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

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Higher Education

AN ACT authorizing the state university of New York institute of technology to lease certain lands

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 provision of residential facilities for clients of Upstate Cerebral Palsy, Inc., upon the grounds of the state university of New York institute of technology is necessary and appropriate to further the objectives and purposes of the state university of New York. 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 institute of technology will ensure the availability of such residential facilities and also promote the effective use of such grounds and facilities. The legislature determines that the academic mission and the goals of the state university of New York institute of technology in the full utilization of the properties in furtherance of its mission may be best served by Upstate Cerebral Palsy, Inc. and the resources to which it has access.

S 2. The state university trustees are hereby authorized to lease without any public bidding a portion of the lands of the state university of New York institute of technology generally described in this act to Upstate Cerebral Palsy, Inc. upon such terms and conditions as the trustees deem advisable, not to exceed in the aggregate ninety-nine years. No such contract or lease shall provide for a fee simple conveyance of the underlying land. If the real property shall cease to be used for the purposes described in this act, said lease shall immediately terminate and the real property and any improvements thereon shall

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

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revert to the state university of New York. Any contract or lease entered into pursuant to this act shall provide that the real property which 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. The description of the parcel to be leased pursuant to this section is not meant to be a legal description, but is intended only to identify the parcel and improvements to be leased.

S 3. Any contract or lease entered into by the trustees of the state university of New York pursuant to this act shall require the lessee to comply with the requirements of article 15-A of the executive law. Notwithstanding any other law to the contrary, any contract or lease for construction, rehabilitation, or other improvement authorized by section five of this act entered into by the trustees shall require the lessee or contractor and/or subcontractor to comply with the requirements of sections 220, 240 and 241 of the labor law, where applicable. Section 135 of the state finance law shall not apply to any lease, contract or subcontract entered into pursuant to this act.

S 4. 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 would ordinarily be performed by employees subject to article 14 of the civil service law shall continue to be performed by such employees.

S 5. By way of example and not limitation, the terms and conditions of the trustees' lease or contract may provide for leasing, construction, reconstruction, rehabilitation, improvement, operation, management and provision of services and assistance and the granting of licenses, easements and other arrangements with regard to such grounds and facilities by Upstate Cerebral Palsy, Inc., and parties contracting with Upstate Cerebral Palsy, Inc., 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 the Upstate Cerebral Palsy, Inc. and parties contracting with the Upstate Cerebral Palsy, Inc., for the purpose of completing the project described above.

S 6. The lease entered into pursuant to this act shall be subject to approval of the attorney general as to form, the director of the budget and the state comptroller.

S 7. The lease shall include an indemnity provision whereby the lessee or subleasee promises to indemnify, hold harmless and defend the lessor against all claims, suits, actions, liability and damages to all persons on the leased premises, including the tenant, tenant's agents, employees, contractors, subcontractors, 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 8. Any contracts entered into pursuant to this act between Upstate Cerebral Palsy, Inc. and parties contracting with Upstate Cerebral Palsy, Inc. shall be awarded by a competitive process.

S 9. The property authorized by this act to be leased to Upstate Cerebral Palsy, Inc. is generally described as that parcel of real property with improvements thereon, situated on

ALL THAT TRACT, PIECE OR PARCEL OF LAND situate in the Town of Marcy, County of Oneida and State of New York, said parcel shown on the map entitled "Survey map Showing Lands To Be Leased by Upstate Cerebral Palsy" prepared by Steven A. Roseen, LS of Cornerstone Land Surveying and dated May 19, 2008, said parcel more particularly described as follows:

BEGINNING AT A POINT a capped iron rod set on the southeasterly boundary of Flanagan Road;

THENCE through the lands of State University of New York Institute of Technology the following four (4) courses and distances:

(1) S 18°39'00"E, 300.00 feet to a capped iron rod;

(2) S 71°21'00" W, 85.00 feet to a capped iron rod;

(3) N 71°20'56" W, 220.00 feet to a capped iron rod;

And (4) N 18°39'00" W, 166.68 feet to a capped iron rod set on the aforementioned southeasterly highway boundary of Flanagan Road;

Thence N 71°21'00" E along said boundary 260.00 feet to the POINT OF BEGINNING, being 66,335± square feet or 1.523± acres, more or less.

SUBJECT TO an easement hereby reserved for the purpose of installing and maintaining underground utilities over and upon a portion of the above described parcel, said easement more particularly described as follows:

BEGINNING AT A POINT a capped iron rod set on the southeasterly boundary of Flanagan Road, being the northeasterly corner of the above described parcel;

Thence S 18°39'00" E along the easterly line of said parcel 30.00 feet to a point;

Thence N 88°05'38" W a distance of 85.44 feet to a point;

Thence N 71°21'00" E along the southeasterly boundary of Flanagan Road 80.00 feet to the EASEMENT POINT OF BEGINNING.

S 10. 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 11. This act shall take effect immediately.