RESOLUTION NO. 11-018

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PASO ROBLES ADOPTING A MITIGATED NEGATIVE DECLARATION FOR PLANNED DEVELOPMENT AMENDMENT 02-002 AND CONDITIONAL USE PERMIT 11-004 3700 MILL ROAD, APN: 025-701-003 APPLICANT – VINA ROBLES, INC.

WHEREAS, an application for Planned Development Amendment 02-002 and Conditional Use Permit 11-004 has been filed by Vina Robles, Inc.; and

WHEREAS, Planned Development Amendment 02-002 and Conditional Use Permit 11-004 is a proposal to amend a previously approved development plan by modifying the location of planned improvements including moving the hotel site to the west side of the hospitality center, constructing a 3,300 seat outdoor amphitheater & ancillary buildings, and eliminating the previously approved spa facility and winery from the site plan; and

WHEREAS, the project is consistent with the General Plan land use designation and Zoning of Parks and Open Space (POS) and the Airport Overlay – Zone 5, 2006 Economic Strategy, and the Gateway Design Standards; and

WHEREAS, pursuant to the Statutes and Guidelines of the California Environmental Quality Act (CEQA), and the City's Procedures for Implementing CEQA, an Initial Study and a Draft Mitigated Negative Declaration was prepared and circulated for a 30-day public review period beginning on June 20, 2011 and concluding July 19, 2011; and

WHEREAS, public comments were received from Caltrans District 5, and the San Luis Obispo County Air Pollution Control District (APCD), on the Draft Mitigated Negative Declaration (MND) and Initial Study; and

WHEREAS, mitigation measures have been incorporated into the MND to address potential impacts to air quality, biological resources, traffic, and hydrology/water quality that may result from this project to mitigate potential impacts to a less than significant level. These mitigation measures are provided in Exhibit A, Mitigation Monitoring and Reporting Plan - Mitigation Measures Summary; and

WHEREAS, Public Notice of the proposed Draft MND was posted as required by Section 21092 of the Public Resources Code; and

WHEREAS, a public hearing was conducted by the Planning Commission on July 26, 2011 to consider the Initial Study and the draft MND prepared for the proposed project, and to accept public testimony on the Planned Development Amendment, Conditional Use Permit, and environmental determination; and

WHEREAS, based on the information and analysis contained in the Initial Study prepared for this project and testimony received as a result of the public notice, the Planning Commission finds that there is no substantial evidence that there would be a significant impact on the environment with mitigation measures implemented as a result of the development and operation of the proposed project.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of El Paso de Robles, based on its independent judgment, that it does hereby adopt a Mitigated Negative Declaration for Planned Development Amendment 02-002 and Conditional Use Permit 11-004, in accordance with the Statutes and Guidelines of the California Environmental Quality Act (CEQA) and the City's Procedures for Implementing CEQA.

PASSED AND ADOPTED THIS 26th day of July, 2011, by the following roll call vote:

AYES: Commissioners Barth, Garcia, Holstine, Peterson, Vanderlip and Chair Gregory
NOES: None
ABSENT: Commissioner Treatch
ABSTAIN: None

CHAIRMAN STEVE GREGORY

ATTEST:

ED GALLAGHER, PLANNING COMMISSION SECRETARY

Exhibit A

Mitigation Monitoring and Reporting Plan

Project File No./Name: PD Amendment 02-002, CUP 11-004 – Vina Robles, Inc.
Approving Resolution No.:
Date:

The following environmental Mitigation Measures were either incorporated into the approved plans or were incorporated into the Conditions of Approval. Each and every Mitigation Measure listed below has been found by the approving body to lessen the level of environmental impact of the project to a less than significant level. A completed and signed checklist for each mitigation measure indicates that it has been completed.

See attached Mitigation Summary Table for Mitigation Measure Descriptions.

Mitigation Measure	Type	Monitoring Dept or Agency	Shown on Plans	Verified Implementation	Remarks
AQ-1	Project	Planning Division, Building Division			
AQ-2	Project and Ongoing	Planning Division			
AQ-3	Project	Planning Division, Building Division			
AQ-4	Project	Planning Division, Building Division			
BR-1	Project	Planning Division			
BR-2	Project	Planning Division			
BR-3	Project	Planning Division			
BR-4	Project	Planning Division			
BR-5	Project	Planning Division			
BR-6	Ongoing	Planning Division			
BR-7	Project	Planning Division			
BR-8	Project	Planning Division			
BR-9	Project	Planning Division			
BR-10	Project	Planning Division			
BR-11	Project	Planning Division			
BR-12	Project	Planning Division			
BR-13	Project	Planning Division			
BR-14	Project	Planning Division			
BR-15	Project	Planning Division			
BR-16	Project	Planning Division			
BR-17	Project	Planning Division			
BR-18	Project	Planning Division			
BR-19	Project	Planning Division			

Mitigation Measure	Type	Monitoring Dept or Agency	Shown on Plans	Verified Implementation	Remarks
BR-20	Project	Planning Division			
BR-21	Project				
TR-1	Project	Planning Division			
HWQ-1	Project	Planning Division, Engineering Division			

Explanation of Headings:

Type	Project, ongoing, cumulative
Monitoring Dept. or Agency	Dept or Agency responsible for monitoring a particular MM
Shown on Plans	When a MM is shown on the plans, this column will be initialed & dated
Verified Implementation	When a MM has been implemented, this column will be initial & dated
Remarks	Area for describing status of ongoing MM, or other information

Mitigation Summary Table

Air Quality Mitigation Measures

AQ-1 The following measures shall be implemented to reduce construction-generated emissions (SLOCAPCD 2009):

a. The standard mitigation measures for reducing nitrogen oxides (NOx), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment are listed below (SLOCAPCD 2009):

b. Maintain all construction equipment in proper tune according to manufacturer's specifications;

c. Fuel all off-road and portable diesel powered equipment with CARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);

d. Use diesel construction equipment meeting CARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-road regulation;

e. Use on-road heavy-duty trucks that meet the CARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State on-road regulation;

f. Construction or trucking companies with fleets that that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;

g. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;

h. Diesel idling within 1,000 feet of sensitive receptors is not permitted;

i. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;

j. Electrify equipment when feasible;

k. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,

l. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

In addition to the above SLOCAPCD recommended mitigation measures, the following additional mitigation measures shall also be implemented:

m. To the extent practical, reuse and recycle construction waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard.

Grading activities associated with the construction of the proposed amphitheater shall be prohibited from occurring within the same calendar quarter of offsite widening of Mill Road.

AQ-2 (a): Prior to issuance of City building permits, the project applicant shall provide funding for offsite mitigation through the payment of offsite mitigation fees to the San Luis Obispo County Air Pollution Control District in the amount of $15,165.90. The applicant shall provide the City with evidence of offsite mitigation funding prior to issuance of building permits. This offsite mitigation fee is subject to review and approval by the San Luis Obispo County Air Pollution Control District. In the event that project conditions change, recalculation of the offsite mitigation fee may be required.

AQ-3 (b): In addition to the above mitigation measure, the following mitigation measures shall be implemented:

1. Onsite structures shall be designed to comply with California Green Building Standards and shall exceed 2005 Title 24 energy efficiency standards by a minimum of twenty percent.
2. Site design shall utilize passive solar design features (e.g., orient buildings and incorporate landscaping to maximize passive solar heating during cool seasons, minimize solar heat gain during hot seasons, and enhance natural ventilation. Design buildings to take advantage of sunlight to the extent practical.
3. Proposed structures shall be designed to be "solar ready" to facilitate the future installation of solar energy systems.
4. Incorporate outdoor electrical outlets to encourage the use of electric appliances and tools.
5. Plant drought tolerant, native shade trees along southern exposures of buildings to reduce energy used to cool buildings in summer. Water-efficient irrigation systems shall be incorporated into the landscape design.
6. The proposed project shall devise a comprehensive water conservation strategy, to include the installation of water-efficient fixtures and appliances.
7. Exterior storage areas shall be incorporated to provide recycling and waste receptacles to the extent required by local ordinance. Recycling opportunities, such as waste and recycling receptacles, shall be provided in appropriate publicly accessible areas.
8. Provide preferential parking/no parking fee for alternative fueled vehicles or vanpools.
9. Provide shade tree planting in parking lots to reduce evaporative emissions from parked vehicles. Design should provide 50% tree coverage within 10 years of construction using low ROG emitting, low maintenance native drought resistant trees. Existing trees should be preserved to the extent practical.
10. Implement on-site circulation design elements in parking lots to reduce vehicle queuing and improve the pedestrian environment.
11. Utilize green building materials (materials which are resource efficient, recycled, and sustainable) available locally if possible.
12. Install high efficiency heating and cooling systems.

13. Utilize built-in energy efficient appliances (i.e. Energy Star®).
14. Utilize double-paned windows.
15. Utilize low energy street lights (i.e. sodium).
16. Utilize energy efficient interior lighting.
17. Install door sweeps and weather stripping (if more efficient doors and windows are not available).
18. Install energy-reducing programmable thermostats.
19. Implement a "No Idling" program for heavy-duty diesel vehicles, which includes signage, citations, etc.
20. Promote ridesharing for onsite events to minimize motor vehicle emissions by providing incentives to event attendees, such as preferential parking.
21. Pave and maintain onsite roads and parking areas. Cool pavements shall be used to the extent practical and locally available.
22. Overflow parking areas shall be paved, sited in grass or low cut dense vegetative areas, or treated with a dust suppressant such that fugitive dust emissions do not impact offsite areas and do not exceed the APCD's 20-percent opacity limit.

Any unpaved roads/driveways used for special events shall be maintained with an APCD-approved dust suppressant such that fugitive dust emissions do not impact offsite areas and do not exceed the APCD's 20-percent opacity limit.

AQ-4 GHG Emissions Reductions

Table 20
Office of the California Attorney General
Methods to Offset or Reduce Global Warming Impacts
Applicable to the Proposed Project

Emission-Reduction Method	Project Consistency
Energy Efficiency & Renewable Energy	
Incorporate green building practices and design elements.	*Substantially Consistent with Mitigation*. The proposed project would be required to comply with the California 2010 Green Building Standards. In addition, implementation of Mitigation Measure AQ-2,b would include additional requirements that are anticipated to further reduce energy demand associated with onsite structures. Such measures include energy efficient lighting, heating and cooling systems, appliances, and control systems.
Meet recognized green building and energy efficiency benchmarks.	
Install energy efficient lighting (e.g., light emitting diodes (LEDs)), heating and cooling systems, appliances, equipment, and control systems.	
Install efficient lighting, (including LEDs) for traffic, street and other outdoor lighting.	
Meet "reach" goals for building energy efficiency and renewable energy use.	
Use passive solar design, e.g., orient buildings and incorporate landscaping to maximize passive solar heating during cool seasons, minimize solar heat gain during hot seasons, and enhance natural ventilation. Design buildings to take advantage of sunlight.	*Substantially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require use of passive solar design features.
Install light colored "cool" roofs and cool pavements.	*Partially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require the proposed project to incorporate cool pavements.
Install solar, wind, and geothermal power systems and solar hot water heaters.	*Partially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require onsite structures to be designed and constructed to be "solar ready" to facilitate the future installation of solar energy systems.
Install solar panels on unused roof and ground space and over carports and parking areas.	
Install energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.	
Where solar systems cannot be feasibly incorporated into the project at the outset, build "solar ready" structures.	
Water Conservation and Efficiency	
Incorporate water-reducing features into building and landscape design	*Substantially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require installation of water-reducing features and water-efficient landscapes and use of water-efficient irrigation methods.
Create water-efficient landscapes.	
Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls, and use water-efficient irrigation methods.	
Devise a comprehensive water conservation strategy appropriate for the project and location.	*Substantially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require installation of water-efficient fixtures and appliances.
Design buildings to be water efficient. Install water-efficient fixtures and appliances.	

Table 20
Office of the California Attorney General
Methods to Offset or Reduce Global Warming Impacts
Applicable to the Proposed Project

Emission-Reduction Method	Project Consistency
Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.	
Solid Waste Measures	
Reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).	*Substantially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-1,m would require reuse and recycling of construction waste to the maximum extent feasible.
Integrate reuse and recycling into residential, industrial, institutional and commercial projects.	*Substantially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require the project to incorporate exterior storage areas for recyclables to the extent required by local ordinance. Interior recycling containers, signage, and education material will be located in public areas.
Provide easy and convenient recycling opportunities for residents, the public, and tenant businesses.	
Provide education and publicity about reducing waste and available recycling services.	
Land Use Measures	
Incorporate public transit into project design.	*Partially Consistent with Mitigation*. The proposed project site is not serviced by public transit. The proposed Traffic Demand Management Program includes a shuttle bus service that would provide transportation to onsite events from the City of Paso Robles.
Preserve and create open space and parks. Preserve existing trees, and plant replacement trees at a set ratio.	*Partially Consistent with Mitigation*. In accordance with Mitigation Measure 2,b the proposed project would preserve, to the extent practical, existing trees. Landscaping would be included in the project design.
Transportation and Motor Vehicles	
Adopt a comprehensive parking policy that discourages private vehicle use and encourages the use of alternative transportation	*Substantially Consistent with Mitigation*. The proposed project site is not serviced by public transit. Mitigation Measure AQ-2,b would provide preferential parking for alternative transportation, low-emission, and car/van pooling vehicles.
Create a ridesharing program. Promote existing ride sharing programs, e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles, and providing a web site or message board for coordinating rides.	*Substantially Consistent with Mitigation*. Implementation of Mitigation Measure AQ-2,b would require amphitheater operators to encourage event attendees to utilize alternative means of transportation and car/van pooling.
Source: CAGO 2010.	

Biological Resources Mitigation Measures

Oak Tree Mitigations

BR-1 Tree canopies and trunks within 50 feet of proposed disturbance zones should be mapped and numbered by a certified arborist or qualified biologist and a licensed land surveyor. Data for each tree should include date, species, number of stems, diameter at breast height (dbh) of each stem, critical root zone (CRZ) diameter, canopy diameter, tree height, health, habitat notes, and nests observed.

BR-2 An oak tree protection plan shall be prepared and approved by the City of Paso Robles.

BR-3 Impacts to the oak canopy or critical root zone (CRZ) should be avoided where practicable. Impacts include pruning, any ground disturbance within the dripline or CRZ of the tree (whichever distance is greater), and trunk damage.

BR-4 Impacts to oak trees shall be assessed by a licensed arborist. Mitigations for impacted trees shall comply with the City of Paso Robles tree ordinance.

BR-5 Replacement oaks for removed trees must be equivalent to 25% of the diameter of the removed tree(s). For example, the replacement requirement for removal of two trees of 15 inches dbh (30 total diameter inches), would be 7.5 inches (30" removed x 0.25 replacement factor). This requirement could be satisfied by planting five 1.5 inch trees, or three 2.5 inch trees, or any other combination totaling 7.5 inches. A minimum of two 24 inch box, 1.5 inch trees shall be required for each oak tree removed.

BR-6 Replacement trees should be seasonally maintained (browse protection, weed reduction and irrigation, as needed) and monitored annually for at least 7 years. Replacement trees shall be of local origin and of the same species as was impacted or removed.

Common Wildlife Mitigations

Migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory non-game birds (as listed under the Federal MBTA).

BR-7 **Within one week of ground disturbance activities**, **if work occurs between March 15 and August 15, nesting bird surveys shall be conducted. To avoid impacts to nesting birds, grading and construction activities should not be conducted during the breeding season from March 15 to August 15. If construction activities must be conducted during this period, nesting bird surveys shall take place within one week of habitat disturbance. If surveys do not locate nesting birds, construction activities may be conducted. If nesting birds are located, no construction activities shall occur within 100 feet of nests until chicks are fledged.** A pre-construction survey report shall be submitted to the lead agency immediately upon completion of the survey. The report shall detail appropriate fencing or flagging of the buffer zone and make recommendations on additional monitoring requirements**.** A map of the project site and nest locations shall be included with the report. The biologist shall have the authority to reduce or increase the recommended buffer depending upon site conditions.

Special status birds

In order to reduce the potential for disturbance of nests of golden eagle, white tailed kite, and loggerhead shrike, the applicant shall implement BR-7 one week prior to ground-breaking activities. If

nests of special status species are identified in the work area, the following additional mitigation measure shall be implemented:

BR-8 For shrikes, observe a 100-foot buffer around the nest until all young have fledged and left the nest. For golden eagles or white-tailed kits, contact the USFWS and the CDFG for buffer distances and other protective measures. Typical buffer distances can be 500 feet for these Fully Protected species. Active nests of special status species shall be monitored every two weeks until young have fledged and left the nest. A qualified biologist shall verify that the nest is no longer active before construction activities resume within the buffer.

Pallid bat

BR-9 The following mitigation recommendations are provided to reduce the potential for take of roosting bats, including pallid bat, from development activities on the Property that include removal of trees with appropriate roost characteristics:

Upon project approval, a qualified biologist shall conduct a survey of trees proposed for removal that have loose bark or cavities to determine if roosting bats are present. If possible, the survey shall be conducted during the non-breeding season (November through March). If a colony of bats is found roosting in any tree, further surveys shall be conducted sufficient to determine the species present and the type of roost (day, night, maternity, etc.). If the bats are not part of an active maternity colony, passive exclusion measures may be implemented with approval from CDFG. November is the best time of the year to exclude bats from a roost because it is after the breeding season and before winter hibernation (not all species hibernate).

If bats are roosting in a tree on the Property during the daytime but are not part of an active maternity colony, then exclusion measures shall include one-way valves that allow bats to get out but not re-enter the structure.

If a bat colony is excluded from the Property, appropriate alternate bat habitat shall be installed. An ideal location for alternate bat house installation would be near the creek channel. If needed, the final type of bat house and location shall require approval of the qualified biologist who shall verify correct installation and provide written documentation to the County.

Special status amphibians and reptiles

Western spadefoot toad could potentially enter the work site in the future, but were not found in 2010. Silvery legless lizard could potentially occur in the work site where it affects blue oak woodland. The following mitigation measure shall be implemented to reduce potential adverse impacts to special status amphibians and reptiles:

BR-10 **Pre-construction surveys for Western spadefoot toad and silvery legless lizard shall be conducted, as applicable, prior to primary grubbing and other construction activities that affect previously undisturbed habitat.** The surveys shall be conducted at appropriate times of day or night to locate the species, and shall be conducted within three weeks of the start of work. If no special status species are found, construction activities may begin immediately. If special status species are found, a qualified biologist shall move them to the nearest safe location. Additional monitoring may be required if the project biologist determines that special status species could move onto the project site during construction, or be forced out of

underground burrows during grading. The project biologist shall have the authority to stop work if special status species are found in the project areas during construction.

Special status fairy shrimp

A protocol level survey for listed fairy shrimp conducted in 2001 located *Branchinecta lynchi* in the vernal pool on the Property. This vernal pool is protected with fencing and will not be disturbed during construction of the Project.

BR-11 **Federally-listed fairy shrimp on the Property shall be protected via avoidance of the watershed in which they occur.** The Project has been designed to avoid alterations of the watershed and vernal pool in which this animal has been observed. USFWS indicated during communications regarding similar plans on an earlier proposed project on the Property that this approach is in agreement with protection of listed fairy shrimp on the Property (see correspondence with USFWS in Appendix B).

San Joaquin kit fox

The Property is located in the San Joaquin kit fox corridor area in San Luis Obispo County. Development of the project would result in a net loss of kit fox habitat. In some cases, kit fox are adaptable to inhabiting locations within fences and with views restricted by human infrastructure (USFWS 1998 pg. 130, Cypher. et al. 2005, Cypher and Frost. 1999, Cypher and Warrick. 1994). The following mitigation recommendations are designed to reduce the potential for direct impacts to kit fox to a less than significant level.

The applicant has already purchased 63.0 kit fox mitigation credits at a 3 to 1 ratio for 21.02 acres. The currently proposed project will bring total disturbance onsite to 20.97 acres. The applicant has purchased more credit than required; therefore, compensatory mitigation for San Joaquin kit fox is complete.

BR-12 **Prior to issuance of grading and/or construction permits**, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the City. The retained biologist shall perform the following monitoring activities:

i. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction,** the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the City reporting the date the survey was conducted, the survey protocol, survey results, and what

ii. Measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

iii. **The qualified biologist shall conduct weekly site visits during site-disturbance activities** (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-15 through BR-24. Site disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-15iii). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the City.

iv. **Prior to or during project activities,** if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or

death) to kit fox. At the time a den is discovered, the qualified biologist shall contact USFWS and the CDFG for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the USFWS determines it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, **before project activities commence,** the applicant must consult with the USFWS. The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

v. **In addition,** the qualified biologist shall implement the following measures:

1. **Within 30 days prior to initiation of site disturbance and/or construction**, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:

   - Potential kit fox den: 50 feet
   - Known or active kit fox den: 100 feet
   - Kit fox pupping den: 150 feet

2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring by a qualified biologist shall be required during ground disturbing activities.

Monitoring: Required prior to issuance of a grading and/or construction permit. Compliance will be verified by the City of Paso Robles Planning Division.

BR-13 **Prior to issuance of grading and/or construction permits,** the applicant shall clearly delineate the following as a note on the project plans: "*Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox".* Speed limit signs shall be installed on the project site **within 30 days prior to initiation of site disturbance and/or construction.**

BR-14 **During the site disturbance and/or construction phase**, grading and construction activities after dusk shall be prohibited unless coordinated through the City, during which additional kit fox mitigation measures may be required.

BR-15 **Prior to issuance of grading and/or construction permit and within 30 days prior to initiation of site disturbance and/or construction,** all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the City, as well as any related biological report(s) prepared for the project. The applicant shall notify the City shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

BR-16 **During the site-disturbance and/or construction phase,** to prevent entrapment of the San Joaquin kit fox, all excavations, steep-walled holes and trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

BR-17 **During the site-disturbance and/or construction phase,** any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved. If necessary, the pipe may be moved only once to remove it from the path of activity, until the kit fox has escaped.

BR-18 **During the site-disturbance and/or construction phase,** all food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of only in closed containers. These containers shall be regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

BR-19 **Prior to, during and after the site-disturbance and/or construction phase,** use of pesticides or herbicides shall be in compliance with all local, State and Federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

BR-20 **During the site-disturbance and/or construction phase,** any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and City. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the USFWS and CDFG by telephone. In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to CDFG for care, analysis, or disposition.

BR-21 **Prior to final inspection, or occupancy, whichever comes first,** should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

i. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12 inches.

ii. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards

iii. Upon fence installation, the applicant shall notify the City to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines

Transportation/Circulation

TR-1 A Transportation Demand Management Plan (TDM) shall be submitted to the prior to issuance of Certificate of Occupancy for Phase 1 (amphitheater and ancillary buildings) for this project. The TDM shall quantify vehicle reductions through implementation of said Plan. The Plan shall identify locations (e.g. Park and Ride Lots, hotels, etc.) to be used for providing shuttle service to amphitheater patrons. The TDM Plan shall demonstrate the ability to reduce private vehicle use 10 percent for concert events, based on the number of ticket sales and average of 3 persons per vehicle. It shall identify other incentive measures to reduce private vehicle use for attending concerts. Said Plan shall be approved by the Community Development Director.

Hydrology/Water Quality

HWQ-1 Low Impact Development (LID) features and post construction Best Management (BMPs) shall be incorporated into the project design to mitigate water volume and water quality impacts from a storm event of .75 inches. All measures shall be approved by the City Engineer prior to issuance of grading permits.

- The main parking area (4acres) shall be designed with permeable, planted surface that will be irrigated and maintained to enhance the project aesthetic and water quality. Impervious areas will be limited to the main entrance road and pedestrian walkways.
    - Infiltration trenches will be strategically placed to enhance percolation and convey the water quality design event.
- Secondary Parking Area (1.5 acres) – This area shall be designed to be self-treating through the implementation of pervious plantable surface and infiltration trenches, equivalent to the main parking area.
- Hardscape Plaza (0.8 acre) – Shall be designed to drain to depressed bioretention areas that border the concert area. These zones will be lined and equipped with under drains. Anticipated maximum depth of ponded water is 6" to 12", with a depth of bioretention soil of at least 2 feet. The system will be designed to drain in no more than 48 hours.
- The treated water from the bioretention under drain will be discharged to vertical dry wells for percolation/volume reduction. One or two 4' diameter, 40 ft. deep dry wells adjacent to each bioretention area will be necessary to store and percolate the design water quality storm.
- Main concert area and adjacent structures (1.3 acres) – Shall be subject to the same measures as the plaza area.