

# APPLICATION FOR TAX INCENTIVES



Erie County Industrial Development Agency  
275 Oak Street, Suite 150  
Buffalo, New York 14203  
phone (716) 856.6525  
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## **TAX INCENTIVE APPLICATION INSTRUCTIONS - SUMMARY OF INSURANCE REQUIREMENTS**

The following directions will assist you in completing your application for ECIDA assistance. Please note that all applications will be subject to ECIDA approval and that **no** ECIDA assistance can be provided, including a sales tax exemption on purchases made prior to ECIDA approval, until your application has been so approved.

Upon review of your application, the ECIDA may find it necessary to request additional information. Should additional information be required, the ECIDA will not consider the request for assistance until all such additional information is received in its entirety.

All projects receiving a benefit greater than \$100,000 are required to have a public hearing inclusive of a thirty (30) day notice before any approval can be granted by the ECIDA. ECIDA will charge an administrative fee of 1.25% of the benefitted project amount. Upon project approval and administrative fee agreement must be entered into. ECIDA legal fees are in addition to the administrative fees noted. A non-refundable \$1,000 application and publication fee payable to the Erie County Industrial Development Agency is due upon submission of your application. Please send your check to: ECIDA, 275 Oak St, Suite 150, Buffalo, NY 14203.

If your project involves the relocation of a facility within Erie County, the abandonment of an existing facility, is speculative or retail in nature, or involves housing or a housing component, additional documentation is required. Please contact an ECIDA business development specialist as soon as possible.

The following items are included in the application package. These are required documents that must be completed and submitted to the ECIDA in order for your application to be considered. Please make every effort to provide all of the information as soon as possible. Failure to do so may result in your project not being considered at the next regularly scheduled meeting of the ECIDA.

1. Section I & II - Eligibility Questionnaire: - This is a multipage document that can be completed and submitted electronically. This form must be completed in its entirety and submitted to the ECIDA prior to beginning the public hearing process.
2. Section III-Adaptive Reuse Determination: - Adaptive Reuse is the process of adapting old structures or sites for new purposes.
3. Section IV- Retail Determination: - To ensure compliance with the provisions of the 1993 IDA Reform Law, the industrial development agencies of Erie County have prepared the following questions for projects involving retail sales, as defined in the 1993 IDA Reform Law.
4. Section V-Inter-Municipal Move Determination: If this project involves the relocation or consolidation of a project occupant from one area of the State to another or in the abandonment of an existing facility, this form must be completed.
5. Section VI -Single or Multi-Tenant Determination: - Please complete letter A or B. Includes signature page.
6. Section VII - Tenant Form: Please complete this section for each proposed tenant.
7. Section VIII -Environmental Questionnaire: - This four-page document will provide the ECIDA with environmental information related to prior and anticipated future uses of the project.
8. Attachment 1. Representations, Certifications and Indemnification Form: - This form requires an original signature, must be notarized, and must be submitted in executed form to the ECIDA prior to beginning the public hearing process.
9. Attachment 2. City of Buffalo – Addendum to Full Environment Assessment Form: - Complete and sign for City of Buffalo Projects.
10. Attachment 3. ECIDA Attorneys' and ECIDA Standard Fee Schedule.

**Once a project is approved by the ECIDA, insurance will be required. A summary of ECIDA insurance requirements follows. Please note that insurance is to be provided after Board approval and prior to utilization of your sales tax exemption, and shall be maintained during the term of any applicable Agent Agreement or Lease Agreement by and between the ECIDA and the Project Applicant.**

### **Summary of Insurance Requirements**

During the term of an Agent Agreement and/or Lease Agreement entered into with the Erie County Industrial Development Agency (the "Agency"), you (the "Company") shall be required to maintain the following insurance with insurance companies licensed to do business in the State of New York:

Insurance Required. The Company shall maintain, or cause to be maintained by its subagent or subcontractors, certain insurance requirements, and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) Insurance against all direct physical loss, including mechanical breakdown, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company; and provided further, such policy shall contain an agreed valued option or equivalent.

(b) Workers' compensation insurance, New York State disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility. Such policy of insurance shall have limits as prescribed by New York State Workers' Compensation Law for employer's liability, or in the alternative, limits of \$1,000,000 in employer's liability coverage.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract (including blanket broad form contractual liability) and arising from bodily injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident/occurrence on account of bodily injury, including death resulting therefrom, and on account of damage to the property of others, with a \$2,000,000 general aggregate; 2,000,000 products/completed operations aggregate amount of coverage, excluding liability imposed upon the Company by any applicable workers compensation law; \$1,000,000 in Automobile Liability Coverage, and a blanket excess liability policy in the amount not less than \$5,000,000, protecting the Company against any loss or liability or damage for bodily injury or property damage.

### Additional Provisions Respecting Insurance.

(a) All insurance required in the paragraphs above shall name the Agency as an additional insured on a primary and non-contributing basis per I.S.O. form CG 2023 or its equivalents. All insurance shall be procured and maintained in financially sound and must be rated by best's rating guide of at least A- and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interests may appear, and (ii) at least sixty (60) days' prior written notice of the cancellation, non-renewal, or expiration thereof to the Company and the Agency. (attach copy of endorsement to certificate of insurance).

(b) All such certificates of insurance of the insurers that such insurance is in force and effect, and all policies, shall be deposited with the Agency. At least thirty (30) days prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required.

(c) All insurance required of the Company shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other insurance provides the Agency with contingent and/or excess liability insurance with respect to its respective interest as such in the Project, and shall expressly provide that all provisions thereof, except the limits of liability (which shall be applicable to all insureds as a group) and liability for premiums (which shall be solely a liability of the Company) shall operate in the same manner as if there were a separate policy covering each insured.

(d) All insurance required of the Company shall waive any right of subrogation of the insurers thereunder against any person insured under such policy, and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy.

For purposes of providing information to insurance agents:

**The ECIDA address is: 275 Oak Street, Suite 150, Buffalo, New York 14203.**

The information to be included on the binder is: "Erie County Industrial Development Agency is added as an additional insured for general liability, automobile and umbrella coverage with reference to the project undertaken by the named insured as agent of ECIDA at [insert project address]"

## Section I: Eligibility Questionnaire - Applicant Background Information

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

### A) Applicant Information-entity receiving benefit:

Total Project Amount: \$8,418,265  
Applicant Name: LCo Building, LLC  
Applicant Address: 726 Exchange Street, Suite 825, Buffalo, NY 14210  
Phone: 716-362-2662 Fax: 716-362-2672  
Website: www.larkindg.com E-mail: \_\_\_\_\_  
Federal ID#: \_\_\_\_\_

### B) Individual Completing Application:

Name: Joseph Petrella  
Title: Secretary and Treasurer/Partner  
Address: 726 Exchange Street, Suite 825, Buffalo, NY 14210  
Phone: 716-362-2678 Fax: 716-362-2672  
E-Mail: joep@larkindg.com

### C) Company Contact (if different from individual completing application):

Name: Gary Kriner  
Title: CFO  
Address: 726 Exchange Street, Suite 412, Buffalo, NY 14210  
Phone: 716-566-2911 Fax: 716-566-2989  
E-Mail: gkriner@taurcap.com

### D) Company Counsel:

Name of Attorney: Laurence K. Rubin  
Firm Name: Kavinoky Cook, LLP  
Address: 726 Exchange Street, Suite 800, Buffalo, NY 14210  
Phone: 716-845-6000 Fax: 716-845-6474  
E-mail: lrubin@kavinokycook.com

**E) Identify the assistance being requested of the Agency:**

1. Exemption from Sales Tax ☒ Yes or ☐ No
2. Exemption from Mortgage Tax ☒ Yes or ☐ No
3. Exemption from Real Property Tax ☒ Yes or ☐ No
4. Assignment/Assumption of existing PILOT benefits ☐ Yes or ☒ No

**F) Business Organization (check appropriate category):**

Corporation	<input type="checkbox"/>	Partnership	<input type="checkbox"/>
Public Corporation	<input type="checkbox"/>	Joint Venture	<input type="checkbox"/>
Sole Proprietorship	<input type="checkbox"/>	Limited Liability Company	<input checked="" type="checkbox"/>

Other (please specify) \_\_\_\_\_

Year Established: 2002

State in which Organization is established: New York

**G) List all Stockholders, members, or partners with % of ownership greater than 20%:**

<u>Name</u>	<u>% of ownership</u>
<u>598 Main Street, LLC</u>	<u>100%</u>
<u>In regard to ownership of 598 Main Street, LLC, Howard Zemsky is the only member with ownership over 20% (84%).</u>	
_____	_____
_____	_____

**H) Business Description:**

Describe in detail company background, products, customers, goods and services: LCo Building LLC is a commercial real estate owner/operator, located just east of the central core of Buffalo, offering an urban campus setting for its tenants at the 726 Exchange St. location. Smaller businesses, such as Inside Designs and Taurus Capital Partners, are nestled side-by-side with larger companies, like Kaleida Health, and the newly-relocated corporate headquarters of First Niagara Bank, providing a unique experience for its tenants.

The proposed project is the next phase of development activities.

Estimated % of sales outside Erie County: 0%

Estimated % of sales outside New York State: 0%

Estimated % of sales outside the U.S. 0%

I) What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County. (You may be asked to provide supporting documentation of the estimated percentage of local purchases.)

65% - 85%

\_\_\_\_\_

\_\_\_\_\_

## Section II: Eligibility Questionnaire - Project Description & Details

### A) Location of proposed project facility:

Address 239 Van Rensselaer/719 Seneca Street

City Buffalo State New York Zip Code 14210

SBL Number: 122.26-2-13 / 122.26-2-1 [See exhibit attached: Sec II - A - Pg 7]

\* If available please include a copy of current tax bill.

Town/City/Village: Buffalo School District: Buffalo

Present Project Site Owner: LCo Building, LLC

### B) Please provide a brief narrative of the project description:

[See exhibit attached: Sec II - B - Pg 7]

### C) Site Characteristics:

Is the proposed project site located on a site where the known or potential presence of contaminants is complicating the development/use of the property? ☐ Yes or ☒ No. If yes, please explain: \_\_\_\_\_

D) Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? ☒ Yes or ☐ No If yes, please provide a copy. **[See attached exhibit Sec II-D- pg7]**

E) Have any studies or assessments been undertaken with respect to the proposed project site that indicate the known or suspected presence of contamination that would complicate the site's development?

☐ Yes or ☒ No. If yes, please provide copies of the study

F) Will project include leasing any equipment ☐ Yes or ☒ No . If yes please describe equipment and lease terms: \_\_\_\_\_

G) If you are purchasing new machinery and equipment, does it provide demonstrable energy efficiency benefits?

☐ Yes or ☐ No. If yes, please attach additional documentation describing the efficiencies achieved.

**NOT APPLICABLE**

H) Does or will company perform substantial research and development activities on new products/services at the project Location? ☐ Yes or ☒ No If yes, please explain: \_\_\_\_\_

I) What percentage of annual operating expenses are attributed to the above referenced research and development activities? N/A

J) Explain in detail why IDA participation is necessary for this project to proceed. Focus on competitiveness issues, project shortfalls, etc. (attach additional pages if necessary): The extensive nature of the redevelopment of this property presented extraordinary costs which, but for ECIDA assistance, could make this project economically unfeasible. The adaptive reuse of this former manufacturing facility into Class A office space involves numerous challenges and costs which by conventional standards would not be sustainable in this very competitive marketplace. ECIDA assistance will help close the gap and allow the building to not remain vacant.

**K) Project Information:**

**Estimated costs in connection with project:**

Land and/or Building Acquisition: (+ Enviro/Site Work)	\$ <u>835,734</u>
<u>2.23</u> acres <u>56,000</u> square feet	
New Building Construction: _____ square feet	\$ _____
New Building Addition(s): _____ square feet	\$ _____
Existing Building Renovation: <u>56,000</u> square feet	\$ <u>7,498,531</u>
Manufacturing Equipment:	\$ _____
Non-Manufacturing Equipment (furniture, fixtures, etc.):	\$ _____
Soft Costs: (professional services, etc.):	\$ <u>84,000</u>
Other, Specify: _____	\$ _____

TOTAL: \$ 8,418,265

Project refinancing: estimated amount  
(for refinancing of existing industrial revenue bond debt only) \$ N/A

**L) Select Project Type (you may check more than one):**

Industrial	<input type="checkbox"/>	Back Office	<input checked="" type="checkbox"/>
Multi-Tenant	<input type="checkbox"/>	Civic Facility (not for profit)	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Equipment Purchase	<input type="checkbox"/>
Commercial	<input checked="" type="checkbox"/>	Retail	<input type="checkbox"/>
Acquisition of Existing Facility	<input type="checkbox"/>	Facility for Aging	<input type="checkbox"/>
Other, please explain _____			

SIC Code: 6512

NAICS Code: 531120



**M) For proposed facility please indicate # of sq ft for each of the uses outlined below:**

Manufacturing/Processing \_\_\_\_\_

Warehouse \_\_\_\_\_

Research & Development \_\_\_\_\_

Commercial \_\_\_\_\_

Retail \_\_\_\_\_

Office **approx 54000**

Other (specify) **to be determined - 2000**

**N) Utilities and services presently serving site. Provide name of utility provider:**

Gas: **National Fuel**

Electric: **National Grid** Power: \_\_\_\_\_

Water: **Buffalo Division of Water** Size: \_\_\_\_\_

Sewer: **City of Buffalo** Size: \_\_\_\_\_

Other (Specify) \_\_\_\_\_

**O)** If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council? ☐ Yes or ☒ No.

**P)** If you answered yes to question above, what level of LEED certification do you anticipate receiving (Check applicable box) ☐ Standard ☐ Silver ☐ Gold ☐ Platinum

**Q) What is your project timetable (Provide dates):**

1. Start date: acquisition or construction of facilities: **acquisition complete; construction underway**

2. Completion of project facilities: **October 2010**

3. Project occupancy – estimated starting date of operations: **December 2010**

**R)** Have site plans been submitted to the appropriate planning department for approval? ☒ Yes or ☐ No.. If yes, submit a copy of approval with application. **[See attached Sec II-R-pg. 9]**

**S)** Have any expenditures already been made by the company? ☒ Yes or ☐ No. If yes, indicate particulars.

**(ECIDA benefits do not apply to expenses incurred prior to Board approval):** \_\_\_\_\_

**Expenses incurred to date: \$1,156,371 [See attached exhibit Sec II-S-pg.9]**

**T) PLEASE CHECK ONLY ONE:**

Is project necessary to expand project employment: ☒

Is project necessary to retain existing employment ☐

**U) Employment Plan (Specific to project location):**

	Current # of Jobs	Total # of jobs 2 years after project completion
Full time	0	+/- 300
Part Time	0	25
Total	0	+/- 325

**V) Payroll Information:**

Estimated Annual Salary at project site: \$ 19,500,000

Estimated Average Annual Salary of Jobs to be Retained \$ 60,000

Estimated Average Annual Salary of Jobs to be Created \$ 60,000

Estimated Salary Range of Jobs to be Created: From: \$ 35,000 To \$ 100,000

**W) Is the project reasonably necessary to prevent the project occupant from moving out of New York State?**

☐ Yes or ☒ No. If yes, please explain and identify out-of-state locations investigated.

**[See exhibit attached: Sec II-W-pg. 10]**

**X) Were you offered financial assistance to locate outside of New York State?** ☐ Yes or ☒ No

If yes, from whom and what type of assistance was offered: \_\_\_\_\_

**Y) What competitive factors led you to inquire about sites outside of New York State?** N/A

**Z) Have you been contacted by other local economic development agencies?** ☐ Yes or ☒ No. If yes, please provide which agencies: \_\_\_\_\_

### Section III: Adaptive Reuse Determination

(Adaptive Reuse is the process of adapting old structures or sites for new purposes)

Are you applying for a tax incentive under the Adaptive Reuse Program? ☒ Yes or ☐ No

If No, please proceed to Section IV

A) What is the age of the structure (in years) 110 years [See exhibit attached: Sec III-A-pg.11]

B) Has the structure been vacant or underutilized for a minimum of 3 years? (Underutilized is defined as a minimum of 50% of the rentable square footage of the structure being utilized for a use for which the structure was not designed or intended) ☐ Yes or ☒ No. How many years? 3

[See exhibit attached: Sec III-B-pg 11]

C) Is the structure currently generating insignificant income? (Insignificant income is defined as income that is 50% or less than the market rate income average for that property class) ☒ Yes or ☐ No

D) Briefly summarize the financial obstacles to development that this project faces without ECIDA or other public assistance. Please provide the ECIDA with documentation to support the financial obstacles to development (cash flow projections documenting costs, expenses and revenues indicating below average return on investment rates compared to regional industrial averages):

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[See exhibit attached: Sec III-D & F-pg. 11]

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E) Briefly summarize the demonstrated support that you intend to receive from local government entities (i.e. town boards). Please provide the ECIDA with documentation of this support in the form of signed letters from these entities:

N/A

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F) Please indicate other factors that you would like the ECIDA to consider such as: structure or site presents significant public safety hazard and or environmental remediation costs, site or structure is located in distressed census tract, structure presents significant costs associated with building code compliance, site has historical significance, site or structure is presently delinquent in property tax payments:

[See exhibit attached: Sec III-D & F-pg. 11]

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## Section IV: Retail Determination

To ensure compliance with the Uniform Tax Exemption Policy (UTEP), the industrial development agencies of Erie County have prepared the following questions for projects involving retail sales, as defined in the 1993 IDA Reform Law.

Upon review of this information, the Agency may find it necessary to request additional written information. Should additional information be required, the Agency will not formally consider any request for financing assistance until this information is received in its entirety.

Will project involve the sales of goods or services to customers who personally visit the facility?

☐ Yes or ☒ No. If yes, complete the following. If no, proceed to Section V

**De minimus - Facility is primarily a back office operation**

Please answer the following:

- A. Will any portion of the project consist of facilities or property that is primarily used in making sales of goods or services to customers who personally visit the project site? ☐ Yes or ☐ No. If the answer is yes, please continue.
- B. What percentage of the cost of the project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? \_\_\_\_\_%. **If the answer is less than 33% do not complete the remainder of the retail determination and proceed to Section V.**

**If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:**

1. Will the project be operated by a not-for-profit corporation ☐ Yes or ☐ No. Is the project likely to attract a significant number of visitors from outside the economic development region in which the project will be located? ☐ Yes or ☐ No. If yes, please provide a market analysis or other documentation supporting your response.
2. Would the project occupant, but for the contemplated financial assistance from the industrial development agency, locate the related jobs outside the State of New York ☐ Yes or ☐ No (If yes, please provide documentation regarding investigation of sites outside New York State.)
3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents the project municipality within which the project will be located, because of a lack of reasonable accessible retail trade facilities offering such goods or services ☐ Yes or ☐ No (If yes, please provide a market analysis supporting your response.)
4. Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? Yes or ☐ No
5. Is the project located in a Neighborhood Redevelopment Area? ☐ Yes or ☐ No

## Section V: Inter-Municipal Move Determination

**Does this project involve relocation or consolidation of a project occupant from another municipality or abandonment of an existing facility of the project occupant?**

**Within New York State** ☐ Yes or ☒ No **Within Erie County** ☐ Yes or ☒ No **If yes to either, please answer the following. If no, please proceed to Section VI**

The Agency is required by state law to make a determination that Agency assistance is required to prevent the project occupant from relocating out of the state, or to preserve the project occupant's competitive position in its respective industry.

**A. Will the project result in a relocation of an existing business operation from the City of Buffalo?**

☐ Yes or ☐ No. If yes, Please explain the factors which require the project occupant to relocate (for example, present site is not large enough, or owner will not renew leases etc.)

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**B. What are some of the key requirements the project occupant is looking for in a new site (for example minimum of number of sq. ft., 12 foot ceilings, truck loading docks etc...)**

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**C. If the project occupant is currently located in Erie County and will be moving to a different municipality, has the project occupant attempted to find a suitable location within the municipality?** ☐ Yes or ☐ No

**Is the project reasonably necessary to preserve the project occupant's competitive position in its industry?**

☐ Yes or ☐ No If yes, please explain and provide supporting documentation.

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**D. What factors have lead the project occupant to consider remaining or locating in Erie County?** \_\_\_\_\_

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**E. What is going to happen to the current facility that project occupant is located in?** \_\_\_\_\_

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**F.** Please provide a list of properties considered, and reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.)

Property (Address)

Reason

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## Section VI: Facility Type - Single or Multi Tenant Determination

If this a single use facility fill in section A. If this is a Multi-Tenant please fill in section B.

### A) For Single Use Facility:

Occupant Name: **First Niagara Bank**

Address: **726 Exchange Street, Suite 618, Buffalo, NY 14210**

Contact Person: **Robert J. Ganson**

Phone: **716.932.3497** Fax:

E-Mail: **robert.ganson@fnfg.com**

Federal ID #:

SIC or /NAICS Code: **SIC: 6021 NAICS: 522110**

### B1) Multi-Tenant Facility:

Please explain what market conditions support the construction of this multi-tenant facility:

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**B2)** Have any tenant leases been entered into for this project ☐ Yes or ☐ No.

If yes, please list below and provide square footage (and percent of total square footage) to be leased to tenant and NAICS Code for tenant and nature of business.

Tenant Name	Current Address (city, state, zip)	# of sq ft and % of total to be occupied at new project site	SIC or NAICS-also briefly describe type of business, products services, % of sales in Erie Co.

## Section VII: Tenant Form

This section must be completed for each proposed tenant.

NOTE: A Retail Determination (Section IV) and An Inter-Municipal Move Determination (Section V) should be completed for each tenant using the facility to make sales of goods or services or will be relocating from another municipality or abandoning an existing facility.

### PART I—TO BE COMPLETED BY LESSEE (DEVELOPER)

Property Address : 239 Van Rensselaer

City/Town/Village: Buffalo

The following information is an outline relative to the potential client and their proposed contract to sublease space in the above reference facility.

Tenant Name: First Niagara Bank

Amount of space to be leased: 54000 SF. What percentage of the building does this represent? 100 %

Are terms of the lease: GROSS ☒ or NET ☐

If GROSS lease, please explain how Agency benefits are passed to the tenant:

Reduction of RE taxes reduces operating expenses. The rent rate negotiated with tenant is a "build up" of operating expenses, build out amortization, and true space rental.

Estimated date of occupancy: January 1, 20 11

### PART II TO BE COMPLETED BY PROPOSED TENANT

Company Name: First Niagara Bank

Local Contact Person: Robert J. Ganson Title: Vice President

Phone: 716.932.3497 Fax: \_\_\_\_\_

E-mail: Robert.Ganson@fnfg.com Web site: www.fnfg.com

Company President/General Manager: John Koelmel

Number of employees at new project location:

Full-Time: +/- 300 Part-Time: 25 Total: +/- 325

Please describe briefly the nature of the business in which the proposed tenant is/will be engaged. This should include SIC/NAICS Code; type of business and products or services; percent of total sales in Erie County and the United States:

Full service regional bank providing financial services to consumers and businesses in upstate NY, PA, Conn & Mass. The bank is headquartered in Erie County with approx 113 branches in four regional market centers across upstate NY (primarily in Erie & Niagara counties); 100% operations are in US.



History of Company (i.e. start-up, recent acquisitions, publicly traded): 1870-2001: Former Lockport Savings Bank; 2001: went public; 2001-2008: Various NYS acquisitions; 2008 - 2010: Acquired National City and Harleysville in PA

Please list the square footage which the proposed tenant will lease at the IDA project location: 54000 SF

Please list the square footage which the proposed tenant leases at its present location(s): \_\_\_\_\_ SF

Various - New Location is expansion, not relocation

Will the project result in a relocation and/or abandonment of other tenant/user(s) facilities in Erie County, or New

York State? ☐ Yes or ☒ No. Where is company relocating from?

Address \_\_\_\_\_ City/Town/Village: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

If yes, please provide reason for move; ie larger facility, competitive, lease expiration, etc.

N/A

If owned, what will happen to the existing facility once vacated? \_\_\_\_\_

N/A

If leased, when does lease expire? N/A, 20\_\_\_\_\_

Are any of the proposed tenant's current operations located in facilities which have received an Industrial Development Agency benefit? ☒ Yes or ☐ No. If yes, please provide details as to location, and amount of leased space, how long leased? Administration center at Transit Rd in Lockport, NY, by Niagara County IDA - owned

**Is location necessary to:**

Discourage your company from moving out of New York State: ☐ Yes or ☒ No

Maintain your company's competitiveness within the industry: ☐ Yes or ☒ No (if yes is checked on one or both please provide specific explanation as an attachment on company letterhead)

Will tenant/user's use of the project involve the sales of goods OR services to customers who personally visit the facility ☒ Yes or ☐ No If the answer is YES, are sales taxes collectible under Article 28 of the Tax Law of the State of New York on sales of these goods Primarily back-office operations ☐ Yes or ☒ No

Were local economic development officials contacted about the availability of alternative sites within the community you are leaving? ☐ Yes or ☐ No If yes, what was the outcome? N/A - New Expansion

If no, why not? N/A

However, Project location effectively becomes part of the new company  
headquarters immediately adjacent @ 726 Exchange Street

Will present location be your company's headquarters? ☐ Yes or ☒ No If No, Where is the location of

HQ: City: Buffalo State: NY

FORM COMPLETED BY: Robert J. Ganson

(please print)

RELATIONSHIP TO COMPANY: Vice President

SIGNATURE: 

DATE: 11/24, 2010

## Section VIII: Environmental Questionnaire

INSTRUCTIONS: Please complete the following questionnaire as completely as possible. If you need additional space to fully answer any question, please attach additional page(s).

### A). GENERAL BACKGROUND INFORMATION:

1. Address of Premises: 239 Van Rensselaer, Buffalo, NY 14210
2. Name and Address of Owner of Premises: LCo Building, LLC, 726 Exchange St, Ste 825, Buffalo, NY 14210
3. Describe the general features of the Premises (including terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.). 2.23 acres of urban commercial property consisting of 54,000 sq foot building and paved surfaces. Soil is moderately well drained, no wetlands, no bedrock outcroppings and no development challenges per SEQR.
4. Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried on or intended to be carried on at the Premises. main 54,000 square foot 3-story building, built 1890-1900. 2000 square foot former service station building built 1930. The premises as rehabilitated will be used for Class A office rental. The structure is brick masonry, cast iron columns and wood floors and beams.
5. Describe all known former uses of the Premises. Last 2 decades: ParFoam Products (insulation products for auto industry); 1946-1981: McDonald Products (office stationary); 1911-1946: Larkin Company; 1893-1911: D. Ullman (Industrial recycling).
6. Does any person, firm or corporation other than the owner occupy the Premises or any part of it?  
☐ Yes or ☒ No If yes, please identify them and describe their use of the property. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises? ☒ Yes or ☐ No If yes, describe and attach any incident reports and the results of any investigations. [See exhibit attached: Sec II - D - Pg 7]  
\_\_\_\_\_  
\_\_\_\_\_

8. Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of: a) any current federal, state or local enforcement actions; b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months. ☐ Yes or ☒ No. If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances. \_\_\_\_\_
9. Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises? ☐ Yes or ☒ No. If yes, describe in full detail. \_\_\_\_\_

**B) SOLID AND HAZARDOUS WASTES AND HAZARDOUS SUBSTANCES:**

1. Does any activity conducted or contemplated to be conducted at the Premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances? ☐ Yes or ☒ No. If yes, provide the Premises' applicable EPA (or State) identification number. \_\_\_\_\_
2. Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes? ☐ Yes or ☒ No. If yes, please provide copies of the permits. \_\_\_\_\_
3. Identify the transporter of any hazardous and/or solid wastes to or from the Premises. N/A \_\_\_\_\_
4. Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years. N/A \_\_\_\_\_
5. Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days? ☐ Yes or ☒ No. If yes, please identify the substance, the quantity and describe how it is stored. \_\_\_\_\_

C) **DISCHARGE INTO WATERBODIES:**

1. Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges. N/A  
\_\_\_\_\_  
\_\_\_\_\_
2. Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and stormwater. Attach all permits relating to the same. Also identify any septic tanks on site. N/A  
\_\_\_\_\_  
\_\_\_\_\_
3. Is any waste discharged into or near surface water or groundwaters? ☐ Yes or ☒ No. If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D) **AIR POLLUTION:**

1. Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises? ☐ Yes or ☒ No. If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Are any of the air emission sources permitted? ☐ Yes or ☐ No If yes, attach a copy of each permit.

E) **STORAGE TANKS:**

1. List and describe all above and underground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks. No tanks stored. 3 tanks were removed as part of Spill #0810545 remediation in 2009, which was supervised by DEC, resulting in closure letter attached [Sec II-D-pg. 7]  
\_\_\_\_\_  
\_\_\_\_\_

2. Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks? ☐ Yes or ☒ No. If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved. \_\_\_\_\_

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**F) POLYCHLORINATED BIPHENYLS ("PCB" or "PCBs") AND ASBESTOS:**

1. Provide any records in your possession or known to you to exist concerning any on-site PCBs or PCB equipment, whether used or stored, and whether produced as a byproduct of the manufacturing process or otherwise. **N/A**

2. Have there been any PCB spills, discharges or other accidents at the Premises? ☐ Yes or ☒ No If yes, relate all the circumstances. \_\_\_\_\_

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3. Do the Premises have any asbestos containing materials? ☐ Yes or ☒ No. If yes, please identify the materials. **Asbestos Abatement completed 4/6/10. [see exhibit attached: Sec VIII-F3-pg. 22]**

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## Attachment 1: Representations, Certifications and Indemnification

Joseph Petrella (name of chief executive officer or other authorized representative of applicant) deposes and says that he/she is the **Partner** (title) of **LCo Building, LLC** (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

- A. Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C. Annual Sales Tax Filings: In accordance with Section 874(8) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the applicant. Copies of all filings shall be provided to the Agency.
- D. Annual Employment Reports: The applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site, salary levels, contractor utilization and other information that be required from time to time on such appropriate forms as designated by the Agency.
- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. In connection with the Application, the Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.
- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time

be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.

- G. **Agency Fee and Legal Costs:** The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Agency shall not be liable for and agrees to indemnify, defend, and hold the Agency harmless from and against any and all liability arising from or expense incurred by: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed project described herein; and (iii) any further action taken by the Agency with respect to the proposed project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency fee policy effective as of the date of this Application.
- H. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency and the Agency's general counsel and/or the Agency's bond/transaction counsel, the same to be paid at the times indicated:
- (i) The sum of **\$1,000** as a non-refundable processing fee, plus the sum of **N/A** if Agency assistance in retaining professionals is requested, to be paid upon submission of the Application;
- (ii) Unless otherwise agreed to by the Agency, an amount equal to one and one quarter percent (1.25%) of the total project costs to be paid at transaction closing;
- [Insert alternate fee schedule here – i.e., sales tax only]
- (iii) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the applicant at the closing.
- I. If the Applicant fails to conclude or consummate the necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable proper or requested action, or withdraws, abandons, cancels, or neglects the Application, or if the Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.
- J. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- K. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or



bond/transaction counsel fees and the processing fees, may be considered as a cost of the project and included in the financing of costs of the proposed project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.

The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

**LCo Building, LLC**

(Name of corporation or entity)

**Joseph Petrella**

(Name of officer)

**Partner**

(Title)

NOTARY

Sworn to before me this 23<sup>rd</sup> day of Sept., 2010

Maureen A. Kirchmyer  
(Signature)

MAUREEN A. KIRCHMYER  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01KI6077489  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES JULY 15, 2014

**Attachment 2: CITY OF BUFFALO – ADDENDUM TO FULL ENVIRONMENTAL ASSESSMENT FORM**

**For City of Buffalo Project Only (If your project is located in the City of Buffalo please complete this section)**


**SITE DESCRIPTION:**

**A.** Is project, affecting or occurring wholly, partially within or substantially contiguous to any historic district, site, individual building, object, or archeological site that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Office for nomination for inclusion in the National Registry? ☐ Yes or ☒ No

**B.** Is the project affecting or occurring wholly, partially within or substantially contiguous to any individual landmark building, district or site, designated as such under the Buffalo Preservation code (Chapter 337 of the Code of the City of Buffalo)? ☐ Yes or ☒ No

**C.** Is the site wholly, partially within, or substantially contiguous to, land within the base floor plan (100 year), designed wetlands, costal zones, heavily wooded land or land identified by the New York State Department of Environmental Conservation as being a site listed on the New York Registry of Inactive Hazardous Waste Sites? ☐ Yes or ☒ No

**D.** Is the site wholly, partially within, or substantially contiguous to any, publically owned or operated parkland, recreation area or designated open space? ☐ Yes or ☒ No

Date: 9/20/10 Signature: 

### **Attachment 3: ECIDA Attorneys' and ECIDA Standard Fee Schedule**

#### **ECIDA Attorney Fees:**

<u>Bond/Lease Amount</u>	<u>Legal Fee</u>
Sales Tax only equipment $\leq$ \$500,000	\$ 4,000
To \$750,000 (excluding S/T only $\leq$ \$500,000)	\$ 4,500
750,001 to 1,500,000	\$ 8,500
1,500,001 to 3,000,000	\$ 11,500
3,000,001 to 5,000,000	\$ 15,000
5,000,001 to 10,000,000	\$ 18,000
Above 10,000,000	\$ 25,000

In addition to the counsel fees, disbursements of up to \$1,000 will be added to each closing.

#### **ECIDA Standard Fees:**

A non-refundable \$1,000 application and publication fee payable to the Erie County Industrial Development Agency is due upon submission of your application. Please send your check to: ECIDA, 275 Oak St, Suite 150, Buffalo, NY 14203.

ECIDA will charge an administrated fee of 1.25% of the benefited project amount.

Any additional costs associated with meeting the agency's current environmental policy are the responsibility of the applicant.

If a project application is withdrawn or does not close, the applicant is responsible for any costs incurred by the agency on behalf of the project.