

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

**A. PROJECT IDENTIFICATION**

1. Applicant/CON Action Number

**Sunrise Community, Inc./CON #10590**

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

**B. PUBLIC HEARING**

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

**Letters of Support**

CON application #10590 included two letters of support—one from the Florida Association of Rehabilitation Facilities and one from Miami Cerebral Palsy Residential Services, Inc.

Both letters note Sunrise’s high quality services for individuals with developmental/intellectual disabilities. Suzanne Sewell, President and CEO of the Florida Association of Rehabilitation Facilities states Sunrise’s project “to downsize their 24-bed St. Petersburg Cluster and transition residents to smaller homes in a home-like environment is yet another example how they promote community inclusion for the individuals they serve”. Joe Aniello, President of Miami Cerebral Palsy Residential Services, Inc. states the project “downsizes the 24-bed St. Petersburg Cluster and moves the residents to smaller homes where they can receive services in typical neighborhoods, enjoy home living and become active community members”.

**C. PROJECT SUMMARY**

**Sunrise Community, Inc. (CON application #10590)**, also referenced as Sunrise or the applicant, a Florida non-profit owner/licensee of 23 ICF/DD facilities in Florida, proposes to establish a new six-bed ICF/DD facility in District 6, Hillsborough County, Florida. The applicant states that the proposed six-bed project will replace and relocate six beds from the applicant's existing 24-bed ICF DD (St. Petersburg Cluster) located at 1101 102<sup>nd</sup> Avenue North, St. Petersburg (Pinellas County), Florida 33716<sup>1</sup> to one of three new Hillsborough County ICF/DDs.

Sunrise contends that the move from Pinellas County, which presently has six ICF/DD's to Hillsborough County, which has three ICF/DD programs improves access points more central to the state and retains the program in the Suncoast Region. The reviewer notes Pinellas County's six ICF/DD's have a total of 106 beds and Hillsborough County's three have a total of 112 beds. The proposal would increase the District 6 and decrease the District 5 total ICF/DD compliments but would not change the Agency for Persons with Disabilities (APD) Suncoast Region or Florida overall.

The project is stated to be necessitated by the expiration of the lease on the obsolete St. Petersburg's building scheduled for May 31, 2021. The applicant includes the lease agreement in Tab 10 of the application. APD policy essentially downsizing ICF/DD facilities promotes the conclusion that there is no intent to renew the lease according to the applicant. Sunrise states that upon transferring all six beds to the proposed replacement facility, the applicant will cease all operations at the St. Petersburg (Pinellas County) location provided that each of the Sunrise's additional CON applications submitted in this current batching cycle are also approved (CON applications #10589 and #10591). The applicant does not have a proposed site for the new six-bed facility.

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 May 2021 and initiation of service in June 2021 (according to Schedule 10 of the application).

<sup>1</sup> The applicant notes that no subdistricts exist for ICF/DDs within CON regulations but that the Agency for Person with Disabilities (APD) defines the Suncoast Region as the two counties in District 5, seven counties in District 8 and two District 6 counties – Hillsborough and Manatee Counties. Therefore, the proposed relocation remains within APD's Suncoast Region.

Project costs total \$644,106. The project involves 3,286 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 Sunrise's 1101 102<sup>nd</sup> Avenue North, St. Petersburg (Pinellas County), Florida 33716, Group Home. In Schedule C of CON application #10590, the applicant does not propose any conditions, pursuant to this proposal.

<b>Total GSF and Building Project Cost of CON Application #10590</b>					
<b>Applicant</b>	<b>CON app. #</b>	<b>Project</b>	<b>GSF</b>	<b>Total Building Cost</b>	<b>Building Cost Per Bed</b>
Sunrise Community, Inc.	10590	Establish a six-bed ICF/DD in Hillsborough County (District 6) through replacement and relocation of six ICF/DD beds in Pinellas County, (District 5).	3,286	\$520,100	\$104,020

Source: CON application #10590 Schedule 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 Chapter 59C-1, 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 meets 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 James B. McLemore 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, Chapter 59C-1, 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.

Sunrise states it has operated the existing 24-bed St. Petersburg Cluster since February 3, 1970, renewing the lease every five years with State. The applicant maintains that through the years legislative funding declined to provide capital improvements to facilities. Further, deinstitutional efforts and policy changes, no funds are provided for construction or capital improvements. The existing building is 49 years old and has exceeded its useful life.

Sunrise indicates that prior and current discussions with APD representatives “focus on the likelihood that the sublease will not be renewed, given the ongoing direction of APD to discontinue its ownership of property and buildings that house clients”. The applicant asserts that the St. Petersburg Cluster, the 24-bed ICF/DD building is outdated and requiring major capital improvements to bring the building to code is not the highest and best use of funds. Major considerations for the proposed project to replace six of those 24 beds include:

- the 24-bed cluster ICF/DD is no longer a model or a desirable housing

- APD long ago adopted the six bed home model for persons with intellectual disabilities
- With the six bed home model, persons with intellectual disabilities live within neighborhoods, so residents experience residing with others, interact with, and join in activities with neighbors.

Sunrise emphasizes that the project will relocate and retain existing clients in a neighborhood setting without adding any new capacity. The applicant asserts that funding is not an issue as “funding moves with the cluster as do the clients”.

Sunrise 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 St. Petersburg 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. Sunrise 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 cites the three existing programs in Hillsborough compared to six programs in Pinellas County and contends the relocation to Hillsborough County provides additional access points to a more centralized section of the state, since Pinellas County is on the west coast. The reviewer notes that with the proposed replacement, five programs with 82 ICF/DD beds will remain in Pinellas County and the APD designated Suncoast Region inventory total will remain unchanged. Sunrise 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.

Sunrise states that it operates no ICF/DD beds in Hillsborough County but does have 24 in Polk County (District 6) 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*

Sunrise 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 for CY 2016 was 57,317 persons. The applicant indicates that this denotes a rate of 159.3 persons per 100,000 Medicaid waiver recipients or a rate of 13.2 per 100,000 persons for ICF/DD recipients. Sunrise 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's Table 1-3 on the application's page 1-14 shows the estimates current and future needed ICF/DD services within Florida utilizing the most recent rate of 13.2 per 100,000 persons—showing that in 2024 there will be approximately 30,288 Floridians that may have intellectual disabilities that meet the criteria for ICF/DD placement. The reviewer the applicant's narrative use a rate of 13.6 and shows 29,006 persons may meet the criteria which increase the number to 30,976 as the population grows. Sunrise states that with only 2,800 ICF/DD beds in Florida, many appropriate placements with serious intellectual disabilities will remain in community settings. The reviewer notes that the Agency's records show 2,806 ICF/DD licensed beds as of January 31, 2020.

*Availability, Utilization and Quality of Like Services in the District*

Sunrise indicates that national data shows a marked decline in the use of larger facilities for persons with intellectual disabilities (41.2 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. Sunrise states that the range of services provides for the best option to find an appropriate site that meets each person's needs.

Below are the ICF/DD facilities located in District 6 (Hillsborough County) by name, street address, city, ZIP Code and licensed beds at each.

**ICF/DDs in District 6 (Hillsborough County)**

Facility Name	Street Address	City	ZIP Code	Licensed Beds
Life Concepts, Inc.	1923 Sarah Louise Dr.	Brandon	33510	24
Life Concepts, Inc.	2611 E. Bearss Ave.	Tampa	33613	24
Hillsborough Co. Developmental Center	14219 Bruce B Downs Blvd	Tampa	32613	64
<b>Total</b>				<b>112</b>

Source: [www.healthfinder.gov](http://www.healthfinder.gov), on November 21, 2019

Private ICF/IID vacancy information from the APD website for January 2020 shows its Suncoast Region Field Office 23 area (DeSoto, Hillsborough, Manatee, Pasco, Pinellas, and Sarasota Counties) has 16 vacancies. See the table below.

**ICF Vacancy Information for APD Area 6**

Total Vacancies	Age			Gender		
	Under 18	Adults	Any	M	F	Co-Ed
16	0	3	13	10	3	3

Source: <https://www.floridaarf.org/assets/Files/ICF-IID%20Info%20Center/Vacancy%20List/January%202020.pdf>

*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.

Sunrise 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.

- 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

Sunrise concludes that these studies require strategies to educate and provide outreach for prevention along with ongoing support for the intellectually disabled and their families given the chronic and long-term needs that result from various disorders.

### *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. Sunrise provides a graph to indicate that according to the RISP Florida Profile, from 1977 to 2016, growth in Medicaid Waiver expenditures eclipses that for ICF/DD programs with the development of community-based programs. The applicant highlights that in FY 2016, in Florida, per person expenditures under Medicaid Waiver was \$30,130 compared to the ICF IID program’s FY 2015 at \$121,843 (FY 2016 was not available).

Sunrise 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 project indicates its need analysis supports the conclusion that the beds are still needed and the project affords existing clients with a six-bed home within a neighborhood setting.

**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.**

Sunrise 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 St. Petersburg Cluster, including the six beds for the proposed replacement facility. Sunrise includes the current rate sheet on page 2-26 of CON application #10590.

**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.**

Sunrise 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. Sunrise 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. Sunrise 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. Sunrise maintains that active treatment implies a change in order to avoid decline, boredom or depression in the individual.

Sunrise 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 Sunrise ICF/DD procedure publications (pages 2-5 to 2-20 of CON application #10590):

- Preventive and General Health Services: Physician Services
- Nursing Services: Health/Nursing Manual
- Intake and Admission
- 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 Sunrise's experience within the field of 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.**

Sunrise maintains that the existing programs it operates follow the internal policies and procedures for the ordering, storage and administration of all medicines. The applicant states 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.**

Sunrise indicates that its commitment to the clients and the programs for intellectually disabled persons remains steadfast. Further, violations must not occur because of the jeopardy and harm they cause throughout the program as well as the industry. Sunrise 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 Sunrise's "Standards of Excellence" (page 2-24 of CON application #10590).

- (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.**

Sunrise 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.**

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

#### **Other Rule Criteria**

##### **Rule 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.

##### **Chapter 59A-26, 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.

##### **Rules 59C-1.034 (2) and (3), Florida Administrative Code, provides the following:**

- (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.**

Sunrise 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 Sunrise, 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).

Sunrise notes that the proposed project will replace and relocate part of the St. Petersburg Cluster from St. Petersburg (Pinellas County) to Tampa (Hillsborough County)—both counties are within the APD Suncoast Region—as one of two 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 St. Petersburg 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 3-3 to 3-5 of CON application #10590. Sunrise 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.**

Sunrise 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, Sunrise helped the State of Florida implement plans for deinstitutionalizing Florida's large institutions resulting in Sunrise opening seven "cluster homes" in St. Petersburg, Panama City, Tallahassee, Bartow and Cape Coral. Sunrise notes that over the years, Sunrise Community's mission, values and vision (pages 4-1 and 4-2 of CON application #10590), remain the same.

Sunrise states 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). Sunrise provides what the applicant references as a three-paragraph excerpt from the manual (pages 4-2 and 4-3 of CON application #10590).

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.

Sunrise 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. The applicant states it employs a rigorous person-centered training program that includes persons' rights, dignity and respect, protection from abuse, neglect and exploitation, health, safety and personal security.
- Services and supports appear in the individual 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.



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- 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. Sunrise 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.

The applicant provides the following two Sunrise Group July 31, 2017 procedure publications (pages 4-7 to 4-11 of CON application #10590):

- Compliance Training
- Compliance Program Oversight Committee

Sunrise states that it possesses the ability to provide a program of high quality care and support for persons at the St. Petersburg 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 November 20, 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 November 20, 2019**

<b>Complaint Category</b>	<b>Number Substantiated</b>
Quality of Care/Treatment	4
Elopement	1
Life Safety Code	1
Resident/Patient/Client Abuse	1
Resident/Patient/Client Rights	1

Source: Florida Agency for Health Care Administration Complaint Records

The applicant's 1101 102nd Avenue North, St. Petersburg (Pinellas County), Florida 33716 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.

<b>10590 - Sunrise Community, Inc.</b>		
	<b>Jun-19</b>	<b>Jun-18</b>
Current Assets	\$16,782,300	\$12,547,232
Total Assets	\$22,101,053	\$17,692,001
Current Liabilities	\$9,685,198	\$7,931,349
Total Liabilities	\$10,079,196	\$10,184,277
Net Assets	<b>\$12,021,857</b>	<b>\$7,507,724</b>
Total Revenues	\$74,638,047	\$69,044,331
Excess of Revenues Over Expenses	\$3,464,304	\$1,097,294
Cash Flow from Operations	\$5,003,959	\$3,316,163
<b>Short-Term Analysis</b>		
Current Ratio (CA/CL)	1.7	1.6
Cash Flow to Current Liabilities (CFO/CL)	51.67%	41.81%
<b>Long-Term Analysis</b>		
Long-Term Debt to Net Assets (TL-CL/NA)	3.3%	30.0%
Total Margin (ER/TR)	4.64%	1.59%
<b>Measure of Available Funding</b>		
Working Capital	<b>\$7,097,102</b>	<b>\$4,615,883</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 \$7,350,712, which includes this project of \$644,106, an identical project of \$644,106, a second project of 2,762,500, and routine capital expenditures budget for FYE 2022. The applicant indicated on Schedule 3 that funding for the project will come from non-related company financing and provided letters from Centennial Bank and SunTrust showing available lines of credit and consideration for additional lending that may be possible.

**Staffing:**

Schedule 6 illustrates that FTEs for year one (ending May 31, 2022) and for year two (ending May 31, 2023) total 14.72 FTEs for the proposed project. See the table below.

**CON Action Number: 10590**

<b>Sunrise Community, Inc. (CON application #10590)</b>		
<b>Projected Staffing</b>		
<b>Year One (ending May 31, 2022) &amp; Year Two (ending May 31, 2023)</b>		
<b>Position</b>	<b>Year One FTEs</b>	<b>Year Two FTEs</b>
<b>Administration</b>		
Administrator	0.25	0.25
Director of Nursing	0.25	0.25
Secretary	0.25	0.25
<b>Physicians</b>		
Clinical Director - BCBA	0.25	0.25
<b>Nursing</b>		
RNs	0.3	0.3
LPNs	1.4	1.4
<b>Ancillary</b>		
Therapy Technicians	0.25	0.25
<b>Dietary</b>		
Dietary Supervisor	0.06	0.06
<b>Social Services</b>		
Social Service Director	1.00	1.00
Activities Assistant	10.2	10.2
Other: Qualified Intellectual Disability Pro	0.25	0.25
<b>Plant Maintenance</b>		
Maintenance Supervisor	0.06	0.06
Maintenance Assistant	0.25	0.25
<b>Total</b>	<b>14.72</b>	<b>14.72</b>

Source: CON application #10590, 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 Intermediate Care Facilities 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 2019. The Agency used the current rate for the cluster in District 5, Pinellas County that will be replaced by this project. The rate was then inflated to the years projected using data provided by CMS Market Basket Price Index as published for the 2nd Quarter of 2019.

<b>Year One</b>	<b>Total Number of Days</b>	<b>Estimated Institutional Days</b>	<b>Estimated Ambulatory Days</b>	<b>Institutional Reimbursement Rate</b>	<b>Ambulatory Reimbursement Rate</b>	<b>Expected Revenue</b>	
	2,182	1,527	655	\$397.41	\$502.76	\$936,104.30	
<b>Year Two</b>							
	2,182	1,527	655	\$410.00	\$518.70	\$965,779.81	
						<b>Projected Revenue</b>	\$1,052,900.00
						<b>Deviation</b>	8.3%

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 8.3 percent.

**Conclusion:**

The project appears financially feasible. However, based on the Agency’s projections, the applicant may not attain the revenues as projected. It should be noted that this is based off the assumption that no material deviations from the current allocations will occur. If operating costs are materially different than current levels, the cluster will need to go through appropriations from the State Legislature to secure sufficient reimbursement.

**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. As designed, the facility would not be able to support clients that receive chronic, skilled/acute nursing or medical care, but it could support clients that do not require such care.

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. The applicant has a long history of providing health services to Medicaid enrollees.

Sunrise points to the CMS website (page 9-1 of CON application #10590) at [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/DD services are reimbursed through the Medicaid Institutional Care Program (ICP). The applicant notes the expansion of the Medicaid Home and Community-Based Waiver Program that reimburses privately operated group homes. Sunrise 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 #10590).

Sunrise forecasts five admits in year one and six admits in year two. See the table below.

**Forecasted Utilization for the First Two Years  
Ending May 31, 2022 and 2023**

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

Source: CON application #10590, page 9-4

Schedule 7 of the application shows all beds at one hundred percent occupancy with one hundred percent of the revenue and patient days attributed to Medicaid during years one and two.

The applicant does not propose a Medicaid or charity care condition, pursuant to this proposal.

**F. SUMMARY**

**Sunrise Community, Inc. (CON application #10590)**, 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 6, Hillsborough 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 (St. Petersburg Cluster) located at 1101 102<sup>nd</sup> Avenue North, St. Petersburg (Pinellas County), Florida 33716 to Hillsborough County. The proposal would not change the total compliment of ICF DD beds in APD Suncoast Region or in Florida overall. It would decrease the Agency's District 5 and increase the District 6 bed count.

Sunrise indicates that upon transferring all six beds to the proposed replacement facility, the applicant will cease all operations at the existing St. Petersburg Cluster, provided that each of the Sunrise's additional CON applications submitted in this current batching cycle are also approved (CON applications #10589 and #10591). The applicant does not have a proposed site for the new six-bed facility.

The proposed project, if approved, is expected to have issuance of license in May 2021 and initiation of service in June 2021 (according to Schedule 10 of the application).

Project costs total \$644,106. The project involves 3,286 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 Sunrise's St. Petersburg (Pinellas County) Group Home. In Schedule C of CON application #10590, the applicant does not propose any conditions, pursuant to this proposal.

**Need:**

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

Sunrise maintains that the 24-bed St. Petersburg Cluster is obsolete citing—the proposed project is to replace six of those 24 beds. Sunrise indicates the following applies to the St. Petersburg Cluster:

- Age of the building operations - began in 1970
- Problems with the design – the medical model reflecting institutional rather than residential environment
- Hillsborough County has three ICF programs compared to Pinellas having six programs

Sunrise 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 retaining the 24 beds from the St. Petersburg Cluster in service.

Sunrise 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. The applicant 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. Sunrise notes that while a few residents can transition eventually to a less restrictive placement, most ICF/DD placements are permanent.

Sunrise 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 it will serve the current St. Petersburg Cluster patients in the Hillsborough County facility.

Sunrise states that it operates 24 ICF/DD beds in Polk 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 Sunrise affiliated ICF/DDs had eight substantiated complaints during the three-year period ending November 20, 2019—the St. Petersburg Cluster had 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. However, the applicant may not attain the revenues as projected.
- If operating costs are materially different than current levels, the cluster will need to go through appropriations from the State Legislature to secure sufficient reimbursement.
- 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.
- As designed, the facility would not be able to support clients that receive chronic, skilled/acute nursing or medical care, but it could support clients that do not require such care.

**Medicaid/Indigent Care:**

- ICF/DDs are primarily funded by the Medicaid program, through legislative appropriations
- Schedule 7 of the application (for year one ending May 31, 2022 and for year two ending May 31, 2022) shows 100 percent of the revenue and patient days attributed to Medicaid
- 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 #10590 to construct and operate a new six-bed ICF/DD facility in District 6, Hillsborough County, Florida. The six-bed project will replace and relocate six beds from Sunrise's existing 24-bed St. Petersburg Cluster. The total project cost is \$644,106. The project involves 3,286 GSF of renovation with total renovation cost 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: \_\_\_\_\_

\_\_\_\_\_  
James B. McLemore  
**Operations & Management Consultant Manager**  
**Certificate of Need**