



ONTARIO LABOUR RELATIONS BOARD

RESPONSE/INTERVENTION – APPLICATION FOR ACCREDITATION CONSTRUCTION INDUSTRY *Labour Relations Act, 1995*

Form A-93

Fields marked with an asterisk (*) are mandatory.

Confirmation No. [20221108155253900](#)

OLRB File Number [1735-22-R](#)

Between: *

[THE GREATER HAMILTON & NIAGARA CONSTRUCTION ASSOCIATION](#)

Applicant

- and -

[INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 793](#)

Responding Party

- Review Information Bulletin No. 33 – “Accreditation in the Construction Industry under s.136 of the *Labour Relations Act, 1995* (Non-ICI)”, the Filing Guide and the Board’s Rules of Procedure on acceptable methods of delivery and filing **before** completing this form to avoid any delay in processing.
- All forms, Notices, Information Bulletins, the Filing Guide and the Rules of Procedure may be obtained from the Board’s website (<http://www.olrb.gov.on.ca>).
- To print a paper copy of this form, use **only** the “Print” buttons located within the form.
- Save a copy of your completed form and any attachments as the Board will not return them to you. To save the form at any time, use the “Save” buttons located within the form.
- If there is insufficient space on the form, attach additional pages clearly identifying the relevant section of the form. For e-filing, you may attach files by selecting the “Attach documents electronically” option.

Choose one of the following *

Response

Intervention

Part A Contact Information

Instructions

- Provide the contact information for each Responding Party/Intervenor on whose behalf this form is being completed and any Affected Party not previously named in the application below. If you wish to add additional parties, use the “Add” button or attach a separate page if completing the form by hand.
- For an organization, provide the name and contact information of an individual who will be able to respond on behalf of that organization. When adding multiple individuals at the same organization, “Add” an additional contact section, repeat the organization name and provide that individual’s contact information (e.g. name, email address, phone number).

1 (a). Responding Party/Intervenor**Responding Party 1**Type * Organization Individual

Organization Name

International Union of Operating Engineers, Local 793

First Name Melissa	Last Name Atkins-Mahaney	Position/Title Lab. Relations Mgr
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Full Address (Number, Street, Unit/Apartment, Building Name) 2245 Speers Road	Other Address Details (e.g. PO Box, R.R. #, c/o)
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City/Town Oakville	Province/State Ontario	Country Canada	Postal/Zip Code L6L 6X8
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Telephone Number 905-469-9299	Ext. 2221	Fax Number 905-465-4343	Email Address matkins@iuoelocal793.org
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Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

Responding Party 2Type * Organization Individual

Organization Name

International Union of Operating Engineers, Local 793

First Name Virgil	Last Name Nose	Position/Title S. Central ON Superviso
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Full Address (Number, Street, Unit/Apartment, Building Name) 35 Goderich Road, Unit #5	Other Address Details (e.g. PO Box, R.R. #, c/o)
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City/Town Hamilton	Province/State Ontario	Country Canada	Postal/Zip Code L8E 4P2
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Telephone Number 905-544-1851	Ext.	Fax Number 905-544-1854	Email Address vnose@iuoelocal793.org
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Additional Contact Information, if any (Assistant's Email Address, Alternate Telephone Numbers)

1 (b). Representative/Contact Person for the Responding Party/Intervenor**Contact 1**Contact Person for * All Parties above Party No.(s) _____Indicate if this person is a Lawyer Paralegal

Organization Name

International Union of Operating Engineers, Local 793

First Name Wallbridge	Last Name * Miriam	Position/Title Legal Counsel
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Full Address (Number, Street, Unit/Apartment, Building Name) 2245 Speers Road	Other Address Details (e.g. PO Box, R.R. #, c/o)
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City/Town Oakville	Province/State Ontario	Country Canada	Postal/Zip Code L6L 6X8
-----------------------	---------------------------	-------------------	----------------------------

Telephone Number 905-469-9299	Ext. 2228	Fax Number 905-465-4343	Email Address mwallbridge@iuoelocal793.org
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2 (a). Affected Party

Contact information for any person, trade union, employer or employers' organization which may be affected by the application and which has not already been identified by another party must be completed below.

2 (b). Representative/Contact Person for the Affected Party, if known

2 (c). The person, trade union, employer or employers' organization named above is affected by the application for the following reason(s):

Part B Material Facts and Position on Relief Sought

3. Provide a detailed description of unit of employers claimed by the Responding Party to be appropriate for accreditation:

Reference **must** be made to the sector(s) of the construction industry and the geographic area(s) or parts thereof claimed. If you require more space, attach a separate document.

[See Appendix "A" to Form A-93 attached.](#)

4. Provide representations as to the appropriateness of the unit described in question 3 including the history of collective bargaining, if any, of the Applicant and the Responding Party:

If you require more space, attach a separate document.

[The bargaining unit the Responding Party has described in Appendix "A" is appropriate in light of the bargaining history between the Parties, which includes decades of negotiating by the Hand Association of Sewer Watermain and Road Contractors \(which recently renamed itself to the Greater Hamilton and Niagara Construction Association and incorporated for the purposes of labour negotiations\) on behalf of locally based contractors or contractors who operate out of local yards in Board Areas 5 and 26, and the Responding Party, in respect of the bargaining unit described.](#)

[The Responding Party submits that the bargaining unit description set out at Appendix "A" will serve to ensure that any contractors who have an established practice as of the date of accreditation of performing work under Schedule "H" of the Operating Engineers' Provincial Collective Agreement will continue to apply Schedule "H" of the PCA to the same work – preserving that established practice and ultimately ensuring that any contractors who fall into this category are captured by this exception \(i.e., by the exception described in paragraph \(b\) of the bargaining unit description set out by the Responding Party in Appendix "A"\).](#)

5. State the number of employers in the unit described by the Applicant as being appropriate for accreditation as of the date the application was made:

6. State the number of employers in the unit claimed by the Responding Party to be appropriate for accreditation as of the date the application was made:

76 (See attached Schedule "A")

7. State the approximate number of members of the Responding Party working in the area(s) and sector(s) described in the unit of employers claimed by the Applicant to be appropriate as of the date the application was made:

746 (See attached Schedule "A")

8. In respect of the order(s) requested by the Applicant, the Responding Party states:

The Applicant must enjoy the support of the required double majority for a certificate of accreditation to be issued from the Ontario Labour Relations Board. The Responding Party supports the request made provided sufficient support is shown.

9. Other relevant statements:

a. The Responding Party respectfully requests that the Board waive the requirement for compiling Schedule "F" to definitively list all contractors bound by the Accreditation Order requested for the following reasons:

i. Neither the Labour Relations Act, 1995 nor the Board's Rules of Procedure require a listing of all the employers who have ever been part of the bargaining unit, or who might theoretically be bound by the resulting Accreditation Certificate.

ii. The Board and the Parties ought not to be required to engage in protracted and expensive hearings with respect to the existence of bargaining rights in the affected sector(s) of the construction industry relating to particular contractor(s) which deny or contest the existence of bargaining rights.

iii. The determination of any issues relating to the existence of bargaining rights for any particular contractor(s) can and ought to be left determined in subsequent litigation between the affected parties should circumstances arise in the future which require such a determination to be made.

iv. Accordingly, the Board ought not to require the filing of a Schedule "F" nor hold hearings to finalize same. In support of this position, the Responding Party relies on the following decisions of the Board:

1. National Capital Road Builders Association [1988] O.L.R.B. Rep. Oct. 1041; unreported decision January 25, 1989

2. Metropolitan Toronto Sewer & Watermain Contractors Association [1989] O.L.R.B. Rep. Dec 1226; unreported decision November 3, 1989

3. Metropolitan Toronto Road Builders Association [2000] O.L.R.B. No. 1890

b. The Responding Party submits that this Application should be publicized to the affected construction community by publication of an advertisement in the following locations: the O.L.R.B.'s website; The Daily Commercial News; The Hamilton Spectator; St. Catharines Standard; and The Niagara Falls Review.

10. Attached documents:

Provide a list of the documents you are filing together with this form as instructed below.

Name your documents/attachments so that they are easily identifiable.

If you are e-filing this form, select the "Attach documents electronically" option below and attach each document using the "Add File" button.

If you are filing in a manner other than e-filing, provide the numbered list of documents in the box below.

Attach documents electronically

Note: If your attachments exceed 7MB, you may not e-file. File a paper copy of this form with all attachments using an alternative method permitted by the Board's Rules of Procedure.

No.	File	Description	Size (MB)	
1	filing letter November 8 2022.pdf		0.17	<input type="checkbox"/>
2	Appendix A to Form A-93.pdf		0.06	<input type="checkbox"/>
3	Schedule A - Local 793 Response to Accred		0.25	<input type="checkbox"/>
		Total Size	0.48	
		Total space left over	6.52	
		Number of attachments	3	

IMPORTANT NOTES

The Board's forms, Notices, Information Bulletins, Rules of Procedure and Filing Guide may be obtained from its website <http://www.olrb.gov.on.ca> or by calling 416-326-7500 or toll-free at 1-877-339-3335.

FRENCH OR ENGLISH

Vous avez le droit de communiquer et recevoir des services en français et en anglais. La Commission n'offre pas de services d'interprétation dans les langues autres que le français et l'anglais.

You have the right to communicate and receive services in either English or French. The Board does not provide translation services in languages other than English or French.

CHANGE OF CONTACT INFORMATION

Notify the Board immediately of any change in your contact information. If you fail to do so, correspondence sent to your last known address (including email) may be deemed to be reasonable notice to you and the case may proceed in your absence.

ACCESSIBILITY AND ACCOMMODATION

The Board is committed to providing an inclusive and accessible environment in which all members of the public have equitable access to our services. We will aim to meet our obligations under the *Accessibility for Ontarians with Disabilities Act* in a timely manner. Please advise the Board if you require any accommodation to meet your individual needs. The Board's Accessibility Policy can be found on its website.

COLLECTION AND DISCLOSURE OF INFORMATION AND DOCUMENTS

Any relevant information that you provide to the Board must in the normal course be provided to the other parties to the proceeding. Personal information collected on this form and in written or oral submissions may be used and disclosed for the proper administration of the Board's governing legislation and case processing. In addition, the *Tribunal Adjudicative Records Act, 2019* requires that the Board make adjudicative records (which include applications filed and a listing of such applications) available to the public. The Board has the power to make part or all of an adjudicative record confidential. The *Freedom of Information and Protection of Privacy Act* may also address the treatment of personal information. More information is available on the Board's website www.olrb.gov.on.ca. If you have any questions concerning the collection of information or disclosure of adjudicative records, contact the Solicitors' Office at the number listed above or in writing to the OLRB, 505 University Ave., 2nd floor, Toronto, ON M5G 2P1.

E-FILING AND E-MAIL

The Rules of Procedure and Filing Guide set out the permitted methods of filing. Forms and submissions may be filed with the Board by a variety of methods including the Board's e-filing system, but not by e-mail. Note that the e-filing system is not encrypted and e-filing is optional. Contact the Client Services Coordinator at the numbers listed above if you have questions regarding e-filing or other filing methods. If you provide an e-mail address with your contact information, the Board will in most cases communicate with you by e-mail from an out-going only generic account. Incoming emails are not permitted.

HEARINGS AND DECISIONS

Hearings are open to the public unless the Board decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library and www.canlii.org. Some summaries and decisions may be found on the Board's website.

Documents to be Delivered

Before filing your response/intervention with the Board, you must deliver the following documents to each Applicant, Responding Party and Affected Party named in Part A of the application and to each Affected Party named in Part A of a response/intervention filed by another party:

- A completed copy of this Response/Intervention - Application for Accreditation, Construction Industry (Form A-93), **including all documents you are filing with this form.**

If you have named an Affected Party in Part A of your response/intervention that was **not** named in the application or in a response/intervention filed by another party, you must deliver the following documents to that party:

- A completed copy of the Application for Accreditation, Construction Industry (Form A-92), **including all documents filed with that form;**
- A completed copy of this Response/Intervention - Application for Accreditation, Construction Industry (Form A-93), **including all documents you are filing with this form;** and
- A Notice to Responding Party and/or Affected party of Application for Accreditation, Construction Industry (Form C-39) **with the names of the parties and the date inserted.**

Once the above-listed documents have been delivered to the other parties, you must complete the following Certificate of Delivery before filing the completed form and attachments with the Board.

I have reviewed this form to confirm it is complete *

Date (yyyy/mm/dd) *
2022/11/08

Certificate of Delivery

I, Miriam Wallbridge, Legal Counsel,
Name * Title

certify that the documents identified above were delivered to each of the parties as set out below:

Note: You must complete delivery information for each party separately.

Use the "Add" button below if completing electronically.

Delivered To

Name of organization (if applicable) and name and title of person to whom the documents were delivered *
The Greater Hamilton & Niagara Construction Association c/o Filion Wakely Thorup Angeletti LLP
Attention: Carl Peterson and Danny Parker

Address or fax number to which the documents were delivered *
cpeterson@filion.on.ca; dparker@filion.on.ca

Method of delivery *

Hand Delivered Courier Fax Regular Mail Other

Other Details *

Please provide details as to whom, when and how the documents were delivered.

Via Email to Carl Peterson: cpeterson@filion.on.ca and to Danny Parker: dparker@filion.on.ca in accordance with the Board's Rules at 3:50 pm on November 8, 2022

File with the Board

- File the completed form and any attachments using a method permitted by the Board's Rules of Procedure.
- Save and Print a copy of your completed form and all attachments as the Board will not return them to you.
- To e-file, click the "Submit" button below. You will receive a confirmation email once the form has been successfully submitted.
- If you choose not to e-file, print this form by clicking on the "Print" button below and then file with the Board together with any attachments.

For E-Filing only

You must provide a valid email address in order to file this form electronically so that a confirmation email may be sent to you. If you do not have a valid email address, file a paper copy of this form using an alternative method permitted by the Board's Rules of Procedure.

Submitted By:

First Name *	Last Name *
Miriam	Wallbridge
Email Address *	Confirm Email Address *
mwallbridge@iuoelocal793.org	mwallbridge@iuoelocal793.org