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**Two Rivers Authority, Inc.**

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***A Feasibility Analysis  
for a  
Federal and State Detention Support Center***

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***By:***  
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### Section 1

## **INTRODUCTION**

Two Rivers Authority, Inc. (the Authority) received a proposal from a detention and corrections facility developer (the Developer) to design, construct and operate a Federal and state detention support center within the corporate boundaries of the City of Hardin (the City). Construction of the facility was proposed by the Developer to serve as a vehicle for job creation and to provide secure detention housing, transportation and treatment services that would be available to several Montana and Federal government agencies.

### **The City of Hardin**

Hardin, Montana is an incorporated city, with a current population of approximately 3,300, located in south central Montana. It is the county seat of Big Horn County, and it is the only city located within the County. The City is located adjacent to Interstate 90 which provides direct access to the City of Billings 45 miles to the west and beyond to Montana's other major cities and to the States of Idaho and Washington. Eastbound, I-90 passes into Wyoming and on into South Dakota.

Interstate 94 intersects with I-90 approximately 40 miles west of Hardin. This interstate with high-speed access to North Dakota as well as eastern Montana runs east and west approximately 30 miles north of Hardin and is accessible from the City via State Highway 47.

Employment opportunities in Hardin are limited with many residents commuting to Billings. A power plant fueled by coal from a mine approximately 30 miles east of Hardin will soon be opened, as will an ethanol plant. Efforts are being made by the City to attract other industry to a large, mostly undeveloped industrial park adjacent to I-90. The proposed Center will be located within this park on a site immediately adjacent to the Interstate.

Hardin serves as a service community for a large sparsely populated area extending south and east to the boundaries of Montana with Wyoming and South Dakota. The major purchasing needs of the residents must, however, be met by traveling to Billings.

The City's location positions it well as a site to provide detainee management support services to the State of Montana and several Federal government agencies based on its location near the State's largest population center and in close proximity to two interstate highways. Hardin is also well located to provide detention services to several Native American reservations. The majority of the land area in Big Horn County falls within the boundaries of the Crow and Northern Cheyenne reservations. These two large reservations extend from Hardin's southern limits south to the Wyoming border, west into Yellowstone County near the southern boundary of

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the City of Billings and east for approximately 70 miles. Five other reservations are located in Montana with locations approximately 130 to 180 miles north of the City.

### **The Center Proposal**

As envisioned, the proposed Center would contain approximately 450 beds and would be privately financed, constructed and operated on a site within the City's industrial park. Its specific purpose would be to provide beds available to Federal, State and local government agencies needing secure housing, transportation and treatment for individuals being held to answer criminal charges or convicted of criminal offenses.

The Authority will own the proposed Center. It is the Authority's intent to rent the proposed Center's beds to one or more government agencies having secure custody responsibilities with the income generated used to defray operational and debt service costs.

As anticipated by the Developer the proposed Center will:

- Contain secure detention beds and all necessary support spaces such as food service, medical, recreation, treatment and education appropriate to operating a detention Center meeting the standards of the State of Montana and the Federal Government. Support spaces will be constructed initially to accommodate possible future expansion.
- Utilize bed capacity to provide secure housing to Federal agencies such as the US Marshal's Service (USMS) and the Bureau of Indian Affairs (BIA) under one or more Intergovernmental Agreements (IGA) between the City and the user agencies.
- Provide secure and treatment beds needed by the State of Montana to meet its corrections system capacity deficiencies and specialized needs through contracts with the Montana State Department of Corrections (MDC).
- Provide bed space to other local and tribal governments in Montana.
- Offer, within the proposed Center, treatment programs such as substance abuse, to the detainees assigned to the Center.
- Be operated by CiviGenics, (the Operator) a professional detention and corrections management company.
- Foster economic development of the City by creating new jobs and related business opportunities.

The Authority has authorized the Developer to proceed with project development. The Developer, a firm with national experience in detention and correctional facility construction, will employ a design/build construction approach with construction funded through the sale of tax-exempt Project Revenue Bonds (Bonds).

The debt caused by the sale of the Bonds will be amortized over a period of 20 years. Revenues obtained from detainee housing fees will be used by the City to meet operational cost

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and debt service payment obligations and will be the exclusive source for debt retirement. The expectation of the Authority is that the State of Montana and the Federal Government will utilize, on a per diem basis, all of the proposed Center's available beds and contract for the other services that will be offered. This expectation is based on an understanding that a significant need for secure beds and other detainee management services exists in Montana.

The Bonds are limited, special obligations payable solely from the bed rental payments. The Bonds do not constitute an obligation for which the Authority is obligated to levy or pledge any form of taxation. The Bonds do not constitute an obligation, general, special or moral, of the State of Montana, any other potential subdivision of the State, the Authority, the City, or the US Government. Neither the full faith and credit nor the taxing power of the State, the Federal Government, the Authority, the City or any other political subdivision or agency of the State is pledged for the payment of the principal of, premium, if any, or interest on the Bonds.

### **Key Considerations of the Project**

Key considerations of the project as proposed by the Developer may be summarized as follows:

- The proposed Center will be constructed with the proceeds of tax-exempt Bonds. It will rent the beds on a daily basis to one or more government agencies with the revenue received used to retire the debt and meet operational costs. The Authority is obligated to make Debt Service Payments from the Gross Revenues of the Center. The Authority will not be obligated to make the debt service payments from any other source of funds.
- The proposed Center will be constructed on land to be acquired by the Developer and will be sited within an industrial park currently under development.
- The secure housing space to be provided by the proposed Center is intended to meet a present and anticipated need of several government agencies.
- The Operator will be retained by the Authority to provide professional day-to-day management of the proposed Center. The Authority will serve as the contracting agency with the users, thereby allowing the proposed Center to obtain bed use contracts through a government-to-government agreement basis.

### **Potential Obstacles to Project Success**

Several factors must be recognized as impacting potential success as defined by the Authority's ability to retire the debt:

- There is no assurance that the Authority will successfully enter into suitable detainee housing contracts with other governmental entities that have custody responsibilities. There is also no assurance that any contract for the housing of detainees will yield sufficient payments per detainee per day to meet the proposed Center's financial obligations.

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- The Authority has no contractual guarantee that any specified number of detainees will be housed in the proposed Center for any defined period.
- The Authority has no contractual guarantee that the MDC will not construct added space or that other detention facilities will not be constructed to service the target market.
- A primary market focus is the State of Montana, and it is based on the assumption that the Authority will be awarded one or more publicly bid contracts. However, future economic conditions, legislative change and government policy could change the numbers of persons for which the State is responsible or has the fiscal resources to house. Several Federal agencies are viewed as potential users and their use level will also be dictated by government policy and budget allocations.

### **Factors Mitigating the Potential Obstacles**

The factors listed above define potentially significant risks to potential purchasers of the Bonds, and the vast majority of them are linked to influences over which the Authority has no meaningful degree of control. At a minimum, therefore, decisions made by potential purchasers of the Bonds must carefully balance two sets of variables. The potential obstacles described above include many but not all of the variables that raise questions about the short- and long-term feasibility of the project. Several counterbalancing variables must also be considered:

- The USMS makes extensive use of local detention facilities throughout the United States to house prisoners under its jurisdiction. The USMS Montana District is currently experiencing difficulties in obtaining beds and has experienced an increase in the numbers of persons it has in custody each year over the past ten years. Agency projections show a continuation of the trend and because the USMS is responsible for holding all individuals charged with Federal crimes while in the adjudication process its need for detention beds must continue.
- The Montana Department of Corrections has publicly stated that it may need to send prisoners out of state to respond to system overcrowding. It has recently requested proposals from non-profit groups to construct and operate a specialized treatment facility and is planning on issuing a similar request for a second specialized facility. Combined, the requests are for a total additional contract bed capacity of at least 376 beds.
- The proposed Center will be located within approximately 45 miles of the City of Billings, the State's largest city and the site of a Federal Courthouse where detainees in custody of the USMS appear for adjudication. Location is important to the USMS because holding detainees in close proximity Federal courthouses is needed to minimize the time required to transport detainees for court appearances and to allow for rapid response to judicial scheduling demands. In addition, the population concentration in the Billings

area produces a significant impact on the MDC with a large number of individuals in its custody being from the area. Moreover, one of the facilities for which MDC is soliciting offers to construct and operate is a methamphetamine treatment Center. The Billings area, and particularly the nearby reservations, represent a significant source of individuals charged with offenses related to possession of this drug.

- Seven Native American reservations are located in Montana. Nationally, tribal jails are in general in deplorable conditions and are typically overcrowded. Native Americans also represent a significant percentage of the MDC population while many Native Americans convicted of Federal crimes are housed in Federal facilities throughout the United States. To that end the proposed Center offers a resource to relieve pressures on the tribes and MDC as well as to return incarcerated individuals nearing completion of their sentences to a location nearer their homes where visitations by family are possible.

### **The Role of this Study**

It is the judgment of the Authority that the need for secure housing in Montana is significant and that a secure facility offering both beds and treatment services is needed. However, it is also the judgment of the Authority that its purposes would be served by the preparation of a feasibility study by an independent consultant who has expertise in adult corrections with particular experience in facilities serving multiple agencies on a bed rental basis. This feasibility study, consequently, was commissioned by the underwriter to provide an independent evaluation of that judgment by a firm specializing in local government and justice systems Center feasibility and planning analysis.

The study was prepared by GSA, Ltd. (the Feasibility Consultant) with Howard R. Geisler as the principal author. **To assure the independence of the Firm's work, GSA, Ltd.'s fee for professional services has been paid in full by the underwriter and is not contingent upon the sale of the Bonds.**

A summary of GSA, Ltd.'s corporate credentials and the principal author's resume are provided in Appendix A. GSA, Ltd. has specialized in Center needs planning for detention and corrections facilities nationally for over 30 years. Mr. Geisler is a planning specialist who has conducted studies for more than 60 detention and corrections systems. He has also prepared feasibility studies for 27 privatized correctional facilities in the past five years. The majority of these studies have been for facilities designed to serve several state departments of correction, the USMS and ICE. He has recently completed studies for facilities currently serving the New Jersey Department of Corrections, the USMS and ICE in Texas, the USMS in Michigan, the US Marshals Service District of New Mexico and the ICE Seattle, Florida and Arizona Regions. The principal author of the study serves as an independent outside manager of a privately owned detention center used to service an ICE contract in Washington State where he has responsibility for oversight relative to the Facility meeting its debt service obligations. Thus, the firm and its

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principal study author are well qualified to offer an expert professional judgment of the feasibility of the project.

This document reviews the issues the Feasibility Consultant deems to be most relevant to an assessment of the project and the analyst's best professional judgment regarding overall project feasibility. There is no assurance that this judgment is valid in any or all of its particulars or that it reflects the judgment of the City, or any other party associated with the proposed project. The USMS, the US Bureau of Justice Statistics and the State of Montana have provided statistical data relative to detainee populations.

The study is based on clearly defined assumptions that, in the Feasibility Consultant's opinion, represent a reasonable estimation of the need for such a Center. A substantial body of statistical data relative to crime and incarceration is available and used in this study; however, use of this data must be tempered by the basic fact that detention and correction needs are "system driven". Incarcerated populations can fluctuate in response to factors such as changing legislation, law enforcement emphasis and the simple availability of beds.

### Section 2

## **THE OPERATIONAL CONCEPT**

As proposed by the Developer, a secure Federal and state detention support center, structured to serve as a base for a detainee management system, containing approximately 450 beds would be constructed within the boundaries of the City of Hardin, Montana. The service focus of the proposed Center would be on providing a secure bed, transportation and treatment resource to government agencies with responsibility for detention of individuals charged with or convicted of committing crimes. Bed use and other services would be obtained by interested agencies through contracts or intergovernmental agreements between each client agency and the Authority.

### **The Concept**

Although the City is aggressively working to attract industrial development to increase the community's limited employment base and has been successful in securing several new activities, Authority officials see a contract detention support facility as a source of long-term job opportunity and career development for its residents. Hardin's location along with recent developments relative to MDC needs and plans point to the potential viability of the project.

As initially proposed by the Developer the proposed Center would contain approximately 450 beds. It would be designed with support spaces and infrastructure adequate in size and capacity to permit addition of beds if future demand warrants. The design will provide flexibility to safely accommodate and segregate a broad range of detainees and, thus, permit marketing of bed use to all agencies in the region having detention needs.

A private company will operate the proposed Center under contract to the City. The designated operator is a firm specializing in detention and correctional facility management with a strong expertise in offender treatment programs. A staff of approximately 150 persons will be required to operate the proposed Center. The Operator will hire the majority of these individuals from the local labor market and provide the training needed to meet State certifications requirements.

Transportation service will be an essential component of the proposed Center's operation. This is defined as a key service in terms of attracting use because of the budget and staffing impacts movement of detainees has on government agencies and the distances involved in Montana.

### **Agencies That Could be Served by the Proposed Center**

With its location approximately 45 miles from the City of Billings, Montana's largest city, and with direct accessibility via Interstate 90 to that City and eastern Wyoming and western South Dakota, as well as close proximity to Interstate 94 with its direct route to western North Dakota, Hardin is geographically well placed to attract both local and Federal jurisdictions as users of the proposed beds. Although distances between cities in Montana are significant an excellent network of Interstate and State highways permits relatively easy access to Hardin from throughout the State as well as from the neighboring states of North Dakota, South Dakota and Wyoming. If a City proposal to construct an airport capable of accepting large jet aircraft is implemented the location relative to attracting potential users would be enhanced.

Limited secure bed capacity and poor jail conditions generally found in the region suggest that a relatively large number of potential bed users can be identified. The Montana Department of Corrections (MDC) represents a logical client based on proximity and the potential for long-term stable contract use. Two requests for proposals have been issued by that agency and when combined represent an interest of the MDC in obtaining at least 376 contract beds. Although the US Marshals Service (USMS) and the Bureau of Immigration and Customs Enforcement (ICE) are typically heavy users of local beds in other states, the magnitude of their need in Montana, a state with a relatively small population, is low but of sufficient magnitude to suggest that the agencies are potential users of the proposed Center. This is underscored by the fact that the USMS has used a State-owned, privately operated correctional facility to house detainees awaiting transfer to the US Bureau of Prisons (BOP) but because of the MDC's need for beds that resource cannot be considered as a guarantee. Other Federal agencies, specifically (BOP) and US Probation and Pre-Trial Services, could also potentially make use of small numbers of beds periodically. The Bureau of Indian Affairs (BIA) represents a potential user of the proposed Center and, reflecting the condition of jails in Indian Country, the proposed Center could potentially meet needs of the agency from the surrounding region and nationally.

County jails in Montana are typically small. Overcrowding, at least periodically, is common. Consequently, offering beds to these jurisdictions to help with periodic problems is viewed as another possible service of the proposed Center.

The spectrum of agencies that could be potential users of the proposed Center may be grouped into three categories:

- Montana State Government
- Federal Government and Tribal Agencies
- Local Governments

Three agencies are included in the first category. Montana's Department of Corrections, the agency responsible for operating the State's prison system, represents the primary agency. Although having a very limited need for detention beds, the Montana Highway Patrol currently makes daily use of the Big Horn County Jail for short-term holding of individuals its officers arrest within the County. The Department of Correction's Division of Probation and Parole maintains an office in Big Horn County where its staff supervises offenders under community

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sanctions. A regular need exists for detention of individuals under supervision of that office who have violated terms of their release.

Several Federal government agencies detain individuals in the State of Montana and make use of local government beds. Prime among these is the USMS. With responsibility for detaining all individuals answering charges in Montana's Federal courthouses each day the USMS has in custody a relatively large number of individuals who are awaiting court appearances, involved in trials and who are waiting transfer to the BOP following sentencing. With no detention facilities of its own, the USMS uses 18 county jails and one private facility to house these individuals. Court appearances occur in three Montana cities and the USMS must attempt to find housing in proximity to each of these.

Although a significantly smaller user of detention beds in Montana, ICE has requirements throughout the State for short term housing of individuals awaiting transportation to the Agency's processing centers in other states. The US Bureau of Probation and Pre-trial Services, with an office located in Hardin, is also required to obtain beds to house individuals who have had their parole revoked or are serving short sentences under the agency's jurisdiction.

The Federal Government and Tribal Agencies category, for purposes of this analysis, also includes Native American reservations and the Bureau of Indian Affairs. Tribal governments and BIA operate jails housing Native Americans who have committed offenses on the reservations. Conceptual thinking for the proposed Center suggests that it could serve as a resource to replace inadequate tribal jails and serve as a corrections center for individuals serving Federal sentences in other states who are enrolled members of tribes in the region.

Local governments defined as potential users of the proposed Center include Big Horn County as well as other Montana counties. In the case of the latter group the proposed Center is visualized as a location where short term over capacity needs could be met and where counties could send individuals requiring special segregation or waiting transfer to the State MDC. It is viewed as unlikely that the proposed Center could function as a regional jail replacing other county jails.

Each of the agencies delineated in the above listing requires the availability of detention and correction beds on a regular basis. However, the number of beds used by individual agencies, other than the Montana Department of Corrections, on a daily basis is relatively small, suggesting that single agency use of the proposed Center is not likely to generate a level of daily occupancy consistent with a cost-effective operation. Success of the proposed Center will, therefore, be achieved only if it is designed to accommodate a varied population and the marketing approach is geared to attracting use by multiple agencies.