

OFFICE OF ENVIRONMENTAL REMEDIATION

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the Office of Environmental Remediation's proposed amendments to the New York City Brownfield Incentive Grant Program rules

Date / Time: March 6, 2014/ 11 AM to 1 PM

Location: Central Park Room
100 Gold Street, 2nd floor
NY, NY 10038

Contact: Dr. Daniel C. Walsh
Director of Environmental Remediation
253 Broadway, 14th floor
New York, NY 10007

Proposed Rule Amendment

Pursuant to the authority vested in the Director of Environmental Remediation by paragraphs 5 and 18 of New York City Charter § (15)(e), the Office of Environmental Remediation ("OER") proposes amendments to the rules of the New York City Brownfield Incentive Grant Program. This rule was not included in the Office's regulatory agenda because the need for it was not anticipated at the time the agenda was published.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment to Dr. Walsh by mail or electronically through NYC RULES at www.nyc.gov/nycrules by March 6, 2014.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Dr. Walsh by March 6, 2014.

- Written comments and a summary of oral comments received at the hearing will be available for 60 days after the hearing from 9:30 AM to 4:30 PM at the Office of Environmental Remediation, 253 Broadway, 14th floor, New York, NY 10007.

STATEMENT OF BASIS AND PURPOSE

The Office of Environmental Remediation (“Office” or “OER”) oversees the New York City Brownfield Incentive Grant ("BIG") Program. Through the BIG program, OER awards grants to support and advance brownfield projects across the city by making grants available to projects from the earliest stages of project development through project remediation.

OER was established by Local Law No. 27 of 2009, and Charter § 15(e)(5) authorizes its Director to administer financial incentive programs to promote the identification, investigation, remediation, and redevelopment of brownfields. Section 15(e)(6) authorizes the Director to promote community participation in these activities. Section 15(e)(18) authorizes the Director to promulgate rules in connection with such programs.

Since 2011, OER has provided over one hundred Brownfield Incentive Grants to for-profit and non-profit developers undertaking cleanup and redevelopment of sites in the City voluntary cleanup program and to community based organizations seeking to apply for or advance their State-funded Brownfield Opportunity Area ("BOA") planning in neighborhoods across the city. Because of the rapid growth in the participation of developers in the City voluntary cleanup program, the entire original fund established to fund the BIG program has been earmarked. OER has sought and obtained new funding from the City for the BIG program to partially replenish the original fund.

The proposed rules would enable operation of the BIG program with reduced appropriations. In addition, OER is proposing additional changes to the BIG program to increase the program’s value for developers remediating brownfields across the city.

The proposed amendments:

- create new Brownfield Incentive Grants;
- make the first significant revisions to the list of eligible services and activities that are eligible for reimbursement with City brownfield grant funds;
- reduce the size of several City cleanup grants for future projects to reflect reduced funding;
- increase the amount of funding for BOA for community-based organizations;
- for the first time, restrict the city-wide reach of the BIG program;
- eliminate the environmental insurance grant and replace it with a new eligible

service;

- consolidate certain technical services; and
- boost reimbursement for preparation of a site management plan

New Brownfield Incentive Grants

The proposed amendments would create four new Brownfield Incentive Grants to encourage the redevelopment of brownfields:

- 1) A Climate Change Resilience Bonus Cleanup Grant of up to \$5,000 to accelerate cleanup of properties in coastal flood zones;
- 2) A Brownfield Green Job Training Bonus Cleanup Grant of up to \$6,000 to encourage developers to hire participants in job training programs so they can acquire work experience at sites in the City brownfield cleanup program;
- 3) A City Pre-enrollment Grant of up to \$100,000 for site investigations and remedial planning activities at publicly owned sites and sites with environmental tax liens; and
- 4) A Green Property Certification Bonus Cleanup Grant of up to \$1,000 to pay for a New York City green property certification plaque for sites that complete cleanups in the City voluntary cleanup program.

Addition of New Eligible Services

The proposed amendments would make significant revisions to the list of services and activities that are eligible for reimbursement with City brownfield grant funds. These changes are referenced in § 43-1419 and set forth in Schedule B. The new services include:

- the installation of soil vapor management systems;
- the cost of field oversight of remedial activities by qualified environmental professionals;
- the production of a remedial investigation report and a remedial action report,
- the reimbursement for an attorney's due diligence on a property prior to its enrollment in the City voluntary cleanup program, and
- reimbursement for environmental insurance

Reduction in Size of Cleanup Grants

The proposed amendments would reduce the size of several City cleanup grants for future projects because of the reduced City appropriations:

- The proposed reductions would decrease the maximum grant awards by more than half for:
 - the standard cleanup grant;
 - the cleanup grant for preferred community development projects; and
 - the track-one bonus cleanup grant.
- The E-designation and restrictive declaration remediation grants would be cut in

half.

Increase in Funding of BOA Grants

The proposed amendments would increase from \$25,000 to \$50,000 the total amount of City funds that community-based organizations with BOA contracts could receive in the form of Local Match grants. These changes are set forth in § 43-1422 as well as Schedule A.

Restrictions on Size and Location of Eligible Sites

For the first time, the proposed amendments would restrict the city-wide reach of the BIG grant program. Projects larger than 100,000 square feet and projects at or south of 96th Street in Manhattan would be ineligible for City BIG funds if they had not enrolled in the City voluntary cleanup program by April 2013.

Amendments to Insurance Grant

The proposed amendments would eliminate the environmental insurance grant and replace it with a new eligible service that would reimburse parties for the premiums they paid for environmental insurance policies for projects that are enrolled in the City voluntary cleanup program.

Consolidation of Technical Services

Additional rule amendments would consolidate certain technical services, including:

- reimbursement for the preparation of a remedial investigation document, a new service, which would cover all remediation investigation activities and preparation of a remedial action work plan;
- reimbursement for the preparation of a remedial action report, a new service, which would cover all remedial action oversight activities and preparation of a remedial action report;
- simplified reimbursement for laboratory analysis of environmental samples collected in the field by the elimination of separate payments for analysis of individual metals, volatile and semi-volatile compounds, and replacing these with reimbursement for analysis of groups of similar compounds known as Target Analyte List metals, Target Compound List SVOCs, and Target Compound List VOCs.

Reimbursement for Site Management Plans

The proposed amendments would boost reimbursement for preparation of a site management plan from \$2,500 to \$7,500.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this office, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; deleted material is in [brackets].

Section 1. Subdivision b of section 43-1415 of Chapter 14 of Subchapter 2 of Title 43 of the Rules of the City of New York is amended to read as follows:

§ 43-1415. Purpose and applicability.

* * *

b. *Applicability.* Brownfield incentive grants are available to provide financial assistance for

(1) qualified brownfield properties,

(2) preferred community development projects,

(3) e-designation/restrictive declaration hazardous materials sites,

(4) properties in designated coastal flood zones,

(5) applicants pursuing a brownfield opportunity area grant,

(6) a green property certification plaque,

(7) green job training for participants in a job training program, and

(8) recipients of brownfield opportunity area grants for the performance of pre-development assessments and investigations, environmental investigations, property remediation, environmental insurance purchase, and technical assistance services and for the development of work plans and applications.

§ 2. Subdivisions e through p of section 43-1416 of Subchapter 2 of Chapter 14 of Title 43 of the Rules of the City of New York are amended to read as follows:

§ 43-1416 Definitions.

* * *

e. “Designated Coastal Flood Zone” means coastal flood zones designated by the Federal Emergency Management Agency (FEMA) or other coastal flood zones designated or recognized by the City.

[e.] f. “E-designation hazardous material site” means a property that has been designated with an (E) on a zoning map, pursuant to section 11-15 of the zoning resolution, because of potential hazardous material contamination.

[f.] g. “Grant administration contractor” means an entity under contract with the New York city economic development corporation for administration of the New York city brownfield incentive grant program. The grant administration contractor shall provide oversight of the grant process, including, but not limited to, review of grant applications including evaluation of eligibility for grants; review of statements of work; establishment and maintenance of a list of qualified vendors; communication with grantees and qualified vendors; and

performance of quality control of work products.

[g.] h. “Grant payment percentage limit” means the seventy-five percent maximum payment by the office for eligible costs for approved services and activities performed under a pre-development grant or an environmental investigation grant. The grant payment percentage limit is intended to ensure that the grantee bears some of the costs for pre-development and environmental investigation services and activities.

[h.] i. “Grantee” means an owner or developer of a qualifying brownfield property, including all parties with an ownership interest in the property, or a recipient of, or an applicant for, a brownfield opportunity area grant in New York city who has been accepted into the New York city brownfield incentive grant program.

[i.] j. “Office” means the office of environmental remediation.

[j.] k. “Person” means an individual, trust, firm, joint stock company, limited liability company, corporation, joint venture, partnership, association, a local development corporation, or a community development corporation.

[k.] l. “Preferred community development project” means a development proposed for a qualifying brownfield property that is: (1) an affordable housing development; (2) consistent with the strategic brownfield goals established in a brownfield opportunity area plan pursuant to section 970-r of the general municipal law, as evidenced by a letter from the recipient of a brownfield opportunity area grant pursuant to section 43-1418(d)(4)(B)[(ii)]; (3) consistent with the strategic brownfield goals established by a City brownfield planning district; or (4) a community facility development.

[l.] m. “Qualified vendor” or “vendor” means:

- (1) an environmental professional or consultant or firm thereof;
- (2) an architect, engineer, attorney, or other professional or firm thereof;
- (3) a community based organization preparing an application for a brownfield opportunity grant from the New York state department of state; or
- (4) a community development corporation, local development corporation, community development financial institution, or another similar entity, that is qualified by the grant administration contractor to perform, subcontract, and/or supervise work eligible for reimbursement under the New York city brownfield incentive grant program.

[m.] n. “Qualifying brownfield property” means:

- (1) for a pre-enrollment grant, a property that contains a recognized environmental condition;
- (2) for an enrollment grant [and], a track-one bonus cleanup grant, a brownfield green job training bonus cleanup grant, and a green property certification bonus cleanup grant, a property admitted to the voluntary cleanup program;

(3) for a climate change resilience bonus cleanup grant, a property admitted to the City voluntary cleanup program that is located in a designated coastal flood zone;

(4) for an e-designation hazardous material remediation grant or a restrictive declaration hazardous material remediation grant, an e-designation hazardous material site or a restrictive declaration hazardous material site respectively;

[(4)] (5) for a technical assistance grant, a preferred community development project where the developer is a not-for-profit corporation, or a community based organization that seeks to apply for a brownfield opportunity grant from the New York state department of state; and

[(5)] (6) for a brownfield opportunity area strategic property bonus cleanup grant, a property that has been designated a strategic brownfield property within the New York state brownfield opportunity area program.

[n.] o. "Restrictive declaration hazardous material site" means a property with an institutional control, arising from a [city] City environmental quality review and recorded by the property owner, which requires a potential hazardous material condition to be addressed to the office's satisfaction before the property can be developed or an action involving soil disturbance can be undertaken.

[o.] p. "Recognized environmental condition" means the presence or likely presence of any hazardous substances on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances into structures on the property or into the ground, ground water, or surface water of the property. The term includes hazardous substances even under conditions in compliance with laws. The term does not include de [minimus] minimis conditions that generally do not present material risk of harm to public health or the environment.

[p.] q. "Strategic brownfield property" means a property within a brownfield opportunity area that has been determined by the recipient of the brownfield opportunity area grant to be a strategic site within the brownfield opportunity area program.

§ 3. Subdivision a of section 43-1417 of Subchapter 2 of Chapter 14 of Title 43 of the Rules of the City of New York is amended by adding a new paragraph 3 to read as follows:

§ 43-1417 Types of grants.

* * *

3. City pre-enrollment grants finance eligible pre-enrollment activities and services at publicly-owned sites and at environmental tax lien sites designated by the New York city office of management and budget.

§ 4. Paragraph 1 of subdivision b of section 43-1417 of Subchapter 2 of Chapter 14 of Title 43 of the Rules of the City of New York is amended by adding new subparagraphs (iv) through (vi)

and paragraph 2 is deleted, to read as follows:

§ 43-1417 Types of grants.

* * *

1. Cleanup grants.

* * *

iv. Climate change resilience bonus cleanup grants provide funding to accelerate designated coastal flood zone cleanup and are intended to enhance public and environmental protection.

v. Brownfield green job training bonus cleanup grants provide funding for job training program participants to acquire work experience at sites enrolled in the voluntary cleanup program.

vi. Green property certification bonus cleanup grants pay for a New York city green property certification plaque. To be eligible for a green property certification grant, parties must receive a notice of completion from the office or a certificate of completion of the New York state department of environmental conservation.

[2. Environmental insurance grants pay for the purchase of environmental insurance, as provided in section 43-1419.]

§ 5. Subdivisions b, c and d of section 43-1418 of Subchapter 2 of Chapter 14 of Title 43 of the Rules of the City of New York are amended to read as follows:

§ 43-1418 Eligibility.

* * *

b. *Property eligibility*

1. A property shall be located within the city of New York. However, projects in Manhattan at or south of 96th Street and projects larger than 100,000 square feet are ineligible for pre-enrollment and enrollment grants, except for brownfield green job training bonus cleanup grants and green property certification bonus cleanup grants if enrolled in the City voluntary cleanup program after April 2013. Contiguous properties enrolled by the same developer are eligible for only one grant award.

2. A property shall meet the definition of a qualifying brownfield property for the type of grant(s) sought.

3. A property admitted to the brownfield cleanup program administered by the New York state department of environmental conservation is ineligible for a grant.

c. Applicant eligibility

1. An applicant is ineligible for a grant if the person is subject to any pending action or proceeding or order identified in section 43-1403(b) of this chapter relating to the property.

2. An applicant who has received a prior pre-enrollment grant or a technical assistance grant and did not submit information on the outcome of the brownfield project as required by section 43-1421(b)(5) is not eligible for any additional pre-enrollment brownfield incentive grant until such information is submitted.

3. An applicant who has received a prior pre-enrollment grant or a technical assistance grant for a property that required remedial action and was subsequently developed and that was not enrolled in a New York city or New York state remedial program is not eligible for [any] additional [brownfield incentive grant] pre-enrollment grants. However, at the discretion of the office, the applicant may still be eligible for an additional enrollment grant.

4. A grantee may receive grants for a maximum of [two] three qualifying brownfield properties [each] for any given City fiscal year. However, contiguous properties remediated by the same developer may not receive more than one grant. For the purpose of this subdivision, all grants issued for a single property are considered one grant that is received in the year of the initial award payment. For example, a grantee that receives the first payment on an invoice submitted for a pre-development grant award for a property in one fiscal year and an environmental investigation grant for the same property the next fiscal year is considered to have received only one grant issued in the first fiscal year.

5. A grantee may not receive a pre-enrollment grant for more than one qualifying brownfield property each fiscal year. However, if a qualifying brownfield property for which a pre-enrollment grant was obtained is subsequently enrolled by the grantee into a New York city or New York state brownfield cleanup program in the same fiscal year, the grantee may receive [a maximum of one] an additional pre-enrollment grant for a second qualifying brownfield property in the same fiscal year. If a grantee enrolls a second qualifying brownfield property (for which a pre-enrollment grant was obtained) in a New York city or New York state brownfield cleanup program in the same fiscal year, the grantee may receive an additional pre-enrollment grant for a third qualifying property. Pursuant to paragraph 4 of this subdivision, the grantee shall not receive a pre-enrollment grant for more than the [two] three qualifying brownfield properties in such fiscal year.

d. Eligibility requirements for specific grants.

1. Pre-enrollment grants.

A. Pre-development grants. For a qualifying brownfield property to be eligible for a pre-development grant, the applicant shall provide the office with evidence indicating that the property contains a recognized environmental condition that has not been remediated. Such evidence may include, but is not limited to, records of past use, records derived from fire

insurance maps, information from direct observation and testing, or findings from studies performed by the office or by other means acceptable to the office.

B. City pre-enrollment grants. Grants may be obtained for City-owned sites and environmental tax lien sites as designated by the New York city office of management and budget to fund eligible pre-enrollment activities and services.

[B.] C. *Environmental investigation grants.*

i. Submission of a satisfactory phase one investigation shall be required for a qualifying brownfield property to be eligible for an environmental investigation grant, except as provided in clause iii of this subparagraph. A phase one investigation is a search of records and government databases to determine whether prior land uses or processes were likely to have left behind contamination at a property. Phase one investigations shall be reviewed by the office and/or the grant administration contractor. Upon request of the applicant, the grant administration contractor alone, and not the office, shall review phase one investigations.

ii. To be eligible for an environmental investigation grant, a phase one investigation shall indicate that the property contains a recognized environmental condition.

iii. In lieu of a phase one investigation, recognized environmental conditions may be identified in studies performed by the office, or by other means acceptable to the office.

[C. *E-designation hazardous material sites and restrictive declaration hazardous material sites are not eligible for pre-enrollment grants.*]

D. To be eligible for a City pre-enrollment grant, a property must be identified by the New York city office of management and budget as an environmental tax lien site or be public property in New York city whose investigation and/or remedial planning is managed by the office.

2. Enrollment grants. Enrollment in the [local brownfield] City voluntary cleanup program is required for a property to be eligible for an enrollment grant.

A. *Cleanup grants.*

i. To be eligible for a cleanup grant, a qualifying brownfield property shall have an Office-approved remedial action work plan under the [local brownfield] City voluntary cleanup program.

ii. Cleanup services and/or activities that are eligible for awards under this grant are listed in schedule B.

iii. Cleanup services and/or activities that are eligible for awards under this grant shall be performed in accordance with the office-approved remedial action work plan. If any cleanup

services are performed in a manner that is not in accordance with [the office] an Office approved remedial action work plan, all cleanup services and/or activities will be ineligible for any further awards under this grant.

iv. To be eligible for a climate change resilience bonus cleanup grant, a qualifying brownfield property must be located in a designated coastal flood zone and be enrolled in the City voluntary cleanup program.

v. To be eligible for a brownfield green job training bonus cleanup grant, an applicant must employ a participant in a City, state, or federally supported non-profit work force development program for full-time work participating in construction activities at a remedial action site regulated by the Office or the New York state department of environmental conservation. Reimbursement is subject to the award limit set forth in §43-1422(c)(7).

vi. To be eligible for a green property certification bonus cleanup grant, a party must have received a notice of completion from the Office or a certificate of completion from the New York state department of environmental conservation in accordance with 6 NYCRR §375-3.9.

B. Brownfield opportunity area strategic property bonus cleanup [grant] grants. To be eligible for a brownfield opportunity area strategic property bonus cleanup grant, a qualifying brownfield property shall be eligible for a cleanup grant and shall be designated a strategic brownfield property by the BOA grantee in the New York state brownfield opportunity area program.

C. Track-one bonus cleanup [grant] grants. To be eligible for a track-one bonus cleanup grant, a qualifying brownfield property shall be eligible for a cleanup grant and satisfy the requirements for [a track one] an unrestricted [remediation as set forth in section 43-1407(h)(1)] use cleanup for soil pursuant to Table 375-6.8 of 6 NYCRR §375-6.8.

D. Climate change resilience bonus cleanup grants. To be eligible for a climate change resilience bonus cleanup grant, a qualifying brownfield property shall be located in a designated coastal flood zone and enrolled in the City voluntary cleanup program.

E. Brownfield green job training bonus cleanup grants. To be eligible for a brownfield green job training bonus cleanup grant, an applicant must employ participant(s) in a City, state, or federally supported nonprofit work force development program for full-time work participating in construction activities at a remedial action site regulated by the Office or the New York state department of environmental conservation.

[*D. Environmental insurance grants.* To be eligible for an environmental insurance grant, a qualifying brownfield property shall have an office-approved remedial action work plan under the local brownfield cleanup program.]

[E.] F. E-designation hazardous material sites and restrictive declaration hazardous

material sites are eligible for enrollment grants if the applicant enrolls in the [local brownfield] City voluntary cleanup program.

3. *Other Grants.*

A. *Technical Assistance Grants.*

i. To be eligible for a technical assistance grant for a qualifying brownfield property that is a preferred community development project where a developer is a not-for-profit corporation, the applicant shall provide the office with evidence that such developer is a not-for-profit corporation or qualifies for a real property tax exemption afforded by real property tax law section 420-c and evidence [in accordance with] required by paragraph four of this subdivision.

* * *

§ 6. Section 43-1419 of Chapter 14 of Subchapter 2 of Title 43 or the Rules of the City of New York is amended to read as follows:

§ 43-1419 Eligible Services and Activities.

a. Eligible services and/or activities within each grant type for which grant awards may be issued are listed in Schedule B.

1. For pre-development grants, eligible services and/or activities shall include, but shall not be limited to, title insurance, title search, project feasibility study (i.e., market analysis, concept plans, pro forma financial analysis, zoning analysis, and permitting), community outreach, and phase one investigations.

2. For environmental investigation grants, eligible services and/or activities shall include, but shall not be limited to, development of a phase two/site characterization workplan; development of a remedial investigation work plan; study of soil, groundwater, and soil vapor; laboratory analysis of soil, groundwater, and soil vapor samples; and development of phase two/site characterization reports.

3. For City pre-enrollment grants, eligible services and/or activities include, but are not limited to, development of a phase two/site characterization work plan; development of a remedial investigation workplan; study of soil, groundwater, and soil vapor; laboratory analysis of soil, groundwater and soil vapor; development of phase two/site characterization reports; property appraisal; and development of an approved remedial action work plan or remedial action plan.

[3.] 4. For cleanup grants, track-one bonus cleanup grants, brownfield opportunity area strategic property bonus cleanup grants, e-designation hazardous material remediation grants,

climate change resilience bonus cleanup grants, and E-designation/restrictive declaration hazardous material remediation grants, eligible services and/or activities shall include, but shall not be limited to, development of an approved remedial action work plan or remedial action plan; soil removal and disposal; backfill; engineering controls (i.e., cap emplacement; cover system; vapor barrier system; sub slab depressurization system); institutional controls; documentation preparation; [and] development of remedial action reports and the purchase of environmental insurance including cleanup cost cap insurance.

[4. For environmental insurance grants, eligible services and/or activities shall include purchase of pollution legal liability insurance and cleanup cost cap insurance.]

5. For brownfield green job training bonus cleanup grants, eligible services and/or activities shall include any hourly work participating in construction activities at a remedial action site regulated by the Office or the New York state department of environmental conservation by participants, pre-approved by the Office, from a City, state, or federally supported nonprofit work force development program.

6. For green property certification bonus cleanup grants, eligible services include the purchase of a New York city green property certification plaque.

[5.] 7. For technical assistance grants for preferred community development projects, eligible services shall include consulting services for activities including, but not limited to[,]:

A. assistance in the planning and execution of a brownfield project, including assessment of the viability of a brownfield project;

B. development and/or review of technical and legal documents required by the brownfield incentive grant program or the [local brownfield] City voluntary cleanup program, including:

i. applications,

ii. agreements,

iii. insurance policies,

iv. statements of work,

v. scopes of work,

vi. work plans, or

vii. reports;

C. development and/or review of design reports;

D. preparation of a budget;

E. development of a pro forma financial analysis;

F. project planning; and

G. review of brownfield project sequencing and scheduling.

For technical assistance grants for community based organizations seeking to apply to the New York state department of state for a brownfield opportunity area grant, eligible services shall include consulting services for the development of such an application.

[6.] 8. For brownfield opportunity area local match grants, eligible services and/or activities shall include those that are covered by a work plan approved by the New York state department of state associated with a contract executed with the New York state department of state.

* * *

§ 7. Subparagraph A of paragraph 3 of subdivision b of Section 43-1421 of Chapter 14 of Subchapter 2 of Title 43 of the Rules of the City of New York is amended to read as follows:

§ 43-1421 Agreements.

* * *

A. A grantee may directly hire a contractor, other than a qualified vendor, to perform remedial work under an approved remedial action work plan, provided that the grantee requires the contractor to maintain insurance that is adequate for the nature and scope of the services and activities performed, as determined by the office. The insurance must name the city of New York [and], the New York city economic development corporation, and the grant administrator contractor as additional insureds.

§ 8 . Subdivision c of section 43-1422 of Subchapter 2 of Chapter 14 of Title 43 of the Rules of the City of New York is amended to read as follows:

§ 43-1422 Grant Awards and Award Limits.

* * *

c. Award limits.

1. *Generally.* Grants may be awarded for a qualifying brownfield property totaling up to the amount listed in schedule A, including the costs for administration pursuant to § 43-1423(a)(2).

2. *Preferred community development projects.* A grantee for a preferred community development project may be awarded: (1) a pre-enrollment grant of up to \$[25,000] 20,000, [and] (2) a technical assistance grant of up to \$5,000, [A grantee for a preferred community development project that is] and (3) if enrolled in the [local brownfield] City voluntary cleanup program, the grantee may be awarded an enrollment grant of up to \$[100,000] 35,000, including the sum of the pre-enrollment grant and excluding the sum of the technical assistance grant. The cost of grant administration shall not be deducted from grants awarded to a grantee of a preferred

community development project.

3. *Brownfield opportunity area local match grant.* A grantee of a brownfield opportunity area local match grant may receive a grant of up to \$25,000 or ten percent of the brownfield opportunity area grant award from the New York state department of state for step one of the brownfield opportunity area program, whichever is less, and \$25,000 or ten percent of the brownfield opportunity area grant award from the New York state department of state for step two of the brownfield opportunity area program, whichever is less. The cost of grant administration shall not be deducted from grants awarded to a grantee of a brownfield opportunity area local match grant.

4. *Community based organization applicant for a brownfield opportunity area grant.* A community based organization that seeks to apply for a brownfield opportunity grant may receive a technical assistance grant of up to \$10,000 for eligible consulting services. The cost of grant administration shall not be deducted from grants awarded to a grantee of a community based organization brownfield opportunity area grant.

5. *Brownfield opportunity area strategic property bonus cleanup grant.* A grantee of a brownfield opportunity area strategic property bonus cleanup grant may receive a grant of up to \$10,000 for cleanup services and activities. This grant award may be in addition to pre-enrollment and other enrollment grants received under this program.

6. *Track-one bonus cleanup grants.* A grantee who achieves a track-one cleanup may receive a grant award of [~~\$25,000~~] up to \$10,000. This grant award shall be in addition to pre-enrollment and other enrollment grants received under this program.

7. *E-designation hazardous material sites and restrictive declaration hazardous material sites remediation.* The award limits for e-designation hazardous material sites and restrictive declaration hazardous material sites shall be as follows:

A. A grantee of an e-designation hazardous material remediation grant or restrictive declaration hazardous material remediation grant may receive a grant of up to \$[~~5,000~~] 2,500 for cleanup services and activities. If the property subsequently enrolls in the [~~local brownfield~~] City voluntary cleanup program and is awarded an enrollment grant, then the enrollment grant shall be reduced by the amount of the e-designation hazardous material remediation grant or restrictive declaration hazardous material remediation grant respectively.

B. A grantee for an e-designation hazardous material site or a restrictive declaration hazardous material site that has been admitted into the [~~local brownfield~~] City voluntary cleanup program may be awarded an enrollment grant of up to \$[~~60,000~~] 25,000.

C. A grantee for an e-designation hazardous material site or a restrictive declaration hazardous material site that has been admitted into the [~~local brownfield~~] City voluntary cleanup program and is a preferred community development project may be awarded an enrollment grant of up to \$[~~100,000~~] 35,000. The cost of grant administration shall not be deducted from grants

awarded to a grantee of a preferred community development project.

8. Climate change resilience grants. An applicant for a climate change resilience grant may receive a grant award of up to \$5,000. This grant award shall be in addition to a pre-enrollment and enrollment grants received under this program, and the costs of administration shall be deducted from grants awarded to the grantee.

9. Brownfield green job training bonus cleanup grants. An applicant for a brownfield green job training bonus cleanup grant may receive a grant award of up to \$6,000. This grant award shall be in addition to pre-enrollment and enrollment grants received under this program, and the costs of administration shall not be deducted from grants awarded to the grantee.

10. Green property certification bonus cleanup grants. An applicant for a green property certification bonus cleanup grant is eligible for a grant of up to \$1,000 to cover the cost of one New York city green property certification plaque for each eligible site pursuant to §43-1428. The cost of administration shall not be deducted from grants awarded to the grantee.

11. City pre-enrollment grants. City pre-enrollment grants are funded to a maximum of \$100,000 for pre-enrollment activities and services. Activities and services for a City pre-enrollment grant can be performed by a qualified vendor under contract with the New York city economic development corporation.

§ 8. Subdivision b of section 43-1423 of Subchapter 2 of Chapter 14 of Title 43 or the Rules of the City of New York is amended to read as follows:

§ 43-1423 Grant Disbursements and Administration.

* * *

b. *Disbursement of grants.*

1. Grants are payable to the grantee or the qualified vendor, except that a green property certification bonus cleanup grant is payable to the vendor who produced the certification plaque and a green job training bonus cleanup grant may be paid to a workforce development organization.

2. [The office may earmark grant funds for reimbursement to the grantee at the time of approval of the statement of work for eligible activities and/or services] Grants are distributed on a first-come, first-served basis and based on available appropriations.

3. Enrollment grants may be reimbursed in the year following the award year if funds are no longer available in the award year and are available in the subsequent year.

4. Pre-development and environmental investigation grants are awarded subject to the grant award limits pursuant to section 43-1422 and subject to the grant payment percentage limit applied to eligible costs for approved services and activities in schedule B. A preferred

community development project where the developer is a not-for-profit corporation is not subject to the grant payment percentage limit.

**Schedule A
Grant Awards and Award Limits**

		Property Type ⁱ							BOA Development Grants	
Standard Grants		Qualifying brownfield properties not enrolled in LBCP ⁱⁱ	Qualifying brownfield properties enrolled in LBCP ^{ii,iii}	Preferred community development projects not enrolled in LBCP ^{iv}	Preferred community development projects enrolled in LBCP ^{iv,v}	<u>OMB-designated pre-enrollment properties</u>	E-designation/restrictive declaration hazardous material sites not enrolled in LBCP ⁱⁱ	BOA strategic property enrolled in LBCP	Community based organization BOA grant applicant	BOA grant recipient with an executed state assistance contract ^{vi}
	Pre-development grant	Up to \$5,000	Up to \$5,000	Up to \$10,000	Up to \$10,000	N/A	N/A	Up to \$10,000	N/A	N/A
	Environmental investigation grant	Up to \$10,000 ^{vii}	Up to \$10,000 ^{vii}	Up to \$[25,000]20,000 ^{vii,viii}	Up to \$[25,000]20,000 ^{vii,viii}	N/A	N/A	Up to \$[25,000]20,000 ^{vii,viii}	N/A	N/A
	Cleanup grant	N/A	Up to \$[60,000]25,000 ^{viii}	N/A	Up to \$[100,000]35,000 ^{viii}	N/A	N/A	Up to \$[100,000]35,000 ^{viii}	N/A	N/A

	E-designation hazardous material remediation grant or restrictive declaration hazardous materials remediation grant ^{ix}	N/A	[N/A] <u>up to \$25,000</u>	N/A	[N/A] <u>up to \$35,000</u>	<u>N/A</u>	Up to \$[5,000] <u>2,500</u>	[N/A] <u>up to \$35,000</u>	N/A	N/A
	[Environmental insurance grant]	[N/A]	[Up to \$60,000]	[N/A]	[Up to \$100,000]	[N/A]	[N/A]	[Up to \$100,000]	[N/A]	[N/A]
	Standard grant award cap ^{xix}	\$10,000	\$[60,000] <u>25,000</u>	\$[25,000] <u>20,000</u>	\$[100,000] <u>35,000</u>	<u>N/A</u>	\$[5,000] <u>2,500</u>	\$[100,000] <u>35,000</u>	<u>N/A</u>	<u>N/A</u>
Special Grants	Track-one bonus cleanup grant ^{xi}	N/A	\$[25,000] <u>10,000</u>	N/A	\$[25,000] <u>10,000</u>	<u>N/A</u>	N/A	\$[25,000] <u>10,000</u>	N/A	N/A
	<u>Climate change resilience bonus cleanup grant</u>	<u>N/A</u>	<u>Up to \$5,000</u>	<u>N/A</u>	<u>Up to \$5,000</u>	<u>N/A</u>	<u>N/A</u>	<u>Up to \$5,000</u>	<u>N/A</u>	<u>N/A</u>
	<u>Brownfield green job training bonus cleanup grant^{iv}</u>	<u>N/A</u>	<u>Up to \$6,000</u>	<u>N/A</u>	<u>Up to \$6,000</u>	<u>N/A</u>	<u>N/A</u>	<u>Up to \$6,000</u>	<u>N/A</u>	<u>N/A</u>
	<u>Green property certification bonus cleanup grant^{iv}</u>	<u>N/A</u>	<u>Up to \$1,000</u>	<u>N/A</u>	<u>Up to \$1,000</u>	<u>N/A</u>	<u>N/A</u>	<u>Up to \$1,000</u>	<u>N/A</u>	<u>N/A</u>
	<u>City pre-enrollment grant</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>Up to \$100,000</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

BOA strategic property bonus cleanup grant	N/A	N/A	N/A	N/A	N/A	<u>N/A</u>	N/A	\$10,000	N/A	N/A
Technical assistance grant	N/A	N/A	Up to \$5,000 ^{iv} <u>xiii</u> ⁱⁱ	Up to \$5,000 ^{iv} <u>xi</u> ⁱ	<u>N/A</u>	N/A	Up to \$5,000	<u>Up to \$10,000</u> ^{iv,xi} <u>ii, xiii</u>	N/A	
BOA local match grant	N/A	N/A	N/A	N/A	<u>N/A</u>	N/A	N/A	N/A	<u>The lesser of \$25,000 or 10% of the BOA grant award</u> ^{iv,vi}	
Maximum grant award	\$10,000	\$[85,000] <u>47,000</u>	\$[30,000] <u>25,000</u>	\$[130,000] <u>62,000</u>	<u>\$100,000</u>	\$[5,000] <u>2,500</u>	\$[140,000] <u>72,000</u>	\$10,000	[25,000] <u>\$50,000</u>	

LBCP: The [local brownfield] City voluntary cleanup program administered by the office of environmental remediation.

BOA: The brownfield opportunity area. This is a program for area-wide brownfield and community planning managed by the New York state department of state.

N/A: not applicable.

ⁱ Properties for which a grant is pursued can fall into only one type. The property type may change as conditions change.

ⁱⁱ The grant administration contractor may reduce the grant amount to cover the cost of administration.

ⁱⁱⁱ Includes e-designation hazardous material sites and restrictive declaration hazardous material sites that are enrolled in the LBCP.

^{iv} Grants shall not be reduced to cover the cost of grant administration.

^v Includes e-designation hazardous material sites and restrictive declaration hazardous materials sites that are also preferred community development projects and enrolled in the LBCP.

^{vi} A BOA grant recipient with an executed state assistance contract by definition also has an approved work program. A BOA grant recipient is eligible for local match grants both for step 1 and step 2 of the BOA program.

^{vii} Limit includes all proceeds from pre-development grant.

^{viii} Limit includes all proceeds from the pre development grant[,] and the environmental investigation grant [and environmental insurance grant]. The grant amount reflects reduced funding of the BIG program. Projects that were enrolled in the City voluntary program by April 2013 receive larger BIG grant awards.

^{ix} For e-designation hazardous material sites and restrictive declaration hazardous material sites that are remediated pursuant to an office-approved remedial work plan. The grant amount reflects the reduced funding of the BIG program. Projects that received a notice of satisfaction by April 2013 receive a larger BIG grant award.

^x Limit includes all proceeds from the pre-development grant, environmental investigation grant and cleanup grant.

^{xi} [Cap includes proceeds from all standard grant types.] The grant amount reflects reduced funding of the BIG program. Projects that were enrolled in the City

voluntary cleanup program by April 2013 receive larger BIG grant awards.

^{xii} Technical assistance grants for preferred community development projects are limited to not-for-profit developers.

^{xiii} Technical assistance with development of a BOA [rogram] program application.

Schedule B
Eligible Services and Activities / Reimbursable Allowance^{1,2}

Activity	Unit	Reimbursable Allowance for Non-Preferred Community Development Project ³	Reimbursable Allowance for Preferred Community Development Project ⁴
Pre-development			
<i>Title Insurance/ Title Search</i>			
full coverage	each	\$765	\$1,020
limited coverage	each	\$382.50	\$510
non-insured reports	each	\$255	\$340
<i>Project Feasibility Study</i>			
market analysis	each	\$765	\$1,020
concept plans	each	\$765	\$1,020
pro-forma financial analysis	each	\$765	\$1,020
zoning analysis	each	\$765	\$1,020
<u>legal due diligence review</u>	<u>report</u>	<u>\$300</u>	<u>\$400</u>
<i>Other Services</i>			
community outreach	each	\$956.25	\$1,275
site survey	day	\$956.25	\$1,275
Phase 1 ESA	each	\$1,593.75	\$2,125
Environmental Investigation			
<i>Workplans</i>			
Phase II/site characterization workplan	each	\$1,275	\$1,700
remedial investigation workplan	each	\$1,593.75	\$2,125
<i>Phase II (soil)</i>			
geophysical survey report (GPR contractor)	1/2 day	\$765	\$1,020
geophysical survey report (GPR contractor)	day	\$1,116	\$1,488
geophysical anomalies investigation (excavator/operator)	day	\$606	\$808
soil boring Installation	1/2 day	\$637.50	\$850
soil boring Installation	day	\$956.25	\$1,275
soil sample collection/field screening	day	\$510	\$680
<i>Phase II (groundwater)</i>			
monitoring well installation (unconsolidated)	Well	\$1,593.75	\$2,125
monitoring well installation (bedrock)	Well	\$2,550	\$3,400
disposal of drill cuttings and transportation	drum	\$79.50	\$106
monitoring well survey	day	\$956.25	\$1,275
temporary well-point installation	each	\$382.50	\$510
groundwater sample collection	day	\$510	\$680
disposal of purge water and transportation	drum	\$51	\$68
aquifer test	each	\$382.50	\$510
<i>Phase II (vapor)</i>			
vapor probe installation	day	\$956.25	\$1,275
vapor sample collection	day	\$510	\$680
ambient air sample and collection	day	\$510	\$680

Activity	Unit	Reimbursable Allowance for Non-Preferred Community Development Project ³	Reimbursable Allowance for Preferred Community Development Project ⁴
<i>Reports</i>			
Phase II/site characterization report	each	\$1,275	\$1,700
remedial investigation report	each	\$1,593.75	\$2,125
grant project reporting	each	\$318.75	\$425
<i>Lab Analysis</i>			
Metals (soil/water)			
Priority Pollutant metals (13 metals)	sample	\$62.25	\$83
total RCRA metals (8 metals)	sample	\$39.75	\$53
Target Analyte List metals (23 metals)	sample	\$96.75	\$129
Organics (soil/water)			
base neutrals	sample	\$86.25	\$115
base neutrals + 10 or 15	sample	\$96	\$128
base neutrals/acid extractables (semivolatile organics)	sample	\$153	\$204
BTEX	sample	\$30.75	\$41
BTEX + MTBE + TBA	sample	\$30.75	\$41
herbicides	sample	\$57.75	\$77
PAHs	sample	\$86.25	\$115
PCBs	sample	\$38.25	\$51
PCBs in oil	sample	\$30.75	\$41
pesticides	sample	\$38.25	\$51
volatiles	sample	\$51	\$68
volatiles + 10 or 15	sample	\$57.75	\$77
volatiles (drinking water)	sample	\$78.75	\$105
volatiles (drinking water) + 10 or 15	sample	\$86.25	\$115
target compound list (VO+10, BNAE+20, Pest/PCB)	sample	\$306	\$408
Organics (air)			
TO-15	sample	\$204	\$272
Group Tests			
ID-27 (TCLP metals, TPH, PCBs, reactive CN & S, Ignitability, pH)	sample	\$156	\$208
Priority Pollutants + 40 (VO+15, BNAE+25, pest/PCB, 13 metals, CN, phenol)	sample	\$401.25	\$535
RCRA characteristics (reactive CN & S, ignitability, corrosivity)	sample	\$38.25	\$51
TCLP-full (8 metals, VO, BNAE, pesticides, herbicides)	sample	\$381.75	\$509

Activity	Unit	Reimbursable Allowance
<i>Environmental Remediation</i>		
<i>Workplans and Reports</i>		
remedial action work plan	each	[\$2,500] <u>5,000</u>
remedial action report	each	[\$2,500] <u>5,000</u>
remedial investigation report and remedial action work plan: full service ⁵	each	<u>\$30,000</u>
Remedial action report: full service ⁶	each	<u>\$30,000</u>
[remedial action monitoring plan]	[each]	[\$1,275]

Activity	Unit	Reimbursable Allowance
[community and environmental protection plan]	[each]	[\$510]
[community air monitoring plan]	[each]	[\$340]
site management plan	each	\$[765] <u>2,500</u>
grant project reporting	each	\$425
<u>field oversight</u> ⁷	<u>half day</u>	<u>\$400</u>
	<u>day</u>	<u>\$1,000</u>
<u>environmental insurance</u> ⁸	<u>premium</u>	<u>\$25,000/\$30,000</u>
<i>Soil Removal</i>		
disposal - soil, hazardous (does not include transportation)	ton	\$102
disposal - soil, non-hazardous (does not include transportation)	ton	\$43
waste characterization: ID-27 (TCLP metals, TPH, PCBs, reactive CN & S, ignitability, PH)	sample	\$208
mobilization/demobilization - one time allowable per site per machine	each	\$425
loader/backhoe w/ operator	day	\$808
small-trackhoe w/ operator (J Deere 200LC or equivalent)	day	\$1,190
large trackhoe w/ operator (Cat 325 or equivalent)	day	\$1,445
skid steer loader w/ operator	day	\$595
dump truck w/ operator (approx. 12 yd. 3)	day	\$340
dump truck, tandem - triaxle w/ operator (25 yd. 3)	day	\$765
rolloff container (20 yd. 3)	each	\$510
vacuum truck w/ operator	hr	\$77
post-excavation soil sample collection	day	\$680
<i>Backfill</i>		
recycled concrete aggregate	ton	\$13
certified clean fill material	ton	\$17
top soil	cy	\$21
<i>Engineering Controls (cap emplacement)</i>		
clean fill/gravel	ton	\$17
top soil	cy	\$21
asphalt (2 in. compacted asphalt on 2 in. gravel base)	sf	\$3.80
cement paving (4 in.)	sf	\$4.25
<u>sub-slab depressurization system</u> <u>passive</u>	<u>sf</u>	<u>\$7.00</u>
<u>sub-slab depressurization system</u> <u>active</u>	<u>sf</u>	<u>\$8.50</u>
<u>vapor barrier/water proofing (up to 39 mil)</u>	<u>sf</u>	<u>\$5.00</u>
<u>vapor barrier (40 mil and greater)</u>	<u>sf</u>	<u>\$6.00</u>
<i>Institutional Controls</i>		
deed restriction preparation	each	\$2,125
<i>[Reports]</i>		
[remedial action progress report]	[each]	[\$850]
[remedial action report]	[each]	[\$2,500]
[closure report]	[each]	[\$2,500]
[grant project reporting]	[each]	[\$425]
<i>Lab Analysis</i>		
<i>Metals (soil/water)</i>		
[Priority Pollutant metals (13 metals)]	[sample]	[\$83]
[total RCRA metals (8 metals)]	[sample]	[\$53]

Activity	Unit	Reimbursable Allowance
Target Analyte List metals (23 metals)	sample	\$129
<i>Organics (soil/water)</i>		
[base neutrals]	[sample]	[\$115]
[base neutrals + 10 or 15]	[sample]	[\$128]
[base neutrals/acid extractables (semivolatile organics)] <u>Target Compound List SVOCs</u>	sample	\$204
[BTEX]	[sample]	[\$41]
[BTEX + MTBE + TBA]	[sample]	[\$41]
[herbicides]	[sample]	[\$77]
[PAHs]	[sample]	[\$115]
PCBs	sample	\$51
[PCBs in oil]	[sample]	[\$41]
Pesticides/herbicides	sample	\$51
<u>Target Compound List VOCs</u> [volatiles]	sample	\$(68)204
[Volatiles + 10 or 15]	[sample]	[\$77]
[volatiles (drinking water)]	[sample]	[\$105]
[volatiles (drinking water) + 10 or 15]	[sample]	[\$115]
target compound list (VO+10, BNAE+20[, Pest/PCB])	sample	\$408
<i>Organics (air)</i>		
TO-15	sample	\$272
<i>Group Tests</i>		
ID-27 (TCLP metals, TPH, PCBs, reactive CN & S, ignitability, pH)	sample	\$208
[Priority Pollutants+ 40 (VO+15, BNAE+25, pest/PCB, 13 metals, CN, phenol)]	[sample]	[\$535]
RCRA characteristics (reactive CN & S, ignitability, corrosivity)	sample	\$51
TCLP-full (8 metals, VO, BNAE, pesticides, herbicides)	sample	\$509
Technical Assistance Grants		
<i>Professional Services</i>		
attorney	hr	\$213
architect	hr	\$128
planner	hr	\$128
professional engineers	hr	\$128
environmental consultants	hr	\$81
community based organizations	hr	\$81
Brownfield Opportunity Area Local Match Grants		
<p>For Brownfield Opportunity Area (BOA) Local Match Grants, eligible services and/or activities must be reasonable, relevant, and directly related to the BOA scope of work. In order for these eligible costs to be reimbursed, they must be related to a work plan approved by the New York State Department of State pursuant to an executed State Assistance Contract and be appropriately documented in accord with the BOA Record Keeping and Payment Guide. See the guidance for the BOA Program issued by the New York State Department of State for questions or clarification regarding eligible and ineligible costs. [The] For a Step 1 BOA award and a Step 2 BOA award, the total amount of reimbursable expenses may not surpass the grant limit of the lesser of \$25,000 or 10% for [the] each Brownfield Opportunity Area Grant award.</p>		

[*Environmental Insurance Grants*]

[For environmental insurance grants, eligible services and/or activities shall include purchase of Pollution Legal Liability Insurance and Cleanup Cost Cap Insurance. **The total amount of reimbursable expenses may not surpass the grant limit established in Schedule A.**]

¹ All listed prices are inclusive of all subcontractor, professional oversight, sampling, materials and equipment costs.

² The Grant Allowance amounts presented in Schedule B represent the maximum amounts up to which specified activities may be funded. An eligible service and activity will not necessarily be funded up to that maximum amount.

³ Pursuant to section 43-1423(b)(4), predevelopment and environmental investigation grants, other than for preferred community development projects where the developer is a not-for-profit corporation, are reimbursed subject to the grant payment percentage limit of 75% for eligible costs for approved services and activities.

⁴ This column applies to preferred community development projects where the developer is a not-for-profit corporation. Pursuant to section 43-1423(b)(4), such projects are not subject to the grant payment percentage limit.

⁵ Reimbursement up to \$30,000 subject to the project award cap. This payment is intended to cover all remedial investigation activities and all document preparation activities including: a remedial investigation work plan, a Phase I environmental site assessment, a remedial investigation report, sampling, field oversight, mobilization, monitoring, chemical analysis and a remedial action work plan. This activity can only be selected for projects that have enrolled in the City voluntary cleanup program and no other costs for remedial investigation or remedial work plan preparation may be claimed.

⁶ Reimbursement up to \$30,000 subject to the project award cap. This payment is intended to cover all remedial action oversight activities and all document preparation activities including: field oversight by staff, daily reports, CAMP monitoring and equipment, HASP monitoring, sample collection, and preparation of a remedial action report. It does not cover construction of remedial systems including engineering controls. This activity can only be selected for projects that have enrolled in the City voluntary cleanup program and no other costs for remedial action oversight or remedial action report preparation may be claimed.

⁷ Reimbursement for field oversight consists of oversight of active remedial work by a qualified environmental professional, CAMP monitoring equipment, HASP monitoring, and the collection of samples. The deliverable is a daily report that identifies the qualified environmental professional.

⁸ Eligible activities consist of the purchase of Pollution Legal Liability, Contractors Pollution Liability and Cleanup Cost Cap Insurance. The total amount of reimbursable expenses may not surpass the grant limits established in Schedule A. Purchase of environmental insurance for a project that subsequently enrolls in the City voluntary cleanup program is an eligible expense following program enrollment.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Proposed amendments to the New York City Brownfield Incentive Grant Program rules

REFERENCE NUMBER: 2013 RG 078

RULEMAKING AGENCY: Office of Environmental Remediation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: January 28, 2014

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Proposed amendments to the New York City Brownfield Incentive Grant Program rules

REFERENCE NUMBER: OER-7

RULEMAKING AGENCY: OER

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro

Mayor's Office of Operations

January 28, 2014

Date
