**§ 17-1907. Contracts for construction of sewer systems.**

1. As used in this section:

a. "Construction" means and includes the building, installation, or extension of a sewer system; the inspection and supervision thereof; the engineering, legal, fiscal and economic investigations; studies, surveys, designs, plans, contract drawings, specifications, procedures; and other actions necessary thereto.

b. "Sewer system" means and includes pipe lines or conduits, pumping stations, force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage (the water-carried human, animal or other treatable wastes from residences, buildings, industrial and commercial establishments or other places) to a point of connection to the sewage treatment works as defined in section 17-1903.

c. "Sewer connection" means and includes a point of connection between a building, residence or other structure and a public sewer.

d. "Residence" means and includes a building or structure which is occupied principally as the home of one or more persons; provided, however, that such building or structure contain not more than two dwelling units.

e. "Municipality" means and includes any county, town, village, district corporation, county or town improvement district, or any two or more of the foregoing which are acting jointly in connection with an eligible project. For purposes of this section only, an Indian reservation located partly or wholly within New York State shall be construed as a "municipality".

f. "Local governing body" means and includes (1) in a county, the county legislative body (2) in a town, the town board; (3) in a village, the board of trustees; (4) in a district corporation or an improvement district, the governing board; (5) in an Indian reservation, the proper

tribal officials.

g. "Federal assistance" means and includes funds available, other than by loan, from the federal government to a municipality, either directly or through allocation by the state, for construction of a sewer system or which are used for such construction, pursuant to any other federal law or program.

i. "Project" means the construction of the whole or connected portion of a sewage collection system. Where the construction of a sewage collection system is phased over a period of years, each phase may be considered as a project.

j. "Eligible project" means a project which in the judgment of the commissioner meets all of the following requirements:

(1) It is in accord with applicable comprehensive studies and reports made pursuant to section 17-1901 of this article;

(2) It conforms with applicable rules and regulations of the commissioner and, in his opinion, reflects a reasonable effort to develop maximum economy in planning, design and construction, with an acceptable ratio between costs and benefits;

(3) It is necessary for the accomplishment of the state water pollution control program;

(4) It is under construction in the period between April 1, 1965 and March 31, 1977;

(5) No portion of the project aided herein is eligible to receive assistance pursuant to section 17-1903;

(6) It serves inhabited residences in existence prior to the effective date of this law;

(7) It serves the public by providing for the collection of sewage (house connections and pipes collecting exclusively industrial, commercial and other nonresidential waste are ineligible);

(8) The project or major part thereof is, at the time of construction, located in: (a) a town which has a total population of seventeen thousand or less persons, or (b) a town outside of village area which has a population density per square mile of less than one hundred persons.

k. "Capital cost" means the actual cost of construction of an eligible project, not to include the cost of securing financing or interest on funds borrowed to finance such construction, and representing that part of the cost of the eligible project that is not paid by the federal government.

l. "Annual debt service" means such amounts as shall be required to be paid annually to amortize obligations (both principal and interest) issued in order to finance the capital cost of an eligible project; provided, however, that for the purposes of state aid, such annual debt service shall be computed on a debt amortization schedule of not less than thirty years nor more than forty years, as the commissioner shall determine, and shall not include any other debt service (whether principal or interest) on obligations of or on behalf of a municipality, other capital costs, or expenditures for the purpose as to which state reimbursement is claimed under any provision of law other than this section. Where the eligible portion of the sewage collection system serves non-residential users as well as residences, the amount of annual debt service to be used in computing state aid shall be reduced as determined by the commissioner, to compensate for the benefits received by the nonresidential users from such system.

m. "State aid" means financial support made available to a municipality by way of state participation in annual debt service, through contracts entered into between the commissioner and the municipality, upon such terms and conditions as the commissioner shall deem appropriate, which shall be based on the number of residences served by the eligible project and computed as follows:

(1) The amount of annual debt service, as defined above, minus the municipality's share of the expense for construction of the sewage collection system.

(2) The municipality's share shall be the product of the number of residential sewer connections served by the project multiplied by an adjusted rate. The adjusted rate shall be determined by applying a valuation correction from the sum of one hundred twenty-five dollars.

(3) Valuation correction shall consist of minus one dollar for each

one thousand dollars or part thereof that the project area per capita full value is less than the average per capita full value for the state excluding all cities. For projects wholly located within a village or town the project area per capita full value shall be the per capita full value for the village, or for the town outside of village area, respectively. For other projects, per capita full value shall be per capita full value of the town or village within which the major portion of the project is located. Per capita full value shall mean the full value of such municipality or area divided by the population thereof.

The amount of such state aid shall be recomputed each year, on the basis of data reported by the local governing body as accepted by the commissioner. State aid shall commence in the state fiscal year beginning April 1, l971. No state-aid payments shall be made on the basis of any portion of the debt service of eligible projects which was due and payable prior to April 1, 1971.

2. For the purpose of meeting the state responsibility as provided herein, with respect to the protection and promotion of the health of the inhabitants of the state by the provision of sewer systems, the commissioner, in the name of the state, may enter into contracts with municipalities having power to construct, operate and maintain sewer systems, and any such municipality may enter into a contract with the commissioner concerning eligible projects. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

a. The cost of the eligible project as determined by the commissioner.

b. The method by which the eligible project shall be financed.

c. An agreement between the commissioner and the municipality to provide state aid to the municipality each year, during the progress of construction or following completion of construction as may be agreed upon by the parties.

d. An agreement by the municipality

(1) To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to section 17-0701 of this article;

(2) To commence operation of the sewer system on completion of the project, and not to discontinue operation of the sewer system without the approval of the commissioner,

(3) To operate and maintain the sewer system in accordance with applicable provisions of this article, the state sanitary code and rules and regulations of the commissioner,

(4) To apply for and make reasonable efforts to secure federal assistance for the project,

(5) To secure the approval of the commissioner before applying for federal assistance, in order to maximize the amounts of such assistance received or to be received for all projects in New York state,

(6) To provide for the payment of the municipality's share of the cost of the project,

(7) To execute a contract or agreement with the owner of the sewage treatment plant, if other than the municipality itself, to accept sewage from the sewage collection system aided under this section, and

(8) To promulgate a municipal sewage use ordinance acceptable to the commissioner.

e. A provision that, in the event that federal assistance which was not included in the calculation of the capital cost becomes available to the municipality, the amount of the state payment shall be recalculated by deducting the amount of such federal assistance from the eligible capital cost, and adjustment shall be made either (1) by the municipality paying to the state the amount by which the state payments actually made exceed the state payments determined by the recalculation or, (2) by deducting the excess paid from subsequent payments to be made by the state.

3. The commissioner may adopt rules and regulations pursuant to subdivision 3 of section 17-0303 of this article governing the making and enforcing of contracts pursuant to this section.

4. All contracts entered into pursuant to this section shall be

subject to approval by the state comptroller, and by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit by and upon the warrant of the comptroller on vouchers approved by the commissioner.

5. In connection with each contract concerning an eligible project the commissioner shall keep adequate records of the amount of the payment by the state pursuant to subparagraph c of subdivision two of this section, and of the amount of federal assistance received by the municipality.