STATE OF NEW YORK

9614

IN SENATE

May 16, 2024

Introduced by Sens. MARTINEZ, PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT relating to authorizing the state university of New York at Stony Brook to lease certain lands for the purpose of constructing a facility to support research and development to address the national semiconductor chip shortage and related environmental sustainability issues

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 Stony Brook ("Stony Brook") created the Research and Development Park in order to support the cross-pollination of ground-breaking research and cutting edge technology in the private sector to benefit the students, faculty and staff as well as the broader community. Now, Stony Brook has determined there is an opportunity for a private entity to construct an additional facility in the Research and Development Park, which would provide needed additional facilities to support the research and development needs of faculty, staff, students, and the community and seeks to use approximately 8 acres of underutilized land on Stony Brook's Research and Development Park to build a facility to address these research and development needs, as well as engage in its private commercial research, development and manufacturing of tools to fabricate semiconductor chips, other memory storage devices or any future technology developed to hold data for later retrieval. The private entity, which provides new technology to aid in the manufacture of semiconductor chips, would address the national semiconductor chip shortage and related environmental sustainability issues, fulfilling a necessary and vital state and federal public purpose. 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 Stony Brook available in this manner will ensure such land is utilized for the benefit of Stony Brook and the surrounding community.

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

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§ 2. Notwithstanding any other law to the contrary, the State University of New York trustees are authorized and empowered, without any public bidding, to lease and otherwise contract to make available to a ground lessee a portion of the lands of the university generally described in this act for the purpose of developing, constructing, maintaining and operating a facility to engage in its private commercial research, development and manufacturing purposes, while additionally providing dedicated space which will support the research and development needs of faculty, staff, students, and the community, which may include supporting services to address the national semiconductor chip shortage and related environmental sustainability issues. Such lease or contract shall be for a period not exceeding one hundred (100) 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. The allocation of any and all proceeds related to the leases authorized by this act shall be subject to approval by the state university trustees.

§ 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. 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 at Stony Brook. Any such functions and services performed in the space used by or for the research of faculty, staff and students of Stony Brook 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 nonovertime, 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 performed in the space used by or for the research of faculty, staff and students of Stony Brook on the property described in this act 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. Nothing herein shall be construed to require a private commercial enterprise to be subject to the civil service law, the collective bargaining agreements or to have its own employees deemed state employees for any purpose when engaged in its private commercial activities, and the ground lessee is not deemed a state agency for any purpose other than as provided for in this act.

§ 6. For the purposes of this act:

(a) "project" shall mean work at the property authorized by this act to be leased to the ground lessee as described in section eight of this act that involves the design, construction, reconstruction, demolition, excavating, 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.

§ 7. (a) Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary: the ground lessee 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 the ground lessee's request for proposals for the project and when the state university of New York at Stony Brook 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 the state university of New York at Stony Brook 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.

§ 8. 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 in the spaces used by or for the research of the faculty, staff and students of Stony Brook that ordinarily would be

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

§ 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 for purposes of the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alterations or improvements to such structure 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 approximately 8 acres of land situated on Stony Brook's Research and Development Park within the town of Brookhaven, county of Suffolk, state of New York, commencing at a concrete monument found on the southwesterly sideline of Stony Brook road (66 feet wide) where the same is intersected by the dividing line of section 273, block 1, lot 3 to the north with the northerly line of the subdivision known as "Map of University Heights at Flowerfield, Section No. 6", filed September 27, 1965 as map no. 4479, to the South. the said commencement point having state plane coordinate values of, North 268163.304 and East 1224698.785, and running the following two (2) courses to the point of beginning:

A) along the said dividing line, South 61 degrees 59 minutes 05 seconds West, a distance of 395.30 feet; thence

B) along the same, South 51 degrees 07 minutes 47 seconds West, a distance of 584.24 feet to the point of beginning. From the said point of beginning, running; thence

1) continuing along the aforementioned dividing line, South 51 degrees 07 minutes 47 seconds West, a distance of 406.75 feet; thence crossing into aforementioned lot 1 the following four (4) courses:

2) North 38 degrees 52 minutes 13 seconds west, a distance of 1152.33 feet to a point on the southeasterly side of development drive, a private roadway of undesignated width; thence

3) following the said side of development drive, on a curve to the right having a radius of 3485.50 feet, a central angle of 03 degrees 09 minutes 38 seconds and an arc length of 192.27 feet, the chord of which bears North 69 degrees 55 minutes 59 seconds East for a distance of 192.25 feet to a point of tangency; thence

4) North 71 degrees 30 minutes 49 seconds east, a distance of 46.00 feet; thence

5) South 48 degrees 28 minutes 00 seconds east, a distance of 1089.59 feet to the point and place of beginning.

The above-described lease area contains 348,485 square feet or 8.0001 acres of land.

The above-described preservation area was written in accordance with a map entitled, "Lease area sketch, proposed Veeco lease area, Stony Brook university, part of section 273, block 1, lot 3, town of Brookhaven, county of Suffolk, state of New York" prepared by Gallas Surveying Group, dated March 6, 2024, 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.