



For Immediate Release: Thursday, November 17, 2016

Contact:

Jason Conwall | Jason.Conwall@esd.ny.gov | (800) 260-7313

ESD Press Office | PressOffice@esd.ny.gov | (800) 260-7313

STATEMENT FROM EMPIRE STATE DEVELOPMENT PRESIDENT, CEO & COMMISSIONER HOWARD ZEMSKY

Empire State Development (ESD) President, CEO & Commissioner Howard Zemsky today issued the following statement regarding the agency's ongoing efforts to oversee SUNY Polytechnic Institute's portfolio of economic development projects:

"On September 23, Governor Cuomo directed ESD to assume the lead role on SUNY Poly's economic development portfolio. Since then, we have been assessing each project and engaging with all stakeholders involved, including businesses, the State University of New York (SUNY), the Research Foundation for The State University of New York (SUNY RF), SUNY Poly, and Fort Schuyler and Fuller Road Management Corporations.

"After weeks of working collaboratively to develop a path forward, we have recommended substantial reforms to the governance of Fort Schuyler Management Corporation (FSMC). The goals of these reforms are to establish greater transparency, accountability and integrity, and help to ensure that ongoing economic development projects continue to move forward, create new jobs and generate opportunities without unnecessary delays. New FSMC by-laws have been adopted, implementing the recommendations made by ESD. With these reforms, plus those recently proposed by the Governor, we believe we are creating the right balance between ensuring that all economic development efforts are transparent and accountable and fulfilling the State's commitments to project stakeholders, including the communities in which these important and potentially transformative projects are located."

The revised bylaws will serve as an operating blueprint for a newly constituted FSMC, with policies and procedures that incorporate key provisions of the New York State Public Officers Law with respect to access to records, open meetings and public accountability. The fundamental changes are as follows:

FSMC Board of Directors

Composition: The FSMC Board of Directors consists of 11 members, with all appointments previously made by SUNY RF and SUNY Polytechnic Institute

Foundation. ESD will now designate two (2) of the Directors; and ESD must consent to the appointment of three (3) more Directors, of which two (2) will be designated Board Chair and Vice Chair, respectively. Additionally, ESD's President and CEO, or their designee, will be a non-voting member of the Board.

Conflicts of Interest: The FSMC Directors, upon appointment and annually thereafter, will sign an Acknowledgement of Fiduciary Duty and will disclose any conflicts of interest, as well as participate in periodic conflicts of interest training.

Audit Committee: The revised bylaws require an audit committee of the Board, comprised of three (3) independent Directors, will oversee FSMC's material legal, audit and compliance matters, system of internal controls, and reporting.

Compliance Officer: The revised bylaws require FSMC to have a Compliance Officer who reports to the President and the Board. The Compliance Officer will be responsible for the preparation, implementation and enforcement of policies and procedures designed to prevent and detect violations of applicable law, regulations, rules and ethical standards by FSMC employees, agents and others.

Increasing Transparency & Accountability

Freedom of Information Law: The bylaws require the Board to adopt, implement and enforce a Records Access Policy that conforms to the requirements of the Freedom of Information Law (FOIL).

Open Meetings Law: The revised bylaws adopt key provisions of the Open Meetings Law, traditionally applied to public agencies and authorities, including:

- All meetings of the Board will be open to the public, subject only to exemptions provide for in the law;
- Executive sessions may only be called for the reasons permitted under the law;
- An agenda, the materials submitted to the Directors and minutes will be made publicly available and advanced notice will be provided to the public and media; and
- Directors will be required to participate in person or by videoconference in order to vote or be considered present for the purpose of establishing a meeting quorum.

Required Policies and Procedures: The revised bylaws mandate that the Board adopt, implement and enforce policies and procedures for the proper and ethical conduct of FSMC's operations and activities. These policies will incorporate the recommendations made by Guidepost Solutions, the independent investigator retained by the Executive Chamber in April 2016, to conduct a review of all grants and approvals related to the Buffalo Billion and Nano economic development programs.

The required policies and procedures for the Board to consider and adopt at an upcoming meeting include:

- Code of Conduct for Directors, officers and employees;
- Policy regarding conflicts of interest;
- Fraud and whistleblower policy;
- Policy and procedure for the procurement and administration of contracts;
- Policy regarding the acquisition and disposition of real estate;
- Records Access Policy, in conformance with Article 6 of the New York Public Officers Law (FOIL); and
- Policy regarding debt, risk assessment and risk mitigation.

Annual Review: The Compliance Officer will report to the Board, at least annually, on the implementation of FSMC's policies and procedures during the preceding year, including any violations and action taken or recommended. The report will include recommendations regarding proposed amendments of existing policies or the adoption of new ones, in accordance with then current best practices.

###