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Introduced by M. of A. CYMBROWITZ, FALL, BENEDETTO, BURDICK, COOK, TAPIA, J. RIVERA, SEAWRIGHT, DINOWITZ, EICHENSTEIN, DAVILA, D. ROSENTHAL, HYNDMAN, HEVESI, TAYLOR, NOLAN, COLTON, BICHOTTE HERMELYN, WILLIAMS, CARROLL, RAJKUMAR -- 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 -- reported and referred to the Committee on Ways and Means -- 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:

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

3 ARTICLE XV

4 NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST

5 Section 625. Short title.

6 626. Legislative findings.

7 627. Definitions.

8 628. New York city public housing preservation trust.

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

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

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

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

49 § 627. Definitions. As used or referred to in this article:
50 1. "Alternative project delivery contract" means any project delivery
51 method authorized by this article, including construction manager build,
52 construction manager at risk, and design-build, pursuant to which one or
53 more contracts for the provision of design or construction management
54 and construction services are awarded pursuant to an open and compet-

1 itive method of procurement, as specified in section six hundred thir-
2 ty-four of this article.

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

6 (a) the quality of the proposer's performance on previous projects;

7 (b) the timeliness of the proposer's performance on previous projects;

8 (c) the level of customer satisfaction with the proposer's performance
9 on previous projects;

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

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

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

14 (g) the proposer's technical capacities;

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

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

18 (j) the proposer's financial capability;

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

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

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

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

51 (o) a quantitative factor to be used in evaluation of bids or offers
52 for awarding of contracts for bidders or offerors that provide economic
53 opportunities for low and very low-income persons in accordance with
54 section three of the federal housing and urban development act of nine-
55 teen hundred sixty-eight, as amended, where applicable, or any successor

1 provision. Such basis shall reflect, wherever possible, objective and
2 quantifiable analysis.

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

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

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

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

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

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

14 6. "Construction manager build" means a project delivery method where-
15 by a construction manager, following a declaration of a disaster by the
16 governor or state of emergency by the mayor pursuant to article two-B of
17 the executive law or chapter one of title three of the administrative
18 code of the city of New York, or following an independent cost estimate
19 and a concurrence by NYCHA that construction work is required at a hous-
20 ing facility to remedy defects to bring the housing facility into
21 decent, safe, and sanitary condition:

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

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

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

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

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

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

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

41 11. "Low-income families" means low-, very low-, and extremely low-in-
42 come families as defined in paragraph two of subsection (b) of section
43 1437a of title forty-two of the United States code or any successor
44 provision.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 § 628. New York city public housing preservation trust. 1. There is
23 hereby established a public benefit corporation to be known as the "New
24 York city public housing preservation trust". The purpose of such trust
25 shall be the design, development, construction, reconstruction, improve-
26 ment, modernization, rehabilitation, repairing and operation of housing
27 facilities.

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

53 3. Each appointed member shall continue in office until a successor
54 has been appointed and qualified unless otherwise removed as follows. A
55 member may be removed by the NYCHA CEO or mayor, whichever appointed
56 such member, upon the filing in the office of the trust and serving upon

1 the member the reasons therefor. Such document setting forth the
2 reasons shall be made available to the general public which shall
3 include, but not be limited to, publishing such reasons on the websites
4 of the trust and NYCHA. In the event a vacancy occurs in the office of
5 an appointed member, the vacancy shall be filled in the same manner as
6 was the original appointment of the member whose office became vacant.

7 4. Appointed members may engage in private employment, or in a profes-
8 sion or business, unless otherwise prohibited by law, rule or regu-
9 lation, provided, however, that notwithstanding any applicable provision
10 of law, the members shall be subject to the limitations contained in
11 sections two thousand six hundred three, two thousand six hundred four,
12 two thousand six hundred five, and two thousand six hundred six of the
13 New York city charter. The trust shall be an agency and such members
14 shall be public servants for the purposes of such sections. In addition,
15 such members shall be subject to the provisions of section one thousand
16 one hundred sixteen of the New York city charter and shall for the
17 purposes of such section be considered officers of the city. Further,
18 such members, the president and certain critical employees of the trust
19 as designated by the board or the president, shall be subject to the
20 provisions of section 12-110 of the administrative code of the city of
21 New York pertaining to the filing of annual disclosure reports with the
22 city conflicts of interest board, and for such purpose, the members of
23 the board of trustees shall be deemed to be compensated members of the
24 trust.

25 5. The board shall provide for the holding of regular meetings, and
26 such special meetings, at the call of the chair of the trust, as may be
27 necessary. A majority of the whole number of members shall constitute a
28 quorum for the transaction of business. The powers of the board shall be
29 vested in and exercised by a majority of the whole number of the members
30 thereof. Any one or more members of the board may participate in a
31 meeting of the trust by means of videoconferencing consistent with arti-
32 cle seven of the public officers law.

33 6. Members of the board, other than members serving by virtue of their
34 positions, shall receive a stipend in the amount of two hundred fifty
35 dollars for every four hours of work performed for the trust, not to
36 exceed one thousand five hundred dollars per month. In addition,
37 members shall be reimbursed for the actual and necessary expenses
38 incurred by them in the performance of their official duties as members
39 of the board of trustees.

40 7. The board shall appoint a president of the trust and determine the
41 compensation of the president. The president, who shall not be a member
42 of the board, shall be the chief executive officer of the trust and
43 shall be responsible for the discharge of the executive and administra-
44 tive functions and powers of the trust, including the exercise of any
45 powers delegated by the board to the president. The president shall
46 serve at the pleasure of the board.

47 8. The trust and its corporate existence shall continue until termi-
48 nated by law, provided, however, that no such law shall take effect so
49 long as the trust shall have bonds, notes and other obligations
50 outstanding, unless adequate provision has been made for the payment
51 thereof. Upon the termination of the existence of the trust, all its
52 rights and properties shall pass to and be vested in NYCHA.

53 9. Notwithstanding any provision of law to the contrary, no officer or
54 employee of the state, or of any civil division thereof, or of any
55 public corporation, as defined in the general construction law, includ-
56 ing NYCHA, shall be deemed to have forfeited or shall forfeit such

1 person's office or employment or any benefits provided under the retire-
2 ment and social security law or under any public retirement system main-
3 tained by the state or by the civil divisions thereof, or by any such
4 public corporation, by reason of such person's acceptance of membership
5 on the board of the trust or by virtue of such person being an officer
6 or employee of the trust.

7 § 629. Powers and duties of the trust. The trust shall have the
8 following powers and duties:

9 1. to sue and be sued;

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

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

14 4. to appoint the president of the trust and fix the president's
15 compensation, pursuant to section six hundred twenty-eight of this arti-
16 cle, and to execute direct oversight of the president and other manage-
17 ment in the effective and ethical management of the trust, and establish
18 policies regarding the payment of salary, compensation and reimburse-
19 ments to, and establish rules for the time and attendance of the presi-
20 dent and management;

21 5. to engage or assist in the development, design, construction,
22 reconstruction, improvement, modernization, rehabilitation, repairing,
23 and operation of housing facilities pursuant to section two hundred
24 twenty of the labor law;

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

31 7. to encumber residential property and buildings held by the trust
32 and limit use to residents who are low-income families as defined in
33 subdivision eleven of section six hundred twenty-seven of this article
34 and other residents as defined in subdivision seventeen of section six
35 hundred twenty-seven of this article;

36 8. to make and execute contracts and all other instruments necessary
37 or convenient for the exercise of its functions, powers and duties,
38 including procurement contracts consistent with applicable provisions of
39 this article. Notwithstanding any provision of law to the contrary,
40 including but not limited to article eight of this chapter, the trust
41 may enter into contracts, consistent with applicable provisions of this
42 article, with NYCHA or on behalf of and for the benefit of NYCHA;

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

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

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

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

55 13. to form or participate as members or partners of private entities,
56 which may include but are not limited to, not-for-profit corporations,

1 housing development fund corporations, limited liability corporations,
2 and limited partnerships, to further the purposes and powers given and
3 granted by this section;

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

6 15. to apply for or accept from any source any gifts, grants,
7 donations, or conveyances of land, money, other real or personal proper-
8 ty, or other items of value, or loans of funds or property or financial
9 or other aid or credit assistance in any form, including any guaranty,
10 line of credit, or grant, from the federal government or any agency or
11 instrumentality thereof, from the state or any agency or instrumentality
12 thereof, from the city or any agency or instrumentality thereof, or from
13 any other source, for any or all of the purposes specified in this arti-
14 cle, and it may comply, subject to the provisions of this article, with
15 the terms and conditions thereof;

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

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

52 § 630. Transfer of property. 1. NYCHA, acting by NYCHA board resol-
53 ution and in accordance with a disposition or similar plan approved by
54 the United States department of housing and urban development in accord-
55 ance with applicable federal law, which shall include a letter of
56 approval from the mayor or a designee of the mayor, may transfer to the

1 trust, with or without consideration and without any further authori-
2 zation, a leasehold interest in its housing facilities and any ancillary
3 personal property of such facilities. The aggregate number of residen-
4 tial units transferred to the trust pursuant to this section shall not
5 exceed twenty-five thousand. On an annual basis, NYCHA and the trust
6 shall review such limit and, if they determine that such limit should be
7 increased, NYCHA and the trust shall make recommendations to the legis-
8 lature regarding any such increase.

9 2. Within sixty days of the effective date of this article, NYCHA
10 shall issue a set of proposed requirements related to the voting proc-
11 ess. There shall be a comment period for the voting process, and the
12 comment period shall include at least one meeting open to the public.
13 NYCHA shall consider the comments before issuance of the final require-
14 ments for the voting process. The comments, and the responses to such
15 comments, shall be published publicly, including, but not limited to, on
16 NYCHA's website. Within one hundred twenty days of the effective date
17 of this article, the final requirements for the voting process, which
18 may be amended as needed pursuant to the process described in this
19 section, shall be posted. Such voting process requirements shall
20 include: the minimum requirements for voter outreach that shall occur
21 prior to any vote, which shall, at a minimum, conform to the require-
22 ments set forth in subdivision five of this section, voting eligibility,
23 the form, substance, and timing of the voting process, the voting
24 requirements regarding the selection of any other proposed modernization
25 strategy at a housing facility in connection with the voting process,
26 and the criteria by which an option shall be deemed to be accepted or
27 rejected by residents of a particular housing facility for a moderniza-
28 tion strategy that addresses the capital needs of such housing facility.
29 The voting process shall ensure that all tenants of record above the age
30 of eighteen are eligible to vote. The voting process shall include
31 options to vote in person, by mail, and online. The voting process shall
32 also require a minimum percentage of tenants of record at such housing
33 facility to participate in the voting process for such voting process to
34 be valid. The voting process shall also include, but shall not be limit-
35 ed to, the ability of residents at a particular housing facility to
36 reject the options proposed for such housing facility submitted as part
37 of the voting process. If all options are rejected at a particular hous-
38 ing facility, none of the proposed options shall be implemented at such
39 housing facility until another vote is undertaken at such housing facil-
40 ity. NYCHA shall comply with a vote to accept or reject any such
41 options. The trust shall not transfer, convey, assign, mortgage, pledge
42 or otherwise encumber any interest in, or permit or suffer any transfer,
43 conveyance, assignment, mortgage, pledge or other encumbrance of any
44 interest in such housing facility, or any part thereof, prior to the
45 posting of the final requirements for the voting process, prior to the
46 completed vote at such housing facility approving such option, and prior
47 to the satisfaction of applicable federal law and regulations. NYCHA
48 shall not transfer, convey, assign, mortgage, or pledge to the trust, or
49 permit or suffer any transfer, conveyance, assignment, mortgage, or
50 pledge to the trust any interest in such housing facility, or any part
51 thereof, prior to the posting of the final requirements for the voting
52 process, prior to the completed vote at such housing facility approving
53 such option, and prior to the satisfaction of applicable federal law and
54 regulations.

55 3. In addition to the requirements set forth in subdivision two of
56 this section, the trust shall not transfer, convey, assign, mortgage,

1 pledge or otherwise encumber any interest in, or permit or suffer any
2 transfer, conveyance, assignment, mortgage, pledge or other encumbrance
3 of any interest in any housing facilities, or any part thereof without
4 prior written consent of NYCHA. Such written consent shall include, but
5 not be limited to, all protections described in section six hundred
6 thirty-one of this article and in subdivision fourteen of section six
7 hundred thirty-seven of this article and shall include reference to
8 section six hundred thirty-three of this article.

9 4. The trust shall ensure that any housing facilities transferred to
10 the trust pursuant to this section and any portions thereof are leased
11 in accordance with United States department of housing and urban devel-
12 opment eligibility and income-targeting requirements, to the extent
13 applicable to the units therein. Rents for such units shall not exceed
14 applicable program requirements for the provision of housing for low-in-
15 come families as established pursuant to federal law and regulations.
16 Where NYCHA rules, regulations or agreements exceed the resident
17 protection standards set forth in state or federal law or regulations,
18 any housing facilities transferred to the trust pursuant to this section
19 and any portions thereof shall be leased in accordance with the require-
20 ments set forth in the NYCHA rules, regulations, or agreements, as
21 applicable. To the extent consistent with federal law and regulations,
22 any transfer of a housing facility to the trust pursuant to this article
23 shall ensure the maintenance of all rights conferred on a resident at
24 the time of such transfer.

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

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

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

37 (d) notification by mail, phone, and email, where such contact infor-
38 mation is available, at least thirty days prior to a vote, to all resi-
39 dents of such housing facility, which shall include information detail-
40 ing the proposed options; and

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

45 § 631. Resident protections and opportunities. 1. The protections
46 afforded to a resident of a housing facility shall be consistent with
47 those afforded to a public housing resident, to the extent permitted in
48 accordance with federal law, and subject to and with the approval of the
49 United States department of housing and urban development. These
50 protections shall include, but are not limited to:

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

1 (b) ensuring that any resident required to relocate temporarily for
2 purposes of rehabilitation or redevelopment of such housing facility is
3 guaranteed the ability to return to such housing facility following the
4 completion of such rehabilitation or redevelopment, and that the relo-
5 cation expenses of such temporary relocation be paid for by the trust or
6 NYCHA as required by applicable federal law;

7 (c) providing a resident of such housing facility the opportunity to
8 establish and operate a council to represent residents in such housing
9 facility to address concerns relating to such facility, pursuant to
10 subpart b of part nine hundred sixty-four of title twenty-four of the
11 code of federal regulations or any successor regulation, and to be
12 eligible for resident participation funding from the trust consistent
13 with funding available to residents of public housing pursuant to
14 section 964.150 of title twenty-four of the code of federal regulations
15 or any successor regulation, provided that any resident council that, at
16 the time of the transfer of a housing facility to the trust, is certi-
17 fied by NYCHA as the resident council shall be recognized by the trust
18 as the resident council of such housing facility;

19 (d) providing a resident of a housing facility an opportunity for an
20 informal hearing to grieve any dispute that such resident may have with
21 respect to an action of the trust with regard to such resident's lease,
22 consistent with the obligation of a public housing agency pursuant to
23 paragraph eight of subdivision (e) of section 966.4 of title twenty-four
24 of the code of federal regulations or any successor regulations and
25 pursuant to subpart b of part nine hundred sixty-six of title twenty-
26 four of the code of federal regulations or any successor regulations;

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

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

37 (g) permitting a resident whose total tenant payment, as defined in
38 section 983.3 of title twenty-four of the code of federal regulations,
39 or any successor regulations, would equal or exceed the rent to owner,
40 as defined in section 983.3 of title twenty-four of the code of federal
41 regulations or any successor regulations, to remain in a housing facili-
42 ty and pay rent in an amount to be determined by the trust and NYCHA and
43 as set forth in the lease of such resident;

44 (h) determining succession to a voucher pursuant to section eight of
45 the United States housing act of nineteen hundred thirty-seven, as
46 amended, or any successor provision, in accordance with the housing
47 voucher program administrative plan, and any amendments to such plan, of
48 NYCHA; and

49 (i) no rescreening for eligibility or right-sizing of residents of a
50 housing facility as a result of a transfer of the leasehold interest
51 from NYCHA to the trust.

52 2. The resident protections described in subdivision one of this
53 section shall be enumerated in the ground lease or other appropriate
54 agreement between NYCHA and the trust and shall be further enumerated in
55 writing between the trust and each resident of a housing facility.
56 Nothing in this section shall preclude the trust or NYCHA from providing

1 additional resident protections, which may be enumerated in any such
2 ground lease or agreement.

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

11 4. The trust shall act in accordance with the full requirements of
12 part nine hundred sixty-four of title twenty-four of the code of federal
13 regulations or any successor regulation. The trust shall, among other
14 requirements, support resident participation in the operations of the
15 housing facilities and negotiate, with any resident management corpo-
16 rations, or equivalent that satisfies the requirements of such part, for
17 operation of a housing facility. The trust shall consider applications
18 of resident organizations, community organizations or other local organ-
19 izations for grant funding, as available, to provide training, technical
20 assistance, and education to residents to support active resident
21 participation in the planning and implementation of the conversion proc-
22 ess.

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

26 6. The trust shall create committees consisting of members as appro-
27 priate, which shall include, but not be limited to, trust employees and
28 residents of the housing facility where construction, reconstruction,
29 rehabilitation, alteration, renovation, maintenance and repair work is
30 being performed, and such committees shall meet as needed to provide
31 input, and oversight, along with recommendations, with respect to the
32 quality of such work performed by the vendors of the trust.

33 7. The trust and NYCHA shall, in accordance with applicable law,
34 establish a procedure and eligibility requirements by which a person who
35 is not a tenant of record as of thirty days before the execution of the
36 transfer of a leasehold interest in the housing facility to the trust
37 may become a tenant of record based on consideration of the familial
38 nexus of such person to the last tenant of record on file with NYCHA,
39 such individuals to include, but not be limited to, aunts, uncles, niec-
40 es, nephews, and first cousins, provided that such applications to
41 become a tenant of record following the transfer of a leasehold interest
42 in the housing facility to the trust shall be made no later than thirty
43 days before such transfer. Any requests received after such date will be
44 reviewed in accordance with the policies described in the administrative
45 plan, and any amendments to such plan, of NYCHA.

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

51 2. The trust shall adopt rules or regulations establishing sustainable
52 design guidelines for the development, construction, reconstruction,
53 improvement, modernization, rehabilitation, repair, and operation of, or
54 otherwise providing for, housing facilities, which shall include crite-
55 ria for beneficial electrification and renewable energy production in

1 furtherance of the goals of decarbonized buildings, use of sustainable
2 materials, and energy and water efficiency.

3 § 633. Contracts of the trust. 1. Notwithstanding any provision of law
4 to the contrary, including but not limited to article eight of this
5 chapter, the trust shall establish and maintain procurement policies
6 that shall set forth the methods and procedures by which the trust shall
7 procure contracts for goods and services, including but not limited to
8 services for design, development, construction, reconstruction, improve-
9 ment, modernization, rehabilitation, repair and operation, related to
10 property owned or leased by the trust, in a manner consistent with the
11 provisions of this article. Such policies shall specifically include:

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

16 (b) processes for awarding contracts for goods and services using
17 alternatives to competitive sealed bidding where competitive sealed
18 bidding is not practicable or not advantageous, in which case the trust
19 shall use the most competitive method of procurement that is appropriate
20 under the circumstances to select the proposer offering the best value
21 to the trust;

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

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

34 (e) processes for awarding alternative project delivery contracts, in
35 a manner consistent with the terms of section six hundred thirty-four of
36 this article;

37 (f) procedures for the fair and equitable resolution of contract
38 disputes, for appeals of responsiveness and responsibility determi-
39 nations by the trust, and for appeals of prequalification determi-
40 nations;

41 (g) a process for making purchases off contracts procured by public
42 agencies and public entities, provided that such contract exists between
43 a vendor and (1) the United States General Services Administration, (2)
44 the state of New York or any of its political subdivisions, (3) another
45 public authority or public corporation of the state, (4) another public
46 housing agency or public housing authority, or (5) any purchasing coop-
47 erative where the lead purchasing entity is any of the foregoing,
48 provided that in any case when the trust under this paragraph determines
49 that obtaining such item thereby would be in the public interest and
50 provide for greater economy and efficiency and sets forth the reasons
51 for such determination. Such rationale shall include, but not be limit-
52 ed to, a determination of need, a consideration of the procurement meth-
53 od by which the contract was awarded, an explanation why a competitive
54 procurement or the use of a centralized contract let by the commissioner
55 of the office of general services is not in the best interest of the
56 trust, and the reasonableness of cost; and

1 (h) a mechanism for procurements without a formal competitive process
2 where:

3 (1) the existence of an emergency involving danger to life, safety or
4 property requires immediate action and cannot await a competitive proc-
5 ess for goods or services to be purchased, including, but not limited
6 to, services for construction, reconstruction, rehabilitation, alter-
7 ation, renovation, maintenance or repairs, which are essential to effi-
8 cient operation or the adequate provision of service by the trust and as
9 a consequence of unforeseen circumstance such purchase cannot await a
10 competitive process;

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

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

14 (4) a procurement's value does not exceed five hundred thousand
15 dollars and is made from a business certified as a minority or women
16 owned business enterprise pursuant to article fifteen-A of the executive
17 law and section thirteen hundred four of the New York city charter.
18 Nothing in this paragraph shall be construed to require that such busi-
19 ness be concurrently certified as minority or women owned business
20 enterprises under article fifteen-A of the executive law and section
21 thirteen hundred four of the New York city charter to be awarded such a
22 contract;

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

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

30 2. Construction performed under a contract entered into by the trust
31 pursuant to this article shall be deemed a public work to be performed
32 in accordance with the provisions of article eight of the labor law,
33 including but not limited to the prevailing wage requirements set forth
34 in section two hundred twenty of the labor law and the reporting, moni-
35 toring, and enforcement provisions of such article, and for projects or
36 public works receiving federal aid, applicable federal requirements for
37 prevailing wage. Any contract, the principal purpose of which is to
38 provide construction services and that is either entered into through a
39 competitive sealed bidding process or pursuant to section six hundred
40 thirty-four of this article, and undertaken pursuant to a project labor
41 agreement, shall include a clause requiring the selected alternative
42 project delivery contractor or the contractor selected on the basis of
43 its sealed bid to obligate every tier of contractor working on the
44 public work to comply with the project labor agreement referenced in
45 section six hundred thirty-four of this article and this section, and
46 shall include project labor agreement compliance monitoring and enforce-
47 ment provisions consistent with any such project labor agreement.

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

52 4. The provisions of section one hundred six-b of the general municip-
53 al law shall apply to the trust.

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

1 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.

2
3
4 § 634. Alternative project delivery contracts. 1. Notwithstanding any provision of law to the contrary, including but not limited to section
5 seventy-two hundred ten of the education law, and in conformity with the
6 requirements of this article, for any public work undertaken pursuant to
7 a project labor agreement the trust may use alternative project delivery
8 contracts, provided that the authority to advertise a request for quali-
9 fication in accordance with this section shall expire five years after
10 the effective date of this section.

11
12 (a) A contractor selected by the trust to enter into an alternative
13 project delivery contract may be selected through a two-step method, as
14 follows:

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

52 (2) Step two. The second step shall be the selection of the proposal
53 which is the best value to the trust. The trust shall issue a request
54 for proposals to the responding entities listed pursuant to subparagraph
55 one of this paragraph. If such a responding entity consists of a team of
56 separate entities, the entities that comprise such a team shall remain

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

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

52 (1) a cost-plus not to exceed guaranteed maximum price form of
53 contract in which the trust shall be entitled to monitor and audit all
54 costs. In establishing the schedule and process for determining a guar-
55 anteed maximum price, the contract between the trust and the contractor
56 shall include terms specifying the price for the design phase of the

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

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

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

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

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

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

50 4. Each alternative project delivery contract entered into by the
51 trust pursuant to this article shall comply with the objectives and
52 goals relating to the performance of design and construction services by
53 minority and women owned business enterprises pursuant to section 6-129
54 of the administrative code of the city of New York, or, for projects or
55 public works receiving federal aid, applicable federal requirements for
56 disadvantaged business enterprises or minority and women owned business

1 enterprises and section three of the federal housing and urban develop-
2 ment act of nineteen hundred sixty-eight, as amended, or any successor
3 provision, if applicable.

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

10 (b) The use of alternative project delivery contracts pursuant to this
11 section shall not result in the (1) displacement of any currently
12 employed worker of NYCHA or loss of position, including partial
13 displacement such as a reduction in the hours of non-overtime work,
14 wages or employment benefits, or result in the impairment of existing
15 collective bargaining agreements to which NYCHA is a party, or (2)
16 transfer of existing duties and functions related to maintenance and
17 operations currently performed by existing employees of NYCHA to a
18 contractor.

19 (c) Employees of the trust and NYCHA serving in positions in newly
20 created titles shall be assigned to the appropriate bargaining unit.
21 Nothing contained in this section shall be construed to affect (1) the
22 existing rights of employees of NYCHA pursuant to an existing collective
23 bargaining agreement, (2) the existing representational relationships
24 among employee organizations representing employees of NYCHA, or (3) the
25 bargaining relationships between NYCHA and such employee organizations.

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

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

43 § 636. Additional requirements for alternative project delivery
44 contracts. Construction performed under a contract entered into by the
45 trust pursuant to this article shall be deemed a "public work" to be
46 performed in accordance with the provisions of article eight of the
47 labor law, including but not limited to the prevailing wage requirements
48 set forth in section two hundred twenty of the labor law and the report-
49 ing, monitoring, and enforcement provisions of article eight of such
50 law, as well as subject to sections two hundred, two hundred forty, two
51 hundred forty-one and two hundred forty-two of the labor law, and for
52 projects or public works receiving federal aid, applicable federal
53 requirements for prevailing wage. Any contract entered into pursuant to
54 section six hundred thirty-four of this article, and undertaken pursuant
55 to a project labor agreement, shall include a clause requiring the
56 selected alternative project delivery contractor to obligate every tier

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

6 § 637. Borrowing by the trust and for its benefit; effects of certain
7 defaults. 1. For the purposes of this section, the term "project" means
8 the acquisition, development, design, construction, reconstruction,
9 improvement, rehabilitation, repairing and operation of housing facili-
10 ties.

11 2. The trust shall have the power and is hereby authorized from time
12 to time to issue bonds, notes or other obligations in conformity with
13 applicable provisions of the uniform commercial code, in such principal
14 amounts as it may determine to be necessary to pay the cost of any
15 project and to fund reserves to secure such bonds, notes or other obli-
16 gations, including costs of issuance and any administrative or inci-
17 dental expenses in connection therewith, provided that the aggregate
18 principal amount of such bonds, notes or other obligations shall not
19 exceed ten billion dollars plus a principal amount of such bonds, notes
20 or other obligations issued (a) to fund any related debt service reserve
21 fund, (b) to provide capitalized interest, and (c) to provide fees and
22 other charges and expenses, including underwriters' discount, related to
23 the issuance of such bonds, notes or other obligations and the mainte-
24 nance of such reserves. The trust shall have the power from time to
25 time to refund any bonds, notes or other obligations of the trust by the
26 issuance of new bonds, notes or other obligations, and may issue bonds,
27 notes or other obligations partly to refund bonds, notes or other obli-
28 gations of the trust then outstanding and partly to pay the cost of any
29 project. Bonds, notes or other obligations issued by the trust shall be
30 payable as may be designated in the resolution of the trust under which
31 the bonds, notes or other obligations shall be authorized to be issued,
32 subject to any agreements with the holders of outstanding bonds, notes
33 or other obligations pledging any particular revenues or moneys. No
34 bonds, notes or other obligations of the trust or any entity referred to
35 in subdivision thirteen of section six hundred twenty-nine of this arti-
36 cle shall be issued or incurred without the prior written approval of
37 the director of management and budget of the city of New York, and no
38 such bonds, notes or other obligations shall be issued for the purpose
39 of refinancing any bonds, notes or other obligations of NYCHA, provided
40 that the proceeds of up to six hundred million dollars of the bonds,
41 notes or other obligations of the trust or any entity referred to in
42 subdivision thirteen of section six hundred twenty-nine of this article
43 may be applied to the payment of outstanding debt incurred by NYCHA in
44 connection with one or more housing facilities, in furtherance of the
45 purposes of this article, including, but not limited to, for the purpose
46 of payment of outstanding energy performance contract debt.

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

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

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

1 sale of such bonds, notes or other obligations, and such determination
2 shall include compensation for services rendered as the trust deems
3 appropriate. Such determination shall be set forth in a resolution of
4 the trust, which shall authorize issuance of such bonds, notes or other
5 obligations. The bonds, notes or other obligations shall bear interest
6 at such fixed or variable rates and shall be in such denominations, be
7 in such form, either coupon or registered, be sold at such public or
8 private sale, be executed in such manner, be denominated in United
9 States currency, be payable in such medium of payment, at such place and
10 be subject to such terms of redemption as the trust may provide in such
11 resolution.

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

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

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

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

29 (d) limitations on the issuance of additional bonds, notes or other
30 obligations, the terms upon which additional bonds, notes or other obli-
31 gations may be issued and secured and the refunding of bonds, notes or
32 other obligations;

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

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

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

48 7. In addition to the powers herein conferred upon the trust to secure
49 its bonds, notes or other obligations, the trust shall have power in
50 connection with the issuance of bonds, notes or other obligations to
51 enter into such agreements for the benefit of the holders of bonds,
52 notes or other obligations as the trust may deem necessary, convenient
53 or desirable concerning the use or disposition of its revenues or other
54 moneys, including the entrusting, pledging or creation of any other
55 security interest in any such revenues, moneys and the doing of any act,
56 including refraining from doing any act, which the trust would have the

1 right to do in the absence of such agreements. The trust shall have
2 power to enter into amendments of any such agreements within the powers
3 granted to the trust by this article and to perform such agreements. The
4 provisions of any such agreements may be made a part of the contract
5 with the holders of bonds, notes or other obligations of the trust.

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

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

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

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

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

1 development corporation for purposes of section twenty-nine hundred
2 seventy-six of the public authorities law.

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

15 (a) the right of the city of New York to remedy, or cause to be reme-
16 died, such default; and

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

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

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

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

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

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

51 4. Any moneys on deposit in the accounts of the trust not required for
52 immediate expenditure shall be invested in obligations in which a muni-
53 cipality may be authorized to invest in accordance with section eleven
54 of the general municipal law, provided, however, that such funds shall
55 not be invested in instruments commonly known as repurchase agreements.
56 The trust shall have the power, notwithstanding the provisions of this

1 section, to contract with the holders of any of its bonds, notes and
2 other obligations as to the custody, collection, securing, investment
3 and payment of any money of the trust or any money held in trust or
4 otherwise for the payment of bonds, notes and other obligations or in
5 any way to secure bonds, notes and other obligations, and to carry out
6 any such contract.

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

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

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

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

50 § 641. Actions against the trust. 1. Except in an action for wrongful
51 death, no action or proceeding shall be prosecuted or maintained against
52 the trust for personal injury or damage to real or personal property
53 alleged to have been sustained by reason of the negligence or wrongful
54 act of the trust or of any member of the board, officer, agent or
55 employee thereof, unless (a) it shall appear by and as an allegation in
56 the complaint or moving papers that a notice of claim shall have been

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

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

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

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

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

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

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

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

54 4. Any officer or employee of NYCHA who is transferred to the trust
55 pursuant to this section and who at the time of such transfer was a
56 member of the New York city employees' retirement system shall continue

1 to be a member of such system as long as he or she or they continues in
2 such service, and shall continue to have all the rights, privileges and
3 obligations of membership in such system. Employment by the trust shall
4 constitute city-service for the purposes of chapter one of title thir-
5 teen of the administrative code of the city of New York.

6 § 643. Collective negotiation. 1. The city of New York collective
7 bargaining law shall apply to the trust.

8 2. For the purpose of article fourteen of the civil service law and
9 the New York city collective bargaining law, as applicable, the trust,
10 acting by and through its president, shall be deemed to be the public
11 employer and as such shall negotiate with and enter into written agree-
12 ments with employee organizations representing the staff of the trust
13 that have been certified or recognized in accordance with applicable
14 law. In carrying on such negotiations, the president of the trust may
15 consult with and seek assistance from the city office of labor relations
16 and NYCHA. The president of the trust shall consult with the appropriate
17 public employee organization on the establishment of, and bargain all
18 terms and conditions of, any new titles established for the trust which
19 have a community of interest with titles already represented by the
20 public employee organization which presently has representation rights
21 for those titles for NYCHA or for the city. Any such titles for which
22 terms and conditions are bargained pursuant to this subdivision shall be
23 deemed to be successor titles within the meaning of applicable law and,
24 so long as the responsibilities of employees in these titles are reason-
25 ably related to the responsibilities of employees currently represented
26 by a public employee organization, shall be accreted to the appropriate
27 bargaining certificates for which such public employee organization
28 shall be voluntarily recognized as the bargaining agent under procedures
29 acceptable to the office of collective bargaining.

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

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

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

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

53 4. The trust shall indemnify and hold harmless its employees in the
54 amount of any civil judgment obtained against such employees in any
55 state or federal court, or in the amount of any settlement of a claim
56 approved by the trust provided that the act or omission from which such

1 judgment or settlement arose occurred while the employee was acting
2 within the scope of his or her public employment and in the discharge of
3 his or her public duties and was not in violation of any rule or regu-
4 lation of the trust at the time the alleged damages were sustained. The
5 duty to indemnify and hold harmless prescribed by this section shall not
6 arise where the injury or damage resulted from an intentional wrongdo-
7 ing, or recklessness on the part of the employee. Nothing in this
8 section shall authorize the trust to indemnify or hold harmless an
9 employee with respect to punitive or exemplary damages, fines or penal-
10 ties.

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

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

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

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

55 9. The benefits of this section shall inure only to employees as
56 defined in this section and shall not enlarge or diminish the rights of

1 any other party nor shall any provision of this section be construed to
2 affect, alter or repeal any provision of the workers' compensation law.

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

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

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

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

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

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

1 issuance data, bonds redeemed), (v) certain summary financial informa-
2 tion, including receipts and disbursements, as well as assets and
3 liabilities, (vi) annual procurement report, (vii) investment of agency
4 funds information, (viii) information regarding the disposition of
5 tenant complaints, maintenance of apartments and facilities, and other
6 information pertaining to the rights of tenants to remain in their
7 apartment; and (ix) information regarding the level of outreach to, and
8 participation of, residents related to the trust. The trust shall trans-
9 mit the portion of such report relating to alternative project delivery
10 contracts to the governor, the temporary president of the senate and the
11 speaker of the assembly. Such report shall be made publicly available.

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

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

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

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

38 § 648. Effect of inconsistent provisions. Insofar as the provisions of
39 this article are inconsistent with the provisions of any other law,
40 general, special or local or of the New York city charter or any local
41 law, ordinance or resolution of the city, the provision of this article
42 shall be controlling, provided that nothing contained in this section
43 shall be held to supplement or otherwise expand the powers or duties of
44 the trust otherwise set forth in this article.

45 § 649. Severability. If any provision of this article or its applica-
46 tion to any person or circumstance is held unconstitutional or invalid,
47 in whole or in part, by any court, such holding of unconstitutionality
48 or invalidity shall in no way affect or impair any other provision of
49 this article or the application of any such provision to any other
50 person or circumstance, and to this end the provisions of this article
51 are severable.

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

55 b. Service as a paid employee of the triborough bridge authority, the
56 Henry Hudson parkway authority, the Marine parkway authority, the New

1 York city tunnel authority, the New York city parkway authority, the New
2 York city housing authority, the New York city public housing preserva-
3 tion trust, the triborough bridge and tunnel authority, the New York
4 city transit authority, the New York city housing development corpo-
5 ration, the New York city health and hospitals corporation, the New York
6 city off-track betting corporation, the New York city school
7 construction authority, the New York city municipal water finance
8 authority, the New York city water board, the transit construction fund,
9 the New York city transitional finance authority, the New York city
10 sports authority and the New York city rehabilitation mortgage insurance
11 corporation shall constitute city-service as herein defined.

12 § 3. Paragraph 1 of subdivision c of section 13-133 of the administra-
13 tive code of the city of New York, subparagraph (C) as added by chapter
14 738 of the laws of 1988, subparagraphs (D) and (E) as added by chapter
15 609 of the laws of 1995, subparagraph (F) as added by chapter 16 of the
16 laws of 1997, and subparagraph (G) as added by chapter 3 of the laws of
17 2013, is amended to read as follows:

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

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

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

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

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

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

36 (G) The New York city public housing preservation trust 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 (H) Where a responsible obligor (as defined in paragraph ten of subdi-
40 vision a of section 13-638.2 of this title) is required to make payments
41 to the retirement system pursuant to applicable provisions of law in
42 fiscal year two thousand twelve--two thousand thirteen, and in any
43 fiscal year thereafter, and the provisions of this subdivision or the
44 provisions of any other applicable law do not otherwise specifically
45 require such responsible obligor to make such payments by a particular
46 date or dates during such fiscal year, such responsible obligor shall
47 make such payments either (i) in total on or before January first of
48 such fiscal year, or (ii) in twelve equal monthly installments, as
49 determined by the actuary, with each monthly installment to be paid on
50 or before the last day of each month.

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