Resolution No. 2024-080 N.C.S. of the City of Petaluma, California

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA ESTABLISHING AN AMENDED JOINT QUIET ZONE AND DESIGNATING THE COUNTY OF SONOMA AS LEAD AUTHORITY FOR PURPOSES OF ESTABLISHING THE AMENDED JOINT QUIET ZONE

WHEREAS, the Sonoma-Marin Area Rail Transit District ("SMART") has completed railway improvements in SMART-owned right of way traversing Marin and Sonoma Counties ("SMART Rail Line") and is currently operating commuter rail service in both counties; and

WHEREAS, the SMART Rail Line passes through Sonoma County, including, inter alia, the cities of Petaluma, Cotati, Rohnert Park, and Santa Rosa; and

WHEREAS, effective November 21, 2017, Sonoma County ("County"), Cotati, and Rohnert Park have jointly established a quiet zone (as defined in 49 C.F.R. Part 222) that applies to the SMART Rail Line in the jurisdiction of such cities, and the portion of the county from the crossing at Ely Road to the northern terminus thereof at Aviation Boulevard ("Joint Quiet Zone"); and

WHEREAS, the Joint Quiet Zone extends from milepost 42.20 on the SMART Rail Line at Ely to milepost 50.80 at West Robles Avenue south of Santa Rosa and again from milepost 49.05 north of Santa Rosa to milepost 59.38 south of Windsor; and

WHEREAS, the Joint Quiet Zone is depicted and the U.S Department of Transportation Crossing Inventory numbers and the street or highway name of the crossings in the Joint Quiet Zone are listed in Exhibit A of Attachment 1 which is made a part of this Agreement; and

WHEREAS, the Joint Quiet Zone excludes, and is interrupted by, the portion of the SMART Rail Line that passes through and is under the jurisdiction of the City of Santa Rosa beginning at milepost 51.30 at approximately Bellevue Avenue, and ending at milepost 56.80 at approximately San Miguel Avenue; and

WHEREAS, effective May 24, 2017, Petaluma has established its own quiet zone under 49 C.F.R. Part 222.39(a)(3) within its jurisdictional boundaries, from milepost 41.10 at approximately Corona Road to milepost 37.77 at approximately Caulfield Lane ("Petaluma Quiet Zone"); and

WHEREAS, the Petaluma Quiet Zone is depicted and the U.S Department of Transportation Crossing Inventory numbers and the street or highway name of the crossings in the Petaluma Quiet Zone are listed in along with the Joint Quiet Zone in Exhibit A of Attachment 1; and

WHEREAS, the Petaluma Quiet Zone was established by the installation of Supplemental Safety Measures at selected crossings in Petaluma such that the Quiet Zone Risk Index in the Petaluma Quiet Zone is reduced to the level of risk that would exist if train horns were sounded at every crossing in the quiet zone; and

WHEREAS, Federal Rail Authority ("FRA") regulations refer to this risk level as the Risk Index with Horns and under FRA regulations, quiet zones must begin and end at publicly owned rail crossings; and

WHEREAS, the Petaluma Quiet Zone does not apply to the entirety of the SMART Rail Line in Petaluma's jurisdiction as a portion of the SMART Rail Line at Petaluma's northern and southern boundaries is outside the Petaluma Quiet Zone due to FRA rules governing the beginning and endpoints of quiet zones; and

WHEREAS, the County of Sonoma desires to create an uninterrupted quiet zone that applies to the entirety of the SMART Rail Line in Sonoma County (except for the portion of the SMART Rail Line in the City of Santa Rosa), including the southern portion of the County; and

WHEREAS, it is also beneficial to extend the quiet zone in Petaluma to apply to the entirety of the SMART Rail Line in Petaluma's jurisdiction, so that all Petaluma residents living near the SMART Rail Line benefit from the quiet zone; and

WHEREAS, the FRA quiet zone rules require the County and Petaluma to cooperate to extend a quiet zone that includes private crossings north and south of the existing Petaluma Quiet Zone and encompasses the entire length of the SMART Rail Line in Petaluma and the adjacent areas through which the SMART Rail Line extends in the unincorporated County; and

WHEREAS, the Parties understand and agree that safety measures installed at the public and private crossing in Petaluma and outside the Petaluma Quiet Zone and in the County and outside the Joint Quiet Zone (the "Added Quiet Zone Crossings") are such that the Added Quiet Zone Crossings are eligible for inclusion in a quiet zone pursuant to 49 C.F.R. §222.39(a)(3) because they have a risk level equivalent to the risk level with horns, and that, as a result, no additional safety measures are required to incorporate the Added Quiet Zone Crossings into the Amended Joint Quiet Zone; and

WHEREAS, 49 C.F.R. §222.37(a) authorizes a single public entity ("Lead Authority") to establish a single quiet zone that includes crossings located within its own jurisdictional boundaries and also qualified crossings located in adjacent and other public authorities' jurisdictions; and

WHEREAS, the County has agreed to act and serve as the Lead Authority for the purpose of establishing a single quiet zone extending north and south of the existing Petaluma Quiet Zone in accordance with the terms and conditions of this Agreement; and

WHEREAS, according to the FRA regulations, agencies acting as Lead Authority perform only administrative responsibilities and Lead Authorities do not assume responsibility for liability arising out of the operation of rail crossings covered by a quiet zone but located in another jurisdiction; and

WHEREAS, the County intends, upon the grant of permission by Petaluma, to file an amended notice of intent to establish a quiet zone which shall include the currently extant portions of the Joint Quiet Zone in the County, including portions of the SMART Rail Line in Rohnert Park and Cotati, and add the portion of the SMART Rail Line subject to the Petaluma Quiet Zone, as well as the Added Quiet Zone Crossings segments north and south of the existing Petaluma Quiet Zone; and

WHEREAS, the amended notice of intent to establish a quiet zone that the County intends to file in accordance with the Agreement will extend from mile post 59.38 on the SMART Rail Line at approximately Aviation Boulevard to milepost 58.50 at approximately Fulton Road, and from milepost 50.80 at approximately West Robles Boulevard to milepost 28.50 at approximately Rush Creek Place; and

WHEREAS, the quiet zone to be established pursuant to this Agreement ("Amended Joint Quiet Zone") is depicted, and the U.S Department of Transportation Crossing Inventory numbers and the street or highway name

of the crossings in the Amended Joint Quiet Zone are listed in Exhibit B, which is made a part of this Agreement; and

WHEREAS, the County anticipates entering into an agreement with the County of Marin, and municipalities in the County of Marin, as required to allow the quiet zone that applies to the SMART Rail Line in Sonoma County to continue south past the County's southern boundary as needed to establish a quiet zone that applies to the entirety of the SMART Rail Line within the County without interruption (except for the portion of the SMART Rail Line in the City of Santa Rosa); and

WHEREAS, Petaluma is agreeable to cooperating with the County to achieve the Parties' mutual quiet zone goals and desires that County act as the Lead Authority in establishing the Amended Joint Quiet Zone depicted in Exhibit "B," of Attachment A and supports designating the County as Lead Authority for purposes of establishing the Amended Joint Quiet Zone to include crossings located within and north and south of Petaluma's jurisdictional boundaries in accordance with the terms and conditions of this Agreement; and

WHEREAS, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378 as executing an agreement with the County to expand the quiet zone in Petaluma does not meet CEQA's definition of a "project" because it does not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as the necessary safety measures to qualify for a quiet zone are already in place, and no additional safety measures are anticipated; and

WHEREAS, even if this action were considered a project, it would still be exempt from CEQA review pursuant to CEQA Guidelines Section 15301 (Existing Facilities), 15303 (New Construction of Small Structures), and 15304 (Minor Alterations to Land) as extending the quiet zone in Petaluma would not lead to any physical changes to the environment, and any potential changes would involve constructing minor structures on existing facilities.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma as follows:

- 1. The above recitals are declared true and correct and are incorporated herein as findings of this Resolution.
- 2. Finds that This action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378 as executing an agreement with the County to expand the quiet zone in Petaluma does not meet CEQA's definition of a "project" because it does not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as the necessary safety measures to qualify for a quiet zone are already in place, and no additional safety measures are anticipated.

And even if this action were considered a project, it would still be exempt from CEQA review pursuant to CEQA Guidelines Section 15301 (Existing Facilities), 15303 (New Construction of Small Structures), and 15304 (Minor Alterations to Land) as extending the quiet zone in Petaluma would not lead to any physical changes to the environment, and any potential changes would involve constructing minor structures on existing facilities.

- 3. Designates the County of Sonoma as lead authority for purposes of establishing the amended joint quiet zone
- 4. Authorizes the City Manager to execute the Agreement to Establish Amended Joint Quiet Zone and Designate County of Sonoma as Lead Authority for Purposes of Establishing the Amended Joint Quiet Zone, attached

hereto and incorporated into this resolution as Exhibit 1.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:	I hereby certify the foregoing Resolution was introduced and ado Council of the City of Petaluma at a Regular meeting on the 1 st da the following vote:		Approved as to Docusigned bijn: Docusigned bij
AYES:	McDonnell, Barnacle, Cader Thompson, Healy, Pocekay, Shribbs		
NOES:	None		
ABSENT:	Nau		
ABSTAIN:	None DocuSigned by:	DocuSigned by:	
ATTEST:	City Clerk	FE316449A062476	<u>/ ()</u>

EXHIBIT 1

Agreement to Establish Amended Joint Quiet Zone and Designate County of Sonoma as Lead Authority for Purposes of Establishing the Amended Joint Quiet Zone

AGREEMENT TO ESTABLISH AMENDED JOINT QUIET ZONE AND DESIGNATE COUNTY OF SONOMA AS LEAD AUTHORITY FOR PURPOSES OF ESTABLISHING THE AMENDED JOINT QUIET ZONE

This agreement ("Agreement") is entered into as of the date of execution by the last signatory hereto, by and between the County of Sonoma, a political subdivision of the State of California ("County"), and the City of Petaluma, a California municipal corporation and charter city ("Petaluma"). The County and Petaluma are also singly referred to as a "Party" collectively referred to as the "Parties."

RECITALS

A. The Sonoma-Marin Area Rail Transit District ("SMART") has completed railway improvements in SMART-owned right of way traversing Marin and Sonoma Counties ("SMART Rail Line") and is currently operating commuter rail service in both counties.

B. The SMART Rail Line passes through Sonoma County, including, inter alia, the cities of Petaluma, Cotati, Rohnert Park, and Santa Rosa. Effective November 21, 2017, the County, Cotati, and Rohnert Park have jointly established a quiet zone (as defined in 49 C.F.R. Part 222) that applies to the SMART Rail Line in the jurisdiction of such cities, and the portion of the county from the crossing at Ely Road in Rohnert Park to the northern terminus thereof at Aviation Boulevard ("Joint Quiet Zone"). The Joint Quiet Zone extends from milepost 42.20 on the SMART Rail Line at Ely Road in Rohnert Park to milepost 50.80 at West Robles Avenue south of Santa Rosa and again from milepost 49.05 north of Santa Rosa to milepost 59.38 south of Windsor. The Joint Quiet Zone is depicted and the U.S Department of Transportation Crossing Inventory numbers and the street or highway name of the crossings in the Joint Quiet Zone are listed in Exhibit A which is made a part of this Agreement. The Joint Quiet Zone excludes, and is interrupted by, the portion of the SMART Rail Line that passes through and is under the jurisdiction of the City of Santa Rosa beginning at milepost 51.30 at approximately Bellevue Avenue, and ending at milepost 56.80 at approximately San Miguel Avenue.

C. Effective May 24, 2017, Petaluma has established its own quiet zone under 49 C.F.R. Part 222.39(a)(3) within its jurisdictional boundaries, from milepost 41.10 at approximately Corona Road to milepost 37.77 at approximately Caulfield Lane ("Petaluma Quiet Zone"). The Petaluma Quiet Zone is depicted and the U.S Department of Transportation Crossing Inventory numbers and the street or highway name of the crossings in the Petaluma Quiet Zone are listed in along with the Joint Quiet Zone in Exhibit A. The Petaluma Quiet Zone was established by the installation of Supplemental Safety Measures at selected crossings in Petaluma such that the Quiet Zone Risk Index in the Petaluma Quiet Zone is reduced to the level of risk that would exist if train horns were sounded at every crossing in the quiet zone. Federal Rail Authority ("FRA") regulations refer to this risk level as the Risk Index with Horns. The Petaluma Quiet Zone does not apply to the entirety of the SMART Rail Line in Petaluma's jurisdiction. A portion of the SMART Rail Line at Petaluma's northern and southern boundaries is outside the Petaluma Quiet

Zone due to FRA rules governing the beginning and endpoints of quiet zones. Under FRA regulations, quiet zones must begin and end at publicly owned rail crossings.

D. The County of Sonoma desires to create an uninterrupted quiet zone that applies to the entirety of the SMART Rail Line in Sonoma County (except for the portion of the SMART Rail Line in the City of Santa Rosa), including the southern portion of the County. It is also beneficial to extend the quiet zone in Petaluma to apply to the entirety of the SMART Rail Line in Petaluma's jurisdiction, so that all Petaluma residents living near the SMART Rail Line benefit from the quiet zone. The FRA quiet zone rules require the County and Petaluma to cooperate to extend a quiet zone that includes private crossings north and south of the existing Petaluma Quiet Zone and encompasses the entire length of the SMART Rail Line in Petaluma and the adjacent areas through which the SMART Rail Line extends in the unincorporated County.

E. The Parties understand and agree that safety measures installed at the public and private crossing in Petaluma and outside the Petaluma Quiet Zone and in the County and outside the Joint Quiet Zone (the "Added Quiet Zone Crossings") are such that the Added Quiet Zone Crossings are eligible for inclusion in a quiet zone pursuant to 49 CFR §222.39(a)(3) because they have a risk level equivalent to the risk level with horns, and that, as a result, no additional safety measures are required to incorporate the Added Quiet Zone Crossings into the Amended Joint Quiet Zone.

F. 49 C.F.R. §222.37(a) authorizes a single public entity ("Lead Authority") to establish a single quiet zone that includes crossings located within its own jurisdictional boundaries and also qualified crossings located in adjacent and other public authorities' jurisdictions. The County has agreed to act and serve as the Lead Authority for the purpose of establishing a single quiet zone extending north and south of the existing Petaluma Quiet Zone in accordance with the terms and conditions of this Agreement. According to the FRA regulations, agencies acting as Lead Authority perform only administrative responsibilities. Lead Authorities do not assume responsibility for liability arising out of the operation of rail crossings covered by a quiet zone but located in another jurisdiction.

G. The County intends, upon the grant of permission by Petaluma, to file an amended notice of intent to establish a quiet zone which shall include the currently extant portions of the Joint Quiet Zone in the County, including portions of the SMART Rail Line in Rohnert Park and Cotati, and add the portion of the SMART Rail Line subject to the Petaluma Quiet Zone, as well as the Added Quiet Zone Crossings segments north and south of the existing Petaluma Quiet Zone. The amended notice of intent to establish a quiet zone that the County intends to file in accordance with this Agreement will extend from mile post 59.38 on the SMART Rail Line at approximately Aviation Boulevard to milepost 58.50 at approximately Fulton Road, and from milepost 50.80 at approximately West Robles Boulevard to milepost 28.50 at approximately Rush Creek Place. The quiet zone to be established pursuant to this Agreement ("Amended Joint Quiet Zone") is depicted, and the U.S Department of Transportation Crossing Inventory numbers and the street or highway name of the crossings in the Amended Joint Quiet Zone are listed in Exhibit B, which is made a part of this Agreement.

H. The County anticipates entering into an agreement with the County of Marin, and municipalities in the County of Marin, as required to allow the quiet zone that applies to the SMART Rail Line in Sonoma County to continue south past the County's southern boundary as needed to establish a quiet zone that applies to the entirety of the SMART Rail Line within the County without interruption (except for the portion of the SMART Rail Line in the City of Santa Rosa).

I. Petaluma is agreeable to cooperating with the County to achieve the Parties' mutual quiet zone goals and desires that County act as the Lead Authority in establishing the Amended Joint Quiet Zone depicted in Exhibit "B," and supports designating the County as Lead Authority for purposes of establishing the Amended Joint Quiet Zone to include crossings located within and north and south of Petaluma's jurisdictional boundaries in accordance with the terms and conditions of this Agreement.

Now, therefore, the Parties agree as follows:

AGREEMENT

1. The County agrees to act as Lead Authority and take all those steps prescribed in 49 C.F.R. Part 222 necessary to establish the Amended Joint Quiet Zone as identified in Exhibit B in accordance with the requirements of 49 C.F.R. Part 222.39(a)(3) such that the Quiet Zone Risk Index for the Amended Quiet Zone does not exceed the Risk Index with Horns.

2. Petaluma authorizes the County to act as the Lead Authority for purposes of establishing the Amended Quiet Zone and, to the extent that the Amended Joint Quiet Zone includes crossings within the jurisdictional boundaries of Petaluma and pursuant to 49 C.F.R. §222.37(a), delegates to the County the authority to establish the Amended Joint Quiet Zone in accordance with the terms of this Agreement.

3. Notwithstanding County's agreement to act as Lead Authority for the purposes described herein, County shall not be responsible for and shall not be deemed to assume any responsibility for any liabilities arising out of the maintenance, upgrade, operation, and/or repair of any of the crossings included within the Amended Joint Quiet Zone and located in the jurisdiction of Petaluma. Notwithstanding Petaluma's delegation to County of the authority to initiate and prosecute to completion the procedural steps necessary to establish the Amended Joint Quiet Zone, Petaluma shall not be responsible for nor be deemed to assume any responsibility for any liabilities arising out of the maintenance, upgrade, operation, and/or repair of any of the crossings included within the Amended Joint Quiet Zone but located outside Petaluma's jurisdictional boundary. This Agreement is not intended to alter and may not be construed to alter in any way the rights or responsibilities of the Parties under applicable law concerning their respective rights of way at or near crossings of the SMART Rail Line in their respective jurisdictions.

4. By its signature hereto, consistent with the purposes of this Agreement, Petaluma consents to the County filing in its capacity as Lead Authority an amended and resubmitted Notice of Intent in order to redesignate the portions of the SMART Rail Line within the Joint Quiet Zone to also include all portions of the SMART Rail Line within the Petaluma Quiet Zone, as well as portions of the SMART Rail Line that are outside the Joint Quiet Zone and in the County's jurisdiction so

as to include the Added Quiet Zone Crossings and to establish the Amended Joint Quiet Zone depicted in Exhibit B. The Parties agree that it may be desirable to revise or rescind and resubmit the Notice of Intent if changes to the Amended Joint Quiet Zone become necessary or advisable. The County shall be authorized to act on behalf of Petaluma as the Lead Authority pursuant to 49 C.F.R. §222.37(a) to revise or rescind and resubmit the Notice of Intent to establish the Amended Joint Quiet Zone upon written consent by an authorized representative of Petaluma.

5. County shall timely prosecute the amendment/resubmission of the Notice of Intent to establish the Amended Joint Quiet Zone to a successful conclusion such that the Amended Joint Quiet Zone is reestablished in accordance with 49 C.F.R. Part 222.39(a)(3) and the terms of this Agreement and includes the portions of the SMART Rail Line depicted in Exhibit B hereto and the routine use of locomotive horns must cease within the meaning of 49 C.F.R. §222.45 within 180 days after the execution of this Agreement, to the extent that such is within the reasonable control of the County. Petaluma agrees to fully cooperate with the County regarding the County's establishment of the Amended Joint Quiet Zone, including by making available Petaluma's records regarding the Petaluma Quiet Zone and by making available appropriate Petaluma staff knowledgeable about the Petaluma Quiet Zone.

6. Petaluma agrees to terminate the Petaluma Quiet zone, in such form as is required by the FRA pursuant to 49 C.F.R. §222.51(d) and other applicable FRA regulations, to be effective at 11:59 p.m. on the day prior to the effective date of the establishment of the Amended Joint Quiet Zone covering the portions of the SMART Rail Line depicted in Exhibit B. The County shall coordinate with Petaluma regarding the commencement date of the Amended Joint Quiet Zone to ensure no interruption between the effectiveness of the Petaluma Quiet Zone and the Amended Joint Quiet Zone within the jurisdictional limits of Petaluma. If at any time the County or FRA intends to in whole or in part withdraw the Amended Joint Quiet Zone's quiet zone status, the County agrees to provide Petaluma adequate notice and to cooperate with Petaluma to avoid any interruption in the quiet zone status of the portion of the SMART Rail Line formerly covered by To do so, the County may utilize the procedures in 49 CFR the Petaluma Quiet Zone. §222.51(d)(3), and in such case Petaluma agrees to provide the required certifications and otherwise to cooperate with the County so that the quiet zone status for the portion of the SMART Rail Line formerly covered by the Petaluma Quiet Zone remains in effect. If the County withdraws the quiet zone status of any portion of the Amended Joint Quiet Zone that formerly was covered by the Petaluma Quiet Zone and as a result it is necessary for Petaluma to reestablish the Petaluma Quiet Zone, the County agrees to reimburse Petaluma's reasonable costs incurred, including the cost of staff time expended, in re-establishing the portion of the Petaluma Quiet Zone terminated by the County.

7. The County agrees to be solely responsible for the costs it incurs establishing the Amended Joint Quiet Zone, including all staff and counsel time expended in furtherance thereof, and the costs of any improvements undertaken to prepare any portion of the Amended Joint Quiet Zone for inclusion therein. The benefit of making the entirety of the SMART Rail Line within Petaluma subject to a quiet zone pursuant to the Amended Quiet Zone is consideration for Petaluma's agreeing to terminate the Petaluma Quiet Zone pursuant to this Agreement. Petaluma agrees to be solely responsible for the costs it incurs in cooperating with the County's establishment of the Amended Joint Quiet Zone, including all staff and counsel time expended in furtherance thereof. In no event shall either party be required by this Agreement to undertake any improvements outside the Amended Joint Quiet Zone as depicted in Exhibit "B" hereto, or to fund or reimburse for the

cost of improvements made outside the Amended Joint Quiet Zone.

8. The term of this Agreement shall commence from the date of the last signature of the Parties and continue in effect until it expires or is terminated in accordance with this provision. This Agreement may be terminated by agreement of the Parties. This Agreement may be terminated by either Party for breach following notice to the other party of the breach and an opportunity cure the breach of not less than 30 days or a longer period on which the Parties may agree. Petaluma may terminate this Agreement if the County elects to not establish or is unable to establish the Amended Joint Quiet Zone. This Agreement will expire without further action of the parties upon the County's withdrawal of the quiet zone status of the Amended Joint Quiet Zone and reimbursement of Petaluma's costs, if any, of reestablishing the Petaluma Quiet Zone.

IN WITNESS WHEREOF, the parties hereto execute this Agreement on the date(s) indicated below.

COUNTY OF SONOMA:

By: Supervisor David Rabbitt, Chair of the Board of Supervisors

Approved as to form for County:

_____, Deputy County Counsel

CITY OF PETALUMA:

By: Peggy Flynn, City Manager

Approved as to form for City of Petaluma:

Eric Danly, City Attorney

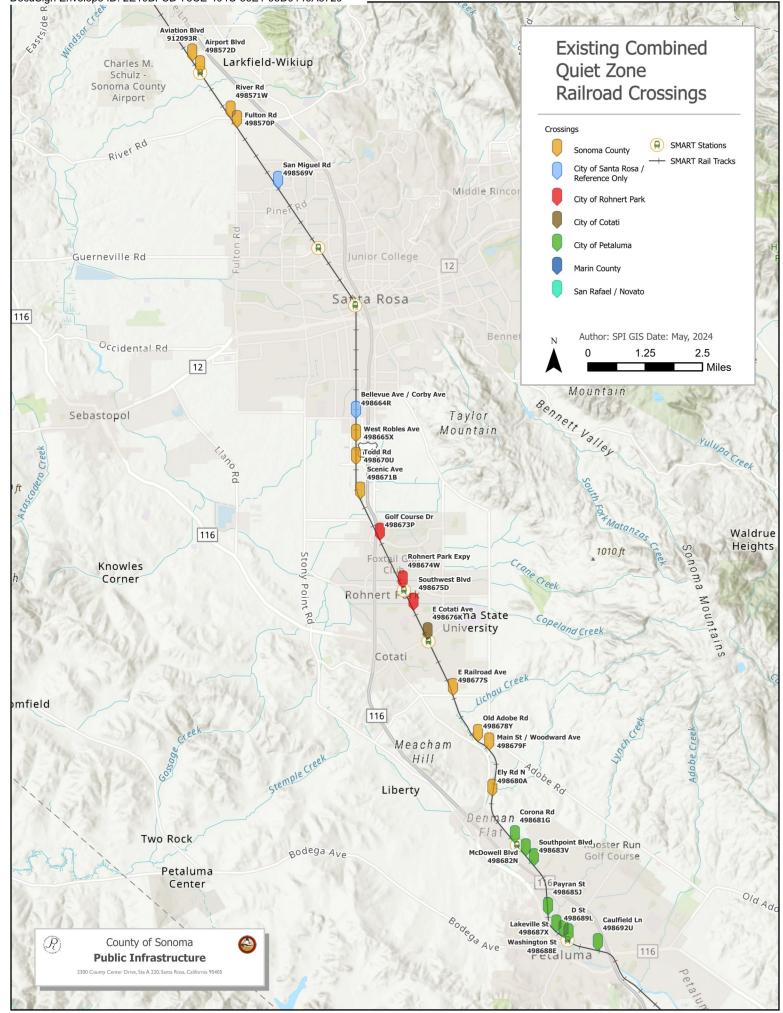
Exhibit A

Joint Quiet Zone and Petaluma Quiet Zone

Exhibit B

Amended Joint Quiet Zone (Including the Added Quiet Zone Crossings)

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