# COUNTY of MONROE
**The Florida Keys**

**BOARD OF COUNTY COMMISSIONERS**
Mayor Holly Merrill Raschein, District 5
Mayor Pro Tem James K. Scholl, District 3
Craig Cates, District 1
Michelle Lincoln, District 2
David Rice, District 4

## Board of County Commissioners Meeting
## July 17, 2024
## Agenda Item Number: R12
## 2023-2698

---

**BULK ITEM:** No **DEPARTMENT:** Administration

**TIME APPROXIMATE:** **STAFF CONTACT:** Joe DiNovo (305)292-3470

---

**AGENDA ITEM WORDING:** Approval of a resolution acknowledging receipt of an unsolicited proposal pursuant to 255.065, Florida Statutes, from Fortress Secured to design and construct a new fire station for Monroe County at the current location of the Sugarloaf Volunteer Fire Department's Station 10; determining that the Proposal meets the criteria set forth in Subsection 255.065(3)(c)(1-5), Florida Statutes; concluding that the proposal is in the public's interest pursuant to Subsection 255.065(3)(f), Florida Statutes; and approving the Public Private Partnership comprehensive agreement in accordance with Subsection 255.065(7), Florida Statutes, with Fortress Secured and authorization for the Mayor to execute the comprehensive agreement.

---

**ITEM BACKGROUND:**
In April of 2022, the County received an unsolicited proposal from Fortress Secured, LLC ("Fortress"), pursuant to F.S. 255.065, the Public-Private Partnership ("P3") statute. Fortress proposed to deliver a replacement for Station 10, which is currently owned by the Sugarloaf Volunteer Fire Department, Inc. ("Sugarloaf VFD").

At the time, the County, Sugarloaf VFD, and Sugarloaf Wi-Fi, Inc. ("Wi-Fi"), were involved with circuit court litigation (Case Nos. 2017-CA-20-K and 2017-CA-631-K) concerning a lease between Sugarloaf VFD and Wi-Fi. During the pendency of the litigation, Sugarloaf VFD advised the County that it no longer had the capacity to provide fire-fighting services and wanted to donate its station to the County so Monroe County Fire Rescue could continue to serve the Sugarloaf community. Fortress's proposal was premised on the County acquiring ownership of the property from Sugarloaf VFD and then contracting with Fortress for demolition of the existing structure and construction of a new station. The proposal contemplated providing space for a cell tower on the property, which would enable the County to resolve issues then caught up in litigation with Wi-Fi.

In April 2022, the Board deemed the proposal a "qualifying project" under the P3 statute. The County proceeded to advertise the project and solicit competing proposals. After receiving none, the County undertook negotiations with Fortress. Those negotiations resulted in an interim agreement effective March 6, 2023. Pursuant to the interim agreement, Fortress undertook predevelopment activities focused on design plans and construction budgeting and scheduling. Functionally, Fortress financed all

the predevelopment activities (it has received no compensation under the interim agreement).

During the predevelopment period, the County and Fortress have negotiated a draft comprehensive agreement under the P3 statute. The draft comprehensive agreement is attached.

Effective July 1, 2024, chapter 2024-96, Laws of Fla., amends the P3 statute to require an additional public meeting before approving a comprehensive agreement resulting from an unsolicited proposal. See F.S. 255.065(3)(f)1. The new law also adds detail concerning the "public interest" finding necessary to approve a comprehensive agreement. See F.S. 255.065(3)(c).

At a public hearing which will be held on July 16, 2024, the draft comprehensive agreement will be presented to allow affected public entities and members of the public an opportunity to review the draft and provide comments.

At the July 17th meeting, before approving the comprehensive agreement, the Board will consider the factors required by the P3 statute. With regard to the public interest finding, the Board will consider the details required by the new law, specifically:

1. The project's benefits to the public.
2. The project's financial structure and economic efficiencies.
3. The qualifications and experience of Fortress and its ability to perform the project.
4. The project's compatibility with regional infrastructure plans.
5. Public comments submitted verbally during this initial meeting. If any public comments are submitted at the meeting, the County will provide a statement that explains why the project should proceed and address such comments.

The Board must then also determine that the proposed comprehensive agreement:

1. Is in the public's best interest (Subsection 255.065(3)(f)(1);
2. Is for a facility that is owned by the County (Subsection 255.065(3)(f)(2);
3. has adequate safeguards in place to ensure that additional costs or service disruptions are not imposed on the public in the event of material default by Fortress Secured or cancellation of the comprehensive agreement by the County (Subsection 255.065(3)(f)(3);
4. has adequate safeguards in place to ensure that the County or Fortress Secured has the opportunity to add capacity to the project or other facilities serving similar predominantly public purposes. (Subsection 255.065(3)(f)(4);

and the Board must also find that:

1. the qualifying project meets a public need or benefit (Subsection 255.065(5)(e)(1);
2. the estimated cost of the qualifying project is reasonable in relation to similar facilities (Subsection 255.065(5)(e)(2); and
3. that Fortress's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project(Subsection 255.065(5)(e)(3).

This comprehensive agreement is separate from the above-referenced litigation regarding the cell tower. Any resolution of the litigation will have to be addressed by a separate legal instrument.

---

**PREVIOUS RELEVANT BOCC ACTION:**

On 7/19/2017 (Item N5), the BOCC authorized the County Attorney to file suit seeking to void the lease between the Sugarloaf Volunteer Fire Department and Sugarloaf Wi-Fi, Inc. due to violations of the Sunshine Law.

On 4/20/22 (Item #P10), the Board deemed the unsolicited proposal a "qualifying project" and directed that staff proceed under the P3 statute.

On 7/20/22 (Item #R11), the Board authorized then Assistant County Administrator Kevin Wilson to negotiate agreements with Fortress Secured, LLC.

On 1/18/23 (Item #O6), the Board approved the interim agreement.

On 7/16/24, the Board will hold a public hearing as required by statute in order to allow affected public entities and members of the public an opportunity to review the draft and provide comments.

---

**INSURANCE REQUIRED:**
Yes

---

**CONTRACT/AGREEMENT CHANGES:**
N/A

---

**STAFF RECOMMENDATION:** Approval.

---

**DOCUMENTATION:**

Draft Comprehensive Agreement
Proposed BOCC Resolution

---

**FINANCIAL IMPACT:**

**Effective Date:** Upon execution by all parties.

**Expiration Date:**

**Total Dollar Value of Contract:** $9,610,275.00

**Total Cost to County:**

**Current Year Portion:** Estimated as $2 million

**Budgeted:**

**Source of Funds:**

**CPI:**

**Indirect Costs:**

**Estimated Ongoing Costs Not Included in above dollar amounts:**

**Revenue Producing:** **If yes, amount:**

**Grant:**

**County Match**:

**Insurance Required:** Yes, insurance provided after BOCC approval.

**Additional Details:**