

Chapter 359 of the laws of 1968

§ 1. Short title. This act shall be known and may be cited and referred to as the "facilities development corporation act."

§ 2. Statement of legislative findings and purposes. It is hereby found and declared that the provision of new and improved state facilities relating to the care, maintenance and treatment of the mentally disabled must be accelerated if the state is to meet its responsibilities in the face of an increasing state population, a growing awareness that mental disability can be treated effectively, and new research advances in treatment methods. An expanded construction program is essential to relieve overcrowding in the state hospitals for the mentally ill, to provide treatment and care for the increasing population of people with developmental disabilities in state schools, and to permit the establishment of special treatment programs for mentally ill and emotionally disturbed children and for the mentally ill blind and the mentally ill deaf. Existing state facilities require substantial modernization and structural change to accommodate new concepts of treatment for the mentally disabled and special units for the treatment of alcoholism and narcotics addiction. Larger and better equipped research facilities must be installed in order to insure that state treatment units are in the forefront of applying and developing advanced therapeutic methods. At the same time, improved training facilities and quarters are needed to attract and retain the best-qualified staff personnel.

To assure that the required facilities are completed and ready for use as promptly as possible, the legislature hereby finds and declares that there should be created a corporate governmental agency, constituting a public benefit corporation, to be known as the "Facilities Development Corporation", which could receive and administer monies for the construction and improvement of mental hygiene facilities and provide such facilities in accordance with the foreseeable needs for the care, maintenance and treatment of the mentally disabled. The legislature further finds and declares that while responsibility for the professional care, maintenance and treatment of the mentally disabled at

all mental facilities should continue in the department of mental hygiene, exclusive possession, jurisdiction, control and supervision of the physical facilities used therefor should be vested in the corporation in order to facilitate the exercise of its powers.

It is further found and declared that the provision of new and improved community mental health and developmental disabilities facilities must be accelerated, in order to provide comprehensive care and treatment of the mentally ill and developmentally disabled. Such community mental health and developmental disabilities facilities should be located close to the people they serve, in order to speed rehabilitation and restoration, by involving families and community resources to the extent practicable. Such an accelerated construction program will also help relieve overcrowding in state facilities for the mentally ill and developmentally disabled and will afford treatment and care for the increasing number of people with developmental disabilities. Such a program will increase the number of local facilities for out-patient care and short-term in-patient care, including after care, diagnostic and rehabilitative services, training and research. While the responsibility for the professional care, maintenance and treatment of the mentally ill and developmentally disabled at all such community mental health and developmental disabilities facilities should continue in the local governments, subject to the provisions of article forty-one of title E of the mental hygiene law and the regulations of the commissioners of the offices of the department having jurisdiction thereof, the legislature further finds and declares that the Facilities Development Corporation should be empowered to aid cities and counties, at their request, to provide new and improved community mental health and developmental disabilities facilities in order to insure their timely construction, acquisition, reconstruction, rehabilitation and improvement in relation to current and foreseeable needs and the emergence of new patterns of treatment and care and should be empowered to receive and administer monies for such purpose.

It is further found and declared that hospital and related services of municipalities are of vital concern to the health, safety and welfare of

the people of the state. Many municipal hospital facilities today are no longer adequate to meet the needs of modern medical care. Because of the rapidity of technological change in the medical field, a great number of such facilities require substantial structural and functional changes. Many municipal hospitals are overcrowded in their ancillary service areas. Many still have large open wards, while the growth of hospitalization insurance has brought increased demand for semi-private accommodations. Many of such hospitals have permitted their buildings to deteriorate prematurely and other suffer inefficiencies caused by piecemeal and uncoordinated additions. The educational programs of hospitals have become indispensable. Many hospitals are, in fact, educational institutions but their plants and equipment are not equal to their educational commitment. They lack facilities for needed conferences and seminars and their libraries and medical records departments do not meet the needs of individual studies and research. Many of such hospitals no longer have adequate protection against the hazards of fire, explosion and infection. Many of such hospitals lack facilities for ambulant or wheelchair patients, and are inadequately designed for the tremendous increase in personnel traffic and movement of supplies and equipment within the hospital.

It is further found and declared that the construction, modification, reconstruction and rehabilitation of municipal hospitals and related health care facilities, including the provision of equipment, are public purposes and are necessary for the protection of the health, safety and welfare of the people of the state. To assure that such purposes are carried out, it is further found and declared that the facilities development corporation created by this act should be empowered, in cooperation with the state, municipalities and the New York state housing finance agency or the New York state medical care facilities finance agency, as the case may be, to provide for the timely construction and modernization of municipal hospitals and related facilities at a reasonable cost and in accordance with the health needs of the community.

It is hereby found and declared that the acquisition, construction, reconstruction, rehabilitation and improvement of facilities for the

department of corrections and community supervision are public purposes which are essential to enable comprehensive modernization of the state's programs of corrections. To assure that such purposes are carried out, it is further found and declared that the facilities development corporation should be empowered in cooperation with the department of corrections and community supervision to provide for the acquisition, construction, reconstruction, rehabilitation and improvement of facilities for the department of corrections and community supervision.

In order to accomplish all of these purposes, the legislature hereby declares that the existing corporate governmental agency constituting a public benefit corporation, created by article two-B of the mental hygiene law, shall be reconstituted and continued as the facilities development corporation which corporation shall also have such additional powers and duties as are granted to it in this act.

§ 3. Definitions. As used in this act, unless the context otherwise requires:

1. "Comptroller" means the comptroller of the state of New York.

2. "Community mental health and developmental disabilities facility" shall mean a building, a unit within a building, a laboratory, a classroom, a housing unit, a dining hall, an activities center, a library, or any structure on or improvement to real property, or an interest in real property, including an interest in, and proprietary lease from, an organization formed for the purpose of cooperative ownership of real property, of any kind or description, including fixtures and equipment which are an integral part of such building, unit or structure or improvement, a walkway, a roadway or a parking lot and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, or a combination of any of the foregoing, whether for patient care and treatment or staff, staff family or service use, located in a city, or in a county not wholly included within a city, authorized to provide community mental health services in accordance with the provisions of

article 41 of the mental hygiene law, which is utilized or to be utilized for the administration and conduct of programs for persons with mental illness or developmental disabilities, or both, and for the provision of services therefor, or utilized or to be utilized in the performance of services benefitting or assisting the care, treatment, rehabilitation or maintenance of persons with mental disabilities, and approved to provide such services, pursuant to a written agreement with the appropriate commissioner of an office of the department of mental hygiene. Nothing in this subdivision shall be deemed to supercede the provisions of article 41 of the mental hygiene law, where applicable. A community mental health and developmental disabilities facility shall also mean and include a residential facility to be operated as a community residence for persons with mental disabilities and a treatment facility for use in the conduct of an alcoholism treatment program or of a substance abuse treatment program as defined in the mental hygiene law.

2-a. "Department" means the department of mental hygiene and the offices of mental health, and alcoholism and substance abuse services and the office for people with developmental disabilities of such department.

2-b. "Commissioner" means the commissioner of mental health, the commissioner of the office for people with developmental disabilities, the commissioner of alcoholism and substance abuse services.

3. "Corporation" means the facilities development corporation created by this act.

3-a. "Dormitory authority" means the dormitory authority created by the dormitory authority act as amended, being title four of the public authorities law.

3-b. "Facility for the department of corrections and community supervision" means real property, a building, a unit within a building, or any structure on or improvement to real property of any kind or description essential, necessary or useful in the program of the

department of corrections and community supervision, including all usual attendant and related facilities, fixtures, equipment, and connections for utility services or any combinations thereof, designed, acquired, constructed, reconstructed, rehabilitated and improved, or otherwise provided for the department of corrections and community supervision.

4. "Federal government" means the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

5. "Governing body" means the board of supervisors, county legislature, board of aldermen, common council, council, commission, or other elective governing board or body now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local laws, whether or not such local laws or ordinances require the approval of the elective chief executive officer or other official or body to become effective, and except that with respect to a city having a population of one million or more the term "governing body" shall mean the board of estimate.

6. "Health facility" means a building, a unit within a building, a laboratory, a classroom, a housing unit, a dining hall, an activities center, a library, or any structure on or improvement to real property of any kind or description, including fixtures and equipment which are an integral part of any such building, unit, structure or improvement, a walkway, a roadway or a parking lot, and improvement and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, or a combination of the foregoing, whether for patient care and treatment of staff, staff family or service use, located at or related to or constituting a hospital of, and located in, a municipality.

7. "Health facilities improvement program" means a program or programs undertaken by the corporation pursuant to section eight of this act.

8. "Hospital" means a hospital as defined in article twenty-eight of the public health law.

9. "Letting agency" means, where the corporation is undertaking a mental hygiene facilities improvement program or a mental health facilities improvement program, (i) the commissioner of general services if by agreement with the corporation he is to award the contracts for a particular construction, reconstruction, rehabilitation or improvement project, or (ii) the corporation if it is to award such contracts as principal or as agent for the state housing finance agency or the state medical care facilities finance agency.

10. "Mental hygiene facility" shall mean a building, a unit within a building, a laboratory, a classroom, a housing unit, a dining hall, an activities center, a library, real property of any kind or description, or any structure on or improvement to real property, or an interest in real property, of any kind or description, owned by or under the jurisdiction of the corporation, including fixtures and equipment which are an integral part of any such building, unit, structure or improvement, a walkway, a roadway or a parking lot, and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, or a combination of any of the foregoing, whether for patient care and treatment or staff, staff family or service use, located at or related to any psychiatric center, any developmental center, or any state psychiatric or research institute or other facility now or hereafter established under the department. A mental hygiene facility shall also mean and include a residential care center for adults, a "community mental health and developmental disabilities facility" and a treatment facility for use in the conduct of an alcoholism or substance abuse treatment program as defined in the mental hygiene law unless such residential care center for adults, community mental health and developmental disabilities facility or alcoholism or substance abuse facility is expressly excepted, or the context clearly requires otherwise, and shall also mean and include any treatment facility for use in the conduct of an alcoholism or substance abuse treatment program that is also operated as an associated health care facility. The definition contained in this subdivision shall not be construed to exclude therefrom a facility owned or leased by one or more voluntary agencies that is to be financed, refinanced, designed,

constructed, acquired, reconstructed, rehabilitated or improved under any lease, sublease, loan or other financing agreement entered into with such voluntary agencies, and shall not be construed to exclude therefrom a facility to be made available from the corporation to a voluntary agency at the request of the commissioners of the offices of the department having jurisdiction thereof. The definition contained in this subdivision shall not be construed to exclude therefrom a facility with respect to which a voluntary agency has an ownership interest in, and proprietary lease from, an organization formed for the purpose of the cooperative ownership of real estate.

11. "Mental hygiene facilities improvement program" means a program or programs undertaken by the corporation pursuant to section nine of this act.

12. "Mentally disabled" means a person having a mental disability as defined in section 1.03 of the mental hygiene law.

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

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

14. "Division of alcoholism and alcohol abuse facility or division of substance abuse services facility" means a rehabilitation center,

treatment program or other facility or part thereof established and operated under the professional jurisdiction and supervision of the office of alcoholism and substance abuse services, created pursuant to article 19 of the mental hygiene law.

15. "Real property" means lands and improvements and any fixtures, equipment and articles of personal property affixed to or used in connection therewith, lands under water, waterfront property, the water of any lake, pond or stream and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest and right therein, legal and equitable in lands or waters, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of judgment, mortgage or otherwise.

16. "State" means the state of New York.

17. "State agency" means any officer, department, board, commission, bureau, division, public benefit corporation, agency or instrumentality of the state.

18-a. "State housing finance agency" means the New York state housing finance agency created by article three of the private housing finance law.

18-b. "State medical care facilities finance agency" means the New York state medical care facilities finance agency created by the New York state medical care facilities finance agency act.

19. "Voluntary agency" means a corporation organized under or existing pursuant to the not-for-profit corporation law providing or, pursuant to a written agreement with the appropriate commissioner, approved to provide housing that includes residences for persons with mental disabilities, or services benefitting or assisting in the care, treatment, rehabilitation or maintenance of persons with mental disabilities, community mental health or residential services, community developmental disabilities services, or alcohol, substance-abuse, or

chemical-dependency residential or non-residential treatment services, or for any combination of the foregoing. Notwithstanding any other provision of law to the contrary, voluntary agency shall also include any entity receiving financing, approvals or assistance of any form from the state housing finance agency or the state division of housing and community renewal for one or more integrated housing projects including projects serving persons with mental disabilities, which shall be approved by the appropriate commissioner. Such commissioner is hereby authorized to enter into any agreements necessary or useful for such projects, subject to the approval of the director of the budget.

20. "Associated health care facility" shall mean a facility licensed under and operated pursuant to article 28 of the public health law or any health care facility licensed under and operated in accordance with any other provisions of the public health law or the mental hygiene law that provides health care services and/or treatment to all persons, regardless of whether such persons are persons receiving treatment or services for alcohol, substance abuse, or chemical dependency.

§ 4. Facilities Development corporation. There is hereby created the facilities development corporation. The corporation shall be a corporate governmental agency constituting a public benefit corporation. From and after the effective date of the health care financing consolidation act, as provided in subdivision 1 of section 1699-f of the public authorities law, the corporation shall continue its corporate existence in and through the dormitory authority, and the dormitory authority shall succeed to all of the powers, duties and functions of the corporation.

§ 5. General powers and duties of corporation. The corporation shall have the following powers in addition to those specifically conferred elsewhere in this act.

1. To sue and be sued.
2. To have a seal and alter the same at pleasure.

3. To make and alter by-laws for its organization and internal management.

4. With the approval of the comptroller, to prescribe a system of accounts.

5. To make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes, which rules and regulations shall be filed with the secretary of state in the manner provided by section one hundred two of the executive law.

6. To accept jurisdiction over and to hold, use and improve, in accordance with such terms and conditions as the corporation and the state housing finance agency or the state medical care facilities finance agency, as the case may be, shall determine, any or all real property acquired by such agency for a health facilities improvement program.

7. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the appropriate commissioner of the department or the state housing finance agency or the state medical care facilities finance agency, to possess, hold, use and improve, all mental hygiene facilities and all real and personal property acquired by or on behalf of the corporation for a mental hygiene facilities improvement program so long as its corporate existence shall continue.

8. a. With the approval of the appropriate commissioner of the department and the director of the budget, to purchase real property necessary or convenient for a mental hygiene facilities improvement program in the name of the state, except where such purchase is for the purpose of providing community mental health and developmental disabilities facilities in which case such purchase shall be in its own name; provided, however, that all such purchases shall be made pursuant to legislation or appropriations in accordance with section nine of this act. Nothing in this section contained shall be construed to prohibit the acquisition of real property by purchase or appropriation by the

appropriate commissioner of the department pursuant to article seventy-one of title E of the mental hygiene law for the purpose of making mental hygiene facilities available under license or permit from the corporation to a voluntary agency, subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the state housing finance agency or the state medical care facilities finance agency, (i) for use in providing community mental health and developmental disabilities services, including services in a residential care center for adults, or (ii) for the conduct of an alcoholism or substance abuse treatment program as defined in article nineteen of title D of the mental hygiene law.

b. To execute and deliver deeds for real property held in its own name.

c. To convey an easement as described in this subdivision, in or over state-owned lands under the jurisdiction of the facilities development corporation for the use of the department of mental hygiene subject to prior notice to the commissioner of general services by filing with him a copy of the proposed easement which shall be followed by such filing of a copy of the easement conveyed, to a public corporation or a public service corporation, in perpetuity or otherwise. For the purposes of this subdivision an easement may be granted for the connection of a water main, sewer pipe or other utility line or similar facility maintained for public use, owned by any public corporation or public service corporation, which shall be used for or in connection with any facility occupied, used or serving the program of one of the offices of the department of mental hygiene as defined in subdivision two-a of section three of section one of this act. The consideration for the grant of any such easement may consist of the agreement by the grantee to maintain the subject utility facility.

d. To convey an easement as described in this subdivision, in or over private lands under the jurisdiction of the facilities development corporation for the use of the department of mental hygiene subject to prior notice to the commissioner of general services by filing with him a copy of the proposed easement which shall be followed by such filing

of a copy of the easement conveyed, to a public corporation or a public service corporation, in perpetuity or otherwise. For the purposes of this subdivision an easement may be granted for the connection of a water main, sewer pipe or other utility line or similar facility maintained for public use, owned by any public corporation or public service corporation, which shall be used for or in connection with any facility occupied, used or serving the program of one of the offices of the department of mental hygiene as defined in subdivision two-a of section three of section one of this act. The consideration for the grant of any such easement may consist of the agreement by the grantee to maintain the subject utility facility.

e. Nothing contained in paragraphs c and d of this subdivision shall limit, restrict or affect the authority of the commissioner of general services under section three of the public lands law.

9. To purchase, receive, lease or otherwise acquire in accordance with the requirements of article eleven of the state finance law, personal property necessary and convenient for its corporate purposes, including the original furnishings, equipment, machinery and apparatus required for mental hygiene or health facilities upon the completion of work: (i) in the case of a mental hygiene facility to transfer, sublease or otherwise make such personal property available to the department of mental hygiene or to a city or county, in accordance with the terms and conditions of any agreement with the appropriate commissioner of the department, the commissioner of general services, such city or county or the state housing finance agency; (ii) in the case of a health facility to transfer or otherwise make such personal property available to a municipality in accordance with the terms and conditions of any agreement with such municipality, the state housing finance agency or the state medical care facilities finance agency.

10. To design, construct, acquire, reconstruct, rehabilitate and improve health facilities, facilities for the department of corrections and community supervision and mental hygiene facilities, or cause such facilities to be designed, constructed, acquired, reconstructed, rehabilitated and improved, in accordance with the provisions of this

act.

11. In connection with such design, construction, acquisition, reconstruction, rehabilitation and improvement, to install or cause to be installed water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, including appropriate connections.

12. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement between the corporation and the state housing finance agency or the state medical care facilities finance agency, as the case may be, or between such agency and a municipality, as the case may be, and in the case of mental hygiene facilities with the appropriate commissioner of the department, to maintain, repair and keep up the real property held by it pursuant to this act.

13. (a) Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the state housing finance agency or the state medical care facilities finance agency, and to the determination of the appropriate commissioner of the department, and in the case of community mental health and developmental disabilities facilities, of the city or county, that such real property held for the purposes of a mental hygiene facilities improvement program is unnecessary for the present or foreseeable future needs of a mental hygiene facility, with the approval of the director of the budget, to convey for fair value, except as otherwise provided in paragraph (b) of this subdivision, any right, title or interest of the people of the state of New York in and to such real property to any appropriate state agency, or public corporation, city or county for other public use or for sale, lease or other disposition in accordance with law, real property held by the corporation, provided, however, nothing in this subdivision shall be deemed to supersede the provisions of section 41.34 of the mental hygiene law and provided further that any such conveyance shall be subject to, and consistent with the terms and objectives of, any plan developed by the state interagency council on mental hygiene property utilization. The corporation shall provide written notice at least thirty days in advance of the effective date of any conveyance to

the governor, the majority leader of the senate and the speaker of the assembly. No conveyance as authorized in this subdivision that may adversely affect the tax exempt nature of any such lease, sublease, loan or other financing agreement with the state housing finance agency or the New York state medical care facilities finance agency may occur until the attorney general or other designated bond counsel determines in writing that the conveyance is consistent with all applicable state and federal laws, rules and regulations, and with deeds, leases, subleases, loan agreements, financing agreements, and bond resolutions relating to or affected by the conveyance, and that the conveyance does not impair the tax exempt status of outstanding obligations issued by the state housing finance agency or the New York state medical care facilities finance agency to finance or refinance the design, construction, acquisition, reconstruction, rehabilitation or improvement of mental health service facilities as defined in the New York state medical care facilities finance agency act.

(b) Notwithstanding any other provision of law to the contrary, for the purposes of transferring and conveying the westernmost portion of that certain property commonly known as the Kingsboro Psychiatric Center, located at 681 Clarkson Avenue in Brooklyn, New York to a housing development fund corporation formed pursuant to article XI of the private housing finance law, for the purposes described below, the term "fair value" shall be deemed to be an amount determined to be in the public interest and agreed upon between the commissioner of the office of mental health and the commissioner of the division of housing and community renewal, provided, however, that such agreed upon amount may be less than the appraised fair value, in order to facilitate the development of the public benefit Vital Brooklyn project and in reflection of the Vital Brooklyn initiative and the intended use of the property, to increase access to open spaces, increase access and quality of health care services and preventative care, create affordable housing, and to provide at least one hundred supportive housing units for office of mental health recipients. The description of the lands to be transferred and conveyed as set forth above is not intended to be a legal description but, intended only to identify the property subject to this paragraph.

13-a. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the state housing finance agency or the state medical care facilities finance agency and to the determination of the appropriate commissioner of the department, to make a mental hygiene facility available under lease, sublease, license or permit from the corporation to a voluntary agency, or, notwithstanding the provisions of the public lands law or any other general or special law to the contrary, to convey the right, title and interest of the people of the state of New York in and to such facility and the land appurtenant thereto to such voluntary agency upon such terms and conditions as shall be provided in an agreement among the appropriate commissioner of the department, the corporation and such voluntary agency with the approval of the director of the budget, the comptroller and the commissioner of any office of the department having programmatic or fiscal jurisdiction or licensing or certifying authority over that voluntary agency with respect to the intended use.

13-b. Subject to the terms and conditions of any deed, lease, sublease, loan or other financing agreement with the state housing finance agency or the New York state medical care facilities finance agency, and upon the determination of the appropriate commissioner of the department of mental hygiene, to sublease as sublessor, in its own name, mental hygiene facilities leased to the corporation by the New York state medical care facilities finance agency, and to lease as lessor real property held by the corporation, upon such terms and conditions as may be provided in an agreement among the appropriate commissioner of the department, the corporation, and such sublessee or lessee, with the approval of the director of the budget, and, where pertinent, the commissioner of any office of the department having programmatic or fiscal jurisdiction or licensing or certifying authority over a voluntary agency or any other sublessee or lessee entity with respect to the intended use. Such a sublease or lease shall be effective only after the attorney general or other designated bond counsel determines, in writing, that it is consistent with all applicable federal and state laws, rules and regulations, and all deeds, leases, subleases, loan agreements, financing agreements and bond resolutions relating to or affected by the premises being sublet or let, and that

such a sublease or lease does not impair the tax-exempt status of outstanding obligations issued by the housing finance agency or the New York state medical care facilities finance agency.

13-c. To lease, as lessee, and to sublease, as sublessor, in its own name, mental hygiene facilities owned or leased by one or more voluntary agencies that are to be financed, refinanced, designed, constructed, acquired, reconstructed, rehabilitated and improved under any lease, sublease, loan or other financing agreement entered into with such voluntary agencies or the medical care facilities finance agency in accordance with regulations that shall be promulgated by either one of the appropriate commissioners or directors of the department and approved by the director of the budget, which regulations shall require that any mental hygiene facility owned or leased by a voluntary agency the design, construction, reconstruction, acquisition, rehabilitation or improvement of which is to be financed or refinanced in whole or in part with proceeds of mental health services facilities improvement bonds or notes issued by the medical care facilities finance agency, and any other mental hygiene facilities that may be constructed or acquired with funds realized by or returned to such voluntary agency or jointly to such voluntary agency and one more voluntary agencies which will operate such facility as a result of such financing or refinancing, be approved for financing or refinancing pursuant to this act by the director of the budget and be operated, while such bonds or notes are outstanding, in a manner and for purposes pursuant to the mental hygiene law.

13-d. 1. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the medical care facilities finance agency in accordance with subdivision 13-c of this section, to make loans to voluntary agencies for the purpose of financing or refinancing the design, construction, acquisition, reconstruction, rehabilitation and improvement of mental hygiene facilities owned or leased by such voluntary agencies provided, however, that with respect to such facilities which are leased by a voluntary agency, the term of repayment of such loan shall not exceed the term of such lease including any option to renew such lease. Notwithstanding any other provisions of law, such loans may be made jointly to one or more voluntary agencies

which own and one or more voluntary agencies which will operate any such mental hygiene facility.

2. Subject to the terms and conditions of any lease, sublease, loan or other financing agreement with the medical care facilities finance agency, to make grants to voluntary agencies or provide proceeds of mental health services facilities bonds or notes to the department to make grants to voluntary agencies or to reimburse disbursements made therefor, in each case, for the purpose of financing or refinancing the design, construction, acquisition, reconstruction, rehabilitation and improvement of mental hygiene facilities owned or leased by such voluntary agencies.

13-e. To receive from the comptroller state aid payments pledged or agreed to be paid by any voluntary agency in accordance with any lease, sublease, loan or other financing agreement entered into with such voluntary agency. Such pledges may be made from sources of state aid including but not limited to payments made pursuant to: articles nineteen, twenty-five and forty-one of the mental hygiene law.

13-f. The executive director of the facilities development corporation is authorized and empowered to enter into and implement agreements under which the facilities development corporation may designate the commissioner of the office of mental health, the commissioner of the office for people with developmental disabilities, the commissioner of alcoholism and substance abuse services, with respect to their respective facilities, as agents for the facilities development corporation with respect to the financing of voluntary provider not-for-profit community development, and under which such commissioners and directors may act as its agent, with respect to any and all duties for such corporation as set forth and contained in this act. The commissioners, the directors, and the executive director shall enter into such agreements, subject to the approval of the director of the budget, which delineate the respective duties of each party when such commissioners and directors are designated agents of such corporation.

14. To make and execute contracts and all other instruments or

agreements necessary or convenient for the exercise of its corporate powers or the fulfillment of its corporate purposes.

15. To engage the services of construction, engineering, architectural, legal and financial consultants, surveyors and appraisers, on a contract basis or as employees, for professional services and technical assistance and advice.

16. To procure insurance against any loss in connection with any facility in such amounts and from such insurers as it deems desirable.

17. With the consent of the commissioner of health, or the appropriate commissioner of the department, as the case may be, to use the agents, employees and facilities of the respective agencies.

18. Subject to the approval of the commissioner of health or the appropriate commissioner of the department, as the case may be, to apply for, accept, administer and disburse federal aid.

19. To accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof or from the state, including appropriations, or from any other source, and to comply with the terms and conditions thereof.

20. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted it in this act.

§ 6. Purposes of the corporation. The purposes of the corporation are:

1. To facilitate the timely provision, acquisition, construction, reconstruction, rehabilitation or improvement of health facilities for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, at a reasonable cost, in order to reduce the time lag between the determination of the need for such

facilities and their actual availability for use.

2. To assist the department of health, which is the state agency having the central, comprehensive responsibility for development and administration of the state's policy with respect to hospital and related services, in the discharge of its duties and responsibilities under article twenty-eight of the public health law.

3. To provide mental hygiene facilities, other than community health and developmental disabilities facilities, for the care, maintenance and treatment of the mentally disabled, for research and training related thereto, and for the members of the staff of state institutions in the department and their families, to reduce the time lag between determination of need for such facilities and actual occupancy thereof, to expedite the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities, to assure that the same are completed and ready for the purposes intended in the light of foreseeable needs, to assure exclusive possession, jurisdiction, control and supervision over all mental hygiene facilities in order to effectuate the aforesaid purposes and to make such facilities available to the appropriate commissioner of the department for use in the care, maintenance and treatment of the mentally disabled.

4. To provide community mental health and developmental disabilities facilities for the mentally disabled, for out-patient care and short-term in-patient care, including after care and diagnostic and rehabilitative services and training and research, for and at the request of cities and counties not wholly within a city, authorized to provide community mental health services in accordance with the provisions of article forty-one of title E of the mental hygiene law, to reduce the time between determination of the need for such facilities and actual occupancy thereof, to expedite the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities, to assure that the same are completed and ready for the purposes intended in the light of current and foreseeable needs, all as approved by the appropriate commissioner of the department.

5. To provide mental hygiene facilities to be made available under license or permit from the corporation to voluntary agencies at the request of the appropriate commissioner of the department in accordance with the provisions of this act for use in providing community mental health and developmental disabilities services and services in a residential care center for adults.

6. To provide office of alcoholism and substance abuse services facilities to be made available under license or permit from the corporation to voluntary agencies at the request of the office in accordance with the provisions of this act for use in the conduct of an alcoholism or substance abuse treatment program.

7. To provide facilities for the department of corrections and community supervision.

§ 7. Relationship with the state departments of health and mental hygiene. 1. The corporation shall upon request assist and cooperate with and make its personnel and services fully available to the commissioner of health and the department of health in matters relating to their responsibilities for the approval of construction of hospital and health facilities pursuant to article twenty-eight of the public health law. The corporation shall also consult with the department of health in matters relating to construction standards, including space requirements, site plans, architectural concept, original furnishings, equipment, machinery and apparatus needed to furnish and equip such facilities.

2. The corporation shall assist and cooperate with and shall make its personnel and services fully available to the department and its commissioners in matters relating to their responsibilities for land acquisition and capital planning relating to mental hygiene facilities. During the course of construction, reconstruction, rehabilitation and improvement of mental hygiene facilities, the corporation shall consult with personnel of the department as the work progresses in matters relating to space requirements, site plans, architectural concepts, and

substantial changes in the plans and specifications therefor, and in matters relating to the original furnishings, equipment, machinery and apparatus needed to furnish and equip mental hygiene facilities upon the completion of work. The department and its commissioners on their part shall assist and cooperate with the corporation in such matters.

3. The corporation shall also assist and cooperate with and shall make its personnel and services fully available to the office of alcoholism and substance abuse services in matters relating to the responsibilities of such office for site selection, acquisition of and capital planning relating to alcoholism or substance abuse facilities. During the course of construction, reconstruction, rehabilitation and improvement of such facilities the corporation shall consult with personnel of such office as the work progresses in matters relating to space requirements, site plans, architectural concepts and substantial changes in the plans and specifications therefor and in matters relating to the original furnishings, equipment, machinery, and apparatus needed to furnish and equip such facilities upon the completion of the work. The office of alcoholism and substance abuse services shall assist and cooperate with the corporation in such matters.

§ 7-a. Relationship with the state department of corrections and community supervision. The corporation, upon the issuance by the director of the budget of a certificate of approval segregating funds to pay for their corporate services, shall design, construct, reconstruct, rehabilitate, improve, and equip facilities for the department of corrections and community supervision or cause facilities to be designed, constructed, reconstructed, rehabilitated, improved, and equipped. The corporation shall also assist and cooperate with and shall make its personnel and services fully available to the commissioner of corrections and community supervision and the department of corrections and community supervision in matters relating to their responsibilities for site selection, acquisition of and capital planning relating to facilities for the department of corrections and community supervision. During the course of construction, acquisition, reconstruction, rehabilitation and improvement of such facilities, the corporation shall

consult with the commissioner of corrections and community supervision and the personnel of the department of corrections and community supervision as the work progresses in matters relating to space requirements, site plans, architectural concept and substantial changes in the plans and specifications therefor and in matters relating to the original furnishings, equipment, machinery, and apparatus needed to furnish and equip such facilities upon the completion of the work. The commissioner of corrections and community supervision and the department of corrections and community supervision shall assist and cooperate with the corporation in such matters.

§ 8. Provisions relating to health facilities improvement program. 1. Municipal health facilities agency. The mayor or other chief executive of a municipality shall designate a department, board, commission, bureau, division or other agency or official to act on behalf of the municipality as a municipal health facilities agency in order to accomplish the purposes of this section and section forty-seven-d of the private housing finance law.

2. Construction. a. The corporation shall, as agent of the state housing finance agency, construct a health facility or health facilities or cause such facility or facilities to be constructed, provided that:

(i) The state housing finance agency or the state medical care facilities finance agency, as the case may be, and the municipality, with the approval of the governing body, have entered into an agreement which shall set forth the health facility or health facilities to be constructed, the total estimated cost of each such facility, the estimated date of completion thereof and the estimated annual rentals to be paid by the municipality therefor. The agreement shall contain such other terms and conditions as may be agreed upon and shall be subject to the approval of the commissioner of health. Nothing herein contained shall preclude the corporation from being a party to any such agreement.

(ii) The commissioner of health shall have certified that there has been compliance with all requirements of article twenty-eight of the public health law.

b. When two or more municipalities act jointly to provide a health facility, the agreement referred to in subparagraph (i) of paragraph a of this subdivision shall require the approval of the governing body of each municipality and shall specify the rights, duties and obligations of each municipality.

c. The corporation shall prepare separate specifications for and solicit separate and independent bids on and award separate contracts on the subdivisions of work to be performed specified in section one hundred thirty-five of the state finance law, but the corporation in its discretion may assign such contracts for supervision to the successful bidder for the remaining work to be performed at the time the contracts for the particular health facility are awarded. Each contract for the construction of a health facility may include a provision that the architect who designed the facility, or an architect or engineer retained or employed specifically for the purpose of supervision, shall supervise the work to be performed through to completion and shall see to it that the materials furnished and the work performed are in accordance with the drawings, plans, specifications and contracts therefor.

d. All contracts which are to be awarded pursuant to this subdivision shall be awarded by public letting in accordance with the following provisions, notwithstanding the provisions of section one hundred thirty-six, one hundred thirty-nine or one hundred forty of the state finance law, except that the corporation in its discretion may enter into a contract for such purposes without public letting where the estimated expense thereof is less than ten thousand dollars.

(i) If the contracts are to be publicly let, the corporation shall advertise the invitation to bid in a newspaper published in the municipality in which the health facility project is situated and in such other newspapers as will be most likely in its opinion to give adequate notice to contractors of the work required and of the invitation to bid. The invitation to bid shall contain such information as the corporation shall deem appropriate and a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read.

(ii) The corporation shall not award any contract after public bidding except to the lowest bidder who in its opinion is qualified to perform the work required and is responsible and reliable. The corporation may, however, reject any or all bids, again advertise for bids, or waive any informality in a bid if it believes that the public interest will be promoted thereby. The corporation may reject any bid if in its judgment the business and technical organization, plant, resources, financial standing or business experience of the bidder, compared with the work to be performed, justify such rejection.

(iii) The invitation to bid and the contract awarded shall contain such other terms and conditions and such provisions for penalties as the corporation may deem desirable.

(iv) The corporation shall require such deposits, bonds and security in connection with the submission of bids, the award of contracts and the performance of work as it shall determine to be in the public interest and for the protection of the state housing finance agency or the state medical care facilities finance agency, as the case may be, and the municipality.

(v) The directors of the corporation shall determine when minor work of construction, reconstruction, alteration or repair of any health facility may be done by special order. Special orders for such work shall be short-form contracts. No work shall be done by special order in an amount in excess of twenty thousand dollars and a bond shall not be required for special orders. No work shall be done by special order unless a diligent effort has been made to obtain competition sufficient to protect the public interest prior to selecting the contractor to perform the work. Notwithstanding any other provision of this paragraph work done by special order under this subparagraph may be advertised through the regular public notification service of the office of general services or the state register. At least five days shall elapse between the first publication of such public notice and the date so specified for the public opening of bids. All payments on special orders shall be made on the certificate of the directors of the corporation. All special orders shall contain a clause that the special order shall only be deemed executory to the extent of the moneys available and no liability shall be incurred by the corporation or the state beyond the moneys available for the purpose.

§ 8-A. Provisions relating to agreements with certain non-profit corporations.

1. The corporation is authorized to enter into an agreement, at the request of the commissioner of health, with corporations which are eligible borrowers as defined in article 28-B of the public health law providing for such services and such compensation as shall be approved by the commissioner of health incident to an application for a mortgage loan pursuant to the provisions of article 28-B of the public health law. As a condition prerequisite to any such agreement, the commissioner of health shall have certified as to the public need for the proposed facility.

2. The corporation is authorized to enter into an agreement, with the approval of the commissioner of health, with a non-profit corporation organized under the laws of this state providing for the services of the corporation to be made available to such non-profit corporation incident to the design and construction of a facility or facilities included within the meaning of the word "hospital", as defined in article twenty-eight of the public health law, to be financed by means other than pursuant to article 28-B of such law. Such agreement shall provide that all such services and expenses of the corporation with respect to such facility or facilities shall be at the sole cost and expense of such non-profit corporation. As a prerequisite to any such agreement the commissioner of health shall have certified as to the public need for the proposed facility or facilities.

§ 8-b. Provisions relating to agreements with certain municipalities.

1. The corporation is authorized to enter into an agreement with a municipality providing for the design by the corporation of a health facility or health facilities for such municipality at the sole cost and expense of the municipality. Such agreement may also provide for the construction, reconstruction, rehabilitation and improvement of such health facility or health facilities by the corporation at the sole cost and expense of the municipality or of any agency or instrumentality thereof. A municipality is hereby authorized to enter into such

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

2. In the design, construction, reconstruction, rehabilitation and improvement of a health facility pursuant to an agreement entered into as provided in subdivision one of this section, the corporation shall be governed by the applicable provisions relating to the design and construction of health facilities as set forth in subparagraphs c and d of paragraph (ii) of subdivision two of section eight of this act.

§ 9. Provisions relating to mental hygiene facilities improvement program and monies thereof. 1. Capital construction planning, construction standards, design and municipal regulations.

a. The appropriate commissioner or director of the department shall cause to be prepared, with the assistance of the corporation, the commissioner of general services and the division of the budget, proposed standards for all mental hygiene facilities or classes of

mental hygiene facilities to be financed, refinanced, designed, constructed, reconstructed, rehabilitated or improved pursuant to contracts executed by the corporation, the commissioner of general services, the state housing finance agency or the medical care facilities finance agency, other than mental hygiene facilities owned or leased by one or more voluntary agencies that are to be financed, refinanced, designed, constructed, reconstructed, rehabilitated or improved pursuant to any such contract. The proposed standards may, in the discretion of the appropriate commissioner or director of the department, include, among other things, provisions relating to the quality and type of materials to be used in such facilities, provisions for safety, fire protection, health and sanitation, provisions for the installation of fixtures, furnishings, equipment, machinery and apparatus in such facilities, and construction features deemed by the appropriate commissioner or director of the department to be desirable for the care, maintenance and treatment of the mentally disabled or for the use of staff personnel at mental hygiene facilities and their families. The proposed standards shall be forwarded to the governor for his approval, disapproval or modification. The proposed standards shall be deemed adopted, with or without modifications as the case may be, upon written approval by the governor. Such standards, in the form adopted, shall be filed by the appropriate commissioner or director of the department with the secretary of state in the manner provided by section one hundred two of the executive law.

Changes in the construction standards so adopted may from time to time be formulated and proposed, approved, disapproved or modified, adopted and filed in the same manner as the original standards.

b. The directors of the corporation shall prepare or cause to be prepared for the state housing finance agency or the medical care facilities finance agency, within the amounts appropriated therefor or otherwise available, the building plans, the exterior drawings or models displaying the architectural concept of each mental hygiene facility thereafter to be constructed, reconstructed, rehabilitated or improved, and the detailed plans and specifications for all such construction, reconstruction, rehabilitation and improvement work to be performed, all

of which shall be subject to the separate approval of the appropriate commissioner of the department and, in the case of community mental health and developmental disabilities facilities, of the governing body of the city or county or of such officer, department, agency or community mental health board as may be designated by such governing body for the purpose of such approval. The directors of the corporation, except in the case of community mental health and developmental disabilities facilities, may cause the building plans, drawings, models and detailed plans and specifications for such work to be prepared under the direction of the commissioner of general services in accordance with the terms of any agreement entered into between the corporation and such commissioner pursuant to subdivision two of this section. In the case of community mental health and developmental disabilities facilities, the directors of the corporation may cause such building plans, drawings, models and detailed plans and specifications for such work to be prepared by its own employees, or on a contract basis, or by agreement with a city or county or with any state department or agency authorized to perform such work.

The detailed plans and specifications for any such work to be performed pursuant to a contract shall comply with the construction standards in effect at the time the contract is executed.

Subject to the terms of any agreement entered into between the corporation and the commissioner of general services pursuant to subdivision two of this section and between the corporation and the state housing finance agency or the medical care facilities finance agency pursuant to such section, the directors of the corporation may from time to time modify, or authorize modifications to, such detailed plans and specifications provided (i) that the plans and specifications as so modified shall comply with the construction standards, if any, adopted pursuant to paragraph a of this subdivision and in effect at the time of the modification, and (ii) that such modifications, if substantial, are made with the separate approval of the appropriate commissioner of the department and, in the case of community mental health and developmental disabilities facilities, of such governing body of the city or county or of such officer, department, agency or

community mental health board as may be designated by such governing body for the purpose of such approval, and (iii) that in the event an amount for contingencies is appropriated or advanced to the corporation to pay the added costs during the then current state fiscal year of all modifications made in the course of construction, reconstruction, rehabilitation and improvement of mental hygiene facilities, no such modifications shall be made or authorized in such fiscal year without the approval of the director of the budget unless the cost thereof shall be less than five percentum of the total estimated cost of the facility as set forth in the budget bill referred to in paragraph a of subdivision two of this section, but in no event shall any such modification be made or authorized in such fiscal year if the cost thereof, plus the cost of all modifications theretofore made or authorized during the same state fiscal year, would exceed the amount for contingencies appropriated or advanced for the purpose of such modifications, and (iv) that in the event an amount for contingencies is not appropriated for the purpose of such modifications, no such modification involving an estimated expense of ten thousand dollars or more shall be made or authorized without the prior approval of the director of the budget.

c. In the design, construction, acquisition, reconstruction, rehabilitation, alteration and improvement of mental hygiene facilities to be made available under license or permit from the corporation to voluntary agencies for use in providing community mental health and developmental disabilities services, the corporation shall be governed by the provisions of this act relating to the design and construction of mental hygiene facilities provided, however, that the program for each such facility shall have been prepared under the supervision of the appropriate commissioner of the department pursuant to the mental hygiene law at the request of such voluntary agency and with the approval of the community mental health board established pursuant to article forty-one of title E of the mental hygiene law.

d. In the design, construction, acquisition, reconstruction, rehabilitation, alteration and improvement of alcoholism or substance abuse facilities to be made available under license or permit from the

corporation to voluntary agencies for use in the conduct of an alcoholism or substance abuse treatment program, the corporation shall be governed by the provisions of this act relating to the design and construction of alcoholism or substance abuse facilities provided that the program for such facility shall have been approved by the appropriate division of the office of alcoholism and substance abuse at the request of the local agency.

e. No county, city, town or village shall have power to modify or change the plans or specifications for mental hygiene facilities to be constructed, reconstructed, rehabilitated or improved pursuant to this act, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority or permit from such county, city, town or village as a condition of doing such work, nor shall any condition whatever be imposed by any such county, city, town or village in relation to the work being done pursuant to this act, but such work shall be under the sole control of the supervising architect or engineer in accordance with the drawings, plans, specifications and contracts in relation thereto; and the doing of any such work for the corporation by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof.

2. Letting of construction contracts. a. The corporation shall design, construct, acquire, reconstruct, rehabilitate and improve all mental hygiene facilities, or cause the same to be designed, constructed, acquired, reconstructed, rehabilitated and improved either on its own behalf or as agent for the state housing finance agency or the medical care facilities finance agency, except that in the case of all mental hygiene facilities owned or leased by one or more voluntary agencies

that are to be designed, constructed, reconstructed, rehabilitated and improved under any lease, sublease, loan or other financing agreement entered into with such voluntary agency, the same may be designed, constructed, acquired, reconstructed, rehabilitated and improved by such voluntary agencies, provided that legislation or appropriations authorizing the same (i) have been requested by the appropriate commissioner or director of the department, (ii) have been recommended by the governor in a budget bill, which is approved by the legislature for the fiscal year for which the recommendation was made which specifies the mental hygiene facilities to be designed, constructed, acquired, reconstructed, rehabilitated or improved, the total estimated cost for each such facility, and the date when it is desired that the design, construction, acquisition, reconstruction, rehabilitation or improvement of each mental hygiene facility referred to therein be completed. All such work shall be performed in such manner as to assure completion, so far as practicable, by the dates specified.

b. (i) The corporation may design, construct, reconstruct, rehabilitate and improve a mental hygiene facility, other than a community mental health and developmental disabilities facility, whether as principal or as agent for the state housing finance agency or the medical care facilities finance agency, only by agreement with the commissioner of general services, except that in the case a mental hygiene facility owned or leased by a voluntary agency that is to be designed, constructed, reconstructed, rehabilitated and improved under any lease, sublease, loan or other financing agreement entered into with such voluntary agency, or jointly with such voluntary agency and one or more voluntary agencies that operate such facility the same may be designed, constructed, reconstructed, rehabilitated and improved by such voluntary agencies, and except that:

(a) if the commissioner of general services for any reason declines to enter into an agreement with the corporation for such purpose; or

(b) if the commissioner of general services fails to enter into an agreement with the corporation for such purpose within forty-five days after receiving notification from the directors of the corporation of the work to be performed; or

(c) if the commissioner of general services fails to advertise such

work for bids within one year after entering into an agreement with the corporation for the performance of such work; or

(d) if the estimated expense of any such work is less than ten thousand dollars, the corporation may construct, reconstruct, rehabilitate and improve a mental hygiene facility by its own employees or by contract awarded pursuant to paragraph g of this subdivision.

(ii) The corporation, with the approval of the director of the budget, may construct, reconstruct, rehabilitate and improve a community mental health and developmental disabilities facility by its own employees, by agreement with a city or county or with any state department or agency authorized to perform such work, or by contract awarded pursuant to paragraph g of this subdivision. All contracts awarded by a city or county on behalf of the corporation shall be awarded pursuant to paragraph g of this subdivision, notwithstanding any provision of any general, special or local law or any charter.

c. In the event that the commissioner of general services enters into an agreement with the corporation for the construction, reconstruction, rehabilitation or improvement of a mental hygiene facility, the work required shall be performed in accordance with the terms of such agreement and in accordance with the provisions of paragraphs d and e of this subdivision, either by employees of the office of general services or by contract or contracts awarded pursuant to the public buildings law, the public works law and the state finance law.

d. No contract for the construction, reconstruction, rehabilitation or improvement of a mental hygiene facility shall be awarded by any letting agency unless (i) the appropriate commissioner or director of the department shall have separately approved the architectural concept and the detailed plans and specifications for the facility to be constructed, reconstructed, rehabilitated or improved and (ii) the directors of the corporation, whether as principals or as agents for the state housing finance agency or the medical care facilities finance agency, shall have approved the proposed terms of such contract, including the detailed plans and specifications for the facility. Provided, however, the corporation shall only enter into any lease, sublease, loan or other financing agreement with a voluntary agency

under which a mental hygiene facility owned or leased by such a voluntary agency is to be designed, acquired, constructed, reconstructed, rehabilitated or improved when the appropriate commissioner or director shall have approved the plans for such a facility. The form and content of such approval shall be approved by the division of budget however such agency approval shall allow maximum access to financing for design, acquisition, construction, reconstruction, rehabilitation and improvement, and shall be timely to reduce the need for utilization of short term commercial loans by voluntary agencies for services eligible for financing under this program. The medical care facilities financing agency shall advise the director of the budget on the form of such approval.

e. Each contract for the construction, reconstruction, rehabilitation or improvement of a mental hygiene facility shall include a provision that the architect who designed the facility, or an architect or engineer retained or employed specifically for the purpose of supervision, shall supervise the work to be performed through to completion and shall see to it that the materials furnished and the work performed are in accordance with the drawings, plans, specifications and contract therefor.

f. If the corporation is the letting agency, whether as principal or as agent for the state housing finance agency, the directors of the corporation shall prepare separate specifications for, and solicit separate and independent bids on, and award, separate contracts on the subdivisions of work to be performed specified in section one hundred thirty-five of the state finance law, but the directors of the corporation may in their discretion assign such contracts for supervision to the successful bidder for the remaining work to be performed at the time the contracts for the particular mental hygiene facility are awarded.

g. All contracts which are to be awarded pursuant to this paragraph shall be awarded by public letting in accordance with the following provisions, notwithstanding any contrary provision of section one hundred thirty-six, one hundred thirty-nine or one hundred forty of the

state finance law, except that in the discretion of the directors of the corporation, a contract may be entered into for such purposes without public letting where the estimated expense thereof is no more than eighty thousand dollars:

(i) If contracts are to be publicly let, the directors of the corporation shall advertise the invitation to bid in a newspaper published in the county of Albany and in such other newspapers as will be most likely in their opinion to give adequate notice to contractors of the work required and of the invitation to bid. The invitation to bid shall contain such information as the directors of the corporation shall deem appropriate and a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read.

(ii) The directors of the corporation shall not award any contract after public bidding except to the lowest bidder who in their opinion is qualified to perform the work required and is responsible and reliable. The directors of the corporation may, however, reject any or all bids, again advertise for bids, or waive any informality in a bid if they believe that the public interest will be promoted thereby. The directors of the corporation may reject any bid if in their judgment the business and technical organization, plant, resources, financial standing or business experience of the bidder, compared with the work to be performed, justify such rejection.

(iii) The invitation to bid and the contract awarded shall contain such other terms and conditions, and such provisions for penalties, as the directors of the corporation may deem desirable.

(iv) The directors of the corporation shall require such deposits, bonds and security in connection with the submission of bids, the award of contracts and the performance of work as they shall determine to be in the public interest and for the protection of the state and affected state agencies, including the corporation.

h. The directors of the corporation shall determine when minor work of construction, reconstruction, alteration or repair of any mental hygiene facility may be done by special order. Special orders for such work shall be short-form contracts approved by the attorney general and by the comptroller. No work shall be done by special order in an amount in excess of twenty thousand dollars and a bond shall not be required for

special orders. No work shall be done by special order unless the directors have presented to the comptroller evidence that they have made a diligent effort to obtain competition sufficient to protect the interests of the state prior to selecting the contractor to perform the work. Notwithstanding the provisions of paragraph g of this subdivision, work done by special order under this paragraph may be advertised through the regular public notification service of the office of general services or the state register. At least five days shall elapse between the first publication of such public notice and the date so specified for the public opening of bids. The directors may also authorize the corporation to enter into special order contracts using bids advertised for, received and opened by any office of the department, in compliance with this act and all other applicable laws, and transmitted to the corporation. All payments on special orders shall be made on the certificate of the directors of the corporation and audited and approved by the state comptroller. All special orders shall contain a clause that the special order shall only be deemed executory to the extent of the moneys available and no liability shall be incurred by the state beyond the moneys available for the purpose.

3. Resources of the corporation. a. Subject to the provisions of this act, the directors of the corporation shall receive, accept, invest, administer, expend and disburse for its corporate purposes, other than for the purposes of any health facilities improvement program, (i) all payments made on or after January 1, 1964, for the care, maintenance and treatment of patients in every mental hygiene facility, other than a community mental health and developmental disabilities facility or a mental hygiene facility made available under license or permit from the corporation to a voluntary agency for use in providing community mental health and developmental disabilities services, or an office of addiction services and supports facility made available under license or permit from the corporation to a voluntary agency for use in the conduct of an alcoholism or substance abuse treatment program, (ii) all payments made to the corporation by a lessee or permittee as rentals, permit fees or otherwise under any lease, sublease, permit or agreement undertaken with respect to a community mental health and developmental disabilities facility or current or former mental hygiene facility or from a

voluntary agency with respect to a mental hygiene facility made available under lease, license or permit from the corporation to a voluntary agency, and (iii) all payments made to the corporation for the purchase of real property held by the corporation for the use of the department, other than payments derived from New York state medical care facilities finance agency financing or refinancing of the design, construction, acquisition, reconstruction, rehabilitation, improvement or renovation of state operated mental hygiene facilities, and may receive, accept, invest, administer, expend and disburse for its corporate purposes, other than for the purposes of any health facilities improvement program, appropriations or advances from the capital projects fund and the state purposes account of the general fund of the state, and other revenues and monies made available or to be made available to the corporation from any or all sources, including gifts, grants, loans and payments from the federal government, any state agency, any county, city, town or village, any private foundation, organization or individual, or any other source, for the construction, acquisition, reconstruction, rehabilitation and improvement of mental hygiene facilities, and for the maintenance and repair of such facilities.

b. All monies of the corporation received or accepted pursuant to paragraph a of this subdivision, other than appropriations and advances from the state and except as otherwise authorized or provided in this section, shall be paid to the commissioner of taxation and finance as agent of the corporation, who shall not commingle such monies with any other monies. Such monies shall be deposited in two or more separate bank accounts. One of such accounts, to which shall be credited (i) all payments made on or after January 1, 1964, for the care, maintenance and treatment of patients in every mental hygiene facility, other than a community mental health and developmental disabilities facility, (ii) all payments made to the corporation as rentals, lease payments, permit fees or otherwise under any lease, sublease or agreement undertaken with respect to a community mental health and developmental disabilities facility or a current or former mental hygiene facility, (iii) all payments made to the corporation for the purchase of real property held by the corporation for the use of the department, other than payments

derived from New York state medical care facilities finance agency financing or refinancing of the design, construction, acquisition, reconstruction, rehabilitation, improvement or renovation of state operated mental hygiene facilities, (iv) all income from investments and (v) all monies received or to be received for the purposes of such account on a recurring basis, shall be denominated the "mental hygiene facilities improvement fund income account". The monies in any account shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the corporation or of such other officer or employee or officers or employees as the corporation shall authorize to make such requisition. All deposits of such money shall, if required by the commissioner of taxation and finance or the directors of the corporation, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the corporation not required for immediate use or disbursement may, at the discretion of the corporation, be invested by the commissioner of taxation and finance in accordance with the provisions of section 98-a of the state finance law. The mental hygiene facilities improvement fund and the income account therein shall remain in existence until terminated by the corporation by written notice to the commissioner of taxation and finance. Any moneys on deposit in the mental hygiene facilities improvement fund or the income account therein upon the termination of said fund and account shall be transferred by the commissioner of taxation and finance to the mental health services fund. The corporation shall not terminate the mental hygiene facilities improvement fund and the income account therein until all mental health services facilities bonds issued pursuant to: (i) the New York state medical care facilities finance agency act; (ii) article five-C of the state finance law; and (iii) article five-F of the state finance law and payable from the income account as described in paragraph g of this subdivision are no longer outstanding.

c. Subject to the terms of any lease, sublease or agreement undertaken by the corporation, any such monies of the corporation, not required for immediate use may, at the discretion of the corporation, be invested by

the commissioner of taxation and finance in obligations of the United States or the state or obligations the principal and interest of which are guaranteed by the United States or the state.

d. No lease, sublease or other agreement relating to an alcoholism or substance abuse facility shall be undertaken by the corporation pursuant to this subdivision unless the appropriate division of the office of alcoholism and substance abuse shall have approved the terms thereof.

e. The directors of the corporation shall at all times maintain on deposit in the mental hygiene facilities improvement fund income account the aggregate amount of money needed by the corporation during the next succeeding twelve calendar months to comply in full with all obligations of the corporation under the terms of every lease, sublease or agreement undertaken by the corporation which is then in effect, including without limitation by the specification thereof, (i) the amount needed to make rental payments thereunder during such year, and (ii) the amount needed to establish and maintain reserves thereunder during such year provided, however, that the provisions of this paragraph shall not apply with respect to agreements entered into pursuant to section nine-a of the New York state medical care facilities finance agency act.

f. The directors of the corporation shall from time to time, but in no event later than the fifteenth day of each month pay over to the commissioner of taxation and finance and the state comptroller for deposit in the mental health services fund, all monies of the corporation in excess of the aggregate amount of money required to be maintained on deposit in the mental hygiene facilities improvement fund income account pursuant to paragraphs e and g of this subdivision. Prior to making any such payment, the chairman of the corporation shall, on behalf of the directors, make and deliver to the governor and the director of the budget his certificate stating the aggregate amount to be maintained on deposit in the mental hygiene facilities improvement fund income account to comply in full with the provisions of paragraphs e and g of this subdivision.

g. (1) In addition to the amount required to be maintained by

paragraph e of this subdivision, there shall be accumulated and set aside in each month in the mental hygiene facilities improvement fund income account, all receipts associated with loans, leases and other agreements with voluntary agencies. The corporation shall provide the amount of such receipts to be set aside to the commissioner of taxation and finance in each month. (2) No later than five days prior to the earlier of when payment is to be made on bonds issued for mental health services facilities purposes pursuant to: (i) the New York state medical care facilities finance agency act; (ii) article five-C of the state finance law; and (iii) article five-F of the state finance law, such set-aside receipts shall be transferred by the commissioner of taxation and finance as agent of the corporation from the mental hygiene facilities improvement fund income account in the amounts set forth in schedules provided by the corporation to the commissioner of taxation and finance in the following priority: first, to the trustee appointed by the New York state medical care facilities finance agency for the bonds issued pursuant to the New York state medical care facilities finance agency act for both voluntary agency and state purposes to pay debt service and other cash requirements due on such bonds on the relevant payment date, second, any remaining amount of such set-aside receipts to the trustee appointed by authorized issuers for the bonds issued pursuant to article five-C of the state finance law to pay debt service and other cash requirements due on such bonds on the relevant payment date and third, any remaining amount of such set-aside to the trustee appointed by authorized issuers for the bonds issued pursuant to article five-F of the state finance law to pay debt service and other cash requirements due on such bonds on the relevant payment date.

4. Agreements. a. Upon certification by the director of the budget of the availability of required appropriation authority, the corporation, or any successor agency, is hereby authorized and empowered to enter into leases, subleases, loans and other financing agreements with the state housing finance agency and/or the state medical care facilities finance agency, and to enter into such amendments thereof as the directors of the corporation, or any successor agency, may deem necessary or desirable, which shall provide for (i) the financing or refinancing of or the design, construction, acquisition, reconstruction,

rehabilitation or improvement of one or more mental hygiene facilities or for the refinancing of any such facilities for which bonds have previously been issued and are outstanding, and the purchase or acquisition of the original furnishings, equipment, machinery and apparatus to be used in such facilities upon the completion of work, (ii) the leasing to the state housing finance agency or the state medical care facilities finance agency of all or any portion of one or more existing mental hygiene facilities and one or more mental hygiene facilities to be designed, constructed, acquired, reconstructed, rehabilitated or improved, or of real property related to the work to be done, including real property originally acquired by the appropriate commissioner or director of the department in the name of the state pursuant to article seventy-one of the mental hygiene law, (iii) the subleasing of such facilities and property by the corporation upon completion of design, construction, acquisition, reconstruction, rehabilitation or improvement, such leases, subleases, loans or other financing agreements to be upon such other terms and conditions as may be agreed upon, including terms and conditions relating to length of term, maintenance and repair of mental hygiene facilities during any such term, and the annual rentals to be paid for the use of such facilities, property, furnishings, equipment, machinery and apparatus, and (iv) the receipt and disposition, including loans or grants to voluntary agencies, of proceeds of mental health service facilities bonds or notes issued pursuant to section nine-a of the New York state medical care facilities finance agency act. For purposes of the design, construction, acquisition, reconstruction, rehabilitation or improvement work required by the terms of any such lease, sublease or agreement, the corporation shall act as agent for the state housing finance agency or the state medical care facilities finance agency. In the event that the corporation enters into an agreement for the financing of any of the aforementioned facilities with the state housing finance agency or the state medical care facilities finance agency, or in the event that the corporation enters into an agreement for the financing or refinancing of any of the aforementioned facilities with one or more voluntary agencies, it shall act on its own behalf and not as agent. The appropriate commissioner or director of the department on behalf of the department shall approve any such lease, sublease, loan or other

financing agreement and shall be a party thereto. All such leases, subleases, loans or other financing agreements shall be approved prior to execution by no less than three directors of the corporation.

b. To secure the payment of moneys or rentals due or to become due in any year under any lease, sublease, loan or other financing agreement entered into with the state housing finance agency or the state medical care facilities finance agency, pursuant to paragraph a of this subdivision, the directors of the corporation may pledge or assign any or all monies in the mental hygiene facilities improvement fund income account and in any rental reserve account established pursuant to paragraph c of this subdivision, and any or all monies which may be receivable by the corporation and credited to either or both such accounts in the future, whether equal to or in excess of the amount of such rentals due or becoming due in any year, and any or all right, title and interest of the corporation in and to the monies in or to be deposited in such accounts.

c. The corporation may create and establish one or more separate accounts to be known as "rental reserve accounts" and may pay into such reserve accounts (i) any monies apportioned and paid by the state for the purposes of such reserve account pursuant to this paragraph, (ii) any monies in the mental hygiene facilities improvement fund income account transferred to such reserve accounts by the directors of the corporation pursuant to any lease, sublease or other agreement undertaken by the corporation, and (iii) any other monies which may be made available to the corporation from any source or sources specifically for the purposes of such reserve accounts.

The monies credited to any rental reserve account established under this paragraph shall be used, except as hereinafter provided, solely for the payment of rentals as they become due under one or more of the leases, subleases and agreements referred to in paragraph a of this subdivision, provided, however, that the monies in such account shall not be withdrawn therefrom at any time in such amount as would reduce the amount thereof to less than the maximum amount of rental becoming due in any succeeding calendar year under such leases, subleases and

agreements, except for the purpose of paying such rentals becoming due for the payment of which other moneys of the corporation are not available.

Subject to the terms of any lease, sublease or agreement referred to in paragraph a of this subdivision, monies in a rental reserve account not required for immediate use or disbursement may be invested in obligations of the United States or the state or obligations the principal and interest of which are guaranteed by the United States or the state. In computing the amount of a rental reserve account for the purposes of this paragraph, securities in which all or a portion of the account are invested shall be valued at their market value as of a date within seven days preceding the date of the computation or at their cost to the corporation, whichever is less.

Any excess in a rental reserve account as of the last day of any state fiscal year over the maximum amount of rental becoming due in any succeeding calendar year under such lease agreements shall be withdrawn by the corporation from such account and transferred to the mental hygiene facilities improvement fund income account to be used for the corporate purposes of the corporation, other than for the purposes of any health facilities improvement program.

In order further to secure the maintenance in all rental reserve accounts established pursuant to this paragraph of an amount equal to the maximum amount of rental becoming due in any succeeding calendar year under the leases, subleases and agreements to which the reserve account relates, there shall be annually apportioned and paid to the corporation for deposit in such rental reserve accounts such sum, if any, as shall be certified by the chairman of the corporation to the governor and director of the budget as necessary to restore such accounts to an amount equal to the maximum amount of rental becoming due in any succeeding calendar year under such leases, subleases and agreements. The chairman of the corporation shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore such rental reserve accounts to the amount aforesaid and the amount so

stated in said certificate, if any, shall be apportioned and paid to the corporation during the then current state fiscal year.

d. No lease, sublease or other agreement shall be undertaken by the corporation pursuant to this section unless the governor, or where so designated by the governor for such purpose, the director of the budget, shall have approved the terms thereof.

e. The attorney general shall pass upon the form and sufficiency and manner of execution of any lease, sublease or other agreement entered into pursuant to this section and the same shall not be effective unless so approved by him.

f. The state shall not be liable for any rentals, loan, or other payments payable by the corporation pursuant to the terms of a lease, sublease, loan or other financing agreement entered into pursuant to this section, and such lease, sublease, loan or other financing agreement shall contain among its terms a statement to such effect.

5. Jurisdiction of mental hygiene facilities; maintenance and repair. On and after the effective date of this act, the corporation shall be entitled to exclusive possession, jurisdiction, supervision and control of all real property, including mental hygiene facilities, theretofore acquired and held for department purposes and of all mental hygiene facilities thereafter constructed or acquired, and, to all payments made after January first, nineteen hundred sixty-four, for the care, maintenance and treatment of patients at such mental hygiene facilities.

The directors of the corporation shall make available to the appropriate commissioner of the department for use in the care, maintenance and treatment of the mentally disabled, all such real property and facilities including newly constructed, acquired, reconstructed, rehabilitated and improved facilities, together with the original furnishings, equipment, machinery and apparatus therein, as soon as practicable after the completion of work. Responsibility for the maintenance and upkeep of such property, for the maintenance and routine repair of such facilities, and for the replacement of furnishings,

equipment, apparatus and machinery, shall be in the appropriate commissioner of the department, provided, however, if the terms of any lease, sublease, loan or other financing agreement entered into between the corporation and the state housing finance agency or the state medical care facilities finance agency, pursuant to subdivision four of this section so require, such responsibility shall be in the directors of the corporation until the termination of such lease, sublease, loan or other financing agreement.

The care, maintenance and treatment of the mentally disabled at all mental hygiene facilities shall remain at all times the responsibility of the appropriate commissioner of the department in accordance with the provisions of the mental hygiene law.

Notwithstanding the foregoing provisions of this subdivision, title to all real property on which mental hygiene facilities, other than those owned or leased by voluntary agencies, are located shall continue to be vested in the people of the state until conveyed in accordance with law.

The provisions of this subdivision shall not apply to community mental health and developmental disabilities facilities.

6. Notwithstanding any provision of any general, special or local law or of any charter:

a. The governing body, as such term is defined in article forty-one of title E of the mental hygiene law (except that with respect to the city of New York such term shall mean the board of estimate), of a city or county may, upon such terms and conditions as shall be approved by such governing body and for such consideration, if any, as may be determined by such governing body, but not to exceed the cost of acquisition thereof and the cost of improvements thereon, exclusive of any costs reimbursed or to be reimbursed in accordance with the provisions of article forty-one of title E of the mental hygiene law otherwise, execute and deliver to the corporation a lease for a term not exceeding forty years or a deed (i) conveying to the corporation real property and one or more community mental health and developmental disabilities

facilities of the city or county located thereon, a portion of the costs of which facilities are eligible for state reimbursement in accordance with the provisions of article forty-one of title E or article twenty-five of title D of the mental hygiene law or (ii) conveying to the corporation real property of the city or county or an interest therein, for the purpose of causing to be constructed, reconstructed, rehabilitated or improved thereon one or more community mental health and developmental disabilities facilities pursuant to this act, such community mental health and developmental disabilities facilities to be made available to such county or city for use and occupancy under lease, sublease or other agreement upon such terms and conditions as may be agreed upon, including terms and conditions relating to length of terms, maintenance and repair of community mental health and developmental disabilities facilities during such term and the annual rentals to be paid therefor for the use thereof. The corporation is hereby authorized to accept any such lease or conveyance, to hold such real property, to enter into a lease, sublease or other agreement with such city or county for the purpose of making such community mental health and developmental disabilities facility so acquired or to be constructed, reconstructed, rehabilitated or improved thereon available for use and occupancy by such city or county, and to lease or convey real property so acquired to the New York state housing finance agency or the medical care facilities finance agency, provided, however, that any such further lease or conveyance shall be solely for the purpose of causing community mental health and developmental disabilities facilities to be acquired, constructed, reconstructed, rehabilitated or improved thereon, such community mental health and developmental disabilities facilities to be made available to such city or county for use and occupancy under a lease, sublease or other agreement between the corporation and such city or county, upon such terms and conditions as may be agreed upon. No such lease or conveyance from the corporation to the New York state housing finance agency or the state medical care facilities finance agency shall be for a consideration in excess of the cost of acquisition of such real property and the costs of improvements thereon. The appropriate commissioner of the department, on behalf of his or her office, and the director of the budget shall approve all leases, subleases or agreements, whether between the corporation and such city or county or

between the corporation and the housing finance agency or the state medical care facilities finance agency, and the appropriate commissioner of the department shall be a party thereto. The appropriate division of the office of addiction services and supports shall also approve all such leases, subleases or agreements relating to the construction, reconstruction, rehabilitation or improvement of community mental health and developmental disabilities facilities, constituting alcoholism or substance abuse facilities for use in an alcoholism or substance abuse treatment program as defined in the mental hygiene law.

b. In the event that the corporation shall fail, within five years after the date of such lease or conveyance, to construct, reconstruct, rehabilitate or improve the community mental health and developmental disabilities facility or facilities thereon for which such lease or conveyance was made, or to cause the same to be done, as provided for in a lease, sublease or other agreement entered into with such city or county, then, subject to the terms of any lease, sublease or other agreement undertaken by the New York state housing finance agency or the state medical care facilities finance agency, with respect thereto, such real property and any facilities thereon shall revert to such city or county with right of re-entry thereupon, and such lease or deed shall be made subject to such condition of reverter and re-entry; provided, however, that as a condition precedent to the exercise of such right of re-entry, such city or county shall pay an amount equal to the sum of the purchase price of such real property, the depreciated cost of any facility or facilities constructed, reconstructed, rehabilitated or improved thereon, and all other costs of the corporation or the New York state housing finance agency or the state medical care facilities finance agency incident to the costs of the acquisition of such real property and the financing of construction, reconstruction, rehabilitation or improvement relating to such facility or facilities, all as provided in the aforesaid lease, sublease or other agreement entered into with such city or county.

c. No real property or interest therein shall be acquired by the corporation pursuant to this subdivision unless title thereto shall have been approved by the attorney general.

d. The attorney general shall pass upon the form and sufficiency and manner of execution of any deed of conveyance and of any lease of real property authorized to be given under this subdivision by any city or county to the corporation, and any lease, sublease or agreement between the corporation and a city or county, and the same shall not be effective unless such deed, lease, sublease or agreement shall be so approved by him.

e. The cost of construction, acquisition, reconstruction, rehabilitation or improvement of community mental health and developmental disabilities facilities undertaken by the corporation pursuant to this act may include the cost of acquisition of any real property leased or conveyed to the corporation pursuant to paragraph a of this subdivision and the cost of the original furnishing, equipment, machinery and apparatus as determined by the corporation.

f. The provisions of this act shall not be deemed to prevent a city or county from financing the cost of constructing, acquiring, reconstructing, rehabilitating or improving a community mental health and developmental disabilities facility by the issuance of bonds or capital notes of such city or county pursuant to the local finance law.

§ 9-a. Equal employment opportunity program. 1. All contracts for design, construction, services and materials executed by the corporation pursuant to the provisions of this act, other than contracts the cost of which is borne solely by a municipality or municipalities, and all documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(a) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion,

transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the corporation, the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the corporation to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder.

(c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract with the corporation, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The contractor will include the provisions of paragraph (a) through (c) of this subdivision in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract with the corporation.

2. The corporation shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative action and equal employment opportunity as required by this section. Such procedures may require after notice in a bid solicitation, the submission of an affirmative action program prior to the award of any contract, or at any time thereafter, and may require the submission of compliance reports relating to the operation and implementation of any affirmative action program adopted hereunder. The corporation may take appropriate action including contractual sanctions for noncompliance to effectuate the provisions of this section and shall be responsible for monitoring compliance with this act.

§ 9-b. Minority and women-owned business enterprise program. 1. (a) Minority and women-owned business enterprises shall be given the opportunity for meaningful participation in all contracts executed by the corporation pursuant to the provisions of this act other than contracts the cost of which is borne solely by a municipality or municipalities. The corporation shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the corporation to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or American Indian, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.

(b) In the implementation of this section, the corporation shall consider compliance by any contractor with the requirements of any federal, state, or local law concerning minority and women-owned business enterprises, which may effectuate the requirements of this

section. If the corporation determines that by virtue of the imposition of the requirements of any such law, in respect to contracts, the provisions thereof duplicate or conflict with this section, the corporation may waive the applicability of this section to the extent of such duplication or conflict.

(c) Nothing in this section shall be deemed to require that overall state and federal requirements for participation of minority and women-owned business enterprises in programs authorized under this act be applied without regard to local circumstances to all projects or in all communities.

2. In order to implement the requirements and objectives of this section, the corporation shall establish procedures to monitor the contractors' compliance with provisions hereof, provide assistance in obtaining competing qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, and take other appropriate measures to improve the access of minority and women-owned business enterprises to these contracts.

§ 10. Monies of the corporation relating to health facilities improvement program. Subject to the terms of any agreement between the corporation and the state housing finance agency or the state medical care facilities finance agency, as the case may be, and except as otherwise authorized or provided by section nine of this act, all monies received by the corporation shall be paid to the commissioner of taxation and finance as agent of the corporation who shall not commingle such monies with any other monies. Such monies shall be deposited in a separate bank account or accounts. The monies in such account shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the corporation or such other officer or employee or officers or employees as the corporation shall authorize to make such requisitions. All deposits of such monies shall, if required by the commissioner of taxation and finance, the state housing finance agency or the state medical care facilities finance agency, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust

companies are authorized to give such security for such deposits. Subject to the terms of any agreement between the corporation and the state housing finance agency or the state medical care facilities finance agency, as the case may be, the corporation shall have power to invest any such monies not required for immediate use or disbursement in obligations of the state or the United States government or obligations, the principal and interest of which are guaranteed by the state or the United States government, or invested in accordance with the provisions of section 98-a of the state finance law.

§ 11. General fiscal requirements relating to the corporation. 1. The chairman of the corporation shall annually, at such time as the governor may request, prepare and submit to the governor and the director of the budget, on behalf of the directors of the corporation, an itemized budget request and any additional information required setting forth financial needs by programs for the administration of the corporation during the next succeeding state fiscal year including information as to the payment or provision for payment of obligations of the corporation expected to be required during such year under the terms of all leases, subleases and agreements expected to be undertaken by the corporation. The governor shall annually submit his recommended budget for the administration of the corporation to the legislature. The legislature shall act on such request and make appropriations for all administrative expenses of the corporation.

2. The comptroller, or his legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the corporation, including its receipts and disbursements and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once every five years; the comptroller is authorized, however, to accept from the corporation, in lieu of such examination, an external examination of its books and accounts made at the request of the corporation.

§ 12. Actions by and against the corporation. 1. The state supreme

court shall have exclusive jurisdiction of any action, suit or special proceeding brought by or against or involving the corporation. The venue of any action, suit or special proceeding brought against the corporation shall be laid in the county of Albany.

2. In every action against the corporation for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a director or officer of the corporation and that the corporation has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

3. Except in an action for wrongful death, an action against the corporation for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the corporation within the time limit established by and in compliance with all requirements of section fifty-e of the general municipal law. An action against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

4. All of the provisions of sections seventeen and nineteen of the public officers law shall apply to the directors, officers and employees of the corporation.

§ 13. Tax exemption of monies and property of the corporation. The monies and property of the corporation and its operations shall be exempt from taxation.

§ 14. Cooperation and assistance from other state agencies. 1. The

departments of health, mental hygiene and law, the division of the budget, the office of general services, the state housing finance agency, the state medical care facilities finance agency, the state agency designated to implement an act of congress known as the comprehensive health planning and public health services amendments of nineteen hundred sixty-six (Public Law 89-749) and all other state agencies shall cooperate with and assist the corporation in the fulfillment of its corporate purposes and in the exercise of its corporate powers under this act and may render such services to the corporation within their respective functions as the directors of the corporation may reasonably request.

2. Subject to the approval of the office of alcoholism and substance abuse services and to the terms of any lease, sublease or other agreement with the state housing finance agency, the corporation, whether as principal or as agent for the state housing finance agency, is hereby authorized and empowered to provide facilities for the conduct of alcoholism or substance abuse treatment programs by the office of alcoholism and substance abuse services and as may be required by such office in the performance of its duties, powers and functions as specified in article nineteen of the mental hygiene law, including construction, acquisition, reconstruction, rehabilitation, alteration and improvement of buildings, structures and appurtenances, the purchase and installation of furnishings and equipment, the acquisition of property by purchase, lease or transfer, engineering, architectural and consulting services. In the design, construction, acquisition, reconstruction, rehabilitation, alteration and improvement of such facilities the corporation shall be guided by the provisions of this act relating to the design and construction of mental hygiene facilities, provided, however, that subject to the terms of any lease, sublease or other agreement with the state housing finance agency such facilities and the approvals to be given for the design and construction thereof shall be under the professional jurisdiction of the office of alcoholism and substance abuse services and the corporation shall make such facilities available to such office.

3. Notwithstanding the provisions of subdivision five of section nine

of this act, the directors of the corporation, subject to the terms of any lease, sublease or other agreement with the state housing finance agency, shall make available to the office of alcoholism and substance abuse services for use as an alcoholism or substance abuse facility any real property or facility under the jurisdiction of the corporation as the office of alcoholism and substance abuse services shall request and the commissioner shall certify is no longer necessary for use in the care, maintenance and treatment of the mentally disabled. Such real property or facility shall continue under the professional jurisdiction of the office of alcoholism and substance abuse services until such office shall certify that such real property or facility is no longer necessary for use as an alcoholism or substance abuse facility, whereupon all of the provisions of subdivision five of section nine of this act shall govern. Responsibility for the maintenance and upkeep of such real property or facility, for the maintenance and routine repair of such real property or facility and for the replacement of furnishings, equipment, apparatus and machinery shall, subject to the terms of any lease, sublease or other agreement with the state housing finance agency, be in the office of alcoholism and substance abuse services so long as such real property or facility is under the professional jurisdiction of such office. A copy of any certificate made pursuant to this subdivision shall be filed with the director of the budget.

§ 14-a. Special provisions relating to municipal facilities. 1. The corporation is authorized to enter into an agreement with a municipality for the design, construction, reconstruction, rehabilitation and improvement for such municipality of a municipal building or buildings at the sole cost and expense of such municipality. The corporation shall enter into an agreement with a municipality prior to the commencement of any corporation services. No agreement entered into between the facilities development corporation and a municipality pursuant to this section shall be effective until the director of the budget has determined that the total estimated charge to be collected by the corporation from the municipality is fair and reasonable in relationship to the estimated total project cost and also that sufficient provisions

exist to insure the collection of such charge by the corporation from the municipality. A municipality, by resolution of its governing body, is hereby authorized to enter into an agreement with the corporation and to provide for the payment to the corporation of all expenses incurred at such time and in such amounts as shall be set forth in the agreement, notwithstanding the provisions of any general, special or local law or of any charter. The agreement shall contain such other terms and conditions as may be agreed upon by the corporation and the municipality.

2. In the design, construction, reconstruction, rehabilitation and improvement of a municipal building or buildings pursuant to an agreement entered into as provided in subdivision one of this section, the corporation shall be governed by the applicable provisions relating to the design and construction of health facilities as set forth in paragraph d of subdivision two of section eight of this act.

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

§ 14-b. Special provisions relating to local correctional facilities.

1. The corporation is authorized to enter into an agreement with a municipality providing for the design, construction, reconstruction, rehabilitation and improvement for such municipality of a local correctional facility, as such term is defined in section forty of the correction law, including any place used by a municipality for the detention of persons charged with or convicted of a crime, at the sole cost and expense of such municipality. A municipality, by resolution of its governing body, is hereby authorized to enter into such an agreement with the corporation and to provide for the payment to the corporation of all expenses incurred at such times and in such amounts as shall be

set forth in the agreement, notwithstanding the provisions of any general, special or local law or of any charter. The agreement shall contain such other terms and conditions as may be agreed upon by the corporation and the municipality. The corporation shall enter into an agreement with a municipality prior to the commencement of any corporation services. No agreement entered into between the facilities development corporation and a municipality pursuant to this section shall be effective until the director of the budget has determined that the total estimated charge to be collected by the corporation from the municipality is fair and reasonable in relationship to the estimated total project cost and also that sufficient provisions exist to insure the collection of such charge by the corporation from the municipality. The corporation shall by regulation prescribe a procedure or procedures for the application by a municipality to the corporation for its assistance and the corporation's procedure or procedures for the design, construction, reconstruction, rehabilitation and improvement of a local correctional facility. Any such regulation shall be submitted to the director of the budget for his approval prior to its effectiveness.

2. In the design, construction, reconstruction, rehabilitation and improvement of a local correctional facility pursuant to an agreement entered into as provided in subdivision one of this section, the corporation shall be governed by the applicable provisions relating to the design and construction of health facilities as set forth in paragraphs c and d of subdivision two of section eight of this act.

§ 15. Annual report of directors. The directors of the corporation shall submit to the governor, the state agency designated by him to implement the federal comprehensive health planning and public health services amendments of nineteen hundred sixty-six (Public Law 89-749), the public health council, the mental hygiene council, the commissioners of health and the offices of the department of mental hygiene, the legislature, the chairman of the senate finance committee and the chairman of the assembly ways and means committee, annually on or before October first, a full report of its activities and operations through the thirty-first day of the preceding March, including details as to

projects in planning, projects in the process of construction, acquisition, reconstruction, rehabilitation or improvements, and projects completed, the performance record of the directors in completing construction in accordance with the desired completion dates and within the estimated cost recommended by the governor and approved by the legislature, the architects, engineers and other private consultants engaged by the directors of the corporation on a contract basis and a statement of the total amount paid and yet to be paid, or estimated yet to be paid, under each such contract, the letting agency and successful bidder or bidders for each project, the monies made available for the purposes of the corporation, details as to any lease, sublease or agreement executed by the directors of the corporation with the state housing finance agency or the state medical care facilities finance agency, as the case may be, and the annual rentals required to be paid on account thereof, and such other information related to the activities and operation of the corporation as the directors of the corporation may consider pertinent.

§ 15-a. Payment on corporation public work projects. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded by the facilities development corporation pursuant to this chapter shall be in accordance with section one hundred thirty-nine-f of the state finance law.

§ 16. Separability. If any section, subdivision, paragraph, sentence, clause or provision of this act shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 17. Inconsistent provisions of other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general or special, the provisions of this act shall be

controlling.