S T A T E O F N E W Y O R K

S. 8221--A A. 11471--A

S E N A T E - A S S E M B L Y

June 16, 2010

IN SENATE -- Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. McEneny, Canestrari) -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT authorizing the lease of lands located at the State University of New York at Albany

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

Section 1. Legislative findings. The legislature finds that the State University of New York at Albany ("University") is in need of additional facilities to fulfill its legislatively mandated mission of research, education, and workforce training. Specifically, additional instructional and laboratory space is required to support the academic programs of the University's College of Nanoscale Science and Engineering, the New York State Center for Excellence in Nanoelectronics & Nanotechnology and associated semiconductor research and teaching activities funded by active partnerships between government and private industry. Furthermore, such activity will promote technology deployment, distributed workforce development, and economic outreach across the capital region of New York state.

The legislature further finds that granting the trustees of the state university of New York the authority and power to lease and otherwise contract to make available grounds and facilities of the campus of the State University of New York at Albany will ensure such activity will promote technology deployment, distributed workforce development, and economic outreach across the capital region of New York state.

S 2. As used in this act "Fuller Road Management" shall mean Fuller Road Management Corporation, which is a 501(c) (25) corporation established as a member corporation of the University at Albany Foundation

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

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and The Research Foundation of State University of New York for the purpose of holding real estate for projects of the State University of New York at Albany.

S 3. For the purposes of this act: (a) "project" shall mean work at the property authorized by this act to be leased to the Fuller Road Management Corporation as described in section twelve of this act that involves the design, construction, reconstruction, demolition, excavating, rehabilitation, repair renovation, alteration or improvement of additional instructional and laboratory space.

(b) "project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and a labor organization, establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

S 4. Notwithstanding any other law to the contrary, the state university trustees are hereby authorized and empowered, without any public bidding, to lease and otherwise contract to make available to Fuller Road Management a portion of the lands of the State University of New York at Albany generally described as all that real property consisting of approximately 11.07 acres of land adjacent to or adjoining the lands which the state university trustees were authorized to make available to Fuller Road Management pursuant to chapter 541 of the laws of 2005, for the purpose of constructing a research and education facility to provide additional instructional and laboratory space required to support workforce training and the academic programs of the College of Nanoscale Science and Engineering and the mission of the state university of New York. Such lease or contract shall be for a period not exceeding 40 years without any fee simple conveyance and otherwise upon terms and conditions determined by such trustees, subject to the approval of the director of the division of the budget, the attorney general and the state comptroller. In the event that the real property that is the subject of such lease or contract shall cease to be used for the purpose described in this act, such lease or contract shall immediately terminate and the real property and any improvements thereon shall revert to the state university of New York. Any lease or contract entered into pursuant to this act shall provide that the real property that is the subject of such lease or contract and any improvements thereon shall revert to the state university of New York on the expiration of such contract or lease.

S 5. Any contract or lease entered into pursuant to this act shall be deemed to be a state contract for purposes of article 15-A of the executive law, and any contractor, subcontractor, lessee or sublessee entering into such contract or lease for the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration or improvement authorized pursuant to this act shall be deemed a state agency for the purposes of article 15-A of the executive law and subject to the provisions of such article.

S 6. Notwithstanding any general, special or local law or judicial decision to the contrary, all work performed on a project authorized by this act where all or any portion thereof involves a lease or agreement for construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration or improvement shall be deemed public work and shall be subject to and performed in accordance with the provisions of article 8 of the labor law to the same extent and in the

same manner as a contract of the state, and compliance with all the provisions of article 8 of the labor law shall be required of any lessee, sublessee, contractor or subcontractor on the project including the enforcement of prevailing wage requirements by the fiscal officer as defined in paragraph e of subdivision 5 of section 220 of the labor law to the same extent as a contract of the state.

S 7. Nothing in this act shall be deemed to waive or impair any rights or benefits of employees of the state university of New York that otherwise would be available to them pursuant to the terms of agreements between the certified representatives of such employees and the state of New York pursuant to article 14 of the civil service law; all work performed on such property that ordinarily would be performed by employees subject to article 14 of the civil service law shall continue to be performed by such employees.

S 8. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary:

(a) The Fuller Road Management Corporation may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the Fuller Road Management Corporation request for proposals for the project and when the Fuller Road Management Corporation determines that the record supporting the decision to enter into such an agreement establishes that the interests underlying the competitive bidding laws are best met by requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.

(b) If the Fuller Road Management Corporation does not require a project labor agreement, then any contractor, subcontractor, lease, grant, bond, covenant or other agreements for a project shall be awarded pursuant to section 135 of the state finance law.

S 9. Without limiting the determination of the terms and conditions of such contracts or leases, such terms and conditions may provide for leasing, subleasing, construction, reconstruction, rehabilitation, improvement, operation and management of and provision of services and assistance and the granting of licenses, easements and other arrangements with regard to such grounds and facilities by Fuller Road Management, and parties contracting with Fuller Road Management, and, in connection with such activities, the obtaining of funding or financing, whether public or private, unsecured or secured (including, but not limited to, secured by leasehold mortgages and assignments of rents and leases), by Fuller Road Management and parties contracting with Fuller Road Management for the purposes of completing the project described in this act.

S 10. Such lease shall include an indemnity provision whereby the lessee or sublessee promises to indemnify, hold harmless and defend the lessor against all claims, suits, actions, and liability to all persons on the leased premises, including tenant, tenant's agents, contractors, subcontractors, employees, customers, guests, licensees, invitees and members of the public, for damage to any such person's property, whether real or personal, or for personal injuries arising out of tenant's use or occupation of the demised premises.

S 11. Any contracts entered into pursuant to this act between Fuller Road Management and parties contracting with Fuller Road Management shall be awarded by a competitive process.

S 12. The property authorized by this act to be leased to Fuller Road Management is generally described as those parcels of real property with improvements thereon, consisting of a total of approximately 11.07 acres, situated on the campus of the State University of New York at Albany. The descriptions in this section of the parcels to be made available pursuant to this act are not meant to be legal descriptions, but are intended only to generally identify the parcels:

FIRST PARCEL:

All that tract, piece or parcel of land situate in the City of Albany, County of Albany, State of New York, and being more particularly bounded as described as follows:

Beginning at a concrete monument found in the northerly bounds of the existing Washington Avenue Extension, at its intersection with the westerly bounds of the existing Fuller Road; said point being Station 156+54, 104 feet Left as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 103;

thence along the northerly bounds of Washington Avenue Extension the following three (3) courses and distances:

1. N.87°28'01"W., a distance of 679.06 feet to a point, said point being Station 149+75, 95 feet Left as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

2. N.74°58'18"W., a distance of 162.24 feet to a point, said point being Station 148+16.15, 128 feet to the Left as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

3. N.87°46'33"W., a distance of 335.12 feet to a point;

thence along the division line between a parcel to be transferred to the N.Y.S. Department of Transportation to the north and the herein described parcel to the south, the following five (5) courses and distances:

1. N.58°24'32"E., a distance of 213.53 feet to a point of curvature of an arc with a radius of 699.00 feet;

2. Continuing easterly and along a curve to the right having a radius of 699.00 feet, said arc being subtended by a central angle of 30°10'00" for an arc length of 368.03 feet to a point of compound curvature of an arc with a radius of 590.00 feet;

3. Continuing easterly and along a curve to the right having a radius of 590.00 feet, said arc being subtended by an angle of 19°04'31" for an arc length of 196.43 feet to a point;

4. S.72°20'57"E., a distance of 477.89 feet to a point;

5. S.59°24'33"E., a distance of 93.25 feet to a point in the westerly bounds of Fuller Road;

thence along the westerly bounds of Fuller Road the following two (2) courses and distances,

1. S.02°02'14"W., a distance of 39.85 feet to a point;

2. S.50°22'30"W., a distance of 77.83 feet to the point of beginning.

Containing 255,179 Square Feet or 5.17 Acres of land more or less. Subject to any and all easements, restrictions, and rights-of-way of record.

SECOND PARCEL:

All that piece or parcel of land upon transfer from the New York State Department of Transportation to the State University of New York situate in the City of Albany, County of Albany, State of New York, being more particularly described as follows:

Beginning at a concrete monument found in the northerly bounds of the existing Washington Avenue Extension, at its intersection with the westerly bounds of the existing Fuller Road; said point being at Station

156+54, 104 feet Left as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 103;

thence from said point of beginning, running along the westerly bounds of Fuller Road, S.08°32'05"W., a distance of 200.00 feet to a point, said point being Station 156+36, 95 feet Right as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 103;

thence along the southerly bounds of the existing Washington Avenue Extension the following five (5) courses and distances:

1. N.89°50'07"W., a distance of 366.55 feet to a point, said point being Station 152+70, 115 feet Right as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

2. N.78°55'48"W., a distance of 206.90 feet to a point, said point being Station 150+65, 87 feet Right as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

3. S.85°13'25"W., a distance of 401.88 feet to a point, said point being Station 146+63, 142 feet Right as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

4. N.72°56'09"W., a distance of 125.27 feet to a point, said point being Station 145+35, 105 feet Right as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

5. S.79°03'01"W., a distance of 76.83 feet to a point;

thence through the existing Washington Avenue Extension, N.05°38'39"E., a distance of 254.61 feet to a point in the northerly bounds of Washington Avenue Extension;

Thence along the northerly bounds of Washington Avenue Extension the following three (3) courses and distances:

1) S.87°46'33"E., a distance of 335.12 feet to a point, said point being Station 148+16.15, 128 feet Left as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

2) S.74°58'18"E., a distance of 162.24 feet to a point, said point being Station 149+75, 95 feet Left as shown on New York State Department of Transportation acquisition map, Map No.66, Parcel 104;

3) S.87°28'01"E., a distance of 679.06 feet to the point of beginning. Containing 256,927 Square Feet or 5.90 Acres of land more or less. Subject to any and all easements, restrictions, and rights-of-way of record.

S 13. The state university of New York shall not lease lands described in this act unless any such lease shall be executed within three years of the effective date of this act.

S 14. Insofar as the provisions of this act are inconsistent with the provisions of any law, general, special or local, the provisions of this act shall be controlling.

S 15. This act shall take effect immediately.