

# CROSSROAD CORRECTIONAL CENTER PURCHASE OPTION

A Report Prepared for the  
Legislative Finance Committee

By  
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# CROSSROAD CORRECTIONAL CENTER PURCHASE OPTION

## BACKGROUND

The Department of Corrections contracts with Corrections Corporation of America (CCA) to house inmates in a private prison, Crossroads Correctional Center (Shelby Prison), in Shelby, MT. The contract began with facility development – design/build and was augmented by a management and operations contract. The facility development contract includes a provision under which the department may purchase the property. This document summarizes the scope the committee may wish to consider this interim regarding the facility purchase option.

## FACILITY DEVELOPMENT CONTRACT

### Contract Term

The contract term for facility development is for 20 years from September 1, 1999, to August 31, 2019. At the end of the 20 years, the Department of Corrections has the following options:

- Renew the contract for up to two, five year periods (not to exceed 30 years for the total life of the contract)
- Exercise the right to purchase the facility

### Right to Purchase by the Department

The department has an option to purchase the facility for the net amount of the fair market value less the present value of all payments of a use fee paid by the department for each inmate bed day since the contract began.

### *Fair Market Value*

The facility development contract provides a process to determine the fair market value of the facility in the event the department exercises the option to purchase the facility. The contract states that once the department gives notice to CCA to commence negotiations for the purchase of the facility a 60 day period exists in which the department and CCA shall attempt to discuss and negotiate a fair market value for the facility. If, after the 60 day negotiation period, a fair market value has not been determined, the department and CCA shall each chose an independent Member of the Appraisal Institute (MAI) appraiser to determine fair market value for the facility.

If the two independent appraisers cannot reach agreement on the fair market value, the two appraisers shall select a third, independent appraiser who shall determine the fair market value. Appraisals would add both time and costs to the facility purchase decision.

#### Potential Work Item

Time and cost considerations for fair market value appraisals could be identified as part of interim work, however a fair market value estimate would not be made.

### *Use Fee*

Under the facility development contract, the department pays CCA \$9.14 per inmate per day up to \$1,672,620 per year as a fee toward facility construction costs. The funds paid by the department in this use fee are managed by CCA and the present value would be credited against the fair market value if the department decides to purchase the facility. As of the end of June 2015, the use fee

account balance is \$27.9 million, with \$24.9 million paid by the department and the remaining \$3.0 million paid by the U.S. Marshall Service.

### Use Fee Issue

The facility development contract states that the present value of the use fee, as of the purchase date, shall offset the fair market value when determining the purchase price for the facility. The contract is silent on the rate of return to be used in determining the present value of the use fee when determining the fair market value offset.

#### Potential Work Item

Interim work could include estimates of the present value of funds that may be available under various rates of return assumptions from the user's fee to offset fair market value.

## **Cost Benefit Analysis**

### ***Tax Considerations***

If the state purchases the facility, there would be reductions in both local property taxes and corporate income taxes that would need to be considered. These tax reductions would need to be considered in any cost benefit analysis used to determine the cost/benefit of purchasing or continuing to contract for the housing of inmates at the Crossroads Correctional Center.

#### Potential Work Item

Interim work could include an estimate of the impacts of the facility purchase on local and state taxes or revenues.

### ***Operating Cost Considerations***

If the state purchased the facility, the operating costs, including the staffing costs would become a state obligation. These costs would replace the current per bed contract costs paid to CCA.

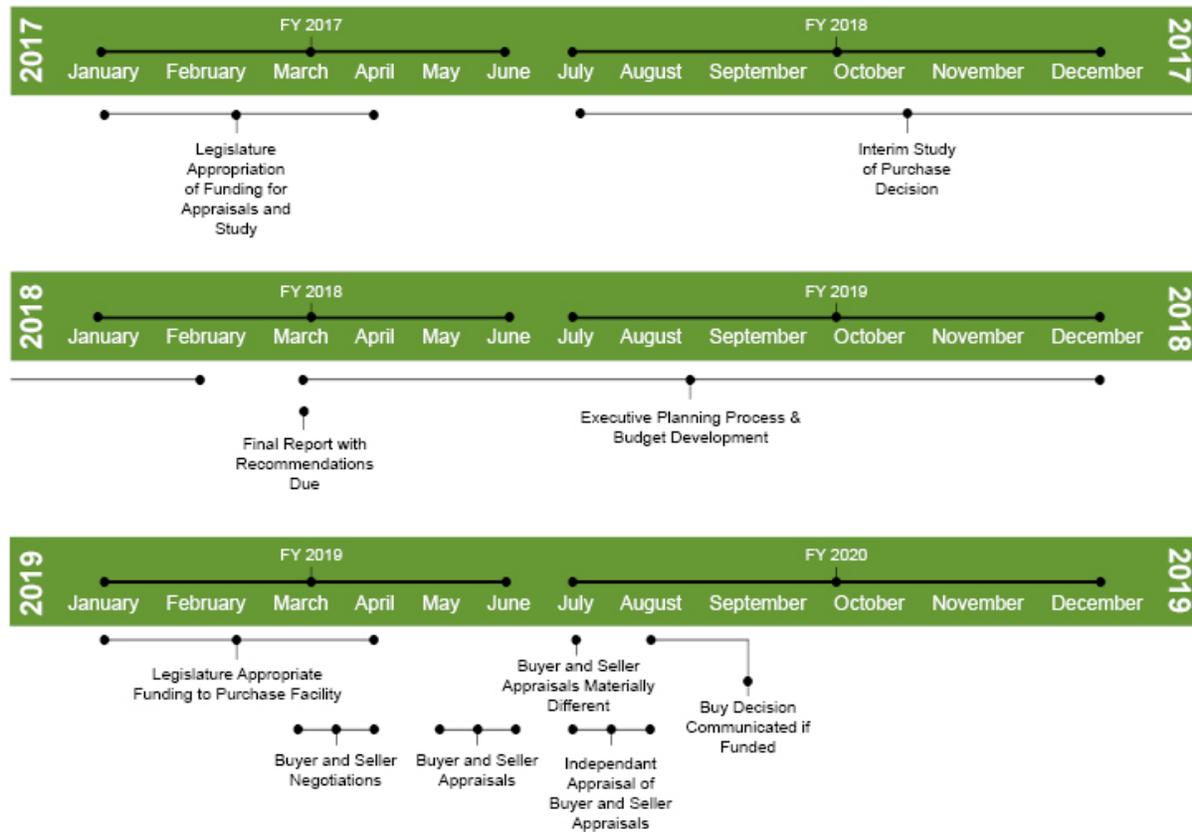
#### Potential Work Items

- 1) A cost estimate for state operation of the facility could be completed, utilizing per day cost at a similar facility.
- 2) A detailed estimate would include a development of a cost model, based on items such as bed costs, services, and overhead.
- 3) A comprehensive long term forecast of expenses may take longer and may be more appropriate in a study in the 2019 biennium.

## **Potential Timeline for Purchase Decision**

The timeline on the next page shows both legislative session and interim timelines relative to the components in the contract. The timeline demonstrates the 2017 Legislature could consider an interim study of the purchase option prior to when the decision would need to be made and provide associated funding to complete the study.

## Purchase Decision Timeline | Crossroads Correctional Center



## Committee Considerations

The following items have been highlighted in this report and are compiled for committee consideration to discuss next steps. The committee may wish to direct the staff to develop one or more of the following:

- 1) Time and cost estimates for fair market value appraisals, but not the actual appraisal.
- 2) Estimates of the present value of user fees at various rates of return assumptions to offset fair market value.
- 3) An estimate of the impacts of the facility purchase on local and state taxes.
- 4) A cost estimate for what it would take to operate the Crossroads Correctional Center under state ownership.
  - a) high level summary estimate
  - b) detailed estimate
- 5) A more comprehensive analysis during the 2019 biennium