STATE OF NEW YORK

10456--A

IN ASSEMBLY

May 28, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Fahy, McDonald) -- 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 in relation to authorizing the lease of certain lands for the Albany NanoTech Complex

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 ("UAlbany") seeks to use a portion of the grounds and facilities on the UAlbany campus for the purposes of the Albany NanoTech Complex. The New York Center for Research, Economic Advancement, Technology, Engineering and Science Corporation (hereinafter referred to as "NY CREATES"), is the owner and operator of the Albany NanoTech Complex, the nation's largest and most advanced semiconductor R&D facility that brings together industry leaders, academia and international partners to develop next-generation chips and chip fabrication processes, and is focused on facilitating industry and public-private partnerships for next-generation semiconductor technology R&D, commercialization, regional economic development and workforce development projects. NY CREATES is the parent company of Fuller Road Management Corporation, a 501(c)(25) corporation established for the purpose of holding real estate for projects of the State University of New York at Albany. UAlbany is one of the most diverse public research institutions in the nation and a national leader in educational equity and social mobility. As a Carnegie-classified R1 institution, UAlbany faculty and students advance our understanding of the world in fields such as artificial intelligence, semiconductors, atmospheric and environmental sciences, public health, emergency preparedness, engineering, the social sciences, humanities, and social welfare. At its founding in 2004, UAlbany's College of Nanotechnology, Science, and Engineering was the first in the nation devoted specifically to the study of nanotechnology and was a critical academic partner in the development of NY CREATES' Albany NanoTech Complex. The University's diverse student body combined

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

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with its broad research portfolio put it in a uniquely strong position to play a major role in diversifying the next generation of New York's STEM workforce.

The legislature further finds that UAlbany and NY CREATES have undergone long-term collaborations in: (i) fundamental and applied research projects utilizing the equipment and expertise available in both organizations; (ii) workforce development and training programs to grow the next generation of semiconductor engineers and technicians; and, (iii) joint technology commercialization efforts to expand the market for intellectual property.

The legislature further finds that the ground lease authorized by this legislation would benefit UAlbany, SUNY, and the State of New York by advancing: (1) Opportunities for UAlbany and other SUNY faculty and students to collaborate with NY CREATES, industry and government professionals to develop innovative academic programming and advance workforce development initiatives while promoting NY CREATES' Albany NanoTech Complex nationally and globally to grow its reputation; (2) Continued support of UAlbany's and other SUNY academic partnerships with external consortiums with industry, and government agencies nationally and internationally; (3) Collaboration on programs to train next generation semiconductor engineers and technicians, providing students with hands-on experience and industry-relevant skills through internships, co-op programs, and collaborative research projects, and to cohost events, workshops, and seminars aimed at fostering entrepreneurship, creativity, and innovation; and (4) Pursuit of opportunities for public and private partnerships to fund joint and collaborative research initiatives, economic development opportunities, technology transfer programs, and infrastructure development projects that benefit UAlbany, SUNY, and NY CREATES.

§ 2. Notwithstanding any other law to the contrary, the state university trustees are authorized and empowered, without any public bidding, to lease and otherwise contract to make available to the Fuller Road Management Corporation a portion of the lands of the university generally described in this act for the purposes of the Albany NanoTech Complex. Such lease or contract shall be 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 be for a period not exceeding forty years, and 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.

§ 3. 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.

§ 4. 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.

§ 5. 1. Notwithstanding any law, rule or regulation to the contrary, the state university of New York shall not contract out to the ground lessee or any subsidiary for the instruction or any pedagogical functions or services, or any administrative services, and similar professional services currently being performed by state employees. 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.

2. No services or work on the property described in this act currently performed by public employees at the time of the effective date of this act, or that is similar in scope and nature to the work being currently performed by public employees at the time of the effective date of this act, shall be contracted out or privatized by SUNY. SUNY acknowledges its obligations as an employer under the civil service law and agrees that it will not exercise its right to contract out for goods and services under any applicable collective bargaining agreement.

§ 6. For the purposes of this act the following terms shall have the following meanings:

(a) "Project" shall mean work at the property authorized by this act to be leased to the ground lessee as described in section twelve of this act that involves the design, construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration or improvement of such property.

(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.

(c) "Ground lessee" shall mean the Fuller Road Management Corporation.

§ 7. 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, and 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.

§ 8. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary, the ground lessee shall require the use of a project labor agreement, as defined in subdivision 1 of section 222 of the labor law, for all contractors and subcontractors on the project, consistent with paragraph (a) of subdivision 2 of section 222 of the labor law.

§ 9. 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 ground lessee, and parties contracting with the ground lessee, 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 ground lessee and parties contracting with the ground lessee for the purposes of completing the project described in this act.

§ 10. 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.

§ 11. Any construction contracts entered into pursuant to this act between the ground lessee and parties contracting with the ground lessee shall be awarded by a competitive process.

§ 12. The property authorized by this act to be leased to the ground lessee is generally described as a parcel of real property with improvements thereon consisting of a total of approximately 25.522 acres situated on the campus of the state university of New York at Albany. The description in this section of the parcel that may be made available pursuant to this act is not meant to be a legal description, but is intended only to identify the parcel:

Beginning at a concrete monument on the easterly highway boundary of interstate 87, also known as the Adirondack Northway, at its intersection with the property division line between lands N/F of national grid on the south, and lands N/F of SUNY at Albany on the north, said point being marked by a concrete monument, thence north 22° 06' 24" east along said highway boundary a distance of 66.07 feet to a point on the southerly highway boundary of Washington Avenue,

Thence along said road boundary the following seven (7) courses and distances:

1. North 58° 55' 27" east, a distance of 260.28 feet to a point,
2. Along a curve to the left having a radius of 1727.02 feet, an arc length of 128.41 feet, a chord bearing of north 59° 54' 49" east, a chord distance of 128.38 feet to a point,
3. North 54° 22' 33" east, a distance of 308.02 feet to a point,
4. North 52° 40' 20" east, a distance of 179.21 feet to a point,
5. North 55° 09' 41" east, a distance of 308.26 feet to a point,

6. Along a curve to the right having a radius of 1186.05 feet, an arc length of 139.91 feet, a chord bearing of north 63° 31' 59" east, a chord distance of 139.83 feet to a point,

7. North 80° 02' 14" east, a distance of 4.79 feet to a point,

thence through said lands of SUNY at Albany the following five (5) courses and distances:

1. South 52° 02' 44" east, a distance of 517.07 feet to a point,

2. North 34° 27' 34" east, a distance of 16.93 feet to a point,

3. South 51° 16' 56" east, a distance of 80.00 feet to a point,

4. South 36° 22' 07" west, a distance of 1214.99 feet to a point at its intersection with the first mentioned property division line between said lands of national grid and said lands of suny at albany,

thence along said property division line the following eight (8) courses and distances:

1. north 67° 15' 52" west, a distance of 745.88 feet to a concrete monument, thence

2. north 52° 07' 07" west, a distance of 117.77 feet to a concrete monument with suny cap, thence

3. south 37° 52' 53" west, a distance of 31.88 feet to a concrete monument with suny cap, thence

4. north 67° 15' 52" west, a distance of 82.87 feet to a concrete monument with suny cap, thence

5. north 21° 06' 33" east, a distance of 110.71 feet to a point, thence

6. north 22° 23' 43" east, a distance of 49.25 feet to a concrete monument, thence

7. along a curve to the right having a radius of 70.00 feet, an arc length of 16.46 feet, a chord bearing of north 74° 13' 30" west, a chord distance of 16.42 feet to a point, thence

8. north 67° 46' 21" west, a distance of 64.66 feet to the point or place of beginning.

Containing 1,111,738 sq. ft. (25.522 acres), more or less. Subject to all existing easements and restrictions of record.

§ 13. The state university of New York shall not lease lands described in this act unless any such lease shall be executed within 5 years of the effective date of this act.

§ 14. 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.

§ 15. This act shall take effect immediately.