S T A T E O F N E W Y O R K

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I N S E N A T E

April 15, 2010

Introduced by Sen. PERKINS -- (at request of the Dormitory Authority of the State of New York) -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the facilities development corporation act, in relation to constructing buildings for certain public corporations; and to repeal section 10 of such act relating to the custody of funds for municipal projects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 13 and 13-a of section 3 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, subdivision 13 as amended by chapter 344 of the laws of 1969 and subdivision 13-a as added by chapter 968 of the laws of 1981, are amended to read as follows:

13. "Municipality" means a [county, city, town or village,] MUNICIPAL CORPORATION OR A PUBLIC BENEFIT CORPORATION except that, where the corporation is undertaking a health facilities improvement program, such term shall mean a [county, city or town] MUNICIPAL CORPORATION constituting a social services district as defined in sections two[,] AND sixty-one[, seventy-five and seventy-five-a] of the social services law OR A PUBLIC BENEFIT CORPORATION, or any two or more of the foregoing which are acting jointly to provide a health facility or health facilities.

13-a. "Municipal building" shall mean a building, including grading or improvement of the site, furnishings, equipment and utility services in conjunction with such a building, to be principally used [for the administrative offices of] BY a municipality [or for the storage or repair of maintenance equipment] IN FURTHERANCE OF ANY OF ITS CORPORATE PURPOSES. Nothing herein shall be construed to prevent the corporation from entering into an agreement for the design and construction of a local correctional facility in combination with a municipal building.

S 2. Subdivision 1 of section 8-b of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act,

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

LBD15981-01-0

as amended by chapter 866 of the laws of 1984, is amended to read as follows:

1. The corporation is authorized to enter into an agreement with a municipality providing for the design by the corporation of a health facility or health facilities for such municipality at the sole cost and expense of the municipality. Such agreement may also provide for the construction, reconstruction, rehabilitation and improvement of such health facility or health facilities by the corporation at the sole cost and expense of the municipality or of any agency or instrumentality thereof. A municipality is hereby authorized to enter into such agreements with the corporation and to provide for the payment to the corporation of all expenses incurred at such times and in such amounts as shall be set forth in the agreement, notwithstanding the provisions of any general, special or local law or of any charter. The agreement shall contain such other terms and conditions as may be agreed upon by the corporation and the municipality. The corporation shall enter into an agreement with a municipality prior to the commencement of any corporation services. No agreement entered into between the facilities development corporation and a municipality pursuant to this section shall be effective until the [director of the budget] CORPORATION has determined that the total estimated charge to be collected by the corporation from the municipality is fair and reasonable in relationship to the estimated total project cost and also that sufficient provisions exist to insure the collection of such charge by the corporation from the municipality. The corporation [shall] MAY by regulation prescribe a procedure or procedures for the application by a municipality to the corporation for its assistance and the corporation's procedure or procedures for the design, construction, reconstruction, rehabilitation and improvement of a health facility or health facilities. [Any such regulation shall be submitted to the director of the budget for his approval prior to its effectiveness.]

S 3. Section 10 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, is REPEALED.

S 4. Subdivision 1 of section 14-a of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 968 of the laws of 1981, is amended to read as follows:

1. The corporation is authorized to enter into an agreement with a municipality for the design, construction, reconstruction, rehabilitation and improvement for such municipality of a municipal building or buildings at the sole cost and expense of such municipality.

A. SUCH AGREEMENT SHALL PROVIDE FOR THE CORPORATION TO: (I) PROCURE SUCH ARCHITECTS, ENGINEERS, CONSTRUCTION MANAGERS AND CONTRACTORS NECESSARY TO DESIGN, MANAGE AND CONSTRUCT THE PROJECT (INCLUDING THE PERFORMANCE OF SERVICES RELATING TO PLANNING, DESIGN REVIEW, BUDGETING, CONSTRUCTION SCHEDULING, CONSTRUCTABILITY REVIEWS, COORDINATION OF PRIME CONTRACTORS, COST CONTROL AND PROCESSING OF CHANGE ORDERS); AND (II) MONITOR, SUPERVISE, REVIEW AND COORDINATE THE SERVICES OF ALL ARCHITECTS, ENGINEERS, CONSTRUCTION MANAGERS AND CONTRACTORS ENGAGED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH TO THE EXTENT THAT THE CORPORATION DEEMS IT NECESSARY TO FULFILL ITS RESPONSIBILITIES AS AGENT OR REPRESENTATIVE OF THE MUNICIPALITY UNDER SUCH AGREEMENT.

The corporation shall enter into an agreement with a municipality prior to the commencement of any corporation services. No agreement entered into between the facilities development corporation and a municipality pursuant to this section shall be effective until the [director

of the budget] CORPORATION has determined that the total estimated charge to be collected by the corporation from the municipality is fair and reasonable in relationship to the estimated total project cost and also that sufficient provisions exist to insure the collection of such charge by the corporation from the municipality. A municipality, by resolution of its governing body, is hereby authorized to enter into an agreement with the corporation and to provide for the payment to the corporation of all expenses incurred at such time and in such amounts as shall be set forth in the agreement, notwithstanding the provisions of any general, special or local law or of any charter. The agreement shall contain such other terms and conditions as may be agreed upon by the corporation and the municipality.

B. SUCH AGREEMENT SHALL PROVIDE FOR THE CORPORATION TO: (I) PROCURE SUCH ARCHITECTS, ENGINEERS, CONSTRUCTION MANAGERS AND CONTRACTORS NECESSARY TO DESIGN, MANAGE AND CONSTRUCT THE PROJECT (INCLUDING THE PERFORMANCE OF SERVICES RELATING TO PLANNING, DESIGN REVIEW, BUDGETING, CONSTRUCTION SCHEDULING, CONSTRUCTABILITY REVIEWS, COORDINATION OF PRIME CONTRACTORS, COST CONTROL AND PROCESSING OF CHANGE ORDERS); AND (II) MONITOR, SUPERVISE, REVIEW AND COORDINATE THE SERVICES OF ALL ARCHITECTS, ENGINEERS, CONSTRUCTION MANAGERS AND CONTRACTORS ENGAGED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH TO THE EXTENT THAT THE CORPORATION DEEMS IT NECESSARY TO FULFILL ITS RESPONSIBILITIES AS AGENT OR REPRESENTATIVE OF THE MUNICIPALITY UNDER SUCH AGREEMENT.

S 5. Subdivision 3 of section 14-a of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 968 of the laws of 1981, is amended to read as follows:

3. The corporation [shall] MAY, by regulation, prescribe a procedure or procedures for the application by a municipality to the corporation for its assistance, and the corporation's procedure or procedures for the design, construction, reconstruction, rehabilitation and improvement of a municipal building or buildings. [Any such regulation shall be submitted to the director of the budget for his approval prior to its effectiveness.]

S 6. Subdivision 1 of section 14-b of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 866 of the laws of 1984, is amended to read as follows:

1. The corporation is authorized to enter into an agreement with a municipality providing for the design, construction, reconstruction, rehabilitation and improvement for such municipality of a local correctional facility, as such term is defined in section forty of the correction law, including any place used by a municipality for the detention of persons charged with or convicted of a crime, at the sole cost and expense of such municipality. A municipality, by resolution of its governing body, is hereby authorized to enter into such an agreement with the corporation and to provide for the payment to the corporation of all expenses incurred at such times and in such amounts as shall be set forth in the agreement, notwithstanding the provisions of any general, special or local law or of any charter. The agreement shall contain such other terms and conditions as may be agreed upon by the corporation and the municipality. The corporation shall enter into an agreement with a municipality prior to the commencement of any corporation services. No agreement entered into between the facilities development corporation and a municipality pursuant to this section shall be effective until the [director of the budget] CORPORATION has determined that the total esti-

mated charge to be collected by the corporation from the municipality is fair and reasonable in relationship to the estimated total project cost and also that sufficient provisions exist to insure the collection of such charge by the corporation from the municipality. The corporation [shall] MAY by regulation prescribe a procedure or procedures for the application by a municipality to the corporation for its assistance and the corporation's procedure or procedures for the design, construction, reconstruction, rehabilitation and improvement of a local correctional facility. [Any such regulation shall be submitted to the director of the budget for his approval prior to its effectiveness.]

S 7. This act shall take effect immediately.