

6844--A

Cal. No. 426

I N S E N A T E

February 12, 2010

Introduced by Sens. HUNTLEY, SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee and committed to the Committee on Cities -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general municipal law, in relation to contracts for public work projects and accommodation of private facilities or structures, in connection with the water tunnel capital program of the city of New York within a specified area of New York county; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 103 of the general municipal law is amended by
2 adding a new subdivision 13 to read as follows:
3 13. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, TO FACILI-
4 TATE THE TIMELY AND COST EFFECTIVE COMPLETION OF UTILITY WORK WITHIN THE
5 AREA OF NEW YORK COUNTY SOUTH OF A LINE BEGINNING AT A POINT WHERE THE
6 UNITED STATES PIERHEAD LINE IN THE HUDSON RIVER AS IT EXISTS NOW OR MAY
7 BE EXTENDED WOULD INTERSECT WITH THE NORTHERLY LINE OF WEST 72ND STREET
8 EXTENDED, THENCE EASTERLY ALONG THE NORTHERLY SIDE OF WEST 72ND STREET
9 TO CENTRAL PARK, THENCE EASTERLY THROUGH CENTRAL PARK ALONG A LINE
10 EXTENDING FROM THE NORTHERLY SIDE OF WEST 72ND STREET TO THE NORTHERLY
11 SIDE OF EAST 72ND STREET, THENCE EASTERLY ALONG THE NORTHERLY SIDE OF
12 EAST 72ND STREET TO THE POINT WHERE IT WOULD INTERSECT WITH THE UNITED
13 STATES PIERHEAD LINE IN THE EAST RIVER AS IT EXISTS NOW OR MAY BE
14 EXTENDED, INCLUDING TAX LOTS WITHIN OR IMMEDIATELY ADJACENT THERETO, ALL
15 CONTRACTS FOR A PUBLIC WORK PROJECT THAT RELATE TO OR ARE IN FURTHERANCE
16 OF THE WATER TUNNEL CAPITAL PROGRAM OF SUCH CITY WITHIN SUCH AREA MAY
17 INCLUDE WORK THAT THE CONTRACTING AGENCY OF SUCH CITY DEEMS NECESSARY OR
18 DESIRABLE FOR THE COMPLETION OF SUCH PROJECT THAT REQUIRES THE MAINTE-
19 NANCE, SUPPORT, PROTECTION OR OTHER ACCOMMODATION OF ENERGY, TELECOMMU-
20 NICATIONS OR OTHER PRIVATE FACILITIES OR STRUCTURES NOT PUBLICLY OWNED
21 WHICH ARE LOCATED WITHIN, TRAVERSING OR ADJACENT TO THE CONSTRUCTION

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 AREA OF SUCH PROJECT, WHETHER ABOVE, BELOW OR AT GROUND LEVEL, INCLUDING
2 THE REMOVAL, RELOCATION, ALTERATION, REPLACEMENT, RECONSTRUCTION OR
3 IMPROVEMENT OF SUCH FACILITIES OR STRUCTURES, PROVIDED THAT: (I) THE
4 COSTS OF WORK PERFORMED PURSUANT TO THIS SUBDIVISION, INCLUDING ANY
5 INCREMENTAL OR ADMINISTRATIVE COSTS ATTRIBUTABLE TO SUCH WORK, SHALL NOT
6 BE BORNE BY SUCH AGENCY EXCEPT AS OTHERWISE PROVIDED BY CHAPTER THREE
7 HUNDRED FIFTY-SEVEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-EIGHT; AND
8 (II) ANY LOWER MANHATTAN REDEVELOPMENT PROJECT, AS DEFINED IN SECTION
9 THREE OF CHAPTER TWO HUNDRED FIFTY-NINE OF THE LAWS OF TWO THOUSAND
10 FOUR, KNOWN AS THE COORDINATED CONSTRUCTION ACT FOR LOWER MANHATTAN, AS
11 AMENDED, SHALL BE GOVERNED BY SUCH ACT WHILE SUCH ACT REMAINS IN EFFECT.
12 IF SUCH AGENCY INCLUDES SUCH WORK IN A CONTRACT PURSUANT TO THIS SUBDI-
13 VISION, SUCH AGENCY SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE
14 BIDDER BASED UPON THE COMBINED COST OF THE PUBLIC WORK AND THE UTILITY
15 WORK AND SUCH AGENCY SHALL BE REIMBURSED BY THE ENTITY RESPONSIBLE FOR
16 THE UTILITY WORK FOR ANY INCREMENTAL OR ADMINISTRATIVE COST INCREASE IN
17 AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE COST OF THE AGENCY WORK OF
18 THE OVERALL LOW BIDDER AND THE COST OF THE AGENCY WORK OF THE LOWEST
19 BIDDER FOR THE AGENCY WORK ALONE. HOWEVER, IF THE COST OF THE AGENCY
20 WORK OF THE LOWEST BIDDER FOR THE AGENCY WORK ALONE IS MORE THAN TWENTY
21 PERCENT BELOW THE AVERAGE OF THE NEXT TWO LOWEST BIDS FOR THE AGENCY
22 WORK, THEN THE AGENCY SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE
23 BIDDER FOR THE AGENCY WORK ALONE. IN THE EVENT THAT THE UTILITY WORK IS
24 INCLUDED IN SUCH AGENCY'S CONTRACT PURSUANT TO THIS SUBDIVISION, SUCH
25 AGENCY SHALL MONITOR AND, TO THE EXTENT NECESSARY, PARTICIPATE IN
26 DISPUTE RESOLUTION BETWEEN THE CONTRACTOR AND THE ENTITY RESPONSIBLE FOR
27 THE UTILITY WORK. IN THE EVENT THAT THE UTILITY WORK IS NOT INCLUDED IN
28 SUCH AGENCY'S CONTRACT, NOTHING IN THIS SUBDIVISION SHALL PREVENT SUCH
29 AGENCY FROM INCLUDING PROVISIONS IN ITS CONTRACTS REQUIRING CONTRACTORS
30 TO ENGAGE IN ALTERNATE METHODS OF DISPUTE RESOLUTION REGARDING UTILITY
31 WORK.

32 S 2. This act shall take effect immediately, and shall apply to
33 contracts entered into or otherwise formally solicited on or after such
34 effective date; provided that this act shall expire and be deemed
35 repealed December 31, 2014; and provided further, that this act shall
36 also apply to any contract to which this act would otherwise apply that
37 has been advertised or otherwise formally solicited on or after the
38 effective date of this act and on or before December 31, 2014.