

# STATE OF NEW YORK

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2021-2022 Regular Sessions

## IN ASSEMBLY

May 21, 2021

Introduced by M. of A. CYMBROWITZ, FALL, BENEDETTO, BURDICK, COOK, TAPIA, CUSICK, J. RIVERA, SEAWRIGHT, DINOWITZ, EICHENSTEIN, KIM, DAVILA, D. ROSENTHAL -- read once and referred to the Committee on Housing -- recommitted to the Committee on Housing in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public housing law and the administrative code of the city of New York, in relation to establishing the New York city public housing preservation trust for properties owned or operated by the New York city housing authority and providing for the issuance of certain bonds, notes or other obligations of the New York city housing development corporation

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

1 Section 1. The public housing law is amended by adding a new article  
2 15 to read as follows:

3 ARTICLE XV

4 NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST

5 Section 625. Short title.

6 626. Legislative findings.

7 627. Definitions.

8 628. New York city public housing preservation trust.

9 629. Powers and duties of the trust.

10 630. Transfer of property.

11 631. Exemption from land use review procedures and other  
12 requirements.

13 632. Resident protections and opportunities.

14 633. Compliance with codes.

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

LBD11275-14-2

- 1           634. Contracts of the trust.  
2           635. Alternative project delivery contracts.  
3           636. Additional authority.  
4           637. Additional requirements for alternative project delivery  
5           contracts.  
6           638. Borrowing by the trust and for its benefit; effects of  
7           certain defaults.  
8           639. Resources of the trust.  
9           640. Legal investment and deposit.  
10          641. Tax exemption and tax contract by the state.  
11          642. Actions against the trust.  
12          643. Civil service and pension system membership.  
13          644. Collective negotiation.  
14          645. Application of state and local human rights laws.  
15          646. Limited liability.  
16          647. Audit and annual reports.  
17          648. Jurisdiction over trust.  
18          649. Effect of inconsistent provisions.  
19          650. Severability.

20          § 625. Short title. This article shall be known and may be cited as  
21 the "New York city public housing preservation trust act".

22          § 626. Legislative findings. The legislature hereby finds and declares  
23 that significant capital investment is required to design, develop,  
24 construct, reconstruct, improve, modernize, rehabilitate, and repair the  
25 aging buildings owned or operated by the New York city housing authority  
26 which are deteriorating due to decades of diminishing capital invest-  
27 ment. Restrictions relating to the New York city housing authority's  
28 construction process, and its inability to utilize innovative project  
29 delivery methods, have exacerbated its capital needs. A new public enti-  
30 ty with greater flexibility to leverage capital investment and to manage  
31 the rehabilitation of these properties must be established. Repairing,  
32 modernizing, and improving New York city housing authority buildings  
33 must begin immediately so that hundreds of thousands of New Yorkers can  
34 reside in affordable housing that is decent, safe, sanitary, and in good  
35 repair. Establishing a new public entity, and transferring a leasehold  
36 interest in the buildings owned and operated by the New York city hous-  
37 ing authority to this new entity so that they can undergo the necessary  
38 rehabilitation, repair and modernization, will ensure that these build-  
39 ings continue to provide affordable housing to residents of New York  
40 city for many decades into the future. It is the understanding and  
41 intention of the legislature that any building transferred to this new  
42 public entity and operated by the New York city housing authority shall  
43 continue to be subject to the obligations imposed by Maribel Baez et al.  
44 v. New York City Housing Authority, No. 13-Civ-8916.

45          § 627. Definitions. As used or referred to in this article:

46          1. "Alternative project delivery contract" means any project delivery  
47 method authorized by this article, including construction manager build,  
48 construction manager at risk, and design-build, pursuant to which one or  
49 more contracts for the provision of design or construction management  
50 and construction services are awarded pursuant to an open and compet-  
51 itive method of procurement, as specified in section six hundred thir-  
52 ty-five of this article.

53          2. "Best value" means the basis for awarding contracts for services to  
54 a proposer that optimizes quality, cost and efficiency, price and  
55 performance criteria, which may include, but is not limited to:

1 (a) the quality of the proposer's performance on previous projects;  
2 (b) the timeliness of the proposer's performance on previous projects;  
3 (c) the level of customer satisfaction with the proposer's performance  
4 on previous projects;

5 (d) the proposer's record of performing previous projects on budget  
6 and ability to minimize cost overruns;

7 (e) the proposer's ability to limit change orders;

8 (f) the proposer's ability to prepare appropriate project plans;

9 (g) the proposer's technical capacities;

10 (h) the individual qualifications of the proposer's key personnel;

11 (i) the proposer's ability to assess and manage risk and minimize risk  
12 impact;

13 (j) the proposer's financial capability;

14 (k) the proposer's ability to comply with applicable requirements,  
15 including the provisions of articles one hundred forty-five, one hundred  
16 forty-seven and one hundred forty-eight of the education law;

17 (l) the proposer's past record of compliance with federal laws, state  
18 and local laws, rules, licensing requirements, where applicable, and  
19 executive orders, including, but not limited to, section three of the  
20 housing and urban development act of nineteen hundred sixty-eight, as  
21 amended, or any successor provision, article fifteen-A of the executive  
22 law, any other applicable laws concerning minority- and women-owned  
23 business enterprise participation, the labor law, and any other applica-  
24 ble labor and prevailing wage laws;

25 (m) the proposer's record of complying with existing labor standards,  
26 maintaining harmonious labor relations, and protecting the health and  
27 safety of workers and payment of wages above any locally-defined living  
28 wage;

29 (n) a quantitative factor to be used in evaluation of bids or offers  
30 for awarding of contracts for bidders or offerors that are certified as  
31 minority or women owned business enterprises pursuant to article  
32 fifteen-A of the executive law or certified pursuant to section thirteen  
33 hundred four of the New York city charter as minority or women owned  
34 business enterprises, or where the bidder is a joint venture including  
35 at least one such certified firm. Where the trust identifies a quantita-  
36 tive factor pursuant to this paragraph, the trust shall specify that  
37 businesses certified as minority or women owned business enterprises  
38 pursuant to article fifteen-A of the executive law as well as those  
39 certified as minority or women owned business enterprises pursuant to  
40 section thirteen hundred four of the New York city charter, or joint  
41 ventures including at least one such certified firm, are eligible to  
42 qualify for such factor. Nothing in this paragraph shall be construed to  
43 require that such businesses be concurrently certified as minority or  
44 women owned business enterprises under such article and such section to  
45 qualify for such quantitative factor; and

46 (o) a quantitative factor to be used in evaluation of bids or offers  
47 for awarding of contracts for bidders or offerors that constitute busi-  
48 ness concerns that provide economic opportunities for low and very low-  
49 income persons. Such basis shall reflect, wherever possible, objective  
50 and quantifiable analysis.

51 3. "Board" means the board of trustees of the trust.

52 4. "City" means the city of New York.

53 5. "Construction manager at risk" means a project delivery method  
54 whereby a construction manager:

55 (a) serves as part of a team in conjunction with the owner in the  
56 design phase of the project;

1 (b) during the construction phase, acts as general contractor for  
2 agreed upon compensation as set forth in the construction manager at  
3 risk agreement; and

4 (c) assumes the risk of construction costs exceeding an amount speci-  
5 fied in the construction manager at risk agreement.

6 6. "Construction manager build" means a project delivery method where-  
7 by a construction manager:

8 (a) serves as part of a team in conjunction with the owner in the  
9 design phase of the project;

10 (b) under the oversight of the owner acts as the single source of  
11 responsibility to bid, select and hold construction contracts on behalf  
12 of the owner during the construction phase; and

13 (c) manages the construction project on behalf of the owner.

14 7. "Cost plus" means compensating a contractor for the cost to  
15 complete a contract by reimbursing actual costs for labor, equipment and  
16 materials plus an additional amount for overhead and profit.

17 8. "Design-build" means a project delivery method for the design and  
18 construction of a project with a single entity, which may be a team  
19 comprised of separate entities.

20 9. "Ground lease" means the written instrument pursuant to which NYCHA  
21 transfers to the trust its leasehold interest in its housing facilities  
22 and ancillary personal property.

23 10. "Housing facilities" means the land and buildings thereon owned or  
24 operated by NYCHA and the improvements made to such land and buildings  
25 for use in connection with development or operation of dwelling accommo-  
26 datations for low-income families.

27 11. "Low-income families" means low-, very low-, and extremely low-in-  
28 come families as defined in paragraph two of subsection (b) of section  
29 1437a of title forty-two of the United States code or any successor  
30 provision.

31 12. "Mayor" means the mayor of the city of New York.

32 13. "NYCHA" means the New York city housing authority.

33 14. "NYCHA board" means the members of NYCHA appointed pursuant to  
34 subdivision three of section four hundred two of this chapter.

35 15. "NYCHA CEO" means the chief executive officer of NYCHA who serves  
36 pursuant to NYCHA's by-laws.

37 16. "NYCHA CFO" means the chief financial officer of NYCHA who serves  
38 pursuant to NYCHA's by-laws.

39 17. "Other residents" means residents who are:

40 (a) residents of a housing facility on the date NYCHA transfers such  
41 facility to the trust but are not low-income families, as defined in  
42 this section, on the date of such transfer;

43 (b) low-income families, as defined in this section, and residents of  
44 a housing facility on the date NYCHA transfers such facility to the  
45 trust but who, subsequent to such transfer and during the course of the  
46 tenancies of such residents, no longer satisfy the definition of low-in-  
47 come families; or

48 (c) low-income families, as defined in this section, upon commencement  
49 of their tenancies in a housing facility operated by the trust but who,  
50 during the course of the tenancies of such residents, do not satisfy the  
51 definition of low-income families.

52 18. "Project labor agreement" shall have the same meaning as described  
53 in subdivision one of section two hundred twenty-two of the labor law. A  
54 project labor agreement shall require participation in apprentice train-  
55 ing programs in accordance with paragraph (e) of subdivision two of  
56 section two hundred twenty-two of the labor law.

1 19. "Resident" means a natural person whose lawful primary residence  
2 is a dwelling unit in a housing facility.

3 20. "Trust" means the New York city public housing preservation trust.

4 21. "Voting process" means the process that shall be undertaken at a  
5 particular housing facility before the trust may transfer, convey,  
6 assign, mortgage, pledge or otherwise encumber any interest in, or  
7 permit or suffer any transfer, conveyance, assignment, mortgage, pledge  
8 or other encumbrance of any interest in such housing facility. The  
9 voting process shall be further defined as set forth in requirements  
10 promulgated pursuant to section six hundred thirty of this article.

11 § 628. New York city public housing preservation trust. 1. There is  
12 hereby established a public benefit corporation to be known as the "New  
13 York city public housing preservation trust". The purpose of such trust  
14 shall be the design, development, construction, reconstruction, improve-  
15 ment, modernization, rehabilitation, repairing and operation of housing  
16 facilities.

17 2. The trust shall be governed by and its powers shall be exercised by  
18 a board of trustees consisting of nine members. The members shall be the  
19 NYCHA CEO, the NYCHA CFO, the deputy mayor for housing and economic  
20 development of the city of New York, or another deputy mayor designated  
21 by the mayor if there is no deputy mayor with that designation, three  
22 members appointed by the NYCHA CEO, including two housing facility resi-  
23 dent members and one member at large, provided that one such housing  
24 facility resident member shall be selected from two candidates nominated  
25 by the recognized citywide council of presidents, or an equivalent  
26 successor body, and one such housing facility resident member shall be  
27 selected from two candidates nominated by the resident advisory board,  
28 or an equivalent successor body, and three members appointed by the  
29 mayor, including two housing facility resident members, provided that  
30 one such housing facility resident member shall be selected from two  
31 candidates nominated by the recognized citywide council of presidents,  
32 or an equivalent successor body, and one member who shall represent  
33 employees of NYCHA, as applicable, and be selected from two candidates  
34 nominated by organizations representing employees of NYCHA or the trust,  
35 as applicable. The NYCHA CEO shall be the chair of the trust. The  
36 board of trustees of the trust shall appoint the president of the trust.  
37 The term of each member, other than members serving by virtue of their  
38 positions, shall be three years, except at initial appointment when the  
39 terms shall be staggered so that no more than two members shall have  
40 terms that end in any given year, provided that the term of only one  
41 member appointed by the mayor shall end in any given year.

42 3. Each appointed member shall continue in office until a successor  
43 has been appointed and qualified unless otherwise removed as follows. A  
44 member may be removed by the NYCHA CEO or mayor, whichever appointed  
45 such member, upon the filing in the office of the trust and serving upon  
46 the member the reasons therefor. Such document setting forth the  
47 reasons shall be made available to the general public which shall  
48 include, but not be limited to, publishing such reasons on the websites  
49 of the trust and NYCHA. In the event a vacancy occurs in the office of  
50 an appointed member, the vacancy shall be filled in the same manner as  
51 was the original appointment of the member whose office became vacant.

52 4. Appointed members may engage in private employment, or in a profes-  
53 sion or business, unless otherwise prohibited by law, rule or regu-  
54 lation, provided, however, that notwithstanding any applicable provision  
55 of law, the members shall be subject to the limitations contained in  
56 sections two thousand six hundred three, two thousand six hundred four,

1 two thousand six hundred five, and two thousand six hundred six of the  
2 New York city charter. The trust shall be an agency and such members  
3 shall be public servants for the purposes of such sections. In addition,  
4 such members shall be subject to the provisions of section one thousand  
5 one hundred sixteen of the New York city charter and shall for the  
6 purposes of such section be considered officers of the city. Further,  
7 such members, the president and certain critical employees of the trust  
8 as designated by the board or the president, shall be subject to the  
9 provisions of section 12-110 of the administrative code of the city of  
10 New York pertaining to the filing of annual disclosure reports with the  
11 city conflicts of interest board, and for such purpose, the members of  
12 the board of trustees shall be deemed to be compensated members of the  
13 trust.

14 5. The board shall provide for the holding of regular meetings, and  
15 such special meetings, at the call of the chair of the trust, as may be  
16 necessary. A majority of the whole number of members shall constitute a  
17 quorum for the transaction of business. The powers of the board shall be  
18 vested in and exercised by a majority of the whole number of the members  
19 thereof. Any one or more members of the board may participate in a  
20 meeting of the trust by means of videoconferencing consistent with arti-  
21 cle seven of the public officers law.

22 6. Members of the board, other than members serving by virtue of their  
23 positions, shall receive a stipend in the amount of two hundred fifty  
24 dollars for every four hours of work performed for the trust, not to  
25 exceed one thousand five hundred dollars per month. In addition,  
26 members shall be reimbursed for the actual and necessary expenses  
27 incurred by them in the performance of their official duties as members  
28 of the board of trustees.

29 7. The board shall appoint a president of the trust and determine the  
30 compensation of the president. The president, who shall not be a member  
31 of the board, shall be the chief executive officer of the trust and  
32 shall be responsible for the discharge of the executive and administra-  
33 tive functions and powers of the trust, including the exercise of any  
34 powers delegated by the board to the president. The president shall  
35 serve at the pleasure of the board.

36 8. The trust shall continue so long as it shall have notes, bonds or  
37 other obligations outstanding (including notes, bonds or obligations  
38 hereafter issued or incurred) and until its existence shall be termi-  
39 nated by law. Upon the termination of the existence of the trust, all  
40 its rights and properties shall pass to and be vested in NYCHA.

41 9. Notwithstanding any provision of law to the contrary, no officer or  
42 employee of the state, or of any civil division thereof, or of any  
43 public corporation, as defined in the general construction law, includ-  
44 ing NYCHA, shall be deemed to have forfeited or shall forfeit such  
45 person's office or employment or any benefits provided under the retire-  
46 ment and social security law or under any public retirement system main-  
47 tained by the state or by the civil divisions thereof, or by any such  
48 public corporation, by reason of such person's acceptance of membership  
49 on the board of the trust or by virtue of such person being an officer  
50 or employee of the trust.

51 § 629. Powers and duties of the trust. The trust shall have the  
52 following powers and duties:

53 1. to sue and be sued;

54 2. to have a seal and alter the same at pleasure;

1 3. to make and, as necessary, to amend and repeal by-laws for the  
2 trust and the management and regulation of its affairs not inconsistent  
3 with the provisions of this article;

4 4. to appoint the president of the trust and fix the president's  
5 compensation, pursuant to section six hundred twenty-eight of this arti-  
6 cle, and to execute direct oversight of the president and other manage-  
7 ment in the effective and ethical management of the trust, and establish  
8 policies regarding the payment of salary, compensation and reimburse-  
9 ments to, and establish rules for the time and attendance of the presi-  
10 dent and management;

11 5. to engage or assist in the development, design, construction,  
12 reconstruction, improvement, modernization, rehabilitation, repairing,  
13 and operation of housing facilities;

14 6. to acquire or transfer real and personal property and improvements  
15 thereon, or any interest therein, by any method, necessary or convenient  
16 for the exercise of its functions, powers and duties;

17 7. to encumber residential property and buildings held by the trust  
18 and limit use to residents who are low-income families as defined in  
19 subdivision eleven of section six hundred twenty-seven of this article  
20 and other residents as defined in subdivision seventeen of section six  
21 hundred twenty-seven of this article;

22 8. to make and execute contracts and all other instruments necessary  
23 or convenient for the exercise of its functions, powers and duties,  
24 including procurement contracts consistent with applicable provisions of  
25 this article. Notwithstanding any provision of law to the contrary,  
26 including but not limited to article eight of this chapter, the trust  
27 may enter into contracts, consistent with applicable provisions of this  
28 article, with NYCHA or on behalf of and for the benefit of NYCHA;

29 9. to enter into agreements with the NYCHA or other entities for the  
30 provision of management, maintenance and other services;

31 10. notwithstanding the provisions of section twenty-five hundred four  
32 of the insurance law or any other provision of law to the contrary, to  
33 procure or cause to be placed or procured insurance on behalf of itself  
34 and others against any loss in connection with its activities, proper-  
35 ties and other assets, in such amounts and from such insurers as it  
36 deems desirable;

37 11. to enter into agreements with public agencies and public entities  
38 for the receipt of services;

39 12. to borrow and loan funds and issue bonds, notes or other obli-  
40 gations consistent with this article;

41 13. to form or participate as members or partners of private entities,  
42 which may include but are not limited to, not-for-profit corporations,  
43 housing development fund corporations, limited liability corporations,  
44 and limited partnerships, to further the purposes and powers given and  
45 granted by this section;

46 14. to earn fees and other proceeds from the activities and powers  
47 given and granted by this section;

48 15. to apply for or accept from any source any gifts, grants,  
49 donations, or conveyances of land, money, other real or personal proper-  
50 ty, or other items of value, or loans of funds or property or financial  
51 or other aid or credit assistance in any form, including any guaranty,  
52 line of credit, or grant, from the federal government or any agency or  
53 instrumentality thereof, from the state or any agency or instrumentality  
54 thereof, from the city or any agency or instrumentality thereof, or from  
55 any other source, for any or all of the purposes specified in this arti-

1 cle, and it may comply, subject to the provisions of this article, with  
2 the terms and conditions thereof;

3 16. prior to the approval of any rule or regulation affecting rights  
4 and protections afforded to residents of housing facilities, including,  
5 but not limited to, resident protections and opportunities pursuant to  
6 section six hundred thirty-two of this article, lease revisions, sched-  
7 ules of special charges for services, repairs and utilities, and rules  
8 and regulations to be incorporated into the lease by reference, the  
9 trust shall post a notice containing the proposed rule or regulation on  
10 the website of the trust and in a prominent location in the affected  
11 housing facility. Such notice shall include (a) a statement of the basis  
12 and purpose of the proposed rule, (b) the time and place of the meeting  
13 at which the board will provide residents an opportunity to provide oral  
14 comment on such proposed rule, provided that a meeting to provide resi-  
15 dents an opportunity to provide oral comment shall not be required if  
16 such rule is required by law with only minor, if any, exercise of  
17 discretion by the trust, or does not adversely affect the protections  
18 afforded to the residents of the housing facilities, and (c) an opportu-  
19 nity to submit written comments and the final date for receipt of writ-  
20 ten comments. The trust may adopt a rule or regulation after receiving  
21 written comments on the proposed rule or regulation for a period of at  
22 least thirty days. The trust shall consider all comments received in  
23 such period prior to adopting such rule or regulation. In the event the  
24 trust determines that immediate adoption of any rule or regulation is  
25 necessary for the preservation of health, safety or general welfare and  
26 that compliance with the foregoing requirements of this subdivision  
27 would be contrary to the public interest, such proposed item may be  
28 adopted on an emergency basis. The trust shall provide written justi-  
29 fication for such determination and make such justification publicly  
30 available including via its website and in a prominent location in the  
31 affected housing facility. Any such immediate adoption shall only remain  
32 in effect for sixty days, and during such time the trust shall comply  
33 with the requirements of this subdivision in order for the adoption of  
34 the rule or regulation to become permanent; and

35 17. to do any and all things necessary or convenient to carry out and  
36 exercise the powers given and granted by this article.

37 § 630. Transfer of property. 1. NYCHA, acting by NYCHA board resolu-  
38 tion and in accordance with a disposition or similar plan approved by  
39 the United States department of housing and urban development in accord-  
40 ance with applicable federal law, which shall include a letter of  
41 approval from the mayor or a designee of the mayor, may transfer to the  
42 trust, with or without consideration and without any further authori-  
43 zation, a leasehold interest in its housing facilities and any ancillary  
44 personal property of such facilities. The aggregate number of residen-  
45 tial units transferred to the trust pursuant to this section shall not  
46 exceed twenty-five thousand. On an annual basis, NYCHA and the trust  
47 shall review such limit and, if they determine that such limit should be  
48 increased, NYCHA and the trust shall make recommendations to the legis-  
49 lature regarding any such increase.

50 2. Within sixty days of the effective date of this article, NYCHA  
51 shall issue a set of proposed requirements related to the voting proc-  
52 ess. There shall be a comment period for the voting process, and the  
53 comment period shall include at least one meeting open to the public.  
54 NYCHA shall consider the comments before issuance of the final require-  
55 ments for the voting process. The comments, and the responses to such  
56 comments, shall be published publicly, including, but not limited to, on



1 NYCHA's website. Within one hundred twenty days of the effective date  
2 of this article, the final requirements for the voting process shall be  
3 posted. Such voting process requirements shall include: the minimum  
4 requirements for voter outreach that shall occur prior to any vote,  
5 which shall, at a minimum, conform to the requirements set forth in  
6 subdivision five of this section, voting eligibility, the form,  
7 substance, and timing of the voting process, and the criteria by which  
8 an option shall be deemed to be accepted or rejected by residents of a  
9 particular housing facility for a modernization strategy that addresses  
10 the capital needs of such housing facility. The voting process shall  
11 also include, but shall not be limited to, the ability of residents at a  
12 particular housing facility to reject the options proposed for such  
13 housing facility submitted as part of the voting process. If all options  
14 are rejected at a particular housing facility, none of the proposed  
15 options shall be implemented at such housing facility until another vote  
16 is undertaken at such housing facility. The trust shall not transfer,  
17 convey, assign, mortgage, pledge or otherwise encumber any interest in,  
18 or permit or suffer any transfer, conveyance, assignment, mortgage,  
19 pledge or other encumbrance of any interest in such housing facility, or  
20 any part thereof, prior to the posting of the final requirements for the  
21 voting process, prior to the vote at such housing facility, and prior to  
22 the satisfaction of applicable federal law and regulations.

23 3. The trust shall not transfer, convey, assign, mortgage, pledge or  
24 otherwise encumber any interest in, or permit or suffer any transfer,  
25 conveyance, assignment, mortgage, pledge or other encumbrance of any  
26 interest in any housing facilities, or any part thereof without prior  
27 written consent of NYCHA. Such written consent shall include, but not  
28 be limited to, all protections described in section six hundred thirty-  
29 two of this article and in subdivision fourteen of section six hundred  
30 thirty-eight of this article.

31 4. The trust shall ensure that any housing facilities transferred to  
32 the trust pursuant to this section and any portions thereof are leased  
33 in accordance with United States department of housing and urban devel-  
34 opment eligibility and income-targeting requirements, to the extent  
35 applicable to the units therein. Rents for such units shall not exceed  
36 applicable program requirements for the provision of housing for low-in-  
37 come families as established pursuant to federal law and regulations.  
38 Where NYCHA rules, regulations or agreements exceed the resident  
39 protection standards set forth in state or federal law or regulations,  
40 any housing facilities transferred to the trust pursuant to this section  
41 and any portions thereof shall be leased in accordance with the require-  
42 ments set forth in the NYCHA rules, regulations, or agreements, as  
43 applicable.

44 5. As part of the voting process and prior to the transfer of any  
45 housing facility, or any part thereof, to the trust, NYCHA shall engage  
46 in a course of resident engagement. Such resident engagement shall  
47 include: (a) Notice of proposed options on the website of NYCHA and in  
48 a prominent location of the affected housing facility in compliance with  
49 language access requirements in federal and state law, as applicable;

50 (b) a summary description of the proposed options;

51 (c) the time and place of at least one public meeting at which NYCHA  
52 shall provide residents of such facility information about the proposed  
53 options and an opportunity to provide oral comment on the proposed  
54 transfer;

55 (d) notification by mail to all residents of such housing facility,  
56 which shall include information detailing the proposed options; and

1 (e) an opportunity for residents to submit written comments and the  
2 final date for submission of such comments. NYCHA shall consider and  
3 respond to all comments received in such period prior to completing a  
4 transfer pursuant to this subdivision.

5 § 631. Exemption from land use review procedures and other require-  
6 ments. 1. Except for the provisions of article eight of the environ-  
7 mental conservation law and article fourteen of the parks, recreation  
8 and historic preservation law, neither (a) the establishment or amend-  
9 ment of a housing facility's disposition or similar plan pursuant to  
10 agreement with the United States department of housing and urban devel-  
11 opment and actions relating to the financing thereof, (b) the selection  
12 of sites for projects, (c) any conveyance or other grant of property or  
13 of any interest therein by NYCHA or any other person, firm or organiza-  
14 tion to the trust, (d) the development of housing facilities by or  
15 through the trust, including any contracts, approvals, consents, agree-  
16 ments, permits or authorizations necessary to accomplish the same, and  
17 (e) the reconveyance or transfer of property to NYCHA by the trust,  
18 shall be subject to the provisions of any general, special or local law,  
19 city charter, administrative code, ordinance or resolution governing  
20 uniform land use review procedures, any other land use planning review  
21 and approvals, historic preservation procedures, architectural reviews,  
22 franchise approvals and other state or local review and approval proce-  
23 dures governing the use of land and the improvements thereon within the  
24 city. Capital projects for housing facilities to be undertaken by or  
25 through the trust shall not be subject to the provisions of the New York  
26 city charter relating to site selection, land use review procedures, art  
27 commission review procedures, general standards and cost limits, project  
28 scope and design procedures, or contract registration and vouchering  
29 procedures.

30 2. The trust shall be subject to zoning regulations to the same extent  
31 that NYCHA is subject to such regulations.

32 § 632. Resident protections and opportunities. 1. The protections  
33 afforded to a resident of a housing facility shall be consistent with  
34 those afforded to a public housing resident, to the extent permitted in  
35 accordance with federal law, and subject to and with the approval of the  
36 United States department of housing and urban development. These  
37 protections shall include, but are not limited to:

38 (a) preserving the affordable character of such housing facility in  
39 accordance with section eight of the United States housing act of nine-  
40 teen hundred thirty-seven, as amended, or any successor provision and  
41 with part five of title twenty-four of the code of federal regulations  
42 or any successor regulation;

43 (b) ensuring that any resident required to relocate temporarily for  
44 purposes of rehabilitation or redevelopment of such housing facility is  
45 able to return to such housing facility following the completion of such  
46 rehabilitation or redevelopment, and that the relocation expenses of  
47 such temporary relocation be paid for by the trust or NYCHA as required  
48 by applicable federal law;

49 (c) providing a resident of such housing facility the opportunity to  
50 establish and operate a council to represent residents in such housing  
51 facility to address concerns relating to such facility, pursuant to  
52 subpart b of part nine hundred sixty-four of title twenty-four of the  
53 code of federal regulations or any successor regulation, and to be  
54 eligible for resident participation funding from the trust consistent  
55 with funding available to residents of public housing pursuant to  
56 section 964.150 of title twenty-four of the code of federal regulations

1 or any successor regulation, provided that any resident council that, at  
2 the time of the transfer of a housing facility to the trust, is certi-  
3 fied by NYCHA as the resident council shall be recognized by the trust  
4 as the resident council of such housing facility;

5 (d) providing a resident of a housing facility an opportunity for an  
6 informal hearing to grieve any dispute that such resident may have with  
7 respect to an action of the trust with regard to such resident's lease,  
8 consistent with the obligation of a public housing agency pursuant to  
9 paragraph eight of subdivision (e) of section 966.4 of title twenty-four  
10 of the code of federal regulations or any successor regulations and  
11 pursuant to subpart b of part nine hundred sixty-six of title twenty-  
12 four of the code of federal regulations or any successor regulations;

13 (e) providing a resident of a housing facility automatic renewal of  
14 such resident's leases, except for good cause as specified in the lease  
15 between such resident and the trust, consistent with the requirements  
16 relating to a lease between a public housing agency and a tenant of a  
17 dwelling unit pursuant to subparagraph (i) of paragraph two of subdivi-  
18 sion (a) and subdivision (l) of section 966.4 of title twenty-four of  
19 the code of federal regulations or any successor regulation;

20 (f) determining succession to a lease between a resident and the trust  
21 in accordance with the succession policy described in the management  
22 manual, and any amendments to such manual, of NYCHA;

23 (g) permitting a resident whose total tenant payment, as defined in  
24 section 983.3 of title twenty-four of the code of federal regulations,  
25 or any successor regulations, would equal or exceed the rent to owner,  
26 as defined in section 983.3 of title twenty-four of the code of federal  
27 regulations or any successor regulations, to remain in a housing facili-  
28 ty and pay rent in an amount to be determined by the trust and NYCHA and  
29 as set forth in the lease of such resident; and

30 (h) determining succession to a voucher pursuant to section eight of  
31 the United States housing act of nineteen hundred thirty-seven, as  
32 amended, or any successor provision, in accordance with the housing  
33 voucher program administrative plan, and any amendments to such plan, of  
34 NYCHA.

35 2. The resident protections described in subdivision one of this  
36 section shall be enumerated in the ground lease or other appropriate  
37 agreement between NYCHA and the trust and shall be further enumerated in  
38 writing between the trust and each resident of a housing facility.  
39 Nothing in this section shall preclude the trust or NYCHA from providing  
40 additional resident protections, which may be enumerated in any such  
41 ground lease or agreement.

42 3. The trust, to the greatest extent feasible, and consistent with  
43 federal, state and local laws and regulations, shall ensure that employ-  
44 ment and other economic opportunities be directed to residents of the  
45 housing facilities, consistent with section three of the housing and  
46 urban development act of nineteen hundred sixty-eight, as amended, and  
47 part seventy-five of title twenty-four of the code of federal regu-  
48 lations or any successor law or regulation. All project labor agreements  
49 shall be consistent with this subdivision.

50 4. The trust shall act in accordance with the full requirements of  
51 part nine hundred sixty-four of title twenty-four of the code of federal  
52 regulations or any successor regulation. The trust shall, among other  
53 requirements, support resident participation in the operations of the  
54 housing facilities and negotiate, with any resident management corpo-  
55 rations, or equivalent that satisfies the requirements of such part, for  
56 operation of a housing facility. The trust shall consider applications

1 of resident organizations, community organizations or other local organ-  
2 izations for grant funding, as available, to provide training, technical  
3 assistance, and education to residents to support active resident  
4 participation in the planning and implementation of the conversion proc-  
5 ess.

6 5. The trust shall ensure residents participate in the process to  
7 procure the vendors that will perform capital renovation, modernization,  
8 and construction work, excluding emergency procurements.

9 6. The trust shall create committees consisting of members as appro-  
10 priate, which shall include, but not be limited to, trust employees and  
11 residents of the housing facility where construction, reconstruction,  
12 rehabilitation, alteration, renovation, maintenance and repair work is  
13 being performed, and such committees shall meet as needed to provide  
14 input, and oversight, along with recommendations, with respect to the  
15 quality of such work performed by the vendors of the trust.

16 7. The trust shall, in accordance with applicable law, establish a  
17 procedure and eligibility requirements by which a person who is not a  
18 tenant of record may become a tenant of record based on consideration of  
19 the nexus of such person to a tenant of record.

20 § 633. Compliance with codes. 1. The trust shall, in the design,  
21 development, construction, reconstruction, improvement, modernization,  
22 rehabilitation, repair, and operation of or otherwise providing for  
23 housing facilities, comply and cause all contractors of the trust to  
24 comply with applicable sanitary and building laws and regulations.

25 2. The trust shall adopt rules or regulations establishing sustainable  
26 design guidelines for the development, construction, reconstruction,  
27 improvement, modernization, rehabilitation, repair, and operation of, or  
28 otherwise providing for, housing facilities, which shall include crite-  
29 ria for beneficial electrification and renewable energy production in  
30 furtherance of the goals of decarbonized buildings, use of sustainable  
31 materials, and energy and water efficiency.

32 § 634. Contracts of the trust. 1. Notwithstanding any provision of law  
33 to the contrary, including but not limited to article eight of this  
34 chapter, the trust shall establish and maintain procurement policies  
35 that shall set forth the methods and procedures by which the trust shall  
36 procure contracts for goods and services, including but not limited to  
37 services for design, development, construction, reconstruction, improve-  
38 ment, modernization, rehabilitation, repair and operation, related to  
39 property owned or leased by the trust, in a manner consistent with the  
40 provisions of this article. Such policies shall specifically include:

41 (a) a competitive sealed bidding process for the award of contracts in  
42 which sealed bids are publicly solicited or solicited from a list of  
43 prequalified bidders and opened and a contract is awarded to the lowest  
44 responsive, responsible bidder;

45 (b) processes for awarding contracts for goods and services using  
46 alternatives to competitive sealed bidding where competitive sealed  
47 bidding is not practicable or not advantageous, in which case the trust  
48 shall use the most competitive method of procurement that is appropriate  
49 under the circumstances to select the proposer offering the best value  
50 to the trust;

51 (c) a process for prequalifying bidders and proposers based on crite-  
52 ria, which may include an entity's experience, past performance, ability  
53 to undertake work, financial capability, responsibility, reliability and  
54 status as a certified minority or women owned business enterprise pursu-  
55 ant to article fifteen-A of the executive law or section thirteen  
56 hundred four of the New York city charter;

1 (d) reasonable procedures to secure the meaningful participation of  
2 minority and women owned business enterprises in the trust's procurement  
3 process. The trust may use the same measures to enhance minority and  
4 women owned business enterprise participation as are available to the  
5 city pursuant to applicable law, including section 6-129 of the adminis-  
6 trative code of the city of New York;

7 (e) processes for awarding alternative project delivery contracts, in  
8 a manner consistent with the terms of section six hundred thirty-five of  
9 this article;

10 (f) procedures for the fair and equitable resolution of contract  
11 disputes, for appeals of responsiveness and responsibility determi-  
12 nations by the trust, and for appeals of prequalification determi-  
13 nations;

14 (g) a process for making purchases off contracts procured by public  
15 agencies and public entities; and

16 (h) a mechanism for procurements without a formal competitive process  
17 where:

18 (1) the existence of an emergency involving danger to life, safety or  
19 property requires immediate action and cannot await a competitive proc-  
20 ess for goods or services to be purchased, including, but not limited  
21 to, services for construction, reconstruction, rehabilitation, alter-  
22 ation, renovation, maintenance or repairs, which are essential to effi-  
23 cient operation or the adequate provision of service by the trust and as  
24 a consequence of unforeseen circumstance such purchase cannot await a  
25 competitive process;

26 (2) a procurement's value does not exceed fifty thousand dollars;

27 (3) the trust receives no responsive bids or only a single responsive  
28 bid in response to a solicitation for competitive bids or proposals;

29 (4) a procurement's value does not exceed five hundred thousand  
30 dollars and is made from a business certified as a minority or women  
31 owned business enterprise pursuant to article fifteen-A of the executive  
32 law and section thirteen hundred four of the New York city charter.  
33 Nothing in this paragraph shall be construed to require that such busi-  
34 ness be concurrently certified as minority or women owned business  
35 enterprises under article fifteen-A of the executive law and section  
36 thirteen hundred four of the New York city charter to be awarded such a  
37 contract;

38 (5) a duly appointed representative of the trust determines in writing  
39 that, based on a market analysis, only one source for the required goods  
40 or services, including but not limited to, services for construction,  
41 reconstruction, rehabilitation, alteration, renovation, maintenance and  
42 repairs, are available; or

43 (6) the contract is a contract between the trust and another govern-  
44 mental entity, including, but not limited to NYCHA.

45 2. Construction performed under a contract entered into by the trust  
46 pursuant to this article shall be deemed a public work to be performed  
47 in accordance with the provisions of article eight of the labor law and  
48 enforcement of prevailing wage requirements pursuant to applicable law  
49 or, for projects or public works receiving federal aid, applicable  
50 federal requirements for prevailing wage. Any contract, the principal  
51 purpose of which is to provide construction services and that is either  
52 entered into through a competitive sealed bidding process or pursuant to  
53 section six hundred thirty-five of this article, shall be undertaken  
54 pursuant to a project labor agreement and include a clause requiring the  
55 selected alternative project delivery contractor or the contractor  
56 selected on the basis of its sealed bid to obligate every tier of

1 contractor working on the public work to comply with the project labor  
2 agreement required by section six hundred thirty-five of this article  
3 and this section, and shall include project labor agreement compliance  
4 monitoring and enforcement provisions consistent with any such project  
5 labor agreement.

6 3. Contracts of the trust shall be subject to sections 6-108 and 6-123  
7 of the administrative code of the city of New York, and the trust shall  
8 constitute a "contracting agency" for the purposes of section 6-123 of  
9 the administrative code of the city of New York.

10 4. The provisions of section one hundred six-b of the general municipi-  
11 pal law shall apply to the trust.

12 5. Unless a federal requirement conflicts with any procurement proce-  
13 dure set forth in this article, the trust shall be required to comply  
14 with such procedure.

15 § 635. Alternative project delivery contracts. 1. Notwithstanding any  
16 provision of law to the contrary, including but not limited to section  
17 seventy-two hundred ten of the education law, and in conformity with the  
18 requirements of this article, for any public work undertaken pursuant to  
19 a project labor agreement the trust may use alternative project delivery  
20 contracts.

21 (a) A contractor selected by the trust to enter into an alternative  
22 project delivery contract may be selected through a two-step method, as  
23 follows:

24 (1) Step one. The first step shall be the generation of a list of  
25 responding entities that have demonstrated the general capability to  
26 perform the alternative project delivery contract. Such list shall  
27 consist of a specified number of responding entities, as determined by  
28 the trust, and shall be generated based upon the trust's review of  
29 responses to a publicly advertised request for qualifications. The  
30 trust's request for qualifications shall include a general description  
31 of the public work, the maximum number of responding entities to be  
32 included on such list, the selection criteria to be used and the rela-  
33 tive weight of each criteria in generating such list. Such selection  
34 criteria shall include the qualifications and experience of the entity  
35 or team of entities, organization, demonstrated responsibility, ability  
36 of the entity or team of entities or of a member or members of the enti-  
37 ty or team of entities to comply with applicable requirements, including  
38 the provisions of articles one hundred forty-five, one hundred forty-  
39 seven and one hundred forty-eight of the education law, past record of  
40 compliance with the labor law, and such other qualifications the trust  
41 deems appropriate, which may include but are not limited to project  
42 understanding, financial capability and record of past performance. The  
43 trust shall evaluate and rate all responding entities to the request for  
44 qualifications. Based upon such ratings, the trust shall list the  
45 responding entities that shall receive a request for proposals in  
46 accordance with subparagraph two of this paragraph. To the extent  
47 consistent with applicable federal law, the trust shall consider, when  
48 awarding any contract pursuant to this section, the participation of (i)  
49 responding entities that are certified as minority or women owned busi-  
50 ness enterprises pursuant to article fifteen-A of the executive law, or  
51 certified pursuant to local law as minority or women owned business  
52 enterprises, (ii) small business concerns identified pursuant to subdi-  
53 vision (b) of section one hundred thirty-nine-g of the state finance  
54 law, and (iii) business concerns that provide economic opportunities for  
55 low and very low-income persons. In addition, nothing in this section

1 shall be deemed to supersede any prequalification policies adopted by  
2 the trust pursuant to section six hundred thirty-four of this article.

3 (2) Step two. The second step shall be the selection of the proposal  
4 which is the best value to the trust. The trust shall issue a request  
5 for proposals to the responding entities listed pursuant to subparagraph  
6 one of this paragraph. If such a responding entity consists of a team of  
7 separate entities, the entities that comprise such a team shall remain  
8 unchanged from the responding entity as listed pursuant to subparagraph  
9 one of this paragraph unless otherwise approved by the trust. The  
10 request for proposals shall set forth the public work's scope of work,  
11 and other requirements, as determined by the trust, which may include  
12 separate goals for work under the contract to be performed by businesses  
13 certified as minority or women owned business enterprises pursuant to  
14 article fifteen-A of the executive law, or certified pursuant to local  
15 law as minority or women owned business enterprises, or goals estab-  
16 lished pursuant to section three of the housing and urban development  
17 act of nineteen hundred sixty-eight, as amended, or any successor  
18 provision, if applicable. The request for proposals shall also specify  
19 the criteria to be used to evaluate the responses and the relative  
20 weight of each of such criteria. Such criteria shall include: the qual-  
21 ity of the proposal's solution; the qualifications and experience of the  
22 proposer; the proposal's cost, which may include factors that may be  
23 considered individually or in the aggregate, such as the proposed cost  
24 of design phase work, the proposed cost of construction phase work, or  
25 cost factors relating to construction phase work, as applicable; and  
26 other factors deemed pertinent by the trust, which may include, but  
27 shall not be limited to, the proposal's manner and schedule of project  
28 implementation, the proposer's ability to complete the work in a timely  
29 and satisfactory manner, maintenance costs of the completed public work,  
30 maintenance of traffic approach, and community impact. The trust may  
31 engage in negotiations or other discussions with all qualified vendors  
32 that have expressed interest, provided that the trust maintains a writ-  
33 ten record of the conduct of negotiations or discussions and the basis  
34 for every determination to continue or suspend negotiations, and further  
35 provided that if the trust determines for a particular contract or for a  
36 particular type of contract that it is in the trust's best interest to  
37 negotiate or enter into discussions with fewer proposers, it may make  
38 such a determination in writing. If the trust enters into such negoti-  
39 ations, the trust shall allow all proposers to revise their proposals  
40 upon conclusion of negotiations, and the trust shall evaluate the propo-  
41 sers' revised proposals using the criteria included in the request for  
42 proposals. Any contract awarded pursuant to this section shall be  
43 awarded to a responsive and responsible proposer, which, in consider-  
44 ation of these and other specified criteria deemed pertinent, offers the  
45 best value as determined by the trust. The request for proposals shall  
46 include a statement that proposers shall designate in writing those  
47 portions of the proposal that contain trade secrets or other proprietary  
48 information that are to remain confidential, so that the material desig-  
49 nated as confidential shall be readily separable from the proposal.  
50 Nothing in this subdivision shall be construed to prohibit the trust  
51 from negotiating final contract terms and conditions including cost. All  
52 proposals submitted shall be scored according to the criteria listed in  
53 the request for proposals and such final scores shall be published on  
54 the trust's website after the date upon which such contract may be  
55 implemented.

1 (b) The trust, in awarding an alternative project delivery contract to  
2 a contractor offering the best value may use the following types of  
3 contracts:

4 (1) a cost-plus not to exceed guaranteed maximum price form of  
5 contract in which the trust shall be entitled to monitor and audit all  
6 costs. In establishing the schedule and process for determining a guar-  
7 anteed maximum price, the contract between the trust and the contractor  
8 shall include terms specifying the price for the design phase of the  
9 work, the scope of the work, and any applicable cost factors relating to  
10 construction phase work that were included in the contractor's proposal.  
11 A fair and reasonable guaranteed maximum price for the construction  
12 phase of the work, or portions of the construction phase of the work,  
13 may be agreed to as one or more amendments to such contract based on  
14 developments in the design of the project that occur after such contract  
15 is executed. Each guaranteed maximum price amendment shall: (i)  
16 describe the scope of the portion of the construction phase work subject  
17 to the amendment, the cost of performing such work, and the maximum  
18 costs of any contingencies related to such work, (ii) include a detailed  
19 line item cost breakdown, (iii) include a list of all drawings, specifi-  
20 cations and other information on which the guaranteed maximum price is  
21 based, (iv) include the dates of substantial and final completion on  
22 which the guaranteed maximum price is based, as applicable, and (v)  
23 include a schedule of unit prices. The trust shall maintain a written  
24 record of each guaranteed maximum price amendment, which shall include a  
25 summary of the negotiation process and a description of the relevant  
26 developments in the design of the project, independent cost estimates  
27 prepared by or on behalf of the trust, as required pursuant to a policy  
28 established by the trust, the contractor's actual cost schedules and  
29 unit prices, and any other factors that the trust considered. If the  
30 trust and the contractor cannot agree upon a guaranteed maximum price  
31 for one or more portions of construction phase work, the trust may  
32 direct the contractor to assign all or a portion of the duties and  
33 rights under such alternative project delivery contract to another  
34 responsive and responsible proposer pursuant to subparagraph two of  
35 paragraph (a) of this subdivision that offered the best value of the  
36 remaining proposers and that will agree to accept such assignment. This  
37 subparagraph shall not be deemed to prohibit the use of any contract  
38 terms or procedures pursuant to any other provision of law, including  
39 but not limited to provisions included in this article;

40 (2) a lump sum contract in which the contractor agrees to accept a set  
41 dollar amount for a contract which comprises a single bid without  
42 providing a cost breakdown for all costs such as for equipment, labor,  
43 materials, as well as such contractor's profit for completing all items  
44 of work comprising the public work;

45 (3) incentive payments identified in the text of the contract for  
46 performance objectives; or

47 (4) a combination of elements of the contract types listed herein.

48 2. All alternative project delivery contracts entered into pursuant to  
49 this section shall include a clause requiring that any professional  
50 services regulated by articles one hundred forty-five, one hundred  
51 forty-seven and one hundred forty-eight of the education law shall be  
52 performed and stamped and sealed, where appropriate, by a professional  
53 licensed in accordance with the appropriate article.

54 3. The submission of a proposal or responses or the execution of an  
55 alternative project delivery contract pursuant to this article shall not



1 be construed to be a violation of section six thousand five hundred  
2 twelve of the education law.

3 4. Each alternative project delivery contract entered into by the  
4 trust pursuant to this article shall comply with the objectives and  
5 goals relating to the performance of design and construction services by  
6 minority and women owned business enterprises pursuant to section 6-129  
7 of the administrative code of the city of New York, or, for projects or  
8 public works receiving federal aid, applicable federal requirements for  
9 disadvantaged business enterprises or minority and women owned business  
10 enterprises and section three of the housing and urban development act  
11 of nineteen hundred sixty-eight, as amended, or any successor provision,  
12 if applicable.

13 5. (a) Notwithstanding any provision of law to the contrary, all  
14 rights or benefits, including terms and conditions of employment, and  
15 protection of civil service and collective bargaining status of all  
16 employees of NYCHA and the trust solely in connection with the use of an  
17 alternative project delivery contract pursuant to this section shall be  
18 preserved and protected.

19 (b) The use of alternative project delivery contracts pursuant to this  
20 section shall not result in the (1) displacement of any currently  
21 employed worker of NYCHA or loss of position, including partial  
22 displacement such as a reduction in the hours of non-overtime work,  
23 wages or employment benefits, or result in the impairment of existing  
24 collective bargaining agreements to which NYCHA is a party, or (2)  
25 transfer of existing duties and functions related to maintenance and  
26 operations currently performed by existing employees of NYCHA to a  
27 contractor.

28 (c) Employees of the trust and NYCHA serving in positions in newly  
29 created titles shall be assigned to the appropriate bargaining unit.  
30 Nothing contained in this section shall be construed to affect (1) the  
31 existing rights of employees of NYCHA pursuant to an existing collective  
32 bargaining agreement, (2) the existing representational relationships  
33 among employee organizations representing employees of NYCHA, or (3) the  
34 bargaining relationships between NYCHA and such employee organizations.

35 (d) Without limiting contractors' obligations under alternative  
36 project delivery contracts to issue their own initial certifications of  
37 substantial completion and final completion, public employees of the  
38 trust shall review and determine whether the work performed by contrac-  
39 tors is acceptable and has been performed in accordance with the appli-  
40 cable alternative project delivery contracts, and if such public employ-  
41 ees so determine, such public employees shall accept contractors'  
42 substantial or final completion of the public works as applicable.  
43 Performance by public employees of the trust of any review described in  
44 this subdivision shall not be construed to modify or limit contractors'  
45 obligations to perform the work in strict accordance with the applicable  
46 alternative project delivery contract or the contractors' or any subcon-  
47 tractors' obligations or liabilities under any law.

48 § 636. Additional authority. The procurement authority conferred by  
49 this article shall not impact or impair, and shall be in addition to,  
50 the authority conferred by the NYCHA modernization investment act and  
51 the New York city public works investment act.

52 § 637. Additional requirements for alternative project delivery  
53 contracts. Construction performed under a contract entered into by the  
54 trust pursuant to this article shall be deemed a "public work" to be  
55 performed in accordance with the provisions of article eight of the  
56 labor law, as well as subject to sections two hundred, two hundred

1 forty, two hundred forty-one and two hundred forty-two of the labor law  
2 and enforcement of prevailing wage requirements pursuant to applicable  
3 law or, for projects or public works receiving federal aid, applicable  
4 federal requirements for prevailing wage. Any contract entered into  
5 pursuant to section six hundred thirty-five of this article shall  
6 include a clause requiring the selected alternative project delivery  
7 contractor to obligate every tier of contractor working on the public  
8 work to comply with the project labor agreement required by section six  
9 hundred thirty-five of this article, and shall include project labor  
10 agreement compliance monitoring and enforcement provisions consistent  
11 with any such project labor agreement.

12 § 638. Borrowing by the trust and for its benefit; effects of certain  
13 defaults. 1. For the purposes of this section, the term "project" means  
14 the development, design, construction, reconstruction, improvement,  
15 rehabilitation, repairing and operation of housing facilities.

16 2. The trust shall have the power and is hereby authorized from time  
17 to time to issue bonds, notes or other obligations in conformity with  
18 applicable provisions of the uniform commercial code, in such principal  
19 amounts as it may determine to be necessary to pay the cost of any  
20 project and to fund reserves to secure such bonds, notes or other obli-  
21 gations, including costs of issuance and any administrative or inci-  
22 dental expenses in connection therewith. The trust shall have the power  
23 from time to time to refund any bonds, notes or other obligations of the  
24 trust by the issuance of new bonds, notes or other obligations, and may  
25 issue bonds, notes or other obligations partly to refund bonds, notes or  
26 other obligations of the trust then outstanding and partly to pay the  
27 cost of any project. Bonds, notes or other obligations issued by the  
28 trust shall be payable as may be designated in the resolution of the  
29 trust under which the bonds, notes or other obligations shall be author-  
30 ized to be issued, subject to any agreements with the holders of  
31 outstanding bonds, notes or other obligations pledging any particular  
32 revenues or moneys. No bonds, notes or other obligations of the trust  
33 or any entity referred to in subdivision thirteen of section six hundred  
34 twenty-nine of this article shall be issued or incurred without the  
35 prior written approval of the director of management and budget of the  
36 city of New York.

37 3. The trust shall be authorized to obtain insurance, letters of cred-  
38 it and other credit or liquidity facilities related to its bonds, notes  
39 or other obligations.

40 4. The board may delegate to the chair or the president of the trust  
41 the power to set the final terms of bonds, notes or other obligations.

42 5. Whenever the trust shall determine that the issuance of its bonds,  
43 notes or other obligations is appropriate, the trust shall make a deter-  
44 mination as to the arrangements necessary for the issuance and sale of  
45 such bonds, notes or other obligations, including the underwriting of  
46 such bonds, notes or other obligations through the public or private  
47 sale of such bonds, notes or other obligations, and such determination  
48 shall include compensation for services rendered as the trust deems  
49 appropriate. Such determination shall be set forth in a resolution of  
50 the trust, which shall authorize issuance of such bonds, notes or other  
51 obligations. The bonds, notes or other obligations shall bear interest  
52 at such fixed or variable rates and shall be in such denominations, be  
53 in such form, either coupon or registered, be sold at such public or  
54 private sale, be executed in such manner, be denominated in United  
55 States currency, be payable in such medium of payment, at such place and

1 be subject to such terms of redemption as the trust may provide in such  
2 resolution.

3 6. Any resolution or resolutions authorizing bonds, notes or other  
4 obligations or any issue of bonds, notes or other obligations may  
5 contain provisions which may be a part of the contract with the holders  
6 of the bonds, notes or other obligations thereby authorized as to:

7 (a) pledging all or part of its revenues, including, but not limited  
8 to, project-based or tenant-based assistance pursuant to section eight  
9 of the United States housing act of nineteen hundred thirty-seven, as  
10 amended, or any successor provision, and assistance provided to NYCHA  
11 pursuant to section nine of the United States housing act of nineteen  
12 hundred thirty-seven, as amended, or any successor provision, together  
13 with any other moneys, securities or contracts, to secure the payment of  
14 the bonds, notes or other obligations, subject to such agreements as may  
15 then exist;

16 (b) the setting aside of reserves and the creation of sinking funds  
17 and the regulation and disposition thereof;

18 (c) limitations on the purpose to which the proceeds from the sale of  
19 bonds, notes or other obligations may be applied;

20 (d) limitations on the issuance of additional bonds, notes or other  
21 obligations, the terms upon which additional bonds, notes or other obli-  
22 gations may be issued and secured and the refunding of bonds, notes or  
23 other obligations;

24 (e) the procedure, if any, by which the terms of any contract with  
25 holders of bonds, notes or other obligations may be amended or abrogat-  
26 ed, including the proportion of holders of bonds, notes or other obli-  
27 gations which are needed to consent thereto and the manner in which such  
28 consent may be given;

29 (f) vesting in a bond trustee or trustees such properties, rights,  
30 powers and duties in trust as the trust may determine; and

31 (g) defining the acts or omissions to act that may constitute a  
32 default in the obligations and duties of the trust to the holders of  
33 bonds, notes or other obligations and providing for the rights and reme-  
34 dies of the holders of bonds, notes or other obligations in the event of  
35 such default, including as a matter of right the appointment of a  
36 receiver, provided, however, that such rights and remedies shall not be  
37 inconsistent with the general laws of the state and other provisions of  
38 this article.

39 7. In addition to the powers herein conferred upon the trust to secure  
40 its bonds, notes or other obligations, the trust shall have power in  
41 connection with the issuance of bonds, notes or other obligations to  
42 enter into such agreements for the benefit of the holders of bonds,  
43 notes or other obligations as the trust may deem necessary, convenient  
44 or desirable concerning the use or disposition of its revenues or other  
45 moneys, including the entrusting, pledging or creation of any other  
46 security interest in any such revenues, moneys and the doing of any act,  
47 including refraining from doing any act, which the trust would have the  
48 right to do in the absence of such agreements. The trust shall have  
49 power to enter into amendments of any such agreements within the powers  
50 granted to the trust by this article and to perform such agreements. The  
51 provisions of any such agreements may be made a part of the contract  
52 with the holders of bonds, notes or other obligations of the trust.

53 8. Notwithstanding any provision of the uniform commercial code to the  
54 contrary, any pledge of or other security interest in revenues, moneys,  
55 accounts, contract rights, general intangible or other personal property  
56 made or created by the trust shall be valid, binding and perfected from

1 the time when such pledge is made or other security interest attaches  
2 without any physical delivery of the collateral or further act, and the  
3 lien of any such pledge or other security interest shall be valid, bind-  
4 ing and perfected against all parties having claims of any kind in tort,  
5 contract or otherwise against the trust irrespective of whether or not  
6 such parties have notice thereof. No instrument by which such a pledge  
7 or security interest is created nor any financing statement need be  
8 recorded or filed.

9 9. Whether or not the bonds, notes or other obligations of the trust  
10 are of such form and character as to be negotiable instruments under the  
11 terms of the uniform commercial code, the bonds, notes or other obli-  
12 gations are hereby made negotiable instruments within the meaning of and  
13 for all the purposes of the uniform commercial code, subject only to the  
14 provisions of the bonds, notes or other obligations for registration.

15 10. Neither the members of the board nor any person executing bonds  
16 shall be liable personally thereon or be subject to any personal liabil-  
17 ity or accountability solely by reason of the issuance thereof. The  
18 bonds, notes or other obligations of the trust shall not be a debt of  
19 NYCHA, the city, or the state, and neither NYCHA, the city nor the state  
20 shall be liable thereon, nor shall they be payable out of any funds  
21 other than those of the trust, and such bonds, notes or other obli-  
22 gations shall contain on the face thereof a statement to such effect.

23 11. The trust, subject to such agreements with bondholders as then may  
24 exist, shall have power to purchase bonds, notes or other obligations of  
25 the trust out of any moneys available therefor, which shall thereupon be  
26 cancelled.

27 12. Notwithstanding any provision of article twelve of the private  
28 housing finance law, section twenty-nine hundred seventy-six of the  
29 public authorities law or any other general, special or local law to the  
30 contrary, (a) the purposes of the New York city housing development  
31 corporation and its powers granted in article twelve of the private  
32 housing finance law also shall include, subject to the provisions of any  
33 contract with holders of its bonds, notes or other obligations, the  
34 making of loans to the trust and entities referred to in subdivision  
35 thirteen of section six hundred twenty-nine of this article, and (b)  
36 bonds, notes or other obligations of the New York city housing develop-  
37 ment corporation issued for, or to refund bonds, notes or other obli-  
38 gations issued for, such purpose or the purposes of paying costs of  
39 issuance thereof or funding reserves to secure such bonds, notes or  
40 other obligations (i) may be sold without any consultation or approval  
41 otherwise required by subdivision two of section six hundred fifty-five  
42 of the private housing finance law, (ii) shall not be included in any  
43 calculation of outstanding bonds, notes or other obligations for  
44 purposes of section six hundred fifty-six of the private housing finance  
45 law and shall not be secured by any capital reserve fund established  
46 pursuant thereto, and (iii) shall not be included in any calculation of  
47 bonds, notes or other obligations issued by the New York city housing  
48 development corporation for purposes of section twenty-nine hundred  
49 seventy-six of the public authorities law.

50 13. In the event that any default on any bond, note or other obli-  
51 gation that is secured by an assignment of, mortgage on, pledge of or  
52 other encumbrance on any interest of the trust, or any entity referred  
53 to in subdivision thirteen of section six hundred twenty-nine of this  
54 article, in any housing facilities, has occurred and is continuing  
55 beyond the applicable cure period, if any, provided to the trust or such  
56 entity in the instrument granting such assignment, mortgage, pledge or

1 other encumbrance, notwithstanding any provision in such instrument, any  
2 right of the beneficiary of such instrument to obtain such interest in  
3 such housing facilities as a remedy to any such default shall, for a  
4 period ending thirty days after the end of such cure period, be subject  
5 to:

6 (a) the right of the city of New York to remedy, or cause to be reme-  
7 diated, such default; and

8 (b) the right of the state of New York to remedy, or cause to be reme-  
9 diated, such default; provided, however, that nothing in this subdivision  
10 shall be construed to impose any obligation on the city of New York or  
11 on the state of New York to remedy, or cause to be remedied, such  
12 default.

13 14. Notwithstanding any default on any obligation referred to in  
14 subdivision thirteen of this section, and any remedies exercised as a  
15 result of such default, provisions relating to the restricted use of the  
16 housing facilities for the provision and operation of housing for low-  
17 income families and current residents shall at all times continue to be  
18 in effect in perpetuity, and the housing facilities shall remain subject  
19 to the provisions of subdivision four of section six hundred thirty of  
20 this article and section six hundred thirty-two of this article. The  
21 trust shall not pledge the fee ownership of the housing facilities as  
22 part of a financing arrangement.

23 15. At least quarterly, the trust shall provide financial reports to  
24 the director of management and budget of the city of New York containing  
25 such information as the director of management and budget of the city of  
26 New York may request.

27 § 639. Resources of the trust. 1. Subject to the provisions of this  
28 article, the members of the board shall receive, accept, invest, admin-  
29 ister, expend and disburse for its corporate purposes all money of the  
30 trust from whatever sources derived including (a) the proceeds of bonds,  
31 notes and other obligations, and (b) any other payments, gifts, or  
32 appropriations to the trust from any other source.

33 2. Subject to the provisions of any contract with holders of bonds,  
34 notes or other obligations, the money of the trust shall be paid to the  
35 trust and shall not be commingled with any other money. The money of the  
36 trust shall be deposited in accounts held in the trust's name in the  
37 bank or banks in the state designated by the trust.

38 3. The moneys in such accounts shall be paid out on checks of the  
39 trust upon requisition by the chair or such officer or officers as the  
40 trust may authorize to make such requisitions, or pursuant to a bond  
41 resolution or trust indenture.

42 4. Any moneys on deposit in the accounts of the trust not required for  
43 immediate expenditure shall be invested in obligations in which a muni-  
44 cipality may be authorized to invest in accordance with section eleven  
45 of the general municipal law, provided, however, that such funds shall  
46 not be invested in instruments commonly known as repurchase agreements.  
47 The trust shall have the power, notwithstanding the provisions of this  
48 section, to contract with the holders of any of its bonds, notes and  
49 other obligations as to the custody, collection, securing, investment  
50 and payment of any money of the trust or any money held in trust or  
51 otherwise for the payment of bonds, notes and other obligations or in  
52 any way to secure bonds, notes and other obligations, and to carry out  
53 any such contract.

54 § 640. Legal investment and deposit. The bonds, notes or other obli-  
55 gations of the trust are hereby made securities in which all public  
56 officers and bodies of the state and all public corporations, munici-

1 palities and municipal subdivisions, all insurance companies and associ-  
2 ations and other persons carrying on an insurance business, all banks,  
3 bankers, trust companies, savings banks and savings associations includ-  
4 ing savings and loan associations, building and loan associations,  
5 investment companies and other persons carrying on a banking business,  
6 all administrators, conservators, guardians, executors, trustees and  
7 other fiduciaries, and all other persons whatsoever who are now or may  
8 hereafter be authorized to invest in bonds or in other obligations of  
9 the state, may properly and legally invest funds, including capital, in  
10 their control or belonging to them. The bonds, notes or other obli-  
11 gations are also hereby made securities which may be deposited with and  
12 may be received by all public officers and bodies of the state and all  
13 municipalities and public corporations for any purpose for which the  
14 deposit of bonds, notes or other obligations of the state is now or may  
15 hereafter be authorized.

16 § 641. Tax exemption and tax contract by the state. 1. It is hereby  
17 determined that the creation of the trust and the carrying out of its  
18 corporate purposes is in all respects for the benefit of the people of  
19 the state of New York and is a public purpose. Accordingly, the trust  
20 shall be regarded as performing an essential governmental function in  
21 the exercise of the powers conferred upon it by this article, and the  
22 trust shall not be required to pay any fees, taxes, special ad valorem  
23 levies or assessments of any kind, including, but not limited to, fran-  
24 chise taxes, sales taxes or other taxes, upon or with respect to any  
25 property owned by it or under its jurisdiction, control or supervision,  
26 or upon the uses thereof, or upon or with respect to its activities or  
27 operations in furtherance of the powers conferred upon it by this arti-  
28 cle, or upon or with respect to any fares, tolls, rentals, rates, charg-  
29 es, fees, revenues or other income received by the trust.

30 2. Any bonds, notes or other obligations issued pursuant to this arti-  
31 cle together with the income therefrom shall at all times be exempt from  
32 taxation.

33 3. The state hereby covenants with the purchasers and with all subse-  
34 quent holders and transferees of bonds, notes or other obligations  
35 issued by the trust pursuant to this article, in consideration of the  
36 acceptance of and payment for the bonds, notes or other obligations,  
37 that the bonds, notes or other obligations of the trust issued pursuant  
38 to this article and the income therefrom and all revenues, monies, and  
39 other property pledged to pay or to secure the payment of such bonds,  
40 notes or other obligations shall at all times be free from taxation.

41 § 642. Actions against the trust. 1. Except in an action for wrongful  
42 death, no action or proceeding shall be prosecuted or maintained against  
43 the trust for personal injury or damage to real or personal property  
44 alleged to have been sustained by reason of the negligence or wrongful  
45 act of the trust or of any member of the board, officer, agent or  
46 employee thereof, unless (a) it shall appear by and as an allegation in  
47 the complaint or moving papers that a notice of claim shall have been  
48 made and served upon the trust, within the time limit prescribed by and  
49 in compliance with section fifty-e of the general municipal law, (b) it  
50 shall appear by and as an allegation in the complaint or moving papers  
51 that at least thirty days have elapsed since the service of such notice  
52 and that adjustment or payment thereof has been neglected or refused,  
53 and (c) the action or proceeding shall be commenced within the period  
54 provided under section fifty-i of the general municipal law. An action  
55 against the trust for wrongful death shall be commenced in accordance

1 with the notice of claim and time limitation provisions of title eleven  
2 of article nine of the public authorities law.

3 2. Wherever a notice of claim is served upon the trust, it shall have  
4 the right to demand an examination of the claimant relative to the  
5 occurrence and extent of the injuries or damages for which claim is  
6 made, in accordance with the provisions of section fifty-h of the gener-  
7 al municipal law.

8 3. The trust may require any person presenting for settlement an  
9 account or claim for any cause whatsoever against the trust to be sworn  
10 before a member of the board, counsel or an attorney, officer or employ-  
11 ee thereof designated for such purpose, concerning such account or claim  
12 and when so sworn, to answer orally as to any facts relative to such  
13 account or claim. The trust shall have power to settle or adjust any  
14 claims in favor of or against the trust.

15 4. The rate of interest to be paid by the trust upon any judgment for  
16 which it is liable, other than a judgment on bonds, notes or other obli-  
17 gations, shall not exceed the rate of interest on judgments and accrued  
18 claims against municipal authorities as provided in the general municip-  
19 al law. Interest on payments of principal or interest on any bonds,  
20 notes or other obligations in default shall accrue at the rate specified  
21 in the general municipal law until paid or otherwise satisfied.

22 5. The venue of every action, suit or special proceeding brought  
23 against the trust shall be laid in the county of New York.

24 § 643. Civil service and pension system membership. 1. The trust, for  
25 the purpose of administering the civil service law, shall be subject to  
26 the provisions of the civil service law and the rules of the city  
27 department of citywide administrative services or any successor acting  
28 as the municipal commission of the city. The president of the trust  
29 shall be empowered to act for the trust in all matters relating to  
30 compliance with this subdivision.

31 2. With respect to persons employed by NYCHA on the effective date of  
32 this section, the trust and NYCHA shall be deemed to be the same public  
33 employer only for purposes of transfer of employment under the civil  
34 service law, which may be made only with the approval of the NYCHA CEO  
35 and the president of the trust. No civil service right of an employee of  
36 NYCHA employed on the effective date of this article shall be lost,  
37 impaired or affected by reason of the enactment of this section into  
38 law.

39 3. Any person on an eligible list for a position with NYCHA shall  
40 continue to hold such position on such list and shall be entitled to the  
41 same civil service rights. The trust shall continue to use any new or  
42 existing civil service lists promulgated by the department of citywide  
43 administrative services until such time as successor titles are estab-  
44 lished. Employees of the trust shall have the same rights and benefits  
45 as employees of NYCHA.

46 4. Any officer or employee of NYCHA who is transferred to the trust  
47 pursuant to this section and who at the time of such transfer was a  
48 member of the New York city employees' retirement system shall continue  
49 to be a member of such system as long as he or she or they continues in  
50 such service, and shall continue to have all the rights, privileges and  
51 obligations of membership in such system. Employment by the trust shall  
52 constitute city-service for the purposes of chapter one of title thir-  
53 teen of the administrative code of the city of New York.

54 § 644. Collective negotiation. 1. Except as otherwise provided by this  
55 article, the trust, by means of a written determination of the president  
56 of the trust transmitted to the mayor within one hundred twenty days of

1 the effective date of this section, may elect to have the New York city  
2 collective bargaining law apply to the trust, subject to approval of the  
3 mayor. Such law shall apply to the trust pending such determination and  
4 approval. In the event that the trust does not so elect or the mayor  
5 does not approve the election, the state public employment relations  
6 board shall have exclusive jurisdiction for the purpose of administering  
7 the provisions of article fourteen of the civil service law, and the  
8 provisions of section two hundred twelve of the civil service law shall  
9 not be applicable to the trust.

10 2. In the event that the trust elects to have the New York city  
11 collective bargaining law apply to the trust, for the purpose of article  
12 fourteen of the civil service law and the New York city collective  
13 bargaining law, as applicable, the trust, acting by and through its  
14 president, shall be deemed to be the public employer and as such shall  
15 negotiate with and enter into written agreements with employee organiza-  
16 tions representing the staff of the trust that have been certified or  
17 recognized under such article. In carrying on such negotiations, the  
18 president of the trust may consult with and seek assistance from the  
19 city office of labor relations and NYCHA. The president of the trust  
20 shall consult with the appropriate public employee organization on the  
21 establishment of, and bargain all terms and conditions of, any new  
22 titles established for the trust which have a community of interest with  
23 titles already represented by the public employee organization which  
24 presently has representation rights for those titles for NYCHA or for  
25 the city. Any such titles for which terms and conditions are bargained  
26 pursuant to this subdivision shall be deemed to be successor titles  
27 within the meaning of applicable law and, so long as the responsibil-  
28 ities of employees in these titles are reasonably related to the respon-  
29 sibilities of employees currently represented by a public employee  
30 organization, shall be accreted to the appropriate bargaining certif-  
31 icates for which such public employee organization shall be voluntarily  
32 recognized as the bargaining agent under procedures acceptable to the  
33 office of collective bargaining or the state public employment relations  
34 board, as applicable.

35 § 645. Application of state and local human rights laws. Notwith-  
36 standing any provision of law to the contrary, article fifteen of the  
37 executive law and title eight of the administrative code of the city of  
38 New York shall apply to the trust.

39 § 646. Limited liability. 1. As used in this section, the term  
40 "employee" shall mean the members of the board, president, officers,  
41 employees, or a former employee, his or her estate or judicially  
42 appointed personal representative.

43 2. Neither the members of the board nor any officers or employee of  
44 the trust acting on behalf thereof, while acting within the scope of  
45 such person's authority, shall be subject to any liability resulting  
46 from carrying out any of the powers expressly given in this article.

47 3. At the request of the employee, and upon compliance by the employee  
48 with the provisions of this section, the trust shall provide for the  
49 defense of an employee in any civil action or proceeding in any state or  
50 federal court, arising out of any alleged act or omission which the  
51 trust finds occurred while the employee was acting within the scope of  
52 his or her public employment and in the discharge of his or her public  
53 duties and was not in violation of any rule or regulation of the trust  
54 at the time the alleged act or omission occurred. This duty to provide  
55 for a defense and indemnification shall not arise where such civil



1 action or proceeding is brought by or on behalf of the trust against the  
2 employee.

3 4. The trust shall indemnify and hold harmless its employees in the  
4 amount of any civil judgment obtained against such employees in any  
5 state or federal court, or in the amount of any settlement of a claim  
6 approved by the trust provided that the act or omission from which such  
7 judgment or settlement arose occurred while the employee was acting  
8 within the scope of his or her public employment and in the discharge of  
9 his or her public duties and was not in violation of any rule or regu-  
10 lation of the trust at the time the alleged damages were sustained. The  
11 duty to indemnify and hold harmless prescribed by this section shall not  
12 arise where the injury or damage resulted from an intentional wrongdo-  
13 ing, or recklessness on the part of the employee. Nothing in this  
14 section shall authorize the trust to indemnify or hold harmless an  
15 employee with respect to punitive or exemplary damages, fines or penal-  
16 ties.

17 5. The duty to defend and indemnify and hold harmless prescribed by  
18 this section shall be conditioned upon (a) delivery by the employee to  
19 the president or general counsel of the trust at the office of the trust  
20 of the original or a copy of any summons, complaint, claim, process,  
21 notice, demand or pleading within ten days after the employee is served  
22 with such document, and (b) the full cooperation of the employee in the  
23 defense of such action or proceeding and in defense of any action or  
24 proceeding against the trust based upon the same act or omission, and in  
25 the prosecution of any appeal. Such delivery shall be deemed a request  
26 by the employee that the trust provide for his or her defense pursuant  
27 to this section. In the event that the trust shall assume an employee's  
28 defense and thereafter the employee fails or refuses to cooperate in the  
29 formation or presentation of his or her defense, the court shall permit  
30 the trust to withdraw its representation ten days after giving written  
31 notice to the employee of its intention to discontinue such represen-  
32 tation.

33 6. In the event that the act or omission upon which the court proceed-  
34 ing against the employee is based was or is also the basis of a disci-  
35 plinary proceeding by the trust against the employee, representation and  
36 indemnification by the trust, as set forth in this section, may be with-  
37 held (a) until such disciplinary proceeding has been resolved, and (b)  
38 unless the resolution of the disciplinary proceeding exonerated the  
39 employee as to such act or omission.

40 7. Subject to the conditions set forth in this section, such employee  
41 shall be entitled to representation by the general counsel of the trust  
42 or by any attorney or attorneys designated by the general counsel,  
43 provided, however, that the employee shall be entitled to be represented  
44 by private counsel of his or her choice in any civil action or proceed-  
45 ing whenever the trust determines that representation would be inappro-  
46 priate, or whenever a court, upon appropriate motion or otherwise by a  
47 special proceeding, determines that a conflict of interest exists and  
48 that the employee is entitled to be represented by private counsel of  
49 the employee's choice. The general counsel of the trust shall notify the  
50 employee in writing of such determination that the employee is entitled  
51 to be represented by private counsel. Provided, however, that the trust  
52 may require, as a condition to payment of the fees and expenses of such  
53 representation, that appropriate groups of such employees be represented  
54 by the same counsel. Reasonable attorneys' fees and litigation expenses  
55 shall be paid by the trust to such private counsel from time to time  
56 during the pendency of a civil action or proceeding.

1 8. Any dispute with respect to representation of multiple employees by  
2 a single counsel or the reasonableness of attorneys' fees or the amount  
3 of litigation expenses shall be resolved by the court upon motion or by  
4 way of a special proceeding.

5 9. The benefits of this section shall inure only to employees as  
6 defined in this section and shall not enlarge or diminish the rights of  
7 any other party nor shall any provision of this section be construed to  
8 affect, alter or repeal any provision of the workers' compensation law.

9 10. The provisions of this section shall not be construed in any way  
10 to impair, alter, limit or modify the rights and obligations of any  
11 insurer under any policy of insurance.

12 11. Except as otherwise specifically provided in this section, the  
13 provisions of this section shall not be construed in any way to impair,  
14 alter, limit, modify, abrogate or restrict any immunity available to or  
15 conferred upon any unit, entity, member, officer or employee of the  
16 trust, or any right to defense or indemnification provided for any  
17 member, officer or employee by, in accordance with, or by reason of, any  
18 other provision of state, federal or local law or common law.

19 12. Every action or proceeding instituted pursuant to the provisions  
20 of this section shall be commenced pursuant to section six hundred  
21 forty-two of this article, and subject to any condition or limitation  
22 set forth in such section.

23 13. The provisions of this section shall apply to the actions and  
24 proceedings set forth herein notwithstanding any inconsistent provisions  
25 of state or local law.

26 § 647. Audit and annual reports. The trust shall have an internal  
27 audit function and shall annually prepare and submit reports as required  
28 by this section, provided that no report shall be required during the  
29 earlier of the first year after the trust commences its operations or  
30 one year and nine months after the effective date of this section.

31 1. Within one one hundred twenty days of the end of the city's fiscal  
32 year, the trust shall submit to the mayor of the city, the recognized  
33 citywide council of presidents, or an equivalent successor body, and the  
34 NYCHA board a report on its operations during such fiscal year. An annu-  
35 al audit of the trust shall be conducted by an independent certified  
36 public accountant, and the trust's independently audited financial  
37 statements shall be included in this report. The report shall also  
38 detail the extent of completion of all projects for development, design,  
39 construction, reconstruction, improvement, rehabilitation, repairing and  
40 operation of housing facilities, including, by project, identified  
41 shortfalls in schedule performance and providing explanation for such  
42 shortfalls. Such report shall detail the extent of completion as existed  
43 on the last day of the city's fiscal year. Such report shall also  
44 include a description of each alternative project delivery contract,  
45 information regarding the procurement process for each such alternative  
46 project delivery contract including the list of responding entities that  
47 demonstrated the general capability to perform such alternative project  
48 delivery contract pursuant to paragraph (a) of subdivision one of  
49 section six hundred thirty-five of this article, the total cost of each  
50 alternative project delivery contract, an explanation of the estimated  
51 savings attributable from the alternative project delivery contract  
52 structure used, and the participation rate of and total dollar value of  
53 monies paid to minority and women owned business enterprises under such  
54 contract. Such report shall also include a description of the employment  
55 and other economic opportunities directed to residents of the housing  
56 facilities, such as reporting related to section three of the housing

1 and urban development act of nineteen hundred sixty-eight, as amended,  
2 pursuant to subdivision three of section six hundred thirty-two of this  
3 article. Such report shall also include (i) an assessment of the effec-  
4 tiveness of internal controls, (ii) organization chart, (iii) salary  
5 information for all employees, (iv) debt issuance information (including  
6 outstanding debt and any new debt to be issued, costs of issuance data,  
7 bonds redeemed), (v) certain summary financial information, including  
8 receipts and disbursements, as well as assets and liabilities, (vi)  
9 annual procurement report, (vii) investment of agency funds information,  
10 (viii) information regarding the disposition of tenant complaints, main-  
11 tenance of apartments and facilities, and other information pertaining  
12 to the rights of tenants to remain in their apartment; and (ix) informa-  
13 tion regarding the level of outreach to, and participation of, residents  
14 related to the trust. The trust shall transmit the portion of such  
15 report relating to alternative project delivery contracts to the gover-  
16 nor, the temporary president of the senate and the speaker of the assem-  
17 bly. Such report shall be made publicly available.

18 2. On the last business day in November of each calendar year, the  
19 trust shall submit a report describing its strategic planning framework  
20 for the upcoming calendar year to the mayor of the city and to the NYCHA  
21 board. Such report shall describe any capital improvements to be under-  
22 taken and the approximate costs of such improvements and shall provide  
23 information regarding operations, programs, and services of the trust.  
24 The trust shall present a draft of this report at a meeting of the board  
25 scheduled to occur no less than forty-five calendar days prior to the  
26 last business day in November. The trust shall make such draft available  
27 for public review no less than fifteen calendar days before such meet-  
28 ing. The trust shall offer the public an opportunity to provide oral  
29 comment on the report at such meeting and to submit written comments to  
30 the trust until a specified date prior to the date on which the report  
31 is finalized. The trust shall consider all comments received during such  
32 period prior to finalizing the report required by this subdivision.

33 § 648. Jurisdiction over trust. 1. The trust shall not be deemed a  
34 "covered organization" as defined in the New York state financial emer-  
35 gency act for the city of New York.

36 2. The department of investigation of the city shall be authorized to  
37 conduct investigations relating to the trust pursuant to chapter thir-  
38 ty-four of the New York city charter.

39 3. The comptroller of the city, or his or her legally authorized  
40 representative, is hereby authorized and empowered from time to time to  
41 examine the books and accounts of the trust including its receipts,  
42 disbursements, contracts, reserve funds, sinking funds, investments, and  
43 any other matters relating to its financial standing.

44 4. The trust shall not be deemed a "local authority" or a "state  
45 authority" for purposes of the public authorities law, and shall not  
46 otherwise be subject to provisions of such law with respect to public  
47 authorities, except as may be specifically provided for by this article.

48 § 649. Effect of inconsistent provisions. Insofar as the provisions of  
49 this article are inconsistent with the provisions of any other law,  
50 general, special or local or of the New York city charter or any local  
51 law, ordinance or resolution of the city, the provision of this article  
52 shall be controlling, provided that nothing contained in this section  
53 shall be held to supplement or otherwise expand the powers or duties of  
54 the trust otherwise set forth in this article.

55 § 650. Severability. If any provision of this article or its applica-  
56 tion to any person or circumstance is held unconstitutional or invalid,

1 in whole or in part, by any court, such holding of unconstitutionality  
2 or invalidity shall in no way affect or impair any other provision of  
3 this article or the application of any such provision to any other  
4 person or circumstance, and to this end the provisions of this article  
5 are severable.

6 § 2. Paragraph b of subdivision 3 of section 13-101 of the administra-  
7 tive code of the city of New York, as amended by chapter 16 of the laws  
8 of 1997, is amended to read as follows:

9 b. Service as a paid employee of the triborough bridge authority, the  
10 Henry Hudson parkway authority, the Marine parkway authority, the New  
11 York city tunnel authority, the New York city parkway authority, the New  
12 York city housing authority, the New York city public housing preserva-  
13 tion trust, the triborough bridge and tunnel authority, the New York  
14 city transit authority, the New York city housing development corpo-  
15 ration, the New York city health and hospitals corporation, the New York  
16 city off-track betting corporation, the New York city school  
17 construction authority, the New York city municipal water finance  
18 authority, the New York city water board, the transit construction fund,  
19 the New York city transitional finance authority, the New York city  
20 sports authority and the New York city rehabilitation mortgage insurance  
21 corporation shall constitute city-service as herein defined.

22 § 3. Paragraph 1 of subdivision c of section 13-133 of the administra-  
23 tive code of the city of New York, subparagraph (C) as added by chapter  
24 738 of the laws of 1988, subparagraphs (D) and (E) as added by chapter  
25 609 of the laws of 1995, subparagraph (F) as added by chapter 16 of the  
26 laws of 1997, and subparagraph (G) as added by chapter 3 of the laws of  
27 2013, is amended to read as follows:

28 (1) (A) The comptroller shall make monthly payments, in twelve equal  
29 installments, with respect to obligations which the city incurs to pay  
30 sums to the retirement system.

31 (B) The New York city health and hospitals corporation shall make  
32 monthly payments, in twelve equal installments, with respect to obli-  
33 gations which it incurs to pay sums to the retirement system.

34 (C) The New York city school construction authority shall make monthly  
35 payments, in twelve equal installments, with respect to obligations  
36 which it incurs to pay sums to the retirement system.

37 (D) The New York city municipal water finance authority shall make  
38 monthly payments, in twelve equal installments, with respect to obli-  
39 gations, if any, which it incurs to pay sums to the retirement system.

40 (E) The New York city water board shall make monthly payments, in  
41 twelve equal installments, with respect to obligations, if any, which it  
42 incurs to pay sums to the retirement system.

43 (F) The New York city transitional finance authority shall make month-  
44 ly payments, in twelve equal installments, with respect to obligations  
45 which it incurs to pay sums to the retirement system.

46 (G) The New York city public housing preservation trust shall make  
47 monthly payments, in twelve equal installments, with respect to obli-  
48 gations which it incurs to pay sums to the retirement system.

49 (H) Where a responsible obligor (as defined in paragraph ten of subdivi-  
50 sion a of section 13-638.2 of this title) is required to make payments  
51 to the retirement system pursuant to applicable provisions of law in  
52 fiscal year two thousand twelve--two thousand thirteen, and in any  
53 fiscal year thereafter, and the provisions of this subdivision or the  
54 provisions of any other applicable law do not otherwise specifically  
55 require such responsible obligor to make such payments by a particular  
56 date or dates during such fiscal year, such responsible obligor shall

1 make such payments either (i) in total on or before January first of  
2 such fiscal year, or (ii) in twelve equal monthly installments, as  
3 determined by the actuary, with each monthly installment to be paid on  
4 or before the last day of each month.

5 § 4. This act shall take effect on the sixtieth day after it shall  
6 have become a law. Provided that any public officer or employee, includ-  
7 ing but not limited to the mayor of the city of New York and the chief  
8 executive officer of the New York city housing authority, is authorized  
9 to take any action that is necessary for the timely implementation of  
10 this act prior to its effective date.