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

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I N S E N A T E

June 23, 2010

Introduced by Sen. FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT authorizing the lease of lands located at the state university of New York college at Farmingdale

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 development, construction and operation of a biotechnology and other technology-oriented office, research and manufacturing park upon the grounds of the state university of New York college at Farmingdale is necessary and appropriate to further the objectives and purposes of the state university of New York in its support of the college at Farmingdale and fulfills a necessary and desirable public purpose. 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 college at Farmingdale will ensure the development, construction and operation of such biotechnology and other technology-oriented office, research and manufacturing park and also promote the effective use of such grounds and facilities which support the educational and research activities of the college at Farmingdale.

S 2. As used in this act "BHBP" shall mean Broad Hollow Bioscience Park, Inc., which is a not-for-profit corporation established as a member corporation of Cold Spring Harbor Laboratory and the Farmingdale College Foundation acting on behalf of the state university of New York at Farmingdale. For the purposes of this act, the biotechnology and other technology-oriented office, research and manufacturing park may include structures with offices, common space, research laboratories, manufacturing facilities, facilities for servicing businesses, incubator facilities and technical facilities related to biotechnology and other technology-oriented purposes.

S 3. 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 BHBP a

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

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portion of the lands of the state university of New York college at Farmingdale generally described in this act for the purpose of developing, constructing and operating a biotechnology and other technology-oriented office, research and manufacturing park, and for uses in support of campus activities; provided, however, that the development and operation of a biotechnology and other technology-oriented office, research and manufacturing park shall be of benefit to the college at Farmingdale. Such lease or contract shall be for a period not exceeding 35 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 4. Any contract or lease entered into pursuant to this act shall be deemed to be a state contract for the 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 5. 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 and/or subcontractor performing on the project.

S 6. Notwithstanding any law to the contrary, all rights or benefits, including terms and conditions of employment, and protection of civil service and collective bargaining status of all employees of the state university of New York affected by the provisions of this act, shall be preserved and protected. Employees in any newly created positions within the state university of New York shall be considered public employees for all purposes of article 14 of the civil service law.

S 7. Any contract or lease awarded or entered into by BHBP, and parties contracting or entering into a lease with BHBP for construction, reconstruction, renovation, rehabilitation, improvement or expansion authorized pursuant to this act, for any single construction project exceeding ten million dollars in the aggregate, for which more than 25 percent of such aggregate amount is to be paid from appropriations furnished by the state of New York or the state university of New York shall be undertaken pursuant to a project labor agreement, as defined in subdivision 1 of section 222 of the labor law, provided that a study done by or for the contracting entity determines that a project labor

agreement will benefit such construction, reconstruction, renovation, rehabilitation, improvement or expansion through reduced risk of delay, potential cost savings or potential reduction in the risk of labor unrest in light of any pertinent local history thereof. For purposes of applying the dollar thresholds set forth in this section, the term "single construction project" shall mean any construction, reconstruction, renovation, rehabilitation, improvement or expansion activity associated with one or more buildings, structures or improvements, including all directly related infrastructure and site work in contemplation thereof, that are functionally interdependent.

S 8. Without limiting the determination of the terms and conditions of such contracts or leases, such term 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 BHBP, and parties contracting with BHBP, 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 BHBP and parties contracting with BHBP for the purposes of completing the project described in this act.

S 9. 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 10. Any contracts entered into pursuant to this act between BHBP and parties contracting with BHBP shall be awarded by a competitive process.

S 11. The property authorized by this act to be leased to BHBP is generally described as that parcel of real property with improvements thereon, consisting of a total of approximately 38.5 acres, situated on the campus of the state university of New York college at Farmingdale. The description in this section of the parcel to be made available pursuant to this act is not meant to be a legal description, but is intended only to identify the parcel: All the tract, piece or parcel of land situate in the Town of Huntington and Town of Babylon, County of Suffolk, State of New York, and being more particularly bounded as described as follows: All that tract, piece or parcel of land situate in the Town of Huntington and Town of Babylon, County of Suffolk, State of New York, and being more particularly bounded as described as follows: Beginning approximately 150' north of the curb line intersection of Rt. 110 and the college entrance road and running north 1100 feet, turning west running 240 feet, turning north running 540 feet, turning northwest running 650 feet, turning southwest running 1450 feet, turning southeast running 350 feet, turning northeast running 450 feet, turning southeast running 980 feet, and closing east 330 feet.

S 12. 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 13. 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 14. This act shall take effect immediately.