§ 213. Project labor agreements. 1. For the purposes of this section, "project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and the labor organization, including an organization composed of more than one labor union, determined by the franchise oversight board as representing the largest number of employees likely to work on the project, establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

2. Notwithstanding the provisions of any general, special, or local law to the contrary, in regard to the video gaming terminal facility or related development at a thoroughbred racing facility:

(a) The franchise oversight board may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the franchise oversight board's request for proposals for the project and when the franchise oversight board determines that the record supporting the decision to enter into such an agreement establishes that the interests underlying the competitive bidding laws are best met by requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.

(b) Any contract to which the franchise oversight board is a party, and any contract entered into by a third party acting in place of, on behalf of and for the benefit of the franchise oversight board pursuant to any lease, permit or other agreement between such third party and the franchise oversight board, for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement, of a project undertaken pursuant to this chapter, shall be subject to all of the provisions of article eight of the labor law, including the enforcement of prevailing wage requirements by the fiscal officer as defined in paragraph e of subdivision five of section two hundred twenty of the labor law to the same extent as a contract of the

state, and shall be deemed public work for purposes of such article.

(c) Every contract entered into by the franchise oversight board for a project shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this section and a performance bond for the faithful performance of the project, which shall conform to the provisions of section one hundred three-f of the general municipal law, and that a copy of such performance and payment bonds shall be kept by the franchise oversight board and shall be open to public inspection.

(d) For the purposes of article fifteen-A of the executive law, any person entering into a contract for a project authorized pursuant to this section shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

(e) Whenever the franchise oversight board enters into a contract, subcontract, lease, grant, bond, covenant or other agreement for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement with respect to each project undertaken pursuant to this chapter, the franchise oversight board shall consider the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women owned business enterprises pursuant to article fifteen-A of the executive law through joint ventures or subcontractor relationships.

(f) The franchise oversight board shall further require, on any contract for construction in excess of three million dollars with respect to any contract for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that have been approved by the department of labor for not less than three years. The franchise oversight board shall further require that each contractor

and subcontractor shall have graduated at least one apprentice in the last three years and shall have at least one apprentice currently enrolled in such training program. Additionally it must be demonstrated that the program has made significant efforts to attract and retain minority apprentices, as determined by affirmative action goals established for such programs by the department of labor.

(g) Whenever the franchise oversight board enters into a contract under which employees are employed to perform building service work, as that term is defined in section two hundred thirty of the labor law, such work shall be subject to article nine of the labor law to the same extent as building services work performed pursuant to a contract with a public agency.

(h) All developers of and entities having an operational interest in any hotel or video lottery terminal facility at a thoroughbred racing facility in which the state has a proprietary interest or is otherwise acting as a market participant must have entered into an agreement with the labor organization(s) that is/are actively engaged in representing and attempting to represent hotel service, food and beverage, housekeeping, and gaming employees in New York city and the surrounding areas and, where applicable, the Saratoga area that is valid and enforceable under 29 U.S.C. section 185(a) and that prohibits any strikes, picketing or other economic interference with the hotel or video lottery terminal facility and ensures that any operations at the hotel or video lottery terminal facilities involving the use of hotel or video lottery terminal employees that are conducted by contractors, subcontractors, licensees, assignees, tenants or subtenants, shall be done under contracts enforceable under 29 U.S.C. section 185(a) containing the same provisions as specified above.