§ 56-0503. Environmental restoration projects; state assistance.

1. The commissioner may enter into a contract with a municipality to provide state assistance to such municipality to undertake an environmental restoration project. The amount of state assistance payment for such project shall be up to an amount of:

(a) ninety percent of the eligible costs of such project, subject to the provisions set forth in paragraph (b) of this subdivision;

(b) one hundred percent of the eligible costs of any remediation directed by the department to be undertaken outside the boundaries of the real property that is subject to an environmental restoration project approved by the department.

2. In addition to such other terms and conditions that the commissioner may deem to be appropriate, a contract authorized by subdivision one of this section shall provide as follows:

(a) An estimate of the cost of such project as determined by the commissioner at the time of such contract's execution;

(b) An agreement by the commissioner to periodically reimburse the municipality for eligible costs incurred during the progress of such project. Such payments shall be subject to final computation and determination of the total state assistance share of the eligible costs of the entire environmental restoration project;

(c) A provision that the municipality shall assist in identifying a responsible party by searching local records, including property tax rolls, or document reviews, and if, in accordance with the required departmental approval of any settlement with a responsible party, any responsible party payments become available to the municipality, before, during or after the completion of an environmental restoration project, which were not included when the state share was calculated pursuant to this section, the state assistance share shall be recalculated, and the municipality shall pay to the state, for deposit into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law, the difference between the original state assistance payment and the recalculated state share. Recalculation of the state share shall be done each time a payment from a responsible party is received by the

municipality;

(d) A provision that if any monies received from the disposition of the real property subject to an environmental restoration project exceed the municipality's cost of such property, including taxes owed to the municipality upon acquisition, and the municipality's cost of the environmental restoration project, the amount of such excess necessary to reimburse the state of New York for the state assistance provided to the municipality under this title shall be paid to the state of New York for deposit into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law;

(e) An agreement by the municipality to proceed expeditiously with and complete such project in accordance with plans approved for payment of the municipality's share of such project's cost;

(f) An agreement by the municipality that it shall prepare and implement a public participation plan for environmental restoration projects undertaken pursuant to this title. The requirements of the plan shall be governed by decision of the municipality to proceed with remediation of the property under this title. However, in all cases, implementation of the plan shall be completed as part of the project. In those cases where the municipality does not intend to proceed with remediation of the property, the plan shall provide timely and accessible disclosure of the results of the investigation to the interested public. The plan shall provide for adequate public notice of the availability of the investigation results; an opportunity for submission of written comments; and a filing of a notice of the results of the investigation as authorized by subdivision three of section three hundred sixteen-b of the real property law. Where the municipality intends to proceed with remediation of the property under this title, the plan shall provide opportunities for early, inclusive participation prior to the selection of a preferred course of action, facilitate communication, including dialogue among the municipality, the department, and the interested public, and provide timely and accessible disclosure of information. At a minimum, the design of the plan shall take into account the scope and scale of the proposed environmental restoration remediation project, local interest, and other relevant factors. The plan shall also provide for: adequate public notice of the

availability of a draft remedial plan; a forty-five day period for submission of written comments; a public meeting on such plan if substantive issues are raised by members of the affected community; and technical assistance if so requested by members of the affected community. Provided, however, that the requirements of this subdivision shall not apply to interim remedial measures undertaken as part of an environmental restoration project to address emergency site conditions. In such instance, the department or such persons implementing the interim remedial measure or making the request shall conduct public participation activities as the department deems necessary and appropriate under such circumstances.

(g) An agreement by the municipality that it shall put into place any engineering and/or institutional controls (including environmental easements pursuant to title thirty-six of article seventy-one of this chapter) that the department may deem necessary to allow the contemplated use to proceed, that such engineering and/or institutional controls shall be binding on such municipality, any successor in title, and any lessees and that any successors in title and any lessees cannot challenge state enforcement of such controls;

(h) In the event that such engineering controls and/or institutional controls are necessary, the municipality shall develop a plan consistent with the requirements set forth in section 27-1415 of this chapter. Such plan shall be approved by the department. Failure to implement the plan or maintain such controls shall constitute a violation of such contract and shall terminate for the duration of such failure the protection afforded under subdivision one of section 56-0509 of this title;

(i) In the event that an easement is required, such municipality shall cause such easement to be recorded and indexed in accordance with the requirements set forth in title thirty-six of article seventy-one of this chapter; and

(j) A provision that exempts a municipality and any successor in title from the requirement to obtain any state or local permit or other authorization for any activity needed to implement a project to investigate or remediate contamination pursuant to this title; provided that the activity is conducted in a manner which satisfies all substantive technical requirements applicable to like activity conducted pursuant to a permit.

3. The department may undertake an environmental restoration project on behalf of a municipality upon request. If the department undertakes the project on behalf of the municipality, the state shall enter into a written agreement with the municipality and the agreement shall require the municipality to periodically provide its share to the state for costs incurred during the progress of such project. The municipality's share shall be the same as would be required under subdivision one of this section. The agreement shall include all provisions specified in subdivision two of this section as appropriate.