

STATE OF NEW YORK

9980

IN ASSEMBLY

April 28, 2022

Introduced by M. of A. JEAN-PIERRE -- read once and referred to the
Committee on Higher Education

AN ACT in relation to authorizing the state university of New York at
Farmingdale to lease certain lands to the Farmingdale state develop-
ment corporation

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that the state
2 university of New York at Farmingdale ("Farmingdale") seeks to use
3 approximately 16 acres of underutilized land on Farmingdale's campus for
4 the purpose of the creation of multiple lacrosse and multi-sport athlet-
5 ic fields. One of the nation's leading youth sports tournament firms,
6 has indicated a desire to develop these parcels at the firm's expense
7 which would present an opportunity to generate significant revenue for
8 Farmingdale and offers the unique prospect of rendering Farmingdale a
9 desired destination for athletic tournaments, camps and clinics.

10 The legislature further finds that the location and operation of this
11 facility would provide opportunities for students enrolled in
12 Farmingdale's Sports Management Program to participate in applied learn-
13 ing and receive direct, hands-on access to myriad aspects of this indus-
14 try.

15 The legislature further finds that Farmingdale is ideally suited for
16 such a successful venture, with proximity along the border of Nassau and
17 Suffolk counties known as the Route 110 corridor; Farmingdale controls
18 and maintains vacant land throughout the corridor and in several
19 locations on its campus. This partnership opportunity will raise
20 Farmingdale's campus profile, diversify its revenue stream and position
21 Farmingdale as a prominent member of the Long Island economy. Moreover,
22 this partnership opportunity fulfills a necessary and vital public
23 purpose.

24 Finally, the legislature finds that granting the trustees of the State
25 University of New York the authority and power to lease and otherwise
26 contract to make available grounds and facilities of the campus of the
27 State University of New York at Farmingdale will ensure such activity

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

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1 will promote the provision of educational and athletic opportunities for
2 Farmingdale and the surrounding community.

3 § 2. Notwithstanding any other law to the contrary, the state Univer-
4 sity Trustees are authorized and empowered, without any public bidding,
5 to lease and otherwise contract to make available to Farmingdale state
6 development corporation, a not-for-profit corporation (the "ground
7 lessee"), a portion of the lands of the university generally described
8 in this act for the purpose of developing, constructing, maintaining and
9 operating a multi-purpose athletic facility to support the provision of
10 athletic tournaments, camps, clinics and other opportunities for Farm-
11 ingdale students and local community residents. Such lease or contract
12 shall be for a period not exceeding 30 years without any fee simple
13 conveyance and otherwise upon terms and conditions determined by such
14 trustees, subject to the approval of the director of the division of the
15 budget, the attorney general and the state comptroller. In the event
16 that the real property that is the subject of such lease or contract
17 shall cease to be used for the purpose described in this act, such lease
18 or contract shall immediately terminate and the real property and any
19 improvements thereon shall revert to the state university of New York.
20 Any lease or contract entered into pursuant to this act shall provide
21 that the real property that is the subject of such lease or contract and
22 any improvements thereon shall revert to the state university of New
23 York on the expiration of such contract or lease.

24 § 3. Any contract or lease entered into pursuant to this act shall be
25 deemed to be a state contract for purposes of article 15-A of the execu-
26 tive law, and any contractor, subcontractor, lessee or sublessee enter-
27 ing into such contract or lease for the construction, demolition, recon-
28 struction, excavation, rehabilitation, repair, renovation, alteration or
29 improvement authorized pursuant to this act shall be deemed a state
30 agency for the purposes of article 15-A of the executive law and subject
31 to the provisions of such article.

32 § 4. Notwithstanding any general, special or local law or judicial
33 decision to the contrary, all work performed on a project authorized by
34 this act where all or any portion thereof involves a lease or agreement
35 for construction, demolition, reconstruction, excavation, rehabili-
36 tation, repair, renovation, alteration or improvement shall be deemed
37 public work and shall be subject to and performed in accordance with the
38 provisions of article 8 of the labor law to the same extent and in the
39 same manner as a contract of the state, and compliance with all the
40 provisions of article 8 of the labor law shall be required of any
41 lessee, sublessee, contractor or subcontractor on the project, including
42 the enforcement of prevailing wage requirements by the fiscal officer as
43 defined in paragraph e of subdivision 5 of section 220 of the labor law
44 to the same extent as a contract of the state.

45 § 5. Notwithstanding any law, rule or regulation to the contrary, the
46 state university of New York shall not contract out to Farmingdale state
47 development corporation or any subsidiary for the instruction or any
48 pedagogical functions or services, or any administrative services, and
49 similar professional services currently being performed by state employ-
50 ees. All such functions and services shall be performed by state employ-
51 ees pursuant to the civil service law. Nothing in this act shall result
52 in the displacement of any currently employed state worker or the loss
53 of position (including partial displacement such as reduction in the
54 hours of non-overtime, wages or employment benefits), or result in the
55 impairment of existing contracts for services or collective bargaining
56 rights pursuant to existing agreements. All positions currently at the

1 state university of New York in the unclassified service of the civil
2 service law shall remain in the unclassified service. No services or
3 work on the property described in this act currently performed by public
4 employees or future work that is similar in scope and nature to the work
5 being currently performed by public employees shall be contracted out or
6 privatized by the state university of New York or by an affiliated enti-
7 ty or associated entity of the state university of New York. All such
8 future work shall be performed by public employees.

9 § 6. For the purposes of this act: (a) "project" shall mean work at
10 the property authorized by this act to be leased to Farmingdale state
11 development corporation as described in section twelve of this act that
12 involves the design, construction, reconstruction, demolition, exca-
13 vation, rehabilitation, repair, renovation, alteration or improvement of
14 Farmingdale state development corporation property.

15 (b) "project labor agreement" shall mean a pre-hire collective
16 bargaining agreement between a contractor and a labor organization,
17 establishing the labor organization as the collective bargaining repre-
18 sentative for all persons who will perform work on the project, and
19 which provides that only contractors and subcontractors who sign a pre-
20 negotiated agreement with the labor organization can perform project
21 work.

22 § 7. Nothing in this act shall be deemed to waive or impair any rights
23 or benefits of employees of the state university of New York that other-
24 wise would be available to them pursuant to the terms of agreements
25 between the certified representatives of such employees and the state of
26 New York pursuant to article 14 of the civil service law; all work
27 performed on such property that ordinarily would be performed by employ-
28 ees subject to article 14 of the civil service law shall continue to be
29 performed by such employees.

30 § 8. Notwithstanding the provisions of any general, special, or local
31 law or judicial decision to the contrary:

32 (a) Farmingdale state development corporation may require a contractor
33 awarded a contract, subcontract, lease, grant, bond, covenant or other
34 agreement for a project to enter into a project labor agreement during
35 and for the work involved with such project when such requirement is
36 part of Farmingdale state development corporation's request for
37 proposals for the project and when the Farmingdale state development
38 corporation determines that the record supporting the decision to enter
39 into such an agreement establishes that the interests underlying the
40 competitive bidding laws are best met by requiring a project labor
41 agreement including: obtaining the best work at the lowest possible
42 price; preventing favoritism, fraud and corruption; the impact of delay;
43 the possibility of cost savings; and any local history of labor unrest.

44 (b) If Farmingdale state development corporation does not require a
45 project labor agreement, then any contractor, subcontractor, lease,
46 grant, bond, covenant or other agreements for a project shall be awarded
47 pursuant to section 135 of the state finance law.

48 § 9. Without limiting the determination of the terms and conditions of
49 such contracts or leases, such terms and conditions may provide for
50 leasing, subleasing, construction, reconstruction, rehabilitation,
51 improvement, operation and management of and provision of services and
52 assistance and the granting of licenses, easements and other arrange-
53 ments with regard to such grounds and facilities by Farmingdale state
54 development corporation, and parties contracting with Farmingdale state
55 development corporation, and in connection with such activities, the
56 obtaining of funding or financing, whether public or private, unsecured

1 or secured (including, but not limited to, secured by leasehold mort-
2 gages and assignments of rents and leases), by Farmingdale state devel-
3 opment corporation and parties contracting with Farmingdale state devel-
4 opment corporation for the purposes of completing the project described
5 in this act.

6 § 10. Such lease shall include an indemnity provision whereby the
7 lessee or sublessee promises to indemnify, hold harmless and defend the
8 lessor against all claims, suits, actions, and liability to all persons
9 on the leased premises, including tenant, tenant's agents, contractors,
10 subcontractors, employees, customers, guests, licensees, invitees and
11 members of the public, for damage to any such person's property, whether
12 real or personal, or for personal injuries arising out of tenant's use
13 or occupation of the demised premises.

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

17 § 12. The property authorized by this act to be leased to Farmingdale
18 state development corporation is generally described as that parcel of
19 real property with improvements thereon consisting of a total of 16
20 acres situated on the campus of the State University of New York at
21 Farmingdale. The description in this section of the parcel to be made
22 available pursuant to this act is not meant to be a legal description,
23 but is intended only to identify the parcel:

24 All that certain plot, piece or parcel of land, situate, lying and
25 being at Melville, Town of Huntington, County of Suffolk and State of
26 New York, being more particularly bounded and described as follows:

27 BEGINNING at a point at the southeast corner of the parcel about to be
28 described, said point also being the southwest corner of a parcel leased
29 from the people of the State of New York acting by and through the State
30 University of New York to Broad Hollow Bioscience Park, Inc., as
31 described in a Ground Lease document, dated June 17, 2011, said point
32 also being the following six (6) courses from the intersection formed by
33 the southerly line of a NYSDOT detention pond as shown on Acquisition
34 Map 289 T Parcel 324, with the westerly side of New York State Route
35 110;

36 RUNNING THENCE along said westerly side of New York State Route 110,
37 South 00 degrees 22 minutes 45 seconds East 573.44 feet;

38 THENCE through the lands now or formerly of the People of the State of
39 New York for the State University of New York at Farmingdale Campus the
40 remaining five (5) courses;

41 THENCE South 11 degrees 37 minutes 49 seconds West 211.11 feet to a
42 point of curvature;

43 THENCE along the arc of a tangent curve to the right, having a radius
44 390.49 feet and a length of 422.88 feet;

45 THENCE North 45 degrees 00 minutes 49 seconds West 964.56 feet to a
46 point of curvature;

47 THENCE along the arc of a tangent curve to the left, having a radius
48 462.83 feet and a length of 724.84 feet;

49 THENCE North 44 degrees 41 minutes 38 seconds West 60.00 feet to the
50 point of beginning;

51 THENCE continuing through said lands now or formerly of the People of
52 the State of New York for the State University of New York at Farming-
53 dale Campus the following nine (9) courses;

54 THENCE North 43 degrees 22 minutes 32 seconds West 196.74 feet;

55 THENCE North 37 degrees 41 minutes 34 seconds East 108.16 feet;

56 THENCE North 05 degrees 41 minutes 52 seconds West 104.55 feet;

1 THENCE North 44 degrees 33 minutes 30 seconds West 388.99 feet;
2 THENCE North 57 degrees 50 minutes 07 seconds East 161.52 feet;
3 THENCE North 24 degrees 56 minutes 49 seconds East 812.41 feet, to the
4 southerly line of an electric easement to N/F Long Island Lighting
5 Company, as described in Liber 4239 pg. 474, dated November 16, 1956, on
6 file at the Suffolk County Clerk's Office, and shown on a survey known
7 as Map No. 3007 by A. J. Edwards & T.S. Prime, dated January 28, 1955;
8 THENCE along said southerly easement line, South 64 degrees 29 minutes
9 07 seconds East 598.00 feet, to a point on the westerly line of the
10 aforesaid leased parcel;
11 THENCE along said westerly line of the leased parcel, South 27 degrees
12 08 minutes 01 seconds West 1174.14 feet;
13 THENCE continuing along said westerly line of the leased parcel, South
14 45 degrees 18 minutes 22 seconds West 184.68 feet, to THE POINT OR PLACE
15 OF BEGINNING.
16 Containing: 15.396 acres, more or less. Subject to all existing ease-
17 ments and restrictions of record.
18 § 13. The state university of New York shall not lease lands described
19 in this act unless any such lease shall be executed within 5 years of
20 the effective date of this act.
21 § 14. Insofar as the provisions of this act are inconsistent with the
22 provisions of any law, general, special or local, the provisions of this
23 act shall be controlling.
24 § 15. This act shall take effect immediately.