

NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

APPLICATION FOR FINANCIAL ASSISTANCE

DLV Properties, LLC

(Applicant Name)

6311 Inducon Corporate Drive, Suite One
Sanborn, New York 14132
Phone: 716-278-8760 Fax: 716-278-8769
<http://niagaracountybusiness.com>

Updated 2021

- I. Subject to the applicable statute, information provided by applicant will be treated as confidential until such time as the Agency takes action on the request. However, in accordance with Article 6 of the Public Officers Law, all records in possession of the Agency are open to public inspection and copy.
- II. The Niagara County Industrial Development Agency has a one thousand dollar (\$1000.00) non-refundable application fee that must accompany the application submission.
- III. At the time of the project closing, project applicant is required to pay certain costs associated with the project. The applicant shall be responsible for the payment of an Agency fee in the amount of one percent (1.00%) of the total value of the project, together with Agency counsel fees as set forth in the Agency fee policy schedule, together with various related costs, including but not limited to public hearing expenses. Upon request, a fee summary will be provided to each applicant.
- IV. One (1) original signed copy of the Application and Environmental Assessment form should be submitted with the Application for Assistance.

The Niagara County Industrial Development Agency does not discriminate on the basis of race, color, religion, sex, sexual orientation, marital status, age, national origin, disability or status as a disabled or Vietnam Veteran or any other characteristic protected by law.

6311 Inducon Corporate Drive, Suite One ■ Sanborn, NY 14132-9099 ■ 716-278-8760
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**NIAGARA COUNTY
INDUSTRIAL DEVELOPMENT AGENCY**

APPLICATION FOR FINANCIAL ASSISTANCE

I. APPLICANT INFORMATION

Company Name: DLV Properties, LLC

Mailing Address: 9829 Main St

City/Town/Village & Zip code: Clarence, NY 14031

Phone: (716) 759-1715

Website: N/A

Fed Id. No.: 82-3769261

Contact Person, and Title: Brianne Frawley (Development Manager)

Email: brianne@visoneco.com

Principal Owners/Officers/Directors (list owners with 15% or more in equity holdings with percentage ownership):

Lucian Visone, Jr.

Corporate Structure (attach schematic if applicant is a subsidiary or otherwise affiliated with another entity)

Form of Entity

Corporation

Date of Incorporation: _____

State of Incorporation: _____

Partnership

General _____ or Limited _____

Number of general partners _____

If applicable, number of limited partners _____

Date of formation _____

Jurisdiction of Formation _____

Limited Liability Company/Partnership (number of members ¹ _____)

Date of organization: May 25, 2017

State of Organization: New York

Sole Proprietorship

If a foreign organization, is the applicant authorized to do business in the State of New York?

Applicant's Counsel

Company Name: Law Office of Kevin Schenk

Contact Person, and Title: Kevin G. Schenk

Mailing Address: P.O. Box 240

City/Town/Village & Zip code: Cheektowaga NY 14225

Email: kgslaw1@verizon.net

Phone: (716) 684-0621

Fax No.: (716) 684-1382

II. PROJECT INFORMATION

A) Project Address: 624 River Road, North Tonawanda, NY 14120

Tax Map Number (SBL) 181.16-1-21.11
(Section/Block/Lot)
SWIS Number 291200
Located in City of North Tonawanda
Located in Town of _____
Located in Village of _____
School District of North Tonawanda

B) Current Assessment of Property:

Land 234,400
Total 1,000,000

C) Present legal owner of the site DLV Properties, LLC

If other than from applicant, by what means will the site be acquired for this project?

D) Describe the project:

To develop and construct an 110+ unit apartment building on the Niagara River waterfront. The proposed building will be 5 stories. The first floor will partially be covered parking. The unit types will be a mixture of studio to three bedroom apartments ranging from around 750 to 1300 sf.

1. Project site (land)

(a) Indicate approximate size (In acres or square feet) of project site.

3.7 ac

(b) Indicate the present use of the project site.

There is currently a dated 17,000 sf medical building on site that is 70% vacant.

2. Indicate number, size (in square feet) and approximate age of existing buildings on site
There is approximately one (1) 17,000 sf building built in 1997 on the site.

3. Does the project consist of the construction of a new building or buildings?
If yes, indicate number and size (in square feet) of new buildings.
Yes - 148,000 sf.

4. Does the project consist of additions and/or renovations to existing buildings? If yes, indicate nature of expansion and/or renovation.
No.

5. If any space in the project is to be leased to third parties, indicate total square footage of the project amount to be leased to each tenant and proposed use by each tenant.
100+apartment units, studio-3 bedroom apartments, between 800 and 1300 sf.

6. List principal items/categories of equipment to be acquired as part of the project.
Apartment equipment.

7. Has construction work on this project begun?
No. However the site is in the beginning stages of remediation efforts.

E) Inter-Municipal Move Determination

Will the project result in the removal of a plant or facility of the applicant from one area of the State of New York to another?

Yes or No

Will the project result in the removal of a plant or facility of another proposed occupant of the project from one area of the State of New York to another area of the State of New York?

Yes or No

Will the project result in the abandonment of one or more plants or facilities located in the State of New York?

Yes or No

If Yes to any of the questions above, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:

- F) Furnish a copy of any environmental application presently in process of completion concerning this project, providing name and address of the agency, and copy all pending or completed documentation and determinations.

III. **SOURCES & USES OF FUNDS**

A) Estimated Project Costs:

Property Acquisition		0
	\$	
Construction (Improvements)		19,314,910
	\$	
Equipment Purchases/Fixtures/Furnishings		527,990
	\$	
Soft costs (i.e. engineering, architectural)		2,381,150
	\$	
Other (describe) Site Remediation		865,000
	\$	
TOTAL USES OF FUNDS	\$	23,089,050

B) Sources of Funds for Project Costs *(Must match above Total Uses of Funds)*:

Bank Financing	ESTIMATED	\$ 19,460,693
Equity	ESTIMATED	\$ 3,463,357
Grants/Tax Credits		\$
Taxable or Tax Exempt Bond		\$
Other Niagara Brownfield Development Loan		\$ 165,000
TOTAL SOURCES OF FUNDS		\$ 23,089,050

C) Identify each state and federal grant/credit:

	\$
	\$
	\$
	\$
TOTAL PUBLIC FUNDS	\$

IV. FINANCIAL ASSISTANCE REQUESTED

A.) Benefits Requested:

- Sales Tax Exemption
 Mortgage Recording Tax Exemption
 Real Property Tax Abatement (PILOT)

B.) Value of Incentives:

Property Tax Exemption (To be estimated by NCIDA Staff. See Page 14)

Estimated duration of Property Tax exemption: 15 years- \$6,267,420

Sales and Use Tax

Estimated value of Sales Tax exemption for facility construction: \$ 772,596

Estimated value of Sales Tax exemption for fixtures and equipment: \$ 42,239

Estimated duration of Sales Tax exemption: 1 year

Mortgage Recording Tax Exemption Benefit

Estimated value of Mortgage Recording Tax exemption: \$ 145,955

C.) Financial Assistance Determination:

If financial incentives are not provided by NCIDA, is the project financially viable?

Yes or No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

The development of this property will be economically unfeasible without your assistance and partnership in this matter due to the high cost of site infrastructure, current and future Brownfield monitoring and remediation costs which heavily burden the project. This project will provide more opportunities for people to live in Niagara County/North Tonawanda and give public access to waterfront

V. EMPLOYMENT PLAN

	# of Retained Jobs	Retained Jobs Average Annual Salary	# of Created Jobs <i>(3 yrs after project completion)</i>	Created Jobs Average Annual Salary
Full Time (FTE)	2	\$ 120,000	4	\$ 280,000
Part time (PTE)	0	\$ 0	6	\$ 156,000
TOTAL	2	\$ 120,000	10	436000

Annual Salary Range of Jobs to be Created: \$ 35,000 to \$ 70,000

Category of Jobs to be Retained and Created:

Job Categories (ie. Management, Administrative, Production, etc.) Management, maintenance leasing

VI. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JPTA") in which the project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the proposed project.
- C. A liability and contract liability policy for a minimum of three million dollars will be furnished by the Applicant insuring the Agency.
- D. Annual Sales Tax Filings: In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the Applicant.
- E. Annual Employment Reports: The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- F. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

- G. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- H. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- I. Recapture: Should the Applicant not expend or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.
- J. Absence of Conflicts of Interest: The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described.

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

STATE OF NEW YORK)
COUNTY OF) ss.:

Lucian Visone, being first duly sworn, deposes and says:

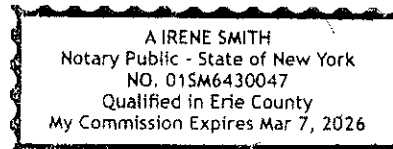
1. That I am the Managing Member-(Corporate Office) of DLV Properties LLC (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.



(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 1st day of July, 2022

A. Irene Smith
(Notary Public)



This Application should be submitted to the Niagara County Industrial Development Agency, 6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132.

Attach copies of preliminary plans or sketches of proposed construction or rehabilitation or both.

HOLD HARMLESS AGREEMENT

Applicant hereby releases the NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof (the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in processing of the Application, including attorneys' fees, if any.

[Signature]
(Applicant Signature)

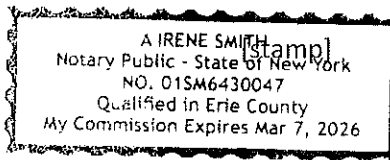
By: DLV Properties LLC

Name: Lucian Visone

Title: Managing Member

A. Irene Smith
(Notary Public)

Sworn to before me this 1st day
of July, 2022



Real Property Tax Benefits (Detailed):

** This section of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

PILOT Estimate Table Worksheet

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
\$19,314,910	\$13,640,000	9.849336	14.501055	22.776614

*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	15%	\$ 20,152	\$ 29,669	\$ 46,601	\$ 96,422	\$ 642,812	\$ 546,390
2	15%	\$ 20,152	\$ 29,669	\$ 46,601	\$ 96,422	\$ 642,812	\$ 546,390
3	25%	\$ 33,586	\$ 49,449	\$ 77,668	\$ 160,703	\$ 642,812	\$ 482,109
4	25%	\$ 33,586	\$ 49,449	\$ 77,668	\$ 160,703	\$ 642,812	\$ 482,109
5	35%	\$ 47,021	\$ 69,228	\$ 108,736	\$ 224,984	\$ 642,812	\$ 417,828
6	35%	\$ 47,021	\$ 69,228	\$ 108,736	\$ 224,984	\$ 642,812	\$ 417,828
7	35%	\$ 47,021	\$ 69,228	\$ 108,736	\$ 224,984	\$ 642,812	\$ 417,828
8	35%	\$ 47,021	\$ 69,228	\$ 108,736	\$ 224,984	\$ 642,812	\$ 417,828
9	35%	\$ 47,021	\$ 69,228	\$ 108,736	\$ 224,984	\$ 642,812	\$ 417,828
10	45%	\$ 60,455	\$ 89,007	\$ 139,803	\$ 289,266	\$ 642,812	\$ 353,547
11	45%	\$ 60,455	\$ 89,007	\$ 139,803	\$ 289,266	\$ 642,812	\$ 353,547
12	45%	\$ 60,455	\$ 89,007	\$ 139,803	\$ 289,266	\$ 642,812	\$ 353,547
13	45%	\$ 60,455	\$ 89,007	\$ 139,803	\$ 289,266	\$ 642,812	\$ 353,547
14	45%	\$ 60,455	\$ 89,007	\$ 139,803	\$ 289,266	\$ 642,812	\$ 353,547
15	45%	\$ 60,455	\$ 89,007	\$ 139,803	\$ 289,266	\$ 642,812	\$ 353,547
TOTAL		\$ 705,311	\$ 1,038,421	\$ 1,631,033	\$ 3,374,765	\$ 9,642,185	\$ 6,267,420

*Estimates provided are based on current property tax rates and assessment value

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
624 River Road - Waterfront Apartment Project			
Name of Action or Project: 624 River Road, North Tonawanda, NY 14120			
Project Location (describe, and attach a location map): 624 River Road, North Tonawanda, NY 14120			
Brief Description of Proposed Action: Construct an approximately 110+ unit, 5-story apartment building. Units will be a mixture of studio 1,2, and 3 bedroom apartments. Units will range in size from approximately 750 sf to approximately 1300 sf.			
Name of Applicant or Sponsor: DLV Properties, LLC		Telephone: 716-759-1715 E-Mail: brianne@visoneco.com	
Address: 9829 Main St.			
City/PO: Clarence		State: NY	Zip Code: 14031
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input checked="" type="checkbox"/> YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ 3.7 acres	
b. Total acreage to be physically disturbed?		_____ 3.7 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ 9 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>mixed-use and multi-family housing</u> <input type="checkbox"/> Parkland			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
_____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ The project is in the NYDEC Brownfield remediation. The remedial investigation work plan has been approved by the DEC	NO	YES
_____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>DLV Properties, LLC</u>		Date: <u>7/1/22</u>
Signature: _____		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
<u>NCUA</u>	<u>7/8/22</u>
Name of Lead Agency	Date
<u>S. Lamy</u>	<u>LO</u>
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
<u>[Signature]</u>	<u>[Signature]</u>
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT