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

7048--A

2013-2014 Regular Sessions

I N A S S E M B L Y

April 30, 2013

Introduced by M. of A. GIGLIO -- 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 to amend chapter 813 of the laws of 1990, authorizing the State University of New York to lease certain lands of the State University of New York College of Technology at Alfred, in relation to expanding the lands which are authorized to be leased and regulating the work and activities authorized to be conducted on such lands

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

Section 1. Chapter 813 of the laws of 1990, authorizing the State University of New York to lease certain lands of the State University of New York College of Technology at Alfred, is amended by adding nine new sections 2-a, 2-b, 2-c, 2-d, 2-e, 2-f, 2-g, 2-h and 2-i to read as follows:

S 2-A. FOR THE PURPOSES OF THIS ACT: (A) "PROJECT" SHALL MEAN WORK AT PARCEL B OF THE PROPERTY AUTHORIZED BY THIS ACT TO BE LEASED TO ALFRED TECHNOLOGY RESOURCES, INCORPORATED AS DESCRIBED IN SECTION THREE OF THIS ACT THAT INVOLVES THE DESIGN, CONSTRUCTION, RECONSTRUCTION, DEMOLITION, EXCAVATING, REHABILITATION, REPAIR, RENOVATION, ALTERATION OR IMPROVEMENT OF PARKING AREAS AND TRAFFIC FLOW FACILITIES.

(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 2-B. ANY CONTRACT OR LEASE ENTERED INTO FOR A PROJECT 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

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

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SUBLESSEE ENTERING INTO SUCH CONTRACT OR LEASE FOR THE CONSTRUCTION, DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION, ALTERATION OR IMPROVEMENT OF A PROJECT 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 2-C. 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 2-D. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT CONTRACT OUT TO ALFRED TECHNOLOGY RESOURCES, INCORPORATED OR ANY SUBSIDIARY FOR THE INSTRUCTION OR ANY PEDAGOGICAL FUNCTIONS OR SERVICES, OR ANY ADMINISTRATIVE SERVICES, AND PROFESSIONAL SERVICES CURRENTLY BEING PERFORMED BY STATE EMPLOYEES UPON PARCEL B OF THE PROPERTY DESCRIBED IN SECTION THREE OF THIS ACT. ALL SUCH FUNCTIONS AND SERVICES SHALL BE PERFORMED BY STATE EMPLOYEES PURSUANT TO THE CIVIL SERVICE LAW. NOTHING IN THIS ACT SHALL RESULT IN THE DISPLACEMENT OF ANY CURRENTLY EMPLOYED STATE WORKER OR THE LOSS OF POSITION, (INCLUDING PARTIAL DISPLACEMENT SUCH AS REDUCTION IN THE HOURS OF NON-OVERTIME, WAGES OR EMPLOYMENT BENEFITS) OR RESULT IN THE IMPAIRMENT OF EXISTING CONTRACTS FOR SERVICES OR COLLECTIVE BARGAINING RIGHTS PURSUANT TO EXISTING AGREEMENTS. ALL POSITIONS CURRENTLY AT THE STATE UNIVERSITY OF NEW YORK IN THE UNCLASSIFIED SERVICE OF THE CIVIL SERVICE LAW SHALL REMAIN IN THE UNCLASSIFIED SERVICE. NO SERVICES OR WORK ON PARCEL B CURRENTLY PERFORMED BY PUBLIC EMPLOYEES OR FUTURE WORK THAT IS SIMILAR IN SCOPE AND NATURE TO THE WORK BEING CURRENTLY PERFORMED BY PUBLIC EMPLOYEES SHALL BE CONTRACTED OUT OR PRIVATIZED BY THE STATE UNIVERSITY OF NEW YORK OR BY AN AFFILIATED ENTITY OR ASSOCIATED ENTITY OF THE STATE UNIVERSITY OF NEW YORK. ALL SUCH FUTURE WORK SHALL BE PERFORMED BY PUBLIC EMPLOYEES.

S 2-E. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL, OR LOCAL LAW OR JUDICIAL DECISION TO THE CONTRARY:

(A) ALFRED TECHNOLOGY RESOURCES, INCORPORATED 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 ALFRED TECHNOLOGY RESOURCES, INCORPORATED REQUEST FOR PROPOSALS FOR THE PROJECT AND WHEN ALFRED TECHNOLOGY RESOURCES, INCORPORATED 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 ALFRED TECHNOLOGY RESOURCES, INCORPORATED 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 2-F. 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 THE GROUNDS AND FACILITIES UPON PARCEL B OF THE PROPERTY DESCRIBED IN SECTION THREE OF THIS ACT BY ALFRED TECHNOLOGY RESOURCES, INCORPORATED, AND PARTIES CONTRACTING WITH ALFRED TECHNOLOGY RESOURCES, INCORPORATED, 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 ALFRED TECHNOLOGY RESOURCES, INCORPORATED AND PARTIES CONTRACTING WITH ALFRED TECHNOLOGY RESOURCES, INCORPORATED FOR THE PURPOSES OF COMPLETING THE PROJECT DESCRIBED IN THIS ACT.

S 2-G. SUCH LEASE OF PARCEL B OF THE PROPERTY DESCRIBED IN SECTION THREE OF THIS ACT 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 2-H. ANY CONTRACTS RELATING TO PARCEL B OF THE PROPERTY DESCRIBED IN SECTION THREE OF THIS ACT ENTERED INTO PURSUANT TO THIS ACT BETWEEN ALFRED TECHNOLOGY RESOURCES, INCORPORATED AND PARTIES CONTRACTING WITH ALFRED TECHNOLOGY RESOURCES, INCORPORATED SHALL BE AWARDED BY A COMPETITIVE PROCESS.

S 2-I. PARCEL B OF THE PROPERTY DESCRIBED IN SECTION THREE OF THIS ACT SHALL BE USED TO PROVIDE ADDITIONAL PARKING FACILITIES AND IMPROVING TRAFFIC FLOW. ANY STRUCTURE CONSTRUCTED UPON SUCH PARCEL SHALL NOT BE USED FOR THE PURPOSE OF INSTRUCTION OR ANY PEDAGOGICAL FUNCTIONS OR SERVICES, OR ANY ADMINISTRATIVE OR PROFESSIONAL SERVICES PERFORMED BY STATE EMPLOYEES ON THE EFFECTIVE DATE OF THIS SECTION.

S 2. Section 3 of chapter 813 of the laws of 1990, authorizing the State University of New York to lease certain lands of the State University of New York College of Technology at Alfred, is amended to read as follows:

S 3. The property herein authorized to be leased is generally described as all that parcel of real property with improvements thereon situate in the Village of Alfred, county of Allegany and state of New York, and being more particularly bounded and described as follows:

[beginning] PARCEL A

BEGINNING at a point on the southerly boundary of New York State Route 244, said point being 444.5 feet easterly of the intersection of Main Street and Route 244; thence on the southerly bounds of Route 244

1) N 62 40' 25" E, 370.00 feet to a point; thence
2) S 23 19' 51" E, 159.52 feet to a point; thence
3) S 62 51' 14" W, 18.26 feet to a point; thence
4) S 27 06' 51" E, 8.45 feet to a point; thence
5) S 62 13' 24" W, 5.75 feet to a point; thence
6) S 26 58' 35" E, 47.68 feet to a point; thence
7) N 67 02' 15" E, 5.76 feet to a point; thence

8) S 27 16' 49" E, 64.23 feet to a point; thence
9) S 62 40' 25" W, 285.25 feet to a point; thence
10) N 27 19' 35" W, 95.00 feet to a point; thence
11) S 62 40' 25" W, 155.00 feet to a point; thence
12) N 27 19' 35" W, 22.00 feet to a point; thence
13) N 62 40' 25" E, 100.00 feet to a point; thence
14) N 27 19' 35" W, 163.00 feet to the POINT AND PLACE OF BEGINNING; containing 2.200 acres of land[.]; AND

PARCEL B

BEGINNING AT THE NORTHEASTERLY CORNER OF LANDS LEASED TO ALFRED TECHNOLOGY RESOURCES INC.; THENCE ALONG SAID LANDS;
1) S 34°04'43" E A DISTANCE OF 64.39 FEET TO A POINT; THENCE
2) S 25°58'53" E A DISTANCE OF 54.06 FEET TO A POINT, THENCE (SAID POINT BEING THE NORTHEASTERLY CORNER OF PARCEL "E"); THENCE ALONG PARCEL "E"
3) S 16°36'20" W A DISTANCE OF 28.04 FEET TO A POINT, THENCE THROUGH THE LANDS LEASED TO ALFRED TECHNOLOGY RESOURCES, INC.
4) N 23°19'51" W A DISTANCE OF 138.52 FEET TO A POINT ON THE SOUTHERLY BOUNDS OF NEW YORK STATE ROUTE 244, THENCE
5) N 62°40'25" E A DISTANCE OF 3.47 FEET TO THE POINT AND PLACE OF BEGINNING; CONTAINING 0.039 ACRE OF LAND, AND

BEGINNING AT A POINT ON THE EASTERLY LINE OF LANDS LEASED TO ALFRED TECHNOLOGY RESOURCES INC.; SAID POINT BEING 118.45 FEET SOUTHEASTERLY FROM THE NORTHEASTERLY CORNER OF LANDS LEASED TO ALFRED TECHNOLOGY RESOURCES INC.; THENCE ALONG SAID LANDS;
1) S 31°51'59" E A DISTANCE OF 41.40 FEET TO A POINT, THENCE
2) S 27°04'06" E A DISTANCE OF 120.75 FEET TO A POINT, THENCE THROUGH PARCEL E
3) S 62°40'25" W A DISTANCE OF 42.29 FEET TO A POINT, THENCE ALONG PARCEL A
4) N 27°16'49" W A DISTANCE OF 64.23 FEET TO A POINT, THENCE
5) N 67°02'15" W A DISTANCE OF 5.76 FEET TO A POINT, THENCE
6) N 26°58'35" W A DISTANCE OF 47.68 FEET TO A POINT, THENCE
7) N 62°13'24" E A DISTANCE OF 5.75 FEET TO A POINT, THENCE
8) N 27°06'51" W A DISTANCE OF 8.54 FEET TO A POINT, THENCE
9) N 62°51'14" E A DISTANCE OF 18.26 FEET TO A POINT, THENCE
10) N 23°19'51" W A DISTANCE OF 21.00 FEET TO
11) N 16°36'20" E A DISTANCE OF 28.04 FEET TO THE POINT AND PLACE OF BEGINNING; CONTAINING 0.140 ACRE OF LAND.

S 3. This act shall take effect immediately.