Amendment No. 1

To

RAIL SHUTTLE BUS SERVICE ADMINISTRATION AGREEMENT BETWEEN PENINSULA CORRIDOR JOINT POWERS BOARD AND CITY OF MENLO PARK FOR MENLO PARK SHOPPER SHUTTLE

THIS AMENDMENT modifies the Rail Shuttle Bus Service Administration Agreement ("Agreement"), which was effective November 24, 2014, by and between the Peninsula Corridor Joint Powers Board ("JPB") and City of Menlo Park ("Lead Organization").

The JPB and the Lead Organization entered into the Agreement, whereby the Lead Organization participates in the JPB shuttle bus services program; and

The Agreement is set to expire on June 30, 2015; and

The Parties desires to extend the Agreement for a one year period; and

The Parties desire to amend the Agreement in accordance with the terms and conditions of this First Amendment.

NOW THEREFORE, IT IS AGREED to amend the Agreement as follows:

1. Section 3 of the Agreement, Shuttle Service Vendor, is amended by replacing the following language as the first paragraph:

   JPB shall make available to Lead Organization the above described Shuttle Service operated by the JPB's Shuttle Provider ("Vendor") in full accordance with the terms and conditions of the contract between the JPB and the Vendor. The Lead Organization will have daily management responsibilities for the Shuttle.

2. Section 4 of the Agreement, Term, is amended by adding the following language as the second paragraph:

   Effective July 1, 2015, the term of the Agreement shall be extended for 12 months commencing July 1, 2015 and ending June 30, 2016.
3. Section 5 of the Agreement, **Maximum Contribution: Payment**, is amended by adding the following language as the second paragraph:

During the 12 month extension of the Agreement, commencing July 1, 2015 and ending June 30, 2016, the JPB’s maximum contribution (which includes contributions from all other funding agencies involved, if any) for Shuttle Service shall not exceed Zero Dollars ($0.00), which is Zero percent (0.0%) of the estimated total operating costs for the Shuttle Service as determined by the JPB.

4. Section 6 of the Agreement, **Lead Organization’s Payment** is amended by adding the following language as the second paragraph:

During the 12 month extension of the Agreement, commencing July 1, 2015 and ending June 30, 2016, Lead Organization shall pay One Hundred point Zero percent (100.0%) of the total actual costs of operating the Shuttle Service. Lead Organization’s share shall equal Fifty-Eight Thousand Seven Hundred Seventy Dollars ($58,770), subject to a final adjustment.

5. Section 14 of the Agreement, **Notices** is amended by revising the Lead Organization’s Liaison information:

   **If to Lead Organization:**
   
   Jessica Almanza  
   City of Menlo Park  
   701 Laurel Street  
   Menlo Park, CA 94025

   Acting Transportation System Management  
   (650) 330-6773  
   jpalmanza@menlopark.org

6. Section 15 of the Agreement, **Liaison** is amended by revising the Lead Organization’s Liaison information and adding the following language after the Lead Organization’s Liaison information:

   **Lead Organization’s Liaison:**
   
   Jessica Almanza  
   Acting Transportation System Management  
   (650) 330-6773  
   jpalmanza@menlopark.org
When the primary Lead Organization’s Liaison is unavailable, a secondary contact shall be:

Lead Organization’s 2nd Liaison: Nicole H. Nagaya
Transportation Manager
(650) 330-6781
nhnagaya@menlopark.org

7. Effective July 1, 2015, the following Exhibits have been deleted and replaced by revised Exhibits:

EXHIBIT F INDEMNITY INCLUSION

Except for those changes expressly specified in this First Amendment, all other provisions, requirements, conditions, and sections of the underlying Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the date first written above with the intent to be legally bound.

PENINSULA CORRIDOR JOINT POWERS BOARD

By: [Signature]
Name: Michelle Brandt
Title: COO, RAIL

CITY OF MENLO PARK

By: [Signature]
Name: Alex D. McIntyre
Title: CITY MANAGER

APPROVED AS TO FORM

JPB Attorney
EXHIBIT F
INDEMNITY INCLUSION
10. **USE OF SUBCONTRACTORS**

The CONTRACTOR shall not subcontract any services to be performed by it under this Agreement without the prior written approval of the JPB, except for service firms engaged in drawing, reprographics, typing, and printing. Any subcontractors must be engaged under written contract with the CONTRACTOR with provisions allowing the CONTRACTOR to comply with all requirements of this Agreement, including without limitation the "Ownership of Work" provisions in Section 8. The CONTRACTOR shall be solely responsible for reimbursing any subcontractors and the JPB shall have no obligation to them.

11. **CHANGES**

The JPB may at any time, by written order, make changes within the scope of work and services described in this Agreement. If such changes cause an increase or decrease in the budgeted cost of or the time required for performance of the agreed upon work, an equitable adjustment as mutually agreed shall be made in the limit on compensation as set forth in Section 5 or in the time of required performance as set forth in Section 3, or both. In the event that CONTRACTOR encounters any unanticipated conditions or contingencies that may affect the scope of work or services and result in an adjustment in the amount of compensation specified herein, or identifies any JPB conduct (including actions, inaction, and written or oral communications other than a formal contract modification) that the CONTRACTOR regards as a change to the contract terms and conditions, CONTRACTOR shall so advise the JPB immediately upon notice of such condition or contingency. The written notice shall explain the circumstances giving rise to the unforeseen condition or contingency and shall set forth the proposed adjustment in compensation. This notice shall be given to the JPB prior to the time that CONTRACTOR performs work or services related to the proposed adjustment in compensation. The pertinent changes shall be expressed in a written supplement to this Agreement issued by the Contracts and Procurement Department prior to implementation of such changes. Failure to provide written notice and receive JPB approval for extra work prior to performing extra work may, at the JPB's sole discretion, result in nonpayment of the invoices reflecting such work.

Notwithstanding the foregoing, the JPB may delete or modify routes should ridership or funding increase or decrease. The JPB may change schedules, street routing, and passenger pickup/drop off points at any time during the term of the Agreement. In the event the total number of vehicles required for operating the service increases or decreases by 40% from the initial base quantities set forth in Exhibit A, the JPB and the CONTRACTOR will renegotiate the Vehicle Revenue Hour rates as appropriate.

12. **RESPONSIBILITY: INDEMNIFICATION**

The CONTRACTOR shall indemnify, keep and save harmless the JPB, the Bay Area Air Quality Management District, City/County Association of Governments, the San Mateo County Transportation Authority, and their respective directors, officers, agents and employees and entities participating in the JPB's shuttle program ("Lead Organizations") against any and all suits, claims or actions arising out of any of the following:

A. Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the CONTRACTOR caused by a negligent act or omission or willful misconduct of the CONTRACTOR or its employees, subcontractors or agents; or

B. Any allegation that materials or services provided by the CONTRACTOR under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.
C. Any claims that may be asserted under Section 13(c) and 15(n)(l) of the Federal Transit Administration Act of 1964, as amended, or any comparable provisions of federal or state law (or under any regulations promulgated thereunder), as said laws or regulations now exist or hereafter may be amended.

The CONTRACTOR further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against the JPB or any of the other entities or individuals enumerated above in any such action, the CONTRACTOR shall, at its expense, satisfy and discharge the same. This indemnification shall survive termination or expiration of the Agreement.

13. INSURANCE

Refer to Attachment A, appended hereto and incorporated herein, for the Insurance Requirements.

14. CALIFORNIA LABOR CODE SECTION 1070 ET SEQ.

Upon the commencement and throughout the full term of this Agreement, CONTRACTOR and its subcontractor(s), if applicable, shall maintain a list of all employees providing the Services required under the Agreement, which includes the information required by Labor Code Section 1070 et seq. and which indicates which employees were employed by the prior contractor and its subcontractor(s), if any. The CONTRACTOR and its subcontractor(s) must also maintain a list of all employees of the prior contractor and its subcontractor(s) that were not retained by the CONTRACTOR or its subcontractor(s), and such list must indicate the reasons why such employees were not retained.

Upon request from the JPB, the CONTRACTOR and its subcontractor(s) must provide such lists to the JPB within 10 days of such request. The JPB has the ability to request such lists throughout the term of the Agreement.

The CONTRACTOR shall be responsible for defending, and shall hold the JPB (as well as all JPB Indemnitees) harmless from, any claims or controversies alleging any violation or breach of Labor Code Section 1070 et seq., whether made by the CONTRACTOR’s own employees, the employees of its subcontractor(s), or employees of the prior contractor or its subcontractor(s), arising from or related to the terms and conditions of employment of employees hired to work for the CONTRACTOR as of the effective date of this Agreement. Notwithstanding any other provision of this Agreement, no cost of liability for which CONTRACTOR is responsible under this paragraph shall be deemed an allowable cost payable to the CONTRACTOR or claim or liability for which the CONTRACTOR is entitled to indemnification or reimbursement from the JPB. The CONTRACTOR shall be exclusively responsible for satisfaction of all obligations that may be owed to its employees of the prior contractor, pursuant to Labor Code Section 1070 et seq., both during and subsequent to the term of the Agreement.

At least twelve months before the end of the Agreement, the CONTRACTOR and its subcontractor(s) will provide the JPB a list of employees working at Shuttle Services location(s). This list of employees shall indicate the length of service of each employee, their job title and description, and their current salary. This information may be distributed to future proposers for a new contract that will commence whenever the current Agreement term ends. The CONTRACTOR and its subcontractor(s) must provide updates on a monthly basis of the employee lists after the original employee list has been submitted. The CONTRACTOR’s and its subcontractors’ obligation to provide monthly updates of the employee lists will last until the end of the Agreement term.

If a new contract is awarded to a different contractor at the end of the CONTRACTOR’s Agreement, the CONTRACTOR must provide to the new contractor the name, address, date of hire, wages, benefit level, and job classification of each employee employed at the CONTRACTOR’s locations covered by the CONTRACTOR’s Agreement within three working days after the CONTRACTOR has