

NOTICE: ANY SUBJECT APPEARING ON THIS AGENDA, REGARDLESS OF HOW THE MATTER IS STATED, MAY BE ACTED UPON BY THE BOARD OF DIRECTORS OF TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION.

TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION
BOARD OF DIRECTORS MEETING

AGENDA

March 18, 2015 - 4:00 P.M.
CITY HALL CONFERENCE ROOM
1801 9th Ave. N.
Texas City, TX 77590

1. ROLL CALL
2. NEW BUSINESS
 - a. Consider and take action on Minutes of the September 24, 2014 Texas City Foreign Trade Zone Corporation Board Meeting.
 - b. Consider and take action on Resolution No. 15-01, approving the new Foreign Trade Zone 199 fee schedule.
3. UPDATES
4. BOARD COMMENTS
5. ADJOURNMENT

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE BULLETIN BOARDS AT CITY HALL, 1801 9TH AVENUE NORTH, TEXAS CITY, TEXAS, AT A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AND ON THE CITY'S WEBSITE ON FRIDAY, MARCH 13, 2015, AT 4:00 P.M., AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.

/s/ Michelle L. Garcia
Michelle L. Garcia
Board Secretary
Texas City Harbour Foreign Trade Zone Corporation

**Texas City Harbour Foreign Trade Zone
Corporation Agenda**

2. a.

Meeting Date: 03/18/2015

Submitted By: Michelle Garcia, City Attorney
Office

Department: City Attorney Office

Information

ACTION REQUEST (Brief Summary)

Consider and take action on Minutes of the September 24, 2014 Texas City Foreign Trade Zone Corporation Board Meeting.

BACKGROUND

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

09.24.2014 TCHFTZC Minutes

TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION
BOARD OF DIRECTORS MEETING

MINUTES

THURSDAY, SEPTEMBER 24, 2014- 4:30 P.M.
CITY HALL CONFERENCE ROOM
801 9th Avenue North
Texas City, TX 77590

The Texas City Harbour Foreign Trade Zone Corporation Board of Directors met Thursday, September 24, 2014, at 4:30 P.M., in the City Hall Conference Room, 1801 9th Avenue North, in Texas City, Texas. A quorum having been met, the meeting was called to order at 4:40 P.M. by Chairman Dwight Spurlock with the following in attendance:

(1) ROLL CALL

Present: Dwight Spurlock, Chairperson
Randy Dietel, Director
Jason Hayley, Director
Laura Boyd, Finance Director

Absent: Genie Jennings, Vice-Chairperson
Rev. Jerry Lee, Director

Staff Present: Ronald Plackemeier, City Attorney
Nicholas Finan, Executive Director of Management Services
James Hartshorn, Economic Development Coordinator
Justin Herter, Administrative Assistant
Michelle Garcia, Administrative Assistant

(2) NEW BUSINESS

- (a) Consider and take action on election of officers and Oath of Officers.

Motion by Director Jason Hayley, Seconded by Director Randy Dietel, to keep the current standing officers Dwight Spurlock, Chairperson and Genie Jennings, Vice-Chairperson, in place for another term.

Chairperson Dwight Spurlock was sworn in by Ron. F. Plackemeier, City Attorney.

Vice-Chairperson Genie Jennings was not present to be sworn in.

Vote: 3 - 0 CARRIED

- (b) Consider and take action on May 29, 2014, Texas City Harbour Foreign Trade Zone Corporation meeting Minutes.

Motion by Chairperson Dwight Spurlock, Seconded by Director Randy Dietel to approve the May 29, 2013 Texas City Harbour Foreign Trade Zone Corporation Minutes as presented in the packet

Vote: 3 - 0 CARRIED

- (c) Consider and take action on Resolution No. 14-01, approving the actions of the Officers of the Texas City Harbour Foreign Trade Zone Corporation for the fiscal year 2013-2014.

Executive Director of Management Services, Nicholas Finan explained to the Board of Directors this action was started by Ronald F. Plackemeier, City Attorney, to validate the smaller items not budgetary in nature, that typically do not need the Board's approval in a formal meeting such as a change order under the allowable percentage, advertisement in a newspaper and are approved within the budget.

Motion made by Chairperson, Dwight Spurlock, Seconded by Director, Randy Dietel, to approve Resolution No. 14-01, approving the actions of the Officers of the Texas City Harbour Foreign Trade Zone Corporation for the fiscal year 2013-2014.

Vote: 5 - 0 CARRIED

- (d) Consider and take action on Resolution No. 14-02, adopting the 2014-2015 fiscal year budget of the Texas City Harbour Foreign Trade Zone Corporation.

Laura Boyd, Director of Finance, presented the Texas City Harbour Foreign Trade Zone Corporation Budget for the 2014-2015 fiscal year. She stated there were 2 employees who have half of their salary and benefits coming out of the Texas City Harbour Foreign Trade Zone Corporation funds. The board may need to consider increasing the TCHFTZ operating fees due to the \$64,000 deficit for the upcoming fiscal year that eats in the fund balance.

Director, Randy Dietel, asked what the process was for raising fees for the TCHFTZ?

Executive Director of Management Services, Nicholas Finan, explained we would have to go back and review the contract.

Motion by Chairman Dwight Spurlock, Seconded by Director Jason Hayley, to approve Resolution No. 14-02, adopting the 2014-2015 Texas City Harbour Foreign Trade Zone Corporation Budget.

Vote: 3 - 0 CARRIED

- (e) Consider and take action on Resolution No. 14-03, appointing a Board Secretary and an Alternate for the Texas City Harbour Foreign Trade Zone Corporation.

Executive Director of Management Services, Nicholas Finan, gave a brief description of Betsy Esparza leaving to go work for a school district, and the need for an Administrative Assistant to take her place. Mr. Finan then introduced Michelle Garcia as new Board Secretary, and Justin Herter as the Board Secretary alternate.

Motion by Director Jason Hayley, Seconded by Director Randy Dietel, to approve Resolution No. 14-03, appointing Michelle Garcia as Board Secretary, and Justin Herter as the Board Secretary Alternate.

Vote: 3 - 0 CARRIED

(3) UPDATES

Executive Director of Management Services, Nicholas Finan, explained that the negotiations at Shoal Point and schedule tie into the TCHFTZ. Shoal Point is moving forward with the Methanol Plant. According to Bix Rathburn in a previous TCEDC meeting reported that everything has been positive and moving on extremely well.

Director, Jason Hayley, asked if they ever got the natural gas line up and running for supply?

Executive Director of Management Services, Nicholas Finan, responded yes.

Executive Director of Management Services, Nicholas Finan, stated that we gained Marathon in the

TCHFTZ's last meeting and we are slowly combining as one facility. There is an inactive zone that will become active. Marathon will have a larger share than in the past.

(4) BOARD COMMENTS

None

(5) ADJOURNMENT

Having no further business, Chairman Dwight Spurlock made a motion to adjourn at 4:57 P.M.; the motion was SECONDED by Director Jason Hayley. The meeting was adjourned.



Michelle Garcia, Board Secretary
Texas City Harbour Foreign Trade Zone Corporation

Date Approved: _____

**Texas City Harbour Foreign Trade Zone
Corporation Agenda**

2. b.

Meeting Date: 03/18/2015

Submitted By: Michelle Garcia, City Attorney
Office

Department: City Attorney Office

Information

ACTION REQUEST (Brief Summary)

Consider and take action on Resolution No. 15-01, approving the new Foreign Trade Zone 199 fee schedule.

BACKGROUND

We met last fall to discuss the federal FTZ requiring us to update our schedule. As we discussed at the meeting, it was discovered that we never provided a schedule to the federal FTZ. We had proposed a schedule to the board. After working with the City Attorney and the federal FTZ staff, we have completely revised the schedule. One key change is the schedule of fees. The federal FTZ says the fee must have known quantities so that a new company can calculate. Our old Schedule was based upon a our budget that could change and then a percentage of the active zone's acres which changes periodically as manufacturers add or delete areas within their zone.

ANALYSIS

ALTERNATIVES CONSIDERED

Attachments

Resolution No. 15-01

FTZ Rules and Regulations Final 2-4-15

TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION

RESOLUTION NO. 15-01

A RESOLUTION APPROVING THE NEW FOREIGN TRADE ZONE 199 FEE SCHEDULE; AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFETIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, at a meeting of the Board of Directors of the Texas City Harbour Foreign Trade Zone Corporation, duly held on March 18, 2015, a general discussion was held concerning the approval of the new Foreign Trade Zone 199 Fee Schedule; and

WHEREAS, the Chairperson is authorized to take necessary actions on submission of the new Foreign Trade Zone 199 Fee Schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION:

SECTION 1: The Board of Directors hereby approves the new Foreign Trade Zone 199 Fee Schedule.

SECTION 2: The Board of Directors hereby approves and authorizes the Texas City Harbour Foreign Trade Zone Corporation Chairperson to take necessary actions on submission of the new Foreign Trade Zone 199 Fee Schedule.

SECTION 3: This Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND ADOPTED this 18th day of March, 2015

CHAIRPERSON/VICE-CHAIRPERSON
TEXAS CITY HARBOUR FOREIGN
TRADE ZONE CORPORATION

ATTEST:

Michelle L. Garcia
BOARD SECRETARY
TEXAS CITY HARBOUR FOREIGN
TRADE ZONE CORPORATION

**Texas City
Foreign Trade Zone 199**

**OPERATING POLICIES,
RULES, REGULATIONS
AND SCHEDULE**



Effective June 18, 2014

**City of Texas City, Texas
Harbour Foreign Trade Zone
Schedule No. 199**

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TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION (TCHFTZC)
ZONE OPERATING SCHEDULE

This Zone Operating Schedule (the “Schedule”) is created and approved this 11th day of July,

2014.

RECITALS WHEREAS Grantee has been designated by the Foreign Trade Zone Board as a General Purpose Foreign Trade Zone Number 199 located at the Houston-Galveston Port of Entry;

WHEREAS Grantee will pursue permission to be granted from the Foreign Trade Zone Board to establish special purpose foreign trade subzones from time to time in Texas City, Texas; (the ‘Subzones’):

WHEREAS The Subzones are to be operated by the Subzones’ tenants.; and

WHEREAS The Subzone Operator will operate the Subzone on behalf of Grantee;

NOW, THEREFORE, THE FOREGOING RECITALS TO BE INCORPORATED HEREIN, IN CONSIDERATION OF THE SCHEDULE SET FORTH BELOW, THE PARTIES HEREBY AGREE AS FOLLOWS:

ARTICLE I.

DEFINITIONS

- 1.1 “Act” means the Foreign Trade Zones Act of 1934, 19 U.S.C. sec. 81a et. Seq., as from time to time amended.
- 1.2 “Board” means the Foreign Trade Zones Board.
- 1.3 “Bond” means the Foreign Trade Zone Operator’s Bond to be provided and maintained by Operator throughout the course of the Operator’s Agreement.
- 1.4 “Customs” means the United States Customs and Border Protection.
- 1.5 “Effective Date” means the date of transfer of activation of the Subzone to Operator by Customs.
- 1.6 “Operation of the Subzone” means the record keeping and compliance activities of the Operator conducted pursuant to the Act and regulations promulgated under the Act.
- 1.7 “Zone” means the general purpose zone and all subzones designated under the grant of authority from the Board of Grantee.

ARTICLE II.

APPOINTMENT OF OPERATOR FOR SUBZONES AND GENERAL ZONE

2.1 Appointment. Grantee grants Subzone Operators the exclusive authority to operate and maintain their respective Subzone as a Special Purpose Subzone subject to the terms and conditions of this Schedule.

2.2 Term of Appointment. The Subzone Agreement entered into for each Subzone shall be effective upon the Effective Date. The term of the Agreement is one year from the Effective Date. This Agreement shall renew automatically for additional one year terms unless written notice of termination is given by one party to the other at least sixty (60) days in advance of the end of any such one year term, or unless this Agreement has been terminated pursuant to the provisions of this Schedule.

2.3 General Zone. In general FTZ 199 shall be operated by or under the general management of Zone Grantee, subject to the requirements of the Act and regulations of other federal, state, and local agencies having jurisdiction over the sites and operations. The Grantee may select to allow the tenant to operate or provide an Operator or operate with its own staff. All costs of the Operations shall be shared by the tenants of the Subzones and General Zone in accordance with Exhibit A "Texas City Harbour Foreign Trade Zone Corporation, Zone Operation Schedule, Operator Fees."

ARTICLE III.

OPERATIONS

3.1 Compliance with Act and Regulations. Operators shall operate and maintain the Subzone and Zone area in accordance with all provisions of the Act and all applicable federal regulations as may be in effect from time to time during the course of this Schedule.

3.2 Access of Grantee Representatives. Grantee representatives shall have the right to enter the Subzone and General Zone tenants' property, accompanied by a representative of Operator, upon reasonable notice during normal business hours for the purpose of determining whether Operator is complying with the terms of this Schedule and the Agreement between Grantee and Subzone Operator. Grantee representatives permitted to enter the Subzone and Zone shall be limited to the minimum number necessary to accomplish the purpose of the visit; such Grantee representatives shall observe and abide by all rules of the Operators applicable to visitors. Operators agree to make all books and records related to the Operation of the its respective Subzone or Zone area available for inspection by Grantee upon request.

3.3 Foreign Trade Zone Procedures Manual. Operators shall prepare a Foreign Trade Zone Procedures Manual in accordance with the Foreign Trade Zone regulations and with requirements of Customs. Operators shall supply a current version of the Foreign Trade Zone Procedures Manual to Grantee.

3.4 Customs Entries. Operators shall be responsible for the proper admission of all merchandise into their respective Subzone and Zones areas, and for the satisfaction of all Customs requirements regarding merchandise at their respective Subzone and Zone area. In this connection, on the Effective Date of an Agreement, Grantee shall provide Operator with a Power of Attorney in a form acceptable to Customs granting Operator the authority to sign all documents related to Customs entries at the Subzone or Zone area on behalf of Grantee.

3.5 Correspondence with Customs. Operators will promptly provide copies to Grantee of all correspondence between Operator and Customs with regard to any violations of Customs laws, regulations, or policies which relate to activity at the Subzone or within the Zone areas. In addition, Operators shall promptly notify Grantee of any conversations between employees or representatives of Operator and Customs personnel which Operator reasonably believes to be likely to result in the

assessment of fines or penalties by Customs against Operator.

3.6 Correspondence with the Foreign Trade Zones Board. Operators will promptly provide copies to Grantee of all correspondence between Operator and the Foreign Trade Zones Board related to the Operation of the Subzone or Zone area.

3.7 Additional Users. No one other than the Subzone or Zone Operators and its affiliates shall be allowed to use the Subzone or Zone area without the advance written consent of Grantee.

3.8 Improvements. As of the Effective Date, the improvements located within the respective Subzone or Zone area will have been approved by the Foreign Trade Zones Board and Customs to the extent required by the Act and applicable regulations thereunder. If an Operator shall make any alterations within the Subzone or Zone area which would require additional approvals of the Board or Customs, the Operator of that respective Subzone or Zone area shall notify Grantee prior to seeking such approvals. Operators shall be responsible for the cost of any modifications or additions to the improvements of their respective Subzones or Zone areas, whether or not such improvements are required by Customs or the Foreign Trade Zones Board.

3.9 Designated Representative of Operator for Coordination with Grantee. Operators shall designate a representative to coordinate all matters with Grantee. Operators shall notify Grantee of any change in the representative.

ARTICLE IV.

OPERATING COSTS AND FEES

4.1 Direct Costs. Operators shall pay all costs directly associated with their respective Subzone or Zone area.

4.2 Subzone User Fee. Operators shall pay to Grantee an annual subzone user fee in accordance with the fee schedule of Grantee then in effect. The fee schedule in effect as of the date of this Schedule is attached as Exhibit A. Except for its obligation to pay direct costs under Section 4.1 and the Subzone user fee under Section 4.2, Operators shall have no other obligation or responsibility to pay, reimburse, or otherwise incur expenses related to the maintenance and operation of Grantee and the Zone.

ARTICLE V.

BOOKS, RECORDS AND REPORTS

5.1 Books and Records. Operators shall maintain complete and accurate books and records of all transactions occurring within their respective Subzone or Zone area.

5.2 Retention of Records. Operators shall retain all records pertaining to the Operation of their respective Subzone or Zone area for at least five (5) years after the merchandise covered by such records has been withdrawn from their respective Subzone or Zone area, or longer if required by Customs.

5.3 Audit of Books and Records. Grantee may conduct an audit, no more frequently than annually, of such Operator's books and records as related to Operator's Operation of their respective Subzone or Zone area, for the purpose of satisfying itself with respect to such compliance; provided, however, that, if Grantee shall certify to Operator that Grantee has reasonable cause to believe that Operator is materially out of compliance with the Act or applicable regulations thereunder such that

Grantee may be at risk of monetary liability as a result thereof, then Grantee may conduct such additional audits of such books and records as are reasonably necessary. If Grantee desires to conduct an audit pursuant to this Section 5.3, it shall give Operator reasonable notice thereof. In the conduct of such audit, Grantee shall be bound by all the provisions of this Schedule and its respective agreement with the Grantee. The cost of any such audit shall be borne by Grantee, subject to reimbursement as provided in Section 6.3.

5.4 Reports. Operators agree to submit to Grantee at least thirty (30) days prior to the date Grantee's annual report is due to the Board, a report containing data required to be submitted in such annual report. In addition, Operators agree to promptly provide Grantee with such information concerning Operation of their respective Subzone or Zone area as Grantee may be required to submit to the Board, to Customs, or to any other governmental agency; provided that Grantee shall give Operators at least thirty (30) days written notice of any requirement it may have for usual or non-routinely provided information. Operators shall warrant that all information provided or to be provided to Grantee for submission to a governmental agency, including without limitation information provided to Grantee in connection with the application for their respective Subzone or Zone area, is or will be true and correct at the same time such information is provided. Operators agree to promptly update information provided to Grantee which is later determined to be or have become incorrect.

5.5 Confidentiality. All financial and operating information of Operators or any of its affiliates, received by, reviewed by, or made known to Grantee, and all information of any kind contained in the books and records of Operators and disclosed or made known to Grantee pursuant to this Schedule and/or Agreement between Grantee and Operator, shall be kept strictly confidential, except as such information may be required to be disclosed to the Board, Customs, or other governmental agency under applicable law.

ARTICLE VI.

INSURANCE AND BOND REQUIREMENTS

6.1 Insurance. Subzone Operators or General Zone Tenants agree to place with an insurance company, or self insure, at Subzone Operator or General Zone Tenant's discretion, and keep in effect during the life of their respective agreement with Grantee. insurance for the benefit of the Zone Grantee and with Zone Grantee shown as an additional insured, including an obligation of the insurer to defend the Zone Grantee in any action covered by said insurance, covering public liability for the Subzone or area occupied by the General Zone Tenant in amount not less than \$1,000,000.00 for injury to one person, \$1,000,000.00 for injuries to all persons, and \$1,000,000.00 for damage to property, per occurrence. Upon request, Subzone Operators or General Zone Tenants will furnish the Zone Grantee certificates of such insurance, or evidence of self-insurance. Subzone Operators or General Zone Tenants will promptly pay all such insurance premiums, if any, as and when the same become due.

6.2 Customs Bond. Operators shall provide Customs a Foreign Trade Zone Operator's Bond, and maintain such Bond throughout the course of their respective Agreement. Operator shall provide Grantee notice of any material modification to the Bond.

6.3 Suspension of Admissions for Insufficient Bond. Grantee may suspend the authority of an Operator to admit merchandise to the Subzone or Zone area as foreign privileged, foreign non-privileged, or zone restricted status upon ten (10) days written notice to Operator of any of the

following:

- (a) Grantee has requested but has not been provided with satisfactory evidence that a Bond is in effect;
- (b) Grantee reasonably believes that Bond is or has become insufficient in amount;
- (c) Grantee reasonably believes that the surety writing the Bond may not be able to meet its obligation in the event of a default requiring payment of the full amount of the Bond; or

(d) Grantee otherwise reasonably believes the Bond to be defective or insufficient. It is specifically provided, however, that Operator shall have a reasonable amount of time within which to cure any such condition prior to the suspension of the Operator's authority to admit merchandise to the Subzone or Zone area. A suspension of Operator's authority to admit merchandise to the Subzone or Zone area under this provision shall remain in effect until Grantee has provided Operator with written notice that Grantee's concern about the Bond has been cured. Grantee's right to suspend Operator's authority to admit merchandise to the Subzone or Zone area pursuant to this provision is cumulative to any remedy for Operator's default Grantee may have pursuant to Section 9.1. If suspension of Operator's authority to admit merchandise occurs as a result of an audit by Grantee, or if an audit of Operator by Grantee is, in Grantee's reasonable belief, necessary to reinstate the authority of Operator to admit merchandise to the Subzone or Zone area, then Grantee may require reimbursement for the actual costs of the audit as a condition of reinstatement of the authority of Operator to admit merchandise to the Subzone or Zone area. The suspension detailed in this provision applies only to Operator's authority to admit new merchandise to the Subzone or Zone area under foreign trade zone procedures. The suspension does not affect activation, the status of goods already admitted to the Subzone or Zone area, or the general operation of the facility.

6.4 Deactivation of Subzone. Failure by an Operator to comply with all Customs rules and regulations, to pay all Subzone fees and charges, Customs charges and/or penalties, or to abide by any of the terms and conditions of this Schedule or Agreement between Operator and TCHFTZC may result in the deactivation of the Subzone or use of the Zone by Grantee. Grantee will provide thirty (30) days notice to Operator of the Grantee's intent to deactivate and the reason for such action. Operator has the right to cure any such infraction under this Schedule and in accordance with its Agreement with the TCHFTZC within the thirty (30) day period to avoid deactivation.

ARTICLE VII.

INDEMNITY

7.1 Indemnification. Operator will indemnify Grantee and the City of Texas City, TCHFTZC, and their commission members, directors, officers, employees, and agents, and hold them harmless from and against any and all claims, actions, damages, liabilities and expenses (including attorney's fees) occurring at or in connection with the Subzone or Zone area. In the event any claim subject to the above indemnity is asserted against Grantee or anyone else to which this indemnity is applicable, the party seeking indemnity agrees to promptly (and, in any event, in reasonably sufficient time to permit Operator to preserve all of its rights to defend against such claim) notify Operator in writing of the claim, and shall provide Operator an opportunity to defend against such claim. This indemnity shall continue beyond the termination of the Agreement between it and the TCHFTAC with respect to any claims, actions, damages, liabilities, or expenses arising from occurrences, acts, or omissions during the course of its Agreement.

ARTICLE VIII.

ASSIGNMENT

8.1 Prohibition of Assignment. Except as provided below, Operators may not assign or transfer their interest in or responsibilities under this Schedule or its respective Agreement with the TCHFTZ without the prior written consent of Grantee. For purposes of this provision, any transfer of an interest in Operator which would result in either (a) an ownership change as defined in Section 382(g) of the Internal Revenue Code of 1986, or (b) the termination of a partnership under Section 708 of the Internal Revenue Code of 1986, shall be deemed to be an assignment of its Agreement. Any attempted assignment not in compliance with this Article VIII shall be void ab initio.

8.2 Approved Transfer. Operators may assign its interest in its Agreement to an affiliate of Operator upon notice to, but without prior consent of Grantee. For purposes of this provision, an affiliate shall mean an entity in majority control of, or majority controlled by, Operator.

ARTICLE IX.

DEFAULT

9.1 Operator Default. In the event of default of an Agreement by Operator or User, Grantee shall deliver to Operator written notice specifying such default, and if the default specified in the notice is not cured within a thirty (30) day period after the date of delivery of such notice, or, in the event of a default which is incapable of cure within such thirty (30) day period, Operator has not diligently proceeded to cure such default within such thirty (30) day period, then Grantee may, as its option, terminate its Agreement and Operator's right to operate the Subzone or within the Zone area. Termination of its Agreement pursuant to this provision does not relieve Operator of the responsibility for payment of costs accrued during the course of its Agreement or related to the course of its Agreement, or for duties, penalties, or other payments to Customs related to events occurring during the course of its Agreement. This remedy is cumulative to any other remedies allowed by law.

9.2 Default by Grantee. In the event of default under an Agreement by Grantee, Operator shall deliver to Grantee written notice specifying such default, and, if the default specified in the notice is not cured within a thirty (30) day period after the delivery of such notice, or, in the event of a default which is incapable of cure within such thirty (30) day period, Grantee has not diligently proceeded to cure such default, then Operator, as its sole remedy, may elect to either (a) terminate its Agreement, or (b) specifically enforce its Agreement. In the event Operator terminates its Agreement under this provision, Operator will nevertheless remain liable for any costs incurred during the course of its Agreement, and for duties, penalties, or other payments to Customs related to events occurring during the course of its Agreement.

ARTICLE X.

TERMINATION

10.1 Termination. An Agreement entered into under this Schedule shall terminate on the

earlier of:

- (a) Notice of termination given pursuant to Section 2.2;
- (b) Termination pursuant to default in the Schedule provided in Article IX above or the Agreement between the Operator and the TCHFTZC;
- (d) Deactivation of the Subzone due to default of the Subzone user under the Subzone Approval and Tax Equivalency Agreement related to the Subzone; or
- (e) Termination, whether voluntary or otherwise, of the grant of authority from the Board of the General Purpose Foreign Trade Zone, or of the Subzone.

Operator shall remain liable after termination of its Agreement for all costs and expenses accrued during the course of its Agreement or related to the course of its Agreement, and for duties, penalties or other payments to Customs related to events occurring during the course of its Agreement.

ARTICLE XI.

TAX EQUIVALENCY PAYMENT

11.1 Tax Equivalency Payment. Application for this Subzone is authorized pursuant to the Subzone Approval and Tax Equivalency Payment Agreement by and among the City of Texas City, Grantee, and Operator. The parties acknowledge that notwithstanding any provision of this Schedule or its Agreement, the Subzone is subject to deactivation by Grantee in accordance with the terms of the Subzone Approval and Tax Equivalency Payment Agreement in the event Operator fails to make a required tax equivalency payment pursuant to the Subzone Approval and Tax Equivalency Payment Agreement.

ARTICLE XIII.

MISCELLANEOUS

13.1 Amendments. An Agreement may be amended only by written consent of both parties.

13.2 Governing Law. This Schedule and an Agreement shall be construed under and in accordance with the laws of the State of Texas.

13.3 Further Assurances. The parties of an Agreement will covenant and agree that they will execute such other and further documents as are or may become necessary or convenient to effectuate and carry out the purpose of their respective Agreement.

13.4 Headings. The headings in this Schedule are used for administrative purposes only and do not constitute substantive matters to be considered in construing the terms of this Schedule.

13.5 Binding Effect. An Agreement shall be binding upon and inure to the benefit of the parties of an Agreement or their respective legal representatives, successors, transferees, and assigns where permitted by this Schedule or its Agreement.

13.6 Entire Agreement. An Agreement supersedes any prior understanding or oral agreements between parties with respect to the subject matter and constitutes the entire understanding and Agreement between parties with respect to the subject matter -, and there are no agreements, understandings, restrictions, representations, or warranties among parties with respect to the subject matter other than those set forth herein or provided for herein.

13.7 Counterparts. An Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which in the aggregate shall constitute one agreement.

13.8 Severability. If any provision contained in an Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.

13.9 Gender. Whenever the context requires, all words herein shall be deemed to include the male, female, and neutral gender, singular words shall include the plural, and vice versa.

13.10 Relationship. Nothing herein contained shall be deemed or construed by parties, nor by any third party, as creating any relationship of principal and agent or partners between parties.

EXHIBIT “A”
TEXAS CITY HARBOUR FOREIGN TRADE ZONE CORPORATION
ZONE OPERATING SCHEDULE
OPERATOR FEES
DATE June 18, 2014

ANNUAL USER/OPERATOR FEE:

The Annual User/Operator Fee is a flat fee by tier plus \$45 per acre of activated zone.

<u>Flat Fee Tiers</u>	<u>Acres</u>	<u>Flat Fee</u>
Tier 1	0 < 500	\$3,000
Tier 2	500 < 900	\$5,000
Tier 3	900 <	\$10,000

Fees are calculated based on the maximum area occupied at any point by the operator during the calendar year of the billing cycle (January 1 – December 31).

FEE CALCULATION:

Tier Fee + (Acres) x (\$45) = Total Annual Fee

ACTIVATION, DEACTIVATION AND BOUNDARY MODIFICATIONS

A flat fee of \$5,000 will be assessed to the operator per instance of activation, deactivation or boundary modification.