**RESOLUTION NO. 2016-184**

**A RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT REGARDING THE WALT RANCH VINEYARDS AGRICULTURAL EROSION CONTROL PLAN NO. P11-00205-ECPA**

**WHEREAS,** the Napa County Board of Supervisors (the Board) hereby adopts the following findings under the California Environmental Quality Act (CEQA) (Pub. Resources Code, section 21000 et seq.) in connection with the Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA;

**WHEREAS,** this proposed Resolution having been presented to the Board for possible adoption at a regular meeting of the Board on December 20, 2016, and interested persons having been given an opportunity to address the Board regarding this proposed Resolution;

**NOW, THEREFORE, BE IT RESOLVED,** that the Board of Supervisors finds, determines, concludes and decides as follows:

## I. INTRODUCTION

As described in the July 2014 Draft Environmental Impact Report (Draft EIR) and March 2016 Final Environmental Impact Report (Final EIR) and Responses to Final EIR Comments (July 2016), in accordance with County Code Section 18.108.080 the project applicant, Hall Brambletree Associates, LP (Applicant) filed an erosion control plan application (P11-00205-ECPA) for the development of vineyards on the Walt Ranch property (Walt Ranch or the Property).

The Napa County Planning, Building and Environmental Services (PBES) Department prepared a Draft EIR and a Final EIR for the Walt Ranch Agricultural Erosion Control Plan Application #P11-00205-ECPA (State Clearinghouse No. 2012102046).

The PBES Director adopted findings and approved the Reduced Intensity Alternative, authorizing the development of +/- 209 net acres of new vineyard within +/- 316 gross acres of disturbed area within the +/- 2,300-acre total Project site (the Project).

Circle Oaks County Water District and Circle Oaks Homes Association (Circle Oaks), Center for Biological Diversity (CBD), Sierra Club, and Living Rivers Council (LRC) (collectively Appellants) filed timely appeals to the PBES Director’s certification of the EIR and approval of the Project. After holding a series of three public hearings and considering all of the evidence put before it, the Board voted to deny Appellants’ appeals.

Concurrently with adoption of these findings, the Board approved Erosion Control Plan No. P11-00205-ECPA, and thus approves the Project. These findings have been prepared in accordance with CEQA, its implementing guidelines (CEQA Guidelines) (Cal. Code Regs., tit. 14, section 15000 et seq.), and Napa County’s Local Procedures for Implementing the California Environmental Quality Act (revised February 2015) (Local Guidelines). The County is the lead agency for the environmental review of the Walt Ranch Project and has the principal responsibility for its approval. These findings are therefore adopted pursuant to Public Resources Code section 21081, CEQA Guidelines section 15091, and Local Guidelines section 302. The purpose of these findings is to satisfy the requirements of CEQA associated with adoption of the Project. These findings provide the written analysis and conclusions of the Board regarding the Walt Ranch Project. These findings refer to materials in the administrative record. All of these materials are available for review at: Napa County Planning, Building and Environmental Services Department, 1195 Third Street, Second Floor, Napa, CA 94559.

## II. PROJECT DESCRIPTION

**A. Project Location**

Walt Ranch is located in south-central Napa County west of State Route 121 (Monticello Road) in the Capell Creek and Milliken Reservoir watersheds. (Assessor’s Parcel Numbers 032- 120-028, -007, -008, -011, -012, -013, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024, -027, and -028, and 032-490-004, -005, -006, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, and -020.) The area, including the entire Project site, is zoned Agricultural Watershed. This zoning designation authorizes the proposed development of vineyards on the property as an agricultural use. Approximately 6.9 acres with slopes less than five percent have been previously cleared on Walt Ranch, of which approximately 5.6 acres were planted to vineyard in 2006 and 2007. Portions of the Property were used for cattle grazing until approximately the 1990s. Remnants of this use include a 21-mile network of dirt roads, several cattle ponds and trenches, and unmaintained fencing along old parcel boundaries. There are three active wells and two inactive wells on the property. There are no structures on the Property.

The Project includes development of approximately 209 net acres of total vineyard within 316 gross disturbed acres, as depicted in the ECPA. The Project, as approved, generally conforms to the Reduced Intensity Alternative as described in the Draft EIR with additional modifications to reflect the requirements of the Updated Mitigation Monitoring and Reporting Program (Updated MMRP) which further reduce vineyard area due to a number of factors, including geologic and hydrologic constraints, biologic constraints, as well as development areas voluntarily removed by the Applicant in response to community concerns. When these findings use the term “Project,” that term refers to the Reduced Intensity Alternative, along with such modifications.

The proposed vineyards would be managed using sustainable agricultural methods, including engineered erosion control measures, cover crop management, and engineered irrigation. In addition, integrated pest management (IPM) techniques would be used to create a more effective and environmentally sensitive pest-control regime, which uses a combination of environmentally sensitive practices to reduce the application of chemical pesticides and herbicides to a minimum.

The Project includes the following components and activities:

* Earthmoving and grading activities on slopes greater than five percent associated with tree and brush removal, blasting and ripping, rock removal, soil cultivation, installation and maintenance of drainage, and irrigation systems; the installation and maintenance of temporary and permanent erosion control measures; and vineyard plantings, maintenance, and harvesting operations. A total of approximately 316 gross acres would be disturbed. Out of this total, vineyards will be planted within 209 net acres;
* Improvement and maintenance of approximately 21 miles of existing roads for year-round access to the Property. Select existing road segments would be realigned, requiring limited new road construction in select locations. Access roads between vineyard blocks would be constructed in select locations within the 316 gross acres, resulting in the construction or realignment of approximately 4.1 miles of new roads;
* Construction of one bridge over Milliken Creek if the owner wishes to have year-round access at the existing low-water rocked crossing, or if the owner wishes to have seasonal access only, the rocked low-water crossing will be used only when flows across it are one foot deep or less;
* Installation and maintenance of rocked low-water crossings at existing low-water crossings including Capell Creek;
* Installation of surface drainage pipelines to collect surface runoff at low points throughout the project site and transport storm water to protected outlets;
* Installation of perforated subsurface drainage pipelines to reduce saturated conditions in the root zone and improve slope stability;
* Installation of cut-off collars on all solid pipelines with slopes greater than five percent;
* Installation of standard drop inlets, infield drop inlets, and concrete drop inlets;
* Construction of out-sloped infield level spreaders, pipe level spreaders, rock level spreaders, rock energy dissipaters, rock sediment basins, diversion ditches, infield diversions, and rock checks as detailed in the Draft EIR, Appendix A;
* Construction of sediment basins near proposed Blocks 5A and 9B;
* Construction of overflow structures in proposed Blocks 1 and 16C to receive flows from the subsurface drainage system;
* Construction of rolling dips within the existing roadway;
* Utilization of rock for construction of erosion control features such as rock energy dissipaters, rock sediment basins, and for rock-filled avenues. The remaining rock would be stockpiled within the proposed clearing limits;
* Installation of up to three new wells (approximate locations shown in the Draft EIR figure 4.6-2);
* Construction of four off-stream reservoirs that would store groundwater to be used for vineyard irrigation and frost protection;
* Installation of water distribution pipelines;
* Installation of fuel storage tanks;
* Installation of deer fencing;
* Seeding of all disturbed areas with a permanent no-till cover crop;
* Installation of permanent erosion control measures, maintenance of the erosion control measures so they function as intended, and maintenance of the measures throughout the rainy season (September 15 through April 1 for Milliken Reservoir watershed and October 1 through April 1 for Capell Creek watershed);
* Installation of temporary erosion control measures (e.g., straw wattles, waterbars, and other measures identified in the ECPA);
* Improvements to an existing access point located on State Route (SR 121) that connects to the Property’s on-site road network, as a means of providing access to the Property without the use of Circle Oaks Drive, to minimize conflicts with local traffic; and
* A permanent no-till cover crop will be established throughout the proposed vineyard areas and all vineyard avenues with a plant residue density (i.e., cover) of between 70 and 85 percent.

Erosion control measures would be maintained so they function as intended throughout the rainy season from September 15 or October 15 through April 1. Tillage and erosion control would be complete in proposed Blocks 1-9, 11-14, and 23, by September 1 and straw mulch would be applied to these blocks prior to September 15 of the year of construction. Tillage and erosion control would be complete in proposed Blocks 15, 17-22, 25-27, 29, 30, 33038, 46, 47, 53, 54, 59, 62-64 and 69 by October 1 and straw mulch would be applied to these blocks prior to October 15 of the year of construction.

Subsequent agricultural activities such as vineyard maintenance and ongoing vineyard operations (including harvest) associated with the Project are considered indirect physical changes due to the Project, and are considered in the EIR. The development of proposed vineyard blocks on slopes less than five percent are not included in the ECPA; however, these areas were evaluated in the environmental studies conducted during development of the ECPA and are subject to the same avoidance measures and are evaluated in the EIR.

**B. Project Objectives**

The goal of the Project is to develop a vineyard that is economically viable for the owner, economically and fiscally positive for Napa County, and consistent with Napa County General Plan policies and the County’s Conservation Regulations favoring agricultural production. Specific project objectives associated with the installation and operation of the proposed vineyard are to:

* Develop vineyards on those portions of the site that are suitable for the cultivation of high- quality wine grapes, while ensuring the economic viability of the project;
* Minimize soil erosion of vineyard development and operation through vineyard design that avoids highly erosion-prone areas and controls erosion within the vineyard rather than capturing soil after it has been displaced;
* Design the vineyard to minimize the reduction of wildlife movement to the maximum extent feasible, in accordance with General Plan Policy CON-18(e);
* Protect water quality by protecting wetlands, seeps, springs, and streams to the maximum extent feasible through avoidance, the incorporation of appropriate setbacks, and the implementation of various erosion control features, in accordance with General Plan Policy CON-27;
* Minimize impacts on rare, endangered, and candidate plant and animal species to the extent feasible, while providing for preservation and replacement in accordance with accepted protocols;
* Provide opportunities for vineyard employment and economic development in Napa County;
* Maintain farm vineyards in a sustainable manner that includes use of IPM practices and participation in the Napa Sustainable Winegrowing Group and California Sustainable Winegrowing Alliance;
* Use water efficiently from existing and proposed water resources; and
* Preserve a majority of the Property as woodlands, riparian, and open space which has the greatest value as wildlife habitat.

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## III. ENVIRONMENTAL REVIEW PROCESS

**A. Background**

In 2008, the County circulated an Initial Study (IS) and Notice of Preparation (NOP) to the Governor’s Office of Planning and Research (State Clearinghouse (SCH) #2008052075; AES, 2008) for the development of 397 net acres of vineyard within 538 gross acres.

On October 22, 2012, the County issued a second NOP due to substantial changes to the project proposed by the Applicant. In particular, the project was reduced in size by 41 gross acres (31 net acres) in order to avoid wetlands, waters of the U.S., and active landslides, with appropriate buffers for each. An ECPA was filed for the Project on March 1, 2012.

The Notice of Availability of the Draft EIR was released on July 11, 2014, which announced a 45- day comment period from July 11 to August 25, 2014. After numerous requests from the public to extend the comment period, the Napa County Planning Commission (at their August 6, 2014 meeting) formally extended the comment period for an additional 88 days, concluding the public comment period on November 21, 2014.

A total of 180 comment letters were received, including comments from the following agencies and organizations: Native American Heritage Commissions, Central Valley Regional Water Quality Control Board, Napa County Department of Public Works, Office of Planning and Research, City of Napa Public Works Department, Caltrans, California Department of Fish and Wildlife, Circle Oaks Water District, Circle Oaks Homeowner’s Association, Living Rivers Council, California Native Plant Society, Sierra Club, Sierra Club Napa Group, California Wildlife Foundation, Friends of the Napa River, Center for Biological Diversity, Yoca Dehe Wintun Nation, and Mishewal Wappo Tribe.

In March 2016, the County released the Final EIR to the public. The Final EIR included the Draft EIR, responses to comments on the Draft EIR, and changes and additions to the Draft EIR in response to comments thereon. The Draft EIR, and the Final EIR together constitute the Final EIR for the Project.

On April 4, 2016, the County held a public hearing for purposes of considering written and verbal comments on the merits of the Project. During this hearing the County received additional comment letters and heard additional testimony. The County closed the public hearing.

On June 13, 2016, the PBES Director issued a written tentative decision. The tentative decision provided direction to County staff regarding the Project. The purpose of this direction was to enable County staff and consultants to prepare the necessary documents so that the PBES Director could consider whether to approve the Project. Direction was also provided to the Applicant so that its consultants could revise the ECPA and other related documents to conform to the PBES Director’s tentative decision.

County staff and consultants and the Applicant’s consultants submitted to the PBES Director the Updated MMRP, responses to Final EIR comments, the Walt Ranch Biological Resources Management Plan, and Conditions of Approval. On August 1, 2016, the PBES Director approved the revised Project, which is consistent with the “Reduced Intensity Alternative” analyzed in the FEIR, and the Responses to Final EIR Comments – July 2016 (AES) and the Updated MMRP. As a result of these modifications, the Project, as approved, consists of 209 net vineyard acres, with approximately 316 gross acres to be disturbed. The PBES Director filed a Notice of Determination with the State Clearinghouse.

Circle Oaks, CBD, Sierra Club, and LRC submitted timely appeals to the PBES Director’s approval of the Project. The Board held a series of public hearings on November 18, 2016, November 22, 2016, and December 6, 2016, to consider the appeals, and heard and considered written and oral testimony from the Appellants, the Applicant, County staff, and members of the public.

In response to concerns from the public and Appellants, the Applicant agreed to additional revisions to the Conditions of Approval and the Updated MMRP. These changes and additions include a reduction in the allowable weight limit on Circle Oaks Drive, additional groundwater management and soil testing requirements, additional limitations on burning of vegetation near the Circle Oaks neighborhood, and phasing requirements for construction.

On December 6, 2016, after hearing and considering the written and oral testimony from Appellants, the Applicant, County staff and members of the public, and considering the evidence in the entire record of the proceedings, the Board tentatively voted unanimously to reject the Appellants’ appeals. On December 20, 2016, the Board adopted these findings.

## B. Certification of the Final EIR

Based on the foregoing and the substantial evidence in the whole record of these proceedings, the Board hereby certifies the Final EIR for the Project. The Board finds that the Final EIR:

1. Has been completed in compliance with CEQA;

2. Has been presented to the County decision-makers, who have reviewed and considered the information contained in the Final EIR prior to approving the Project; and

3. Reflects the Board’s independent judgment and analysis.

## IV. RECORD OF PROCEEDINGS

In accordance with Public Resources Code section 21167.6(e), the record of proceedings for the County’s decision on the Project includes the following documents:

* The NOPs (Notices of Preparation) and all other public notices issued by the County in conjunction with the Project, as well as all comments submitted by agencies or members of the pubic during the comment period on the NOPs;
* The Draft EIR for the Project and all appendices;
* All comments submitted by agencies or members of the pubic during the comment period on the Draft EIR;
* All comments and correspondence submitted to the County with respect to the project, in addition to timely comments on the Draft EIR, including comments submitted subsequent to the release of the Final EIR;
* The Final EIR for the Project, including comments received on the Draft EIR, responses to those comments and appendices;
* Documents cited or referenced in the Draft EIR and Final EIR;
* The record related to the PBES Director’s approval of the Project and certification of the EIR;
* The record related to the appeals filed by Circle Oaks, CBD, Sierra Club, and LRC;
* The mitigation monitoring and reporting program for the Project;
* All findings adopted by the County in connection with the Project and all documents cited or referred to therein;
* All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the County, consultants to the County, or responsible or trustee agencies with respect to the County’s compliance with the requirements of CEQA and with respect to the County’s action on the Project;
* The Napa County General Plan including but not limited to the General Plan Update EIR and all environmental documents prepared in connection with the adoption of the General Plan;
* The Napa County Zoning Ordinance and all other County Code provisions cited in materials prepared or submitted to the County;
* Matters of common knowledge to the County, including, but not limited to federal, state, and local laws and regulations;
* Any documents expressly cited in these findings, in addition to those cited above; and
* Any other materials required for the record of proceedings by Public Resources Code section 21167.6(e).

The location and name of the official custodian of the record is: Brian Bordona, Supervising Planner, Napa County Planning, Building and Environmental Services Department, 1195 Third Street, Second Floor, Napa, CA 94559.

## V. CONSISTENCY WITH APPLICABLE PLANS

The EIR evaluates the Project to determine whether it is consistent with applicable plans, policies, and regulations. In this case, the relevant plans, policies, and regulations are summarized below.

The Napa County General Plan (2008) designates the Project site as Agricultural, Watershed and Open Space (AWOS). This designation is defined as follows:

Agriculture, Watershed and Open Space: This designation provides for areas where the predominant use is agriculturally oriented and where the protection of agriculture is essential to the general health, safety, and welfare.

The General Plan provides the following relevant goals and policies for AWOS uses. Two goals are applicable to this Project:

* *Goal AG/LU-1*: Preserve existing agricultural land uses and plan for agricultural and related activities as the primary land uses in Napa County.
* *Goal AG/LU-3*: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.

Additionally, the Agricultural Preservation and Land Use Element of the General Plan contains a number of policies related to agriculture. The following policies are applicable to this Project.

* *Policy AG/LU-1*: Agriculture and related activities are the primary land uses in Napa County.
* *Policy AG/LU-2*: “Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.
* *Policy AG/LU-4*: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.
* *Policy AG/LU-15*: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a “right to farm”), even though established urban uses in the general area may foster complaints against those agricultural practices. The “right to farm” shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2, above. The existence of this “Right to Farm” policy shall be indicated on all parcel maps approved for locations in or adjacent to designated agricultural areas and shall be a required disclosure to buyers of property in Napa County.
* *Policy AG/LU-20*: The following standards shall apply to lands designated as Agriculture, Watershed, and Open Space on the Land Use Map of this General Plan.

Intent: To provide areas where the predominant use is agriculturally oriented; where watersheds are protected and enhanced; where reservoirs, floodplain tributaries, geologic hazards, soil conditions, and other constraints make the land relatively unsuitable for urban development; where urban development would adversely impact all such uses; and where the protection of agriculture, watersheds, and floodplain tributaries from fire, pollution, and erosion is essential to the general health, safety, and welfare.

(Draft EIR pp. 1-3 through 1-5.)

In the Conservation Element of the General Plan, the maintenance and enhancement of the agricultural environment is included as a planning policy (Policy CON-2). The policy expresses the intent of Napa County to provide a permanent means of preserving open space land for agricultural production by using various methods including zoning (Napa County Code Section 18.12.010).

The contemplated use is consistent with the AWOS land use designation described above. The Project is a vineyard that will provide approximately 209 net acres where the predominant use is agriculturally oriented. For further analysis of the Project’s consistency with the General Plan, see Attachment B to David Morrison Planning, Building and Environmental Services Director Letter to Mike Reynolds, c/o Hall Brambletree, approving the revised ECPA, August 1, 2016, incorporated herein by reference.

## Napa County Zoning Ordinance

The project site is zoned Agricultural Watershed (AW). The AW district is defined in Section

18.20.010 of the Napa County Code as follows:

The AW district classification is intended to be applied in those areas of the county where the predominant use is agriculturally oriented, where watershed areas, reservoirs and floodplain tributaries are located, where development would adversely impact on all such uses, and where the protection of agriculture, watersheds and floodplain tributaries from fire, pollution and erosion is essential to the general health, safety and welfare.

The Property is zoned for agricultural use and the establishment of a vineyard is an allowable use within this zoning designation and does not require a use permit. Therefore, the Project is consistent with the county zoning designation of AW for this Property.

## VI. GENERAL FINDINGS

**A. CEQA Requirements for Findings**

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles described in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another pubic agency and have been, or can and should be, adopted by the other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report. (Public Resources Code Section 21081(a); see also CEQA Guidelines Section 15091 (a).)

Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. Moreover, feasibility under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level.

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Where, as with this Project, the adoption of feasible mitigation measures substantially lessens or avoids all significant effects on the environment, a lead agency is not required to adopt additional findings addressing the feasibility of project alternatives set forth in a final EIR. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 519-521.) Nor, under such circumstances, does the approving agency decision-maker have to adopt a statement of overriding considerations pursuant to CEQA Guidelines section 15093.

## B. Evidentiary Basis for Findings

These findings are based upon substantial evidence in the record before the Board. The references to the Draft EIR and Final EIR set forth in the findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

## C. Findings are Determinative

The Board recognizes that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the EIR and the administrative record; that experts may disagree; and that the Board must base its decision and these findings on the substantial evidence in the record that is determined to be most persuasive. Therefore, by these findings, the Board ratifies the Final EIR and resolves that these findings shall control and are determinative of the significant impacts of the Project.

## D. Findings Associated with Less Than Significant Impacts

The Board has reviewed and considered the information in the Draft EIR and the Final EIR, addressing environmental effects, mitigation measures, and alternatives. The Board, relying on the facts and analysis in the Draft EIR, and Final EIR, which were presented to the Board and reviewed and considered prior to any approvals, concurs with the conclusions of the Draft EIR and Final EIR regarding the less than significant environmental effects. The Project would result in either no impact or a less than significant impact to the following issue areas: aesthetics, agriculture and forestry resources, hazards, mineral resources, population and housing, public services, recreation, utilities and service systems, and energy conservation. (Draft EIR pp. 1-12 through 1-14.)

## E. Findings Regarding Mitigation Measures

Except as otherwise noted, the mitigation measures referenced herein are those identified in the Final EIR and adopted by the Board as set forth in the Updated MMRP.

Except as otherwise stated in these findings, in accordance with CEQA Guidelines Section 15092, the Board finds that environmental effects of development of the Project will not be significant or will be mitigated to be less-than-significant level by the adopted mitigation measures. The Board further finds that the mitigation measures incorporated into and imposed upon the Project will not have new significant environmental impacts that were not analyzed in the EIR.

The following mitigation measures suggested by commenters to the EIR were addressed as set forth below and as more fully described in the Final EIR:

* Comment A5-05 suggested that the project Applicant pay for an estimated $20 million upgrade to the Milliken Water Treatment Plant to mitigate impacts caused by introduction of pesticides into the Milliken Reservoir, which is a source of drinking water. This was not incorporated into the Project as a mitigation measure because impacts to water quality are reduced to less-than-significant levels by MM 4.5-1 and 4.5-5. Requiring a measure for an impact that has been reduced to a less-than-significant level is not proportional to the impact. (Final EIR pp. 4-44 to 4-46.)
* Comment A7-4 suggested a 10:1 replacement ratio of replacement or preservation of oak woodlands due to slow-growth rates and temporal loss. This was not incorporated into the Project based on scientific studies that show mitigation a 10:1 ratio could result in overcrowding, which is detrimental to the formation of specimen trees. (Final EIR pp. 4-53 to 4-54.)
* Comment A7-8 recommends mitigation related to the American badger, which was not incorporated into the Project because the American badger does not occur on the project site and therefore, the Project would not have a significant impact on this species. The recommended mitigation is not required. (Final EIR p. 4-55.)
* Comment A7-13 suggested that mitigation measures associated with habitat establishment for non-native bullfrogs. Bullfrog management measures have been added to MM 4.2-11 to prevent establishment and dispersal of bullfrogs from onsite reservoirs. (Final EIR Volume 1 pp. 4-58 to 4-59; Final EIR Volume 2 pp. 4.2-121 to 4.2-122.)
* Comment O7-27 suggests that closed tanks should be considered for water storage to minimize footprint and eliminate evaporative losses. Water tanks were not incorporated into the Project because the volume of water storage necessary cannot feasibly be obtained with tanks, and furthermore, the impacts of locating suitable sites for the number of tanks necessary for the Project would have far greater impacts than the impacts from the four proposed reservoirs. (Final EIR Volume 1 pp. 4-79 to 4-80.)
* Comment O21-122 suggests mitigation measures identified by CAPCOA (California Air Pollution Control Officers Association) to reduce GHG emissions. These measures are generally not applicable to a proposed vineyard development, as they are designed to ensure that the growth of new buildings or residences will comply with certain BMPs, including energy efficiency, solid waste reduction, and land use compatibility. The measures listed are not directly applicable to the Project and would not result in significant reductions in GHG emissions. (Final EIR Volume 1 pp. 4-207 to 4-208.)

## F. Relationship of Findings and Updated MMRP to Final EIR

These findings and the Updated MMRP are intended to summarize and describe the contents and conclusions of the Draft EIR and Final EIR for policymakers and the public. For purposes of clarity, these impacts and mitigation measures may be worded differently from the provisions in the Final EIR and/or some provisions may be combined. Nonetheless, the County and/or the Applicant will implement all measures set forth in the Updated MMRP. In the event that there is an inconsistency between the descriptions of mitigation measures in these findings or the Updated MMRP and the Final EIR, the County and/or the Applicant will implement the measures as they are described in these findings and the attached Updated MMRP. In the event a mitigation measure recommended in the Final EIR or agreed-upon by the County and the Applicant during the proceedings has inadvertently been omitted from these findings or from the Updated MMRP, such mitigation measure is hereby adopted and incorporated into the findings and/or Updated MMRP, as applicable. The Board does not intend that a mitigation measure recommended in the EIR should be rejected, unless the rejection of that mitigation measure is specifically expressed in these findings.

## VII. FINDINGS OF FACT

**A. Effects Found Not to be Significant**

Effects of the Project found to be less than significant, and which require no mitigation, are identified in Draft EIR Table 2-1. (Draft EIR pp. 2-5 through 2-46.) The Board has reviewed the record and agrees with the conclusion that impacts identified as less than significant in Table 2-1 of the Draft EIR would not be substantially changed by the Project, and therefore no additional findings are needed.

## B. Potentially Significant or Significant Effects

Effects of the Project found to be potentially significant or significant, and which require mitigation, and the required finding for each are set forth in Attachment “A” of these findings. The Board has reviewed the record and agrees with the conclusion that the adopted mitigation measures would reduce potentially significant or significant effects to a less-than-significant level. The Board hereby finds that the Project will not result in any significant unavoidable impacts.

## VIII. MITIGATION, MONITORING, AND REPORTING PROGRAM

A revised Updated Mitigation Monitoring and Reporting Program (December 2016) has been prepared for the Project, and is approved by the Board concurrently with adoption of these findings. The County will use the Updated MMRP to track compliance with project mitigation measures. The Updated MMRP will remain available for public review during the compliance period. The Updated MMRP is incorporated into the EIR, and is approved in conjunction with certification of the Final EIR and adoption of these Findings of Fact.

**IX. CONDITIONS OF APPROVAL**

Updated and revised Conditions of Approval have been prepared for the Project and are approved by the Board concurrently with adoption of these findings. The Conditions of Approval will remain available for public review during the compliance period. The Conditions of Approval are incorporated into the EIR, and are approved in conjunction with certification of the Final EIR and adoption of these Findings of Fact.

## X. ALTERNATIVES

**A. Legal Requirements**

Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such project[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA.

The Board’s goal in evaluating the project alternatives is to select an alternative that feasibly attains the project objectives, while further reducing the Project’s significant and unavoidable impacts. However, all of the environmental impacts associated with the Project, will be reduced to a less-than-significant level with the adoption of the mitigation measures set forth in these findings. In other words, there are no significant and unavoidable impacts associated with the Project.

While neither the project as analyzed in the Draft EIR nor the Project as currently approved would result in any significant impacts after mitigation, the Board finds that a good faith effort was made to evaluate a reasonable range of potentially feasible alternatives in the EIR that could feasibly obtain the basic objectives of the Project, even when the alternatives might impede the attainment of the Project objectives and might be more costly. As a result, the scope of alternatives analyzed in the EIR is not unduly limited or narrow. The Board also finds that all reasonable alternatives were reviewed, analyzed and discussed in the review process of the EIR and the ultimate decision of the Project.

## B. Range of Alternatives Analyzed

Section 5.0 of the Draft EIR describes the alternatives considered and compares their impacts to the project analyzed in the EIR. The Draft EIR evaluated three alternatives: The No Project Alternative; the Reduced Intensity Alternative, and the Multiple Resource Protection Alternative. (Draft EIR pp. 5-2 through 5-11.) The EIR contains a detailed analysis of the impacts of each of these alternatives. The Board hereby incorporates by reference this analysis.

Because the Project, as mitigated, will not result in significant environmental effects on either a project-specific or cumulative basis, the Board is not required to adopt findings with respect to alternatives to the Project. Nevertheless, the Board adopts the following findings with respect to each alternative. The Board further finds that these findings would be adopted if they were in fact required to be adopted under CEQA. The Board further finds that substantial evidence in the record supports each and every one of these findings.

## No Project Alternative (Existing Conditions)

CEQA Guidelines Section 15126.6(e)(1) states that a “no project” alternative shall be analyzed. The purpose of describing a “no project” alternative is to allow decision makers to compare the impacts of approving a proposed project with the impacts of not approving the proposed project. The “no project” alternative analysis is not the baseline for determining whether the environmental impacts of a proposed project may be significant, unless the analysis is identical to the environmental setting analysis, which establishes that baseline. Under the No Project Alternative, development of project features associated with #P11-00205-ECPA would not occur. No potential impacts identified in the Draft EIR, whether beneficial or adverse, would occur under the No Project Alternative. The proposed development areas would remain primarily oak woodland, chaparral, and grasslands, and the No Project Alternative would be consistent with Napa County’s Conservation Regulations. However, the No Project Alternative would not achieve the objectives of #P11-00205-ECPA, including the installation and operation of a vineyard. In addition, under this alternative, no improvements to the existing road network on the Property would occur and, as a result, the water quality benefits associated with the project would not be achieved. For both of these reasons, and each of them, the Board rejects the No Project Alternative.

## Reduced Intensity Alternative

The Reduced Intensity Alternative provides an opportunity to further reduce the less-than- significant impacts that would have resulted under the project as proposed in #P11-00205-ECPA after implementation of mitigation. Under the Reduced Intensity Alternative, the majority of sensitive natural plant communities, wildlife corridors, springs, streams, seeps, and wetlands would be avoided. As a result, less vineyard acreage would be developed than is proposed under #P11- 00205-ECPA.

All mitigation measures required for the project as proposed under #P11-00205-ECPA would apply for the Reduced Intensity Alternative. Under this alternative, the block configurations were adjusted to achieve the following: preservation of additional areas containing special-status species and associated habitat; preservation of individual trees identified to be specimen or notable trees; enhancement of high value biological resources, including sensitive biotic communities; enhanced riparian protection; enhanced wildlife movement on the site; and avoidance of areas containing one or more constraints located along the edges of the development boundaries. The focus of this alternative is to avoid those resources identified in General Plan Policies CON-17, CON-18(e), and CON-27.

With the Reduced Intensity Alternative, impacts to biological resources would be less than the project as proposed under #P11-00205-ECPA. However, impacts in all other impact areas would be similar to the previously proposed project as described in Draft EIR pp. 5-7 through 5-8. The Applicant has proposed modifications to the Reduced Intensity Alternative, which would even further reduce the vineyard area, and which were included in the Project as approved by the PBES Director. With mitigation, the Project would further reduce impacts to biological resources, which were found to be less than significant after mitigation as described in Draft EIR Section 4.2.

The Board finds that the Reduced Intensity Alternative with modifications, as approved by the PBES Director, is feasible and achieves the project objectives. The Board therefore approves the Reduced Intensity Alternative with additional modifications as approved by the PBES Director and with further modifications as agreed-upon with the Applicant and reflected in the revised ECPA, the Updated MMRP and the Revised Conditions of Approval. The Board does so, not in order to avoid the Project’s significant environmental effects (because, as mitigated, there are no such effects), but because the Reduced Intensity Alternative as amended is the best approach for achieving maximum consistency with the General Plan policies cited above.

## Multiple Resource Protection Alternative

Under the Multiple Resource Protection Alternative, less vineyard acreage would be developed than originally proposed under #P11-0025-ECPA. This alternative specifically looks at avoiding areas where two or more resources overlap and can be avoided to provide the most environmental benefits per acre of proposed vineyard reduction. Avoiding such areas in addition to the areas removed through mitigation would result in a total reduction of approximately 82 gross acres of developed area, from approximately 507 acres as proposed under #P11-0025-ECPA to approximately 425 acres under this alternative.

The Multiple Resource Protection Alternative would further reduce impacts beyond the initially proposed project to native grasses, sensitive biotic communities including oak woodlands, holly- leaved ceanothus plants, narrow-anthered brodiaea plants, special-status plant habitat, western pond turtle upland habitat, and would preserve additional trees onsite.

The modifications to the Reduced Intensity Alternative, referred to in these findings as the Project, reduces the development area to 316 acres (gross), which is even less than that proposed under the Multiple Resource Protection Alternative. Overall, this alternative would have greater impacts to the biological resources than the Reduced Intensity Alternative, which with some modifications to further reduce impacts is the Project for which Applicant seeks approval. (Draft EIR p. 5-13.) For this reason, the Board rejects the Multiple Resource Protection Alternative.

## C. Alternatives Removed from Consideration

Two other alternatives were considered during the initial screening process and were not considered further or analyzed in the EIR. The Board hereby incorporates by reference the discussion of these alternatives in the Draft EIR. (Draft EIR, pp. 5-11.)

## Full Development Alternative

The Erosion Control Plan initially considered the development of over 397 acres of new vineyard within 538 acres of cleared land. Development of the Full Development Alternative would result in greater impacts to air quality and biological resources, and potentially greater impacts to cultural resources, geology and soils, hydrology and water quality, transportation, and noise compared to the project as proposed and evaluated in the EIR.

## Off-Site Alternative

An off-site alternative was eliminated from further consideration in this Draft EIR. The Walt Ranch Property encompasses approximately 2,300 acres. No other lands within Walt Ranch have been identified that are both (1) suitable for vineyards based on soil, slope, and ability to be farmed, and (2) located in areas that could be developed as vineyards with less environmental effects than the Project. In addition, no land located in the vicinity of Walt Ranch has been identified with these characteristics that can reasonably be acquired by the Applicant. For these reasons, off-site alternatives are not analyzed in detail in the Draft EIR.

## D. Environmentally Superior Alternative

CEQA requires the identification of an Environmentally Superior Alternative: an alternative to the project that has no significant effect or has the least significant effect on the environment while substantially accomplishing the objectives of the project. For reference, significance under CEQA is determined based on substantial or potentially substantial adverse changes of any of the physical environmental conditions due to the project as compared to existing conditions.

A summary matrix was prepared as part of the Draft EIR identifying for each impact area whether the alternatives would be greater, lesser, or similar impacts compared to the Project. (See Draft EIR Table 5-3.) As already set forth above, there would be no significant and unavoidable impacts as a result of the Project. Each of the impacts identified would be considered less than significant after mitigation. Therefore “greater” and “lesser” impacts as identified in Table 5-3 are referring to varying degrees of impacts below established significance thresholds. In summary, the environmentally superior alternative is the alternative that would cause the least impact to the biological and physical environment.

Implementation of the No Project Alternative would result in no change to the land use on the Property; however, it fails to meet the objectives of the Project. Furthermore, impacts to hydrology and water quality as well as geology and soils would likely be greater than the Project since the erosion control measures would not be installed and oak woodland and grasslands can often have a higher rate of erosion than the proposed vineyards. Additionally, the existing road network, which is currently a source of sediment into the stream system, would not be improved and the corresponding improvement to water quality would not be realized.

The Reduced Intensity Alternative would result in similar impacts as those of the project proposed in #P11-0025-ECPA. However, it would have lesser impacts to biological resources, as additional habitats would be protected on the Property. Overall, this alternative would likely result in fewer impacts to biological resources, but would otherwise have similar environmental impacts as those of the project analyzed in the Draft EIR.

The Multiple Resource Protection Alternative would result in slightly lesser impacts to biological resources as compared to those of the mitigated project analyzed in the Draft EIR because it has a smaller footprint and specifically avoids overlapping biological resources. Overall, this would likely result in lesser direct impacts to the environment than the project proposed in #P11-0025-ECPA, but would have greater impacts to biological resources than the Reduced Intensity Alternative, which with some modifications to further reduce impacts is the Project now being approved by the Board. (Draft EIR p. 5-13.)

Generally, the environmentally superior alternative is the alternative that would cause the least damage to the biological and physical environment. In this case, the No Project Alternative would be considered the environmentally superior alternative. However, the No Project Alternative would not meet any of the Project objectives. As such, the Board rejects this alternative because it is infeasible.

If the No Project Alternative is the environmentally superior alternative, CEQA Guidelines Section 15126.6(e)(2) requires identification of an environmentally superior alternative among the other alternatives considered in the EIR. When comparing the remaining development alternatives, the Reduced Intensity Alternative is the most environmentally superior alternative. As described throughout these findings, the Reduced Intensity Alternative subject to modifications to reduce vineyard area, is the Project proposed for approval and upon which these findings are based. The Board therefore approves the environmentally superior alternative, with further modifications as described herein, resulting in further reductions in the environmental impacts of the Project.

## E. Alternatives Suggested in Comments to Draft EIR

The following comments included suggestions for alternatives to the Project.

* + Comment O21-80 stated that the Draft EIR should have considered an alternative that eliminated or reduced fencing and consolidated vineyard acreage that would further reduce impacts to species movement. Concentrated vineyard development is infeasible, as areas that are suitable for vineyards are not located in one particular area; rather, such areas are located at various sites across the Property. (Final EIR Volume 1 pp. 4-190 to 4-191.)
  + Comment I101-3 suggests the City and County purchase the Walt Ranch Property to protect the watershed as alternative to the Project. This alternative is infeasible because the Walt Ranch Property is not for sale, nor would it achieve the project goals. (Final EIR Volume 1 p. 4-326.)
  + Comment I060-2 suggested that a more appropriate location for a vineyard would be further north due to the fact that the weather would be more appropriate for viticulture in the next 20 years due to global warming. An alternative location for the Project was removed from consideration, as discussed in Section 5.3.2 of the Draft EIR. (Final EIR Volume 1 p. 4- 287.)
  + Comment I114-12 suggested purchase of the Property for public water supply or wildlife refuge. These alternatives are infeasible because the Walt Ranch Property is not for sale, nor would it achieve the project goals. (Final EIR Volume 1 p. 4-345 and 4-326.)
  + Comment 1118-4 suggested the purchase of the Property for a wildlife refuge due to its biological richness as an alternative to the Project. This alternative is infeasible because the Walt Ranch Property is not for sale, nor would it achieve the project goals. (Final EIR Volume 1 p. 4-438 and 4-326.)

**STATEMENT OF OVERRIDING CONSIDERATIONS**

CEQA requires a public agency to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. A public agency may approve a project despite significant unavoidable impacts identified in an EIR.

In this instance, there would be no significant and unavoidable impacts as a result of the Project, and therefore a statement of overriding considerations need not be adopted in order to approve the Project. Nevertheless, the Board specially finds that there are significant benefits of the Project that further support approval of the Project. As set forth below, the Board finds that the Project would be approved even if it were to result in significant and unavoidable impacts.

The proposed vineyard furthers the goals for the AWOS land use designation of the property to provide areas where the predominant use is agriculturally oriented. (Draft EIR p. 1-4.) Erosion control measures will be installed as part of the Project, which in addition to mitigating Project impacts, will help to improve existing current erosion and sedimentation impacts occurring on the Property. Without the implementation of the erosion control measures, the water quality of off-site watercourses would remain at existing levels and would not be improved as proposed under the Project. This could lead to greater impacts to water quality in the long-term for off-site watercourses such as the Napa River, which is currently listed as a Section 303(d) impaired water body under the Clean Water Act. (Draft EIR p. 5-12.)

The Project will provide opportunities for vineyard employment and economic development in Napa County. (Draft EIR p. 3-5.) The Project is consistent with County policy, which encourages the preservation of open space, and recognizes that agricultural development, properly designed and mitigated, is an appropriate use of the agricultural preserve. (See General Plan Goals *Goal* *AG/LU-1* and Goa/ *AG/LU-3.)*

The Project will result in the permanent protection of substantial open space in the form of a conservation easement or other instrument on the Walt Ranch Property. The land permanently protected as a result of approval of the Project will be managed so as to preserve its value as sensitive habitat, as set forth in the BRMP. These substantial public benefits would not be achieved absent Project approval.

**EFFECTIVE DATE**

This Resolution shall take effect in accordance with the provisions of Napa County Code section 2.88.090.

The foregoing resolution was read, considered, and adopted at a regular meeting of the Napa County Board of Supervisors on the 20th day of December, 2016, by the following vote:

AYES: SUPERVISORS LUCE, WAGENKNECHT, DILLON,

CALDWELL and PEDROZA

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of the

State of California

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ALFREDO PEDROZA, Chair of the

Board of Supervisors

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| APPROVED AS TO FORM  Office of County Counsel  By: *Laura J. Anderson*  Deputy  Date: December 14, 2016 | APPROVED BY THE NAPA COUNTY  BOARD OF SUPERVISORS  Date: December 20, 2016  Processed By:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Deputy Clerk of the Board | ATTEST: GLADYS I. COIL  Clerk of the Board of Supervisors  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Attachments:

* Attachment “A” - Impact Analysis