

ATTACHMENT A
Diamond Street Industrial
Summary of Potential Impacts and Mitigation Measures

Biological Resources

The project would directly impact 3.35 acres of Coastal sage-chaparral transition, 1.16 acres of Diegan coastal sage scrub, and 6.92 acres of disturbed Diegan coastal sage scrub, habitat types that are used by CAGN for most of its life history. The project could directly impact CAGN through destruction of occupied nests during vegetation removal on the project site if vegetation clearance occurs during the CAGN nesting season. CAGN that is present both on-site and in adjacent areas would also be potentially affected by indirect impacts associated with the project, such as dust, noise, human presence, nighttime lighting, increase in predators, and spread of non-native species into occupied habitat. These indirect impacts could result in nest failures or individual mortality of CAGN. This represents a significant impact (**Impact BIO-1**), and mitigation is required. Implementation of mitigation measures MM-BIO-1a through MM-BIO-1d will be required as a condition of project approval:

MM-BIO-1a An updated presence/absence protocol survey of the project site and a 500-foot buffer around the project site shall be conducted by a qualified biologist with a valid USFWS 10(a)(1)(A) permit to determine the presence of CAGN that could be affected by construction activities, including vegetation clearance. In accordance with the USFWS survey protocol, a minimum of six breeding season surveys will be conducted at least one week apart from March 15, 2021 through June 30, 2021. The results of the survey shall be submitted to the USFWS upon completion of the survey.

If CAGN is detected during the protocol survey, vegetation clearing shall only be conducted between September 1 and February 14, outside of the breeding season for CAGN. If vegetation clearing would start outside of those dates, then surveys would be conducted prior to vegetation clearing. If nests are found, they would be avoided by establishing a 500-foot buffer around the nest as a mitigation measure to allow vegetation clearance to continue. No more than three (3) days prior to the clearing of vegetation, a qualified biologist shall conduct one survey for CAGN to ensure that the vegetation on site is not occupied by the species. If the vegetation clearance survey identifies the presence of CAGN, the project biologist shall delay the removal of vegetation until CAGN has left the project site of their own volition.

MM-BIO-1b The applicant is required to have a Worker Environmental Awareness Program (WEAP) for the construction crew that will be developed and implemented by a qualified biologist. Each employee (including temporary, contractors, and subcontractors) will receive the WEAP on the first day of working on the proposed project. They will be advised of the potential impact to the listed species and the potential penalties for taking such species. At a minimum, the WEAP will include the following topics: occurrence of the listed and sensitive species in the area, their general ecology, sensitivity of the species to human activities, legal protection afforded these species, penalties for violations of

Federal and State laws, reporting requirements, and project features designed to reduce direct and indirect impacts to these species and promote continued successful occupation of the project area environs.

MM-BIO-1c Construction work areas shall be delineated and marked clearly, by flagging or temporary orange construction fencing, in the field prior to habitat removal, and the marked boundaries will be maintained and clearly visible to personnel on foot and by heavy equipment operators. Fencing shall be placed on the impact side to reduce the potential for additional vegetation loss within open space. Fencing shall be put in place by a qualified biologist or the project applicant. All temporary fencing shall be removed only after the conclusion of all grading, clearing, and construction. Employees shall strictly limit their activities and vehicles to the proposed project areas, staging areas, and routes of travel. The biological monitor shall verify that the limits of construction have been properly staked and are readily identifiable. Intrusion by unauthorized vehicles outside of construction limits shall be prohibited, with control exercised by an on-site foreman. Access routes to the construction area outside of work hours shall be blocked with physical barriers, such as concrete blocks or large equipment.

MM-BIO-1d A City-approved qualified biologist shall be present during all vegetation clearing and other activities with the potential to affect CAGN and will monitor the project to ensure that there are no unanticipated impacts to the CAGN and its habitat. The biologist shall have the authority to halt all associated project activities that may be in violation of the protective measures.

If CAGN are found to be within the survey area (project site plus a 500-foot buffer) during protocol or pre-construction surveys, the following avoidance and minimization measures shall be implemented.

- To reduce potential noise impacts to nesting CAGN, a qualified biologist shall monitor noise levels with a noise monitoring device at an appropriate distance from the nest to determine if construction activity noise is above 60 dBA, the standard level requested by the USFWS, or if noise levels above 60 dBA have the potential to affect any CAGN nests.
- If/when an active CAGN nest is identified, an acoustician shall monitor noise at the edge of construction as directed by the qualified biologist. If noise levels continue to exceed 60 dBA, the acoustician shall consult with the qualified biologist and provide requirements for the construction contractor to make operational and barrier changes to reduce noise levels to 60 dBA during the breeding season (February 15 through August 31). Noise monitoring will occur during operational changes and installation of barriers, as needed, to ensure their effectiveness. If the noise meets or exceeds the 60 dB(A) Leq threshold, or if the biologist determines that the activities in general are disturbing the nesting activities, the biologist shall have the authority to halt construction and shall consult with the CDFW and USFWS to devise methods to reduce the noise and/or disturbance in the vicinity. This may include methods such as, but not limited to, turning off vehicle engines and other equipment whenever possible to reduce noise,

installing a protective noise barrier between the nesting coastal CAGN and the activities, and working in other areas until the young have fledged.

All active nests will be reported within 24 hours to the USFWS upon detection.

The project could adversely affect raptors and other nesting birds if construction occurs while they are present on or adjacent to the project site through direct mortality. This represents a potentially significant impact (**Impact BIO-2**), and mitigation is required. Implementation of mitigation measures MM-BIO-2 will reduce this impact to below a level of significance.

MM-BIO-2 If site clearing activities are conducted between February 1 and August 31, a qualified biologist shall conduct a nesting bird survey no more than three days prior to the start of such activities to identify nesting birds within the project site and a 250-foot buffer around the project site. If any nests are found, their locations shall be flagged and an appropriate avoidance buffer, ranging in size from 25 to 50 feet for passerines, and up to 500 feet for raptors depending upon the species and the proposed work activity, shall be determined and demarcated by a qualified biologist with bright orange construction fencing or other suitable flagging. Active nests shall be monitored at a minimum of once per week until it has been determined that the nest is no longer being used by either the young or adults. No disturbance shall occur within this buffer until the qualified biologist confirms that breeding/nesting is completed, and all the young have fledged. If project activities must occur within the buffer, activities shall be conducted at the discretion of the qualified biologist and with monitoring and management to ensure that nesting birds and the nests are not disturbed. If no nesting birds are observed during the survey or during other monitoring activities, then no further actions shall be necessary. A follow-up survey will be needed if site clearing does not occur within three days after the initial survey.

Project implementation would impact 0.12 acre of Natural Flood Channel/ Streambed and 0.01 acre of Mulefat Scrub. This represents a **significant impact (Impact BIO-3a)**. The project would also result in the direct removal of 3.35 acres of Coastal Sage-Chaparral Transition, 1.16 acres of Diegan Coastal Sage Scrub, and 6.91 acres of Disturbed Diegan Coastal Sage Scrub that falls under the MHCP's Habitat Group C definition of Coastal Sage/Chaparral Mix and Coastal Sage Scrub, which are considered sensitive habitats. This represents a significant impact (**Impact BIO-3b**). Implementation of mitigation measures MM-BIO-3 would reduce the impact to below a level of significance.

MM-BIO-3 Permanent loss of 0.12 acre of Natural Flood channel/Streambed and 0.01 acre of Mulefat Scrub will be mitigated at a minimum 1:1 ratio in accordance with Table 4-7 of the MHCP (AMEC et al. 2003a).

Permanent loss of 3.35 acres Coastal Sage-Chaparral Transition, 1.16 acres Diegan Coastal Sage Scrub, and 6.91 acres Disturbed Diegan Coastal Sage Scrub shall be mitigated at a 1:1 ratio. Section 5.2.1 of the City of San Marcos Draft Subarea Habitat Conservation Plan references the preferred order of mitigation to be on-site mitigation, off-site acquisition, in-lieu fees, and mitigation credits. For mitigation purposes, the Diegan Coastal Sage Scrub and Disturbed Diegan Coastal Sage Scrub acreages on the project site that would

be impacted have been combined as these two vegetation communities are considered to have similar sensitivity under the MHCP.

Thus, a minimum of 0.12 acre of Natural Flood channel/Streambed, 0.01 acre of Mulefat Scrub, 3.35 acres of Coastal Sage-Chaparral Transition, and 8.07 acres of Diegan Coastal Sage Scrub shall be preserved by the project applicant through either on-site preservation, off-site acquisition, in lieu fees, a purchase of credits from an approved mitigation bank, or a combination thereof as approved by the Planning Manager. Proof of onsite preservation, off-site acquisition, payment of in lieu fees, purchase of credits from an approved mitigation bank or a combination thereof shall be provided to the Planning Manager prior to issuance of a grading permit.

Project implementation would impact the downstream portion of the primary drainage and its tributary. Approximately 228 linear feet and 0.12 acre of CDFW jurisdiction and 0.06 acre of RWQCB jurisdiction would be impacted. This represents a significant impact (**Impact BIO-4**), and mitigation is required. Implementation of mitigation measure MM-BIO-4 would reduce this impact to below a level of significance.

MM-BIO-4 An Approved Jurisdictional Determination Form will be processed with USACE and permit authorizations from RWQCB and CDFW will be obtained prior to project implementation. To mitigate temporary impacts to CDFW and RWQCB jurisdictional areas, the project applicant shall restore temporarily disturbed jurisdictional areas at a 1:1 ratio. To mitigate permanent impacts to 0.12 acre of CDFW jurisdiction and 0.07 acre of RWQCB jurisdiction, the project applicant shall restore in-kind habitat on site at a 2:1 ratio, as approved by CDFW and RWQCB. If on-site restoration is infeasible, mitigation may be completed by providing adequate funding to a third-party organization, conservation bank or in-lieu fee program for the in-kind creation or restoration at a 2:1 ratio. If mitigation is implemented off site, mitigation lands should be in the same County as the site. Mitigation shall be implemented prior to issuance of the grading permit.

The project could result in indirect impacts to biological resources due to construction activities (e.g., inadvertent trampling of vegetation, leaking construction equipment) and this represents a significant impact (**Impact BIO-5**). Implementation of mitigation measure MM-BIO-5 will reduce potential indirect impacts to below a level of significance.

MM-BIO-5 The following best management practices (BMPs) shall be implemented for project construction activities in the project site:

- No pets or firearms will be allowed on the project site during construction activities.
- During project activities, all trash that may attract predators will be properly contained, removed from the work site, and disposed of at the end of each day. Following construction, all trash and construction debris will be removed from work areas.
- All refueling or maintenance activities will be conducted at least 100 feet outside of jurisdictional waters and wetlands. Containment

pans/basins will be needed under all parked heavy equipment. Pallets or secondary containment areas for chemicals, drums, or bagged materials will be provided. Should spills occur, materials and/or contaminants will be cleaned from the project site and recycled or disposed of to the satisfaction of the RWQCB.

- All vehicles and equipment will be in good working condition and free of leaks.
- All open trenches will be completely and securely covered at the end of each day or constructed with appropriate exit ramps to allow species that accidentally fall into a trench to escape. Trenches will remain open for the shortest period necessary to complete required work and will be checked by a qualified biologist for sensitive resources immediately prior to backfilling.
- No water will be impounded in a manner to attract sensitive species.
- Erosion control and landscaping specifications will allow only natural-fiber, biodegradable meshes, and coir rolls, (i.e., no plastic-mesh temporary erosion control measures) to prevent impacts to the environment, fish, and terrestrial wildlife.
- During construction, the project will make all reasonable efforts to limit the use of imported soils for fill. Soils currently existing on site should be used for fill material. If the use of imported fill material is necessary, the imported material must be obtained from a source known to be free of invasive plant species.
- Equipment and vehicles must be free of caked on mud and weed seeds/propagules before accessing and leaving the project site.
- Crews will stay on designated, flagged routes to avoid sensitive vegetation, habitat and other plant wildlife.

Cultural Resources

it is possible that subsurface cultural deposits are still present under the surface and construction activities could impact these resources if they are present. This represents a significant impact and mitigation is required. (**Impact CR-1**). Implementation of mitigation measures MM-CR-1a through MM-CR-1e would reduce this impact to below a level of significance.

MM-CR-1a **Pre-Excavation Agreement:** Prior to the issuance of a Grading Permit, or ground disturbing activities, the Applicant/Owner shall enter into a Tribal Cultural Resources Treatment and Repatriation Agreement (Pre-Excavation Agreement) with a Traditionally and Culturally Affiliated Native American Tribe (TCA Tribe), identified in consultation with the City. The purpose of the Pre-Excavation Agreement shall be to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection, treatment, and repatriation of Native American human remains, funerary objects, cultural and/or religious landscapes, ceremonial items, traditional gathering areas,

and other tribal cultural resources. Such resources may be located within and/or discovered during ground disturbing and/or construction activities for the proposed project, including any additional culturally appropriate archaeological studies, excavations, geotechnical investigations, grading, preparation for wet and dry infrastructure, and other ground disturbing activities. Any project-specific Monitoring Plans and/or excavation plans prepared by the project archaeologist shall include the TCA Tribe requirements for protocols and protection of tribal cultural resources that were agreed to during the tribal consultation.

The landowner shall relinquish ownership of all non-burial related tribal cultural resources collected during construction monitoring and from any previous archaeological studies or excavations on the project site to the TCA Tribe for proper treatment and disposition per the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction. The requirement and timing of such release of ownership, and the recipient thereof, shall be reflected in the Pre-Excavation Agreement. If the TCA Tribe does not accept the return of the cultural resources, then the cultural resources will be subject to curation.

MM-CR-1b

Construction Monitoring: Prior to the issuance of a Grading Permit or ground disturbing activities, the Applicant/Owner or Grading Contractor shall provide written documentation (either as signed letters, contracts, or emails) to the City's Planning Division stating that a Qualified Archaeologist and Traditionally and Culturally Affiliated Native American monitor (TCA Native American monitor) have been retained at the Applicant/Owner or Grading Contractor's expense to implement the construction monitoring program, as described in the Pre-Excavation Agreement.

The Qualified Archaeologist and TCA Native American monitor shall be invited to attend all applicable pre-construction meetings with the General Contractor and/or associated subcontractors to present the construction monitoring program. The Qualified Archaeologist and TCA Native American monitor shall be present on site during grubbing, grading, trenching, and/or other ground disturbing activities that occur in areas of native soil or other permeable natural surfaces that have the potential to unearth any evidence of potential archaeological resources or tribal cultural resources. In areas of artificial paving, the Qualified Archaeologist and TCA Native American monitor shall be present on site during grubbing, grading, trenching, and/or other ground disturbing activities that have the potential to disturb more than six inches below the original pre-project ground surface to identify any evidence of potential archaeological or tribal cultural resources. No monitoring of fill material, existing or imported, will be required if the General Contractor or developer can provide documentation to the satisfaction of the City that all fill materials being utilized at the site are either: 1) from existing commercial (previously permitted) sources of materials; or 2) are from private or other non-commercial sources that have been determined to be absent of tribal cultural resources by the Qualified Archaeologist and TCA Native American monitor.

The Qualified Archaeologist and TCA Native American monitor shall maintain ongoing collaborative coordination with one another during all ground disturbing activities. The requirement for the construction monitoring program shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. The Applicant/Owner or Grading Contractor shall provide written notice to the Planning Division and the TCA Tribe, preferably through e-mail, of the start and end of all ground disturbing activities.

Prior to the release of any grading bonds, or prior to the issuance of any project Certificate of Occupancy, an archaeological monitoring report, which describes the results, analysis, and conclusions of the construction monitoring shall be submitted by the Qualified Archaeologist, along with any TCA Native American monitor's notes and comments received by the Qualified Archaeologist, to the Planning Division Manager for approval. Once approved, a final copy of the archaeological monitoring report shall be retained in a confidential City project file and may be released, as a formal condition of Assembly Bill (AB) 52 consultation, to Rincon Band of Luiseño Indians (Rincon Band) and the Pechanga Band of Luiseño Indians (Pechanga Band) or any parties involved in the project specific monitoring or consultation process. A final copy of the report, with all confidential site records and appendices, will also be submitted to the South Coastal Information Center after approval by the City.

MM-CR-1c

Unanticipated Discovery Procedures: Both the Qualified Archaeologist and the TCA Native American monitor may temporarily halt or divert ground disturbing activities if potential archaeological resources or tribal cultural resources are discovered during construction activities. Ground disturbing activities shall be temporarily directed away from the area of discovery for a reasonable amount of time to allow a determination of the resource's potential significance. Isolates and clearly non-significant archaeological resources (as determined by the Qualified Archaeologist, in consultation with the TCA Native American monitor) will be minimally documented in the field. All unearthed archaeological resources or tribal cultural resources will be collected, temporarily stored in a secure location (or as otherwise agreed upon by the Qualified Archaeologist and the TCA Tribe), and repatriated according to the terms of the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction.

If a determination is made that the archaeological resources or tribal cultural resources are considered potentially significant by the Qualified Archaeologist, the TCA Tribe, and the TCA Native American monitor, then the City and the TCA Tribe shall determine, in consultation with the Applicant/Owner and the Qualified Archaeologist, the culturally appropriate treatment of those resources.

If the Qualified Archaeologist, the TCA Tribe, and the TCA Native American monitor cannot agree on the significance or mitigation for such resources, these issues will be presented to the Planning Division Manager for decision. The Planning Division Manager shall make a determination based upon the provisions of CEQA and California Public Resources Code Section 21083.2(b)

with respect to archaeological resources and California Public Resources Section 21704 and 21084.3 with respect to tribal cultural resources, and shall take into account the religious beliefs, cultural beliefs, customs, and practices of the TCA Tribe.

All sacred sites, significant tribal cultural resources, and/or unique archaeological resources encountered within the project area shall be avoided and preserved as the preferred mitigation. If avoidance of the resource is determined to be infeasible by the City as the Lead Agency, then the City shall require additional culturally appropriate mitigation to address the negative impact to the resource, such as, but not limited to, the funding of an ethnographic study and/or a data recovery plan, as determined by the City in consultation with the Qualified Archaeologist and the TCA Tribe. The TCA Tribe shall be notified and consulted regarding the determination and implementation of culturally appropriate mitigation and the drafting and finalization of any ethnographic study and/or data recovery plan, and/or other culturally appropriate mitigation. Any archaeological isolates or other cultural materials that cannot be avoided or preserved in place as the preferred mitigation shall be temporarily stored in a secure location on site (or as otherwise agreed upon by the Qualified Archaeologist and TCA Tribe), and repatriated according to the terms of the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction. The removal of any artifacts from the project site will be inventoried with oversight by the TCA Native American monitor.

If a data recovery plan is authorized as indicated above and the TCA Tribe does not object, then an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. If the Qualified Archaeologist collects such resources, the TCA Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the TCA Native American monitor may, at their discretion, collect said resources for later reburial or storage at a local curation facility, as described in the Pre-Excavation Agreement.

In the event that curation of archaeological resources or tribal cultural resources is required by a superseding regulatory agency, curation shall be conducted by an approved local facility within San Diego County and the curation shall be guided by California State Historical Resources Commission's Guidelines for the Curation of Archaeological Collections. The City shall provide the Applicant/Owner final curation language and guidance on the project grading plans prior to issuance of the grading permit, if applicable, during project construction. The Applicant/Owner shall be responsible for all repatriation and curation costs and provide to the City written documentation from the TCA Tribe or the curation facility, whichever is most applicable, that the repatriation and/or curation have been completed.

MM-CR-1d

Human Remains: As specified by California Health and Safety Code Section 7050.5, if human remains, or remains that are potentially human, are found on the project site during ground disturbing activities or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Medical Examiner's Office by telephone. No further excavation or disturbance of the discovery or any nearby area reasonably suspected to overlie adjacent remains (as determined by the Qualified Archaeologist and/or the TCA Native American monitor) shall occur until the Medical Examiner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98.

If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected (as determined by the Qualified Archaeologist and/or the TCA Native American monitor), and consultation and treatment could occur as prescribed by law. As further defined by State law, the Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner recognizes the remains to be Native American, and not under his or her jurisdiction, then he or she shall contact the Native American Heritage Commission by telephone within 24 hours. The Native American Heritage Commission will make a determination as to the Most Likely Descendent, who shall be afforded 48 hours from the time access is granted to the discovery site to make recommendations regarding culturally appropriate treatment.

If suspected Native American remains are discovered, the remains shall be kept in situ (in place) until after the Medical Examiner makes its determination and notifications, and until after the Most Likely Descendent is identified, at which time the archaeological examination of the remains shall only occur on site in the presence of the Most Likely Descendent. The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). In the event that the Applicant/Owner and the Most Likely Descendant are in disagreement regarding the disposition of the remains, State law will apply, and the mediation process will occur with the NAHC. In the event that mediation is not successful, the landowner shall rebury the remains at a location free from future disturbance (see Public Resources Code Section 5097.98(e) and 5097.94(k)).

MM-CR-1e

Fencing: Due to the high cultural sensitivity of the Project, the proponent will ensure that silt, biological, construction, or other highly visible fencing be installed between Parcels A and B. The fencing will be established as the Environmentally Sensitive Area (ESA) limits, shall be designated as such on all grading plans, and will be a visual reminder that CA-SDI-11441 will be avoided and not impacted in any way by the proposed construction. The construction manager will ensure that the project archaeologist and tribal monitor are

notified at least 48 hours prior to fencing placement and the monitors will be present during installation and removal of the fencing. At least three times per week, either the archaeological monitor or the tribal monitor will inspect the fencing for any potential breaches. Should a breach occur, the monitor(s) who identified the breach will notify the other monitor and the construction manager and an inspection of the breach will occur within a reasonable timeframe to determine the extent of the damage to the fence and CA-SDI-11441. No additional ground disturbing should occur within 50 feet of the breach until it can be fully inspected.

If the breach was caused by construction personnel, sensitivity training shall be provided by the project archaeologist and a tribal representative to the entire construction team, at a minimum. If the breach was minimal and no disturbance to the site occurred, the fencing shall be fixed and ground disturbing can resume at the authorization of the construction manager. If the damage to the site is extreme and irreparable, additional measures may be taken as determined appropriate by the City with recommendations from the Rincon Band, up to and including removal of the offending operator from the jobsite, fines, and/or temporary work stoppages. Documentation of the fencing efforts will be included in the Phase IV Monitoring Report completed by the Project archaeologist.

Geology/Soils

Higher expansive soils may be encountered during the grading of the site. This potential in addition to the potential for special grading conditions related to excavating granitic rock represent a significant impact (**Impact GEO-1**). Implementation of mitigation measures MM-GEO-1 will reduce this impact to below a level of significance.

MM-GEO-1 The project applicant shall implement the geotechnical recommendations identified beginning on pages 10 – 25 of the Preliminary Geotechnical Evaluation Report prepared by Geocon for the project site. These recommendations address excavation and soil characteristics, subdrains, grading, slopes, temporary excavation slopes, earthwork grading factors, seismic design criteria, foundation considerations, retaining wall design, lateral loading, soil nail wall, etc.

The project site contains Pleistocene old alluvial floodplain deposits. These deposits have an unproven/undetermined sensitivity and there is a potential that the site could contain paleontological resources that could be disturbed during grading activities for the project. This represents a potentially significant impact (**Impact GEO-2**), and mitigation is required. Implementation of mitigation measure MM-GEO-2 would reduce this impact to below a level of significance.

MM-GEO-2 Prior to project grading the project applicant shall retain a qualified paleontologist to review the proposed project area to determine the potential for paleontological resources to be encountered. If there is a potential for

paleontological resources to occur, the paleontologist shall identify the area(s) where these resources are expected to be present, and a qualified paleontological monitor shall be retained to monitor the initial cut in any areas that have the potential to contain paleontological resources.