

# 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, DAVILA, D. ROSENTHAL, HYNDMAN, HEVESI, TAYLOR, NOLAN, COLTON, BICHOTTE HERME-LYN, WILLIAMS -- 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 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, 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:

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

### ARTICLE XV

#### NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST

##### Section 625. Short title.

##### 626. Legislative findings.

##### 627. Definitions.

##### 628. New York city public housing preservation trust.

##### 629. Powers and duties of the trust.

##### 630. Transfer of property.

##### 631. Resident protections and opportunities.

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

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

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

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

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

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

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

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

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

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

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

(g) the proposer's technical capacities;

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

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

(j) the proposer's financial capability;

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

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

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

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

(o) a quantitative factor to be used in evaluation of bids or offers for awarding of contracts for bidders or offerors that provide economic opportunities for low and very low-income persons in accordance with section three of the federal housing and urban development act of nineteen hundred sixty-eight, as amended, where applicable, or any successor provision. Such basis shall reflect, wherever possible, objective and quantifiable analysis.

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

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

2 5. "Construction manager at risk" means a project delivery method  
3 whereby a construction manager:

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

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

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

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

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

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

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

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

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

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

28 10. "Housing facilities" means the land and buildings thereon owned or  
29 operated by NYCHA and the improvements made to such land and buildings  
30 for use in connection with development or operation of dwelling accommo-  
31 modations for low-income families.

32 11. "Low-income families" means low-, very low-, and extremely low-in-  
33 come families as defined in paragraph two of subsection (b) of section  
34 1437a of title forty-two of the United States code or any successor  
35 provision.

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

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

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

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

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

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

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

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

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

1 18. "Project labor agreement" shall have the same meaning as described  
2 in section two hundred twenty-two of the labor law.

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

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

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

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

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

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

54 4. Appointed members may engage in private employment, or in a profes-  
55 sion or business, unless otherwise prohibited by law, rule or regu-  
56 lation, provided, however, that notwithstanding any applicable provision



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

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

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

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

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

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

53 § 629. Powers and duties of the trust. The trust shall have the  
54 following powers and duties:

55 1. to sue and be sued;

56 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 pursuant to section two hundred  
14 twenty of the labor law;

15 6. to acquire or transfer real and personal property and improvements  
16 thereon, or any interest therein, by any method, necessary or convenient  
17 for the exercise of its functions, powers and duties; provided that such  
18 transfer shall not be utilized to avoid the use of a project labor  
19 agreement or payment of the prevailing wage requirements set forth in  
20 section two hundred twenty of the labor law;

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

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

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

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

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

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

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

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

52 15. to apply for or accept from any source any gifts, grants,  
53 donations, or conveyances of land, money, other real or personal proper-  
54 ty, or other items of value, or loans of funds or property or financial  
55 or other aid or credit assistance in any form, including any guaranty,  
56 line of credit, or grant, from the federal government or any agency or

1 instrumentality thereof, from the state or any agency or instrumentality  
2 thereof, from the city or any agency or instrumentality thereof, or from  
3 any other source, for any or all of the purposes specified in this arti-  
4 cle, and it may comply, subject to the provisions of this article, with  
5 the terms and conditions thereof;

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

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

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

55 2. Within sixty days of the effective date of this article, NYCHA  
56 shall issue a set of proposed requirements related to the voting proc-



1 ess. There shall be a comment period for the voting process, and the  
2 comment period shall include at least one meeting open to the public.  
3 NYCHA shall consider the comments before issuance of the final require-  
4 ments for the voting process. The comments, and the responses to such  
5 comments, shall be published publicly, including, but not limited to, on  
6 NYCHA's website. Within one hundred twenty days of the effective date  
7 of this article, the final requirements for the voting process shall be  
8 posted. Such voting process requirements shall include: the minimum  
9 requirements for voter outreach that shall occur prior to any vote,  
10 which shall, at a minimum, conform to the requirements set forth in  
11 subdivision five of this section, voting eligibility, the form,  
12 substance, and timing of the voting process, and the criteria by which  
13 an option shall be deemed to be accepted or rejected by residents of a  
14 particular housing facility for a modernization strategy that addresses  
15 the capital needs of such housing facility. The voting process shall  
16 ensure that all tenants of record above the age of eighteen are eligible  
17 to vote. The voting process shall include options to vote in person, by  
18 mail, and online. The voting process shall also require a minimum  
19 percentage of tenants of record at such housing facility to participate  
20 in the voting process for such voting process to be valid. The voting  
21 process shall also include, but shall not be limited to, the ability of  
22 residents at a particular housing facility to reject the options  
23 proposed for such housing facility submitted as part of the voting proc-  
24 ess. If all options are rejected at a particular housing facility, none  
25 of the proposed options shall be implemented at such housing facility  
26 until another vote is undertaken at such housing facility. The trust  
27 shall not transfer, convey, assign, mortgage, pledge or otherwise encum-  
28 ber any interest in, or permit or suffer any transfer, conveyance,  
29 assignment, mortgage, pledge or other encumbrance of any interest in  
30 such housing facility, or any part thereof, prior to the posting of the  
31 final requirements for the voting process, prior to the vote at such  
32 housing facility, and prior to the satisfaction of applicable federal  
33 law and regulations.

34 3. The trust shall not transfer, convey, assign, mortgage, pledge or  
35 otherwise encumber any interest in, or permit or suffer any transfer,  
36 conveyance, assignment, mortgage, pledge or other encumbrance of any  
37 interest in any housing facilities, or any part thereof without prior  
38 written consent of NYCHA. Such written consent shall include, but not  
39 be limited to, all protections described in section six hundred thirty-  
40 one of this article and in subdivision fourteen of section six hundred  
41 thirty-seven of this article and shall include reference to section six  
42 hundred thirty-three of this article.

43 4. The trust shall ensure that any housing facilities transferred to  
44 the trust pursuant to this section and any portions thereof are leased  
45 in accordance with United States department of housing and urban devel-  
46 opment eligibility and income-targeting requirements, to the extent  
47 applicable to the units therein. Rents for such units shall not exceed  
48 applicable program requirements for the provision of housing for low-in-  
49 come families as established pursuant to federal law and regulations.  
50 Where NYCHA rules, regulations or agreements exceed the resident  
51 protection standards set forth in state or federal law or regulations,  
52 any housing facilities transferred to the trust pursuant to this section  
53 and any portions thereof shall be leased in accordance with the require-  
54 ments set forth in the NYCHA rules, regulations, or agreements, as  
55 applicable. To the extent consistent with federal law and regulations,  
56 any transfer of a housing facility to the trust pursuant to this article

1 shall ensure the maintenance of all rights conferred on a resident at  
2 the time of such transfer.

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

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

10 (c) the time and place of at least one public meeting held in accord-  
11 ance with applicable accessibility requirements at which NYCHA shall  
12 provide residents of such facility information about the proposed  
13 options and an opportunity to provide oral comment on the proposed  
14 transfer;

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

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

21 § 631. Resident protections and opportunities. 1. The protections  
22 afforded to a resident of a housing facility shall be consistent with  
23 those afforded to a public housing resident, to the extent permitted in  
24 accordance with federal law, and subject to and with the approval of the  
25 United States department of housing and urban development. These  
26 protections shall include, but are not limited to:

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

32 (b) ensuring that any resident required to relocate temporarily for  
33 purposes of rehabilitation or redevelopment of such housing facility is  
34 guaranteed the ability to return to such housing facility following the  
35 completion of such rehabilitation or redevelopment, and that the relo-  
36 cation expenses of such temporary relocation be paid for by the trust or  
37 NYCHA as required by applicable federal law;

38 (c) providing a resident of such housing facility the opportunity to  
39 establish and operate a council to represent residents in such housing  
40 facility to address concerns relating to such facility, pursuant to  
41 subpart b of part nine hundred sixty-four of title twenty-four of the  
42 code of federal regulations or any successor regulation, and to be  
43 eligible for resident participation funding from the trust consistent  
44 with funding available to residents of public housing pursuant to  
45 section 964.150 of title twenty-four of the code of federal regulations  
46 or any successor regulation, provided that any resident council that, at  
47 the time of the transfer of a housing facility to the trust, is certi-  
48 fied by NYCHA as the resident council shall be recognized by the trust  
49 as the resident council of such housing facility;

50 (d) providing a resident of a housing facility an opportunity for an  
51 informal hearing to grieve any dispute that such resident may have with  
52 respect to an action of the trust with regard to such resident's lease,  
53 consistent with the obligation of a public housing agency pursuant to  
54 paragraph eight of subdivision (e) of section 966.4 of title twenty-four  
55 of the code of federal regulations or any successor regulations and

1 pursuant to subpart b of part nine hundred sixty-six of title twenty-  
2 four of the code of federal regulations or any successor regulations;

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

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

13 (g) permitting a resident whose total tenant payment, as defined in  
14 section 983.3 of title twenty-four of the code of federal regulations,  
15 or any successor regulations, would equal or exceed the rent to owner,  
16 as defined in section 983.3 of title twenty-four of the code of federal  
17 regulations or any successor regulations, to remain in a housing facili-  
18 ty and pay rent in an amount to be determined by the trust and NYCHA and  
19 as set forth in the lease of such resident; and

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

25 2. The resident protections described in subdivision one of this  
26 section shall be enumerated in the ground lease or other appropriate  
27 agreement between NYCHA and the trust and shall be further enumerated in  
28 writing between the trust and each resident of a housing facility.  
29 Nothing in this section shall preclude the trust or NYCHA from providing  
30 additional resident protections, which may be enumerated in any such  
31 ground lease or agreement.

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

40 4. The trust shall act in accordance with the full requirements of  
41 part nine hundred sixty-four of title twenty-four of the code of federal  
42 regulations or any successor regulation. The trust shall, among other  
43 requirements, support resident participation in the operations of the  
44 housing facilities and negotiate, with any resident management corpo-  
45 rations, or equivalent that satisfies the requirements of such part, for  
46 operation of a housing facility. The trust shall consider applications  
47 of resident organizations, community organizations or other local organ-  
48 izations for grant funding, as available, to provide training, technical  
49 assistance, and education to residents to support active resident  
50 participation in the planning and implementation of the conversion proc-  
51 ess.

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

55 6. The trust shall create committees consisting of members as appro-  
56 priate, which shall include, but not be limited to, trust employees and

1 residents of the housing facility where construction, reconstruction,  
2 rehabilitation, alteration, renovation, maintenance and repair work is  
3 being performed, and such committees shall meet as needed to provide  
4 input, and oversight, along with recommendations, with respect to the  
5 quality of such work performed by the vendors of the trust.

6 7. The trust and NYCHA shall, in accordance with applicable law,  
7 establish a procedure and eligibility requirements by which a person who  
8 is not a tenant of record as of thirty days before the execution of the  
9 transfer of a leasehold interest in the housing facility to the trust  
10 may become a tenant of record based on consideration of the familial  
11 nexus of such person to the last tenant of record on file with NYCHA,  
12 such individuals to include, but not be limited to, aunts, uncles, niec-  
13 es, nephews, and first cousins, provided that such applications to  
14 become a tenant of record following the transfer of a leasehold interest  
15 in the housing facility to the trust shall be made no later than thirty  
16 days before such transfer. Any requests received after such date will be  
17 reviewed in accordance with the policies described in the administrative  
18 plan, and any amendments to such plan, of NYCHA.

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

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

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

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

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

50 (c) a process for prequalifying bidders and proposers based on crite-  
51 ria, which may include an entity's experience, past performance, ability  
52 to undertake work, financial capability, responsibility, reliability and  
53 status as a certified minority or women owned business enterprise pursu-  
54 ant to article fifteen-A of the executive law or section thirteen  
55 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-four 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,  
48 including but not limited to the prevailing wage requirements set forth  
49 in section two hundred twenty of the labor law and the reporting, moni-  
50 toring, and enforcement provisions of such article, and for projects or  
51 public works receiving federal aid, applicable federal requirements for  
52 prevailing wage. Any contract, the principal purpose of which is to  
53 provide construction services and that is either entered into through a  
54 competitive sealed bidding process or pursuant to section six hundred  
55 thirty-four of this article, and undertaken pursuant to a project labor  
56 agreement, shall include a clause requiring the selected alternative



project delivery contractor or the contractor selected on the basis of its sealed bid to obligate every tier of contractor working on the public work to comply with the project labor agreement referenced in section six hundred thirty-four of this article and this section, and shall include project labor agreement compliance monitoring and enforcement provisions consistent with any such project labor agreement.

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

4. The provisions of section one hundred six-b of the general municipal law shall apply to the trust.

5. The provisions of section one hundred fifty-one-a of this chapter shall apply to the trust.

6. Unless a federal requirement conflicts with any procurement procedure set forth in this article, the trust shall be required to comply with such procedure.

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

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

(1) Step one. The first step shall be the generation of a list of responding entities that have demonstrated the general capability to perform the alternative project delivery contract. Such list shall consist of a specified number of responding entities, as determined by the trust, and shall be generated based upon the trust's review of responses to a publicly advertised request for qualifications. The trust's request for qualifications shall include a general description of the public work, the maximum number of responding entities to be included on such list, the selection criteria to be used and the relative weight of each criteria in generating such list. Such selection criteria shall include the qualifications and experience of the entity or team of entities, organization, demonstrated responsibility, ability of the entity or team of entities or of a member or members of the entity or team of entities to comply with applicable requirements, including the provisions of articles one hundred forty-five, one hundred forty-seven and one hundred forty-eight of the education law, past record of compliance with the labor law, and such other qualifications the trust deems appropriate, which may include but are not limited to project understanding, financial capability and record of past performance. The trust shall evaluate and rate all responding entities to the request for qualifications. Based upon such ratings, the trust shall list the responding entities that shall receive a request for proposals in accordance with subparagraph two of this paragraph. To the extent consistent with applicable federal law, the trust shall consider, when awarding any contract pursuant to this section, the participation of (i) responding entities that are certified as minority or women owned business enterprises pursuant to article fifteen-A of the executive law, or certified pursuant to local law as minority or women owned business enterprises, (ii) small business concerns identified pursuant to subdivision (b) of section one hundred thirty-nine-g of the state finance

1 law, and (iii) business concerns that provide economic opportunities for  
2 low and very low-income persons in accordance with section three of the  
3 federal housing and urban development act of nineteen hundred sixty-  
4 eight, as amended, or any successor provision. In addition, nothing in  
5 this section shall be deemed to supersede any prequalification policies  
6 adopted by the trust pursuant to section six hundred thirty-three of  
7 this article.

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

1 proposals submitted shall be scored according to the criteria listed in  
2 the request for proposals and such final scores shall be published on  
3 the trust's website after the date upon which such contract may be  
4 implemented.

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

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

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

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

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

52 2. All alternative project delivery contracts entered into pursuant to  
53 this section shall include a clause requiring that any professional  
54 services regulated by articles one hundred forty-five, one hundred  
55 forty-seven and one hundred forty-eight of the education law shall be

1 performed and stamped and sealed, where appropriate, by a professional  
2 licensed in accordance with the appropriate article.

3 3. The submission of a proposal or responses or the execution of an  
4 alternative project delivery contract pursuant to this article shall not  
5 be construed to be a violation of section six thousand five hundred  
6 twelve of the education law.

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

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

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

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

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

52 § 635. Additional authority. The procurement authority conferred by  
53 this article shall not impact or impair, and shall be in addition to,  
54 the authority conferred by the NYCHA modernization investment act and  
55 the New York city public works investment act.

1     § 636. Additional requirements for alternative project delivery  
2 contracts. Construction performed under a contract entered into by the  
3 trust pursuant to this article shall be deemed a "public work" to be  
4 performed in accordance with the provisions of article eight of the  
5 labor law, including but not limited to the prevailing wage requirements  
6 set forth in section two hundred twenty of the labor law and the report-  
7 ing, monitoring, and enforcement provisions of article eight of such  
8 law, as well as subject to sections two hundred, two hundred forty, two  
9 hundred forty-one and two hundred forty-two of the labor law, and for  
10 projects or public works receiving federal aid, applicable federal  
11 requirements for prevailing wage. Any contract entered into pursuant to  
12 section six hundred thirty-four of this article, and undertaken pursuant  
13 to a project labor agreement, shall include a clause requiring the  
14 selected alternative project delivery contractor to obligate every tier  
15 of contractor working on the public work to comply with the project  
16 labor agreement referenced in section six hundred thirty-four of this  
17 article, and shall include project labor agreement compliance monitoring  
18 and enforcement provisions consistent with any such project labor agree-  
19 ment.

20     § 637. Borrowing by the trust and for its benefit; effects of certain  
21 defaults. 1. For the purposes of this section, the term "project" means  
22 the development, design, construction, reconstruction, improvement,  
23 rehabilitation, repairing and operation of housing facilities.

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

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

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

50     5. Whenever the trust shall determine that the issuance of its bonds,  
51 notes or other obligations is appropriate, the trust shall make a deter-  
52 mination as to the arrangements necessary for the issuance and sale of  
53 such bonds, notes or other obligations, including the underwriting of  
54 such bonds, notes or other obligations through the public or private  
55 sale of such bonds, notes or other obligations, and such determination  
56 shall include compensation for services rendered as the trust deems



appropriate. Such determination shall be set forth in a resolution of the trust, which shall authorize issuance of such bonds, notes or other obligations. The bonds, notes or other obligations shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the trust may provide in such resolution.

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

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

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

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

(d) limitations on the issuance of additional bonds, notes or other obligations, the terms upon which additional bonds, notes or other obligations may be issued and secured and the refunding of bonds, notes or other obligations;

(e) the procedure, if any, by which the terms of any contract with holders of bonds, notes or other obligations may be amended or abrogated, including the proportion of holders of bonds, notes or other obligations which are needed to consent thereto and the manner in which such consent may be given;

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

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

7. In addition to the powers herein conferred upon the trust to secure its bonds, notes or other obligations, the trust shall have power in connection with the issuance of bonds, notes or other obligations to enter into such agreements for the benefit of the holders of bonds, notes or other obligations as the trust may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the trust would have the right to do in the absence of such agreements. The trust shall have power to enter into amendments of any such agreements within the powers

1 granted to the trust by this article and to perform such agreements. The  
2 provisions of any such agreements may be made a part of the contract  
3 with the holders of bonds, notes or other obligations of the trust.

4 8. Notwithstanding any provision of the uniform commercial code to the  
5 contrary, any pledge of or other security interest in revenues, moneys,  
6 accounts, contract rights, general intangible or other personal property  
7 made or created by the trust shall be valid, binding and perfected from  
8 the time when such pledge is made or other security interest attaches  
9 without any physical delivery of the collateral or further act, and the  
10 lien of any such pledge or other security interest shall be valid, bind-  
11 ing and perfected against all parties having claims of any kind in tort,  
12 contract or otherwise against the trust irrespective of whether or not  
13 such parties have notice thereof. No instrument by which such a pledge  
14 or security interest is created nor any financing statement need be  
15 recorded or filed.

16 9. Whether or not the bonds, notes or other obligations of the trust  
17 are of such form and character as to be negotiable instruments under the  
18 terms of the uniform commercial code, the bonds, notes or other obli-  
19 gations are hereby made negotiable instruments within the meaning of and  
20 for all the purposes of the uniform commercial code, subject only to the  
21 provisions of the bonds, notes or other obligations for registration.

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

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

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

13. In the event that any default on any bond, note or other obligation that is secured by an assignment of, mortgage on, pledge of or other encumbrance on any interest of the trust, or any entity referred to in subdivision thirteen of section six hundred twenty-nine of this article, in any housing facilities, has occurred and is continuing beyond the applicable cure period, if any, provided to the trust or such entity in the instrument granting such assignment, mortgage, pledge or other encumbrance, notwithstanding any provision in such instrument, any right of the beneficiary of such instrument to obtain such interest in such housing facilities as a remedy to any such default shall, for a period ending thirty days after the end of such cure period, be subject to:

(a) the right of the city of New York to remedy, or cause to be remedied, such default; and

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

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

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

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

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

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

4. Any moneys on deposit in the accounts of the trust not required for immediate expenditure shall be invested in obligations in which a municipality may be authorized to invest in accordance with section eleven of the general municipal law, provided, however, that such funds shall not be invested in instruments commonly known as repurchase agreements. The trust shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds, notes and other obligations as to the custody, collection, securing, investment

1 and payment of any money of the trust or any money held in trust or  
2 otherwise for the payment of bonds, notes and other obligations or in  
3 any way to secure bonds, notes and other obligations, and to carry out  
4 any such contract.

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

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

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

40 3. The state hereby covenants with the purchasers and with all subse-  
41 quent holders and transferees of bonds, notes or other obligations  
42 issued by the trust pursuant to this article, in consideration of the  
43 acceptance of and payment for the bonds, notes or other obligations,  
44 that the bonds, notes or other obligations of the trust issued pursuant  
45 to this article and the income therefrom and all revenues, monies, and  
46 other property pledged to pay or to secure the payment of such bonds,  
47 notes or other obligations shall at all times be free from taxation.

48 § 641. Actions against the trust. 1. Except in an action for wrongful  
49 death, no action or proceeding shall be prosecuted or maintained against  
50 the trust for personal injury or damage to real or personal property  
51 alleged to have been sustained by reason of the negligence or wrongful  
52 act of the trust or of any member of the board, officer, agent or  
53 employee thereof, unless (a) it shall appear by and as an allegation in  
54 the complaint or moving papers that a notice of claim shall have been  
55 made and served upon the trust, within the time limit prescribed by and  
56 in compliance with section fifty-e of the general municipal law, (b) it

1 shall appear by and as an allegation in the complaint or moving papers  
2 that at least thirty days have elapsed since the service of such notice  
3 and that adjustment or payment thereof has been neglected or refused,  
4 and (c) the action or proceeding shall be commenced within the period  
5 provided under section fifty-i of the general municipal law. An action  
6 against the trust for wrongful death shall be commenced in accordance  
7 with the notice of claim and time limitation provisions of title eleven  
8 of article nine of the public authorities law.

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

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

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

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

30 § 642. Civil service and pension system membership. 1. The trust, for  
31 the purpose of administering the civil service law, shall be subject to  
32 the provisions of the civil service law and the rules of the city  
33 department of citywide administrative services or any successor acting  
34 as the municipal commission of the city. The president of the trust  
35 shall be empowered to act for the trust in all matters relating to  
36 compliance with this subdivision.

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

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

52 4. Any officer or employee of NYCHA who is transferred to the trust  
53 pursuant to this section and who at the time of such transfer was a  
54 member of the New York city employees' retirement system shall continue  
55 to be a member of such system as long as he or she or they continues in  
56 such service, and shall continue to have all the rights, privileges and



1 obligations of membership in such system. Employment by the trust shall  
2 constitute city-service for the purposes of chapter one of title thir-  
3 teen of the administrative code of the city of New York.

4 § 643. Collective negotiation. 1. Except as otherwise provided by this  
5 article, the trust, by means of a written determination of the president  
6 of the trust transmitted to the mayor within one hundred twenty days of  
7 the effective date of this section, may elect to have the New York city  
8 collective bargaining law apply to the trust, subject to approval of the  
9 mayor. Such law shall apply to the trust pending such determination and  
10 approval. In the event that the trust does not so elect or the mayor  
11 does not approve the election, the state public employment relations  
12 board shall have exclusive jurisdiction for the purpose of administering  
13 the provisions of article fourteen of the civil service law, and the  
14 provisions of section two hundred twelve of the civil service law shall  
15 not be applicable to the trust.

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

41 § 644. Application of state and local human rights laws. Notwithstand-  
42 ing any provision of law to the contrary, article fifteen of the execu-  
43 tive law and title eight of the administrative code of the city of New  
44 York shall apply to the trust.

45 § 645. Limited liability. 1. As used in this section, the term  
46 "employee" shall mean the members of the board, president, officers,  
47 employees, or a former employee, his or her estate or judicially  
48 appointed personal representative.

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

53 3. At the request of the employee, and upon compliance by the employee  
54 with the provisions of this section, the trust shall provide for the  
55 defense of an employee in any civil action or proceeding in any state or  
56 federal court, arising out of any alleged act or omission which the

1 trust finds occurred while the employee was acting within the scope of  
2 his or her public employment and in the discharge of his or her public  
3 duties and was not in violation of any rule or regulation of the trust  
4 at the time the alleged act or omission occurred. This duty to provide  
5 for a defense and indemnification shall not arise where such civil  
6 action or proceeding is brought by or on behalf of the trust against the  
7 employee.

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

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

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

45 7. Subject to the conditions set forth in this section, such employee  
46 shall be entitled to representation by the general counsel of the trust  
47 or by any attorney or attorneys designated by the general counsel,  
48 provided, however, that the employee shall be entitled to be represented  
49 by private counsel of his or her choice in any civil action or proceed-  
50 ing whenever the trust determines that representation would be inappro-  
51 priate, or whenever a court, upon appropriate motion or otherwise by a  
52 special proceeding, determines that a conflict of interest exists and  
53 that the employee is entitled to be represented by private counsel of  
54 the employee's choice. The general counsel of the trust shall notify the  
55 employee in writing of such determination that the employee is entitled  
56 to be represented by private counsel. Provided, however, that the trust

1 may require, as a condition to payment of the fees and expenses of such  
2 representation, that appropriate groups of such employees be represented  
3 by the same counsel. Reasonable attorneys' fees and litigation expenses  
4 shall be paid by the trust to such private counsel from time to time  
5 during the pendency of a civil action or proceeding.

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

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

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

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

24 12. Every action or proceeding instituted pursuant to the provisions  
25 of this section shall be commenced pursuant to section six hundred  
26 forty-one of this article, and subject to any condition or limitation  
27 set forth in such section.

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

31 § 646. Audit and annual reports. The trust shall have an internal  
32 audit function and shall annually prepare and submit reports as required  
33 by this section, provided that no report shall be required during the  
34 earlier of the first year after the trust commences its operations or  
35 one year and nine months after the effective date of this section.

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

1 structure used, and the participation rate of and total dollar value of  
2 monies paid to minority and women owned business enterprises under such  
3 contract. Such report shall also include a description of the employment  
4 and other economic opportunities directed to residents of the housing  
5 facilities, such as reporting related to section three of the federal  
6 housing and urban development act of nineteen hundred sixty-eight, as  
7 amended, pursuant to subdivision three of section six hundred thirty-one  
8 of this article. Such report shall also include (i) an assessment of  
9 the effectiveness of internal controls, (ii) organization chart, (iii)  
10 salary information for all employees, (iv) debt issuance information  
11 (including outstanding debt and any new debt to be issued, costs of  
12 issuance data, bonds redeemed), (v) certain summary financial informa-  
13 tion, including receipts and disbursements, as well as assets and  
14 liabilities, (vi) annual procurement report, (vii) investment of agency  
15 funds information, (viii) information regarding the disposition of  
16 tenant complaints, maintenance of apartments and facilities, and other  
17 information pertaining to the rights of tenants to remain in their  
18 apartment; and (ix) information regarding the level of outreach to, and  
19 participation of, residents related to the trust. The trust shall tran-  
20 smit the portion of such report relating to alternative project delivery  
21 contracts to the governor, the temporary president of the senate and the  
22 speaker of the assembly. Such report shall be made publicly available.

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

38 § 647. Jurisdiction over trust. 1. The trust shall not be deemed a  
39 "covered organization" as defined in the New York state financial emer-  
40 gency act for the city of New York.

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

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

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

53 § 648. Effect of inconsistent provisions. Insofar as the provisions of  
54 this article are inconsistent with the provisions of any other law,  
55 general, special or local or of the New York city charter or any local  
56 law, ordinance or resolution of the city, the provision of this article

1 shall be controlling, provided that nothing contained in this section  
2 shall be held to supplement or otherwise expand the powers or duties of  
3 the trust otherwise set forth in this article.

4 § 649. Severability. If any provision of this article or its applica-  
5 tion to any person or circumstance is held unconstitutional or invalid,  
6 in whole or in part, by any court, such holding of unconstitutionality  
7 or invalidity shall in no way affect or impair any other provision of  
8 this article or the application of any such provision to any other  
9 person or circumstance, and to this end the provisions of this article  
10 are severable.

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

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

27 § 3. Paragraph 1 of subdivision c of section 13-133 of the administra-  
28 tive code of the city of New York, subparagraph (C) as added by chapter  
29 738 of the laws of 1988, subparagraphs (D) and (E) as added by chapter  
30 609 of the laws of 1995, subparagraph (F) as added by chapter 16 of the  
31 laws of 1997, and subparagraph (G) as added by chapter 3 of the laws of  
32 2013, is amended to read as follows:

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

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

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

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

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

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

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

54 (H) Where a responsible obligor (as defined in paragraph ten of subdi-  
55 vision a of section 13-638.2 of this title) is required to make payments  
56 to the retirement system pursuant to applicable provisions of law in



1 fiscal year two thousand twelve--two thousand thirteen, and in any  
2 fiscal year thereafter, and the provisions of this subdivision or the  
3 provisions of any other applicable law do not otherwise specifically  
4 require such responsible obligor to make such payments by a particular  
5 date or dates during such fiscal year, such responsible obligor shall  
6 make such payments either (i) in total on or before January first of  
7 such fiscal year, or (ii) in twelve equal monthly installments, as  
8 determined by the actuary, with each monthly installment to be paid on  
9 or before the last day of each month.

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