STATE OF NEW YORK

9371

IN SENATE

May 14, 2024

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed 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 development corporation

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 Farmingdale ("Farmingdale") seeks to use approximately 9.26 acres of underutilized land on Farmingdale's campus for the purpose of multi-purpose facilities to support housing needs and supporting amenities, fulfilling a necessary and vital public purpose. The legislature further finds that granting the trustees of the state university of New York ("Trustees") the authority and power to lease and otherwise contract to make available grounds and facilities of the Farmingdale campus will ensure such land is utilized for the benefit of Farmingdale, the surrounding community, and the general public.

§ 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 Farmingdale state development corporation, a not-for-profit corporation (the "ground lessee"), a portion of the lands of the university generally described in this act for the purpose of developing, constructing, maintaining and operating multi-purpose facilities to support housing needs and supporting amenities. Such lease or contract shall be for a period not exceeding ninety-nine 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

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

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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. Any and all proceeds related to the leases authorized by this act shall be used for the benefit of the Farmingdale campus and the allocation of such proceeds shall be subject to approval by the 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 Farmingdale state development corporation 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. No services or work 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.

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

sentative 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. 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 that ordinarily would be performed by employees 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:

(a) Farmingdale state development corporation 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 Farmingdale state development corporation's request for proposals for the project and when the Farmingdale state development corporation 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 Farmingdale state development corporation 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.

§ 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 Farmingdale state development corporation, and parties contracting with Farmingdale state development corporation, 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 Farmingdale state development corporation and parties contracting with Farmingdale state development corporation 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 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 Farmingdale state development corporation is generally described as that parcel of real property with improvements thereon consisting of a total of 9.26 acres situated on the campus of the State University of New York at Farmingdale. The description in this section of the parcel to be made available pursuant to this act is not meant to be a legal description, but is intended only to identify the parcel:

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

BEGINNING at the corner formed by the intersection of the southerly side of Melville Road with the westerly side of Route 110 (Broad Hollow Road).

Running Thence the following 12 (twelve) courses and distances:

1. Southerly, along the westerly side of Route 110, along the arc of a curve, bearing to the right, having a radius of 5629.58 feet and a length of 241.37 feet;

2. Still along said side, South 18 degrees 09 minutes 05 seconds West, a distance of 121.11 feet;

3. Westerly, North 56 degrees 29 minutes 30 seconds West, a distance of 100.00 feet;

4. Southerly, South 15 degrees 47 minutes 32 seconds West, a distance of 125.97 feet;

5. Westerly, North 56 degrees 29 minutes 30 seconds West, a distance of 545.14 feet;

6. Still westerly, North 56 degrees 05 minutes 25 seconds West, a distance of 382.45 feet;

7. Still westerly, North 56 degrees 57 minutes 00 seconds West, a distance of 300 feet, to the southerly side of Melville Road;

8. Easterly, along said side, along the arc of a curve, bearing to the right, having a radius of 512.54 feet, and a length of 485.98 feet;

9. Still along said side, South 66 degrees 50 minutes 52 seconds East, a distance of 196.45 feet;

10. Still along said side, along the arc of a curve, bearing to the left, having a radius of 1313.24 feet and a length of 274.97 feet;

11. Still along said side, South 78 degrees 50 minutes 40 seconds East, a distance of 228.40 feet;

12. Still along said side, South 45 degrees 52 minutes 29 seconds East, a distance of 130.39 feet, to the westerly side of Route 110, at the Point or Place of BEGINNING.

Containing within said bounds an area of 9.26 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.