§ 56-0309. Park, historic preservation and heritage area projects.

1. For purposes of this section "commissioner" means the commissioner of the office of parks, recreation and historic preservation.

2. Park projects and historic preservation projects may be undertaken by the office pursuant to the provisions of this article and other applicable provisions of law pursuant to the approval of the commissioner.

3. All historic preservation projects, park projects and heritage area projects shall be undertaken in the state of New York. Except for projects undertaken by the state, the total amount of the state assistance payments toward the cost of any such project shall not exceed fifty percent of the cost. For the purpose of determining the amount of the state assistance payments, the cost of the project shall not be more than the amount set forth in the application for state assistance payments approved by the commissioner. Park and heritage area projects shall develop, expand, or enhance public access to water bodies, promote water based recreation, or enhance the natural, cultural, or historic aspects of water bodies.

4. The commissioner and a municipality may enter into a contract for the undertaking by the municipality of an historic preservation project. Such historic preservation projects shall be recommended to the commissioner by the governing body of the municipality and, when approved by the commissioner, may be undertaken by the municipality pursuant to this title and any other applicable provision of law.

5. The commissioner and a not-for-profit corporation may enter into a contract for the undertaking by the not-for-profit corporation of an historic preservation project. Such a historic preservation project shall be recommended to the commissioner by the governing body of a not-for-profit corporation which demonstrates to the satisfaction of the commissioner that it is capable of operating and maintaining such property for the benefit of the public. Upon approval by the commissioner, such project may be undertaken pursuant to the provisions

of this title and any other applicable provision of law.

6. The commissioner and a municipality may enter into a contract for the undertaking by the municipality of a park project. Such park projects shall be recommended to the commissioner by the governing body of the municipality, and when approved by the commissioner, may be undertaken by the municipality pursuant to this title and any other applicable provisions of law. The office shall also assess existing parks and recreational opportunities in the municipalities where the park project is located and shall give preference to projects which are in or primarily serve areas where demographic and other relevant data for such areas demonstrate that the areas are densely populated and have sustained physical deterioration, decay, neglect or disinvestment, or where a substantial proportion of the residential population is of low income or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities in the area.

7. The commissioner and a not-for-profit corporation may enter into a contract for the undertaking by the not-for-profit corporation of a park project on behalf of a municipality. Such a contract shall be contingent upon the approval of the governing body of each municipality in which the project is located. Such a project shall be recommended to the commissioner by the governing body of a not-for-profit corporation which demonstrates to the satisfaction of the commissioner that it is capable of operating and maintaining such project for the benefit of the public. Upon approval by the commissioner, such project may be undertaken pursuant to the provisions of this title and any other applicable provision of law. The office shall assess existing parks and recreational opportunities in the municipalities where the park project is located and shall give preference to projects which are in or primarily serve areas where demographic and other relevant data for such areas demonstrate that the areas are densely populated and have sustained physical deterioration, decay, neglect or disinvestment, or where a substantial proportion of the residential population is of low income or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities in the area.

8. The commissioner and a municipality, public benefit corporation or not-for-profit corporation may enter into a contract, subject to the approval of the director of the budget, for the undertaking by or through the municipality, public benefit corporation or not-for-profit corporation of a heritage area project including parkwide and district projects identified in a management plan prepared pursuant to section 35.05 of the parks, recreation and historic preservation law. Such projects shall be subject to an agreement by the heritage area management entity to operate or cause to be operated any public facility resulting from such project.

9. A municipality which acquires, develops, improves, restores or rehabilitates property with funds made available pursuant to this title may establish reasonable rules and regulations by local law or otherwise to assure the proper administration and development thereof, provided that no such rule or regulation which restricts the use of such lands or facilities by non-residents of the municipality shall be effective without the approval of the commissioner.

10. The commissioner shall impose such contractual requirements and conditions upon any municipality and any not-for-profit corporation which receive state assistance payments pursuant to this title as may be necessary and appropriate to ensure that a public benefit shall accrue from the use of public funds by such municipality or not-for-profit corporation. Such conditions shall include limitations on the right of the municipality or not-for-profit corporation to demolish or convey such property, provisions for public access or use where appropriate, the granting of facade easements to the state, a requirement that all plans for restoration, rehabilitation, improvement, demolition or other physical change must be subject to the commissioner's approval, and such other conditions which shall assure the preservation and protection of the project.

11. Any not-for-profit corporation which receives state assistance payments pursuant to this section for the acquisition of land for outdoor recreation or conservation purposes shall execute a contract with the commissioner which shall include the following:

(a) An agreement to make and keep the lands accessible to the public unless the not-for-profit corporation can demonstrate to the commissioner's satisfaction that public accessibility would be detrimental to the lands or any natural resources associated therewith;

(b) An agreement not to sell, lease, exchange or donate the lands except to the state, a local government unit or another qualifying tax exempt non-profit organization for recreation and conservation purposes consistent with this title and approved by the commissioner; and

(c) An agreement to execute and convey to the state at no charge a conservation easement, pursuant to title three of article forty-nine of this chapter, over the lands to be acquired with state assistance payments.

12. Real property acquired, developed, improved, restored or rehabilitated by or through a municipality for park projects undertaken pursuant to this section with funds made available pursuant to this section shall not be sold, leased, exchanged, donated or otherwise disposed of or used for other than public park purposes without the express authority of an act of the legislature, which shall provide for the substitution of other lands of equal environmental value and fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by the commissioner.

13. Real property acquired by a not-for-profit organization with funds made available pursuant to this section for park projects undertaken pursuant to this section shall not be used in violation of an agreement entered into pursuant to this section, or sold, leased, exchanged, donated or otherwise disposed of without the express authority of an act of the legislature.

14. The commissioner shall adopt, prior to the acceptance of applications for park, historic preservation and heritage area projects, rules and regulations which shall include eligibility requirements, application procedures, office ranking and review processes, project approval guidelines and criteria, and funding distribution necessary for all state assistance payment programs established pursuant to this

title.

15. Notwithstanding any other provision of law, no state assistance payment under this article may be applied, with respect to any project located within the area of New York county bounded by (a) the northern boundary of Fifty-ninth street and Fifty-ninth street extended; (b) the United States pierhead line; (c) the northern boundary of the area known as Battery Park City; and (d) eight hundred feet inland easterly from the United States bulkhead line:

(i) for, other than for recreational use or access inland of the existing bulkhead line, any roads, bridges, ramps or parking facilities or sewers or water mains;

(ii) for any site improvement, including sewers, or water mains, to support residential, industrial or commercial development;

(iii) to excavate, place fill or plantings in, or place any piling, platform or structure, including a floating structure, in the Hudson river; or

(iv) to plan, evaluate or study any project involving such excavation or placement as described in subparagraph (iii) of this paragraph; and provided further that no contract, or subcontract, with a public benefit corporation, public authority, or any other person or entity, or municipality other than the city of New York shall be entered into for any state assistance payments under this article with respect to any project, or portion thereof, located in the area described in this subdivision without the affirmative approval of the community board or boards wherein the project, or portion thereof, will be located.

16. Notwithstanding the provisions of this section, moneys received from the sale of bonds pursuant to the Clean Water/Clean Air Bond Act of 1996, and available for disbursements for projects developed pursuant to this section, shall also be available for state assistance payments to municipalities and not-for-profit corporations for the capital cost of projects described in subdivision nine of section 44-0119 of this chapter and subject to the review delineated in subdivision ten of section 44-0119 of this chapter. Such monies shall be subject to appropriation.