

To: Council in Committee of the Whole

From: Jag Sharma, City Manager,
Office of the City Manager

Report Number: CM-16-36

Date of Report: December 14, 2016

Date of Meeting: December 19, 2016

Subject: Partnership with the University of Ontario Institute of
Technology to develop the City's Diversity and Inclusion Plan

File:

1.0 Purpose

The purpose of this report is to provide an update on the City's Diversity and Inclusion initiative as approved in CORP-15-73 and to obtain approval to enter into a partnership with the University of Ontario Institute of Technology (U.O.I.T.) to develop the City of Oshawa's Diversity and Inclusion Plan.

Attachment 1 is a draft Research Collaboration Agreement between the City and U.O.I.T. proposed for this project.

2.0 Recommendation

It is recommended to City Council:

1. That based on CM-16-36, dated December 14, 2016, staff be authorized to work with U.O.I.T. to establish a methodology to develop the City's first Diversity and Inclusion plan in consultation with the community.
2. That the City Manager be authorized to execute an agreement generally in the form attached (Attachment 1) and ultimately in a form acceptable to the City Manager and City Solicitor.

3.0 Executive Summary

In 2014, City Council approved CS-14-156, directing staff to report back on the development of a Committee that could advise Council on matters of multiculturalism and diversity.

In response to this directive, two staff reports (CORP-15-24 and CORP 15-73) were addressed through the Corporate Services Committee in 2015. In June 2015, through

CORP-15-73, City Council approved the engagement of a consultant to develop a draft framework for a community diversity and inclusion strategy for Council review, pending budget approval. These funds were subsequently not approved through the 2016 budget process. Funding for mandatory staff training on Diversity and Inclusion was approved in 2016 within existing training budget allocations, and this training has been rolled out to staff and City Council.

Throughout 2016, the Executive Director of Human Resources and the Director of Recreation and Culture Services have been working collaboratively on investigating a cost-effective way for the development of a Diversity and Inclusion plan to occur.

The proposed partnership with U.O.I.T. will provide the City with the expertise required for the development of the plan, without the added expense of consultant fees.

4.0 Input From Other Sources

The following have been consulted in preparation of this report:

- Human Resource Services
- Recreation & Culture Services
- Corporate Leadership Team
- University of Ontario Institute of Technology
- Canadian Centre for Diversity and Inclusion

5.0 Analysis

5.1 Background & Purpose of a Diversity and Inclusion Plan

The City of Oshawa is a growing community, with its population rapidly becoming more diverse. These demographic changes result from shifting immigration, migration and urbanization patterns, an aging society, and a growing awareness of the range of human differences. Diversity and Inclusion relates, but is not limited, to accessibility, economic status, gender, sexual orientation, multiculturalism, health, and age.

Several municipalities locally and nationally have recognized the importance of creating a Diversity and Inclusion Plan as a way of ensuring that the services they provide meet the needs and aspirations of the ever-diversifying population. These plans also help residents feel valued and remove barriers so that all residents can be contributing members of the community.

An Oshawa Diversity & Inclusion Plan would provide a strategic framework for embracing diversity in the workplace and to identify ways to weave diversity and inclusion into City of Oshawa practices and principles.

The strategic framework and resulting recommendations may include developing and/or incorporating diversity and inclusion practices into City of Oshawa:

- policies and procedures,
- business plans,

- practices,
- program development and delivery
- service development and delivery
- stakeholder relations and community involvement.

Ultimately, this plan will identify recommended strategies and actions for the City to take over the next five (5) to ten (10) years to ensure that all residents have access to employment opportunities, programs and services, as well as feel welcomed and involved within the community.

5.2 Previous Work in Diversity and Inclusion

The City has been actively undertaking initiatives and delivering services that respond to our increasingly diverse community, such as, but not limited to:

- (a) Complying with legislated requirements under the Integrated Accessibility Standards Regulation (I.A.S.R.) and the Accessibility for Ontarians with Disabilities Act (A.O.D.A.)
- (b) Supporting and delivering programs for specific diverse groups (e.g., One-on-one support for special needs participants in recreation programs and woman-only swim at Donevan pool)
- (c) Participating in the Advancing Access to Affordable Recreation in Durham (A.A.A.R.D.) and maintaining subsidy programs for those of low income for City services
- (d) Flag raisings and proclamations to celebrate various organizations, events and holidays
- (e) Attending Region of Durham Community Partners in Diversity meetings formerly titled Local Diversity Immigration Partnership Council (L.D.I.P.C.).
- (f) Consulting with the Region of Durham on the development of an Age-Friendly Strategy.
- (g) Becoming an employer partner with the Canadian Centre for Diversity and Inclusion (C.C.D.I.)
- (h) Conducting Diversity and Inclusion training through the C.C.D.I. for all full time staff and City Council.
- (i) City Council endorsement of the National Council of Canadian Muslims' Charter for Inclusive Communities at the City Council meeting of November 28, 2016.

5.3 Partnership with U.O.I.T.

Recreation and Culture Services staff and Human Resource Services staff have engaged in conversations with the Faculty of Social Science and Humanities at U.O.I.T. to assist with this initiative.

The Faculty has recruited several cross-domain researchers with strengths in a variety of dimensions of diversity and inclusion: cultural studies, disability studies, critical race theory, labour studies, gender studies, public policy, and sexual diversity studies.

Through this partnership, U.O.I.T. faculty will be responsible to conduct a literature review on subject of Diversity and Inclusion, work with City staff to conduct community consultations and deliver a report and proposed plan to the City of Oshawa for approval by City Council. The literature review would include a study of municipal best practices in Diversity and Inclusion as well as City strategies and Council approved policies related to service delivery. Community consultation will take the form of focus groups with community participants.

It is recommended that the agreement between U.O.I.T. and the City generally reflects the following elements:

- (a) U.O.I.T. will be responsible for the a review of literature including City of Oshawa plans and documents, and documents related to Diversity & Inclusion initiatives in other municipalities and jurisdictions.
- (b) U.O.I.T will co-conduct community consultations with City staff.
- (c) U.O.I.T. will deliver a final report to the City of Oshawa which will include an academic review of the background research and community consultations, and recommended internal and external strategies for the City of Oshawa to implement over the next five (5) to ten (10) years.
- (d) U.O.I.T. will participate in Steering Committee meetings and meetings of the community advisory group as necessary throughout the project.
- (e) U.O.I.T. and the City will maintain the confidentiality of personal information disclosed through the community consultations in accordance with the Municipal Freedom of Information and Protection of Privacy Act (M.F.I.P.P.A).
- (f) The City will provide in-kind support to the Diversity and Inclusion project valued at approximately \$80,000 which would include ancillary costs, staff time of various staff across the corporation, and costs associated with community consultations.
- (g) The final report will be solely owned by U.O.I.T. and the City will be granted non-exclusive, perpetual, world-wide, royalty-free right and license to use the results and report.

5.4 Project Teams and Community Consultations

It is proposed that the U.O.I.T. Faculty research team and staff from Recreation & Culture Services and Human Resource Services form the Steering Team for this project.

In addition, it is recommended that two advisory groups be formed for the project: a community advisory group comprised of community groups and concerned citizens representative of the community, and a cross-departmental staff team.

Also, two (2) focus groups will be scheduled to provide input to the Diversity and Inclusion plan.

5.5 Timeline

Upon approval of the agreement with U.O.I.T., the Steering Team will launch the recruitment of the cross-department staff team and community advisory group. Background literature review will be conducted between January and March 2017, with community consultations occurring in the spring. It is anticipated that a draft final plan will be presented to the community advisory group and staff team for input in the fall of 2017 with a presentation for approval by City Council by year end 2017.

6.0 Financial Implications

There will be no direct cost to U.O.I.T. for the research and community consultation services provided. This partnership will avoid a potential cost of approximately \$100,000 in consultant fees.

The City is committed to providing in-kind services of approximately \$65,000 toward this project which would include staff time and meeting space at recreation facilities for community consultations. It is estimated that there will be additional ancillary costs associated with community consultations and the plan distribution estimated at an upset limit of \$15,000. The additional costs of \$15,000 have been added to the 2017 Community Services Operating Budget submission.

7.0 Relationship to the Oshawa Strategic Plan

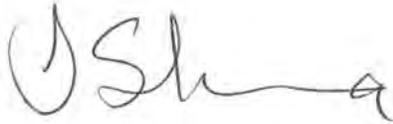
The development of a Diversity and Inclusion Plan addresses the Oshawa Strategic Plan goal of Social Equity in support of the theme, Enrich our Community Through Diversity, by developing corporate and community plans that embrace diversity and strengthen our corporation and community. Partnering with U.O.I.T. to produce this plan addresses the theme of Developing and Leveraging Relationships through the Strategic Goal of Accountable Leadership.



Jackie Long, Executive Director,
Human Resource Services



Julie Maclsaac, Director,
Recreation & Culture Services



Jag Sharma, City Manager,
Office of the City Manager

RESEARCH COLLABORATION AGREEMENT

PARTIES: **UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY ("UOIT" or the "University") and
THE CORPORATION OF THE CITY OF OSHAWA, having its offices at 50 Centre St. S, Oshawa ON L1H 3Z7 ("City")**

WHEREAS:

- A. UOIT, through its personnel and students, wishes to undertake a project entitled "Diversity and Inclusion Initiative" with the purpose and objectives hereinafter described (hereinafter called the "**Project**");
- B. The City intends to develop its own Diversity and Inclusion Plan;
- C. Collaboration between UOIT and the City is considered in their mutual interests;
- D. The City will contribute its expertise and in-kind support of towards the Project;
- E. UOIT will include in the Project its delivery to the City of a Report hereinafter described;

NOW THEREFORE, in consideration of the premises, mutual covenants, terms and conditions contained herein, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the Parties agree as follows:

1. DEFINITIONS

For the purpose of this Agreement:

- a. "**Background Intellectual Property**" means Intellectual Property and/or know how of UOIT or City (including personnel) which is acquired or developed by such Party prior to or independent of the Project.
- b. "**Confidential Information**" means any information disclosed by one Party to the other during the term of this Agreement relating directly or indirectly to the Project and identified in writing at the time of disclosure as confidential or proprietary and marked with an appropriate legend, marking or stamp (or, if such disclosure is not in writing or is not identified in writing as confidential or proprietary at the time of disclosure, that is subsequently identified in writing within thirty (30) days after disclosure). For greater certainty, no Results shall be marked, or otherwise deemed to be, confidential.
- c. "**Effective Date**" means January 1, 2017.
- d. "**Parties**" means UOIT and the City and "**Party**" means either of them.
- e. "**Personal Information**" has the meaning ascribed to such term in the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F.31 ("FIPPA").
- f. "**Principal Investigator**" means Dr. Scott Aquanno in the Faculty of Social Science and Humanities at UOIT.
- g. "**Raw Data**" means data/information obtained through community consultations and focus group discussions led or co-led by UOIT researchers.
- h. "**Results**" means results derived from the synthesis, analysis, consolidation or processing of any Raw Data during the Project, such that the Raw Data is de-identified and cannot be traced back to any particular research participant.
- i. "**UOIT Contributors**" means the Principal Investigator and all other University faculty, contractors, students, post-doctoral fellows and research associates who participate in the Project.

2. SCOPE OF COLLABORATION

- a. **Purpose.** UOIT will conduct research with the City, to support the development of a Diversity and Inclusion Report addressing the objectives hereinafter described. (herein referred to as "**Report**").
- b. **UOIT Objectives.** UOIT Contributors will deliver a Report to the City summarizing the Results from the following studies: i) a scoping review of the literature including City records and records of the diversity and inclusion initiatives of others, ii) a qualitative study. The qualitative study will involve two focus groups with community participants and participation in City Community Advisory Committee meetings. The Report will include recommended strategies to be implemented by the City during the following five (5) to ten (10) years in relation to the City's Diversity and Inclusion Plan.
- c. **City In-Kind Support.** City agrees to provide in-kind support to UOIT in the form of approximately one thousand (1,000) hours of time of the City's Director, Recreation & Culture Services, the City's Executive Director, Human Resource Services and of two (2) management level City staff together with space for meetings of the Community Advisory Committee and for community consultations.

3. INTELLECTUAL PROPERTY, RESULTS & REPORT

- a. **Background Intellectual Property.** Nothing herein shall serve to, or should be construed to transfer any ownership or commercial rights whatsoever in the Background Intellectual Property of either Party or any Background Intellectual Property of a third party that is disclosed by a Party for purposes of the Project.
- b. **Ownership of Raw Data, Results & Report.** Each Party agrees that Raw Data collected by UOIT Contributors during the Project will be solely owned by UOIT and is deemed to be Confidential Information of UOIT. The Results and Report generated hereunder will be owned by UOIT, subject to the non-commercial license granted to the City in subsection (c).
- c. **License for Non-Commercial Use.** UOIT hereby grants to City a non-exclusive, world-wide, royalty-free, perpetual, right and license to use the i) Results derived from the qualitative study and ii) the Report delivered hereunder for internal policy and non-commercial purposes.

4. PUBLICATION AND PUBLICITY

- a. **Publication.** The Parties hereby agree that UOIT and/or UOIT Contributors may publish or publicly disclose the Results relating to the Project. Proper acknowledge will be made for the contributions of each Party to the Project, and authorship will be determined in accordance with academic standards and customs.
- b. **Copyright.** Copyright to any written material produced shall remain with the party who wrote the material in question.
- c. **Publicity.** Neither Party shall be permitted to use the name and/or logo of the other without the other Party's prior written permission. Notwithstanding the foregoing limitation, UOIT may, at its own discretion, provide a brief listing of the Project on its website or other media, acknowledging the in-kind support of City.

RESEARCH COLLABORATION AGREEMENT

PARTIES: **UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY (“UOIT” or the “University”)** and
THE CORPORATION OF THE CITY OF OSHAWA, having its offices at 50 Centre St. S, Oshawa ON L1H 3Z7 (“City”)

5. CONFIDENTIALITY

- a. Protection of Confidential Information. Subject to FIPPA and to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 (“MFIPPA”), each Party agrees to maintain in confidence and safeguard all Confidential Information of the other Party as well as any Personal Information disclosed to it by the other Party. More specifically, each Party agrees to: (i) use the Confidential Information only for the purposes of fulfilling the intent of this Agreement; (ii) use the same degree of care as with its own confidential information, which shall be at least a reasonable standard of care, to prevent disclosure of the Confidential Information; (iii) disclose Confidential Information only to its employees, directors, officers, students and contractors who have a “need to know” and who shall be made aware of, and be required to observe and comply with the covenants and obligations contained herein; (iv) assume all liability for any breach of this Agreement by it or its employees, directors, officers, students and contractors; and (v) treat Personal Information as required by FIPPA. Confidential Information shall remain the property of its owner or the disclosing Party, as the case may be.
- b. Exceptions. Notwithstanding any other provision of this Agreement, each Party acknowledges that Confidential Information shall not include any information which is: (i) published or becomes generally available to the public other than as a result of a breach of the undertakings of this Agreement by either of the Parties; (ii) in the possession of either Party prior to its receipt from the other Party, as evidenced by contemporaneous written evidence, and is not subject to a duty of confidentiality; (iii) rightfully received from a third party not subject to a duty of confidentiality to the disclosing party and/or without breach of this Agreement; (iv) independently developed by a Party without the use of any of the Confidential Information; or (v) expressly permitted to be disclosed either under this Agreement or with the written approval of the disclosing Party.
- c. Compliance with Court Order or Statute. In the event that a Party is required to disclose any of the Confidential Information in order to comply with applicable laws or regulations, or pursuant to the order of a court, tribunal or government agency, such Confidential Information may be disclosed without breach of this Agreement. The Party making a disclosure under this paragraph shall promptly notify the other Party of the obligation to disclose.
- d. Survival of Confidentiality Obligations. The obligations of confidentiality in Article 5 “Confidentiality” shall, with respect to: (a) each disclosure of Confidential Information hereunder, continue for three (3) years from the date of each disclosure of Confidential Information; and (b) each disclosure of Personal Information hereunder, survive any expiration or termination of this Agreement indefinitely.
- e. FIPPA/MFIPPA. UOIT acknowledges that the CITY is subject to MFIPPA and agrees that in the event of any conflict between the provisions of FIPPA or MFIPPA as they relate to

the CITY, the provision of MFIPPA shall apply to the extent of any such conflict.

6. REPRESENTATIONS AND WARRANTIES

- a. No Warranty for Research/Project IP. UOIT makes no warranty, express or implied, concerning the Results and Report provided under this Agreement, which is all provided “as is”. UOIT MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED WITH RESPECT TO THE RESEARCH UNDERTAKEN IN CONNECTION WITH THE PROJECT AND/OR THIS AGREEMENT. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE RESULTS OR REPORT WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY.

7. LIABILITY AND INDEMNIFICATION

- a. General Limitation. Other than with respect to the Parties’ indemnity obligations set out herein, in no event shall the total cumulative liability of UOIT or the City (including their employees, directors, officers, students or agents), for all claims arising out of or relating to this Agreement, exceed actual direct, provable damages, up to \$500CAD. The foregoing provision limiting the liability of UOIT and the City (including their employees, directors, officers, students or agents) shall apply regardless of the form or cause of action, whether in contract or tort, or a breach of a fundamental term or condition.
- b. No Consequential Damages. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST SAVINGS, LOSS OF ANTICIPATED REVENUE OR ANY EXEMPLARY, PUNITIVE, SPECIAL OR INDIRECT DAMAGES ARISING FROM OR IN ANY WAY CONNECTED TO THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- c. Indemnification. Each Party shall indemnify and save harmless the other Party and the other Party’s officers, employees, contractors and agents and, as applicable, elected officials and students, from and against all costs, suits or claims: (i) resulting from the use or misuse of the Results and/or Report by the Party, its affiliates, partners, or licensees, whether or not in accordance with the rights granted in this Agreement; and (ii) arising out of or in connection with a breach of Confidentiality (section 5).

8. TERM AND TERMINATION

- a. Term. This Agreement is effective as of the Effective Date and, unless terminated earlier in accordance with the terms herein, will terminate on December 31, 2017 (the “Term”).
- b. Survival. The following provisions shall survive the expiry or earlier termination of this Agreement: Article 3 (Intellectual Property); Article 4 (Publication and Publicity); Article 5 (Confidentiality); Article 6 (Representations and Warranties); Article 7 (Liability and Indemnification); Article 8 (Term and Termination); and Article 10 (General).

PARTIES: UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY ("UOIT" or the "University") and THE CORPORATION OF THE CITY OF OSHAWA, having its offices at 50 Centre St. S, Oshawa ON L1H 3Z7 ("City")

- c. Termination. A Party may terminate this Agreement for convenience upon thirty (30) days prior written notice to the other Party.
d. Return of Property and Confidential Information. Following the termination of this Agreement for any reason each Party shall, at the request of the other Party (the "requesting Party"), transfer, assign and make available to the requesting Party all property and materials in the other Party's possession or control belonging to the requesting Party, and all items containing any Confidential Information of the requesting Party; provided that the non-requesting Party may retain copies of the Confidential Information (i) as part of archival records (including backup systems) that the Party keeps in the ordinary course of its business, but only as required by its records retention policies, (ii) as may be required by law, or (iii) if it is relevant to a dispute between the Parties.

- h. Force Majeure. Neither Party shall be deemed to be in default hereunder for any delay or failure to perform its obligations resulting from unforeseeable causes beyond its reasonable control ("Force Majeure").
i. Severability. The provisions of this Agreement shall be deemed severable.
j. Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.
k. Notices. All notices, demands or requests required or permitted hereunder shall be deemed properly given when sent in writing (including by electronic mail) to the designated representative of the other Party at the addresses set out below, or such other address as a Party may from time to time advise.

9. ACADEMIC FREEDOM

- a. Academic Freedom. Under no circumstance shall this Agreement be read as granting the City or its representatives any right to participate in matters related to the academic affairs of the University.

10. GENERAL

- a. Regulatory and Ethics Approvals. No work under this Agreement which requires regulatory or ethics approvals shall commence until such time as the necessary approvals have been obtained.
b. Giving Effect to the Agreement. The Parties agree to do all things and execute all documents required to give effect to the provisions of this Agreement.
c. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
d. Independent Parties. The City and UOIT are independent parties and nothing in this Agreement shall constitute either Party as the employer, principal or partner of or joint venture with the other Party. No Party has any authority to assume or create any obligation or liability, either express or implied, on behalf of the other Party.
e. Assignment, Successors and Assigns. This Agreement shall not be assigned by any Party without the prior written consent of the other Party. This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective successors and permitted assigns.
f. Entire Agreement. This Agreement sets forth the entire agreement between the Parties pertaining to the Project, and no modification, variation or amendment of it shall be binding upon the parties unless it is in writing and signed by duly authorized representatives of both Parties
g. Waiver. No waiver by either Party of any delay, default or omission by the other Party shall affect or impair the rights of the non-defaulting Party in respect of any subsequent delay, default or omission of the same or different kind. For the avoidance of doubt, no waiver by either Party shall be valid unless made in writing.

CITY:

Julie MacIsaac
Director, Recreation & Culture Services
50 Centre St. S
Oshawa, ON L1H 3Z7
Canada
Email: JMacIsaac@Oshawa.ca

Tel.: 905) 436 3311 x5633

UOIT:

Jennifer Freeman
Director, Research Services
2000 Simcoe Street North
Oshawa, ON L1H 7K4
Canada
Email: Jennifer.freeman@uoit.ca
With a copy to: research@uoit.ca

Tel.: +1 905 721 8668 x3176

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorized representatives.

The Corporation of the City of Oshawa

Jag Sharma,
City Manager

DATE

I have the authority to bind City

University of Ontario Institute of Technology

Michael Owen, PhD.
Vice President Research, Innovation and International

DATE

I have authority to bind the University