



BOARD OF DIRECTORS MEETING

April 11, 2019

3:30 PM

NFE 2107

AGENDA

1. Call to order
2. Approval of Minutes of December 19, 2018 Meeting
3. Finance Committee
 - Resolution No. 183 - Annual Plan
 - Resolution No. 184 - Environmental Monitoring Agreement for Riverbend
 - Silevo, LLC Lease
4. New Business
5. Public Comment
6. Next Board of Directors meeting: TBD
7. Adjournment



MINUTES

Fort Schuyler Management Corporation Meeting of the Board of Directors December 19, 2018 – CNSE Nano Fab East Conference Room 2107

Directors present: Kristin Proud, Franklin Hecht, Kenneth Tompkins, Robert Geer, and Joan McDonald via video conference.

Staff: Douglas Grose – President, Cheryl Casey-Rose – Board Secretary, and Patricia Bucklin.

Guests: Keith Palmer – Research Foundation for SUNY, and Michael Frame – SUNY Poly Foundation.

1. Call to Order

- Ms. Proud called the meeting of the Board of Directors of Fort Schuyler Management Corporation (FSMC) to order at 10:47 AM.
- Ms. Proud welcomed Keith Palmer of The Research Foundation, and Michael Frame as a representative of the SUNY Poly Foundation.
- Ms. Proud asked if any directors had a conflict of interest, and if so, that the conflict be disclosed. There were none.

2. Review/approval of November 8, 2018 meeting minutes

- Ms. Proud asked for a motion to approve the Minutes of November 8, 2018 meeting. A motion to approve was made by Kenneth Tompkins and seconded by Robert Geer. The minutes were approved as presented.

3. Finance Committee Report – Kristin Proud

- Approval of Resolution relating to Turnkey Environmental Restoration, LLC.

FSMC entered into a Master Services Agreement with Turnkey Environmental Restoration, LLC (“Turnkey”) in 2014 to provide operations, maintenance and monitoring services at Riverbend. This includes groundwater monitoring, inspection of wells, maintenance and cleaning of pumps, inspection of the groundwater flushing system and similar services. Thereafter, the Board approved an extension of the services provided by Turnkey for the 2017 calendar year.

In 2018, pursuant to FSMC's procurement policy, the agreement was extended in increments of two to four months through December 31, 2018. FSMC recently issued an RFP for these services and expects to be able to make an award prior to the end of the year. In order to allow time for negotiation and approval of a contract with the successful bidder, FSMC seeks approval of authorization to enter into an extension of the contract with Turnkey for up to four months to allow time for negotiation and approval of the new contract.

The Finance Committee approved a resolution authorizing an extension of the Turnkey contract for up to four months, and recommended that the Board approve the same.

Requested Action: Approve a resolution authorizing an extension of the Turnkey contract for up to four months.

Motion: Kenneth Tompkins

Second: Robert Geer

Discussion: none.

Vote:

Ayes: 5, Nays: 0, Abstentions: 0.

4. New Business: None.

5. Public Comment: None

6. Next Board of Directors meeting: TBD

7. Adjournment:

- There being no further business to come before the Board, Chair Samson asked for a motion to adjourn. Franklin Hecht moved to adjourn and Kenneth Tompkins seconded the motion. The meeting was adjourned at 10:51 AM.

Respectfully Submitted,

Cheryl Casey-Rose
Secretary of the Board



2018-19 ANNUAL PLAN

I. Background

Fort Schuyler Management Corporation (FSMC) is an affiliate of the Research Foundation for the State University of New York (RF) and the SUNY Poly Foundation. FSMC is a not-for-profit company as defined by Section 501 (c)(3) of the Internal Revenue Code. FSMC's mission is to help facilitate research and economic development activities related to the mission of SUNY and SUNY Polytechnic Institute (SUNY Poly) by purchasing, constructing, developing and managing facilities and promoting research.

FSMC's bylaws require an Annual Plan to be presented and adopted by the FSMC Board of Directors for each corporate fiscal year, which begins on July 1 of each year. The Annual Plan compares actual revenues and expenses of the current fiscal year to the fiscal year budget, provides budgeted revenue and expenses for the upcoming fiscal year, and summarizes FSMC's fiscal year accomplishments.

II. Fiscal Year 2017-18 Accomplishments

During the spring of 2018, Empire State Development (ESD) and SUNY announced their intention to create the New York Center for Research, Economic Advancement, Technology, Engineering and Science Corporation (NY CREATES), a public-private-academic partnership to lead industry-driven research and development and economic development projects. The new not-for-profit corporation will assume control of FSMC and FRMC and take over SUNY Poly's economic development portfolio. The university will continue to manage its academic operations. The new corporation will also strengthen the State's high-tech economy by working with other in-state universities to advance research and development projects and to develop strategic assets that support the growth of high-tech companies across the State.

NY CREATES will have a single Board of Directors that will include the CEO of ESD and the SUNY Chancellor as ex-officio members. ESD and SUNY have also announced that Douglas A. Grose, an industry veteran and the former CEO of Global Foundries, will lead the new corporation. Mr. Grose was appointed President of FSMC and FRMC on June 1, 2018, and he will serve as President of NY CREATES when the establishment of the new corporation is complete.

The announcement to form NY CREATES follows other FSMC corporate governance changes that were made during the 2016-17 fiscal year to ensure greater transparency and accountability. FSMC's bylaws were amended to enable the President and CEO of ESD to serve as a non-voting, advisory representative of the FSMC Board of Directors and to nominate one of the four directors appointed by each member. FSMC's amended bylaws also provide for an Audit Committee with independent directors, voluntary compliance with key provisions of the Open Meetings Law, and other corporate reforms. The Board also passed resolutions adopting the following policies to guide all aspects of FSMC's operations:

1. Acquisition and Disposition of Real Property Policy;
2. Conflicts of Interest and Related Party Transaction Policy;
3. Procurement Guidelines Policy;
4. Records Access Policy;
5. Whistleblower Policy and Procedures;
6. Risk Management and Insurance Policy; and
7. Debt Management Policy

During the 2017-18 fiscal year, FSMC's work included upgrades to the Quad-C facility in Utica for use by Danfoss Silicon Power LLC ("Danfoss"), a leading manufacturer of power modules used in a wide variety of applications for the industrial, renewable energy and automotive sectors. Danfoss has leased the entire Quad-C facility and is expected to employ at least 300 people at the Quad-C facility within the first five years of operation.

FSMC also entered into a Contribution Agreement with ESD and NexGen Power Systems, Inc. (NexGen) providing that the parties will work together to establish a manufacturing and research development center for NexGen on property owned by FSMC in the Town of DeWitt. Pursuant to the Contribution Agreement, ESD is providing grant funding to be used to make improvements to the building, which is located at 50 Collamer Crossings Parkway, and to purchase manufacturing equipment. NexGen agreed to enter into a long-term lease with FSMC for the building. The company has started hiring and is expected to create 290 jobs over a seven-year period.

In addition, FSMC is in the process of developing a manufacturing hub in Plattsburgh for Norsk Titanium to produce titanium aircraft components. The new facility, which is expected to be completed later this year, will include up to 100,000 square feet of space for Norsk's manufacturing operations and offices. Norsk also is leasing 70,000 square feet of a nearby facility. The total project is expected to generate 383 high-tech jobs and generate \$875 million of private spending over ten years.

Several significant projects were completed or nearly completed in Buffalo. The largest such project is the 1.2 million square foot solar manufacturing facility at Riverbend, which is being operated by Silevo, LLC, its affiliates including Tesla, and Panasonic and, over the next five years, is expected to bring approximately \$2 billion in private company spending and create 3,460 new jobs in the State of New York, including 1,460 jobs in the City of Buffalo. The building construction has been completed, and Silevo, LLC, its affiliates including Tesla, and Panasonic are occupying the facility.

Another initiative that was completed during the 2017-18 fiscal year is the Buffalo Medical Innovation and Commercialization Hub. This initiative included the build-out of space in Buffalo's Conventus building for two health care industry companies: Albany Molecular Research, Inc. (AMRI) a global contract research and manufacturing organization that has been working with the pharmaceutical and biotechnology industries; and Athenex, Inc., a global biopharmaceutical company specializing in developing the next generation of therapies for cancer diseases. This project includes 51,000 square feet of lab and office space for AMRI, and 47,000 square feet of space for Athenex, which serves as the company's North American headquarters. AMRI is expected to create 55 jobs over seven years. Athenex is expected to create 250 jobs over five years and to spend at least \$100 million over ten years.

During the 2017-18 fiscal year, FSMC also provided authorization to Athenex for the construction of an approximately 315,000 square-foot, state-of-the-art pharmaceutical manufacturing facility in Dunkirk, New York. The new facility, which is under construction and being funded under a separate grant from ESD to Athenex, will be owned by FSMC. Athenex is expected to employ 450 individuals and spend \$1.52 billion at the project location over ten years.

FSMC also continued to lease space for the Buffalo IT Innovation and Commercialization Hub, which is led by IBM and consists of multiple floors of condos owned by FSMC in the Key Tower complex in Buffalo. In March 2018, IBM announced that the hub had over 200 employees. Overall, the site is expected to create 500 jobs over seven years.

III. Summary of the 2017-18 Actuals and 2018-19 Annual Plan

The Annual Plan for the 2017-18 assumed a \$168K surplus. FSMC's actual surplus was \$1.2MM, due to a variety of factors, including lower than projected legal fees and slower than expected hiring. The 2017-18 surplus will be used to support operations in 2018-19.

The Annual Plan for the 2018-19 fiscal year assumes revenues totaling \$8.4MM, including \$2MM of operating support and \$1MM in prior year surplus proceeds, and operating expenses and debt service of \$8.4MM.

The FSMC 2018-19 budget was prepared on a conservative basis. We will continue to work diligently to improve FSMC's financial condition.



2018 -2019 Proposed Annual Plan Summary of Revenue and Expenses for All Facilities

| Description | 2016 - 2017 Actual | 2017 - 2018 Budget | 2017 - 2018 Actual | Proposed |
|---|-----------------------|-----------------------|-----------------------|--------------------|
| | | | | 2018 -2019 Plan |
| Support and Revenue | | | | |
| Building Rental | 2,248,644 | 2,958,572 | 3,810,520 | 5,255,412 |
| 5 Year Loan | 6,973,002 | - | - | - |
| Insurance D&O | 1,217,093 | 500,000 | 148,930 | 83,750 |
| Insurance Casualty Losses | 126,618 | - | - | - |
| Operating Support | - | 5,700,000 | 6,000,000 | 1,950,000 |
| NYSERDA Rebates | 568,449 | 700,000 | 375,944 | 75,240 |
| Interest income | 26,527 | - | 141 | 145 |
| Total Support and Revenue | 11,160,333 | 9,858,572 | 10,335,535 | 7,364,547 |
| Operating Expenses | | | | |
| Personnel | 92,337 | 525,320 | 181,540 | 329,191 |
| Operations | 2,949,669 | 3,093,427 | 3,234,481 | 4,745,355 |
| Utilities | 310,953 | 95,851 | 144,653 | 79,360 |
| Professional Fees | 1,930,508 | 2,697,793 | 1,750,520 | 749,910 |
| Taxes | 947,045 | 1,040,852 | 1,304,671 | 580,146 |
| Capital Projects / Purchases | - | 1,800,000 | 2,033,004 | 212,000 |
| Total Operating Expenses | 6,230,512 | 9,253,243 | 8,648,869 | 6,695,962 |
| Net Operating Income | 4,929,821 | 605,329 | 1,686,666 | 668,585 |
| Debt Service | | | | |
| Principal | 1,178,683 | 1,520,734 | 1,520,734 | 1,613,361 |
| Interest | 422,844 | 170,933 | 170,933 | 132,742 |
| Total Debt Service | 1,601,527 | 1,691,667 | 1,691,667 | 1,746,103 |
| Budgeted Surplus (Deficit) | 3,328,294 | (1,086,338) | (5,001) | (1,077,518) |
| Prior Year Surplus (Deficit) | (2,074,000) | 1,254,294 | 1,254,294 | 1,249,293 |
| Budgeted Surplus Net of Prior Year | 1,254,294 | 167,956 | 1,249,293 | 171,775 |

RESOLUTION OF THE BOARD OF DIRECTORS OF
FORT SCHUYLER MANAGEMENT CORPORATION

April 11, 2019

RESOLUTION NO: 183

ADOPTION OF 2018-19 ANNUAL PLAN

WHEREAS, the Fort Schuyler Management Corporation (the "Corporation") is charged with directing the management of the operations, property, affairs and concerns of the Corporation;

WHEREAS, pursuant to the Bylaws of the Corporation, there shall be submitted to the Board of Directors by the President, for its approval, an annual plan which shall set forth all anticipated revenues and expenditures and indicate (a) the current fiscal year, showing approved expenditure levels (including approved changes) and estimated income and expenditures through the end of each period; (b) the prior fiscal year, showing actual income and expenditures for such period; and (c) the next ensuing fiscal year showing estimated income and proposed expenditures for each;

WHEREAS, a 2018-19 Annual Plan was submitted to the Finance Committee of the Corporation upon the recommendation of management and Finance staff and, upon a motion duly made, was approved by the Finance Committee with a recommendation that it be approved by the Board of Directors;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CORPORATION, AS FOLLOWS:

SECTION 1: APPROVAL OF ANNUAL PLAN. The Fort Schuyler Management Corporation Board of Directors hereby approves the 2018-19 Annual Plan.

SECTION 2: EFFECTIVE DATE. This resolution shall take effect immediately.

To: Fort Schuyler Management Corporation Board of Directors

Re: Environmental Monitoring Agreement at Riverbend

Background:

Fort Schuyler Management Corporation (“FSMC”) issued a Request for Proposals for operations, maintenance and monitoring services at the Riverbend site, including groundwater monitoring, inspection of wells, maintenance and cleaning of pumps, inspection of the groundwater flushing system and similar services. These services are based on requirements for monitoring and maintenance of the site in accordance with NYS Department of Environmental Conservation mandates and the Site Management Plan.

Following a competitive procurement and in compliance with the Corporation’s Procurement Policy Guidelines, FSMC issued a tentative award to the lowest bidder, Barton & Loguidice, D.P.C. (“B&L”) and now seeks Board approval of the award and authorization to enter into a three-year contract with B&L beginning on May 1, 2019 at first, second and third year annual rates of \$99,463, \$102,111 and \$105,174, respectively.

The Finance Committee approved a resolution (1) approving the award to B&L for the operation, maintenance and monitoring services at the Riverbend site, (2) authorizing, empowering and directing the President and Treasurer, each of them without the other, to approve, sign, acknowledge and deliver all documents or contracts in such form, substance and content, and upon such terms as may be necessary or appropriate, to implement and carry out the purposes and intents of this Resolution, and (3) recommending that the Board approve the same.

Requested Action:

Approve Resolution No. 184 (1) approving the award to B &L for the operation, maintenance and monitoring services at the Riverbend site, and (2) authorizing, empowering and directing the President and Treasurer, each of them without the other, to approve, sign, acknowledge and deliver all documents or contracts in such form, substance and content, and upon such terms as may be necessary or appropriate, to implement and carry out the purposes and intents of this Resolution.

RESOLUTION OF THE BOARD OF DIRECTORS
OF FORT SCHUYLER MANAGEMENT CORPORATION

APRIL 11, 2019

RESOLUTION NO.:184

AUTHORIZATION TO APPROVE AN AWARD AND TO ENTER INTO A CONTRACT
FOR BASIC OPERATION, MAINTENANCE AND MONITORING (OM&M) AT THE
RIVERBEND SITE

WHEREAS, Fort Schuyler Management Corporation (“Corporation”) is a 501(c)(3) corporation formed for the purposes of helping to facilitate research and economic development activities related to the research and educational mission of the State University of New York (“SUNY”) by purchasing, constructing, and developing and managing facilities and promoting the research therein which support the economic development, research activities, and the mission of SUNY and the State University of New York Polytechnic Institute (“SUNY Poly”); and

WHEREAS, the Corporation issued a Request for Proposals for operations, maintenance and monitoring services at the Riverbend site, including groundwater monitoring, inspection of wells, maintenance and cleaning of pumps, inspection of the groundwater flushing system and similar services; and

WHEREAS, these services are based on requirements for monitoring and maintenance of the site in accordance with NYS Department of Environmental Conservation mandates and the Site Management Plan; and

WHEREAS, following a competitive procurement and in compliance with the Corporation’s Procurement Policy Guidelines, the Corporation issued a tentative award to the lowest bidder, Barton & Loguidice, D.P.C. (“B&L”) and now seeks Board approval of the award and authorization to enter into a three-year contract with B&L beginning on May 1, 2019 at first, second and third year annual rates of \$99,463, \$102,111 and \$105,174, respectively.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE
CORPORATION AS FOLLOWS:

SECTION 1: The Board of Directors hereby approves the award to B&L for the operation, maintenance and monitoring services at the Riverbend site.

SECTION 2: DOCUMENTS AND CONTRACTS. The Board of Directors hereby authorizes, empowers and directs the President and Treasurer, each of them without the other, to approve, sign, acknowledge and deliver all documents or contracts in such form, substance and content,

and upon such terms as may be necessary or appropriate, to implement and carry out the purposes and intents of this Resolution.

SECTION 3: EFFECTIVE DATE. This Resolution shall take effect immediately.

TO: Fort Schuyler Management Corporation Board of Directors

RE: Lease to Silevo, LLC

Background

Fort Schuyler Management Corporation (“FSMC”) has been engaged in the development of a state-of-the-art high-tech and green energy campus known as the Buffalo High-Tech Manufacturing and Innovation Hub in the Greater Buffalo Area, including the 88.24 acre parcel of land and 1.2 million square foot facility located at the Buffalo High-Tech Manufacturing and Innovation Hub at Riverbend Park (“Riverbend Facility”). The Riverbend facility was completed on April 30, 2018.

FSMC transferred the Riverbend Facility to Empire State Development (“ESD”) on November 21, 2018 for \$1.00 in order to preserve the property tax exemption for the Riverbend Facility. FSMC now leases the Riverbend Facility from ESD for a term of 10 years commencing November 21, 2018. At the expiration of the 10 year lease term, ESD shall convey the Riverbend Facility back to FSMC for \$1.00.

Pursuant to that certain Amended and Restated Agreement for Research & Development Alliance on Triex Module Technology dated as of September 2, 2014, as amended, between The Research Foundation for the State University of New York and Silevo, Inc. (the “Riverbend Agreement”), it was contemplated that the Riverbend Facility would be leased to Silevo, Inc. at a base rent of \$1.00 per year for a period of 10 years, with an option for Silevo, Inc. to either purchase the Riverbend Facility at fair market value or lease the Riverbend Facility for an additional 10 years upon the same terms at the expiration of the initial 10 year lease term.

FSMC now seeks approval to lease/sublease the Riverbend Facility to Silevo, LLC (successor to Silevo, Inc.) at a base rent of \$1.00 per year for 10 years effective April 30, 2018, with an option for Silevo, LLC to either purchase the Riverbend Facility at fair market value or lease the Riverbend Facility for an additional 10 years upon the same terms at the expiration of the initial 10 year term.

Compliance with Acquisition and Disposition of Real Property Policy

The Acquisition and Disposition of Real Property Policy adopted by the FSMC Board in Resolution 145 on February 22, 2017 permits a disposition of real property, including a lease, through negotiation at less than fair market value under specific circumstances provided that certain required information is provided. That information is set forth below.

- (1) Full Description of the Asset – The Riverbend Facility is a 1.2 million square foot building located on 88.24 acres of land in the City of Buffalo constructed to house the largest solar energy product manufacturer facility in the Western Hemisphere.

- (2) Appraisal of the Fair Market Value of the Asset – An appraisal of the Riverbend Facility would not be practical or useful in this situation where the proposed annual rent for the real property is \$1.00 and the purpose of the proposed transfer is within the purpose and mission of FSMC and not to achieve the highest purchase price. Based upon the foregoing, the Interim Contracting Officer has determined the fair market value of the Riverbend Facility to be at least equivalent to the assessed value of \$209,375,000.
- (3) Description of the Transfer and a Reasonable Statement of the Kind and Amount of Benefit to the Public Resulting from the Transfer – The proposed lease of the Riverbend Facility to Silevo, LLC will generate a significant economic benefit to Western New York through investment of capital in the economy and employment.
- (4) Statement of the Value to be Received Compared to the Fair Market Value – FSMC will receive \$1.00 for the lease of the Riverbend Facility each year during the term of the lease.
- (5) Names of Private Parties Participating in the Transfer – None.
- (6) Names of Private Parties who have made an Offer for such Asset – None.
- (7) Statement of Disposal by Negotiation – FSMC determined that the property can be disposed of by negotiation at less than fair market value because the purpose of the proposed lease is within the purpose and mission of FSMC.
- (8) Approvals - FSMC President Douglas A. Grose and Interim Contracting Officer Scott Bateman approve the proposed lease, find that the purpose of the proposed lease is within the purpose and mission of FSMC, and that there is no reasonable alternative to the proposed below market lease that would achieve the same purpose. In addition, Howard Zemsky, President and Chief Executive Officer of Empire State Development, consents to the transfer, finding that the purpose of the transfer is within the purposes or mission of FSMC and that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of the transfer.

The FSMC Finance Committee approved a resolution (1) authorizing FSMC to enter into a lease of the Riverbend Facility to Silevo, LLC at a base rent of \$1.00 per year for 10 years effective April 30, 2018, with an option for Silevo, LLC to either purchase the Riverbend Facility at fair market value or lease the Riverbend Facility for an additional 10 years upon the same terms at the expiration of the initial 10 year term; (2) authorizing the FSMC President and Treasurer, each of them without the other, to approve, sign, acknowledge and deliver all documents or contracts in such form, substance and content and upon such terms as such officer may deem necessary or appropriate, to implement and carry out the purposes and intent of this Resolution, and (3) recommending that the Board approve the same action.

Requested Action:

Approve a resolution (1) authorizing FSMC to enter into a lease of the Riverbend Facility to Silevo, LLC at a base rent of \$1.00 per year for 10 years effective April 30, 2018, with an option for Silevo, LLC to either purchase the Riverbend Facility at fair market value or lease the Riverbend Facility for an additional 10 years upon the same terms at the expiration of the initial 10 year term; and (2) authorizing the FSMC President and Treasurer, each of them without the other, to approve, sign, acknowledge and deliver all documents or contracts in such form, substance and content and upon such terms as such officer may deem necessary or appropriate, to implement and carry out the purposes and intent of this Resolution.