

LEASE

Between

GEDDES DEVELOPMENT CORPORATION

(Landlord)

and

MARINE MIDLAND BANK-CENTRAL

(Tenant)

Dated: May 29, 1974

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LEASE

PARTIES

1. This lease is made this 29th day of May, 1974, between GEDDES DEVELOPMENT CORPORATION, a domestic corporation whose address is 1600 One MONY Plaza, Syracuse, NY, (hereinafter called "Landlord"), and MARINE MIDLAND BANK-CENTRAL, a New York banking corporation whose address is 360 South Warren Street, Syracuse, New York 13202, (hereinafter called "Tenant"). Landlord and Tenant, intending to be legally bound, agree with each other as follows:

PREMISES

2. Landlord does hereby lease and demise unto Tenant and Tenant does hereby rent from Landlord all of that parcel of land in Onondaga County, New York described in Exhibit "A" attached hereto and made a part hereof, which said parcel and all improvements now or hereafter located thereon are hereinafter called the "premises", said premises being outlined in red on a plat of Shoppingtown marked Exhibit "B" attached hereto and made a part hereof (hereinafter sometimes referred to as the "Shopping Center" or "expansion area"), together with all easements, rights-of-way, privileges and advantages thereunto belonging or appertaining, and including an area 35' x 55' to be canopied for drive-up teller stations as cross-hatched on said Exhibit "B".

TERM

3. (a) This lease shall be effective as of the date hereof and shall continue for a term of forty (40) years from and after the date (hereinafter called the "Primary Date") on which the buildings and improvements to be constructed by Tenant and occupied or used by Tenant, as contemplated by this Agreement, on the premises are open to the public for business or July 1, 1974, whichever date occurs first, except that in the case Landlord has not completed the filling, paving and other

work referred to in paragraph 4(a) on or before said date, said Primary Date shall be the date when all of said work has been completed.

(b) Upon the execution hereof, the parties shall also execute and record a memorandum of this lease pursuant to Section 291-C of the Real Property Law.

TENANT'S  
CONSTRUCTION

LANDLORD'S  
CONSTRUCTION

4. (a) Tenant covenants and agrees that it will promptly commence and prosecute with due diligence the construction of a bank building on the premises substantially in accord with the drawings prepared by Bank Buildings Corp. and initialed and approved by the parties hereto. Landlord shall, on or before completion of Tenant's construction, but in no event later than July 1, 1974, fill, pave and light the area colored blue on the attached Exhibit B, install curbing and striping of the parking areas as indicated on the colored portion of said Exhibit, install a proper surface water drainage system, and install adequate exterior lighting equipment.

(b) Tenant shall pay Landlord up to Fifty Thousand Dollars (\$50,000) as Tenant's pro-rata share (55% Tenant, 45% Landlord) of all site work, including the paving of the expansion area and installation of lighting standards to be furnished by Landlord pursuant to plans and specifications prepared by Landlord's architects and engineers and approved by Tenant's architects and engineers upon completion thereof by Landlord.

RENT

5. (a) Tenant agrees to pay as rent for said premises for the first thirty (30) year period of this lease a total rental in the amount of Five Hundred Forty Thousand Dollars (\$540,000) plus percentage rentals, payable as follows:

(i) The sum of Fifteen Hundred Dollars (\$1500.) per month plus one-tenth (1/10th) of one percent (1%) per lease year of daily average customer deposit balances in excess of Twenty Million Dollars (\$20,000,000.) in the branch bank to be operated by the Tenant in the leased premises.

(ii) Additional annual rental under (i) shall be due and payable on or before the 15th day of the month immediately following the annual anniversary date of the Primary Date. Tenant agrees to certify to the Landlord, upon its demand, the amount of total average daily deposit balances to the credit of Tenant's depositors at such branch bank or permit the Landlord to examine the total daily deposit balances to the credit of such depositors as disclosed by the General Ledger of the Tenant.

(b) Rental for the next ten (10) years of this lease shall be negotiated between the Landlord and the Tenant but in no event shall the annual rent for this period be less than the total annual rent paid by the Tenant in the thirtieth year of this lease. In the event Landlord and Tenant are unable to agree upon the total annual rental to be payable for such ten (10) year period, the amount of such rental shall be determined by arbitration, that is, the Landlord and Tenant shall each name an arbitrator and in the event said arbitrators are unable to agree within ten (10) days from the date of their appointment they shall select a third arbitrator and a decision of a majority of the three as to the rental to be paid shall be binding upon both parties. A "lease year" shall be each twelve (12) month period during the term hereof commencing on the Primary Date and on each anniversary of said date.

TAXES

6. (a) From and after the Primary Date, Tenant agrees to pay to the public authorities charged with the collection

thereof, promptly as the same become due and payable, all taxes, assessments, general and special, permit, inspection and license fees and other public charges, whether of a like or different nature, levied upon or assessed against said bank building thereon and its pro-rata share of taxes assessed against the Shopping Center, and which are assessed or are to become a lien after the Primary Date; and Tenant agrees to exhibit to Landlord, upon demand, receipts evidencing payment of all taxes, assessments and public charges set forth in this paragraph; all such taxes, assessments and charges for the first and last lease years of the term hereof shall be equitably pro-rated on a daily basis between the parties.

(b) If the premises are not separately assessed for tax purposes but are assessed as a part of Landlord's other property in the Shopping Center, Tenant shall pay an equitable proportion of such taxes.

(c) It is expressly agreed, however, that Tenant shall not be obligated to pay any income tax, profits tax, excise tax or other tax or charge that may be payable by or chargeable to Landlord under any present or future law of the United States or the State or other municipal government in which the leased premises are located or imposed by any political or taxing subdivision thereof or any other governmental agency upon or with respect to the rent received by Landlord under this lease.

(d) In the event any special assessment is levied on the premises for a part of the cost of any public work or improvement assessed according to benefit found by the levying authority to accrue therefrom to the premises and the option is given to pay such assessment in installments, Tenant may elect to pay such assessment in installments and in that case shall become liable only for such installments as shall accrue from and

UTILITIES

RIGHT TO  
CONTEST  
ASSESSMENTS

after the Primary Date, such assessments to be pro-rated on a daily basis with respect to the first and last lease years.

(e) Tenant shall also pay all charges for water, gas, electricity, power or other public utility service used by Tenant during the term of this lease as such charges become due.

7. (a) It is expressly agreed, however, that Tenant shall not be required to pay, discharge or remove any tax (including penalties and interest), assessment, tax lien, forfeiture or other imposition or charge upon or against the premises, or any part thereof, or the improvements at any time situated thereon, so long as Tenant shall in good faith contest the same or the validity thereof by appropriate legal proceedings, and shall give to Landlord prompt notice in writing of such contest at least ten (10) days before any delinquency occurs, and said legal proceedings shall operate to prevent the collection of the tax, assessment, forfeiture, lien or imposition so contested and/or the sale of said premises, or any part thereof, to satisfy the same, and that pending any such legal proceedings Landlord shall not have the right to pay, remove or discharge the tax, assessment, forfeiture, lien or imposition thereby contested provided Tenant shall, prior to the date such tax or imposition is due and payable, give such reasonable security as may be demanded from time to time by Landlord to insure such payments and prevent any sale or forfeiture of the leased premises by reason of such non-payment, not to exceed one and one-half (1-1/2) times the amount of such tax, assessment, forfeiture or lien, and all penalties and interest thereon. In the event of any such contest, Tenant promises and agrees, within five (5) days after the final determination thereof adversely to Tenant,

to fully pay and discharge the amount involved in or affected by such contest, together with any penalties, fines, interest, costs and expenses that may have accrued thereon or that may result from any such action by Tenant, and Landlord shall thereupon return to Tenant any security previously given it.

(b) Any proceeding or proceedings for contesting the validity or amount of taxes, assessments or other public charges or to recover back any tax, assessment or other imposition paid by Tenant, may be brought by Tenant in the name of Landlord or in the name of Tenant, or both, upon at least ten (10) days prior written notice to Landlord as Tenant may deem advisable; however, if any such proceeding be brought by Tenant, Tenant shall indemnify and save harmless Landlord against any and all loss, cost or expense of any kind that may be imposed upon Landlord in connection therewith.

If Tenant shall default in the payment of any taxes, assessments or public charges above required to be paid by Tenant and not contested by Tenant, Landlord shall have the right to pay the same, together with any penalties and interest, in which event the amount so paid by Landlord shall be paid as additional rent by Tenant to Landlord on demand, together with interest thereon at the rate of six per cent (6%) per annum.

(c) Until the Primary Date, Landlord shall bear, pay and discharge all of the taxes and other charges referred to in Paragraph 6 except amounts payable by Tenant under Paragraph 6(e).

COMPLIANCE  
WITH LAWS

8. (a) Tenant shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities in any manner affecting the premises.

LIABILITY  
FOR CONDITION  
AND REPAIR

(b) Tenant, at its own cost and expense, shall keep the premises, all improvements which may at any time during the term of this lease be situated thereon, and any and all appurtenances thereunto belonging (other than the common areas, as defined in Paragraph 23); in good condition and repair during the entire term of this lease.

LIABILITY  
INSURANCE

(c) Tenant shall maintain a public liability insurance policy or policies in amounts which in no event shall be less than Five Hundred Thousand Dollars (\$500,000.) for individual accidents, One Million Dollars (\$1,000,000.) involving more than one person in a single accident, and Fifty Thousand Dollars (\$50,000.) property damage, and in which Landlord shall be named an additional assured. Notwithstanding anything to the contrary in this sub-paragraph (c), one hundred percent (100%) of this insurance required may be carried under any plan of self-insurance from time to time maintained by Tenant, provided Tenant has adequate reserves or resources for the risk so self-insured against and furnishes to Landlord evidence of the adequacy of such reserves or resources. It is agreed that a net worth of Twenty Million Dollars (\$20,000,000.) shall be considered adequate.

TENANT'S  
RIGHT TO  
ALTER, IM-  
PROVE OR  
SUBSTITUTE  
IMPROVEMENTS

9. Tenant, when not in default in the performance of any of its obligations hereunder, shall have the following rights during the term of this lease from time to time, in such manner and to such extent as Tenant may, in its judgment, deem advisable:

(a) To erect, place, install or substitute upon the leased premises, buildings, structures and improvements as from time to time it shall deem advisable so long as such structures and improvements are in compliance and conformity with necessary laws in effect at the time.

(b) To make such alterations, additions and repairs

to the leased premises as it may desire so long as such alterations, additions and repairs are in compliance and conformity with necessary laws in effect at the time.

(c) The foregoing rights of the Tenant under (a) and (b) hereof are subject to the prior consent of the Landlord which will not be unreasonably withheld.

TENANT'S IMPROVEMENTS ON TERMINATION

(d) At the expiration or termination of the lease term, or any extension thereof, Tenant agrees to leave all improvements (other than signs, vault doors, drive-in teller units, trade fixtures and trade equipment) upon the premises in their then existing condition and shall become the property of the Landlord. In case the bank building on the premises is damaged by fire or perils included in extended coverage as defined in Paragraph 10, Tenant shall promptly restore said building except that if such damage occurs after the thirty-fifth (35th) lease year and the estimated cost of restoration exceeds sixty percent (60%) of the then replacement cost of said building, Tenant may either restore the premises or, by notice to Landlord, terminate this lease as of the date of said damage and in such event Tenant shall remove said damaged improvements and rent and other charges shall be adjusted pro-rata as of said date; if the premises are not restored by Tenant and it elects to terminate the lease under the foregoing exception, Landlord shall be entitled to that portion of the insurance proceeds received as a result of the destruction of the improvements representing the same relationship to the total proceeds received as the number of years which have expired under this lease bears to the total number of years of this lease and the Tenant shall be entitled to the balance of such proceeds. In the event Tenant restores such premises it shall be entitled to the entire proceeds of any insurance received

DAMAGE, FIRE

DAMAGE OTHER  
THAN FIRE

as a result of the destruction of the improvements. In the event said building is damaged as a result of a cause other than fire or perils included in extended coverage and the estimated cost of the restoration exceeds fifty percent (50%) of the then replacement cost of said building, Tenant may either restore the premises or, by notice to Landlord, terminate this lease as of the date of said damage and rent and other charges shall be adjusted pro-rata as of said date.

RELOCATION OF  
DRIVE-UP UNITS

(e) To relocate drive-up units with the prior written consent of the Landlord within any part of the area of the Bank Premises described in Exhibit A.

INSURANCE  
LANDLORD'S  
AREA

10. Landlord with respect to the improvements on that part of the Shopping Center, other than Tenant's premises as shown on Exhibit "B" (hereinafter referred to as "Landlord's Area"), and Tenant with respect to the bank building on the premises, each covenants and agrees that it will at all times keep or cause to be kept the said improvements respectively insured against loss or damage by way of fire, lightning, wind-storm, hail, explosion, riot, civil commotion, aircraft, vehicle, smoke, sprinkler leakage and other causes and events from time to time included within the coverage of the standard form extended coverage insurance policy issued by insurers of recognized responsibility in an amount not less than eighty percent (80%) of the replacement cost of said improvements (excluding foundation, footing and excavation costs) less physical depreciation. All insurance maintained by Tenant shall insure Landlord and Tenant as their interests may appear, but Tenant shall be entitled to the entire proceeds of all such insurance in the event of any loss except as provided in Paragraph 9(d). However, one hundred

percent (100%) of the insurance required under this paragraph may be carried under any plan of self-insurance from time to time maintained by Tenant as herein provided in Paragraph 7(c).

11. (a) Tenant will not permit any mechanics', laborers' or materialmen's liens to stand against the leased premises or improvements for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents, contractors, or sublessees, in connection with work of any character performed or claimed to have been performed on said premises or improvements by or at the direction or sufferance of Tenant, provided, however, upon giving written notice thereof to Landlord, Tenant shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Tenant shall give to Landlord reasonable security as may be demanded by Landlord to insure payment thereof and prevent any sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment. Such security need not exceed one and one-half (1-1/2) times the amount of such lien or claimed lien. On final adverse determination of such lien or claim for lien, Tenant will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgments satisfied at Tenant's own expense, and Landlord shall forthwith return any security previously given it by Tenant.

(b) The Tenant shall make all necessary repairs to the exterior and interior of the premises and the Tenant shall at all times keep the interior of the premises, including the plumbing, heating, light fixtures and equipment, in first-class condition and repair, shall replace all broken glass, and, except as provided in Paragraph 9(d), at the end of the term shall

peaceably quit and surrender said premises in good condition, ordinary wear and tear, damage by the elements and damage or alterations not required to be repaired or restored only excepted.

CONDEMNATION

12. In case any of the following are condemned for any public or quasi-public use: (i) the premises, (ii) more than thirty percent (30%) of the floor area of Tenant's building on the premises; then in any such event Tenant shall have the option to terminate this lease effective as of the date of taking of possession by the appropriating authority of the property so condemned. Landlord shall be entitled to that portion of the award representing the value of the land so taken, and Landlord shall also be entitled to a portion of the award made for the building; said portion of said award shall bear the same relationship to the total award (less that portion of the award representing the value of the land so taken) as the total number of years which have expired under this lease bears to the total number of years of this lease, and Tenant shall be entitled to the balance of said award. In case this lease is terminated as above provided, rent and other charges shall be adjusted pro-rata to the date of such termination.

JOINDER IN APPLICATION

13. Landlord shall join in or consent to any and all reasonable applications and petitions to any governmental or other public agency that Tenant may, from time to time, make in connection with the premises, provided only that Tenant shall save Landlord harmless from all costs incurred in connection therewith.

QUIET POSSESSION

14. Provided Tenant is not in default hereunder, Landlord covenants that Tenant shall have peaceful and quiet enjoyment of the premises without let or hindrance on the part of

Landlord, and that Landlord will warrant and defend Tenant in the peaceful and quiet enjoyment of the premises.

NOTICES

15. Any notice hereinafter required or permitted to be given by Landlord to Tenant shall be deemed given if and when mailed in a sealed wrapper by United States registered or certified mail, postage prepaid, properly addressed to Tenant. Any notice herein required or permitted to be given by Tenant to Landlord shall be deemed given if and when so mailed to Landlord, or if it shall have designated some one person, firm or corporation to receive notice, then to such person, firm or corporation. Until changed as hereinafter provided, notices and communications to Landlord shall be addressed as follows:

GEDDES DEVELOPMENT CORPORATION  
~~Shoppingtown, Inc.~~  
1500 Mony Plaza  
Syracuse, New York 13202

and notices and communications to Tenant shall be addressed as follows:

Marine Midland Bank-Central  
350 South Warren Street  
Syracuse, New York 13202

Each party shall have the right to specify as its proper address any other address in the United States of America by giving to the other party at least fifteen (15) days written notice thereof.

DEFAULT BY  
TENANT

16. If Tenant defaults in the payment of rent or in the performance of any of the Tenant's obligations hereunder, Landlord may at any subsequent time, after once notifying Tenant in writing of such default (unless within thirty (30) days of such notice Tenant cures such default or commences and diligently prosecutes the curing of such default), declare the term ended, re-enter the premises with or without process, remove

Tenant or any other occupants, and fully repossess the leased premises. Landlord shall also have the right after said thirty (30) days to collect, by summary proceedings or otherwise, any rent due and unpaid and the further right, at any time or times, to collect and receive any rent which would thereafter become due under the terms of this lease without thereby affecting the service of notice, the commencement of suit, or any final judgment for possession of the premises. Tenant hereby expressly waives any and all right of redemption in the event Tenant is dispossessed by judgment or warrant, and the buildings shall become the property of the Landlord.

ASSIGNMENT

17. Tenant shall not have the right or privilege to assign, sublease, mortgage or hypothecate its leasehold estate in the premises without Landlord's prior written consent or approval except that Tenant may, however, assign this lease to Marine Midland Banks, Inc. and/or any of its subsidiaries or to a third party successor to Tenant without the Landlord's prior consent. If Tenant shall enter into an arrangement for the sale of its leasehold interest pursuant to an agreement to sub-lease back said premises to Tenant, such arrangement shall be subject to Landlord's option to purchase and lease back the premises on the same terms as embodied in said arrangement, such option to expire thirty (30) days after notice thereof is given by Tenant to Landlord.

LANDLORD'S  
COVENANTS

18. Landlord covenants and agrees that:

(a) Landlord has full power and authority to execute and deliver this lease.

(b) Landlord has good and marketable title to the premises and the Shopping Center free and clear of all encumbrances

or liens whatsoever, except as provided in sub-paragraph 18(d), and has delivered to Tenant evidence of such title by forty (40) year abstract or by title guarantee policy issued by a responsible title insurance company.

(c) The premises are zoned to permit their use by Tenant for the construction of a building substantially in accordance with said drawings prepared by Bank Buildings Corp., above referred to, and the operation of a general banking business in said building. Tenant, in conjunction with Landlord, will submit its plans and specifications to the necessary zoning authorities and, at its own cost and expense, secure all approvals necessary for building permits, signs and curb cuts.

(d) This lease shall be subject and subordinate to any mortgage which is now a lien upon said premises or which may at any time be placed thereon or any part thereof by Landlord; provided, however, that Landlord shall obtain an agreement in writing from any present mortgagee and from all future mortgagees to the effect that so long as Tenant is not in default under any of the terms of this lease, each mortgagee shall recognize the rights of Tenant herein with respect to the application of insurance proceeds and condemnation awards and that in case Landlord defaults under such mortgage, the mortgagee shall give Tenant at least thirty (30) days' notice in writing thereof and in such event (i) Tenant shall have the right to cure such default at its own expense and deduct the amount so expended from the rent due and to become due hereunder and/or (ii) in the event foreclosure proceedings or other action or proceeding is brought by said mortgagee to enforce its mortgage, Tenant will not be made a party thereto and Tenant's rights hereunder shall not be

affected thereby. It is agreed that in case Landlord shall fail to procure the foregoing agreement from any present mortgagee within thirty (30) days from the date hereof, Tenant at its election may terminate this lease by due notice to Landlord and further that, pending the procuring of such agreement, Tenant shall be excused from the performance of its obligations hereunder.

LANDLORD'S  
RIGHT TO  
ALTER

19. It is further agreed and understood that Landlord, at its option, may from time to time expand or alter the said Shopping Center (exclusive of the leased premises) and/or its parking areas and access roads to provide space and facilities for additional tenants or relocation of present tenants. Nothing contained in this lease shall serve as an obstacle to such expansion or alterations so long as present parking ratios are not substantially reduced.

CONSTRUCTION  
STANDARDS

20. (a) Upon commencement of construction, Tenant shall diligently prosecute said construction to completion.

(b) The construction shall be in a good and workmanlike manner using first-class materials in accordance with all applicable laws, ordinances, rules and regulations.

(c) Tenant shall at all times:

(i) Take any and all safety measures reasonably required to protect the other party hereto and all permittees from injury, loss or damage caused by or resulting from the performance of its said construction.

(ii) Indemnify, defend and hold harmless the Landlord hereto from and against all claims, costs, expenses and liabilities arising from or in respect to the death of or accident, injury, loss or damage (except where caused in whole or in part

TENANT'S  
INDEMNIFI-  
CATION

by the negligence and fault of the other party or parties hereto and their respective contractors) whatsoever caused to any natural person or to the property of any person as shall occur in the process of, during the course of, or by virtue of its said construction.

(iii) Indemnify and hold the Landlord harmless from and against mechanics', materialmen's and/or laborers' liens and all costs, expenses and liabilities in connection with or arising from its said construction.

EASEMENTS  
OF INGRESS  
AND EGRESS

21. Commencement upon completion of the construction of all driveways and parking areas, each party hereby grants to the other party hereto for its respective uses, for the use of occupants and for the use of permittees in common with all others entitled to use the same, mutual and reciprocal non-exclusive easements in, to and over the said driveways and parking areas for ingress and egress, for the passage and accommodation of pedestrians, and for the passage over said driveways of vehicles and the parking thereof in said parking areas; provided, however, that Tenant may prohibit or restrict the parking or passage of vehicles of others than its customers on or over the parking areas and driveways [on Lots 19, 20, 21, 33, 34 and 35 of the Lyndale Tract, being a portion of the area shaded in Blue on Exhibit B.

INSTALLATION  
OF UTILITIES

22. It is understood and agreed that all site work will be performed by Landlord in accordance with Paragraph 4(a) hereof but that the installation of all utilities, including water, sanitary sewer and gas lines to Tenant's building shall be at Tenant's sole cost and expense.

MAINTENANCE  
OF COMMON  
AREAS

23. (a) Landlord shall maintain all common areas in the Shopping Center and keep the same in clean and good condition

and repair, including the removal of snow and ice, and shall furnish outdoor lighting facilities and illumination during all of Tenant's business hours. The common areas of the Shopping Center for the purposes hereof shall include all driveways, walkways, parking areas and open and planted areas.

MAINTENANCE,  
LIABILITY FOR  
EXPENSE

(b) Tenant shall pay to Landlord as its share of the costs incurred by Landlord pursuant to Paragraph 23(a) hereof of the proportion of such costs which the area of the office and public areas in the bank building bear from time to time to the total rentable space in the Shopping Center. Such costs shall be subject to verification by Tenant and shall include, but shall not be limited to, the wages and salaries of employees for work or supervision performed with respect to said common areas and the reasonable depreciation of all equipment used for the maintenance and repair of said common areas, all such costs to be pro-rated with respect to work or equipment performed or used for purposes not connected with the maintenance and repair of the common areas.

(c) No charge shall be collected from and no time limit imposed upon any occupant or permittee for parking in the parking areas.

RULES AND  
REGULATIONS

(d) Landlord agrees that it will promulgate rules as to the employees of other Tenants and Occupants of the Shopping Center to the effect that the parking by such employees shall be at designated remote locations in said parking areas.

(e) In the event 50% or more of the number of Tenants in the entire Shopping Center remain open for business between the hours of 10:00 A. M. and 9:00 P. M. daily, Tenant

agrees to keep its branch bank lighted during such hours.

If a Merchants Association is formed by the tenants in the Shopping Center or is in existence during the term of this lease, the Tenant agrees to join such association, pay the dues, and observe the rules established by it. However, it is agreed that Tenant shall not be required to observe any rules in conflict with State Banking Laws and practices.

The Landlord reserves the right to institute and may enforce such other rules and regulations from time to time as may be considered reasonably expedient for the orderly and successful conduct of the Shopping Center and for the mutual benefit of the tenants thereof.

TENANT'S  
HOURS

(f) The Tenant further agrees that during the entire term of this lease it will operate the business for which the premises are leased during all normal banking hours and will not permit the premises to be closed or out of operation without the prior written consent of the Landlord, except for reasons beyond the control of Tenant. In the event this provision of the lease is violated, Landlord shall have the right to terminate this lease upon fifteen (15) days' written notice to the Tenant (unless such violation is cured within such fifteen (15) day period) in addition to all other rights and remedies to the Landlord under this lease.

SALES IN  
PARKING AREAS

(g) Landlord covenants and agrees to permit no retail sales activity to take place in any of the parking areas of the Shopping Center on Lots 19, 20, 21, 33, 34 and 35 of the Lyndale Tract.

ADVERTISING

(h) Tenant further agrees to advertise in the Shoppingtown News, or other similar Merchants Association publication of the Shopping Center, for an annual minimum total of one (1) page, billable at the then prevailing rate of Merchants

Association advertising in said publication.

Advertising may be at Tenant's discretion to meet reasonable needs.

Tenant is to furnish copy for its advertising space at least twelve (12) days before each publication date.

TENANT'S  
INDEMNITY

24. Tenant covenants and agrees to protect, defend, indemnify and save harmless Landlord from and against any and all claims, costs, expenses (including attorney fees and/or court costs) and liabilities arising from or in respect of the death of or any accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person(s), as shall occur in, on or about the premises and/or the improvements thereon during the term of this lease (except to the extent such claims, costs, expenses and liabilities shall arise from or in respect of any negligence or fault of Landlord, its respective agents, employees, servants, tenants or concessionaires).

LANDLORD'S  
INDEMNITY

25. Landlord covenants and agrees to protect, defend, indemnify and save harmless Tenant from and against any and all claims, costs, expenses (including attorney fees and/or court costs) and liabilities arising from or in respect of the death of or any accident, injury, loss or damage whatsoever caused to any natural person or the property of any person(s) as shall occur in, on or about Landlord's Area and/or the improvements thereon during the term of this lease (except to the extent such claims, costs, expenses and liabilities shall arise from or in respect of any negligence or fault of Tenant, its respective agents, employees, servants, tenants or concessionaires).

LANDLORD'S  
LIABILITY  
INSURANCE

26. Landlord shall at all times maintain in force

and effect the following insurance covering Landlord's Area and the improvements thereon:

(a) Comprehensive public liability insurance in the amount of at least Five Hundred Thousand Dollars (\$500,000) for any occurrence resulting in bodily injury to or death of one person and in the amount of at least One Million Dollars (\$1,000,000) for any occurrence resulting in bodily injury to or death of more than one person.

(b) Comprehensive property damage insurance in the amount of at least Fifty Thousand Dollars (\$50,000).

27. All of the insurance required to be maintained by Landlord pursuant to the preceding paragraph shall:

(a) Be effective pursuant to a valid and enforceable policy of insurance issued by an insurer of recognized responsibility.

(b) Contain an agreement to give at least ten (10) days prior written notice to Tenant in the event of (i) any change in the scope or amount of coverage provided by such insurance, or (ii) cancellation of such insurance.

(c) Landlord shall furnish Tenant with a certificate evidencing all insurance coverage required to be maintained by Landlord pursuant hereto within a reasonable time after the date on which any such insurance (or any renewals thereof) shall become effective.

SIGNS

28. Tenant agrees with respect to the premises and Landlord agrees with respect to Landlord's Area to comply strictly with the requirements of Exhibit "C" and not at any time hereafter to install, use or permit the installation or use of any signs or other advertising devices contrary to said requirements.

FORCE  
MAJEURE

29. Each party hereto shall be excused from performing any of its respective obligations or undertakings provided in this Agreement, except any of its respective obligations to pay any sums of money under the applicable provisions hereof, in the event and/or so long as the performance of such obligation is prevented or delayed, retarded or hindered by Act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, malicious mischief, inability to procure or a general shortage of labor, equipment, facilities, materials or supply in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, laws, orders of government or civil or military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of the respective party.

WATER DAMAGE

30. The Landlord shall not be liable for any damage caused by water, rain, snow or ice or by breakage, stoppage or leakage of water, gas, heating or sewer pipes in, upon, about or adjacent to the premises unless caused by any negligence on the part of the Landlord, its agents, servants or employees.

ENLARGEMENT  
OF TENANT'S  
BUILDING

31. Tenant shall have the right, subject to the approval of necessary zoning authorities (subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed) to enlarge the bank building by constructing an addition or additions thereto not to exceed 1,500 square feet, and in such event the Tenant shall be liable for any increase in taxes resulting from such enlargement.

CONSENTS

32. This lease is subject to the Tenant obtaining the prior consents of the New York State Banking Department and

of the Board of Governors of the Federal Reserve System and all other supervisory authorities for the establishment of a branch bank at the demised premises; and in the event any such consents are not received, this lease shall be null and void and of no further effect.

DEFINITIONS

33. Whenever used in this Agreement, the following terms shall have the following respective meanings:

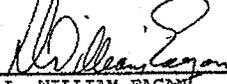
"Occupant" means (a) any person(s) from time to time legally entitled to the use and occupancy of Landlord's Area for income producing purposes, (b) Tenant and its successors and assigns, and (c) the respective tenants, sub-tenants, licensees and concessionaires of any person included in (a) and (b)

"Permittees" means the following person(s):  
(a) Occupants, and (b) officers, directors, employees, agents, contractors, sub-contractors, customers, patrons, clients, visitors, licensees and invitees of any Occupant.

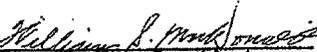
34. The titles of the paragraphs of this lease are for convenience only, are not a part of this lease, and shall have no effect upon the construction or interpretation of any part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and year first above written.

GEDDES DEVELOPMENT CORPORATION

By   
L. WILLIAM EAGAN

MARINE MIDLAND BANK CENTRAL

By   
Senior Vice-President

STATE OF NEW YORK  
COUNTY OF ONONDAGA SS.:

On this \_\_\_\_\_ day of April, 1974 before me personally came \_\_\_\_\_, to me personally known, who, being by me duly sworn, did depose and say that he resides at \_\_\_\_\_; that he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in and which executed the within Lease Agreement as Landlord; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK  
COUNTY OF ONONDAGA SS.:

On this \_\_\_\_\_ day of April, 1974 before me personally came WILLIAM S. MacDONALD, to me personally known, who, being by me duly sworn, did depose and say that he resides in the Town of Camillus, Onondaga County, New York; that he is a Senior Vice-President of MARINE MIDLAND BANK-CENTRAL, the banking corporation described in and which executed the within Lease Agreement as Tenant; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public

EXHIBIT A

Attached to and constituting part of lease  
dated May 29, 1974 between Geddes  
Development Corporation, as Landlord and Marine  
Midland Bank-Central as Tenant.

The demised premises consist of that part of Lots 19, 20, 34  
and 35, Lyndale Tract in the Town of Dewitt, described as follows:

Beginning at a point measured on the following courses and  
distances from the intersection of the southerly line of Kinne Road with  
the westerly line of Maplevue Road: S 89°-56'-40" W a distance of  
464.0 feet along the southerly line of Kinne Road to a point and S 0°-03'-  
20" E a distance of 48.77 feet to the place of beginning, (said point of  
beginning being located on the exterior face of a foundation wall as con-  
structed on 12/6/73), running thence N 89°-45'-30" E a distance of 13.39  
feet along the exterior face of said foundation wall to the northeasterly  
corner thereof, thence S 0°-14'-30" E a distance of 80.0 feet along the  
exterior face of said foundation wall and a prolongation southerly thereof  
to the southeasterly corner of said foundation wall, thence S 89°-45'-30"  
W a distance of 40.0 feet along the exterior face of said foundation wall  
to the southwesterly corner thereof, thence N 0°-14'-30" W a distance of  
80.0 feet along the exterior face of said foundation wall to the north-  
westerly corner thereof, thence N 89°-45'-30" E a distance of 26.61 feet  
along the exterior face of said foundation wall to the place of beginning  
subject to any easements of record.

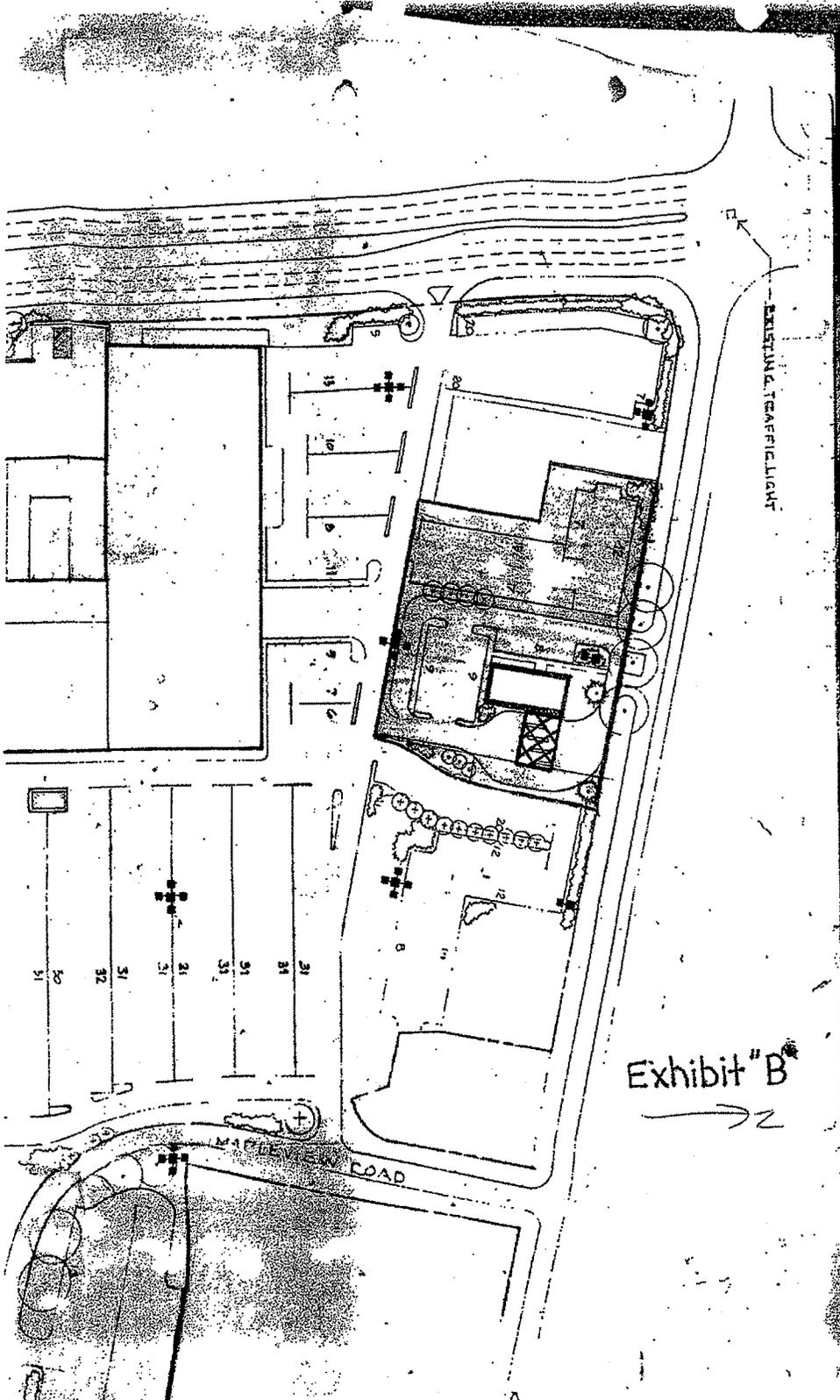


Exhibit "B"  
→ N

EXHIBIT C

SIGN REGULATION

The purpose of this Sign Regulation is to establish a quality atmosphere while creating an environment which produces maximum traffic and promotes the greatest sales and other business for the occupants of the Shopping Center.

A. All signs shall be in good taste and of a size proportionate to the building on which located and in accordance with zoning regulations.

B. No exposed neon lighting shall be used on signs, symbols or decorative elements.

C. No exterior flashing action or moving action sign shall be permitted; no interior flashing action or moving action sign shall be permitted if visible from the exterior, and no music or commercial promotion audible outside the particular occupant's space shall be permitted.

**LEASE MODIFICATION AGREEMENT**

**THIS LEASE MODIFICATION AGREEMENT** (this "Agreement") is made and entered into as of this 9<sup>th</sup> day of MAY, 2014 (the "Effective Date"), by and between **FIRST NIAGARA BANK, N.A.**, a national banking association, having an address of 6950 South Transit Road, P.O. Box 514, Lockport, NY 14095-0514 (the "Tenant") and **SHOPPINGTOWN MALL NY, LLC**, a New York limited liability company, having an address of 9103 Alta Drive, Suite 204, Las Vegas, NV 89145 (the "Landlord").

**RECITALS:**

A. Tenant's predecessor-in-interest and Landlord's predecessor-in-interest entered into that certain Lease dated May 29, 1974, as subsequently assigned (the "Lease") in connection with that certain premises consisting of approximately 3,200 square feet located at 6570 Kinne Road, DeWitt, NY 13214, and as further described in the Lease (the "Premises").

B. The Lease was assigned by Landlord's predecessor-in-interest LBUBS 2001-C3 ERIE RETAIL, LLC, to the current Landlord, SHOPPINGTOWN MALL NY, LLC, pursuant to that certain Assignment and Assumption Agreement dated September 20, 2013.

C. The Lease was assigned by Tenant's predecessor-in-interest HSBC Bank USA, pursuant to that certain Assignment and Assumption Agreement dated May 11, 2012 and effective on May 18, 2012.

D. The term of the Lease is currently scheduled to expire on June 30, 2014, and the parties wish to extend the term of the Lease, and to further modify the terms of the Lease, pursuant to the terms set forth herein.

**NOW, THEREFORE**, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant and Landlord agree as follows:

1. The recitals set forth above are incorporated herein by reference.
2. The term of the Lease is hereby extended an additional term of five (5) years commencing on July 1, 2014 and expiring on June 30, 1019 ("Extended Term").
3. Landlord and Tenant agree that the annual base rent for the Renewal Term shall be payable in equal monthly installments pursuant to the terms set forth in the Lease, as follows:

| <u>Years</u> | <u>Annual Rent</u> | <u>Monthly Rent</u>               |
|--------------|--------------------|-----------------------------------|
| 1-3          | \$82,500.00        | \$6,875.00                        |
| 4-5          | \$88,275.00        | <del>\$7,256.25</del> \$ 7,356.25 |

*SLP*

Commencing upon the beginning of the Extended Term, the rent schedule set forth in Section 5 of the Lease (including all its subparagraphs) is deleted in its entirety, and notwithstanding anything to the contrary contained in the Lease, Tenant shall have no obligation to pay Landlord percentage rent, or any other rent based upon deposit balances at the Premises, from and after July 1, 2014.

4. Tenant shall have the right to extend the term of the Lease an additional term of five (5) years after the expiration of the Extended Term ("Second Extended Term") by providing written notice to Landlord at least one hundred eighty (180) days prior to the expiration of the Second Extended Term. In the event Tenant elects to exercise its option to renew the Lease for the Second Extended Term, the annual base rent for all five (5) years of the Second Extended Term shall be \$97,102.50 payable in equal monthly installments of \$8,091.88, and all other terms and conditions of the Lease, as modified herein, shall remain unchanged and in full force and effect.

5. Landlord acknowledge that Tenant's right to make alterations and improvements to the Premises, as set forth in Section 9 of the Lease, shall include the right to install a new drive-through facility and associated signage at the Premises ("Drive Through Facility"), without obtaining Landlord's prior written consent. The plans, permits and installation of the Drive Through Facility shall be at Tenant's sole cost and expense, however, Landlord agrees that it shall cooperate with Tenant in the application and permitting process to assist Tenant with the municipal approvals and permitting of the Drive Through Facility plans. Tenant shall have the right to seek a special use permit and/or variance, if necessary, to install the Drive Through Facility at the Premises, in Tenant's sole and absolute discretion (however, Tenant shall not be required to apply for any special use permit and/or variance before electing to exercise its termination right set forth in Section 6 below). Sections 9(e), 28 and 31 of the Lease shall not be applicable to the Drive Through Facility and Tenant's installation rights in this paragraph.

6. Notwithstanding anything contained herein to the contrary, in the event Tenant does not obtain all final municipal approvals and permits to install the Drive Through Facility pursuant to Tenant's desired specifications (without the need to obtain a special use permit and/or variance, which Tenant may elect not to pursue) on or before June 30, 2016, provided Tenant pursues same using reasonable good faith efforts, Tenant shall have the right to terminate the Lease at any time thereafter upon sending written notice to Landlord ("Termination Notice"). The Termination Notice shall establish the effective date of such termination, not to exceed six (6) months from the date of such Termination Notice, and upon delivery of the Termination Notice, Tenant shall be released from all liability arising under the Lease from and after the termination effective date.

7. Landlord hereby acknowledges and agrees that Tenant is, by law (12 USCS 1831r-1), required to give its customers a minimum of ninety (90) days notice before closing its business operation. Therefore, notwithstanding anything contained herein to the contrary, Landlord hereby acknowledges and agrees that any termination by Landlord before the end of the term or any extension thereof, shall provide that Tenant shall have possession of the Premises to operate its business for one hundred twenty (120) days from the date of such termination at the then current monthly rental rate.

8. The following is hereby added to Section 17 of the Lease: "Notwithstanding anything to the contrary contained in the Lease, Tenant may assign this Lease or sublet all or any portion of the Premises without Landlord's consent, to (i) a corporate parent, subsidiary, or affiliate; (ii) a corporation

in which or with which Tenant is merged or consolidated; (iii) a person or entity that purchases all or substantially all of the stock and/or assets of the Tenant; (iv) a person or entity assuming the Lease or the agreeing to sublet all or any portion of the Premises provided that Tenant is not released from liability under the Lease prior to the expiration of the then-current term.”

9. Sections 23(e), 23(f) and 23(h) of the Lease are hereby deleted in their entirety. Tenant shall be permitted to operate its business, to establish hours of operation, and to close for business on a temporary or permanent basis at the Premises, in Tenant’s sole and absolute discretion, without being in default under the Lease, provided that Tenant continues to pay all rent pursuant to the terms of the Lease. Notwithstanding the foregoing, Tenant agrees to keep the exterior lights on the Premises illuminated during the Shopping Center’s normal hours of operation. In addition, in the event Tenant permanently closes for business for purposes other than renovations or transfers of the Lease to another bank, for more than six (6) consecutive months, Landlord may elect to terminate the Lease and recapture the Premises at any time after the expiration of said six (6) months, but prior to Tenant reopening for business at the Premises, upon thirty (30) days written notice to Tenant and, in such event, both parties shall be released from all liability arising under the Lease from and after the expiration of said thirty (30) days unless Tenant reopens for business prior to the expiration of said thirty (30) days.

10. The notice addresses set forth in Section 15 of the Lease are deleted and the parties acknowledge and agree to send all correspondence related to the Lease to the following notice addresses:

**TO LANDLORD:**

Shoppingtown Mall NY, LLC  
9103 Alta Drive, Suite 204  
Las Vegas, NV 89145

With a copy to:

Shoppingtown Mall NY, LLC  
3649 Erie Blvd. East  
Dewitt, NY 13214

**TO TENANT:**

**Via FedEx or UPS:**

First Niagara Bank  
Attn: Robert Ganson, Facilities  
6950 South Transit Road  
Lockport, NY 14094

With a copy to:

First Niagara Financial Group

Attn: Robert J. Scarpello, Senior Counsel  
4224 Ridge Lea Road  
Amherst, NY 14226

**Or via regular mail:**

First Niagara Bank  
Attn: Robert Ganson, Facilities  
PO Box 514  
Lockport, NY 14095-0514

With a copy to:

First Niagara Financial Group  
Attn: Robert J. Scarpello, Senior Counsel  
4224 Ridge Lea Road  
Amherst, NY 14226

11. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute but one and the same instrument.

12. This Agreement shall be governed and construed in accordance with the laws of the State of New York.

13. Except as set forth herein, all other terms and conditions of the Lease shall remain unchanged and in full force and effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. This Agreement constitutes the entire agreement between the parties, and may not be modified or amended in any manner other than by written agreement signed by the parties hereto.

14. The parties hereto and the persons signing this Agreement on behalf of said parties represent and warrant to the other party that they have full right and authority to execute and perform its obligations hereunder, and that such persons are duly authorized to execute this Agreement on behalf of said party without further consent or approval by anyone. Each party shall deliver to the other party promptly upon request all documents reasonably requested by the other party to evidence such authority.

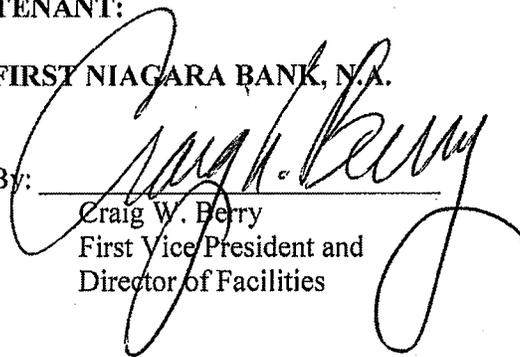
15. Tenant represents and warrants that: (i) there are no outstanding notices of default given by Tenant under the Lease; (ii) Landlord is not in default of any of the agreements, terms, amendments, covenants, or conditions of the Lease on the part of Landlord to be performed or complied with, and (iii) no condition or set of facts presently exist which, with the passage of time and/or giving of notice would constitute a default by Landlord in the performance of any of the agreements, terms, amendments, covenants, or conditions of the Lease.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.  
SIGNATURE PAGE FOLLOWS.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the corporate parties by their proper officers thereunto duly authorized, as of the day and year first above written.

TENANT:

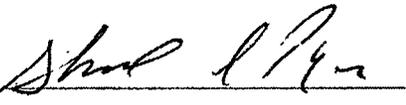
FIRST NIAGARA BANK, N.A.

By: 

Craig W. Berry  
First Vice President and  
Director of Facilities

LANDLORD:

SHOPPINGTOWN MALL NY, LLC

By: 

Name: Shawn L. Pryor

Title: SR Vice President

July 11, 2016

VIA OVERNIGHT COURIER

Shoppingtown Mall NY LLC  
3649 Erie Blvd East  
Dewitt, NY 13214

Monigle Associates Inc.  
150 Adams Street  
Denver, Colorado 80206  
T 303.388.9358  
F 303.321.7939

[www.monigle.com](http://www.monigle.com)

RE: Lease dated May 29, 1974 by and between Shoppingtown Mall NY LLC (the "Landlord") and First Niagara Bank, N.A. ("FN"), for premises located at 6570 Kinne Rd, Dewitt, NY 13214 (the "Premises"). PID 11266

Dear Landlord:

In accordance with the attached letter from FN, and in preparation for the pending acquisition by KeyCorp, parent company of KeyBank (collectively, "KeyBank"), we are beginning the process of notifying property owners of KeyBank's proposed sign changes to properly and lawfully identify its business facilities. This letter is to inform you of KeyBank's specific plans regarding the signs at the Premises, and to seek your agreement with those plans and KeyBank's intent to proceed with its signage work, if and when all regulatory requirements for the acquisition are appropriately fulfilled. Please note that after KeyBank obtains all regulatory approval for the acquisition:

- On-site work to physically install any proposed permanent KeyBank signs would not occur until after the close date of July 2016
- permanent KeyBank signage may be temporarily covered, or covered by FN signage, until KeyBank's conversion weekend (which is expected to occur the weekend of October 7,8,9,10)

Enclosed with this letter you will find two copies of a sign package depicting the existing signage at the Premises and detailing of the new signage which KeyBank proposes to install. These plans have been generated with knowledge of the local legal or code limitations regarding signs. The new signage is intended to conform to the existing signs at the Premises and to KeyBank's general standards for quality, illumination and size. Also enclosed is an authorization letter that we request the Landlord put on its letterhead, execute, notarize and return to Monigle Associates so that KeyBank can obtain the necessary sign permits from governmental authorities.

Monigle Associates and/or the sign company representatives, directly assigned to perform the proposed sign work for the Premises, may contact you directly, if necessary, to coordinate the necessary applications and permits.

Please review the enclosed and indicate your agreement with the signage package, and to KeyBank proceeding with the signage work, by signing and returning to the undersigned one copy of this letter, along with the signed and notarized permit authorization letter. In order for KeyBank to be able to obtain all municipal approvals in a timely fashion and avoid any unnecessary delays, we would greatly appreciate it if these documents could be returned to us within two weeks from the date of this letter. A return overnight courier envelope has been included for your convenience. Moreover, please fax or PDF a copy of the executed Authorization Letter to the Monigle Associates contact below. We greatly appreciate your prompt attention to this matter, as we are anxious to undertake these improvements to the Leased Premises so that they are completed upon conversion weekend.

Please feel free to contact John Suyat (Program Director) at Monigle Associates with any questions at: telephone number 303-388-9358 ext. 244 or via fax: 303-321-7939 or via email: [jsuyat@monigle.com](mailto:jsuyat@monigle.com)



Shoppingtown Mall NY LLC  
PID 11266  
July 11, 2016  
Page 2

Please note that this letter and its corresponding signage approval plans are being sent in advance of any request for Landlord consent to an assignment of the Lease, which request, if applicable under the Lease, will be forthcoming because as you are likely aware obtaining permits from governmental authorities can often be a very time consuming process. In addition, Hodgson Russ LLP, attorneys for FN, are available if you have any questions with regard to FN's pending transfer of the Lease to KeyBank. They can be contacted by email (syalaman@hodgsonruss.com or rpignata@hodgsonruss.com) or phone (716-848-1657 or 716-848-1581).

Thank you for your anticipated cooperation.

Very truly yours,

Monigle Associates

Acknowledged and agreed to this 11<sup>th</sup> day of July 2016

Shopping Town Mall NY LLC

By:

Name: Shawil Pryor

Its: Senior Vice President

Shoppingtown Mall NY LLC  
c/o Moonbeam Leasing & Management LLC  
9101 Alta Drive  
Suite 1801  
Las Vegas, Nevada 89145

Authorization Letter

Date: July 11, 2016

RE: Lease dated May 29, 1974 by and between Shoppingtown Mall NY LLC (the "Landlord") and First Niagara Bank, N.A. ("FN"), for premises located at 6570 Kinne Rd, Dewitt, NY 13214 (the "Premises"). PID 11266

To All Concerned:

By signing below, the undersigned (a) acknowledges that this is the record owner of the Premises, and (b) authorizes KeyBank and/or a designated representative to apply for and secure all necessary permits relating to signs and their installation for the Premises.

By: Shaw L. Pyor  
Name: Shaw L. Pyor

Date: 7-11-16  
Title: Sr. Vice President

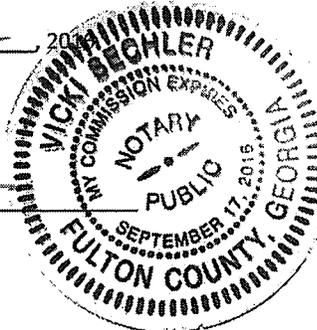
Owner: Shoppingtown Mall NY LLC  
Address: 3649 Erie Blvd. East  
Dewitt, NY 13214  
Phone: 315-446-9160

SWORN TO AND SUBSCRIBED TO ME THIS 11<sup>th</sup> DAY of July, 2016

Wicki Sedler

NOTARY PUBLIC

MY COMMISSION EXPIRES: 9-17-16





Robert J. Arundel  
Senior Vice President- Portfolio Administration- KeyBank NA  
Corporate Real Estate Solutions

KeyBank  
100 Public Square, Suite 600  
Cleveland, OH 44113  
Tel: (216) 471-2107  
Fax: (216) 471-4994

*Certified Mail – Return Receipt Requested*

September 2, 2016 >

PID 3534 – Shoppingtown

Shoppingtown Mall NY LLC  
9103 Alta Drive, Suite 204  
Las Vegas NV 89145

**RE: Lease between KeyBank National Association (“Tenant”) and Shoppingtown Mall NY LLC (“Landlord”), as may have been amended or assigned, for the property located at 3685 Erie Blvd. East, Dewitt NY 13214 (“Premises”)**

To Whom It May Concern:

This communication is in follow-up to my earlier sent letter dated July 7, 2016. In that letter, I indicated that First Niagara Financial Group (“First Niagara”) was in the process of merging with KeyCorp (“Key”). Since that time, the merger has received all necessary regulatory approvals and First Niagara has merged into Key effective August 1, 2016.

I also indicated in that letter that KeyBank intends to close its branch located at the above-referenced address; however, the closing date was not specified. I can now tell you that the target date for closure will be December 2, 2016. As noted previously, the Department of Justice requires that KeyBank market branches it will close in New York to other depository institutions for 60 (sixty) days prior to closure for their potential occupancy consideration, to the extent legally permitted to do so under the Lease. Accordingly, Key will work with you as Landlord, and those interested depository institutions, on securing a new lease, assignment or sublease under terms that are reasonable and acceptable to all contract parties.

In conjunction with the above, Tenant will continue to honor the terms and conditions for its Premises through the lease expiration date of 12/31/2017, or the sooner assignment/sublease of the premises to another party, or termination as otherwise permitted under the Lease. Accordingly, you may contact our facility manager, Thomas O’Connell (315-470-5129), to discuss and review any questions you may have regarding Tenant’s lease obligations after the branch closes.

If you have any questions regarding any of the above, please contact me at your convenience.

Sincerely,

Robert J. Arundel

cc: Thomas O’Connell  
Diane Mannarino - Transactions Manager, KeyBank



Diane G. Mannarino, Vice President  
Corporate Real Estate Solutions

100 Public Square, Suite 600  
Cleveland, Ohio 44113  
Phone: (216) 471-2564  
Diane\_Mannarino@keybank.com

*via FedEx Overnight*  
**Shoppingtown – PID 11266**

October 5, 2018

Shoppingtown Mall NY LLC  
9103 Alta Drive, Suite 204  
Las Vegas NV 89145

*RE: Lease Agreement ("Lease") dated May 29, 1974, as may have been amended or assigned, by and between Shoppingtown Mall NY LLC ("Landlord") and KeyBank National Association ("Tenant") for the premises located at 6570 Kinne Road, Dewitt NY ("the Premises")*

To Whom It May Concern:

By this letter, KeyBank National Association does hereby exercise its option to renew in accordance with Section 4 of the Lease Modification Agreement.

Please feel free to contact me at (216) 471-2564 if you have any questions. We look forward to continuing to work with you in this mutually beneficial relationship.

Sincerely,

A handwritten signature in cursive script that reads "Diane G. Mannarino".

Diane G. Mannarino, Vice President

DGM/dkm

cc: Shoppingtown Mall NY LLC, 3649 Erie Boulevard East, Syracuse NY 13214

**RE: Key Bank Leases**

Dianne M. Bartony <dbartony@bernsteinlaw.com>

Tue 1/12/2021 3:27 PM

To: Patrick Kilmartin <PatrickKilmartin@ongov.net>; David Capriotti <dcapriotti@HarrisBeach.com>

Cc: Sarah E. Wenrich <swenrich@bernsteinlaw.com>

📎 5 attachments (3 MB)

7.11.16 Acknowledged Letter and LL Approval Letter - Keybank Signage (FN....pdf; First Niagara Bank 1st Amend (3,200 sq. ft.) - [EXECUTED] - 5-9-14.pdf; First Niagara Bank FKA HSBC Bank lease May 29, 1974.pdf; 9.2.16 KeyBank Notification of Bank Closing Letter - Shoppingtown Mall.pdf; 10.9.18 - KeyBank Request for Renewal.pdf;

**NOTICE:** This email originated from outside of Onondaga County's email system. **Use caution** with links and attachments.

Patrick,

A further search of STM's files found that there was a merger between KeyCorp and First Niagara Financial Group effective August 1, 2016, and as a result the Erie Blvd location closed while the First Niagara Bank location remained open as a KeyBank. Attached is the KeyCorp letter notifying Landlord of the merger. The First Niagara Bank lease and amendment is also attached, along with a letter exercising the option to renew under the amendment (as KeyBank).

Regards, Dianne

Dianne M. Bartony, Esq.



A business approach to legal service™

707 Grant Street, Suite 2200 Gulf Tower | Pittsburgh, PA 15219

dbartony@bernsteinlaw.com | P: 412.456.8109 | F: 412.456.8135



**From:** Dianne M. Bartony  
**Sent:** Tuesday, January 12, 2021 11:09 AM  
**To:** 'Patrick Kilmartin' <PatrickKilmartin@ongov.net>; David Capriotti <dcapriotti@HarrisBeach.com>  
**Subject:** RE: Key Bank Leases

I have asked STM, and will follow up if I do not receive a response today.

Dianne M. Bartony, Esq.



A business approach to legal service™

707 Grant Street, Suite 2200 Gulf Tower | Pittsburgh, PA 15219

dbartony@bernsteinlaw.com | P: 412.456.8109 | F: 412.456.8135



## AMENDMENT TO LEASE AGREEMENT

This Amendment to Lease Agreement ("Amendment"), entered into and effective as of the later date that Landlord and Tenant executes same ("Effective Date"), is by and between **ONONDAGA COUNTY**, a municipal corporation with an address at 421 Montgomery Street, Syracuse, NY 13202 ("Landlord"), and **KEYBANK NATIONAL ASSOCIATION**, a national banking association with an address at 127 Public Square, Cleveland, Ohio 44114 ("Tenant").

WHEREAS, a predecessor in interest to Landlord and a predecessor in interest to Tenant entered into that certain Lease dated May 29, 1974 ("Lease"), concerning the lease of a certain premises comprised of 3,200 square feet of improved property located at 6570 Kinne Road, Dewitt, NY 13214, and as further described in the Lease ("Premises");

WHEREAS, Shoppingtown Mall NY LLC (the predecessor in interest to Landlord) and a predecessor in interest to Tenant entered into that certain Lease Modification Agreement ("Modification") dated May 9, 2014 with respect to the Premises;

WHEREAS, the Lease and the Modification shall hereafter collectively be referred to in this Amendment as the "Lease", unless otherwise specified;

WHEREAS, a predecessor in interest to Tenant assigned the Lease to Tenant and Tenant assumed all rights, obligations, benefits, and burdens to the Lease;

WHEREAS, by letter to Shoppingtown Mall NY LLC dated October 5, 2018, Tenant exercised an option to extend the term of the Lease from July 1, 2019 to and through June 30, 2024;

WHEREAS, the Landlord purchased the property upon which the Premises is located from Shoppingtown Mall NY LLC on December 29, 2020 and upon such purchase, took assignment of the Lease;

WHEREAS, Landlord and Tenant desire to amend the terms and conditions of the Lease pursuant to this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Term. The term ("Term") of the Lease is currently set to expire on June 30, 2024. Landlord and Tenant hereby agree to extend the Term of the Lease from July 1, 2024 to and through June 30, 2026 ("Extension Term").

2. Base Rent. During each year of the Extension Term, Landlord and Tenant agree that the Tenant shall pay Landlord annual base rent in the amount of One Hundred Six Thousand Eight Hundred Twelve Dollars and 75/100 cents (\$106,812.75), payable in equal monthly installments of Eight Thousand Nine Hundred One Dollars and 06/100 cents (\$8,901.06).

3. Notice Address. Landlord and Tenant hereby agree that the new notice address for each of Landlord and Tenant is and shall hereafter be as set forth below:

**TO LANDLORD:**

Onondaga County  
Attn: Office of the County Executive  
John H. Mulroy Civic Center  
421 Montgomery Street  
Syracuse, NY 13202

With a carbon copy of any notices to:

Onondaga County  
Attn: County Attorney, Department of Law  
John H. Mulroy Civic Center  
421 Montgomery St.  
Syracuse, NY 13202

**TO TENANT:**

KeyBank National Association – PID 11266  
P.O. Box 94839  
Cleveland, Ohio 44101-4839

With a copy to:

KeyBank National Association – PID 11266  
127 Public Square, Mailcode OH-01-27-0200  
Cleveland, Ohio 44114  
Attention: Legal Department

by overnight courier to:

KeyBank National Association – PID 11266  
4900 Tiedeman Rd, Mailcode OH-01-49-0257  
Brooklyn, Ohio 44144

4. Ratification. Landlord and Tenant hereby agree that except as expressly modified in this Amendment, the terms and conditions of the Lease remain unmodified and in full force and effect.

5. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original. Upon the request of either party, each party shall deliver original executed counterparts to the other parties.

6. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

7. Entire Agreement. The Amendment constitutes the entire agreement between Landlord and Tenant and may not be modified or amended in any manner other than in a writing executed by Landlord and Tenant.

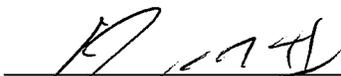
8. Successors and Assigns. The Amendment shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

[REMAINDER OF THE PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the dates set forth below, with such Amendment effective as of the Effective Date.

**LANDLORD:**

**COUNTY OF ONONDAGA**, a municipal corporation

By:   
Name: J. Ryan McMahon, II  
Title: County Executive  
Date: 3-2-2023 

**TENANT:**

**KEYBANK NATIONAL ASSOCIATION**, a national banking association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the dates set forth below, with such Amendment effective as of the Effective Date.

**LANDLORD:**

**COUNTY OF ONONDAGA**, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**TENANT:**

**KEYBANK NATIONAL ASSOCIATION**, a national banking association

By: *Diane D Mannarino*  
Name: DIANE G. MANNARINO  
Title: Vice President  
Date: 3/7/2023

### **THIRD AMENDMENT TO LEASE**

**THIS THIRD AMENDMENT TO LEASE** (this “**Amendment**”) made and entered into effective as of the latter date this Amendment is executed by Landlord and Tenant (the “**Effective Date**”), is by and between **ONONDAGA COUNTY** (“**Landlord**”), and **KEYBANK NATIONAL ASSOCIATION**, a national banking association, having offices at 127 Public Square, Cleveland, OH 44114-1306 (“**Tenant**”).

#### **RECITALS**

**WHEREAS**, Landlord (as successor in interest to Shoppingtown Mall NY, LLC, successor to LBUBS 2001-C3 Erie Retail, LLC, successor to Geddes Development Corporation) and Tenant (as successor in interest to First Niagara Bank, successor to HSBC Bank USA, successor to Marine Midland Bank– Central) are parties to that certain Lease dated May 29, 1974, as amended by Lease Modification Agreement dated as of May 9, 2014, and Amendment to Lease Agreement dated March 7, 2023 (as amended, the “**Lease**”) for premises consisting of approximately 3,200 square feet of improved property located at 6570 Kinne Road, Dewitt, NY 13214, as more particularly described in the Lease (hereinafter referred to as “**Premises**”);

**WHEREAS**, the current Term will expire on June 30, 2026; and,

**WHEREAS**, Landlord and Tenant have agreed to amend the Lease to extend the Term of the Lease for one (1) year, and otherwise amend the Lease upon the following terms and conditions.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the mutual covenants and obligations of the parties contained herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, and intended to be legally bound, the parties hereby agree as follows:

1. **Recitals Incorporated/Defined Terms.** The foregoing recitals are incorporated herein by this reference as if set forth herein. Unless otherwise defined herein or unless the context clearly requires a different meaning, the capitalized and non-capitalized words and phrases defined in the Lease which are used in this Amendment shall have the same meaning ascribed to them in the Lease.

2. **Second Extension Term.** The Lease is hereby extended for a one (1) year period commencing July 1, 2026 and expiring June 30, 2027 (“**Extension Term**”). Tenant’s lease of the Premises during the Extension Term shall be upon the same terms and conditions in effect under the Lease immediately prior to the commencement date of the Extension Term, except the Base Rent shall be in the amount of \$113,220.72 per annum, payable in monthly installments of \$9,435.06 each.

Rent shall be delivered to: Onondaga County, Department of Finance, Attn: John H. Mulroy, Civic Center, 15<sup>th</sup> Floor, 421 Montgomery Street, Syracuse, NY 13202, or such other address as Landlord may designate from time to time.

3. **Protected Items.** Section 9 of the Lease is hereby amended by adding a new subsection (f) which states as follows:

“(f) Computer servers, desktop stations, laptops, files or other personal property which could reasonably be expected to contain customer information (“**Protected Items**”),

which may inadvertently be left at the Premises at the end of any Term shall not become the property of nor be disposed of by Landlord, but Landlord may arrange for storage of same at Tenant's cost for a period of not less than sixty (60) days. During the period that any Protected Items remain in storage, Tenant shall, in addition to ownership of such items, retain the right of possession and control of the Protected Items."

4. **Insurance.** Section 7 of the Lease is hereby amended by adding a new subsection (d) which states as follows:

"(d) Notwithstanding anything contained herein to the contrary, so long as evidence of the insurance required of Tenant hereunder is available for review (including downloading of confirmation of such insurance) at <https://www.key.com/about/company-information/keycorp-evidence-of-insurance.jsp> or such other address as Tenant may establish and of which Tenant shall notify Landlord, Tenant shall not be required to provide to Landlord other documentation of insurance. Landlord acknowledges that, notwithstanding anything contained in this Lease to the contrary, the evidence of insurance posted at <https://www.key.com/about/company-information/keycorp-evidence-of-insurance.jsp> (or elsewhere in Tenant's website) satisfies the requirements of Tenant under this Lease. Provisions extending coverage to Landlord as additional insured may be established under blanket endorsements rather than by identifying Landlord by name."

5. **Notices.** Section 15 of the Lease is hereby deleted in its entirety and the following substituted in place thereof:

"15. All notices and demands to be given by one party to the other party under this Lease shall be given in writing, mailed or delivered to Landlord or Tenant, as the case may be, as follows:

If to Tenant:

If by US Mail:

KeyBank National Association  
Attn: Portfolio Analyst—PID 11266  
P.O. Box 94839  
Cleveland, Ohio 44101-4839

If by courier:

KeyBank National Association  
Attn: Portfolio Analyst—PID 11266  
4900 Tiedeman Road, 2<sup>nd</sup> Floor  
Mailcode OH-01-49—0257  
Brooklyn, OH 44144

Notices of default, or any notices requiring Tenant to sign any instrument also shall be sent to:

KeyBank National Association (PID 11266)  
Attn: Law Group  
127 Public Square, Mailcode OH-01-27-0200  
Cleveland, OH 44114

If to Landlord:

Onondaga County  
Attn: Office of County Executive  
Civic Center, 14<sup>th</sup> floor

421 Montgomery Street  
Syracuse, NY 13202

With a copy of any notices to:

Onondaga County  
Attn: Department of Law  
Civic Center, 10<sup>th</sup> floor  
421 Montgomery Street  
Syracuse, NY 13202

or at such other address as either party may hereafter designate. Notices shall be delivered by hand or by United States certified or registered mail, postage prepaid, return receipt requested, or by a nationally recognized overnight courier service. Notices shall be considered to have been given upon the earlier to occur of actual receipt or three (3) business days after posting in the United States mail or one (1) business day after deposit with a national recognized overnight courier service (provided, a signed receipt is obtained).”

5. **Ratification of Lease.** This Amendment shall be deemed to form a part of and shall be construed in connection with and as part of the Lease. Except as hereinbefore expressly amended, all of the other terms, covenants and conditions contained in the Lease shall continue to remain unchanged and in full force and effect and are hereby ratified and confirmed. Landlord hereby affirms that to the best of its knowledge on the date hereof no breach or uncured default by Tenant has occurred with respect to the Lease and that the Lease is in full force and effect. Unless specifically provided herein to the contrary, the modifications to the Lease provided for in this Amendment shall be made effective as of the Effective Date. To the extent that any of the terms of the Lease are inconsistent with the terms of this Amendment, this Amendment shall govern and control and the Lease shall be deemed to be amended to conform to the terms of this Amendment.

6. **Binding Effect.** Each of the provisions of this Amendment shall extend to and shall, as the case may require, bind or inure to the benefit of Landlord and of Tenant, and also to each of their respective legal representatives, successors and permitted assigns.

7. **Representation.** The parties hereby represent and warrant to each other that (a) each of them has the legal power and authority to execute and deliver this Amendment; (b) the individual(s) executing this Amendment for each party has been duly authorized to execute and deliver the same and bind such party with respect to the provisions hereof; and (c) this Amendment constitutes a valid and binding obligation upon such party in every respect.

8. **Severability.** In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Amendment, but this Amendment shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

9. **Counterparts.** This Amendment may be executed in multiple copies and multiple counterparts, each of which shall be deemed an original, but all of which together shall be and form one and the same instrument. Upon the request of either party, each party shall deliver original executed counterparts to the other parties.

*[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]*



