

NCIDA

APPLICATION FOR ASSISTANCE

NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Each applicant seeking assistance must complete the accompanying application material which includes the Application for Assistance and Environmental Assessment form. A non-refundable application fee of \$1,000.00 must be included with this application, payable to the Niagara County Industrial Development Agency. Every project seeking NCIDA assistance must use best efforts to use local labor for the construction of new, expanded or renovated facilities.

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, except for information that is considered deniable by the Freedom of Information Law. This form is available online at our web page at www.nccedev.com.

I. APPLICANT DATA

A. **APPLICANT NAME** Lake Effect Ice Cream, LLC & Lake Effect Canal Street, LLC.

ADDRESS 79 Canal Street

CITY/STATE/ZIP Lockport, New York 14094

B. **APPLICANT'S OFFICER RESPONSIBLE FOR COMPLETING THIS APPLICATION**

NAME Erik M. Bernardi

TITLE Co-Owner

MAILING ADDRESS PO Box 343

CITY/STATE/ZIP Lockport, New York 14095-0343

TELEPHONE 716-310-1064

FAX N/A

E-MAIL Info@lakeeffecticecream.com

APPLICANT'S TAX
ID NUMBER 26-2068992 & 46-1626836

6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132
(716) 278-8760 Fax (716) 278-8769

- C. **BUSINESS TYPE**
- Sole Proprietorship
 - Partnership
 - Privately-held Corporation
 - Public Corporation
 - Not-for-Profit Corporation
 - LLC
 - Other

D. **STATE OF INCORPORATION:**

New York

E. **IS APPLICANT AUTHORIZED TO DO BUSINESS IN NEW YORK STATE?**

Yes No

F. **PRINCIPAL STOCKHOLDERS** (Owners of 20% or more of Stock Outstanding)

Name	%	Corporate Title
<u>Erik Bernardi</u>	<u>50</u>	<u>Partner</u>
<u>Jason Wulf</u>	<u>50</u>	<u>Partner</u>

G. **Has the Applicant (or any related entity) received previous NCIDA assistance?**

Yes No.

If yes, please give year(s) and project location

N/A

H. **APPLICANT'S LEGAL COUNSEL**

FIRM NAME Hogan Willig

ADDRESS 2410 North Forest Rd

CITY/STATE/ZIP Amherst, New York 14068

TELEPHONE 716-636-7600

ATTORNEY'S NAME Diane R. Tiveron

E-MAIL DTiveron@Hoganwillig.com

II. PROJECT & OCCUPANCY DATA

A. LOCATION OF PROPOSED PROJECT FACILITY

ADDRESS 79 Canal Street, Lockport, New York 14094
PRINCIPAL USE Retail Ice Cream Shop and Production Facility
SBL # None
ZONING B-2

B. INDICATE MUNICIPAL JURISDICTION

TOWN N/A
VILLAGE N/A
CITY Lockport
SCHOOL DISTRICT Lockport

C. CURRENT OWNERSHIP OF PROPERTY

CURRENT OWNER City of Lockport
CURRENT ASSESSMENT \$58,300
CURRENT TAXES (ANNUAL) N/A

D. Who are the principal user(s) of the facility (the "Company")? If there are multiple users, please indicate on attached sheet. If same as Applicant indicate the "same" below.

COMPANY NAME Same
ADDRESS Same
CITY/STATE/ZIP Same
CONTACT Same
TELEPHONE Same
TAX ID NO. Same
% OF FACILITY TO BE OCCUPIED BY COMPANY 100%

E. Are other facilities or related companies located within New York State:

Yes No

LOCATION _____

If there are other company facilities within the State, will any of these close or be subject to reduced activity?

Yes No

F. Has the company actively sought sites and/or facilities in another country or state?

Yes No

If yes, please describe on separate sheet.

G. Description of project (check one or more)

<input type="checkbox"/>	New Construction	Sq. Footage	_____
<input checked="" type="checkbox"/>	Addition to existing facility	Sq. Footage	450
<input type="checkbox"/>	Renovation and modernization of existing facility		
<input checked="" type="checkbox"/>	Acquisition and modernization of existing facility		
<input checked="" type="checkbox"/>	New machinery and equipment	Production	<input checked="" type="checkbox"/> Non-Production <input checked="" type="checkbox"/>
<input type="checkbox"/>	Other (specify)	_____	

H. Provide a general narrative description of the project, including history and background on user(s) of the facility. Provide information on (Appendix A) for user(s) of the facility. Describe reasons why this project is necessary and its effect it will have on Applicant. Include site plans, renderings, photos, etc.

Lake Effect ice Cream was founded in the spring of 2008 as a "summer operation" but very quickly became a year-round endeavor as it manufactured ice cream for stores all over western New York. In 2011 the company outgrew its humble kitchen in Lockport's Masonic Temple, moving to 20 Lock St so it could expand it's production and storage capacity. After 2 highly successful seasons as an ice cream stand and production facility for its growing wholesale business, Lake Effect once again has experienced an extraordinary surge in sales and recognition.

This project (acquisition, addition, and modernization) will allow Lake Effect Ice Cream and Lake Effect Canal Street to create not only a flagship location in which to showcase itself, but also the premier ice cream destination in western New York. Having already proven to be a draw to an otherwise underutilized and depressed area, the new location will serve as a spring-board for future development and an anchor tenant in a developing tourist area.

III. COMPANY EMPLOYMENT INFORMATION

A. **Total current employment within Niagara County is**

3 FTE Calculated (5875 hrs @ 37.5 per week/52 weeks in 2012) - or- 15 Part-Time

**Current Annual Payroll
Including benefits**

Please see attached 2011 and 2012 statements

B. **Projected Employment:**

Applicant or principal user(s) must complete Appendix A.

IV. EMPLOYMENT IMPACT

Every project seeking NCIDA assistance must use best efforts to use Niagara County labor for the construction of new, expanded or renovated facilities. This requirement includes all project employees of the General Contractor, Subcontractor or sub to a Subcontractor, working on the project. Applicant agrees and understands the obligations herein, and agrees to transmit and convey in a timely fashion this requirement to all applicable contractors, subcontractors, suppliers and materialmen.

A. **Will Niagara County contractors and/or subcontractors be utilized for the construction project?**

X Yes No

B. **What is the estimated number of construction jobs to be created at the project site from**

Niagara County: 11 Erie County: 3 Other Areas

V. APPLICANT PROJECT COSTS AND FINANCING

A. Estimate the costs necessary for the construction, acquisition, rehabilitation, improvement and/or equipping of the project by the applicant.

Estimated Costs Eligible for Sales Tax Exemption Benefit

a.	Building Construction or Renovation Costs	a.	\$ 72,000
b.	Sitework	b.	\$ N/A
c.	Non-manufacturing Equipment	c.	\$ 57,500
d.	Furniture, Fixtures	d.	\$ 16,300
e.	Other (Freezer tear-down and re-installation)	e.	<u>\$ 5,000</u>
f.	Subtotal	f.	\$ 150,800

Estimated Costs Not Subject to Sales Tax

g.	Land and/or Building Purchase	g.	\$ 50,000
h.	Manufacturing Equipment	h.	\$ 3,800
i.	Soft Costs (Legal, Architect, Engineering)	i.	\$ 6,000
j.	Other (specify) _____	j.	\$ N/A
k.	Subtotal	k.	<u>\$ 59,800</u>

Total Project Costs	f + k	\$ 210,600
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B. Indicate how the project will be financed

a.	Tax-Exempt IRB	a.	\$ N/A
b.	Tax-Exempt Bond	b.	\$ N/A
c.	Taxable Industrial Revenue Bond	c.	\$ N/A
d.	Bank Financing	d.	\$ 170,000
e.	Public Financing	e.	\$ 35,000
f.	Equity	f.	\$ 15,000

TOTAL SOURCES	\$ 220,000
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Estimated Amount of Mortgage (An additional approximately \$30,000 will be added to the mortgage to pay off an existing commercial loan)	\$ 200,000
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C. If applicant expects the Tax-Exempt IRB to exceed \$1,000,000, what is the dollar value of "capital expenditures" that the applicant and company, or any related company or person, has expended within the last three years in the municipality in which the proposed project is to be located and expects to expend in that municipality three years after the bond issue?

N/A

D. Has the applicant made any arrangements for the financing of the project?

Yes No

If so, please specify bank, underwriter, etc.

First Niagara Bank, NA
729 Exchange Street, Buffalo New York 14210
Attn: Commercial Loan Administrator

VI. PROJECT CONSTRUCTION INFORMATION

A. What is the proposed commencement date of construction or acquisition of the project?

February 16, 2013. The project is beginning under an early occupancy agreement with the City of Lockport.
The closing date of the commercial loan and subsequent acquisition of the property is yet to be determined.

B. Outline the timetable for the project, indicating when project will be in full use.

February 16 through March 16, 2013: Addition, bathrooms, floors, HVAC, and plumbing.
March 16 through April 16, 2013: Partition walls, electrical, equipment and fixture installation.
April 16 through May 3, 2013: Finish work and interior design.
May 4, 2013: Target opening date with full use of retail and production facilities.

VII. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency 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.
- 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.
- E. Absence of Conflicts of Interest: The Applicant has received from the Agency a list of the members, officers and employees of the Agency. No member, officer or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described: N/A
- F. Local Labor: The Applicant understands that the residents of Niagara County will be providing assistance to the project. The Applicant further understands that every project seeking NCIDA assistance must use best efforts to use Niagara County labor for the construction of new, expanded or renovated facilities. This requirement includes all project employees of the General Contractor, Subcontractor or sub to a Subcontractor, working on the project. Applicant agrees and understands the obligations herein, and agrees to transmit and convey in a timely fashion this requirement to all applicable contractors, subcontractors, suppliers and materialmen.

VIII. ENVIRONMENTAL ASSESSMENT

New York State law requires that an Environmental Assessment Form (EAF) must be completed and submitted along with this application. Attach the EAF which was submitted to the municipality.

Name of Applicant's Officer Responsible for Completing Application:

(Please Print)

Erik M. Bernardi

Signature



Date of Application

2/27/2013

CERTIFICATION

Erik M. Bernardi

Name of chief executive of the company submitting application

Deposes and says that he/she is the co-owner and partner

of Lake Effect Ice Cream, LLC and Lake Effect Canal Street, LLC the corporation named in the

attached application; that he/she has read the foregoing application and knows the contents thereof; that the same is true to

his/her knowledge. Deponent further says the reason this verification is made by the deponent and not by Lake Effect Ice

Cream, LLC or Lake Effect Canal Street, LLC (company name) is because the said company is a corporation. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his/her own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his/her duties as an officer of and from the books and papers of said corporation.

As officer of said corporation (hereinafter referred to as the "applicant") deponent acknowledges and agrees that applicant shall be and is responsible for all costs incurred by the nonprofit Niagara County Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the attached application whether or not the application, the project it describes, the attendant negotiations and ultimately the necessary issue of bonds and/or completion of the lease/leaseback transaction are ever carried to successful conclusion. If, for any reason whatsoever, the applicant fails to act within a reasonable or specified period of time to take reasonable, proper, or requested actions or withdraws, abandons, cancels, or neglects the application or if the Agency or applicant are unable to identify buyers willing to purchase the total bond issue required or facilitate the lease/leaseback transaction, then upon presentation of invoice, applicant shall pay to the Agency, its agents, or assigns all actual costs involved in conduct of the application, up to that date and time, including but not necessarily limited to fees of bond counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion and sale of the required bond issue or completion of the lease/leaseback transaction, the applicant shall pay to the Agency an administrative fee set by the Agency. The cost incurred by the Agency and paid by the applicant, including bond counsel and the Agency's general counsel's fees and the administrative fee, may be considered as a cost of the project and included as part of the resultant bond issue or lease/leaseback transaction.

Erik M Bernardi

Print Name of Chief Executive



Signature

NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PROJECTED EMPLOYMENT*

	Full-Time	Part-Time	Total	Total Payroll*
Total number of employees within Niagara County at the date of application	_____ +	<u>15</u>	<u>15</u>	\$43,929 (2012)
Total number of employees to be directly <u>IMPACTED</u> by the project:	_____ +	<u>15</u>	<u>15</u>	_____
ADD: Number of new jobs to be created During the first year after completion:	_____ +	<u>4</u>	<u>4</u>	\$30,000
Total end of first year: (Calculation based on increasing retail season from 5 months to 10.5)	_____ +	<u>4</u>	<u>19</u>	\$74,000
ADD: Number of new jobs to be created During the second year after completion:	_____ +	<u>5</u>	<u>5</u>	\$18,000
Total end of second year: (Calculation based on a 25% increase in payroll wages over the first year)	_____ +	<u>9</u>	<u>24</u>	\$92,000
ADD: Number of new jobs to be created During the third year after completion:	_____ +	<u>6</u>	<u>6</u>	\$23,000
Total end of third year: (Calculation based on a 25% increase in payroll wages over the second year)	_____ +	<u>15</u>	<u>30</u>	\$115,000

Estimated average annual salary
of new jobs to be created: \$68,500
(Calculation based on 15 people @ \$7.25/hr @ 15 hrs/week for 42 weeks)

Expected high salary of new jobs to be created: \$14,700

Expected low salary of new jobs to be created: \$4,500

List types of jobs (i.e. production, managerial, clinical, engineering, etc.) to be created.
Clerical, delivery, managerial, production, service

*Applicant or principal user(s) as noted in Section III B of application (includes benefits)

Erik M. Bernardi



2/27/2013

Print Name

Signature

Date

PROJECT ID NUMBER

617.20

SEQR


APPENDIX C

STATE ENVIRONMENTAL QUALITY REVIEW

SHORT ENVIRONMENTAL ASSESSMENT FORM

for UNLISTED ACTIONS Only

PART 1 - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT / SPONSOR LAKE EFFECT ICE CREAM / CANAL STREET	2. PROJECT NAME Lake Effect Canal Street
3. PROJECT LOCATION: Lockport Municipality	Niagara County
4. PRECISE LOCATION: Street Address and Road Intersections, Prominent landmarks etc - or provide map 79-81 Canal Street (formerly Richmond Avenue), located at the intersection of Pine, Lock, and Ontario Streets. It overlooks the historic "Flight of Five" locks as well as Erie Canal locks 34 and 35.	
5. IS PROPOSED ACTION : <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification / alteration	
6. DESCRIBE PROJECT BRIEFLY: Lake Effect Ice Cream will be moving and expanding its entire operation from 20 Lock Street to 79 Canal Street. The purpose is to create a retail ice cream shop and increase production and storage capabilities. To accomplish this, Lake Effect Ice Cream and Lake Effect Canal Street are co-borrowing a sum of money to add a 450 square foot addition to the rear of the building as well as bathrooms, new equipment, and aesthetic changes both inside and outside the building.	
7. AMOUNT OF LAND AFFECTED: Initially .09 acres Ultimately .09 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, describe briefly:	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.) <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Park / Forest / Open Space <input type="checkbox"/> Other (describe)	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (Federal, State or Local) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit / approval: City of Lockport: General construction, plumbing, electrical, etc.	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit / approval:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT / APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant / Sponsor Name Erik M. Bernardi	Date: 2/25/13
Signature 	

If the action is a Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment