

**PROFESSIONAL SERVICES CONTRACT**  
**CONTRACT NO. PT-02-16**  
**DIVERSITY AND INCLUSION PROGRAM**

This CONTRACT is made this 18<sup>th</sup> day of February, 2016, between the Pierce County Public Transportation Benefit Area Corporation (hereinafter referred to as "Pierce Transit") and Invista Performance Solutions (hereinafter referred to as "Contractor").

WHEREAS, Pierce Transit desires to retain the services of Contractor to provide an on-site Diversity and Inclusion Program and Train the Trainer modules; and

WHEREAS, Contractor is qualified, willing, and able to provide and perform said services; and

WHEREAS, said services are temporary in duration.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, to be kept, performed, and fulfilled by the respective parties hereto, and other good consideration, it is mutually agreed as follows:

1. **DOCUMENTS INCORPORATED IN THIS CONTRACT:** Contractor shall comply with the terms and conditions of this Contract and with the terms and conditions of the documents listed below, if any, attached hereto, and by reference made a part hereof. The Contract and the documents incorporated herein constitute the entire Contract between Pierce Transit and the Contractor, except for modifications as provided, and in case of dispute shall govern in the following order of precedence:
  - a. Amendments to this Contract;
  - b. This Contract; and
  - c. Contractor's Proposal dated December 16, 2015.

2. **SCOPE OF WORK:**

Invista Performance Solutions will deliver an on-site Diversity and Inclusion Program and Train the Trainer modules, training employees to recognize, respect and value the differences that lead to innovative approaches and diverse thought in the workplace and deliver subsequent trainings of value laden topics internally. Pierce Transit's Representative will initiate an internal leadership awareness campaign within Pierce Transit to identify and solicit potential trainers through a Champion Application.

**Module 1:**

Invista Performance Solutions will deliver the solution in a series of progressive modules beginning with this 4-hour Kick-Off with leaders only. This module will outline the course so participants have a road map for the training and will understand what Diversity Awareness Training can and can't do or solve. It engages the learners immediately with the purpose of the training and its benefits to them as adult learners. This module includes a required questionnaire designed to spark engaging exercises facilitated by Myra Downing with a Pierce Transit Representative's assistance. This module will be designed to include Pierce Transit's values and interests including identifying and discussing leadership attributes that support diversity. This module will explain:

- The WHY?
- Overview of Diversity and Inclusion
- Requirements of Management
- What's In It For Me—benefits of the program
- Participants role in creative active thinking

**Module 2:**

Invista Performance Solutions will deliver an 8-hour full day Diversity and Inclusion trainings for up to twenty-five (25) potential Champions and others interested in the course, up to possibly four (4) cohorts. Pierce Transit's Representative will prepare and send out an application to find out who is interested in being on the team of champions and/or attend the training. Information will be presented on communicating from a cultural perspective. Participants will be afforded the opportunity to practice this in comfortable and potentially uncomfortable situations. The session will end with participants identifying ways they can apply what they learned when interacting or working with people who may be different than themselves. They will also identify actions they can take at work to create a place for diversity. Interactive practice exercises are used to allow participants to work with the information being presented. Time is allotted for discussion and to answer questions, all with the major emphasis on application on the job and at the work sites within Pierce Transit's culture and practices. Participants will be assessed on their ability to identify and incorporate Diversity and Inclusion initiatives. After training participants will be able to:

- Create a common understanding by defining culture
- Identify the impact of diversity within the workplace and how it affects relationships
- Review current values, biases, and differing work views/perspectives
- Learn via dialog and discussion how to talk about differences safely
- Develop strategies that positively impact relationships and the organization

**Module 3:**

Invista Performance Solutions will deliver thirty-two (32) hours over four (4), 8-hour full day Train the Trainer sessions. Participants will be selected from those who attended the training and any others recommended by Pierce Transit. Participants are assessed on their ability to effectively facilitate value laden training. At this program's conclusion, participants will be able to:

- Identify and demonstrate the characteristics of an exceptional facilitative trainer
- Demonstrate effective training facilitative techniques
- Present information in a clear, concise, and engaging manner
- Design, develop and facilitate customized training and interactive exercises and discussions
- Demonstrate effective presence and competence through tone, word choice, and body language
- Utilize various visual aids and notes effectively to enhance a presentation

**DELIVERABLES:**

**Module 1: Diversity and Inclusion Training Kick-Off for Management Team of 53 leaders.**  
(One 4-hour Session for 53 participants).

- Introduction and overview of D&I course creation and program maintenance at Pierce Transit
- Questionnaires
- Engagement Exercises

**Module 2: Diversity and Inclusion Training for potential champions and other interested participants. (One 8-hour Session for 25 participants).**

- Instructor led delivery up to 25 participants
- Diversity awareness and best practices
- Interactive practice exercises
- Participant assessment

**Module 3: Diversity and Inclusion Training for potential champions and other interested participants. (Four 8-hour Sessions for 15 participants each session).**

- Instructor led delivery up to 15 participants each session
- Development of participant learning materials
- Implementation of OJT training
- Post training evaluation

**3. OBLIGATIONS OF PIERCE TRANSIT:**

- a. **Compensation:** Fee for the services as described shall be \$14,285.00 plus applicable sales tax. Total compensation may not exceed \$16,000.00 for all work under this Contract. Any additional work must be preapproved in writing by Pierce Transit.
- b. Payment shall be made by Pierce Transit within thirty (30) days of receipt of a correct invoice from the Contractor. Incorrect invoices are subject to rejection or correction by Pierce Transit.
- c. **Subcontractor Billing:** The Contractor shall audit and review all invoicing and billing of subcontractor and assure Pierce Transit that all proper personnel and rates are applied in strict conformance with the Contract.

**4. PROPERTY RIGHTS:** All records or papers of any sort relating to Pierce Transit and to the project will at all times be the property of Pierce Transit and shall be surrendered to Pierce Transit upon demand. All information concerning Pierce Transit and said projects, which is not otherwise a matter of public record or required by law to be made public, is confidential, and the Contractor will not, in whole or in part, now or at any time disclose that information without the express written consent of Pierce Transit.

**5. CONFIDENTIAL MATERIALS AND PUBLIC DISCLOSURE:**

- a. This Contract and all records provided to Pierce Transit by Contractor hereunder may be public records subject to disclosure under the Washington State Public Records Act and/or other laws requiring disclosure or discovery of records. In the event Pierce Transit receives a request for such disclosure, Pierce Transit will provide Contractor with five (5) days' written notice prior to release of responsive records. The parties acknowledge that Pierce Transit is not liable for any release of records pursuant to public disclosure or discovery laws.
- b. Contractor shall mark certain record(s) as "Confidential" or "Proprietary" as appropriate given the potential sensitive subject of Contractor's work under this Contract. If Contractor fails to so mark record(s), then Pierce Transit, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above.

6. **INDEPENDENT CONTRACTOR RELATIONSHIP:**
  - a. The Contractor is and shall be at all times during the term of this Contract an independent contractor and not an employee of Pierce Transit, and shall not be entitled to any of the usual benefits incident to employment with Pierce Transit.
  - b. Any and all employees of the Contractor, while engaged in the performance of any work or service required by the Contractor under this Contract, shall be considered employees of the Contractor only and not of Pierce Transit and any and all claims that may or might arise under the Workers' Compensation Act on behalf of said employees, while so engaged and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Contractor's employees, while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Contractor.
  - c. The Contractor shall not engage, on a full or part-time basis, or other basis, during the period of the Contract, any professional or technical personnel who are, or have been at any time during the period of this Contract, in the employ of Pierce Transit, except regularly retired employees, without written consent of Pierce Transit.
  
7. **DESIGNATED EMPLOYEES:** The employees who will perform the services on behalf of the Contractor shall be designated by the Contractor and a list of such designated employees shall be provided to Pierce Transit at the commencement of Contractor's work. No other individuals may perform the services required by this Contract without the express written permission of Pierce Transit. Pierce Transit may, however, require the removal of any employee and the Contractor shall replace such employee upon demand by Pierce Transit.
  
8. **SUBCONTRACTORS:** Subcontractors, if any, who will perform work under this Contract shall be the firms designated in this Contract, if any. No other subcontractors shall perform the services required under this Contract without the express written permission of Pierce Transit. The Contractor is expected to audit and review all invoicing and billing by subcontractors and will ensure that all personnel and billing rates are applied in strict conformance of the Contract.
  
9. **ETHICS:**
  - a. The Contractor warrants that it has not employed nor retained any company, firm or person, other than a bona fide employee working solely for it, to solicit or secure this Contract, and that it has not paid or agreed to pay any company, firm or person, other than a bona fide employee working solely for it, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, Pierce Transit shall have the right to annul this Contract without liability.
  - b. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising there from.
  - c. No member, officer, or employee of Pierce Transit or of a local public body during his tenure shall have any interest, direct or indirect, in this Contract or its proceeds.
  - d. Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, disability, age, marital status, political affiliation, national origin, and/or any protected classifications under state or federal laws.
  
10. **AUDIT:** For a period of 36 months from completion of work under this Contract. Contractor shall permit the authorized representatives of Pierce Transit, the U.S. Department of Transportation, the Controller General of the United States, and/or the Washington State Auditor's Office to inspect and audit all data and records of Contractor relating to his performance under this Contract.

11. **TERM OF CONTRACT:** This Contract shall be effective as of the date first written above and shall expire on December 31, 2016.
12. **EXTENSIONS AND TERMINATION:**
  - a. This Contract may be extended for an additional period upon the written consent of both parties hereto.
  - b. This Contract may be terminated by either party on ten (10) days' written notice to the other, except that if the Contractor fails to perform or observe any of the provisions, terms, or conditions herein, Pierce Transit may terminate this Contract immediately so long as written notice is thereafter communicated to the Contractor at his last known address. Pierce Transit will pay for all services rendered up to the time of notification of termination of this Contract, less prior interim payments, if any. Upon payment of such sums, Pierce Transit shall be discharged from all liability to the Contractor hereunder and this Contract shall be considered terminated unless extended in writing by mutual agreement between the parties hereto.
  - c. Upon termination of Contract under Paragraph 12(b) above, all documents, records, and file materials shall be turned over to Pierce Transit by the Contractor.
  - d. All services to be rendered under this Contract shall be subject to direction and approval of Pierce Transit.
13. **ASSIGNMENT:** This Contract may not be assigned or otherwise transferred by either party hereto, nor will the Contractor delegate, nor hire additional persons to perform services and duties under this Contract, without the advance written consent of Pierce Transit.
14. **WAGE AND HOURS LAW COMPLIANCE:** Contractor shall comply with all applicable provisions of the Fair Labor Standards Act and all other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save Pierce Transit free, clear and harmless from all actions, claims and expenses arising out of said Act and rules and regulations that are or may be promulgated in connection herewith.
15. **SOCIAL SECURITY AND OTHER TAXES:** Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which is now or may during the term of the Contract be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work on this project and under this Contract and shall assume exclusive liability thereof, and meet all requirements there under pursuant to any rules or regulations.

**16. INSURANCE:**

- A. The Contractor shall procure and maintain for the duration of this Contract liability insurance against claims for injuries to persons or damage to property or business losses that may arise from or in connection with the Contractor's Professional Liability including the work of the Contractor's agents, representatives, employees, Subcontractors or Subcontractors' employees in the amount of at least \$1,000,000 per occurrence.
- B. Pierce Transit shall be named as an additional insured on the following Contractor's liability insurance policies, and before beginning work, Contractor shall provide Certificates of Insurance listing Pierce Transit as an additional insured on policies providing the types and minimum limits of coverage as follows:
  - 1. Business auto coverage for any auto no less than \$1,000,000 per accident limit.
  - 2. Commercial general liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employer's liability.
  - 3. Pierce Transit reserves the right to receive a certified and complete copy of all of the Contractor's current insurance policies with all endorsements upon fifteen (15) days' notice.
- C. The Contractor is responsible for the payment of any deductible or self-insured retention that is required by any of the Contractor's insurance carriers. If Pierce Transit is required to contribute to the deductible under any of the Contractor's insurance policies, the Contractor shall reimburse Pierce Transit the full amount of the deductible.
- D. It is the intent of this Contract for the Contractor's insurance to be considered primary in the event of a loss, damage or suit. Pierce Transit's own insurance will be considered excess coverage in respect to Pierce Transit. Additionally, the Contractor's commercial general liability policy must provide cross-liability coverage as would be achieved under a standard Insurance Services Organization (ISO) separation of insureds clause.
- E. The Contractor shall request from his insurer a modification of the ACORD certificate to include language that notification will be given to Pierce Transit for any cancellation, suspension or material change in the Contractor's coverage.

**17. DEFENSE AND INDEMNIFICATION AGREEMENT:**


Each party shall be responsible for the actions and inactions of itself and its own officers, employees, and agents acting within the scope of their authority. To the extent authorized under the Constitution and laws of the State of Washington, each party shall indemnify, defend, and hold harmless the other party, its officers, employees, and agents from any claims, losses, or suits, including attorney's fees, arising out of injuries and damages caused by each party's own negligence or failures to perform its obligations under this contract. In the case for fault or negligence of both parties, any damages allowed shall be levied in proportion to the percentage of the fault or negligence attributable to each party. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement.


18. **DISPUTE RESOLUTION:** Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be subject to the dispute resolution procedures in this Subparagraph. Prior to the initiation of any action or proceeding to resolve disputes between Pierce Transit and Contractor, the parties shall make a good faith effort to resolve any such disputes by negotiation between representatives with decision-making power, who shall not have substantive involvement in the matters involved in the dispute, unless the parties otherwise agree. Failing resolution, the parties shall attempt to resolve the dispute through a mediation conducted by a person(s) or organization experienced in mediation initiated within thirty (30) days from the date of the request unless extended by agreement of both parties. The positions expressed and mediator's recommendations, if any, shall not be admissible as evidence in any subsequent proceeding. At all times during the course of any unresolved dispute between the parties, the Contractor shall supervise, direct and perform the Work in a diligent and professional manner and without delay as provided under the terms of the Contract. The good faith completion of negotiation efforts and mediation pursuant to this Article shall be a prerequisite to the filing of any litigation.
19. **CONTENT AND UNDERSTANDING:** This Contract contains the complete and integrated understanding and agreement between the parties and supersedes any previous understanding, agreement or negotiation whether oral or written.
20. **NOTICES:** Any notice given by either party to the other hereunder shall be served, if delivery in person, to the office of the representative authorized and designated in writing to act for the respective party, or if deposited in the mail, properly stamped with the required postage and addressed to the office of such representative as indicated in this Contract. Either party hereto shall have the right to change any representative or address it may have given to the other party by giving such other party due notice in writing of such change.
- To the Contractor: Don Sosnowski, Executive Director  
Invista Performance Solutions  
4500 Steilacoom Blvd., SW, Bldg. 19  
Lakewood, WA 98499  
Tel: 253.583.8860  
Fax: 253.589.4320  
E-mail: dsosnowski@investaperforms.org
- To Pierce Transit: Dana Henderson, General Counsel  
Pierce Transit  
3701 96<sup>th</sup> Street SW  
PO Box 99070  
Lakewood, WA 98496-0070  
Tel: 253.777.4977  
Fax: 253.581.8075  
E-mail: dhenderson@piercetransit.org
21. **CHANGES:** No change, alteration, modification, or addition to this Contract will be effective unless it is in writing and properly signed by both parties hereto.
22. **GOVERNING LAW AND VENUE:** This Contract and the rights and obligations of the parties hereunder shall be governed by the laws of the State of Washington. Pierce County Superior Court shall be the venue for any legal action.

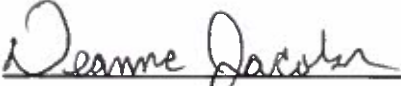
- 23. **SEVERABILITY:** If one or more of the Contract clauses is found to be unenforceable, illegal or contrary to public policy, the Contract will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.
- 24. **AUTHORIZED REPRESENTATIVE:** In performing the services defined herein, Contractor shall report to: J. Michelle Swope, Lean and Workforce Development Coordinator. Contractor's Representative is: Steven Kovacs, Business Development Manager.

IN WITNESS WHEREOF, the parties hereto have signed this Contract on the day and year written below.


**PIERCE COUNTY PUBLIC TRANSPORTATION  
BENEFIT AREA CORPORATION**

  
 \_\_\_\_\_  
 Sue Dreier  
 Chief Executive Officer  
 2/10/16  
 \_\_\_\_\_  
 Date

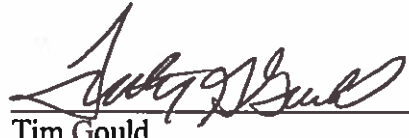
  
 \_\_\_\_\_  
 Wayne Fanshier  
 Executive Director of Finance/CFO  
 2/10/16  
 \_\_\_\_\_  
 Date

ATTEST:  
  
 \_\_\_\_\_  
 Deanne Jacobson, CMC  
 Clerk of the Board

**INVISTA PERFORMANCE SOLUTIONS**

  
 \_\_\_\_\_  
 Don Sosnowski  
 Executive Director  
 2/12/16  
 \_\_\_\_\_  
 Date

**TACOMA COMMUNITY COLLEGE**

  
 \_\_\_\_\_  
 Tim Gould  
 Vice President of Administrative Services  
 2/18/16  
 \_\_\_\_\_  
 Date