

7048--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 30, 2013

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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:

1     Section 1.     Chapter 813 of the laws of 1990, authorizing the State  
2     University of New York to lease certain lands of the State University of  
3     New York College of Technology at Alfred, is amended by adding nine new  
4     sections 2-a, 2-b, 2-c, 2-d, 2-e, 2-f, 2-g, 2-h and 2-i to read as  
5     follows:  
6     S 2-A. FOR THE PURPOSES OF THIS ACT: (A) "PROJECT" SHALL MEAN WORK AT  
7     PARCEL B OF THE PROPERTY AUTHORIZED BY THIS ACT TO BE LEASED TO ALFRED  
8     TECHNOLOGY RESOURCES, INCORPORATED AS DESCRIBED IN SECTION THREE OF THIS  
9     ACT THAT INVOLVES THE DESIGN, CONSTRUCTION, RECONSTRUCTION, DEMOLITION,  
10    EXCAVATING, REHABILITATION, REPAIR, RENOVATION, ALTERATION OR IMPROVE-  
11    MENT OF PARKING AREAS AND TRAFFIC FLOW FACILITIES.  
12    (B) "PROJECT LABOR AGREEMENT" SHALL MEAN A PRE-HIRE COLLECTIVE  
13    BARGAINING AGREEMENT BETWEEN A CONTRACTOR AND A LABOR ORGANIZATION,  
14    ESTABLISHING THE LABOR ORGANIZATION AS THE COLLECTIVE BARGAINING REPRESENTATIVE FOR ALL PERSONS WHO WILL PERFORM WORK ON THE PROJECT, AND  
15    WHICH PROVIDES THAT ONLY CONTRACTORS AND SUBCONTRACTORS WHO SIGN A PRE-  
16    NEGOTIATED AGREEMENT WITH THE LABOR ORGANIZATION CAN PERFORM PROJECT  
17    WORK.  
18    S 2-B. ANY CONTRACT OR LEASE ENTERED INTO FOR A PROJECT PURSUANT TO  
19    THIS ACT SHALL BE DEEMED TO BE A STATE CONTRACT FOR PURPOSES OF ARTICLE  
20    15-A OF THE EXECUTIVE LAW, AND ANY CONTRACTOR, SUBCONTRACTOR, LESSEE OR  
21

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

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1 SUBLESSEE ENTERING INTO SUCH CONTRACT OR LEASE FOR THE CONSTRUCTION,  
2 DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILITATION, REPAIR, RENO-  
3 VATION, ALTERATION OR IMPROVEMENT OF A PROJECT AUTHORIZED PURSUANT TO  
4 THIS ACT SHALL BE DEEMED A STATE AGENCY FOR THE PURPOSES OF ARTICLE 15-A  
5 OF THE EXECUTIVE LAW AND SUBJECT TO THE PROVISIONS OF SUCH ARTICLE.

6 S 2-C. NOTWITHSTANDING ANY GENERAL, SPECIAL OR LOCAL LAW OR JUDICIAL  
7 DECISION TO THE CONTRARY, ALL WORK PERFORMED ON A PROJECT AUTHORIZED BY  
8 THIS ACT WHERE ALL OR ANY PORTION THEREOF INVOLVES A LEASE OR AGREEMENT  
9 FOR CONSTRUCTION, DEMOLITION, RECONSTRUCTION, EXCAVATION, REHABILI-  
10 TATION, REPAIR, RENOVATION, ALTERATION OR IMPROVEMENT SHALL BE DEEMED  
11 PUBLIC WORK AND SHALL BE SUBJECT TO AND PERFORMED IN ACCORDANCE WITH THE  
12 PROVISIONS OF ARTICLE 8 OF THE LABOR LAW TO THE SAME EXTENT AND IN THE  
13 SAME MANNER AS A CONTRACT OF THE STATE, AND COMPLIANCE WITH ALL THE  
14 PROVISIONS OF ARTICLE 8 OF THE LABOR LAW SHALL BE REQUIRED OF ANY  
15 LESSEE, SUBLESSEE, CONTRACTOR OR SUBCONTRACTOR ON THE PROJECT INCLUDING  
16 THE ENFORCEMENT OF PREVAILING WAGE REQUIREMENTS BY THE FISCAL OFFICER AS  
17 DEFINED IN PARAGRAPH E OF SUBDIVISION 5 OF SECTION 220 OF THE LABOR LAW  
18 TO THE SAME EXTENT AS A CONTRACT OF THE STATE.

19 S 2-D. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY,  
20 THE TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT CONTRACT OUT  
21 TO ALFRED TECHNOLOGY RESOURCES, INCORPORATED OR ANY SUBSIDIARY FOR THE  
22 INSTRUCTION OR ANY PEDAGOGICAL FUNCTIONS OR SERVICES, OR ANY ADMINISTRA-  
23 TIVE SERVICES, AND PROFESSIONAL SERVICES CURRENTLY BEING PERFORMED BY  
24 STATE EMPLOYEES UPON PARCEL B OF THE PROPERTY DESCRIBED IN SECTION THREE  
25 OF THIS ACT. ALL SUCH FUNCTIONS AND SERVICES SHALL BE PERFORMED BY STATE  
26 EMPLOYEES PURSUANT TO THE CIVIL SERVICE LAW. NOTHING IN THIS ACT SHALL  
27 RESULT IN THE DISPLACEMENT OF ANY CURRENTLY EMPLOYED STATE WORKER OR THE  
28 LOSS OF POSITION, (INCLUDING PARTIAL DISPLACEMENT SUCH AS REDUCTION IN  
29 THE HOURS OF NON-OVERTIME, WAGES OR EMPLOYMENT BENEFITS) OR RESULT IN  
30 THE IMPAIRMENT OF EXISTING CONTRACTS FOR SERVICES OR COLLECTIVE BARGAIN-  
31 ING RIGHTS PURSUANT TO EXISTING AGREEMENTS. ALL POSITIONS CURRENTLY AT  
32 THE STATE UNIVERSITY OF NEW YORK IN THE UNCLASSIFIED SERVICE OF THE  
33 CIVIL SERVICE LAW SHALL REMAIN IN THE UNCLASSIFIED SERVICE. NO SERVICES  
34 OR WORK ON PARCEL B CURRENTLY PERFORMED BY PUBLIC EMPLOYEES OR FUTURE  
35 WORK THAT IS SIMILAR IN SCOPE AND NATURE TO THE WORK BEING CURRENTLY  
36 PERFORMED BY PUBLIC EMPLOYEES SHALL BE CONTRACTED OUT OR PRIVATIZED BY  
37 THE STATE UNIVERSITY OF NEW YORK OR BY AN AFFILIATED ENTITY OR ASSOCI-  
38 ATED ENTITY OF THE STATE UNIVERSITY OF NEW YORK. ALL SUCH FUTURE WORK  
39 SHALL BE PERFORMED BY PUBLIC EMPLOYEES.

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

42 (A) ALFRED TECHNOLOGY RESOURCES, INCORPORATED MAY REQUIRE A CONTRACTOR  
43 AWARDED A CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND, COVENANT OR OTHER  
44 AGREEMENT FOR A PROJECT TO ENTER INTO A PROJECT LABOR AGREEMENT DURING  
45 AND FOR THE WORK INVOLVED WITH SUCH PROJECT WHEN SUCH REQUIREMENT IS  
46 PART OF ALFRED TECHNOLOGY RESOURCES, INCORPORATED REQUEST FOR PROPOSALS  
47 FOR THE PROJECT AND WHEN ALFRED TECHNOLOGY RESOURCES, INCORPORATED  
48 DETERMINES THAT THE RECORD SUPPORTING THE DECISION TO ENTER INTO SUCH AN  
49 AGREEMENT ESTABLISHES THAT THE INTERESTS UNDERLYING THE COMPETITIVE  
50 BIDDING LAWS ARE BEST MET BY REQUIRING A PROJECT LABOR AGREEMENT INCLUD-  
51 ING: OBTAINING THE BEST WORK AT THE LOWEST POSSIBLE PRICE; PREVENTING  
52 FAVORITISM, FRAUD AND CORRUPTION; THE IMPACT OF DELAY; THE POSSIBILITY  
53 OF COST SAVINGS; AND ANY LOCAL HISTORY OF LABOR UNREST.

54 (B) IF ALFRED TECHNOLOGY RESOURCES, INCORPORATED DOES NOT REQUIRE A  
55 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

1 8) S 27 16' 49" E, 64.23 feet to a point; thence  
2 9) S 62 40' 25" W, 285.25 feet to a point; thence  
3 10) N 27 19' 35" W, 95.00 feet to a point; thence  
4 11) S 62 40' 25" W, 155.00 feet to a point; thence  
5 12) N 27 19' 35" W, 22.00 feet to a point; thence  
6 13) N 62 40' 25" E, 100.00 feet to a point; thence  
7 14) N 27 19' 35" W, 163.00 feet to the POINT AND PLACE OF BEGINNING;  
8 containing 2.200 acres of land[.]; AND  
9 PARCEL B  
10 BEGINNING AT THE NORTHEASTERLY CORNER OF LANDS LEASED TO ALFRED TECH-  
11 NOLOGY RESOURCES INC.; THENCE ALONG SAID LANDS;  
12 1) S 34°04'43" E A DISTANCE OF 64.39 FEET TO A POINT; THENCE  
13 2) S 25°58'53" E A DISTANCE OF 54.06 FEET TO A POINT, THENCE (SAID  
14 POINT BEING THE NORTHEASTERLY CORNER OF PARCEL "E"); THENCE ALONG PARCEL  
15 "E"  
16 3) S 16°36'20" W A DISTANCE OF 28.04 FEET TO A POINT, THENCE THROUGH  
17 THE LANDS LEASED TO ALFRED TECHNOLOGY RESOURCES, INC.  
18 4) N 23°19'51" W A DISTANCE OF 138.52 FEET TO A POINT ON THE SOUTHERLY  
19 BOUNDS OF NEW YORK STATE ROUTE 244, THENCE  
20 5) N 62°40'25" E A DISTANCE OF 3.47 FEET TO THE POINT AND PLACE OF  
21 BEGINNING; CONTAINING 0.039 ACRE OF LAND, AND  
22 BEGINNING AT A POINT ON THE EASTERLY LINE OF LANDS LEASED TO ALFRED  
23 TECHNOLOGY RESOURCES INC.; SAID POINT BEING 118.45 FEET SOUTHEASTERLY  
24 FROM THE NORTHEASTERLY CORNER OF LANDS LEASED TO ALFRED TECHNOLOGY  
25 RESOURCES INC.; THENCE ALONG SAID LANDS;  
26 1) S 31°51'59" E A DISTANCE OF 41.40 FEET TO A POINT, THENCE  
27 2) S 27°04'06" E A DISTANCE OF 120.75 FEET TO A POINT, THENCE THROUGH  
28 PARCEL E  
29 3) S 62°40'25" W A DISTANCE OF 42.29 FEET TO A POINT, THENCE ALONG  
30 PARCEL A  
31 4) N 27°16'49" W A DISTANCE OF 64.23 FEET TO A POINT, THENCE  
32 5) N 67°02'15" W A DISTANCE OF 5.76 FEET TO A POINT, THENCE  
33 6) N 26°58'35" W A DISTANCE OF 47.68 FEET TO A POINT, THENCE  
34 7) N 62°13'24" E A DISTANCE OF 5.75 FEET TO A POINT, THENCE  
35 8) N 27°06'51" W A DISTANCE OF 8.54 FEET TO A POINT, THENCE  
36 9) N 62°51'14" E A DISTANCE OF 18.26 FEET TO A POINT, THENCE  
37 10) N 23°19'51" W A DISTANCE OF 21.00 FEET TO  
38 11) N 16°36'20" E A DISTANCE OF 28.04 FEET TO THE POINT AND PLACE OF  
39 BEGINNING; CONTAINING 0.140 ACRE OF LAND.  
40 S 3. This act shall take effect immediately.