§ 1678. Powers of the authority. The authority shall have power

1. To sue and be sued;

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

3. To acquire in the name of the state by purchase or condemnation, gift or devise real property or rights of easement on terms necessary or convenient for its corporate purposes; to acquire, hold and dispose of personal property for its corporate purposes;

4. To make by-laws for the management and regulation of its affairs;

5. To appoint officers, agents and employees and fix their compensation, provided, however, that the appointment of the executive director shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter;

6. To make contracts and to execute all instruments necessary or convenient;

7. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of dormitories and appurtenant facilities for the institutions specified in section sixteen hundred seventy-six, and from time to time to modify such plans, specifications, designs or estimates;

8. By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, dormitories and necessary and usual attendant facilities for state-operated institutions and statutory and contract colleges under the jurisdiction of the state university of New York pursuant to agreement with the state university construction fund created by section three hundred seventy-one of the education law;

9. To maintain, reconstruct and operate such dormitories until the cost thereof and the outstanding bonds thereon have been liquidated;

10. To fix and collect rentals and other charges for the use of dormitories and judicial facilities, court facilities or combined occupancy structures or any parts thereof; to contract with holders of its bonds to fix such rentals and charges at rates at least sufficient to pay for all costs of operation, maintenance and repairs of the dormitories and judicial facilities, court facilities or combined occupancy structures, and the interest on and amortization of, or payment of its bonds issued to finance dormitories, judicial facilities, court facilities or combined occupancy structures; to provide by contract for the promulgation, by the appropriate officer or body, in relation to any institution described in subdivision two of section sixteen hundred seventy-six of this title, of such reasonable and proper rules and regulations as may be necessary to assure the maximum use of the facilities of any dormitory at all times;

11. To borrow money and to issue negotiable bonds or notes and to provide for the rights of the holders thereof;

12. To do all things necessary or convenient to carry out the purposes of this authority.

13. In connection with court facilities or combined occupancy structures:

(a) To acquire by purchase, condemnation, gift, devise, lease or other agreement such real property or an interest therein as may be necessary or convenient for the acquisition, construction, reconstruction, rehabilitation, improvement or provision of court facilities or combined occupancy structures;

(b) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the design, construction, reconstruction, rehabilitation or improvement of court facilities or combined occupancy structures, and the equipping and furnishing thereof;

(c) To prepare or cause to be prepared a facility design and performance plan with each participating municipality relating to court facilities and combined occupancy structures in any case where the authority and the participating municipality have agreed that the

authority will award contracts for the design and construction of the project. Such plan shall set forth the terms and conditions associated with the construction management process, including, but not limited to, provisions relating to the selection of architects, construction consultants, construction managers and contractors, the relative responsibilities of the authority and the participating municipality with respect to the initial project budget and the court facilities program, the preparation of working drawings and budgets, the project construction process, beneficial occupancy including formal notifications, punch lists and acceptance by all parties, notification of construction completion, project close-out, and the commencement of responsibility for maintenance of the facility. Such plan shall also include provisions relating to the responsibility of the authority to require appropriate performance and surety bonds, the diligent pursuit by the authority of remedies against architects, contractors and sureties deemed to be in default in the performance of their obligations, and, generally, the management of the construction process in a professional manner in accordance with prevailing construction industry standards. The authority shall submit the facility design and performance plan to the chief administrator for submission to the court facilities capital review board in accordance with section sixteen hundred eighty-c of this chapter;

(d) To design, construct, reconstruct, rehabilitate or improve court facilities or combined occupancy structures and to enter into contracts to cause court facilities or combined occupancy structures to be designed, constructed, reconstructed, rehabilitated or improved;

(e) To enter into leases, subleases or other agreements with participating municipalities in connection with court facilities and jointly with participating municipalities and other persons, firms, associations, corporations or agencies, including public bodies, in accordance with section sixteen hundred eighty-b of this article;

(f) To sell, convey, lease, sublease or otherwise transfer any real property or interest therein held by the authority to any person, firm, association, corporation or agency, including a public body, for the purpose of constructing or otherwise providing thereon a combined occupancy structure, provided that, simultaneously therewith, the authority enters into an agreement for the reconveyance, purchase,

lease, sublease or other acquisition of the court facilities to be contained in such combined occupancy structures.

Any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any court facilities or combined occupancy structures shall comply with the provisions of sections one hundred one and one hundred three of the general municipal law.

14. To adopt resolutions providing for a program of self-insurance to pay for uninsured losses incurred by the dormitory authority by reason of a deductible feature in a policy or policies of insurance or to prevent a default in the compliance with any provision of any agreement, lease or resolution of the authority relating to or authorizing the issuance of obligations of the authority. When such program is approved by the superintendent of financial services of the state of New York, such program shall for all purposes of compliance by the dormitory authority with any provision of an agreement, lease or resolution of the authority relating to or authorizing the issuance of obligations of the authority be deemed to be an insurance policy issued by an insurance company authorized to do business in the state of New York. The approval of the superintendent shall be based upon such standards as he shall from time to time determine to be appropriate in light of the said program, including but not limited to reasonable requirements regarding the amounts and kinds of coverage provided and the minimum financing maintained, and provided that the superintendent shall determine that such program will not be prejudicial to the best interests of the people of this state.

15. The authority shall, notwithstanding any other law, have the power to mortgage, pledge or assign any real or personal property of any dormitory or board of cooperative educational services school facility as and to the extent authorized by any agreement or lease between the authority and any educational institution as defined in section sixteen hundred eighty of this title or any board of cooperative educational services to secure any and all liabilities of such educational institution or board of cooperative educational services under such

agreement or lease in respect of such dormitory or board of cooperative educational services facility not theretofore paid or discharged, or other real or personal property of the authority. Any such mortgage, pledge or assignment by the authority, unless otherwise provided therein, shall be superior to any right an educational institution or a board of cooperative educational services may have with respect to the property subject to such mortgage, pledge or assignment, and upon foreclosure of any such mortgage or enforcement of any such pledge or assignment any such right shall be extinguished.

16. To acquire and to enter into commitments to acquire any federally guaranteed security and to pledge or otherwise use any such federally guaranteed security in such manner as the authority deems in its best interest to secure or otherwise provide a source of repayment on any of its bonds issued on behalf of any hospital designated as an educational institution in section sixteen hundred eighty of this title or to enter into any appropriate agreement with any hospital designated as an educational institution in section sixteen hundred eighty of this title whereby the authority may make a loan to any such hospital for the purpose of acquiring and entering into commitments to acquire any federally guaranteed security. Any agreement entered into pursuant to this subdivision may contain such provisions which are deemed necessary or desirable by the authority for the security or protection of the authority or the holders of such bonds; provided, however, that the authority, prior to making any such acquisition, commitment or loan, shall first determine, and shall first enter into an agreement with any such hospital or any other appropriate institution or corporation to require, that the proceeds derived from the acquisition of any such federally guaranteed security will be used for the purpose of providing or refinancing any dormitory for any hospital designated as an educational institution in section sixteen hundred eighty of this title, including any facility, real property, equipment and appurtenant and related facilities.

17. To make and undertake commitments to make education loans to any independent institution for higher education located in this state, recognized and approved by the regents of the university of the state of

New York, which provides a course of study leading to the granting of a post-secondary degree, for the purpose of enabling any such institution for higher education to make student loans to any student attending such independent institution for higher education, the parents of any such student or both for the purpose of financing the cost of attendance by such student at such independent institution for higher education, to make and to commit to make direct loans to a student or the parents of a student or both for the purpose of financing the cost of attendance by such student at a public institution for higher education, and to purchase, acquire or take by assignment or otherwise student loans from such an independent institution for higher education. Each loan and purchase of a student loan by the authority authorized by this subdivision shall be premised upon an agreement, agreements, or supplements thereto, between the authority and such institution for higher education, such student or the parents of the student or both, which agreement, agreements, or supplements thereto, may make provisions as to payment, security, payment of any expenses or costs of the authority and any other matters deemed appropriate by the authority.

All provisions of this title not inconsistent with the provisions of this subdivision shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this subdivision, and with respect to the powers of the authority and any such institution for higher education provided, however, that the use of any such powers in order to effectuate the purpose of section sixteen hundred seventy-nine of this chapter be expressed by guidelines subject to the review of the advisory committee pursuant to paragraph ten of section sixteen hundred seventy-nine of this chapter. Bonds of the authority issued for the purposes of this subdivision shall be deemed to be issued for the financing and construction of a project within the meaning of section fifty-one of this chapter.

18. To make and undertake commitments to make HEAL education loans to any independent institution for higher education located in this state, which is an eligible institution pursuant to title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, for the purpose of enabling any such institution to

make HEAL student loans, to make and to commit to make HEAL direct loans to an eligible student attending a public or independent institution for higher education, and to purchase, acquire or take by assignment or otherwise HEAL student loans, and to sell and commit to sell HEAL direct loans, HEAL education loans and HEAL student loans purchased, acquired or taken by assignment or otherwise by the authority to the extent necessary to assure the marketability of and the adequacy of the security for the bonds of the authority. Each loan and purchase of a HEAL student loan by the authority authorized by this subdivision shall be premised upon an agreement, agreements, or supplements thereto, between the authority and such institution for higher education or such student, which agreement, agreements, or supplements thereto, may, to the extent permitted by federal law and regulations, make provisions as to payment, security, payment of any expenses or costs of the authority and any other matters deemed appropriate by the authority. The authority shall be deemed to be and is authorized to act as an eligible lender as defined in title IV, part C, of the "Health Professions Educational Assistance Act of 1976", as now or hereafter amended, for purposes of the health education assistance loan program authorized thereunder.

All provisions of this title not inconsistent with the provisions of this subdivision shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this subdivision, and with respect to the powers of the authority and any such institution for higher education, provided, however, that the use of any such powers in order to effectuate the purpose of sections sixteen hundred seventy-nine and sixteen hundred seventy-nine-a of this chapter be expressed by guidelines subject to the review of the advisory committee pursuant to subdivision ten of section sixteen hundred seventy-nine of this chapter. Bonds of the authority issued for the purposes of this subdivision shall be deemed to be issued for the financing and construction of a project within the meaning of section fifty-one of this chapter.

19. By contract or contracts or by its own employees to design, contruct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, or otherwise provide judicial facilities.

All provisions of this title not inconsistent with the provisions of this subdivision shall be applicable with respect to any bonds of the authority issued to obtain funds for any purpose authorized under this subdivision, and with respect to the powers of the authority; provided, however, that the authority shall not undertake the provision of judicial facilities authorized by this subdivision unless the governing body of any county, within the tenth judicial district, that does not contain a city for whose use judicial facilities are to be provided consents thereto.

20. To enter into a contract or contracts with the commissioner of health for the purpose of implementing the health facility restructuring pool pursuant to section twenty-eight hundred fifteen of the public health law, and to receive, hold, invest and pay out moneys deposited in the restructuring pool. In connection therewith, the authority shall exercise all of its powers under article eight of this chapter.

21. (a) To enter into one or more agreements with the state university of New York to provide financial assistance on behalf of the state, as provided in subdivision eight of section six thousand three hundred four of the education law, to the local sponsors of community colleges for the design, acquisition, construction, reconstruction, rehabilitation or improvement of one or more facilities for locally sponsored community colleges and the furnishing or equipping of such facilities. Each such agreement shall provide for annual payments to the dormitory authority from the state aid or other financial assistance provided to the local sponsor of such community college and paid into the community college tuition and instructional fund pursuant to paragraph (iii) of subdivision two of section ninety-seven-p of the state finance law, and contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the establishment of reserve funds and indemnities. Each such agreement shall be subject to the approval of the director of the budget.

(b) Any such agreement entered into pursuant to this subdivision may provide that the provisions thereof shall remain in force and effect until the issue of bonds of the dormitory authority to which it relates,

together with interest thereon, interest on any unpaid installments of interest and the fees and expenses of the dormitory authority, are fully met and discharged, and any payments to be made by the state may be pledged by the dormitory authority to secure such bonds.

(c) No agreement entered into pursuant to this section shall be construed to limit or diminish the power of the dormitory authority with respect to a locally sponsored community college with respect to providing construction related services in connection with the construction, reconstruction, improvement, renovation, development or expansion of locally sponsored community college facilities.

23. To make equipment loans pursuant to section sixteen hundred seventy-nine-b of this article and, in connection with such equipment loans, to enter into all necessary or useful agreements with respect to such loans.

24. To acquire bonds, notes or other obligations of any school district or city of the state issued to finance or refinance school district capital facilities and school district capital equipment and to make loan commitments and loans to school districts and to cities for such purposes, and to enter into arrangements with school districts and cities for the purchase of such bonds, notes or other obligations.

* 25. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by this article in connection with the exercise of remedies by the authority against any borrower regulated under article twenty-eight of the public health law that has defaulted in its obligations under its loan agreement or mortgage with the authority and for which an event of default has been declared by the authority. Each such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority (other than the issuance of indebtedness) in connection with real and personal property with respect to which the authority holds or held a mortgage, security interest or other collateral interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating

agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all instances subject to the provisions of any contract with bondholders, the transfer of title to any such subsidiary or any other actions taken by the authority or such subsidiary to enforce the authority's rights under the mortgage, security interest or other collateral interest or to protect, acquire, manage or dispose of the property shall be deemed to be a corporate purpose of the authority and shall not impair the validity of any bonds, notes or other obligations of the authority to which the mortgage, security interest or other collateral interest relates.

(b) Each such subsidiary authorized by paragraph (a) of this subdivision shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the authority as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state. Each such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the authority. The members of each such subsidiary shall be the same as the members of the authority and the provisions of subdivision two of section sixteen hundred ninety-one of this title shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations or responsibilities of any such subsidiary upon the authority and the authority shall have no liability or responsibility therefor unless the authority expressly agrees to assume the same.

(d) Each such subsidiary created pursuant to this subdivision shall be

subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chapter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

Such sale, exchange, lease, transfer and conveyance shall be consistent with and made pursuant to a plan to increase access and quality of health care services and preventative care and create affordable housing approved by the commissioner of New York state division of homes and community renewal, the commissioner of health and the director of the division of the budget to transform the Central Brooklyn region. Such plan shall include any combination of initiatives intended to: increase access to open spaces, transform health care by increasing access and quality of health care services and preventative care, create affordable housing, improve youth development, prevent community violence, address social determinants of health, and provide any ancillary services thereto.

Notwithstanding the foregoing, no such sale, exchange, transfer, lease or conveyance shall be permitted pursuant to this section, unless in the opinion of bond counsel to the authority, such sale, exchange, transfer, lease or conveyance does not impair the tax-exempt status of any outstanding bonds or other obligations, if any, issued by the authority to finance or refinance the subject property. For the purposes of such opinion, the valuation of such property being sold, exchanged, transferred, leased or conveyed may reflect the terms and conditions set forth in the plan.

(f) The description in paragraph (e) of this subdivision of the lands to be transferred and conveyed is not intended to be a legal description, but is intended only to identify the premises to be

conveyed. As a condition of transfer and conveyance, the Atlantic Avenue Healthcare Property Holding Corporation shall receive an accurate survey and description of the lands generally described in paragraph (e) of this subdivision, which may be used in the conveyance thereof.

* NB Effective until July 1, 2028

* 25. (a) To form a subsidiary for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by article eight of this chapter in connection with the exercise of remedies by the authority against North General Hospital, an eligible secured borrower (as defined in chapter five hundred ninety of the laws of two thousand two) located in the borough of Manhattan, New York that has defaulted in its obligations under its loan agreement or mortgage with the authority and for which an event of default has been declared by the authority. Such subsidiary created pursuant to this subdivision may exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority other than the issuance of indebtedness, in connection with real and personal property with respect to which the authority holds or held a mortgage, security interest or other collateral interest including: (i) bidding for, taking, holding, selling, conveying, assigning or transferring title to such property; (ii) entering into leases, subleases, operating agreements, security agreements, loan agreements or other encumbrances or arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner of such property pursuant to such agreements or encumbrances; (iii) assuming any indebtedness or other liabilities secured by such property. Notwithstanding any other provision of law to the contrary, but in all instances subject to the provisions of any contract with bondholders, the transfer of title to such subsidiary or any other actions taken by the authority or the subsidiary to enforce the authority's rights under the mortgage, security interest or other collateral interest or to protect, acquire, manage or dispose of the property shall be deemed to be a corporate purpose of the authority and shall not impair the validity of any bonds, notes or other obligations of the authority to which the mortgage, security interest or other collateral interest relates.

(b) Such subsidiary authorized by paragraph (a) of this subdivision shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the authority as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the authority. The members of such subsidiary shall be the same as the members of the authority and the provisions of subdivision two of section sixteen hundred ninety-one of this title shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations or responsibilities of such subsidiary upon the authority and the authority shall have no liability or responsibility therefor unless the authority expressly agrees to assume the same.

(d) Such subsidiary created pursuant to this subdivision shall be subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

(e) Notwithstanding any other provision of law to the contrary, including but not limited to title five-A of article nine of this chapter, the Atlantic Avenue Healthcare Property Holding Corporation is hereby authorized and empowered to sell, exchange, lease, transfer and convey certain real property located at 483-503 Herkimer Street, 1028-1038 Broadway, 528 Prospect Place and/or 1366 East New York Avenue, all in Brooklyn, New York as directed by the commissioner of New York state division of homes and community renewal, upon such terms and conditions as such commissioner may fix and determine.

Such sale, exchange, lease, transfer and conveyance shall be consistent with and made pursuant to a plan to increase access and quality of health care services and preventative care and create affordable housing approved by the commissioner of New York state

division of homes and community renewal, the commissioner of health and the director of the division of the budget to transform the Central Brooklyn region. Such plan shall include any combination of initiatives intended to: increase access to open spaces, transform health care by increasing access and quality of health care services and preventative care, create affordable housing, improve youth development, prevent community violence, address social determinants of health, and provide any ancillary services thereto.

Notwithstanding the foregoing, no such sale, exchange, transfer, lease or conveyance shall be permitted pursuant to this section, unless in the opinion of bond counsel to the authority, such sale, exchange, transfer, lease or conveyance does not impair the tax-exempt status of any outstanding bonds or other obligations, if any, issued by the authority to finance or refinance the subject property. For the purposes of such opinion, the valuation of such property being sold, exchanged, transferred, leased or conveyed may reflect the terms and conditions set forth in the plan.

(f) The description in paragraph (e) of this subdivision of the lands to be transferred and conveyed is not intended to be a legal description, but is intended only to identify the premises to be conveyed. As a condition of transfer and conveyance, the Atlantic Avenue Healthcare Property Holding Corporation shall receive an accurate survey and description of the lands generally described in paragraph (e) of this subdivision, which may be used in the conveyance thereof.

* NB Effective July 1, 2028

* 26. To enter into a design and construction management agreement with the department of environmental conservation, pursuant to which one or more facilities are to be designed, constructed, reconstructed, rehabilitated, improved, furnished or equipped for such department. Any such design and construction management agreement entered into pursuant to this subdivision shall provide for the following: the scope of design and construction management services to be provided by the authority, the manner in which those services will be provided, the fees to be charged by the authority and the sources of funds for the projects. No design-build contract as defined in chapter fifty-six of the laws of two thousand eleven shall be awarded pursuant to this subdivision.

* NB Repealed April 1, 2027

* 27. To enter into a design and construction management agreement with the office of parks, recreation and historic preservation, pursuant to which one or more facilities are to be designed, constructed, reconstructed, rehabilitated, improved, furnished or equipped for such office. Any such design and construction management agreement entered into pursuant to this subdivision shall provide for the following: the scope of design and construction management services to be provided by the authority, the manner in which those services will be provided, the fees to be charged by the authority and the sources of funds for the projects. No design-build contract as defined in chapter fifty-six of the laws of two thousand eleven shall be awarded pursuant to this subdivision.

* NB Repealed April 1, 2027

28. To enter into a construction management agreement with the New York city housing authority, pursuant to which one or more facilities owned or operated by the New York city housing authority located in the city of New York are to be constructed, reconstructed, demolished, improved, modernized, renovated or expanded for such authority.

* 29. Notwithstanding any law to the contrary, to establish a pilot program for the award of contracts up the maximum dollar amount specified in paragraph (e) of this subdivision, for the procurement of goods or services from, or for the construction, reconstruction, rehabilitation or improvement of facilities by, small businesses as defined in section one hundred thirty-one of the economic development law and minority-owned and women-owned business enterprises as defined in section three hundred ten of the executive law, notwithstanding the expiration of such section pursuant to subdivision (h) of section one hundred twenty-one of chapter two hundred sixty-one of the laws of nineteen hundred eight-eight, as amended, in accordance with the following provisions:

(a) Procurements made pursuant to this subdivision shall be governed by the authority's procurement policy and guidelines adopted pursuant to section twenty-eight hundred seventy-nine of this chapter, with participation in the pilot program confined to small businesses, as defined in section one hundred thirty-one of the economic development

law, and minority-owned and women-owned business enterprises, as defined in section three hundred ten of the executive law.

(b) Procurements made pursuant to this subdivision shall be designated as such by the authority, in its sole discretion, pursuant to pre-established criteria contained in the authority's procurement and policy guidelines described in paragraph (a) of this subdivision. Such designation shall be made prior to the advertisement and request for bids or proposals, and any such advertisement or request shall indicate this designation clearly.

(c) If the total number of parties responding and considered capable of meeting the specifications and terms of the advertisement and request for bids or proposals is less than three, or if the authority determines that acceptance of any bid or proposal will result in the payment of an unreasonable price, the authority shall reject all responses and withdraw the designation made pursuant to paragraph (b) of this subdivision.

(d) Procurements made pursuant to this subdivision may be undertaken in conjunction with section one hundred forty-seven of the state finance law authorizing a mentor-protege program to foster long-term relationships between approved mentor firms and small business concerns and minority and women-owned businesses certified pursuant to article fifteen-A of the executive law.

(e) The total value of contracts awarded pursuant to this subdivision shall not exceed the greater of twenty million dollars or five percent of the value of all contracts awarded by the authority in a given fiscal year.

The authority shall submit a report, no later than September thirtieth, two thousand twenty-four, and annually thereafter, to the governor, the temporary president of the senate and the speaker of the assembly regarding procurements made pursuant to this subdivision. Such report shall include a description of each procurement made pursuant to this subdivision, information regarding the procurement process for each such procurement contract, including the list of responding entities that demonstrated the capability to meet the specifications and terms of the procurement made pursuant to this subdivision if such procurement did not use lowest responsible bidding, the project identification

number and a description for each such project, the completion date or projected completion date as applicable for each such project, the status of each such project, the total cost or projected cost and cost modifications of each such project procured pursuant to this subdivision, indication of whether the party awarded a contract pursuant to this subdivision served as a general contractor or subcontractor in fulfilling the contract, and the total dollar value of monies paid to minority-owned and women-owned business enterprises pursuant to this subdivision itemized by year and including the total dollar values for the five years preceding the respective annual report's release date. For annual reports any new procurements and changes during the period covered by the report shall be identified separately.

* NB Repealed July 1, 2027

30. To enter into one or more agreements with the office of cannabis management, the cannabis control board, or the private debt or equity fund, selected pursuant to subdivision thirty-two of this section, in which the state or any state agency, public authority, public benefit corporation, or division thereof has invested and is formed for the limited purpose of funding the capital costs associated with establishing conditional adult-use cannabis retail dispensaries for operation by social equity licensees duly licensed pursuant to article two of the cannabis law, for the following purposes:

(a) (i) To acquire by lease or sublease such real property or any interest therein as may be necessary or convenient for the construction, reconstruction, rehabilitation, improvement, or provision of conditional adult-use cannabis retail dispensaries for operation by social equity licensees, as agent, and (ii) to acquire by purchase or other agreement, personal property or interest therein as may be necessary for the acquisition, construction, reconstruction, rehabilitation, improvement or provision of such dispensaries, whether as principal or agent;

(b) To prepare or cause to be prepared, whether as principal or agent, plans, specifications, designs, and estimates of costs for the design, construction, reconstruction, rehabilitation, improvement, furnishing or equipping of conditional adult-use cannabis retail dispensaries for operation by social equity licensees;

(c) To design, construct, reconstruct, rehabilitate, or to cause the

design, construction, rehabilitation or improvement of, whether as principal or agent, conditional adult-use cannabis retail dispensaries for operation by social equity licensees and to enter into contracts to cause such facilities to be designed, constructed, reconstructed, rehabilitated, improved, furnished, or equipped;

(d) To enter, as lessor or as agent for the lessor, into leases, subleases, or other agreements with the social equity licensees operating for the conditional adult-use cannabis retail dispensaries; provided that (i) the authority shall only enter in lease agreements as agent of the private debt or equity fund selected pursuant to subdivision thirty-two of this section, (ii) any general terms of such lease agreement, and any material deviations or changes therefrom, are approved by the office of cannabis management; and

(e) To enter, as lender or as agent to the lender, into a non-recourse loan or other agreements with the social equity licensees operating the conditional adult-use cannabis retail dispensaries, provided that any general terms of such non-recourse loan agreements, and any material deviations or changes therefrom, are approved by the office of cannabis management and that the terms of the non-recourse loan agreement do not include a penalty for early termination but will allow for the inclusion of a make-whole provision and shall not, at the time the loan is established, exceed the prime lending rate plus one-half the interest rate specified under subdivision one of section fourteen-a of the banking law, nor include terms or conditions that would allow for an equity position in the social equity licensee's conditional adult-use cannabis retail dispensary business or that would entitle a share in, or claim to, any revenue or profit generated by such business.

31. (a) To form one or more subsidiaries for the purpose of limiting the potential liability of the authority when exercising the powers and duties conferred upon the authority by subdivision thirty of this section in connection with certain work performed on behalf of the office of cannabis management, the cannabis control board, or the private debt or equity fund in which the state or any state agency, public authority, public benefit corporation, or division thereof has invested and has been selected pursuant to subdivision thirty-two of this section. Such subsidiary created pursuant to this subdivision may

exercise and perform one or more of the purposes, powers, duties, functions, rights and responsibilities of the authority other than the issuance of indebtedness, in connection with real and personal property with respect to which the authority holds title or a leasehold interest, in its own name or as agent for the titleholder or leaseholder including, but not limited to: (i) entering into leases, subleases, or other arrangements with regard to such property and acting in a manner consistent with the rights, obligations or responsibilities of the owner, landlord or tenant of such property pursuant to such lease or sublease agreements; (ii) servicing non-recourse loan payments; (iii) furnishing property management services; and (iv) providing general operational and administrative support services.

(b) Such subsidiary authorized by paragraph (a) of this subdivision shall be established in the form of a public benefit corporation by executing and filing with the secretary of state a certificate of incorporation which shall identify the authority as the entity organizing such subsidiary and set forth the name of such subsidiary public benefit corporation, its duration, the location of its principal office and its corporate purposes as provided in this subdivision and which certificate may be amended from time to time by the filing of amendments thereto with the secretary of state. Such subsidiary shall be organized as a public benefit corporation, shall be a body politic and corporate, and shall have all the privileges, immunities, tax exemptions and other exemptions of the authority. The members of such subsidiary shall be the same as the members of the authority and the provisions of subdivision two of section sixteen hundred ninety-one of this title shall in all respects apply to such members when acting in such capacity.

(c) Nothing in this subdivision shall be construed to impose any liabilities, obligations, or responsibilities of such subsidiary upon the authority and the authority shall have no liability or responsibility therefor unless the authority expressly agrees to assume the same.

(d) Such subsidiary created pursuant to this subdivision shall be subject to any other provision of this chapter pertaining to subsidiaries of public authorities.

32. (a) (i) To select a private debt or equity fund formed for the sole purpose of funding the capital costs, including closely related ancillary and administrative costs, associated with establishing conditional adult-use cannabis retail dispensaries for operation by social equity licensees deemed to be eligible by the office of cannabis management for financing through such fund or related costs, provided that any partnership agreement between the fund and the authority, shall be subject to the written approval or resolution of the cannabis control board, the board of the dormitory authority, and the director of the division of the budget, and the selection of such general partner shall be made in consultation with the office of cannabis management.

(ii) The organizational structure and investment policy of the selected fund and the provisions of the partnership agreement shall satisfy the following parameters and requirements:

(1) The fund shall have a public policy committee composed of the chair of the cannabis control board, executive director of the office of cannabis management, and the president of the authority, or their representatives, who shall guide the decisions of the selected fund to achieve the public policy goals of the state, which includes providing advice and direction to the fund where matters implicate public policy and confirming the fund's adherence to its public purpose, which includes compliance with stated objectives or mission of the cannabis law and the marihuana regulation and taxation act, generally and more specifically, to provide social equity conditional adult-use cannabis retail dispensary licensees with the opportunity of acquiring commercially viable retail operations;

(2) Such committee shall:

(A) review and approve of the fund's investment policy statement and any changes thereto;

(B) review and approve any changes to the use and distribution of investment funds;

(C) review and approve the fund's strategic plan, particularly those pertaining to the investor class, the establishment, management, and liquidation of investments by the fund;

(D) monitor the fund's risk profile, investment activity, and performance;

(E) approve the maximum amount of promised return on investment,

management fees, and compensation of the general partner;

(F) review and approve any changes or amendments to the fund's organizational structure, partnership agreements, and the fund manager or servicer's agreement to ensure that they are consistent with the fund's public purpose;

(G) take reasonable steps, at the direction of the office of cannabis management, to provide geographic equity and representation in establishing such conditional adult-use cannabis retail dispensaries for operation by social equity licensees, to the extent practicable, in support of the public purpose of the fund and further, at the direction of the office of cannabis management that the site selection for such dispensaries comports with the requirements of the cannabis law and the marihuana regulation and taxation act, and its rules and regulations governing the location of conditional adult-use cannabis dispensaries; and

(H) confirm that any real property leases and loan agreements issued by or on behalf of the fund shall be provided to social equity licensees, duly licensed pursuant to article two of the cannabis law;

(3) The general partner and the fund shall to the extent allowable by section one of article five of the state constitution, authorize the comptroller of the state, or the comptroller's legally authorized representatives, to access, examine, or audit the accounts and books of the fund including its receipts, disbursements, contracts, investments, and any other items directly relating to its financial standing and cooperate with any such financial examination or financial audit on an annual basis. The general partner shall agree to cause the key officers to be available to discuss the fund and the partnership and its activities at the time of the audit;

(4) The general partner shall agree to cause the key officers to be available to discuss the fund and the partnership and its activities at the request of the public policy committee;

(5) Any real property subleased out by the fund to a social equity licensee shall be at the same rate on which the fund has leased such property;

(6) The fund shall not be authorized to borrow any money or to incur any indebtedness, including guarantees, except when approved by the public policy committee;

(7) The fund shall not be voluntarily terminated early without the prior consent of the public policy committee;

(8) The fund shall have a conflict-of-interest policy approved by the public policy committee;

(9) Any loan agreement the fund enters into with social equity licensees shall be a non-recourse loan and shall allow prepayment of the debt without any penalty imposed by the fund but will allow for the inclusion of a make-whole provision and shall not, at the time that the non-recourse loan is established, exceed the prime lending rate plus one-half the maximum interest rate specified under subdivision one of section fourteen-a of the banking law;

(10) The fund shall not accept more than two hundred million dollars in total investment over the course of its life and the state's contribution to the fund shall not exceed fifty million dollars; and

(11) The fund shall not take any equity positions in, issue equity loans to, or enter into revenue or profit sharing agreements with any social equity adult-use cannabis retail dispensary business or include any terms and conditions in an agreement with such business to that effect; the fund shall also not include any excessive penalties within the loan agreements; and

(12) Any other requirement as the dormitory authority may deem appropriate, in consultation with the office of cannabis management, or the cannabis control board.

(b) (i) After the funding of the private debt or equity fund as provided pursuant to this subdivision, the authority shall prepare an annual report beginning on December thirtieth, two thousand twenty-two and annually thereafter, which report shall include, but not be limited to:

(1) the number of conditional adult-use cannabis retail dispensaries assisted by the authority pursuant to this subdivision;

(2) the geographic distribution of sites designated by the office of cannabis management and prepared by the authority for conditional adult-use cannabis retail dispensaries for operation by licensed social equity businesses; and

(3) any other such data and information, including information about subsidiary or subsidiaries created pursuant to subdivision thirty-one of this section.

(4) Additionally, for the first report, the authority shall report on the procurement and selection of the general partner.

(ii) Such report shall be published on the authority's website and presented to the governor, the temporary president of the senate and the speaker of the assembly, no later than December thirtieth, two thousand twenty-two and annually thereafter; and

(iii) The authority shall further submit a copy of the partnership agreement between the fund and the authority, to the governor, the temporary president of the senate, and the speaker of the assembly no later than fifteen days after such agreement has been fully executed.