

**APPLICATION FOR TAX
INCENTIVES**

**Town of Lancaster Industrial
Development Agency**

ELIGIBILITY QUESTIONNAIRE

Section I: Applicant Background Information

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

A) Applicant Information-entity receiving benefit:

Total Project Amount: \$3,800,000
Applicant Name: Motivair Corporation
Applicant Address: 85 Woodridge Drive, Amherst, NY 14228
Phone: (716) 691-9222 Fax: _____
Website: www.motivaircorp.com E-mail: rwhitmore@motivaircorp.com
Federal ID#: 16-1384428

B) Individual Completing Application:

Name: Richard Whitmore
Title: President / CEO
Address: 85 Woodridge Drive, Amherst, NY 14228
Phone: 716-691-9222 Fax: 716-691-9229
E-Mail: rwhitmore@motivaircorp.com

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

Name: _____
Title: _____
Address: _____
Phone: _____ Fax: _____
E-Mail: _____

D) Company Counsel:

Name of Attorney: Patrick Fitzgerald, Esq./Milan K. Tyler, Esq.
Firm Name: Phillips Lytle LLP
Address: 125 Main St., Buffalo NY 14203
Phone: 716-847-8400 Fax: 716-852-6100
E-mail: pfitzgerald@phillipslytle.com/mt Tyler@phillipslytle.com

E) Identify the assistance being requested of the Agency:

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

F) Business Organization (check appropriate category):

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

Other (please specify) S- Corp

Year Established: 1988

State in which Organization is established: New York State

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

<u>Name</u>	<u>% of ownership</u>
<u>Richard Whitmore</u>	<u>51%</u>
<u>Andrew Whitmore</u>	<u>49%</u>
_____	_____

H) Business Description:

Describe in detail company background, products, customers, goods and services: _____
See attached business description

Estimated % of sales outside Erie County: 89%
Estimated % of sales outside New York State: 85%
Estimated % of sales outside the U.S. 18%

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

Approximately 24%

ELIGIBILITY QUESTIONNAIRE

Section II: Project Description & Details

A) Location of proposed project facility:

Address 5900 Genesee St

City Lancaster State NY Zip Code 14086

SBL Number: 83.00-5-25.2

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

Town/City/Village: Lancaster School District: Lancaster

Present Project Site Owner: ConMed

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

Purchase of Industrial building, property and contents as well as renovations and installation of equipment

C) Site Characteristics:

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

D) Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? Yes or No. If yes, please provide a copy.

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

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

F) Will project include leasing any equipment Yes or No. If yes please describe equipment and lease terms: to be determined in consultation with contractors hired.

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

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

H) Does or will company perform substantial research and development activities on new products/services at the project Location? Yes or No If yes, please explain: New product development, integration and testing to support the super computing industry.

I) What percentage of annual operating expenses are attributed to the above referenced research and development activities? Approximately 20%

J) Explain in detail why IDA participation is necessary for this project to proceed. Focus on competitiveness issues, project shortfalls, etc. (attach additional pages if necessary): We have exceeded capacity within our current facility and need to increase production floor and office space for managing our growing business. Incentives to drive down cost is key in maintaining a competitive advantage over our competitors outside of NYS and the US and to make the project financially viable.

K) Project Information:

Estimated costs in connection with project:

Land and/or Building Acquisition:	\$ <u>3,018,000</u>
<u>9.46</u> acres <u>50,000</u> square feet	
New Building Construction: <u>0</u> square feet	\$ <u>0</u>
New Building Addition(s): <u>0</u> square feet	\$ <u>0</u>
Existing Building Renovation: <u>50,000</u> square feet	\$ <u>350,000</u>
Manufacturing Equipment:	\$ <u>150,000</u>
Non-Manufacturing Equipment (furniture, fixtures, etc.):	\$ <u>232,000</u>
Soft Costs: (professional services, etc.):	\$ <u>50,000</u>
Other, Specify: _____	\$ _____
TOTAL: \$ <u>3,800,000</u>	

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

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

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

SIC Code: 35 NAICS Code: 333415

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

Manufacturing/Processing 15,000
Warehouse 10,000
Research & Development 5,000
Commercial _____
Retail _____
Office 20,000
Other (specify) _____

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

Gas: National Fuel - \$8,200 (2019)
Electric: NYSEG - \$52,360 (2019) Power: _____
Water: ERIE CO Water - \$2,655 (2019) Size: _____
Sewer: _____ Size: _____
Other (Specify) _____

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

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

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

1. Start date: acquisition or construction of facilities: July 2020
2. Completion of project facilities: December 2020
3. Project occupancy – estimated starting date of operations: August 2020

R) Have site plans been submitted to the appropriate planning department for approval? Yes or No.. If yes, submit a copy of approval with application.

S) Have any expenditures already been made by the company? Yes or No. If yes, indicate particulars. (LIDA benefits do not apply to expenses incurred prior to Board approval): _____

T) PLEASE CHECK ONLY ONE:

Is project necessary to expand project employment?
Is project necessary to retain existing employment?

U) Employment Plan (Specific to project location):

	Current # of Jobs	Total # of jobs 2 years after project completion
Full time	31	35-40
Part Time		
Total	31	35-40

V) Payroll Information:

Estimated Annual Payroll at Project Site: \$ 2,960,000 (approx.)

Estimated Average Annual Salary of Jobs to be Retained \$ \$85,000

Estimated Average Annual Salary of Jobs to be Created \$ \$65,000

Estimated Salary Range of Jobs to be Created: From: \$ 45,000 To \$ 85,000

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

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

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

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

Y) What competitive factors led you to inquire about sites outside of New York State? _____

Z) Have you been contacted by other local economic development agencies? Yes or No. If yes, please provide which agencies: Amherst IDA

Section III: Facility Type - Single or Multi Tenant

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

A) For Single Use Facility:

Occupant Name: Motivair Corporation
 Address: 85 Woodridge Drive, Amherst, NY 14228
 Contact Person: Richard Whitmore
 Phone: 716-691-9222 Fax: 716-691-9229
 E-Mail: rwhitmore@motivaircorp.com
 Federal ID #: 16-1384428
 SIC or /NAICS Code: 333415

B1) Multi-Tenant Facility:

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

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

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

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

Attachment 1: Representations, Certification and Indemnification

CERTIFICATION

STATE OF NEW YORK)
SS:
COUNTY OF ERIE)

Richard Whitmore

(Name of Owner, Chief Executive Officer, or General Partner of the Company Submitting Application)

being duly-sworn deposes and says that he/she is the Owner, President & CEO of Motivair Corporation

(Title)

(Company Name)

named in the attached application; that he/she has read the foregoing application and attachments and knows the contents thereof; that all statements contained therein are true to his/her knowledge and contain no information or data that is false or incorrect, and are truly descriptive of the project which is intended as the security for the requested financing.

(Complete the following paragraph for corporation only)

Deponent further says that the reason this verification is made by the deponent and not by

Motivair Corporation

(Company Name)

is because the said company is 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.

Deponent acknowledges and agrees that applicant shall be and is responsible for all expenses incurred by the Town of Lancaster Industrial Development Agency (hereinafter the "Agency") in connection with this application whether or not resulting in the issuance of a bond(s), lease transaction, or installment sale. If for any reason whatsoever the applicant shall fail to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper, or requested action or withdraws, abandons, cancels or neglects the application, or if the Agency or applicant are unable to find buyers willing to purchase the total bond issue required, then upon presentation of invoice, applicant shall pay to the Agency, its agents, or assigns all actual expenses involved in this application, up to that date and time, including fees of bond counsel for the Agency and fees of general counsel for the Agency. The costs incurred by the Agency and paid by the applicant, including bond counsel and the Agency's general counsel's fees and the administrative fee (as hereinafter set forth), may be considered as a cost of the project and included as part of the resultant bond issue or lease agreement.

Deponent further acknowledges that he/she understands the Payment-in-Lieu of Tax (PILOT) policy of the Lancaster IDA (as stated in this application) and accepts the terms of the agreement as it applies to the classification of this project.

Should this project be subsequently found to be in violation of Article 18A of The New York State General Municipal Law, applicant acknowledges its absolute responsibility to repay all economic benefits received to date (with interest), as agent for the Town of Lancaster Industrial Development Agency.

**TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY
INDUCEMENT RESOLUTION POLICY**

It shall be the policy of the Town of Lancaster Industrial Development Agency that any inducement resolution adopted by the Board of Directors shall remain in full force and effect for a period of one (1) year from the date of its adoption. Thereafter, the Board of Directors may, in its discretion and upon good cause shown, adopt a further resolution extending the period of inducement for one (1) additional year from the date of the expiration of the original inducement. An Agency Extension Fee in the amount of \$500.00 shall be charged to the applicant for each such extension granted. Such Extension Fee shall be in addition to any other Administrative Fee or other fees incurred with respect to the project. Any request for an extension of the period of inducement beyond the one (1) additional year extension contemplated herein shall be addressed by the Board of Directors on a case-by-case basis.

Motivair Corporation

(Company Name)

By:



(Owner/Partner/CEO)

NOTARY

Sworn to before me this

day of June 19, 2020

Tracy L. Marino

Notary Public

TRACY L. MARINO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MA6345303
Qualified in Erie County
My Commission Expires 07-25-2024

Attachment 2: LIDA Fee Schedule

TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY FEE SCHEDULE

Application Fee: At the time of application for approval by the Agency of any transaction there shall be a non-refundable application fee of Five Hundred Dollars (\$500.00). If the request is for refinancing of an existing Project of the Agency where no public hearing is required, this Application Fee will be applied as an offset against all or a portion of the Agency Administrative Fee Due.

For an extension of an inducement, each extension of six months shall require payment of one quarter of the Agency Administrative Fee.

Agency Administrative Fees:

1. New Projects

The Agency Administrative Fee for new Projects shall be 1% of the dollar amount of the Project as determined by the Agency. One quarter of the Agency Administrative Fee or .25% must be received by the Agency prior to the issuance of a Sales Tax Letter by the Agency except for installment sale transactions when the entire Agency Administrative Fee of 1% is due at time of the issuance of the Sale Tax Letter. The balance of the Agency Administrative Fee or .75% shall be due on the closing of the transaction.

2. Refinacings

The Agency Administrative Fee for refinacings shall be \$500 plus one percent (1%) of any new money being financed.

By way of illustration, if the Agency authorized a Project with a Project Cost of \$1,200,000, the initial Agency Administrative Fee payable would have been a total of \$12,000 with .25% or \$3,000 due at the time of the sales tax letter and \$9,000 payable at the closing. For purpose of illustration, we will assume that the Project was financed through bonds or a note and mortgage in the principal amount of \$1,000,000. At the end of five years, the Lessee comes to the Agency for assistance in refinancing the Project with a new borrowing of \$1,300,000. The Lessee will have to advise the Agency of the outstanding principal balance remaining on the bond or note. For purpose of illustration, we will assume that the principal balance has been reduced by \$100,000 leaving a remaining principal balance of \$900,000. The Lessee would have to pay an Agency Administrative Fee of 1% on the amount over the original \$1,200,000 authorized and for which the Agency Administrative Fee was paid or 1% of \$100,000 (\$1,000) plus an administrative fee of 1% on the difference between the \$1,000,000 originally borrowed and the remaining principal balance or 1% of \$100,000 (\$1,000) because that amount would also constitute new money. This would be in addition to the \$500 refinancing fee for a total Agency Administrative Fee of \$2,500.

3. Sublease Approvals

The Agency fee for approval of a new sublease for the entire Project shall be \$500.

4. Approval of Lease Assignment and Assumptions

The Agency Administrative Fee for approval of Lease Assignments and Assumptions shall be one quarter percent (.25%) of Agency Administrative Fee which would have been due if the Project was a new Project but reduced by the percentage of the benefit already received with respect to real property tax abatement.

By way of illustration, if it is assumed that the Agency provided a ten-year real property tax abatement as set forth below

Year	Tax Paid	Abatement
2013	10%	90%
2014	10%	90%
2015	10%	90%
2016	20%	80%
2017	20%	80%
2018	20%	80%
2019	30%	70%
2020	30%	70%
2021	30%	70%
2022	30%	70%

Total Abatement 7.9 years of abatement

If after year 2018, an application was received requesting that the Agency approve the assignment and assumption of the lease agreement, four years of abatement are remaining. If you add up the percentage of abatement for each year the total remaining abatement is 2.8 years of abatement. The fee would be 0.25% of the percentage remaining of the real property tax abatement (2.8 divided by 7.9 = 0.354430380 x 0.25% or 0.0025 times the original Project Cost). Assuming the original Project Cost was \$1,000,000, the fee at the time of the original Project would have been \$10,000. The fee for the assignment and assumption would be \$1,000,000 x 0.0025 x 0.354430380 = \$886.08.

Additional Fees

Additional costs associated with meeting the Agency’s current environmental policy are the responsibility of the Applicant.

If the Project Application is withdrawn or does not close, the Applicant is responsible for any costs, including Agency Counsel Fees, incurred by the Agency on behalf of the Project.

Agency Counsel Fees

<u>Bond/Mortgage/Lease Project Cost</u>	<u>Legal Fee</u>
to \$750,000	\$5,000*
\$750,001 to \$1,500,000	\$7,500
\$1,500,001 to \$3,000,000	\$10,000
\$3,000,001 to \$5,000,000	\$12,500

\$5,000,001 to \$10,000,000	\$15,000
above \$10,000,000	\$20,000 minimum with additional legal fees payable based upon the circumstances and work involved

* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect for Agency Counsel for the additional time only.

Legal Fees for refinancings shall be based upon the dollar amount refinanced in accordance with the above schedule. In the case of minor amendments of the prior loan documents, Agency Counsel Fees shall be charged on a time basis at the hourly rate then in effect for Agency Counsel. Agency Counsel shall determine whether the amendment to the prior loan documents is a minor amendment in his or her sole reasonable discretion.

<u>Installment Sale Transactions</u>	<u>Legal Fee</u>
to \$750,000	\$3,000*
\$750,001 to \$1,500,000	\$5,000
\$1,500,001 to \$3,000,000	\$7,500
over \$3,000,000	\$10,000 minimum with additional legal fees payable based upon the circumstances and work involved

* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect for Agency Counsel for the additional time only.

Legal Fees for Assignment and Assumptions shall be on a time basis.

In addition to counsel fees, disbursement of up to \$1,000 will be added to each closing. If additional transcripts above the normal amount are required (5 for lease only and 7 for bond or mortgage transactions), they will be billed to reflect the additional copy cost and the additional binding costs and may exceed the \$1,000 total.

The above Fees Policies have been reviewed and accepted by the applicant



Initial Here

Attachment 3: LIDA Sublease Approval Form

TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY
SUBLEASE APPROVAL FORM
SUB-TENANT QUESTIONNAIRE – TO BE COMPLETED BY PROPOSED TENANT

1. COMPANY NAME: _____
2. PRIMARY CONTACT: _____
3. TITLE: _____
4. COMPANY PRESIDENT / GENERAL MANAGER:
NAME: _____ TITLE: _____
5. COMPANY SIC (NACIS) CODE: _____
6. BUSINESS DESCRIPTION (*Describe in detail company background, products, customers, goods and services*): _____

7. HISTORY OF COMPANY: _____

8. DOES THIS OCCUPANCY CONSTITUTE A RELOCATION? Yes _____ No _____
9. IF YES, WHERE IS COMPANY PRESENTLY RELOCATING FROM? (*City, State or Province, Country*)
Address: _____
City: _____ State: _____ Zip: _____
 - a.) Is location to Lancaster necessary to: (Check one or both if applicable)
 - Discourage your company from moving out of New York State? _____
 - To remain competitive within your industry? _____

(*If either or both are checked, please provide a specific, detailed explanation as attachment on company letterhead*)
 - b.) In regard to current location, does your company: Own: _____ Lease: _____
 - c.) If leased, when does the lease expire? _____
 - d.) If owned, what will become of the facility? _____

 - e.) Have local economic development officials in the municipality where the company is currently located been contacted about alternative sites within that municipality?
YES _____ NO _____

f.) If yes, what was the outcome? _____

g.) If no, why not? _____

10. WILL THIS LANCASTER LOCATION BE YOUR COMPANY'S HEADQUARTERS?

YES _____ NO _____

If no, where is the Company's Headquarters located (City, State or Province, Country)?

CITY _____ STATE / PROVINCE _____

11. CURRENT NUMBER OF EMPLOYEES:

FULL TIME: _____ PART TIME: _____

12. ESTIMATED NUMBER OF FUTURE EMPLOYEES (WITHIN TWO (2) YEARS):

FULL TIME: _____ PART TIME: _____

13. NUMBER OF EMPLOYEES THAT LIVE IN:

LANCASTER _____ BUFFALO _____

OTHER ERIE COUNTY _____ OUTSIDE ERIE COUNTY _____

14. APPROXIMATE PERCENTAGE OF PRODUCTS / SERVICES EXPORTED:

OUTSIDE ERIE COUNTY BUT WITHIN NEW YORK STATE _____

WITHIN THE REST OF THE U.S. _____

CANADA _____ INTERNATIONAL _____

FORM COMPLETED BY: _____

PLEASE PRINT

DATE: _____

TITLE: _____

SIGNATURE: _____