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

8331

2011-2012 Regular Sessions

I N A S S E M B L Y

June 13, 2011

Introduced by M. of A. McENENY, CANESTRARI, REILLY, TEDISCO -- read once and referred to the Committee on Higher Education

AN ACT in relation to 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, laboratory, and residential and support spaces are required to support the academic and research programs of the University, including those necessary to realize a Biomedical and Information Innovation Research initiative and those necessary for a growth and revitalization initiative for the University's Alumni Quad, a residential complex in the Education District of the City of Albany, both initiatives (hereinafter described as "the project") to be funded, in part, by active partnerships between government and private industry. Furthermore, these activities will promote enhanced research, technology deployment, improved undergraduate education, neighborhood revitalization, 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 enhanced research, technology deployment, improved undergraduate education, neighborhood revitalization, and economic outreach across the capital region of New York state.

S 2. As used in this act "the UA Corporation" shall mean the University at Albany Development Corporation, which will be a not-for-profit corporation established for the purpose of facilitating the educational,

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

LBD13062-01-1

research and economic development activities related to the mission of the state university of New York by constructing, developing and operating facilities which support economic development, academic and research activities and the mission of the state university of New York and its University at Albany campus.

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 the UA Corporation a portion of the lands of the state university of New York at Albany generally described as all that real property consisting of approximately 25 acres of land on the Uptown and Alumni Quad campuses of the University at Albany, for the purpose of constructing and operating research, education, residential, and student support facilities to provide additional instructional, laboratory, residential, and student support spaces required to support the academic programs 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 4. 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 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, 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 6. 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 employ-

ees subject to article 14 of the civil service law shall continue to be performed by such employees.

S 7. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary:

(a) The UA Corporation may require a contractor awarded a contract, subcontract lease, grant, bond, covenant or other agreement for any single construction project exceeding ten million dollars in the aggregate, for which more than twenty-five 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, to enter into a project labor agreement during and for the work involved with such project when such requirement is part of UA Corporation request for proposals for the project and when UA 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. For the purposes of this act, "project labor agreement" shall mean work at the property authorized by this act to be leased to the UA Corporation as described in this act that involves the design, construction, reconstruction, demolition, excavating, rehabilitation, repair, renovation, alteration or improvements.

(b) If the UA 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 8. 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 the UA Corporation, and parties contracting with the UA Corporation, 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 UA Corporation and parties contracting with the UA Corporation 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. The property authorized by this act to be leased to the UA Corporation is generally described as those parcels of real property with improvements thereon, consisting of a total of approximately 25 acres, situated on the Uptown and Alumni campuses 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 or portions of that tract, piece or parcel of land situate on the Uptown Campus of the state university of New York at Albany, portions of which lie in the Town of Guilderland, County of Albany, State of New York and portions of which lie in the City of Albany, County of Albany, State of New York, the total consisting of approximately 14.5 acres, subject to any and all easements, restrictions, and rights of way of record, and being more particularly bounded on the south by Justice Drive, on the west by Chemistry Lane and Life Sciences Lane, on the north by State Drive, and on the east by University Drive.

SECOND PARCEL: All or portions of that tract, piece or parcel of land situate on the Alumni Quad Campus of the state university of New York at Albany in the City of Albany, County of Albany, State of New York, consisting of approximately 10.5 acres, subject to any and all easements, restrictions, and rights of way of record, and being more particularly bounded on the south by Western Avenue, on the west by O'Leary Boulevard, on the north by State Street, and on the east by Ontario Street.

S 11. 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 12. 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 13. This act shall take effect immediately.