community, Inc.	Bartow	Polk	33830	24
<b>Total Beds</b>				<b>160</b>

Source: [www.healthfinder.gov](http://www.healthfinder.gov), May 29, 2018

The Agency notes that the APD lists Hardee County under APD’s Central Region Field 14 (Hardee, Highlands and Polk Counties), with the APD’s Field 14 headquarters office being in Lakeland (Polk County). Below is ICF vacancy information from the APD for its Area 14 (Hardee, Highlands and Polk Counties).

**ICF Vacancy Information for Area 14**

Total Vacancies	Age			Gender		
	Under 18	Adults	Any	M	F	Co-Ed
2	0	2	0	0	1	1

Source: <http://www.apd.myflorida.com/planning-resources/area-14.htm>, May 30, 2018

Below is ICF vacancy information from the APD for its areas that are contiguous to Area 14 (these being, clockwise, Areas 13, 7, 15, 8 and Suncoast).

**ICF Vacancy Information for Areas Contiguous to Area 14  
Areas 13, 7, 15, 8 and Suncoast**

Area	Total Vacancies	Age			Gender		
		Under 18	Adults	Any	M	F	Co-Ed
13	2	0	0	0	1	1	0
7	5	0	5	0	3	2	0
15	1	0	1	0	1	0	0
8	0	0	0	0	0	0	0
Suncoast	6	0	4	2	3	3	0
<b>Total</b>	<b>14</b>	<b>0</b>	<b>10</b>	<b>2</b>	<b>8</b>	<b>6</b>	<b>0</b>

Source: <http://www.apd.myflorida.com/planning-resources/area-14.htm>, May 30, 2018

The Agency notes that the applicant does not indicate the specific or combination of disabilities (Autism Spectrum Disorder, Cerebral Palsy, Down Syndrome, Intellectual Disability, Prader-Willi, Spina-Bifida, other) that the applicant intends to serve pursuant to the proposal, nor the age groups or the gender targeted.

The APD website at <http://apd.myflorida.com/planning-resources/> indicates that as of May 30, 2018, there were 59 ICF vacancies statewide.

The Agency recognizes that the proposed project will be located in District 6 which is different from District 3 where the remaining APD customers at Carlton Palms are located. However, regarding quality of like services, the reviewer notes that SC includes (Tab 10-Additional Information, CON application #10541) the 30-page report, “Monitoring and Investigation of Carlton Palms Educational Center-Results and Recommendations/March 2018”, issued by Disability Rights Florida, Inc.<sup>7</sup> The reviewer notes that this same 30-page report can be viewed on the Disability Rights Florida news link<sup>8</sup>. The reviewer explored the 30-page report’s executive summary (pages one and two), the conclusion (page 27) and the five recommendations (pages 27 to 30), as well as the attached March 3, 2018 endorsement letter by Barbara Palmer, Director, APD. Upon review of the referenced portions of the report, the reviewer notes that an additional ICF/DD (as proposed in CON application #10541) is not expressly stated as a solution to address the challenges at Carlton Palms in the following portions of the report:

- The executive summary (listing eight findings)
- The conclusion
- The recommendations (listing five suggested actions)
- The APD director’s letter states, “I have reviewed the report and do not disagree with its findings”

The reviewer further notes that the second paragraph of the conclusion indicates that APD must continue to identify new and innovative models of support for individuals with developmental and intellectual disabilities so that their needs can be met, in their home communities, near their loved ones if not in their loved one’s homes, and in a homelike setting.

***Medical treatment trends:***

SC contends that clients of the program have developmental disabilities, severe maladaptive behaviors, severe maladaptive behaviors and co-occurring complex medical conditions, or a dual diagnosis of developmental disability and mental illness. According to the applicant, the objectives of the program include the provision of active treatment and therapies with education and training to transition the clients to an appropriate community living option apart from a CTEP (page 1-2 of the application).

<sup>7</sup> According to their website, [http://www.disabilityrightsflorida.org/about/about\\_us](http://www.disabilityrightsflorida.org/about/about_us), Disability Rights Florida was founded in 1977 as the statewide designated protection and advocacy system for individuals with disabilities in the State of Florida. Disability Rights Florida is a not-for-profit corporation that has authority and responsibility under eight federal grants.

<sup>8</sup>Disability Rights Florida at [http://www.disabilityrightsflorida.org/newsroom/story/monitoring\\_and\\_investigation\\_of\\_carlton\\_palms\\_educational\\_center](http://www.disabilityrightsflorida.org/newsroom/story/monitoring_and_investigation_of_carlton_palms_educational_center).

The applicant discusses the results of two studies by the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) concerning developmental disabilities (pages 1-20 and 1-21 of the application). The applicant bullets various study results:

- Identifying factors that may put children at risk for autism spectrum disorders and other development disabilities (DDs)
- Frequency of DDs and the need for health, education and social services, including more specialized services
- Prevalence of DDs based on such factors as:
  - Gender
  - Ethnicity
  - Medicaid coverage compared to private insurance
  - Family income

The reviewer notes the studies point to national averages and are not specific to DD factors, frequency or prevalence in District 6 or Florida overall.

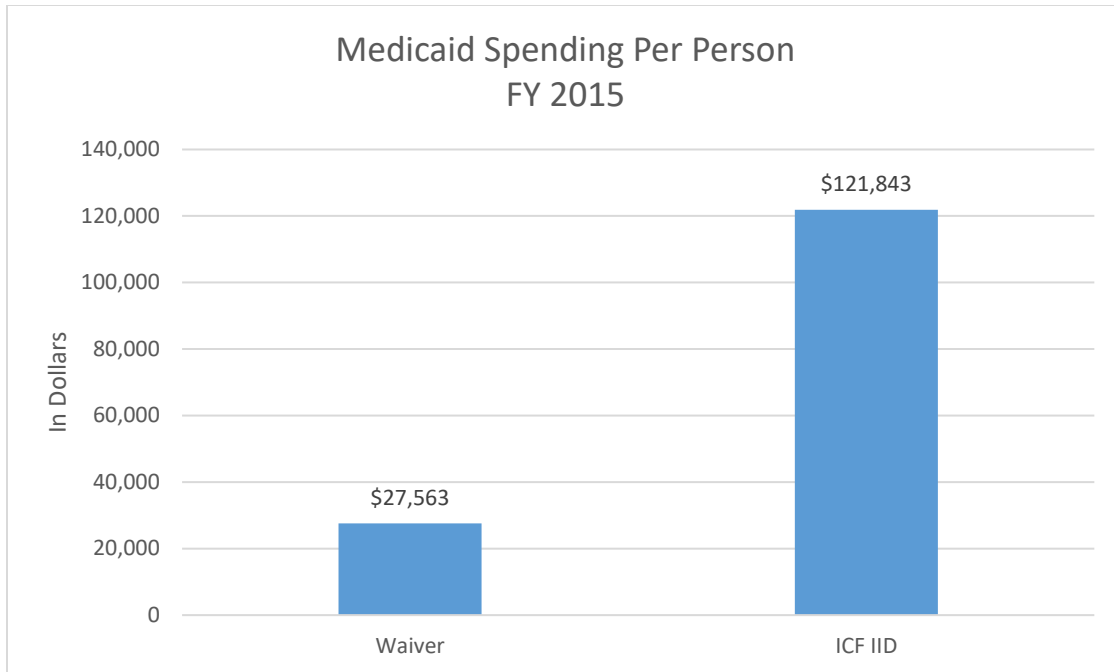
SC asserts that strategies require education and outreach for prevention along with ongoing supports for persons and their families given the chronic and long-term needs resulting from the various disorders. The reviewer notes that as part of its need analysis, the applicant discussed that nationally, there has been a trend toward placement of developmentally disabled individuals away from large institutional settings to smaller residential facilities and community-based services in recent decades and this trend continues. The reviewer notes that the proposed project is in concert with this trend.<sup>9</sup>

***Market conditions:***

The applicant indicates that the presence nationally of intellectual disabilities underscores the federal and state government's funding and programmatic supports through the Medicaid Program. SC provides a graph to indicate that according to the RISP Florida Profile, from 1977 to 2015, growth in Medicaid Waiver expenditures eclipses that for ICF/IID programs with the development of community based programs (page 1-22, Figure 1-5 of the application). The applicant highlights that in fiscal year (FY) 2015, in Florida, per person expenditures under Medicaid Waiver was \$27,563 compared to ICF/IID at \$121,843. See below.

<sup>9</sup> The Agency notes Sheryl Larson, Patricia Salmi, Drew Smith, Lynda Anderson and Amy Hewitt (2013); *Residential Services for Persons with Intellectual or Developmental Disabilities: Status and Trends Through 2011*. National Residential Information Systems Project Research and Training Center on Community Living Institute on Community Integration and College of Education and Human Development, University of Minnesota.





Source: CON application #10541, page 1-22, Figure 1-5

SC contends that both the Medicaid Waiver program and ICF/DDs are necessary to provide the depth of services for a group of individuals whose developmental disabilities cover a very wide range of conditions.

The applicant provides a table to indicate an excerpt from the Medicaid Office's Long Term Expenditures Report (FY 2017-2018 to FY 2021 to 2022), based on the Social Services Revenue Estimating Conference (SSREC) of August 2017 (page 1-23, Table 1-6 of the application). According to SC, this table shows the budget for ICF providers, assuming a caseload of 1,953, held constant for the five-year projection. The reviewer notes that the applicant does not provide documentation to verify the validity of the stated budget figures in the applicant's Table 1-6. SC comments that the budgeted estimates maintain a hold harmless assumption with the caseload of 1,953 persons and only a 1.0 percent per year increase in the unit cost over the five-year projection period. The applicant maintains that the estimates ignore the effect of population growth. The reviewer notes that SC does not provide any documentation to confirm:

- If in prior FYs the budget held a constant caseload of 1,953
- If in those prior FYs, there was a 1.0 percent per year increase in the unit cost (or if the percentage was greater or lesser)
- If in those prior FYs, population was ignored
- Resulting consequences of prior FY budget projections

SC next states a “very modest increase” for the program (an increase of \$2,760,586 over the Medicaid estimate or 1.1 percent), when the current appropriation is compared to the estimate from the SSEC. See the table below.

**Comparison of the Estimates from SSEC and Current Appropriation for ICF DD**

<b>ICF/DD Community (101649)</b>	<b>FY 17-18:SSEC August 2017</b>	<b>FY 17-18: Appropriation</b>	<b>Increase</b>
Total Cost ICF/DD Community	\$251,510,080	\$254,270,666	\$2,760,586
General Revenue	\$80,569,439	\$81,591,993	\$1,022,554
Medical Care Trust Fund	\$154,980,511	\$156,681,585	\$1,701,074
Health Care Trust Fund	\$15,960,130	\$15,997,088	\$36,958

Source: CON application #10541, page 1-24, Table 1-7

The applicant indicates that the FY 2017-2018 ICF/DD appropriation shown in the table above (\$254,270,666) is for reimbursement for resident care at existing ICF/IID facilities and that these funds do not cover any costs of construction or capital to erect an ICF/IID building (page 2-27 of the application). SC contends that at the time of the forecast and legislative appropriation, the issue of Carlton Palms’ closure was not known. The applicant maintains that the impact on the program requires action to assure that the influx of persons as a result of displacement can find suitable accommodations.

The reviewer notes that the Agency’s Bureau of Medicaid Program Finance indicates that there was no legislative appropriation for additional ICF/DD placements for FY 2018-2019. For project approval, current legislative appropriations providing for ICF/DD placements is required, pursuant to Rule 59C-1.034(1), Florida Administrative Code. The reviewer verifies that pro formas submitted (Schedule 7 of the application) indicate that 100 percent of the reimbursement for services (the entirety of proposed resident care) is expected to be funded by Medicaid, for both year one and year two.

SC discusses “Conformity with Current Legislative Appropriations Providing for ICF/MR Placements” (pages 2-27 to 2-32 of the application). SC states the importance of understanding the budget appropriation and its relationship to the proposed project becomes critical to its approval. The Agency concurs that the relevance of budget appropriation is stated in 59C-1.034(1), Florida Administrative Code. SC concedes that, “At the present time, Sunrise Community cannot access funds from this budget line item because the proposed program sought in the certificate of need application does not exist” (page 2-27 of the application). The applicant points out that reimbursement for Carlton Palms services arises from the Medicaid Home and Community

Based Waiver Program. SC explains that as a special statutorily created program, CTEP funds remain associated with diversion from the Medicaid Institutional Care Program and therefore, are unavailable to clients of Carlton Palms for ICF/DD facilities.

SC asserts that determining the most appropriate placement for clients from Carlton Palms creates a pressing problem, “with no simple solution.” SC contends that upon reassessment, some of these residents will not qualify for home and community-based services due to their severe conditions, which are exacerbated by a dual diagnosis of intellectual disability and psychiatric disorder. The applicant notes that with Carlton Palms the sole CTEP in the state, no other qualified provider exists that could accept the displaced clients from Carlton Palms and receive reimbursement from the waiver.

The applicant maintains that the Significant Additional Needs (SANs) process, outlined in Chapter 393.0662, Florida Statutes, as described in the applicant’s text box (page 2-28 of the application), is an option. SC indicates that the Enhanced Intensive Behavioral (EIB) model, under APD control, serves about 40 of the individuals coming out of Carlton Palms. SC comments that transitions out of Carlton Palms were previously placed in group homes – either Standard or Intensive Behavior Residential Habilitation Homes. The applicant contends that because of extreme behaviors, some customers could not be served in these community group homes. SC asserts that for this particular subgroup and for those with similar needs, getting and keeping needed services will be challenging, compared to the ICF/DD model, with the latter being based on meeting the comprehensive needs of the individual, assuring active treatment.

The applicant maintains that ICF/DD programs on an average per client basis would be less costly than those served in an EIB model. SC encourages referral to a referenced budget history, stated to be in CON application #10541, Tab 10-Additional Information. The reviewer notes that a brief review of the applicant’s Tab 10 does not further pinpoint or prominently identify an EIB-ICF/DD average client cost comparison.

SC states the high utilization at existing ICF/DD and group homes without additional capacity within the system to accommodate persons from Carlton Palms. The applicant asserts that expansion requires a mix of services and residences, including both group homes and ICF/DD programs. SC maintains that to meet capacity demand, the private sector must furnish the funds to build the homes and that concurrently, with legislative budget planning, through the SSEC, additional appropriation for ICF/DD operations must follow.

SC proposes the following four actions (page 2-30 of the application):

1. Increase the number of ICF/IID facilities to serve this specific population through the approval from the certificate of need program.
2. Subsequent to approval, Sunrise Community initiates construction of the three, eight-bed clusters in Hardee County. Financing comes from the private sector.
3. The advocates in the industry including the Florida Association of Rehabilitation Facilities, APD and AHCA Office of Medicaid, provide program information regarding the reassessments of clients from Carlton Palms to document the number of persons displaced.
4. The Medicaid Program Office prepares the annual budget request showing the additional funds to cover the unexpected increase in cases based on the dual diagnosis subgroup that does not qualify for the waiver services.

SC concedes that, “No estimate exists at this time on how many of the remaining 145 persons at Carlton Palms would upon reassessment required ICF/DD services” (page 2-30 of the application). The applicant comments that the proposed 24 beds, at 96 percent occupancy, produces an average monthly census of 23 persons. SC emphasizes that clients’ needs cannot go unaddressed and clients cannot go unplaced.

The reviewer notes that SC provides no documentation to indicate that any of the APD customers remaining at Carlton Palms, if placed at the proposed project, would be in their local/home communities, near families or guardians, as APD indicates it is seeking to accomplish while transitioning clients from Carlton Palms.

SC asserts that the bed days that results with the (proposed) additional 24-bed project could reduce the unit cost, making it greater than the unit appropriation. The applicant notes that as a consequence, the rate for all providers would share pro-rata reductions in order to cover the increase. Sunrise maintains that two pathways forward exist:

- Subsequent to approval, seek an increase in unit cost in the budget to cover the bed increase of the project  
or
- Subsequent to approval, reduce the unit cost on a pro-rata basis for all providers

SC provides a copy of the stated current legislative appropriation for ICF/DD community in line 216 of the appropriation (page 2-32, Figure 2-2 of the application).

**2. Agency Rule Preferences**

**Please indicate how each applicable preference for the type of service proposed is met. Ch. 59C-1.034, Florida Administrative Code.**

**A Certificate of Need for a proposed Intermediate Care Facility for the Developmentally Disabled (ICF/DD) shall not be issued unless:**

- (1) The proposal has been determined by the Agency to be justified in context with the applicable review criteria contained in section 408.035, Florida Statutes, and the standards set forth in this rule; Chapter 59A-26, Florida Administrative Code; and current legislative appropriations providing for ICF/DD placements.**

ICF/DD is defined pursuant to Section 408.032(12), Florida Statutes. Rule 10D-38, Florida Administrative Code, was first renumbered to Ch. 65B-38, Florida Administrative Code and second renumbered to Ch. 69A-38.020. The Agency for Persons with Disabilities and the Agency for Health Care Administration are affected by these rules.

As previously stated in item E.1.b. of this report, funding for the proposed project is projected to be 100 percent Medicaid. The Agency's Division of Medicaid, Bureau of Medicaid Program Finance-Institutional Reimbursements states that, if the proposed project was approved, it would be funded by Medicaid according to the Florida Title XIX ICF/MR/DD Reimbursement Plan.

**Conformity with Provisions of Chapter 400, Part VIII**

- a. License required; license application (section 400.962, Florida Statutes)**
  - 1. The requirements of part II of chapter 400 apply to the provision of services that require licensure pursuant to this part and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to this part. A license issued by the agency is required in order to operate an intermediate care facility for the developmentally disabled in this state.**

The applicant states understanding the requirements above for licensure, and holds licenses under the provisions of this law.

- 2. Separate licenses are required for facilities maintained on separate premises even if operated under the same management. However, a separate license is not required for separate buildings on the same grounds.**

The applicant states understanding the requirements above for licensure, and holds licenses under the provisions of this law.

- 3. In accordance with s. 408.805, an applicant or license shall pay a fee for each license application submitted under this part, part II of chapter 408, and applicable rules. The amount of the fee shall be \$234 per bed unless modified by rule. The application must indicate the location of the facility for which a license is sought and that such location conforms to the local zoning ordinances.**

The applicant states understanding the requirements above for licensure, and holds licenses under the provisions of this law. The applicant also states that the proposed project will have a code-compliance building.

- 4. The applicant must demonstrate that sufficient numbers of staff, qualified by training or experience, will be employed to properly care for the type and number of residents who will reside in the facility.**

See item E.3.c (Staffing – Schedule 6) of this report for the applicant’s year one and year two FTE staffing pattern. SC states that to ensure quality of care for the individuals that Sunrise serves, staff training is a primary focus. Sunrise states having created the Florida state approved Crisis Prevention and Management (CPAM) curriculum to train staff in both proactive and reactive interventions for individuals with challenging behaviors. The applicant indicates having a cadre of experienced staff on every level including Certified Behavior analysts who have over 25 years of experience supporting individuals with severe behavioral challenges. Sunrise references its job descriptions for the following positions (pages 2-34 to 2-56 of the application):

- Certified behavior analyst
- Direct support professional

- Director of health services
- Director of nutritional services
- Licensed practical nurse
- Occupational therapist
- Physical therapist
- Qualified intellectual/developmental disabilities professional
- Registered nurse
- Residential program director
- Speech therapist

SC points out that given the psychiatric disorders that this subgroup of intellectually disabled individuals have, special training becomes a necessity. The applicant discusses specialized certification through NADD (National Association for Persons with Intellectual Disabilities and Mental Disorders) for staff working with those with dual diagnosis. The applicant provides a one-page NADD exhibit “Ensuring Full Community Engagement for Individuals with Intellectual/Developmental Disabilities and Co-Occurring Mental Illness” (page vi and page 3-4 of the application). According to SC, this NADD exhibit is a summary of a December 6, 2017 summit held in Washington, D.C. SC emphasizes that coordination with professional associations provides the basis for providing the right services, at the right time and in the right amount to allow such individuals to benefit from the program.

- 5. The applicant must agree to provide or arrange to provide for active treatment services by an interdisciplinary team to maximize individual independence or prevent regression of loss of functional status. Standards for active treatment shall be adopted by the Agency for Health Care Administration by rule pursuant to ss. 120.536(1) and 120.54. Active treatment services shall be provided in accordance with the individual support plan and shall be reimbursed as part of the per diem rate as paid under the Medicaid program.**

The applicant indicates that active treatment reflects the hallmark of ICF/IID services. SC states that an interdisciplinary team provides the objectives within the treatment plan and identifies the amount, frequency and duration of the activities. The applicant notes that the treatment plan specifically for persons with a dual diagnosis of intellectual disability and a psychiatric condition provides a higher intensity and mix of services than is often

prescribed in many of the ICF/IID programs. The reviewer notes that within the framework of active treatment services, the applicant briefly describes the following (pages 2-4 to 4-6 of the application):

- Increased psychological services along with prescribed medicines to address psychiatric conditions
- Complexity of conditions that co-occur with many persons having intellectual disabilities
- Group therapy or individual psychiatric services
- Client-directed ownership of the plan of care
- Team leaders look for ways to further refine treatment
- Social activities are part of all active treatment plans (music, art, dance, play and interactive situations)
- Activities that foster independence occur to help boost self-confidence
- Resident and family councils enable all within the program to achieve experiences that characterize independence and self-direction

The applicant provides the following SC ICF/IID procedure publications (pages 2-7 to 2-22 of the application):

- Preventive and General Health Services: Physician Services (No. 7601-ICF/IID)
- Nursing Services: Health Nursing Manual (No. 7641-ICF/IID)
- Intake and Admissions (No. 7007-IC/ IID)
- Transfer and Discharge of Persons Receiving Services (No. 7801-ICF/IID)

**b. Personnel screening requirement (section 400.964, Florida Statutes)**

- 1. The Agency shall require level 2 background screening as provided in chapter 435 for all employees or prospective employees of facilities licensed under this part who are expected to be, or whose responsibilities are such that they would be considered to be, a direct service provider.**
- 2. Employers and employees shall comply with requirements of chapter 435.**
- 3. Applicants and employees shall be excluded from employment pursuant to s. 435.06.**



4. **The applicant is responsible for paying the fees associated obtaining the required screening. Payment for the screening must be submitted to the Agency as prescribed by the agency.**
5. **Notwithstanding any other provision of law, persons who have been screened and qualified as required by this section and who have not been unemployed for more than 180 days thereafter, and who under penalty of perjury attest to not having been convicted of a disqualifying offense since completion of such screening are not required to be rescreened. An employer may obtain, pursuant to s. 435.10, written verification of qualifying screening results from the previous employer or other entity that caused such screening to be performed.**
6. **The Agency may adopt rules to administer this section.**
7. **All employees must comply with the requirements of this section by October 1, 2000. A person employed by a facility licensed pursuant to this part as of the effective date of this act is not required to submit to rescreening if the facility has in its possession written evidence that the person has been screened and qualified according to level 1 standards as specified in s. 435.03. Any current employee who meets the level 1 requirement but does not meet the five-year residency requirement must provide to the employing facility written attestation under penalty of perjury that the employee has not been convicted of a disqualifying offense in another state or jurisdiction. All applicants hired on or after October 1, 1999, must comply with the requirements of this section.**
8. **There is no monetary or unemployment liability on the part of, and no cause of action for damages arises against an employer that upon notice of a disqualifying offense listed under chapter 435 or an act of domestic violence, terminates the employee, whether or not the employee has filed for an exemption with the Department of Health or the Agency for Health Care Administration.**

The applicant states that SC's experience within the field of developmental disabilities and ICF/IID programs reflect the ability to hire appropriately qualified staff for the required positions. The applicant notes its track record of compliance that attests to competency in the credential verification process for all employees.

- c. Administration of medication (section 400.9685, Florida Statutes)**
- 1. Notwithstanding the provisions of the Nurse Practice Act, part 1 of chapter 464, unlicensed direct care services staff who are providing services to clients in intermediate care facilities for the developmentally disabled, licensed pursuant to this part, may administer prescribed, prepackaged, premeasured medications under the general provision of a registered nurse as provided in this section and applicable rules. Training required by this section and applicable rules must be conducted by a registered nurse licensed pursuant to chapter 464 or a physician licensed pursuant to chapter 458 or chapter 459.**
  - 2. Each facility that allows unlicensed direct care service staff to administer medications pursuant to this section must:**
    - (a) Develop and implement policies and procedures that include a plan to ensure the safe handling, storage and administration of prescription medication**
    - (b) Maintain written evidence of the expressed and informed consent for each client.**
    - (c) Maintain a copy of the written prescription including the name of the medication, the dosage, and administration schedule.**
    - (d) Maintain documentation regarding the prescription including the name, dosage and administration schedule, reason for prescription and the termination date.**
    - (e) Maintain documentation of compliance with required training.**

The applicant states that the existing programs it operates follow the internal policies and procedures for the ordering, storage and administration of all medicines. The applicant maintains that these internal policies follow the administrative rules to assure safety for all clients within the program and include the elements above of the statutory provision.

- d. Violation of part; penalties (section 400.969, Florida Statutes)**
- 1. In addition to the requirements of part II of chapter 408, and except as provided in s. 400.967(3), a violation of any provision of this part, part II of chapter 408, or applicable rules is punishable by payment of an administrative or civil penalty not to exceed \$5,000.**
  - 2. A violation of this part or of rules adopted under this part is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.775.083. Each day of a continuing violation is a separate offense.**

The applicant states that SC's commitment to the clients and the programs for intellectually disabled persons remains steadfast. The applicant asserts that violations must not occur because of the jeopardy and harm they cause throughout the program as well as the industry. SC comments that the trust of the families and clients must remain untarnished. The applicant emphasizes that the commitment to the clients, families and the industry manifests in SC's "Standards of Excellence" (page 2-26 of the application).

- (2) The proposal, if for a new facility, provides for not more than 60 beds divided into living units of not more than 15 beds each.**

The applicant states that the objective of the proposal is to provide individuals and their family community choices and alternatives while providing support, well trained staff, clinicians, behavioral assistance and 24-hour nursing in the least-restrictive safe environment. SC points out that to accomplish this, the project involves the construction of three, eight-person ICF/IID homes for the purpose of transitioning 24 individuals with intellectual disabilities and intensive behavioral challenges out of Carlton Palms Education Center into smaller, single bedroom homes in the community.

The reviewer notes that Carlton Palms Education Center is located in District 3 (Lake County, Florida). The reviewer also notes that according to the Agency's FloridaHealthFinder.gov website, there are no ICF/DD locations in Lake County. The applicant is proposing to place non-ICF/DD residents in District 3 (Lake County) into to a new ICF/DD location in District 6 (Hardee County).

- (3) The proposal, if for conversion of an existing facility to ICF/DD utilization, provides for division of such facility into living units of not more than 25 beds each.**

SC states that this provision does not apply to the proposal.

**Other Rule Criteria**

**Ch. 59C-1.030(2), Health Care Access Criteria**

See item E.3.a of this report for the applicant's response regarding the Health Care Access Criteria.

**Ch. 65B-38.003, Florida Administrative Code, provides the following:**

**The Department [of Children and Families] sets the operating capacity for facilities and living units licensed after June 1, 1989, as six or less. The operating capacity for facilities initially licensed prior to June 1, 1989 shall be the capacity in effect as of June 1, 1989.**

Chapter 65B-38.003 of the Florida Administrative Code was repealed August 15, 2012 and no longer governs regarding the jurisdiction of the Department. The succeeding Agency for Persons with Disabilities is not responsible for licensing ICF/DDs.

**Ch. 59A-35, Florida Administrative Code, provides the following:**

Health care licensing procedures and issuances, including those for ICF/DDs, reside with the Agency, pursuant to Chapters 393, 408-Part II, 400-Part VIII, Florida Statutes and this rule.

**3. Statutory Review Criteria**

**a. Is need for the project evidenced by the availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the applicant's service area? ss. 408.035(1)(a) and (b), Florida Statutes.**

The applicant contends that ICF/IID programs operate on a statewide basis, independent of districts or subdistricts. According to SC, this is because clients with developmental disabilities are dispersed, with a total caseload of 57,112 persons around the state (0.27 percent of the state's total population in 2018).

SC maintain that the need for the project exists due to the closure of Carlton Palms, a specialty provider, for persons with dual diagnosis of intellectual disability and psychiatric disorders, located in Lake County. The applicant reiterates that such persons may, upon reevaluation, no longer meet programmatic eligibility for home and community-based services under the waiver.

According to the applicant, group homes, ICF/IID programs and state-operated development disability centers (in combination) total 2,808 beds, of which the private sector operates 2,017 beds and the state operates 789 beds (page 3-1 of the application). However, the reviewer notes that the applicant does not indicate the source of these totals and further the arithmetic calculation is incorrect ( $2,806 = 2,017 + 789$ ). SC reiterates that available beds are highly utilized, which occasions this proposal to expand capacity.

The applicant states the use of the Agency's [FloridaHealthFinder.gov](http://FloridaHealthFinder.gov) website to indicate that SC operates a total of 46 programs, spread among six districts (Districts 2, 5, 6, 8, 10 and 11), with a cumulative total of 552 licensed beds (page 3-1, Table 3-1 of the application). The applicant emphasizes that its programs follow the cluster model, creating homes on a campus that provides for economies of scale.

SC states that while not unique, the majority of those with intellectual disabilities do not have a compounding psychiatric diagnoses and most do not exhibit maladaptive behaviors or cause harm to self or others. SC restates that the subgroup of persons that will be displaced from Carlton Palms for whom ICF/IID services are necessary, present a new priority. SC maintains that Carlton Palms is the only program in the state to service such individuals.

SC discusses conformity with the Health Care Access Criteria (pages 3-8 to 3-10 of the application).

The Agency has previously shown that as of May 30, 2018, APD indicates two ICF vacancies (broken down as two adult vacancies, one female and one co-ed) in APD's Area 14.

The Agency recognizes a major impetus to justify project approval is the placement of remaining residents at the APD-licensed CETP at Carlton Palms. The Agency also notes two news releases regarding Carlton Palms. On April 17, 2018 there was a news release by APD: APD Seeks Revocation and Closure of Carlton Palms, found here:

<http://apd.myflorida.com/news/news/2018/palmsrevocation.html>. In this April 17, 2018 APD news release, the Agency notes several APD comments:

- APD is seeking to revoke the license of Carlton Palms, which is operated by Bellwether Behavioral Health, and impose a \$10,000 fine, the maximum allowed by Florida law.
- APD filed an Administrative Complaint against Carlton Palms of Mt. Dora. Numerous recent verified findings of abuse and neglect by the Florida Department of Children and Families warrant this action by APD.
- With this action APD seeks closure of Carlton Palms as soon as residents can be safely transitioned to other community settings. APD is expediting the transition of the remaining customers living at Carlton Palms into community group homes
  - The goal is to give parents or guardians choices for their loved ones in their local communities while ensuring that the new homes can meet the unique needs of these clients.
  - APD is working with community providers to develop additional group homes for individuals with intensive behavioral needs. These specialized services will help APD customers live in their home communities near families or guardians.
- In 2016, APD reached an agreement to close Carlton Palms by March 2019 and transition residents into smaller, homelike settings that follows new requirements by CMS.
- To date, 52 people have transitioned into new community group homes.

Further, in CON application #10541, Tab 10-Additional Information, the applicant provides a May 10, 2018 APD news release: "Closure of Carlton Palms Imminent". In this May 10, 2018 APD news release, the Agency notes several comments:

- APD filed for a receivership of Carlton Palms to ensure a safe transition of all residents.
- APD is seeking a company to take over operations of the facility after Bellwether Behavioral Health notified APD that it will cease operations in Florida on May 31, 2018.
- APD's action to revoke Carlton Palms licensed is ongoing.

- APD Director Barbara Palmers stated being very excited to see these residents transition into smaller group homes in their local communities.
- Residents will continue to be safely transitioned to other community settings over the next few months.
- The goal is to give parents or guardians choices in their local communities while ensuring that the new homes can meet the unique needs of these clients.
- APD is working with community providers to develop additional group homes for individuals with intensive behavioral needs.
- These specialized services will help APD customers live in their home communities near families or guardians.
- To date, 58 people have transitioned into new community group homes.
- APD supports people with developmental disabilities to live, learn and work in their communities (including those with severe forms of autism, cerebral palsy spina bifida, intellectual disabilities, Downs syndrome, Phelan-McDermid syndrome and Prader-Willi syndrome).

The Agency notes certain characteristics and features of these two recent APD news releases:

- APD considers Carlton Palm residents to be APD customers and APD is expediting the process of transitioning them to community group homes with the goal of giving parents or guardians choices for their loves ones in their local communities.
- APD is working with providers to develop additional group homes for individuals with intensive behavioral needs and these specialized services will help APD customers live in their home communities near families or guardians.
- As of May 10, 2018, 58 people have transitioned from Carlton Palms into new community group homes and the transitions are to smaller group homes in their local communities.
- APD is seeking a company to take over operations of Carlton Palms,
- APD supports that APD customers with developmental disabilities live, learn and work in their communities.

The Agency recognizes that in these two recent APD news releases:

- All references are to a need and search for local group homes, with no mention of need or search for additional ICF/DD, ICF/ID or ICF/IID placements.
- Efforts are to place residents in their local communities, near families or guardians, with no mention of efforts to place residents in Hardee County as proposed.
- APD is working to expedite the placement of APD customers at Carlton Palms and as of May 10, 2018, 58 people have transitioned to their local communities.

The Agency notes no APD letters of support regarding the proposed project.

The Agency concludes that the applicant provides no documentation or confirmation that the proposed project would work in harmony with the goals and objectives of APD's ongoing efforts to meet the needs of APD's customers, as described above.

Further, the proposed project would relocate APD customers from a formerly APD-licensed facility to a non-APD licensed facility. The applicant provides no documentation to confirm that APD advocates such an action, or endorses this proposed project, to meet the needs of APD customers, for residential placement in their local/home communities, near families or guardians.

The Agency notes APD's stated agreement to close Carlton Palms by March 2019 and the applicant's Schedule 10 indicating initiation of service in October 2020. Therefore, the applicant would not initiate service until 19 months after Carlton Palms closes and all APD customers at Carlton Palms would already have been transitioned to another placement site.

**b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality care? ss. 408.035(1)(c), Florida Statutes.**

The applicant states that in the 1980s, SC helped the State of Florida implement plans for deinstitutionalizing Florida's large institutions and opened seven "cluster homes" in St. Petersburg, Panama City, Tallahassee, Bartow and Cape Coral.

SC indicates that over the years, Sunrise Community's mission, values and vision (page 4-2 of the application), remain the same. The applicant maintains that this same purpose-driven philosophy benefits the dual diagnosis clients for whom greater intensity and a higher mix of psychiatric and behavioral services underscores their needs.

The applicant asserts that the basis of quality begins with a thorough understanding of the CMS Operations Manual for assuring that all aspects of the program conform to the Medicare and Medicaid Conditions of Participation (CoP).

SC maintains that an overarching objective of its quality improvement (QI) process assures that all the services and supports reflect quality, meet an individual's needs as stated in the plan of care, and that residents achieve



positive outcomes within the therapeutic regimen, including residents' protection from harm, stable community living, increased integration, independence and self-determination.

SC points out that a resident's participation includes a constellation of professionals whose assessments inform the plan of care (page 4-4, Figure 4-1 of the application):

- The interdisciplinary team develops and implements individual support plans that are based on resident preferences, goals, strengths, needs and assessments that identify services, supports and protections necessary to meet those needs – tracking, monitoring and resolving discrepancies.
- Incident Management – identifying, reporting, analyzing and preventing unusual incidents, including abuse, neglect and exploitation. At any time, either based on observed decline or the resident's dissatisfaction or inability to benefit from the regimen of care, changes occur.
- Services and supports appear in the plan of care. Specific objectives that reflect measurable outcomes provide for evaluation and benchmarking to norms. Each individual has his or her own yardstick of norms so that in the event of decline, the cause of decline appears and can be remediated.
- QI includes monitoring each individual's plan of care, review of goals, the tracking of progress, the measuring of functional improvements, and identification and change in areas where change, improvement or different service specifications require modification or alteration. The resident and his or her family or guardian participate when changes are made.

The applicant indicates that QI addresses the process of care management, including how the professionals and staff work together and with each resident. SC bullets some areas as follows:

- Supporting the employees and clinicians in developing effective care plans.
- Providing resources and technical assistance staff in implementing care management plans, including any specialized training.
- Identifying gaps in resources and reporting areas of potential improvement based on best practices and national clinical standards.
- Providing for follow-up for individuals who may transition into a community group home. Sunrise Community has several group homes of six beds that allow individuals to remain active and engaged within the broader community.

SC provides the following two Sunrise Group, July 31, 2017, procedure publications (pages 4-7 to 4-11 of the application):

- Compliance Training (No. 7606-HQ-A)
- Compliance Program Oversight Committee (No. 0709-HQ-B)

The reviewer notes that other Sunrise procedure publications are included in Tab 10-Additional Information of CON application #10541.

SC references an article published in September 2012 by the Center for Health Care Strategies, Inc., “Trends and Challenges in Publicly Financed Care for Individuals with Intellectual and Developmental Disabilities” (Tab 10-Additional Information, CON application #10541).

The applicant maintains that, in summary, Sunrise Community possesses the ability to provide a program of high quality for clients with dual diagnoses displaced from the pending closure of Carlton Palms. SC contends that the organization’s experience supports the program expansion.

Sunrise Community, Inc. currently operates 23 ICF/DDs in Florida, with a cumulative total of 276 ICF/DD beds, spread among its 23 ICF/DD facilities. Agency records indicate for the three-year period ending May 16, 2018, the provider had a total of 10 substantiated complaints at its Florida facilities. A single complaint can encompass multiple complaint categories. See the table below.

**Sunrise Community, Inc. ICF-DD Facilities Statewide  
Three Year Substantiated Compliant History  
Ending May 16, 2018**

Complaint Category	Number Substantiated
Quality of Care/Treatment	6
Resident/Patient/Client Abuse	3
Elopement	1
Physical Environment	1
Resident/Patient/Client Rights	1
Unqualified Personnel	1

Source: Florida Agency for Health Care Administration Complaint Records

- c. What resources, including health manpower, management personnel, and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.035(1)(d), Florida Statutes.**

The purpose of our analysis for this section is to determine if the applicant has access to the funds necessary to fund this and all capital projects. Our review includes an analysis of the short and long-term position of the applicant, parent, or other related parties who will fund the project. The analysis of the short and long-term position is intended

to provide some level of objective assurance on the likelihood that funding will be available. The stronger the short-term position, the more likely cash on hand or cash flows could be used to fund the project. The stronger the long-term position, the more likely that debt financing could be achieved if necessary to fund the project. We also calculate working capital (current assets less current liabilities) a measure of excess liquidity that could be used to fund capital projects.

Historically we have compared all applicant financial ratios regardless of type to benchmarks established from financial ratios collected from Florida acute care hospitals. While not always a perfect match to a particular CON project it is a reasonable proxy for health care related entities.

Below is an analysis of the audited financial statements for the applicant, where the short term and long-term measures fall on the scale (highlighted in gray) for the most recent year.

<b>10541-Sunrise Community, Inc.</b>		
	<b>Jun-17</b>	<b>Jun-16</b>
Current Assets	\$8,037,874	\$4,953,035
Total Assets	\$13,727,476	\$10,461,153
Current Liabilities	\$8,318,484	\$8,055,618
Total Liabilities	\$11,149,202	\$10,769,661
Net Assets	<b>\$2,578,274</b>	<b>(\$308,508)</b>
Total Revenues	\$68,253,188	\$58,738,139
Excess of Revenues Over Expenses	\$446,720	\$2,489,346
Cash Flow from Operations	\$509,724	\$3,051,107
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	<b>1.0</b>	<b>0.6</b>
Cash Flow to Current Liabilities (CFO/CL)	<b>6.13%</b>	<b>37.88%</b>
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	<b>109.8%</b>	<b>-879.7%</b>
Total Margin (ER/TR)	<b>0.65%</b>	<b>4.25%</b>
<b>Measure of Available Funding</b>		
Working Capital	<b>(\$280,610)</b>	<b>(\$3,102,583)</b>

<b>Position</b>	<b>Strong</b>	<b>Good</b>	<b>Adequate</b>	<b>Moderately Weak</b>	<b>Weak</b>
Current Ratio	above 3	3 - 2.3	2.3 - 1.7	1.7 - 1.0	< 1.0
Cash Flow to Current Liabilities	>150%	150%-100%	100% - 50%	50% - 0%	< 0%
Debt to Equity	0% - 10%	10%-35%	35%-65%	65%-95%	> 95% or < 0%
Total Margin	> 12%	12% - 8.5%	8.5% - 5.5%	5.5% - 0%	< 0%

**Capital Requirements and Funding:**

On Schedule 2, the applicant indicates capital projects totaling \$11,169,400, which includes this project of \$8,169,400, and capitalization budget for 2019 of \$3,000,000. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by cash-on-hand and third-party financing and provided a letter of interest. A letter of interest is not a commitment to lend. The applicant has a financial position that is between moderately weak to weak. This could lessen the likelihood of the facility being able to secure the required funding for this project, especially when there is a real possibility that none of the projected revenues may be collectible. Additionally, lending is not likely to be secured for a project of this nature unless approval for the proposal is granted through the Certificate of Need (“CON”) process and the applicant can prove to the lending institution that the projected revenues are reasonable and collectible.

**Staffing:**

Schedule 6 illustrates that FTEs for year one (ending June 30, 2021) total 46.8 and total 73.5 for year two (ending June 30, 2022), for the proposed project. See the table below.

<b>Sunrise Community, Inc. (CON application #10541)</b>		
<b>Projected Year One (ending June 30, 2021 and Year Two (ending June 30, 2022) Staffing</b>		
	<b>Year One FTEs</b>	<b>Year Two FTEs</b>
<b>Administration</b>		
Administrator	1.0	1.0
Director of Nursing	1.0	1.0
Bookkeeper	1.0	1.0
Secretary	1.0	1.0
<b>Physicians</b>		
Clinical Director - BCBA	1.1	1.3
<b>Nursing</b>		
RNs	1.0	1.0
LPNs	6.2	8.0
<b>Ancillary</b>		
Therapy Technicians	1.5	2.0
<b>Dietary</b>		
Dietary Supervisor	1.0	1.0
Cooks	1.1	2.0
<b>Social Services</b>		
Social Service Director	3.0	3.0
Activities Assistant	23.4	46.2
Other: Qualified Intellectual Disability Pro	1.0	1.0
<b>Housekeeping</b>		
Housekeeping Supervisor	1.0	1.0
Housekeepers	1.0	1.0
<b>Plant Maintenance</b>		
Maintenance Assistance	1.0	1.0
Other: Security	0.5	1.0
<b>Total</b>	<b>46.8</b>	<b>73.5</b>

Source: CON application #10541, Schedule 6

The reviewer confirms that the year one total (46.8) and the year two total (73.5), in the table above, are arithmetically correct.

The reviewer notes that the applicant’s Schedule 10 indicates initiation of services in October 2020, which would lead to a first year of operation ending September 2021. Therefore, the reviewer notes that the applicant’s year one and future year ending dates in Schedule 6 and Schedule 10 do not agree.

**Conclusion:**

Funding for this project is doubtful.

**d. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035(1)(f), Florida Statutes.**

The immediate and long-term financial feasibility of the project is tied to expected profitability. Profitability for this Intermediate Care Facility for the Developmentally Disabled (“ICF/DD”) is driven entirely by Medicaid reimbursements through appropriations from the Legislature. To determine the reasonableness of the projected revenues, the Agency compared the expected revenues to the current Medicaid reimbursement rates from July 2018. An average was calculated for Health Quality Assurance District 6 (“District 6”). The rate was then inflated to the years projected using data provided by CMS Market Basket Price Index as published for the 3<sup>rd</sup> Quarter of 2017.

<b>Year One</b>			
	<b>Number of Days</b>	<b>Reimbursement Rate</b>	<b>Expected Revenue</b>
	5,229	\$498.51	\$2,606,713.97
<b>Year Two</b>			
	8,395	\$529.99	\$4,449,233.73
<b>Projected Revenue</b>			\$4,646,000.00
<b>Deviation</b>			4.2%

The applicant did not differentiate resident days between the levels of care. Different levels of care reimburse at different rates. Because of this, the Agency averaged both rates (Institutional Rate and Non-Ambulatory Rate) when calculating the expected revenues for the proposed facility. This was compared to the projected revenues to determine if those revenues are reasonable.

The projected revenue in year two deviated from the Agency’s estimated revenue by 4.2 percent.

This ICF/DD is projecting to have Medicaid recipients, which will account for 100 percent of all resident days. As stated above, appropriations providing for ICF/DD placements must be approved by the Legislature. Currently, no such appropriations have been made. Rule 59C-1.034, Florida Administrative Code, states in part that for an ICF/DD proposal to be approved, current legislative appropriations must be made for placements into the facility. Section 408.035(1)(d)(f), Florida Statutes states that a CON proposal must show the availability of funds for capital and operating expenditures and determination of the immediate and long-term feasibility of the proposal. The applicant suggested that appropriations from a closing facility could be re-allocated to this facility. However, there is no legislative directive to move funding or allocate additional funds for additional placements.

**Conclusion:**

Because of the current lack of legislative appropriations, the proposal is not financially feasible.

**e. Will the proposal foster competition to promote quality and cost-effectiveness? ss. 408.035(1)(g), Florida Statutes.**

Strictly from a financial perspective, the type of competition that would result in increased efficiencies, service, and quality is limited in health care. Cost-effectiveness through competition is typically achieved via a combination of competitive pricing that forces more efficient cost to remain profitable and offering higher quality and additional services to attract patients from competitors. Since Medicaid is the primary payer in the ICF/DD industry, price-based competition is limited. With a large portion of the revenue stream essentially fixed on a per patient basis, the available margin to increase quality and offer additional services is limited.

**Conclusion:**

This project is not likely to have a material impact on price-based competition to promote quality and cost-effectiveness.

**f. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035(1)(h), Florida Statutes; Ch. 59A-3 or 59A-4, Florida Administrative Code.**

The applicant has submitted all information and documentation necessary to demonstrate compliance with the architectural review criteria. The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives

and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

The plans submitted with this application were schematic in detail with the expectation that they will be necessarily revised and refined prior to being submitted for full plan review. The architectural review of this application shall not be construed as an in-depth effort to determine complete compliance with all applicable codes and standards. The final responsibility for facility compliance ultimately rests with the applicant owner. Approval from the Agency for Health Care Administration's Office of Plans and Construction is required before the commencement of any construction.

- g. Does the applicant have a history of providing health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035(1)(i), Florida Statutes.**

ICF/DDs are primarily funded by the Medicaid program, through legislative appropriations.

SC points to a CMS expert (page 9-1 of the application) from the website [www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/ICFIID.html](http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/ICFIID.html) to indicate that ICF/IID services are reimbursed through the Medicaid Institutional Care Program (ICP). SC notes the expansion of the Medicaid Home and Community-Based Waiver Program that reimburses privately operated group homes. SC states that fund availability for social supportive services allow individuals with intellectual disabilities to remain in their own homes, foster home or in family homes.

The applicant provides general information about the ICF/IID program through the Florida Association of Rehabilitation Facilities (pages 9-2 and 9-3, Figure 9-1 of the application).

SC indicates the use of Agency Office of Medicaid data, from January 1, 2016 through April 30, 2018 to indicate average enrollee counts of 584 in state-operated developmental centers and average enrollee counts of 1,992 in private sector locations. Combined, this is an average total enrollee count of 2,576 for the period. See the table below.

**ICF IID Enrollees by Month of Service and Place of Service**

<b>Month of Service</b>	<b>Public ICF DD Enrollee County</b>	<b>Private ICF DD Enrollee Count</b>	<b>Total Enrollee Count</b>
201601	621	2,007	2,628
201602	618	1,994	2,612
201603	617	1,997	2,614
201604	611	1,995	2,606
201605	612	1,990	2,602
201606	612	1,985	2,597
201607	608	1,983	2,591
201608	603	1,987	2,590
201609	598	1,996	2,594
201610	594	1,996	2,590
201611	589	1,991	2,580
201612	588	1,990	2,578
201701	585	1,990	2,575
201702	583	1,987	2,570
201703	584	1,998	2,582
201704	582	2,003	2,585
201705	578	2,002	2,580
201706	576	1,997	2,573
201707	576	2,000	2,576
201708	569	1,999	2,568
201709	564	1,997	2,561
201710	565	2,004	2,569
201711	562	2,000	2,562
201712	558	1,999	2,557
201801	552	1,989	2,541
201802	550	1,976	2,526
201803	547	1,973	2,520
201804	544	1,948	2,492
<b>Average</b>	<b>584</b>	<b>1,992</b>	<b>2,576</b>

Source: CON application #10541, page 9-4, Table 9-1

NOTE: The applicant provides a separate forecast Table 9-1 on page 9-5 of the application.

SC points out that the private sector involvement in the provision of ICF/IID services accounts for 77 percent of all enrollees (1,992/2,576 = 77.33 percent). SC states that the program relies on the active participation from the private sector to develop and operate programs geared toward a variety of intellectual disabilities as the state’s institutions retain the status quo.

The applicant maintains that with the pending closure of Carlton Palms, dual diagnosis clients that cannot be placed within the community and therefore, must rely on ICF/ID programs. The reviewer notes that in both the two APD news releases stated earlier in this report and the Disability Rights Florida March 2018 report also stated previously, there is no express statement or expectation that any Carlton Palms residents being transitioned must rely on ICF/IID programs.

SC comments that APD’s objective is to close Carlton Palms by March 2019 but that the degree to which displaced clients may be afforded appropriate placement remains unknown at this time.



The reviewer notes that, consistent with CON application #10541 Schedule 10, the applicant forecasts 23 admits, 8,398 patient days at 95.8 percent occupancy (year one) and forecasts 23 admits, 8,395 patient days at 95.8 percent occupancy (year two). See the table below.

**Forecasted Utilization for the ICF IID Cluster / First Two Years**

Cluster Home	Year One Admits	Year One Days	Occupancy	Year Two Admits	Year Two Days	Occupancy
Total	23	8,398	95.8%	23	8,395	95.8%

Source: CON application #10541, page 9-5, Table 9-1

NOTE: The applicant provides a separate ICF IID enrollee Table 9-1 on page 9-4 of the application.

Based on the above table, SC states that the fill-up during the first year begins with two admissions, and adds two additional admissions over the 11 remaining months. The applicant indicates that the first year’s occupancy rate attains 59.7 percent occupancy, following the second year with full occupancy of 95.8 percent. The reviewer notes that these 59.7 percent occupancy (year one) and 96 percent occupancy (year two) estimates are reflected in notes to Schedule 7 of CON application #10541.

The reviewer notes that the applicant’s Schedule 7 indicates 100 percent Medicaid reimbursement for both year one and year two but that year one and year two in Schedule 7 do not agree with year one and year two in the applicant’s Schedule 10. The reviewer reproduces a portion of the applicant’s Schedule 7 (see the table below).

**Forecasted Utilization for the 24-Bed Proposed ICF IID Cluster  
Year One (Ending June 30, 2021 and Year Two (Ending June 30, 2022)**

Plan Year	Payer Source	Payer Source Revenue Percentage	Resident Admits	Resident Days	Total Resident Admits/Days
One	Medicaid	100%	23	5,229	23/5,229
Two	Medicaid	100%	--	8,395	--/8,395

Source: CON application #10541, Schedule 7

CON application #10541, Schedule C proposes no Medicaid/Medicaid HMO or charity care patient days, pursuant to the proposal.

The Agency finds that there was no legislative appropriation for additional ICF/DD placements for FY 2018-2019.

**F. SUMMARY**

**Sunrise Community, Inc. (CON application #10541)** proposes to establish a new 24-bed ICF DD in District 6, Hardee County, Florida. The proposal would increase the District 6 and State of Florida ICF DD licensed bed count by 24 additional beds.

Project costs total \$8,169,400. The project involves 24,000 GSF of new construction (no renovation space) with total construction costs of \$5,849,272. Costs covered are for land, building, equipment, project development, financing and start-up costs.

In Schedule C of CON application #10541, the applicant proposes four conditions upon project approval.

**Need:**

- Need is not published by the Agency for ICF/DD beds. The burden of proof to justify need for an ICF/DD proposal rests with the applicant
- The proposed project would increase the total complement of IC/ DD beds in District 6 and the State of Florida by an additional 24 beds
- The applicant contends that regarding Carlton Palms:  
The applicant lists challenges at Carlton Palms and states that, in summary:
  - The facility is too large
  - The client population is too diverse
  - The staffing levels are too low
  - The mix of professionals, trained staff and supportive personnel required for the large number of clients do not exist

SC summarizes the stated dilemma as follows

1. Carlton Palms clients possess characteristics that combine intellectual disabilities with psychiatric conditions producing maladaptive behaviors that for some produce self-inflicted harm or harm to others.
2. Existing programs have few vacancies to accommodate displacements from Carlton Palms.
3. Special needs and supports entail a comprehensive mix of services across professions and necessitate higher security and safety precautions for all.
4. These needs render group homes for the most part unable to group homes unable to provide the high intensity and mix of medical and social supports for such persons. The result is that only some displaced persons would be appropriately served in group homes.
5. The state sponsored development centers do not have capacity expansion to absorb the influx, and moreover, higher costs would occur if they could expand, which reverses years of attaining community placements.
6. The closure of 230 beds at a facility that had high occupancy does not result in removing the need for capacity to treat such individuals.

SC contends that the advantages of the project are as follows:

- Affords flexibility allowing each eight-bed home to host clients that have similar needs which achieve a manageable size while avoiding mixing dissimilar individuals
- Provides the ability to share resources and expenses
- Creates critical mass for professionals as they move during the workday from home to home, providing continuity of care
- Attain a workforce size that can be recruited and retained in numbers that reduce the length of time in filling vacancies
- Establishes a locus of control, accountability and supervision that allows for quality assurance and utilization review processes to function well

Sunrise maintains that two pathways forward exist to meet the stated need:

- Subsequent to approval, seek an increase in unit cost in the budget to cover the bed increase of the project, or
- Subsequent to approval, reduce the unit cost on a pro-rata basis for all providers

*The Agency concludes that the applicant provides no documentation or confirmation that the proposed project would work in harmony with the goals and objectives of APD's ongoing efforts to meet the needs of APD's customers, as described above. Further, the proposed project would relocate APD customers from a formerly APD-licensed facility to a non-APD licensed facility. The applicant provides no documentation to confirm that APD advocates such an action, or endorses this proposed project, to meet the needs of APD customers, for residential placement in their local/home communities, near families or guardians.*

*The Agency notes APD's stated agreement to close Carlton Palms by March 2019 and the applicant's Schedule 10 indicating initiation of service in October 2020. Therefore, Sunrise would not initiate service until 19 months after Carlton Palms is scheduled to close, 19 months or more after all APD customers at Carlton Palms would already have been transitioned by APD to another APD-licensed placement site.*

*The Agency notes that, pursuant to 59C-1.034 (1), Florida Administrative Code, which was last amended on August 24, 1993 so that the provisions of 408.0455, Florida Statutes, are applicable, a CON for a proposed ICF/DD shall not be issued unless, "the proposal has been determined by the Agency to be justified in context with the applicable review criteria contained in Section 408.035, Florida Statutes, and the standards set forth in this rule, Chapter 59A-26 Florida Administrative Code, and current legislative appropriations for ICF/DD placements. The Agency finds that the applicant:*

- *The proposed project has not been determined by the Agency to be justified within the context of 408.035 (1), Florida Statutes. Specifically, the applicant did not demonstrate need for the project based on the review of CON application #10541, the applicant's project was determined to not be financially feasible and funding for the project is doubtful.*
- *Approval of the project cannot be justified in context with current legislative appropriations for ICF/DD placements—notably, as suggested by the applicant, that in order to approve the project within the parameters of current legislative appropriations, current providers would have to be reimbursed less than currently budgeted in order to add additional ICF/DD placements and approve the proposed project.*

**Quality of Care:**

- Agency data indicates that Sunrise Community, Inc.'s 23 affiliated ICF/DDs had 10 substantiated complaints statewide, during the three-year period ending May 16, 2018
- The applicant demonstrates the ability to provide quality care

**Financial Feasibility/Cost:**

- Funding for this project is doubtful
- Because of the current lack of legislative appropriations, the proposal is not financially feasible
- This project is not likely to have a material impact on price-based competition to promote quality and cost-effectiveness

**Architectural:**

The cost estimate for the proposed project provided in Schedule 9, Table A and the project completion forecast provided in Schedule 10 appear to be reasonable. A review of the architectural plans, narratives and other supporting documents did not reveal any deficiencies that are likely to have a significant impact on either construction costs or the proposed completion schedule.

**Medicaid/Indigent Care:**

- ICF/DDs are primarily funded by the Medicaid program, through legislative appropriations
- Schedule 7 of the application (for year one ending June 30, 2021 and for year two ending June 30, 2022) shows 100 percent of the revenue and patient days attributed to Medicaid
  - Schedule 10 of the application shows a year one ending date of September 2021 and year two ending date of September 2022
- No Medicaid/Medicaid HMO or charity care condition is proposed
- The Agency's Division of Medicaid, Bureau of Medicaid Program Finance confirms that if the proposed project was approved, Medicaid would pay for these beds according to Florida Title XIX ICF/MR/DD Reimbursement Plan, however:
  - There was no legislative appropriation for additional ICF DD placements for FY 2018-2019. For project approval, current legislative appropriations providing for ICF DD placements is required, pursuant to Rule 59C-1.034(1), Florida Administrative Code

**G. RECOMMENDATION**

Deny CON #10541.

**AUTHORIZATION FOR AGENCY ACTION**

Authorized representatives of the Agency for Health Care Administration adopted the recommendation contained herein and released the State Agency Action Report.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Marisol Fitch  
**Health Administration Services Manager**  
**Certificate of Need**