§ 1266-c. Transit projects. 1. Subject to the provisions of this section, the authority is hereby authorized, upon the request of the New York city transit authority and upon such terms and conditions as shall be agreed to by the authority (i) to plan, design, acquire, construct, reconstruct, rehabilitate and improve facilities, equipment, devices and appurtenances, and property or property rights constituting or to constitute part of, or used or to be used in connection with the operation of any transit facility now or hereafter owned or operated by the New York city transit authority or any of its subsidiaries (each of the foregoing activities and programs being referred to in this section as a "transit project"), (ii) to finance the costs of a transit project by the issuance of its notes, bonds or lease obligations, (iii) upon the completion of any transit project or part thereof, to cause the same to be transferred, leased or subleased to the New York city transit authority or its designated subsidiary or other designee, for consideration. The terms "facilities", "equipment", "devices and appurtenances", "property" or "property rights" and "transit facility" shall have the meanings given to such terms from time to time in section twelve hundred of this article. The authority shall have no obligation to operate or, except as may otherwise be provided in any lease to which it may be a party as hereinafter provided, repair or maintain any transit project or part thereof subsequent to its completion nor shall it be liable to the transferee, lessee or sublessee by reason of any warranty, express or implied, in respect thereof. Warranties furnished in connection with such transit project shall be assignable and assigned as directed by the New York city transit authority and approved by the authority.

2. In connection with any transit project, and in order to effectuate the purposes of this section, the authority shall, subject to the provisions of this section, have all of the powers provided elsewhere in this title, and, in addition, the authority may:

(a) issue its notes or bonds to finance all or any part of the costs of a transit project;

(b) finance all or any part of the costs to the authority or to any other person or entity, public or private, of such transit project through, or accompanied by, a leasing of such project or any part

thereof by such person or entity to the authority or through or accompanied by a sale by the authority to any such person or entity and leaseback to the authority, in each case for subleasing to the New York city transit authority, its designated subsidiary or other designee for consideration, except that such leasing or leaseback from such person or entity may be directly to the New York city transit authority or its designated subsidiary or other designee with the consent of the authority;

(c) issue its notes or bonds to defease the lien of, refund or otherwise repay any outstanding notes, bonds or other obligations of the New York city transit authority which in the judgment of the authority would otherwise delay, impede or prevent its financing a transit project;

(d) accept the notes, bonds, lease, sublease and other contractual obligations of the New York city transit authority and any of its designated subsidiaries in payment for a transfer, lease or sublease of a transit project;

(e) accept from the New York city transit authority or its designated subsidiary or from the city of New York, acting by its mayor alone, a transfer of title to or the use, occupancy, control or possession of any real or personal property (or any interest therein) needed or useful for or in connection with any transit project;

(f) obtain security for the payment by the New York city transit authority or its designated subsidiary of its notes, bonds, lease, sublease or other contractual obligations, including a pledge of all or any part of any of their revenues, which pledge may contain covenants with respect to the charging and fixing of fares, fees and rentals, the use and disposition of such fares, fees, rentals and other revenues, and the setting aside of reserves therefrom;

(g) with the consent of the New York city transit authority or its designated subsidiary, use, with or without compensation, its agents, employees and facilities; and

(h) apply for, accept, enter into contracts for, administer and disburse any federal, state or local aid or assistance, subject to the terms and conditions thereof, which may be available for any transit project.

3. All of the provisions of this title not inconsistent with the provisions of this section shall be applicable with respect to any bonds, notes or lease obligations of the authority issued or entered into to finance any transit project, or to defease the lien of, refund or otherwise repay outstanding bonds, notes or other obligations of the New York city transit authority, subject to the following conditions:

(a) such bonds and notes shall be payable as to principal, redemption premium, if any, and interest and such other obligations shall be payable, all in the manner more particularly provided by the authority in the resolution under which the same shall be authorized to be issued;

(b) such lease obligations shall be non-recourse obligations limited to the recovery of the leased property by the lessor and as to the payments of sums of money coming due thereunder, to proceedings against the sublessee under any underlying sublease or pursuant to any pledge or assignment given to secure sums payable under such underlying sublease;

(c) no bonds or notes of the authority shall be issued for the purpose of defeasing the lien of, refunding or otherwise repaying outstanding bonds, notes or other obligations of the New York city transit authority unless (i) the city of the New York shall have entered into an agreement on terms satisfactory to the authority to make periodic payments to the New York city transit authority, and (ii) the New York city transit authority shall have entered into an agreement on terms satisfactory to the authority to make periodic payments to the authority, in each case sufficient to pay, when due, the principal, redemption premium, if any, and interest upon the bonds or notes of the authority issued to effect such defeasance, refunding or repayment;

(d) notwithstanding and in addition to any provisions for the redemption of such bonds or notes which may be contained in any contract with the holders thereof, the city of New York may, upon furnishing sufficient funds therefor, require the authority to redeem as a whole any issue of such bonds or notes at the time or times and at the place or places and in accordance with the terms upon which such bonds or notes are redeemable; and

(e) the city of New York shall not be liable on such bonds or notes, and such bonds or notes shall not be a debt of the city of New York, and shall contain on the face thereof a statement to such effect.

4. The authority shall not undertake any transit project unless the New York city transit authority or the subsidiary for whose benefit the transit project is to be undertaken, or both, shall pay or agree to pay, in the form of a bond, note, lease, sublease or other contractual obligation, in a manner and on terms and conditions satisfactory to the authority, any portion of the costs to the authority of such transit project and the financing thereof which is not paid to the authority from any federal, state or local aid or assistance or which is not payable from any other moneys made available or payable to the authority by others for such project.

5. Neither the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar tenor or import shall apply (i) to the acquisition of any real property (or any interest therein) for the purposes of any transit project by the city or by the New York city transit authority or any of its subsidiaries; (ii) to the subsequent transfer of any real property (or interest therein) so acquired to the authority or its designee for the purposes of such project or to the transfer to the authority or its designee for such purposes of any real property (or interest therein) then owned by the city or by the New York city transit authority or any such subsidiary; nor (iii) to the transfer to the authority or its designee for such purposes of the right of use, occupancy, control or possession of any real property (or interest therein), whether presently owned or hereafter acquired by the city or by the New York city transit authority or any such subsidiary; provided in each such case, however, that if at the time of such proposed acquisition or transfer the real property which is the subject of such acquisition or transfer is not then being utilized for a transit or transportation purpose or is not an insubstantial addition to such property contiguous thereto; (a) the authority proposing to acquire or receive such property shall, unless a submission with respect to such property has previously been made and approved as herein provided, submit to the community board for the community district in which such property is located, data with respect to the proposed use of such property and to the design of any facility proposed to be constructed

thereon; (b) such community board shall inform the board of estimate of the city of New York, with copies to the city planning commission of the city of New York and the proposing authority, of its views and recommendations with respect thereto within forty-five days of such submission, and if the community board shall fail to so inform the board of estimate within such period it shall be deemed to have recommended the proposal; and (c) the board of estimate shall, within forty-five days of the recommendation of the community board, approve or disapprove such acquisition or transfer, and if the board of estimate shall fail to act within such period it shall be deemed to have approved the same.

6. In its performance of any transit project, the authority shall not be deemed the agent or instrumentality of the city of New York or the New York city transit authority or any of its subsidiaries notwithstanding the fact that title to any real or personal property (or any interest therein) which is the subject of or is a part of such project is held by or upon completion of such project is to be transferred to such other entity. In its performance of any transit project, however, the provisions of section twelve hundred nine of this chapter shall apply to the authority as if it were the "authority" referred to therein.

7. The authority, in addition to the powers provided elsewhere in this title, shall possess all of the powers, rights and privileges of the New York city transit authority or its designated subsidiary in connection with the undertaking by the authority of any transit project. The authority, upon suitable notice to and an offer to consult with an officer designated by the city of the New York, may occupy the streets of the city of New York for the purpose of doing any work over or under the same in connection with any transit project without the consent of or payment to such city.

8. After the transfer, transfer back, lease or sublease to the New York city transit authority or its designated subsidiary or other designee of any transit project or part thereof, actions for damages for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, based upon the use, condition or state

of such project or part thereof may not be instituted against the authority, which shall have no liability or responsibility to the transferee, lessee or sublessee or to third parties therefor.

9. Except as the authority shall otherwise agree, title to any transit project or any part thereof or interest therein which shall have been transferred, leased or subleased to the New York city transit authority or its designated subsidiary, shall remain in such transferee, lessee or sublessee any provision of title nine of this article or of any lease or other agreement entered into under the provisions of that title to the contrary notwithstanding.

10. The providing of any transit project shall not relieve the city of New York of its obligations under law and by lease to pay the capital costs of the New York city transit authority or its subsidiaries.

11. No transit project to be constructed upon real property theretofore used for a transit or transportation purpose, or on an insubstantial addition to such property contiguous thereto, which will not change in a material respect the general character of such prior transit or transportation use, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article. Nor shall any transit project or any acts or activities in connection therewith taken by any person or entity, public or private, pursuant to this section be subject to the provisions of article eight of the environmental conservation law if such project, acts or activities require the preparation of a statement under or pursuant to any federal law or regulation as to the environmental impact thereof.

12. The provisions of this section and of all agreements undertaken by the New York city transit authority in accordance therewith shall in all respects be subject to the rights of the holders of any outstanding bonds or notes of such authority.

13. a. All contracts for design, construction, services and materials

pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provisions:

(i) 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.

(ii) At the request of the New York city transit authority, the metropolitan transportation authority, and their subsidiaries (hereinafter referred to as the authority), 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 authority 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.

(iii) 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 authority, 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. (iv) The contractor will include the provisions of subparagraphs (i) through (iii) of this paragraph 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 authority.

b. The authority shall establish procedures and guidelines to ensure that contractors and subcontractors undertake programs of affirmative

action and equal employment opportunity as required by this subdivision. 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 authority may take appropriate action including contractual sanctions for non-compliance to effectuate the provisions of this subdivision and shall be responsible for monitoring compliance with this title.

14. (a) (i) In the performance of projects pursuant to this title minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The authority provided for in this title 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 title shall be construed to limit the ability of the authority 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.

(ii) In the implementation of this subdivision, the authority 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 subdivision. If the authority determines that by virtue of the imposition of the requirements of any such law, in respect to capital project contracts, the provisions thereof duplicate or conflict with such law, the authority may waive the applicability of this subdivision to the extent of such duplication or conflict.

(iii) Nothing in this subdivision 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 title be applied without regard to local circumstances to all projects or in all communities.

(b) In order to implement the requirements and objectives of this subdivision, the authority 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.

15. (a) In connection with the performance of projects pursuant to this section, the authority shall, to the extent practicable and not inconsistent with any federal law, regulation or requirement, promote the meaningful participation of small business and New York state business enterprises in the provision of goods and services that are produced or manufactured in New York state as part of procurements undertaken by the authority.

(b) The authority shall within one hundred eighty days after the effective date of this subdivision develop, and review annually thereafter, a plan to effect the purposes of this subdivision.