

STATE AGENCY ACTION REPORT
ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Sunrise Community, Inc./CON #10577

9040 Sunset Drive
Miami, Florida 33173

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

2. Service District/County

District 2 (Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, Wakulla and Washington Counties)

B. PUBLIC HEARING

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

Letters of Support

CON application #10577 included two letters of support—one from the Florida Association of Rehabilitation Facilities and one from the Department of Elder Affairs.

Both letters notes Sunrise's high quality services for individuals with developmental/intellectual disabilities. Both letters also note the significant devastation from Hurricane Michael and continued lack of infrastructure in Bay County/Panama City area almost one year after the hurricane, including a lack of contractors, lack of suppliers and a diminished workforce. These letters assert that the proposed replacement facility will provide a more secure environment for residents as well as being a resource for future storms that the Panhandle might face.

C. PROJECT SUMMARY

Sunrise Community, Inc. (CON application #10577), also referenced as SC or the applicant, a Florida non-profit owner/licensee of 23 ICF/DD facilities in Florida, proposes to construct and operate a new six-bed ICF/DD facility in District 2, Leon County, Florida. The applicant notes that the proposed six-bed project will replace and relocate six beds from the applicant's existing 24-bed ICF DD (Bayshore Cluster) located at 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405¹. The proposal would not change the total compliment of ICF/DD beds in District 2 or in Florida overall.

SC states that upon transferring all six beds to the proposed replacement facility, the applicant will cease all operations at the existing 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405 Group Home, provided that each of the SC's additional CON applications submitted in this current batching cycle are also approved (CON application #s 10575, #10576 and #10578). The applicant states that the six-bed facility will be located at the potential sites listed below:

- 3349 Lakeshore Drive, Tallahassee, Florida, 32312
- 3021 South Shore Circle, Tallahassee, Florida, 32312
- 701 Eleazer Place, Tallahassee, Florida 32312²
- 6122 Observation Circle, Tallahassee, Florida 32317

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 proposed project, if approved, is expected to have issuance of license in December 2019 and initiation of service in January 2020 (according to Schedule 10 of the application).

Project costs total \$644,106. The project involves 2,711 gross square feet (GSF) of renovation with total renovation costs of \$100,000. Costs covered are for building, equipment, project development, financing and start-up costs.

There are no existing CON conditions on the SC's 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405 Group Home. In Schedule C of

¹ The applicant notes that no subdistricts exist for ICF/DDs within CON regulations but that the Agency for Person with Disabilities (APD) defines the Northwest Region as the four counties in District 1 and all the counties in District 2 except Madison and Taylor Counties. Therefore, the proposed relocation remains within APD's Northwest Region.

² On page 8-1 of CON application #10577, the applicant identifies 701 Eleazer Place, Tallahassee, Florida 32312 as the potential home for the proposed facility.

CON Action Number: 10577

CON application #10577, the applicant does not propose any conditions, pursuant to this proposal.

Total GSF and Project Costs of CON Application #10577					
Applicant	CON app. #	Project	GSF	Costs \$	Cost Per Bed
Sunrise Community, Inc.	10577	Establish a six-bed ICF/DD in Leon County thru replacement and relocation of six ICF/DD beds in Bay County, all within District 2	2,711	\$644,106	\$107,351

Source: CON applications 10577 and the corresponding Schedules 1 and 9

Issuance of a CON is required prior to licensure of certain health care facilities and services. The review of a CON application and ultimate approval or denial of a proposed project is based upon the applicable statutory criteria in the Health Facility and Services Development Act (408.031-408.045, Florida Statutes) and applicable rule criteria within Chapters 59C-1 and 59C-2, Florida Administrative Code. An approved CON does not guarantee licensure of the proposed project. Meeting the applicable licensure requirements and licensure of the proposed project is the sole responsibility of the applicant.

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 Marisol Fitch 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.

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 maintains that Panama City and the surrounding areas show signs of long-term damage and infrastructure gaps that will take years to recuperate. The applicant asserts that the Bayshore Cluster, a 24-bed ICF/DD, was destroyed in Hurricane Michael—the proposed project is to replace six of those 24 beds. SC indicates that the destruction to the Bayshore Cluster included:

- Roof damage
- Water damage—including to 75 percent of the drywall
- Mildew damage
- Significant structural damage to one of the three homes
- A/C units blown away due to wind force
- Ninety percent of all contents of the homes destroyed
- Flooring destruction
- Ceiling destruction
- Generators damaged and unrepairable
- Fencing destroyed

SC includes a letter from APD dated May 14, 2019 and signed by the Director, Barbara Palmer, that states that the Bayshore Cluster is owned by Board of Trustees of the Internal Improvement Trust Fund managed by the Department of Environmental Protection. The letter indicates that the property was self-insured by the State of Florida and repair estimates for the Bayshore Cluster exceed the insurance refund. Therefore, APD has decided “not to reopen this facility and will be [sic] return the property to the Board of Trustees of the Internal Improvement Trust Fund.”

The applicant states that the residents from the Bayshore Cluster were all safely moved after the storm and 19 residents were moved to Tallahassee—with four in clusters with vacancies and 15 in homes over capacity by five (with notification and permission from the Agency).

SC asserts that the current statewide high occupancies in existing ICF/DDs (96.64 percent for the previous five fiscal years on average) reflect the limited bed supply. The applicant maintains that these high occupancies and low vacancies necessitate returning the 24 beds from the Bayshore Cluster to service.

The applicant notes that the current “ideal” medical model for an ICF/DD is a six-person group home that is part of a residential community—away from the institutional “cluster” model. SC maintains that reducing the size of ICF/DDs for group homes with community-based services creates an expectation that all people belong to and live in communities. The applicant notes that while a few residents can transition eventually to a less restrictive placement, most ICF/DD placements are permanent.

SC indicates that while the expansion of home and community based options have reduced the demand for ICF/DD placements—the ICF/DD service is critical to those whose conditions require nursing care and ongoing therapies. The applicant states that an ICF/DD provider must assure that each resident receives:

- Ongoing evaluation
- Service planning
- Twenty-four hour supervision
- Coordination and integration of health and rehabilitative services

The applicant notes that with the proposed replacement, 82 ICF/DD beds will remain in Bay County and the APD designated Northwest Region inventory total will remain unchanged. SC asserts that ICF/DDs require having access to a pool of professionals and support staff to assure that residents’ care does not experience any disruption. The applicant indicates that Leon County offers a significant population size, two hospitals, two universities—illustrating a workforce exists to staff the proposed replacement facilities. SC states that it operates 72 ICF/DD beds in Leon County which creates economies of scale for the proposed facility—allowing for bulk purchasing agreements for commissary and supplies along with staffing/service efficiencies.

- 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 the most recent data from the Residential Information Systems Project (RISP) noting that the state caseload for persons with intellectual disabilities residing in Florida increased three percent (1,670) from 2013 to 2015—from 55,442 to 57,112 people. The applicant indicates that this denotes a rate of 159.2 persons per 100,000 Medicaid waiver recipients or a rate of 13.6 per 100,000 persons for ICF/DD recipients. SC states that these two rates are inverse to each other—as the rate grows for recipients receiving services through the waiver a decline occurs for those receiving ICF/DD services.

The applicant estimates current and future needed ICF/DD service within Florida utilizing the most recent rate of 13.6 per 100,000 persons—showing that in 2024 there will be approximately 30,976 Floridians that may have intellectual disabilities that meet the criteria for ICF/DD placement. SC states that with only 2,800 ICF/DD beds in Florida, many appropriate placements with serious intellectual disabilities will remain in community settings.

Availability, Utilization and Quality of Like Services in the District

SC indicates that national data shows a marked decline in the use of larger facilities for persons with intellectual disabilities (41 percent) and a similar decline in Florida (43 percent). The applicant comments that the state accommodates persons in a variety of settings, with the largest being support for persons to remain with their families. SC states that the range of services provides for the best option to find an appropriate site that meets each person's needs. The applicant maintains that the group home option have high occupancies and are unable to absorb the displacement from Bayshore Cluster.

Below are the ICF/DD facilities located in District 2 (Leon County) by name, street address, city, ZIP Code and licensed beds at each.

ICF/DDs in District 2 (Leon County)

Facility Name	Street Address	City	ZIP Code	Licensed Beds
Sunrise Community, Inc.	3201 Ginger Dr.	Tallahassee	32308	24
Sunrise Community, Inc.	1385 McCauley Rd.	Tallahassee	32308	24
Sunrise Community, Inc.	2034 Mahan Dr.	Tallahassee	32308	24
Tallahassee Developmental Center	455 Appleyard Dr.	Tallahassee	32304	63
Total				135

Source: www.healthfinder.gov, on May 23, 2019

Below is ICF vacancy information from APD for its Area 2 (Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Taylor, Wakulla and Washington Counties). See the table below.

ICF Vacancy Information for APD Area 2

Total Vacancies	Age			Gender		
	Under 18	Adults	Any	M	F	Co-Ed
24	8	3	13	15	9	24

Source: <http://apd.myflorida.com/planning-resources/area-2.htm>, on May 23, 2019

Medical Treatment Trends

The applicant states that intellectual disabilities represent chronic conditions that are due to mental and physical impairments that usually begin during fetal development—the disabilities have a range of difficulties that include impacts on language, mobility, learning, self-help and independent living.

SC notes a multiyear study funded by the Centers for Disease Control (CDC) called the Study to Explore Early Development (SEED) to identify factors that may put children at risk for autism spectrum disorder and other intellectual disabilities—these include:

- At least 25 percent of hearing loss among babies is due to maternal infections during pregnancy, such as cytomegalovirus infection, complications after birth and head trauma.
- Some of the most commonly known causes of intellectual disability include fetal alcohol syndrome, genetic/chromosomal conditions (such as Down Syndrome and Fragile X Syndrome) and certain infections during pregnancy.
- Children who have a sibling with autism are at a higher risk of also having autism spectrum disorder.
- Low birthweight, premature birth, multiple birth and infections during pregnancy are associated with an increased risk for many developmental disabilities.

CON Action Number: 10577

- Untreated newborn jaundice can cause a type of brain damage known as kernicterus. Children with kernicterus are more likely to have cerebral palsy, hearing/vision problems and problems with their teeth. Early detection and treatment of newborn jaundice can prevent kernicterus.

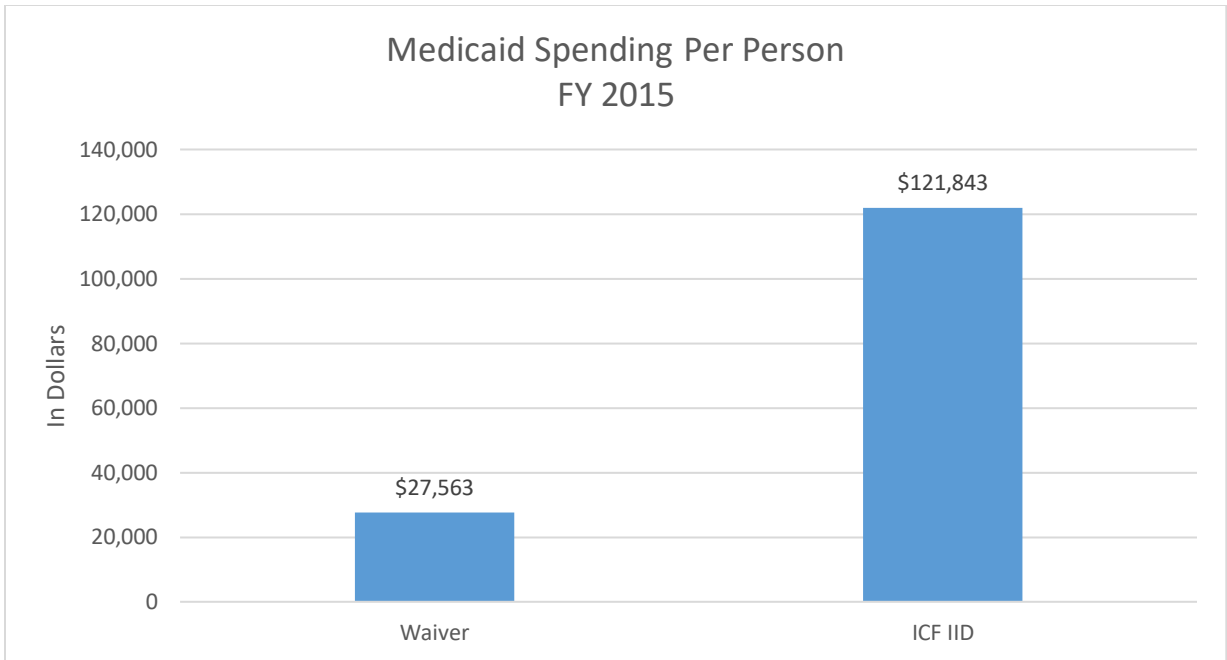
The applicant also presents findings from an article titled, “Trends in the Prevalence of Developmental Disabilities in U.S. Children 1997-2008” which was produced by researchers from the CDC in collaboration with research from the Health Resources and Services Administration. The study showed:

- Males had twice the prevalence of any developmental disorder than females and more specifically had higher prevalence of ADHD, autism, learning disabilities, stuttering/stammering and other developmental disorders
- Hispanic children had lower prevalence of several disorders compared to non-Hispanic white and non-Hispanic black children, including ADHD and learning disabilities
- Non-Hispanic black children had higher prevalence of stuttering/stammering than non-Hispanic white children
- Children insured by Medicaid had a nearly two-fold higher prevalence of any developmental disorder compared to those with private insurance
- Children with families with income below the federal poverty level had a higher prevalence of developmental disorders

SC concludes that these studies require strategies to educate and provide outreach for prevention along with ongoing support for the intellectually disabled and their families.

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/DD programs with the development of community-based programs. The applicant highlights that in FY 2015, in Florida, per person expenditures under Medicaid Waiver was \$27,563 compared to ICF/DD at \$121,843. See below.



Source: CON application #10577, page 1-20

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.

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.**

SC indicates that as the proposed project is the replacement of an already existing and funded facility, the current legislative appropriations are not relevant as the ICF/DD placements are not new to the applicant, merely a relocation from one ICF/DD address to another. 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. The applicant maintains that the budget authority already exists for the beds that comprise the Bayshore Cluster, including the six beds for the proposed replacement facility. SC includes the current rate sheet on pages 2-26 through 2-27 of CON application #10577.

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-compliant 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 it serves, staff training is a primary focus. The applicant 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.

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/DD 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 active treatment includes specific requirements for exercise, education and self-help skills. SC maintains that active treatment implies change in order to avoid decline, boredom or depression in the resident.

SC states that resident and family councils enable all within the program to work on achieving experiences of independence and self-direction. The applicant asserts that resident and family satisfaction surveys are collected periodically to inform administration as to the performance of each facility.

The applicant provides the following SC ICF/DD procedure publications (pages 2-5 to 2-20 of CON application #10577):

- Preventive and General Health Services: Physician Services
- Nursing Services: Health Nursing Manual
- Intake and Admissions
- Transfer and Discharge of Persons Receiving Services

- 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/DD programs reflect its 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.

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

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 2-24 of CON application #10577).

(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.

SC indicates that the proposed replacement facility follows the APD's policies of preferred community placements in group homes. The applicant states that the proposed replacement facility will be comprised of six beds.

- (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 APD 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.

- (4) 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 proposal is for a replacement facility, not a new facility and that therefore, this rule criterion is not applicable. The reviewer notes that with the proposed project being for a six-bed ICF/DD, the proposal meets this criterion.

- (5) 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 notes that the proposal is for a replacement facility, not to convert an existing facility and that therefore, this rule criterion is not applicable. The reviewer also notes that with the proposed project being for a six-bed ICF/DD, the proposal meets this criterion.

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 indicates that ICF/DD 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 2019).

SC notes that the proposed project will replace and relocate part of the Bayshore Cluster from Panama City (Bay County) to Tallahassee (Leon County)—both counties are within the APD Northwest Region—as one of four, six-bed group homes. The applicant maintains that the static bed supply within the ICF/DD program in Florida necessitates the replacement of the 24 beds from the Bayshore Cluster to maintain the status quo.

The applicant includes conformity with the health care access criteria of rule 59C-1.030(2), Florida Administrative Code, on pages 3-9 to 3-11 of CON application #10577. SC asserts that, on balance, it demonstrates compliance with the provisions of this rule.

- 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.**

SC indicates that the proposed replacement facility will move away from an institutional setting and shift care to a residential/community style that feature group homes.

The applicant states that in the '80s, SC helped the State of Florida implement plans for deinstitutionalizing Florida's large institutions resulting in SC opening seven "cluster homes" in St. Petersburg, Panama

CON Action Number: 10577

City, Tallahassee, Bartow and Cape Coral. SC notes that over the years, Sunrise Community's mission, values and vision (page 4-2 of CON application #10577), remain the same.

SC 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 provides what the applicant references as a three-paragraph excerpt from the manual (page 4-3 of CON application #10577).

The applicant 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 states that a resident's participation includes a constellation of professionals whose assessments inform the plan of care:

- 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, 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 notes 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.

CON Action Number: 10577

- 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 CON application #10577):

- Compliance Training
- Compliance Program Oversight Committee

The reviewer notes that other procedure publications are included in Tab 10-Additional Information of CON application #10577.

SC asserts that it possesses the ability to provide a program of high quality care and support for persons displaced from the destruction sustained in Panama City at the Bayshore Cluster. The applicant maintains that the proposed replacement facility will allow these same programs to exist—ensuring quality in service provision.

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 22, 2019, the provider had a total of eight 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 22, 2019**

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

Source: Florida Agency for Health Care Administration Complaint Records

The Agency notes that according to the same source, the applicant's 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405 Group Home had no substantiated complaints during this same three-year period.

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.

10577 - Sunrise Community, Inc.		
	Jun-18	Jun-17
Current Assets	\$12,547,232	\$8,037,874
Total Assets	\$17,692,001	\$13,727,476
Current Liabilities	\$7,931,349	\$8,318,484
Total Liabilities	\$10,184,277	\$11,149,202
Net Assets	\$7,507,724	\$2,578,274
Total Revenues	\$69,044,331	\$68,253,188
Excess of Revenues Over Expenses	\$1,097,294	\$625,938
Cash Flow from Operations	\$3,316,163	\$509,724
Short-Term Analysis		
Current Ratio (CA/CL)	1.6	1.0
Cash Flow to Current Liabilities (CFO/CL)	41.81%	6.13%
Long-Term Analysis		
Long-Term Debt to Net Assets (TL-CL/NA)	30.0%	109.8%
Total Margin (ER/TR)	1.59%	0.92%
Measure of Available Funding		
Working Capital	\$4,615,883	(\$280,610)

CON Action Number: 10577

Position	Strong	Good	Adequate	Moderately Weak	Weak
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 \$5,876,424, which includes this project of \$644,106, three more identical projects of \$644,106 each, and routine capital expenditures budget for FYE 2022. The applicant indicates on Schedule 3 of its application that funding for the project will be provided by third-party financing and provided a letter of interest and letter of available line of credit. A letter of interest is not a commitment to lend. They provided a letter of interest that describes a project that is different than what is being applied for. The letter of interest is dated June 1, 2018 and was most likely provided for the previous CON application. The letter refers to three houses of eight residents each while the project is for four houses with six residents each. Assuming there are no disqualifying differences between the project originally proposed to the lender and currently proposed to the Agency, staff assumes the letter of interest is still valid.

Staffing:

Schedule 6 illustrates that FTEs for year one (ending December 31, 2020) and for year two (ending December 31, 2021) total 14.72 FTEs for the proposed project. See the table below.

CON Action Number: 10577

Sunrise Community, Inc. (CON application #10577)		
Projected Year One (ending December 31, 2020) and Year Two (ending December 31, 2021)		
Staffing		
Position	Year One FTEs	Year Two FTEs
Administration		
Administrator	0.25	0.25
Director of Nursing	0.25	0.25
Secretary	0.25	0.25
Physicians		
Clinical Director - BCBA	0.25	0.25
Nursing		
RNs	0.3	0.3
LPNs	1.4	1.4
Ancillary		
Therapy Technicians	0.25	0.25
Dietary		
Dietary Supervisor	0.06	0.06
Social Services		
Social Service Director	1.00	1.00
Activities Assistant	10.2	10.2
Other: Qualified Intellectual Disability Pro	0.25	0.25
Plant Maintenance		
Maintenance Supervisor	0.06	0.06
Maintenance Assistant	0.25	0.25
Total	14.72	14.72

Source: CON application #10577, Schedule 6

Conclusion:

Funding for this project is likely, but not guaranteed.

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 ICF/DDs 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. The Agency used the average of the three facilities the applicant is currently operating in District 2, Leon County to calculate a reimbursement rate. The rate was then inflated to the years projected using data provided by CMS Market Basket Price Index as published for the 3rd Quarter of 2018.

Year 1						
Total Number of Days	Estimated Institutional Days	Estimated Ambulatory Days	Institutional Reimbursement Rate	Ambulatory Reimbursement Rate	Expected Revenue	
1,830	1,281	549	\$401.38	\$599.67	\$843,391.00	
Year 2						
2,190	1,533	657	\$414.65	\$619.49	\$1,042,666.98	
					Projected Revenue	\$1,023,900.00
					Deviation	-1.8%

The applicant did not differentiate resident days between the levels of care. Different levels of care reimburse at different rates. The Agency assumed 70 percent of days qualify as institutional and 30 percent of days as ambulatory. This assumption is based off of a rounded average from all facilities. 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 1.8 percent.

Conclusion:

The project appears financially feasible.

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

These types of facilities are strictly regulated by the state through control of Medicaid reimbursement. An ICF/DD must be budgeted for through legislative appropriations, which indirectly dictates the expenses the facility will budget. Because of these factors, any competition will not occur after operations have begun. Competition based on cost-effectiveness would instead be demonstrated during the Certificate of Need review process through multiple, competing proposals being submitted for the allocated funds. Because this is the only such proposal, the Agency does not expect any external pressures to provide higher quality care at lower costs.

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 architectural portion of this application was reviewed based on the assumption that the clients served by this facility will not receive chronic, skilled/acute nursing or medical care. Subsequently, the facility plans were not reviewed for compliance with 59A-26.019, Florida Administrative Code or with the requirements for a health care occupancy.

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 the CMS website (page 9-1 of CON application #10577) at www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/ICFIID.html to indicate that ICF/DD 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/DD program through the Florida Association of Rehabilitation Facilities (pages 9-2 and 9-3 of CON application #10577).

SC forecasts five admits, 1,825 patient days at 83.3 percent occupancy (year one) and forecasts six admits, 2,190 patient days at 100.0 percent occupancy (year two). See the table below.

Forecasted Utilization for the First Two Years

Home 2	Year One Admits	Year One Days	Occupancy	Year Two Admits	Year Two Days	Occupancy
Total	5	1,825	83.3%	6	2,190	100.0%

Source: CON application #10577, page 9-4

Schedule 7 of the application (for year one ending December 31, 2020 and for year two ending December 31, 2021) shows 100 percent of the revenue and patient days attributed to Medicaid.

CON application #10577 does not propose a Medicaid or charity care condition, pursuant to this proposal.

F. SUMMARY

Sunrise Community, Inc. (CON application #10577), a Florida non-profit owner/licensee of 23 ICF/DD facilities in Florida, proposes to construct and operate a new six-bed ICF/DD facility in District 2, Leon County, Florida. The applicant notes that the proposed six-bed project will replace and relocate six beds from the applicant's existing 24-bed ICF DD (Bayshore Cluster) located at 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405. The proposal would not change the total compliment of ICF DD beds in District 2 or in Florida overall.

SC states that upon transferring all six beds to the proposed replacement facility, the applicant will cease all operations at the existing 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405 Group Home, provided that each of the SC's additional CON applications submitted in this current batching cycle are also approved (CON application #s 10575, #10576 and #10578). The applicant states that the six-bed facility will be located at the potential sites listed below:

- 3349 Lakeshore Drive, Tallahassee, Florida, 32312
- 3021 South Shore Circle, Tallahassee, Florida, 32312
- 701 Eleazer Place, Tallahassee, Florida 32312
- 6122 Observation Circle, Tallahassee, Florida 32317

The proposed project, if approved, is expected to have issuance of license in December 2019 and initiation of service in January 2020 (according to Schedule 10 of the application).

Project costs total \$644,106. The project involves 2,711 GSF of renovation with total renovation costs of \$100,000. Costs covered are for building, equipment, project development, financing and start-up costs.

There are no existing CON conditions on the SC's 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405 Group Home. In Schedule C of CON application #10577, the applicant does not propose any conditions, pursuant to this proposal.

Need:

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

SC maintains that Panama City and the surrounding areas show signs of long-term damage and infrastructure gaps that will take years to recuperate. The applicant asserts that the Bayshore Cluster, a 24-bed ICF/DD, was destroyed in Hurricane Michael—the proposed project is to replace six of those 24 beds. SC indicates that the destruction to the Bayshore Cluster included:

- Roof damage
- Water damage—including to 75 percent of the drywall
- Mildew damage
- Significant structural damage to one of the three homes
- A/C units blown away due to wind force
- Ninety percent of the all contents of the homes destroyed
- Flooring destruction
- Ceiling destruction
- Generators damaged and unrepairable
- Fencing destroyed

SC includes a letter from APD dated May 14, 2019 and signed by the Director, Barbara Palmer, that states that the Bayshore Cluster is owned by Board of Trustees of the Internal Improvement Trust Fund managed by the Department of Environmental Protection. The letter indicates that the property was self-insured by the State of Florida and repair estimates for the Bayshore Cluster exceed the insurance refund. Therefore, APD has decided “not to reopen this facility and will be [sic] return the property to the Board of Trustees of the Internal Improvement Trust Fund.”

The applicant states that the residents from the Bayshore Cluster were all safely moved after the storm and 19 residents were moved to Tallahassee—with four in clusters with vacancies and 15 in homes over capacity by five (with notification and permission from the Agency).

SC asserts that the current statewide high occupancies in existing ICF/DDs (96.64 percent for the previous five fiscal years on average) reflect the limited bed supply. The applicant maintains that these high occupancies and low vacancies necessitate returning the 24 beds from the Bayshore Cluster to service.

The applicant notes that the current “ideal” medical model for an ICF/DD is a six-person group home that is part of a residential community—away from the institutional “cluster” model. SC maintains that reducing the size of ICF/DDs for group homes with community-based services creates an expectation that all people belong to and live in communities. The applicant notes that while a few residents can transition eventually to a less restrictive placement, most ICF/DD placements are permanent.

The applicant states that with the proposed replacement, 82 ICF/DD beds will remain in Bay County and the APD designated Northwest Region inventory total will remain unchanged.

SC asserts that ICF/DDs require having access to a pool of professionals and support staff to assure that residents’ care does not experience any disruption. The applicant indicates that Leon County offers a significant population size, two hospitals, two universities—illustrating a workforce exists to staff the proposed replacement facilities. SC states that it operates 72 ICF/DD beds in Leon County which creates economies of scale for the proposed facility—allowing for bulk purchasing agreements for commissary and supplies along with staffing/service efficiencies.

Quality of Care:

- Agency data indicates that SC affiliated ICF/DDs had eight substantiated complaints during the three-year period ending May 22, 2019, with the 2059 Lisenby Avenue, Panama City (Bay County), Florida 32405 Group Home having no substantiated complaints during this same three-year period
- The applicant demonstrates the ability to provide quality care

Financial Feasibility/Cost:

- Funding for this project is likely but not guaranteed
- The project appears financially feasible
- This project is not likely to have a material impact on price-based competition to promote quality and cost-effectiveness

Architectural:

- The applicant 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 architectural portion of this application was reviewed based on the assumption that the clients served by this facility will not receive chronic, skilled/acute nursing or medical care. Subsequently, the facility plans were not reviewed for compliance with 59A-26.019, Florida Administrative Code or with the requirements for a health care occupancy.

Medicaid/Indigent Care:

- ICF/DDs are primarily funded by the Medicaid program, through legislative appropriations
- Schedule 7 of the application (for year one ending December 31, 2020 and for year two ending December 31, 2021) shows 100 percent of the revenue and patient days attributed to Medicaid
- No Medicaid or charity care condition is proposed
- The Agency's Division of Medicaid, Bureau of Medicaid Program Finance-Institutional Reimbursements confirms that if the proposed project was approved, Medicaid would pay for these beds according to Florida Title XIX ICF/MR/DD Reimbursement Plan

G. RECOMMENDATION

Approve CON #10577 to construct and operate a new six-bed ICF/DD facility in District 2, Leon County, Florida. The total project cost is \$644,106. The project involves 2,711 GSF of renovation with total renovation costs of \$100,000.

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