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

8821--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 10, 2009

Introduced by M. of A. KAVANAGH, ROSENTHAL -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Section 103 of the general municipal law is amended by adding a new subdivision 13 to read as follows:

13. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, TO FACILITATE THE TIMELY AND COST EFFECTIVE COMPLETION OF UTILITY WORK WITHIN THE AREA OF NEW YORK COUNTY SOUTH OF A LINE BEGINNING AT A POINT WHERE THE UNITED STATES PIERHEAD LINE IN THE HUDSON RIVER AS IT EXISTS NOW OR MAY BE EXTENDED WOULD INTERSECT WITH THE NORTHERLY LINE OF WEST 72ND STREET EXTENDED, THENCE EASTERLY ALONG THE NORTHERLY SIDE OF WEST 72ND STREET TO CENTRAL PARK, THENCE EASTERLY THROUGH CENTRAL PARK ALONG A LINE EXTENDING FROM THE NORTHERLY SIDE OF WEST 72ND STREET TO THE NORTHERLY SIDE OF EAST 72ND STREET, THENCE EASTERLY ALONG THE NORTHERLY SIDE OF EAST 72ND STREET TO THE POINT WHERE IT WOULD INTERSECT WITH THE UNITED STATES PIERHEAD LINE IN THE EAST RIVER AS IT EXISTS NOW OR MAY BE EXTENDED, INCLUDING TAX LOTS WITHIN OR IMMEDIATELY ADJACENT THERETO, ALL CONTRACTS FOR A PUBLIC WORK PROJECT THAT RELATE TO OR ARE IN FURTHERANCE OF THE WATER TUNNEL CAPITAL PROGRAM OF SUCH CITY WITHIN SUCH AREA MAY INCLUDE WORK THAT THE CONTRACTING AGENCY OF SUCH CITY DEEMS NECESSARY OR DESIRABLE FOR THE COMPLETION OF SUCH PROJECT THAT REQUIRES THE MAINTENANCE, SUPPORT, PROTECTION OR OTHER ACCOMMODATION OF ENERGY, TELECOMMU-

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

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NICATIONS OR OTHER PRIVATE FACILITIES OR STRUCTURES NOT PUBLICLY OWNED WHICH ARE LOCATED WITHIN, TRAVERSING OR ADJACENT TO THE CONSTRUCTION AREA OF SUCH PROJECT, WHETHER ABOVE, BELOW OR AT GROUND LEVEL, INCLUDING THE REMOVAL, RELOCATION, ALTERATION, REPLACEMENT, RECONSTRUCTION OR IMPROVEMENT OF SUCH FACILITIES OR STRUCTURES, PROVIDED THAT: (I) THE COSTS OF WORK PERFORMED PURSUANT TO THIS SUBDIVISION, INCLUDING ANY INCREMENTAL OR ADMINISTRATIVE COSTS ATTRIBUTABLE TO SUCH WORK, SHALL NOT BE BORNE BY SUCH AGENCY EXCEPT AS OTHERWISE PROVIDED BY CHAPTER THREE HUNDRED FIFTY-SEVEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-EIGHT; AND (II) ANY LOWER MANHATTAN REDEVELOPMENT PROJECT, AS DEFINED IN SECTION THREE OF CHAPTER TWO HUNDRED FIFTY-NINE OF THE LAWS OF TWO THOUSAND FOUR, KNOWN AS THE COORDINATED CONSTRUCTION ACT FOR LOWER MANHATTAN, AS AMENDED, SHALL BE GOVERNED BY SUCH ACT WHILE SUCH ACT REMAINS IN EFFECT. IF SUCH AGENCY INCLUDES SUCH WORK IN A CONTRACT PURSUANT TO THIS SUBDIVISION, SUCH AGENCY SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER BASED UPON THE COMBINED COST OF THE PUBLIC WORK AND THE UTILITY WORK AND SUCH AGENCY SHALL BE REIMBURSED BY THE ENTITY RESPONSIBLE FOR THE UTILITY WORK FOR ANY INCREMENTAL OR ADMINISTRATIVE COST INCREASE IN AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE COST OF THE AGENCY WORK OF THE OVERALL LOW BIDDER AND THE COST OF THE AGENCY WORK OF THE LOWEST BIDDER FOR THE AGENCY WORK ALONE. HOWEVER, IF THE COST OF THE AGENCY WORK OF THE LOWEST BIDDER FOR THE AGENCY WORK ALONE IS MORE THAN TWENTY PERCENT BELOW THE AVERAGE OF THE NEXT TWO LOWEST BIDS FOR THE AGENCY WORK, THEN THE AGENCY SHALL AWARD THE CONTRACT TO THE LOWEST RESPONSIBLE BIDDER FOR THE AGENCY WORK ALONE. IN THE EVENT THAT THE UTILITY WORK IS INCLUDED IN SUCH AGENCY'S CONTRACT PURSUANT TO THIS SUBDIVISION, SUCH AGENCY SHALL MONITOR AND, TO THE EXTENT NECESSARY, PARTICIPATE IN DISPUTE RESOLUTION BETWEEN THE CONTRACTOR AND THE ENTITY RESPONSIBLE FOR THE UTILITY WORK. IN THE EVENT THAT THE UTILITY WORK IS NOT INCLUDED IN SUCH AGENCY'S CONTRACT, NOTHING IN THIS SUBDIVISION SHALL PREVENT SUCH AGENCY FROM INCLUDING PROVISIONS IN ITS CONTRACTS REQUIRING CONTRACTORS TO ENGAGE IN ALTERNATE METHODS OF DISPUTE RESOLUTION REGARDING UTILITY WORK.

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