

IMPORTANT INFORMATION ABOUT ZONE SCHEDULES

This zone schedule is being made available pursuant to 15 CFR 400.44(e), which states: “The Board shall make copies of zone schedules available on its Web site.”

Availability of this zone schedule on the FTZ Board’s website does not imply that the FTZ Board has approved any rate/charge, policy or other content of this zone schedule. In particular, while the FTZ Board staff intends to conduct spot checks over time, zone schedules are not reviewed for compliance with the public utility requirement (19 U.S.C. 81n, 15 CFR 400.42) prior to making the zone schedules available via the Board’s website.

Pursuant to 15 CFR 400.44(b)(4), a grantee may not assess any specific rate or charge for which the amount – or formula for calculating the amount – does not appear in the zone schedule that the grantee has submitted to the FTZ Board.

Complaints about a grantee’s compliance with statutory and regulatory requirements related to public utility and uniform treatment – including rate or charge amounts/formulas, a grantee assessing a rate or charge amount/formula that does not appear in its zone schedule, and a grantee not affording uniform treatment under like conditions – may be presented to the FTZ Board under 15 CFR 400.45 (which also allows for complaints to be made on a confidential basis, if necessary).

Questions or concerns may be addressed to the FTZ Board staff at (202) 482-2862 or ftz@trade.gov.

Genesee Gateway Local Development Corporation

**General Purpose Foreign Trade Zone
Under the Alternative Site Framework (ASF)**

Foreign Trade Zone No. 284

Zone Schedule



Operating under the authority of the
Foreign Trade Zones Board, Washington, D.C.

October 22, 2013

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ZONE SCHEDULE CORRECTIONS PAGE

Changes and additions to this Zone Schedule shall be made by reprinting the page(s) affected by the change/correction. Such page(s) shall be designated as a revised page(s) and shall carry a revision number in the lower left corner of the page. Upon the addition of a revised or new page, indicate the revision number in the lower left-hand corner of the new/revised page. If done correctly, the revision numbers will appear in chronological order with no omissions. If it is determined that a revision has not been received, a request should be made for a copy of the revision.

Any amendments to the Zone schedule must be submitted to the Executive Secretary of the Foreign Trade Zones Board and all persons who maintain a copy of the document per 15 C.F.R. Section 400 Subpart E.

The Zone Schedule and any subsequent corrections/changes to it shall be distributed to the following:

President and CEO of the Genesee Gateway Local Development Corporation

FTZ 284 Advisory Board Members

GCEDC Senior Vice President of Operations

GCEDC Vice President of Business Development

Executive Secretary of the Foreign Trade Zones Board

The maintenance of the Zone Schedule shall be the responsibility of FTZ 284 Advisory Board. The FTZ Advisory Board was assigned this responsibility by the GGLDC and has authority to ensure that the requirements of the Foreign Trade Zone Grantee are established, maintained and updated. This includes, but is not limited to updating the master index to reflect changes and distribution of control copies, A Master Copy of this Zone Schedule, including the revision status and control copy will be maintained at the Corporation's offices and in the Corporation's computer system. Electronic records will be backed up according to the Corporation's regular operating procedures.

Members of FTZ 284 Advisory Board and staff members of the GGLDC will make every attempt to stay current on FTZ regulations, operations and procedures by attending local and federal training, as available and convenient. Membership in the National Association of Foreign Trade Zones (NAFTZ) and other training organizations is encouraged.

The purpose of this Zone Schedule is to set forth, in one document, the schedule of fees and other procedures necessary for the effective operation of FTZ 284 by the Genesee Gateway Local Development Corporation as Grantee.

SECTION I – Administrative Organization

GRANTEE CONTACT AND LOCATION

GGLDC FTZ 284 Advisory Board
Genesee Gateway Local Development Corporation
99 Med Tech Drive, Suite 106
Batavia, New York 14020-9712
Telephone: (585) 343-4866

GCEDC Senior Vice President of Business Development
Genesee Gateway Local Development Corporation
99 Med Tech Drive, Suite 106
Batavia, New York 14020-9712
Telephone: (585) 343-4866

GCEDC Senior Vice President of Operations
Genesee Gateway Local Development Corporation
99 Med Tech Drive, Suite 106
Batavia, New York 14020-9712
Telephone: (585) 343-4866

U.S. Customs and Border Protection

Port Director
U.S. Department of Homeland Security
Customs and Border Protection
1200 Brooks Avenue
Rochester, New York 14624
Telephone: (585) 263-6293 Fax: (585) 263-5828

Sub Zones

Liberty Pumps, Inc. Bergen, NY Manufacturing (Production) Authority

FTZ Operators

None at this time.

SECTION II – Foreign Trade Zones Benefits

The purpose of Foreign Trade Zones (FTZs) is to stimulate international trade and to create and/or maintain jobs and investment in the United States. Foreign merchandise may enter an FTZ without formal Customs entry or the payment of Customs duties or government excise taxes. If the final product is exported, no U.S. Customs duties or excise taxes are levied. If the final product is imported into the United States, Customs duties and excise taxes are due only at the time of transfer from the FTZ and entrance of the import into the commerce of the United States. If authorization has been granted, the duties paid are the lower of those applicable to the final product itself or its component parts.

Foreign Trade Zones (FTZs) were created to provide special customs procedures to U.S. businesses engaged in international trade-related activities. Duty-free treatment is accorded items processed in FTZs and then re-exported, and duty payment is deferred on items until they are brought out of an FTZ and placed in the U.S. market. These benefits enable U.S. businesses to compete more effectively with overseas producers that compete with domestic industry. The Foreign-Trade Zones (FTZ) Board (composed of representatives from the U.S. Departments of Commerce and Treasury) operational staff operate in the International Trade Administration's Import Administration.

A site which has been granted zone status may not be used for zone activity until the site has been separately approved for FTZ activation by local U.S. Customs and Border Protection officials. Once approved, zone activities remain under the supervision of Customs and Border Protection and are subject to spot checks and periodic inspections at any time. Although FTZs are considered as existing in international commerce, FTZ sites and facilities remain within the jurisdiction of local, state and/or federal governments and agencies.

Benefits associated with an FTZ will vary depending on the type of operation involved and authority granted by the FTZ Board and US Customs and Border Protection. Some or all of the following benefits may apply:

Duty elimination – By using an FTZ, a company avoids the lengthy Customs duty drawback process. No duty is paid on goods destroyed in the zone which can be of benefit to a company with fragile imports or other processes that may result in excessive scrap materials.

Duty deferral – Duties and federal excise tax are deferred on imports until they leave the zone and enter U.S. Customs territory. Different from bonded warehouses, there is no limit on the amount of time that merchandise may remain in the Zone. Since duties are not paid until the imported products are withdrawn from the FTZ, users can implement more effective cash flow strategies.

Duty reduction (Inverted Tariff) – If manufacturing in a zone results in a finished product that has a lower U.S. Harmonized Tariff rate than the U.S. Harmonized Tariff rates of the foreign inputs, the finished product may enter U.S. Customs territory at the duty rate that applies to the finished product. When the finished product rate is lower than the imported component rate, the importer can save the difference between the two rates.

Elimination of drawback. In some instances, Customs duties previously paid on exported merchandise may be refunded through a process called drawback. The drawback law is increasingly complex and expensive to administer. Through the use of an FTZ, the need for drawback may be eliminated allowing these funds to remain in the operating capital of the company.

Labor, overhead and profit - In calculating the dutiable value on foreign merchandise removed from a zone, zone users are authorized to exclude zone costs of processing or fabrication, general expenses and profit. Therefore, Customs duties are not owed on labor, overhead and profit attributed to production in an FTZ.

Streamlined entry processes and cash flow timing– FTZ operators pay one weekly Merchandise Processing Fee instead of fees on each shipment. Fees are paid quarterly on merchandise admitted in the FTZ, not on U.S. Customs entry.

Enhanced Logistics – Imports can be delivered directly to a zone. Permission may be sought and granted to allow permission to break and affix Customs seals.

Merchandise Processing Fee Reduction –Merchandise processing fee (MPF) are only paid on goods entering U.S. Customs territory. Certain zone processes are available which can reduce these costs even further.

Production Equipment – Certain duty deferral and reduction benefits also apply on production equipment admitted to the FTZ for assembly and testing prior to use in production.

Re-exports - Merchandise which is imported into the U.S. for admission into an FTZ and later re-exported from the Zone is not assessed U.S. Customs duties.

Reject, Scrap, and "Consumed" Merchandise - Imported merchandise which is admitted into a Zone and then rejected, scrapped, or consumed in the Zone, is not assessed any Customs duties.. Duties are reduced significantly for all merchandise that is scrapped through a manufacturing operation in an FTZ and then sold from the Zone as commercial scrap material.

Zone-to-Zone Transfers -Imported merchandise that is admitted into the Zone and then shipped to another U.S. FTZ can be shipped duty-free to the receiving Zone with the receiving Zone's concurrence. As duty-free transfers, Zone-to-Zone shipments allow both the shipping Zone and the receiving Zone to reduce duty exposure. Duties are eliminated completely on imported components, which are transshipped through several Zones and eventually re-exported.

Other – Because FTZs require accurate inventory tracking and site security, these benefits may assist companies with improved loss prevention and inventory control. Insurance costs may be reduced. Streamlined logistics can contribute to decreased transportation costs.

These are just the principal benefits of U.S. Foreign-Trade Zones. There are many other additional benefits which are usually evaluated on a case-by -case basis. To discuss how your operation could benefit from Foreign-Trade Zone No. 284, please contact the Grantee's offices.

SECTION III – Grantee Policy

POLICY STATEMENT

The Foreign Trade Zone (FTZ) Program was authorized by Congress in 1934 to encourage job creation and retention through the expansion of international trade. Companies that choose to participate in the FTZ program stand to enjoy significant federal benefits including the elimination of duty on exports, deferral of duty on origin merchandise, inverted tariff and various operational efficiencies related to the movement of imported goods.

Pursuant to New York State County Law Section 224 (21), Genesee County was authorized to make application to the Foreign-Trade Zones Board as established by the act of Congress, approved June 18, 1934 entitled “An Act to Provide for the Establishment, Operation and Maintenance of Foreign Trade Zones in Ports of Entry of the United States, to Expedite and Encourage Foreign Commerce, and for Other Purposes”. Furthermore, the County of Genesee may contract with a non-profit agency and may appropriate such sums of money as it may deem proper, subject to the provisions of the article, towards the promotion and establishment of such zones. Via formal resolution, the County of Genesee authorized and empowered the Genesee Gateway Local Development Corporation to make application to the United States Department of Commerce Foreign-Trade Zones Board for the establishment of a new general purpose foreign trade zone under the Alternative Site Framework. The Foreign-Trade Zone Board granted authority to the Genesee Gateway Local Development Corporation for the establishment of a Foreign-Trade Zone, designated on the records as Foreign-Trade Zone No. 284 on December 21, 2012.

The FTZ program is an important tool in the economic development “toolbox” of the Genesee Gateway Local Development Corporation (GGLDC). It is the stated mission of the GGLDC to assist local economic development efforts by making real estate development investments to bolster shovel-ready tech and industrial park development and to provide tax and other related financial assistance to commercially viable projects in Genesee County thereby enabling the continued development of a sustainable long-term economy. The availability of the FTZ program will help the GGLDC attain its mission.

The GGLDC is responsible for filing all Annual Reports and Zone Schedules with the Foreign Trade Zones Board.

The GGLDC is responsible for issuance of any permits approved by the FTZ Board for Zone Users who request authorization for retail sales or other commercial activity involving domestic, duty-paid and duty-free merchandise within an activated zone.

The GGLDC will be responsible for actively marketing the benefits of operations within the Foreign-Trade Zone to all new and existing businesses within Genesee County.

The GGLDC will maintain maps and drawings of current zone boundaries for FTZ No. 284 showing approved sites and activated sites. The maps and drawings shall be available to the public.

The GGLDC will agree with all activation requests by Customs and Border Protection prior to formal activation.

Zone Operators and Subzone Users are required to update the GGLDC with any changes to Zone projects, scopes of manufacturing authority, additions/expansions, sourcing changes, and personnel and/or management changes that may affect their Zone or activation status.

SECTION IV – Zone No. 284 Description

Foreign Trade Zone No. 284 is operated by the GGLDC as a public utility under Foreign-Trade Zone Board Regulations. The GGLDC is the sister entity of the Genesee County Industrial Development Agency (GCIDA) doing business as the Genesee County Economic Development Center (GCEDC). The GCIDA/GCEDC and the GGLDC have historically been the two main county-wide organizations responsible for economic development efforts throughout Genesee County.

The GGLDC FTZ application outlined a new General Purpose foreign-trade zone under the Alternative Site Framework covering the service area of Genesee County, NY. The zone is adjacent to the Monroe County, New York, U.S. Customs Port of Entry. The Zone is approximately 31 statute miles and approximately 25 minutes driving time from the US Customs Port of Entry #141 at 1200 Brooks Avenue, Rochester, Monroe County, NY, thereby fulfilling the adjacency requirements as listed and defined in U.S. Customs and Border Protection regulations (19 CFR Section 101.3). According to the U.S. Census Bureau, Genesee County has a total area of 495 square miles (1,282.0 km²), of which 494 square miles (1,279.5 km²) is land and 1 square mile (2.6 km²) (0.25%) is water. Batavia is the county seat.

Foreign Trade Zone 284 designates two Magnet Sites within the County –

- **Apple Tree Acres Corporate Park**, a shovel-ready 119- acre, fully infrastructure developable business park located in the Village of Bergen, NY at Exit 2 of I-490 and just 3.5 miles from the New York State Thruway (I-90) and
- **Genesee Valley Agri-Business Park**, an approximately 200 acre park created by a public-private partnership between the GGLDC and Rural Investments, Inc., a subsidiary of Farm Credit. The Genesee Valley Agri-Business (GVAB) Park is a fully shovel-ready industrial zoned business park in the Town of Batavia, NY right next to the Genesee County Fair Grounds on State Route 5, just minutes away from Route 63 and I-90 making it an ideal location for food processing companies that depend on efficient transportation. Centrally located in the heart of WNY, the Ag Park is within a 10-hour drive of 125 million potential customers. The park enjoys low-cost water via local aquifers that can produce 6 million gallons/day, transmission level electric, a 4" gas line and direct in-park rail. This park has already become a favorite for food processing companies requiring heavy-duty infrastructure.

Section V- Application of Rules, Rates and Regulations

APPLICATION AND INTERPRETATION OF FOREIGN TRADE ZONE No. 284 ZONE SCHEDULE

The rules, rates and regulations of this Zone shall apply at Foreign Trade Zone No. 284 and any subzones and annexes unless otherwise specified. The Grantee has sole responsibility for interpretation and applicability of any of the rates, regulations or services provided according to this Zone schedule. The Grantee defers judgment on any matter involving interpretation or action by Customs and Border Protection or any other agency of the United States government to the Port Director of Customs and Border Protection with the concurrence of the FTZ Board. Where applicable, FTZ Board and CBP regulations will prevail should any conflict arise with this Schedule.

REGULATIONS - FTZ BOARD

Foreign Trade Zone No. 284 is regulated by the FTZ Board in Washington, D.C. according to Regulations of the Foreign Trade Zones Board as defined in the United States Code of Federal Regulations, Title 15, Chapter IV, Part 400 – Regulations of the Foreign Trade Zones Board. Copies of these regulations may be found at <http://www.gpo.gov/fdsys/granule/CFR-2012-title15-vol2/CFR-2012-title15-vol2-part400/content-detail.html>

REGULATIONS – U.S. CUSTOMS AND BORDER PROTECTION

Foreign Trade Zone No. 284 is subject to Customs and Border Protection regulations as defined in the U.S. Code of Federal Regulations, Title 19, Chapter 1, Part 146 – Foreign Trade Zones. Copies of these regulations may be found at <http://enforcement.trade.gov/ftzpage/ftznew/19cfr146.html>

PUBLIC UTILITY STATUS/UNIFORM STATUS

Foreign Trade Zone No. 284 will be operated as a public utility as required by Section 14 of the FTZ Act (19 U.S.C. 81 n) and all rates and charges for all services within the Zone shall be fair and reasonable. A rate or fee may be imposed on zone participants to recover costs incurred by or on behalf of the Grantee for the performance of the Grantee function; such rate or fee must be directly related to the service provided and may incorporate a reasonable rate of return on investment. Rates or charges may not be tied to the level of benefits derived by zone participants.

Likewise, pursuant to Section 14 of the FTZ Act (19 U.S.C. 81n), the GGLDC, as Grantee, will afford to all who apply to make use or participate in the zone uniform treatment under like conditions. Treatment within a zone shall not vary depending on whether a zone participant has procured any zone-related product or service or engaged a particular supplier to provide any such product or service.

SECTION VI – General Rules

GENERAL

The following rules governing the procedures within Foreign Trade Zone No. 284 are issued as a supplement to FTZ Board and U.S. Customs and Border Protection regulations. Where applicable, the FTZ Board and U.S. Customs and Border Protection regulations should prevail should any conflict arise with this Schedule.

All persons and merchandise of every description entering or leaving Foreign Trade Zone No. 284 for any purpose whatsoever shall be bound by the lawful regulations of the FTZ Board and the laws of U.S. Customs and Border Protection and actions of the Customs and Border Protection Port Director. All General Purpose Zone Operators and Subzone Operators must enter into Operating Agreements with the GGLDC.

All FTZ Users utilizing the services of a General Purpose Zone Operator must enter into an Operating Agreement.

Should a conflict arise between the Operating Agreement and this Schedule, the Agreement will prevail. Copies of the Operating Agreements are available upon request from the GGLDC.

AVAILABILITY OF THE ZONE

All rates and charges for all services and privileges within the Zone shall be fair and reasonable, and the Grantee and Operator(s) shall afford to all who may apply for the use of the Zone and its facilities uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments. Users are subject to specific rules, rates and charges of Zone Site Operator(s).

All Zone services and facilities shall be administered fairly and reasonable. In addition, the availability of all said services and facilities is subject to the physical limitations of Foreign-Trade Zone No. 284, with said services and facilities available on a “first-come, first-served” basis.

CHARGES

Charges assessed by government agencies are not included in this Zone Schedule and are the responsibility of the Zone User or his agent with the appropriate government agency.

Fees shall be charged to the Zone User for staff services requested outside regular GGLDC business hours or upon special request.

Zone charges are due and payable as they accrue. If such charges are not paid within a reasonable length of time, the Zone Operator and/or Grantee may take possession of such merchandise and remove and store same at the charge, risk, and expense of the owner and/or may sell the goods by public auction and/or pursue other remedies as allowed by law.

RESPONSIBILITY FOR DUTY AND TAXES

The Foreign-Trade Zones Board does not own or operate any Zones. Rather, it permits applicants to establish, operate, and maintain Zones. Genesee Gateway Local Development Corporation (GGLDC) on behalf of Genesee County, as Grantee, shall execute a Grantee/Operator Agreement with another party or parties for the operational management of Zone Sites. Various tenants may lease space and construct buildings in the Zone and physically run their operations in the buildings, while others may pay a Zone Operator a fee for handling their merchandise and performing related services. Operator(s) of the Zone are responsible and liable for payment of any and all duties or penalties due any agency of the Federal, State or Local government arising from use of the Zone, including liabilities on merchandise which is not accounted for to the satisfaction of U.S. Customs and Border Protection

COMMUNICATION

Zone Operators (if any) and Zone Users shall inform the Grantee of any written or oral communications with U.S. Customs and Border Protection and any other federal agency that involves the merchandise held in the zone with respect to zone activity. Only the Grantee has the right to submit paperwork to the FTZ Board or Department of Commerce with respect to Foreign-Trade Zone activity. The Zone Operator(s)/User(s) shall promptly notify the Grantee of any written or oral request for information, spot check, or audit of any kind from CBP, FTZ Board or any governmental agency and of any audit or investigation commenced by any government agency which directly concerns zone operations and shall provide any letters, requests, report and investigative documentation to the Grantee.

CUSTOMS BOND

Zone Operators and Sub Zone Operators must maintain a CBPF 301 Customs Bond as a guarantee for the payment of all duties and taxes and also for the payment of penalties and/or liquidated damages that may occur. The Grantee may, if deemed appropriate, may require a Zone User to obtain an individual Customs bond. Bond amounts are set by the CBP Port Director based on the annual estimated duty liability of merchandise held in the Zone; minimum bond amount is \$50,000 USD.

GRANTEE LIABILITY

Neither Foreign Trade Zone No. 284, the Genesee County Economic Development Center (GCEDC) nor the Genesee Gateway Local Development Corporation (GGLDC) shall be held liable and cannot assume any responsibility for any loss or damage to freight, cargo or merchandise or other property within the Zone, or for any loss or damage arising from acts of commission or omission of Operators.

RECORD RETENTION

The Operator is required to retain records for five (5) years after merchandise is removed from the Zone. Records must be readily available for Customs review at the Zone Site(s).

SECTION VII – Activation, Deactivation and Alteration of Zone Sites

PROCEDURES FOR FILING APPLICATIONS TO THE FOREIGN-TRADE ZONES BOARD

The Foreign-Trade Zone of Genesee County will determine which type (or types) of application(s) is appropriate to accommodate an interested Zone Operator and/or User.

ACTIVATION

The GGLDC, as Grantee of Foreign-Trade Zone No. 284, will provide assistance to Operators toward activation of Zone Sites with U.S. Customs and Border Protection for commencement of Zone operation. When an Operator desires to activate Zone space, the Operator will complete the following:

- 1) Procedures Manual establishing how the Zone Site will be operated, in conformance with the Procedures Manual standard maintained by Foreign Trade Zone No. 284
- 2) Statement of personal history to permit the U.S. Customs and Border Protection to perform a background check. This form must be completed on principal officers and key employees who will be involved in Zone operations.
- 3) A letter of concurrence from the Zone Grantee.
- 4) If activity is for manufacturing, a description of the proposed manufacturing activity and a copy of the Foreign-Trade Zones Board approval of this activity.
- 5) Grantee/Operator Agreement, duly executed, between the Operator and the Grantee, covering the Zone Site for which activation is sought.
- 6) Customs will conduct a security inspection of the Zone Site to ensure security systems are in place as listed in the Procedures Manual.
- 7) FTZ Operator's Bond to U.S. Customs as specified by Customs prior to activation.
- 8) A Zone Operator may be required to provide an additional bond in the name of the Grantee against any loss, or other Customs obligations or costs, attributable to operations in the Zone.

DEACTIVATION

An Operator may deactivate all or a portion of a Zone Site by notifying and obtaining the approval of the Grantee pursuant to the terms of the Grantee/Operator Agreement between the Operator and the Grantee.

ALTERATION

An Operator may increase or decrease the amount of activated space, within an authorized Zone Site or Subzone by notifying and obtaining approval of the Grantee.

SECTION VIII – Merchandise Handling and Regulations

GENERAL

The Grantee may inspect Zone sites at any and all reasonable times to ascertain whether or not the covenants or conditions related to the proper use of Zone sites are being maintained.

All Zone Operators shall secure and maintain throughout the term of their Zone tenancy insurance with requirements and limits as required by the Grantee and must name the Grantee as Additional Insured. Certificates evidencing such insurance shall be provided within ten (10) business days prior to the activation of FTZ operations at the site. Appropriate insurance shall include provision for worker's compensation, vehicle liability and general liability.

If such insurance is not adequately secured and maintained, zone tenancy may be terminated by the Grantee, the GGLDC. Zone schedule rates do not include insurance costs.

No operation or process of treatment will be permitted in the Zone that, in the judgment of the FTZ Board, Grantee, or Zone Operator is detrimental to the public interest, health and/or safety except as allowed by law. Zone management reserves the right to refuse merchandise which would, in the opinion of Zone management, pose unusual or unacceptable problems or hazards.

SECURITY

Persons desiring admittance to an Activated Zone shall make application to a representative of the Operator. A visitor's log will be maintained and will show the time, date, firm, person visited and in/out time. All persons having business in the Activated Zone will enter and leave at a prescribed entrance and may be subject to physical examination as U.S. Customs and Border Protection deems necessary or at the request of the Zone Operator. Upon admittance, visitors will be issued temporary passes that must be worn or shown upon request. Upon leaving a Zone, temporary passes must be surrendered and any permanent pass must be shown to the appropriate representative.

Concurrent with an Activation Request to Customs, prospective Zone Operators must complete a background check of the qualifications, character and experience of key principal management/officers of the Zone. A list inclusive of each and every individual, to include full names, addresses, social security numbers, dates and place of birth and driver's license numbers must be submitted to Customs and Border Protection.

All merchandise stored within the Zone will be stored in a safe and sanitary manner. All entrances shall be left unblocked. Trash and waste shall be removed and all local, state and federal health laws shall be observed to protect public safety.

After a Zone Site has been activated, all security and safety measures required to achieve initial activation must be maintained at all times. Spot checks may be conducted by U.S. Customs and Border Protection and the Grantee without prior notification. Liquidated damages or notices may be assessed if security and safety measure are found to be insufficient.

Cost of special security devices and other requirements will be the responsibility of the Operator.

Section IX – Operations

ACTIVATION

Pursuant to regulations of U.S. Customs and Border Protection, all or any portion of the Zone approved by the FTZ Board must be approved by the Grantee and the CBP Port Director for FTZ Operations and for the admission, handling and shipment for import or export of merchandise in Zone status. All U.S. Customs and Border Protection procedures, per 19 C.F.R. Section 146.6, must be followed. Prior to Activation, a FTZ Procedures Manual must be developed for each General Purpose FTZ site or Subzone and submitted to the U.S. Customs and Border Protection Port Director. Amendments and revisions in procedures must be updated in the manual and the revised manual must be provided to U.S. Customs and Border Protection and to the Grantee within thirty (30) days of the affected change.

INVENTORY CONTROL AND RECORD KEEPING SYSTEMS

All inventory control and recordkeeping systems employed by Operators within the Zone must meet the requirements of the U.S. Customs Service Regulations. Under the regulations, each Operator maintains inventory records. U.S. Customs and Border Protection is relieved of the duty of actually keeping records, but maintains assurance of the systems' accuracy by selective examinations of merchandise, and spot checks and audits of Zone facilities. Each system must be capable of producing the following:

- Accurate and timely reports and documents as required by U.S. Customs and Border Protection Regulations.
- Accounting for all merchandise in its care, custody, and control.
- Identification of shortages and surpluses of merchandise in the Zone in sufficient detail to determine the quantity, description, U.S. Harmonized Tariff Schedule classification, Zone status, and value of the missing or excess merchandise.
- Audit trail of Customs forms, from admission through manipulation, manufacture, destruction or transfer of merchandise from the Zone by a U.S. Customs and Border Protection authorized inventory method.
- All information necessary to make entry for merchandise being transferred to U.S. Customs and Border Protection territory.

INVENTORY PROCEDURES

Zone Operator(s) are responsible for establishing and maintaining Inventory Control Systems acceptable to the U.S. Customs Service and the Zone Grantee for all merchandise in their care, custody, and control.

EMPLOYEES AND PERSONS ENTERING AND LEAVING ZONE

Employees and other persons entering or leaving the Zone shall pass through the designated entrance to the Zone. Employees and other persons shall be subject to examination upon entering and leaving a zone as the Port Director deems necessary. All persons entering the zone for any reason shall be bound by the regulations promulgated by the FTZ Board, U.S. Customs and Border Protection and the Zone Operator.

HOURS OF BUSINESS

Regular or normal business hours shall be between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, with the exception of recognized holidays observed by the GGLDC.

The zone may be opened at other times, on a regular or irregular basis, upon application and with approval of the Operator and U.S. Customs and Border Protection Officials.

MERCHANDISE PERMITTED IN A ZONE/RETAIL EXCLUSIONS/OTHER

Foreign and domestic merchandise, except as specifically prohibited by law, may, without being subject to the Customs laws of the United States, except as otherwise provided in the Act and regulations made hereunder, be brought into a zone.

No retail trade, defined as sales or offers to sell goods or services to individuals for personal use, shall be conducted within a Zone except under permits issued by the Grantee and approved by the FTZ Board.

No person shall be allowed to reside within a zone except Federal, State or municipal officers or agents whose resident presence is deemed necessary.

Zone Users within a General Purpose Zone are required to utilize the designated Zone Operator for their particular site unless a prior agreement is made with the Grantee.

Appendix A - Fee Schedule

The following fees are charged by the Genesee Gateway Local Development Corporation. **The Grantee reserves the right to change or waive any fee or charge contained herein if, in the Genesee Gateway Local Development Corporation's determination, it is in the best interest of the welfare of the community to do so.** Any fees enumerated herein shall be due and payable exclusive of any additional fee(s) required by the FTZ Board, U.S. Customs and Border Protection, and/or any other entity.

The below-stated fees do NOT include fees associated with the actual preparation of the application. The fees cover Grantee expenses to obtain the necessary approvals/resolutions and Customs Concurrence letters, preparation and processing of the Operations Agreements and any necessary support required in the approval and activation process, including the oversight and submission of the Annual Report to the Foreign Trade Zones Board through the Online FTZ Information System (OFIS).

The below-stated fees are based on the following business sizes defined by the number of employees employed in Genesee County, NY, for a particular business.

Business Size Definitions (Number of Employees Employed in Genesee County)

- Micro 1-6
- Small < 25
- Medium 26 - 100
- Large 101-499
- Enterprise > 499

Application / Processing Fees

GENERAL PURPOSE ZONES

- | | | |
|------|---|----------|
| I. | APPLICATION FEE FOR EXPANSION OF GENERAL PURPOSE ZONE TO INCLUDE ADDITIONAL PROPERTY: | |
| | ○ Micro | \$ 2,000 |
| | ○ Small | \$ 2,500 |
| | ○ Medium | \$ 3,500 |
| | ○ Large | \$ 4,500 |
| | ○ Enterprise | \$ 5,500 |
| II. | ACTIVATION FEE (PER SITE/USER): | |
| | ○ Micro | \$ 2,000 |
| | ○ Small | \$ 2,500 |
| | ○ Medium | \$ 3,500 |
| | ○ Large | \$ 4,500 |
| | ○ Enterprise | \$ 5,500 |
| III. | DE-ACTIVATION FEE (PER SITE/USER) : | \$ 1,000 |
| IV. | ANNUAL FEE TO GRANTEE (in addition to any fee(s) listed above): | |

The Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Foreign Trade Zones Board.

The initial annual fee is payable as follows:

- One-half (1/2) upon execution of the Grantee/Operator Agreement
- One-half (1/2) upon Customs approval of activation

Then, annually on the anniversary date of activation by Customs, the fee is payable as described in the Grantee/Operators agreement and annually for each subsequent year the facility remains activated.

| | |
|---------------|----------|
| ACTIVE SITE | \$ 2,000 |
| INACTIVE SITE | \$ 1,500 |

USAGE DRIVEN AND MAGNET SITES

- V. APPLICATION FEE
- o Micro \$ 2,500
 - o Small \$ 3,500
 - o Medium \$ 4,500
 - o Large \$ 5,500
 - o Enterprise \$ 7,500

- VI. ACTIVATION FEE (PER SITE): \$ 1,500

- VII. ANNUAL FEE TO GRANTEE (in addition to any fee(s) listed above):

The Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Foreign Trade Zones Board.

The initial annual fee is payable as follows:

- One-half (1/2) upon execution of the Grantee/Operator Agreement
- One-half (1/2) upon Customs approval of activation

Then, annually on the anniversary date of activation by Customs, the fee is payable as described in the Grantee/Operators agreement and annually for each subsequent year the facility remains activated.

| | |
|---------------|---------|
| ACTIVE SITE | \$2,000 |
| INACTIVE SITE | \$1,500 |

SUB-ZONES

VIII. SUB-ZONE APPLICATION FEE:

| | |
|--------------|----------|
| ○ Micro | \$ 3,500 |
| ○ Small | \$ 4,500 |
| ○ Medium | \$ 5,500 |
| ○ Large | \$ 6,500 |
| ○ Enterprise | \$ 8,500 |

IX. FEE FOR EXPANSION OR CHANGE OF SCOPE AT EXISTING SITE:

| | |
|---------------|----------|
| a. Micro | \$ 1,500 |
| b. Small | \$ 2,500 |
| c. Medium | \$ 3,500 |
| d. Large | \$ 4,500 |
| e. Enterprise | \$ 5,500 |

X. ACTIVATION FEE (PER SITE): \$ 1,500

XI. ANNUAL FEE TO GRANTEE (in addition to any fee(s) listed above):

The Annual Fee will cover Grantee expenses for oversight of the General Purpose Zone project and submission of the Annual Report to the Foreign Trade Zones Board.

The initial annual fee is payable as follows:

- One-half (1/2) upon execution of the Grantee/Operator Agreement
- One-half (1/2) upon Customs approval of activation

Then, annually on the anniversary date of activation by Customs, the fee is payable as described in the Grantee/Operators agreement and annually for each subsequent year the facility remains activated.

| | |
|---------------|----------|
| ACTIVE SITE: | \$ 2,000 |
| INACTIVE SITE | \$ 1,500 |

The above-stated fees are not refundable. All fees are payable by the applicant to the Grantee prior to the submission of an application. Failure to pay will result in the withholding of the requested application. Fees must be paid within 30 days of the date of invoice.

Other Fees & Charges Not Otherwise Stated

Additional Grantee assistance. Request for additional assistance or interface required with the FTZ Board, U.S. Customs and Border Protection, or any other governmental agency on procedures or operations within the foreign-trade zone will be provided by the Grantee on an hourly rate basis of \$100/Hr.

U.S. Customs and Border Protection agency fees. Merchandise processing fees will be paid by the Operator at the zone site. Additionally, all other fees and charges assessed by U.S. Customs and Border Protection for services provided to the affected zone site will be invoiced to the Operator of that site. The Grantee is not liable or responsible for U.S. Customs and Border Protection fees or charges. Zone Operators are also responsible for other fees such as other government agency fees, U.S. Customs and Border Protection fines, penalties or liquidated damages affecting zone merchandise or zone activities.

Legal expenses. Applicant, Zone/Subzone Operator agrees to pay, or cause to be paid, all legal expenses and costs which Grantee incurs in conjunction with, or arising out of, any of the services provided in this fee schedule.

Miscellaneous Fees. Any other fees, charges, or expenses incurred by Grantee for the purpose of obtaining Foreign Trade-Zones Board approval and/or U.S. Customs & Border Protection approval on behalf of client, and not specifically listed herein, shall be the responsibility of the applicant.

Services of other government agencies. Charges for services of other government agencies should be arranged for and paid by the Operator who requires the use of such services. Under no circumstances will the Grantee be liable or responsible for any other government agencies' fees or charges.

Fines, Penalties and Liquidated Damages

U.S. U.S. Customs and Border Protection Service fines, penalties, or liquidated damage claims affecting Zone merchandise or Zone activities will be paid by the Operator of the affected Zone Site. The same is true of any other fines, penalties, or liquidated damage claims by other government agencies concerning operations at the Zone Site. Under no circumstances will the Grantee be liable or responsible for any fines, penalties, forfeiture or liquidated damage claims.

Late Payment Charge

If any payment due is not received by the Grantee within fifteen (15) calendar days after its due date, the Operator shall pay a late payment charge, for each occurrence, equal to five percent (5%) of the amount then due. The existence of the right by the Grantee to receive a late payment charge shall not constitute a grace period or provide any right for the Operator to make a payment other than on its due date.

Appendix B - Definitions of Terms

Glossary of FTZ Terms

- **Activation** - Once a zone or subzone site is approved by the FTZ Board, an application must be made to the local CBP office, with the concurrence of the FTZ grantee, to operate the zone/subzone site (or portion thereof) under FTZ procedures. This CBP process is known as activation generally includes steps such as background checks, a written procedures manual, posting a bond with CBP, as well as a review of the security of the site(s) and the inventory control methods.
- **Activation Limit** - The size of the physical area of a particular zone or subzone authorized by the Board to be simultaneously in activated status with CBP pursuant to 19 CFR 146.6. The activation limit for a particular zone/subzone is a figure explicitly specified by the Board in authorizing the zone (commonly 2,000 acres) or subzone or, in the absence of a specified figure, the total of the sizes of the approved sites of the zone/subzone.
- **Adjacency** - According to Section 400.21, general-purpose zone sites must be within 60 miles or 90 minutes driving time of a U.S. Customs and Border Protection Port of Entry.
- **Administrator** – An entity designated to serve as a point of contact for information on the Zone project and to provide oversight, marketing and management support.
- **Admit, Admission** - The U.S. Customs and Border Protection terms describing the shipment of merchandise **into** U.S. foreign-trade zones under CBP supervision (19 CFR 146.1).
- **Alteration** – A change in the boundaries of Foreign Trade Zones Board approved and designated Zone or Subzone; designation of a separate Site of an already-activated Zone of Subzone with the same Operator at the same site; or the relocation within a Foreign-Trade Zones Board approved and designated area of an already-activated Site with the same Zone Operator. Notification must be sent to the Foreign Trade Zones Board. The Operator must make a written application to the local Port Director of Customs and Border Protection for approval of an alteration of an Activated area as it must be reviewed by CBP via its security survey to ensure the security suitability and fitness of the area for receipt of merchandise in zone status.
- **Annual report** – A report due within 90 days after the end of each reporting period from the Grantee to the Foreign Trade Zones Board on the status of the Zone Project. It is required that all Operators and Users must comply in a timely manner with requests for information from the Grantee/Administrator for the completion of the report.
- **Alternative Site Framework (ASF)** - An optional approach to designation and management of zone sites allowing greater flexibility and responsiveness to serve single-operator/user locations. The ASF was adopted by the Board as a matter of practice in December 2008 (74 FR 1170, January 12, 2009; correction 74 FR 3987, January 22, 2009) and modified by the Board in November 2010 (75 FR 71069, November 22, 2010).
- **Articles Consumed** - Interpretation of the FTZ Act holds that all materials to be consumed in manufacturing or processing operations within a zone must first be entered for consumption with duties paid.
- **Board** – the Foreign Trade Zones Board created by the Foreign Trade Zones Act of June 19, 1984 (48 Stat. 998 – 1003; 19 U.S.C. 81a-81u), as amended by Public Law 566, 81st Congress, approved June 17, 1950 {15 C.F.R. Section 400.2(a)}
- **Bond** – A surety bond is a contract whereby one party, the surety, guarantees the performance of a second party, the principal, for the benefit of a third party, the obligee (the Federal Government in the case of Customs bonds). Should the principal fail to perform his/her agreement with the obligee, the surety will be required to pay liquidated damages and will have the right to obtain reimbursement from the defaulting principal. “Customs bonds” – all bonds required to be given under Customs laws or regulations shall be known as Customs bonds {19 C.F.R. Section 113.4(a)}
- **CBP** - U.S. Customs and Border Protection of the Department of Homeland Security
- **Deactivation** - A previously activated general purpose zone or subzone site which no longer has local CBP authorization for activity under FTZ procedures.

- **Deleted** - A site or portion of a site that once held zone status, but has been removed from the zone through an administrative minor modification by the FTZ Board staff or an FTZ Board application process.
- **Domestic origin/duty paid** - Describes merchandise that is mainly of domestic origin but also includes foreign-origin merchandise on which customs entry and duty payments have been made prior to admission to the zone site.
- **Domestic status** - Used synonymously with Domestic origin/duty paid (see above). Domestic status is the customs status (19 CFR 146.43) for domestic origin and duty paid foreign origin zone merchandise.
- **Entry for Consumption** - The term that describes the general customs process of filing the appropriate CBP documents (including duty evaluation) that allows merchandise to be brought into the commerce of the U.S. (19 CFR 141). With respect to foreign-trade zones, this process occurs when merchandise is shipped from the zone into U.S. commerce.
- **Exports** - The category of merchandise that is forwarded from zone sites to destinations in foreign countries.
- **Foreign-Trade Zone** - (FTZ or zone) includes one or more restricted-access sites, including subzones, in or adjacent (as defined by Sec. 400.11(b)(2)) to a CBP port of entry, operated as a public utility (within the meaning of Sec. 400.42) under the sponsorship of a zone grantee authorized by the Board, with zone operations under the supervision of CBP.
- **Foreign-Trade Zones Board** - Consists of the Secretary of Commerce (chairman) and the Secretary of Treasury, or their designated alternates.
- **Foreign Status** - Describes zone merchandise admitted to a zone site under CBP supervision that is normally of foreign origin. Such merchandise is admitted to zone sites without being subject to formal customs entry procedures and payment of duties, unless and until the foreign merchandise enters customs territory for domestic consumption. Foreign status merchandise is further categorized by CBP as either Non-Privileged Foreign or Privileged Foreign
- **Forwarded** - The category of merchandise that is shipped from or forwarded from zone sites after release by CBP. This category includes merchandise that is forwarded to destinations in the U.S. market as well as merchandise that is exported--that is, forwarded to markets in foreign countries.
- **Grant of Authority** - A document issued by the Board that authorizes a zone grantee to establish, operate and maintain a zone, subject to limitations and conditions specified in this part and in 19 CFR part 146. The authority to establish a zone includes the responsibility to manage it.
- **Grantee** - See **Zone Grantee**
- **Inactive** - A general-purpose zone or subzone site that has been approved by the FTZ Board, but is not “**activated**” with CBP. No activity under FTZ procedures is occurring at an inactive site.
- **Lapse Provision** - A grant of authority for a zone or a subzone shall lapse unless the zone project, or subzone facility, is activated, pursuant to 19 CFR Part 146, and in operation not later than five years from the date of the Board order.
- **Magnet site** - A site intended to serve or attract multiple operators or users under the ASF.
- **Merchandise Received** - Involves merchandise received into activated FTZ space under FTZ procedures by foreign-trade zones and subzones. It includes foreign status merchandise and domestic status merchandise.
- **Modification** - A major modification is a proposed change to a zone that requires action by the FTZ Board; a minor modification is a proposed change to a zone that may be authorized by the Executive Secretary.
- **Non-Privileged Foreign (NPF) Status** - One of the customs categories of foreign status merchandise (See 19 CFR 146.42). Such merchandise is evaluated based on its condition at the time it is shipped from the zone to the U.S. market and entered for consumption by CBP.
- **Operator** - See **Zone Operator**
- **Person** - Includes any individual, corporation, or entity.

- **Port of Entry** - A port of entry in the United States, as defined by part 101 of the regulations of U.S. Customs and Border Protection (19 CFR part 101), or a user fee airport authorized under 19 U.S.C. 58b and listed in part 122 of the regulations of CBP (19 CFR part 122).
- **Privileged Foreign (PF) Status** - One of the customs categories of foreign status merchandise (See 19 CFR 146.41). Such merchandise maintains its status based on its condition when it was admitted to the zone. Thus, when the merchandise is shipped from the zone to the U.S. market and entered for consumption by CBP, it is evaluated based on the time-of-admission condition even though it may have undergone a transformation in the zone.
- **Production** - Activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use, or activity involving a change in the condition of the article which results in a change in the customs classification of the article or in its eligibility for entry for consumption.
- **Regulations** - All operations within the Foreign Trade Zone are subject to Foreign Trade Zone Board Regulations, 15 C.F.R. Part 400; and Customs and Border Protection Regulations, 19 C.F.R. Part 146. Imports and exports may also be governed by the regulations and guidelines of other federal, state or local agencies.
- **Service Area** - The jurisdiction(s) within which a grantee proposes to be able to designate sites via minor boundary modifications under the ASF.
- **Subzone** - A site (or group of sites) established for a specific use that cannot be accommodated within the existing General Purpose Zone.
- **Terminated** - If a general purpose zone or subzone is no longer needed, the grantee can request that the FTZ Board remove zone/subzone designation. Upon such action by the FTZ Board, the zone or subzone is then considered terminated.
- **Usage-Driven Site** - A site tied to a single operator or user under the ASF.
- **User** - See **Zone User**
- **Zone** - A foreign-trade zone (see above) established under the provisions of the FTZ Act and regulations. The term also includes subzones, unless the context indicates otherwise.
- **Zone Grantee** - The corporate recipient of a grant of authority for a zone project. The term "grantee" means "zone grantee" unless otherwise indicated.
- **Zone Operator** - A corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee (or third party on behalf of the grantee) with the concurrence of the Port Director of CBP.
- **Zone Restricted Status** - Merchandise in this status is to be exported or destroyed. Zone-restricted status merchandise can be entered into U.S. customs territory only if the FTZ Board finds that entry would be in the public interest.
- **Zone Schedule** - To be kept by the zone grantee, the zone schedule includes the internal rules and regulations of the zone, as well as a statement of the rates and fees charged to zone users.
- **Zone Site (Site)** - A physical location of a zone or subzone. A site is composed of one or more generally contiguous parcels of land organized and functioning as an integrated unit, such as all or part of an industrial park or airport facility.
- **Zone Status** - Merchandise can enter the zone in either domestic or foreign status. Domestic status can include foreign status goods where the duty has been paid and the goods entered for consumption. Foreign status includes privileged foreign, non-privileged foreign and zone-restricted status.
- **Zone User** - A party using a zone under agreement with a zone operator.