

## Exhibit B

### GOVERNMENT CODE SECTION 65560

#### 65560.

(a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

*(Amended by Stats. 2015, Ch. 639, Sec. 4. Effective January 1, 2016.)*

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### REFERENCED STATUTES

For informational purposes, the text of the following statutes, which are referenced in Government Code section 65560, subsection (b), is provided below: section 816.52 of the Civil Code and sections 5097.9 and 5097.993 of the Public Resources Code.

#### **CIVIL CODE SECTION 816.52**

**816.52.** For purposes of this chapter, the following definitions apply:

(a) (1) "Adjacent" means within 400 yards from the property boundary of an existing urban waterway.

(2) This subdivision does not create a new authority to place or extend an easement on private property that is not part of a voluntary agreement.

(b) "Greenway" means a pedestrian and bicycle, nonmotorized vehicle transportation, and recreational travel corridor that meets the following requirements:

(1) Includes landscaping that improves rivers and streams, provides flood protection benefits, and incorporates the significance and value of natural, historical, and cultural resources, as documented in the local agency's applicable planning document, including, but not limited to, a master plan, a general plan, or a specific plan.

(2) Is separated and protected from shared roadways, is adjacent to an urban waterway, and incorporates both ease of access to nearby communities and an array of amenities and services for the users of the corridor and nearby communities.

(3) Is located on public lands or private lands, or a combination of public and private lands, where public access to those lands for greenway purposes has been legally authorized by, or legally obtained from, the fee owner of the land and, if applicable, the operator of any facility or improvement located on the land, through leases, easements, or other agreements entered into by the fee owner and the operator of any affected facility or improvement on the land.

(4) Reflects design standards regarding appropriate widths, clearances, setbacks from obstructions, and centerlines protecting directional travel, and other considerations, as appropriate, that are applicable for each affected local agency, as documented in the local agency's applicable planning document, including, but not limited to, a master plan, general plan, or specific plan.

(5) May incorporate appropriate lighting, public amenities, art, and other features that are consistent with a local agency's planning document, including, but not limited to, a general plan, master plan, or specific plan.

(c) "Greenway easement" means any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition that is or has been executed by or on behalf of the owner of the land subject to the easement and is

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binding upon successive owners of that land, for the purpose of developing greenways adjacent to urban waterways.

(d) "Local agency" means a city, county, or city and county.

(e) "Urban waterway" means a creek, stream, or river that crosses (1) developed residential, commercial, or industrial property or (2) open space where the land use is designated as residential, commercial, or industrial, as referenced in a local agency's planning document, including, but not limited to, a general plan, master plan, or specific general plan.

### **PUBLIC RESOURCES CODE SECTION 5097.9**

**5097.9.** No public agency, and no private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall in any manner whatsoever interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. The provisions of this chapter shall be enforced by the commission, pursuant to Sections 5097.94 and 5097.97.

The provisions of this chapter shall not be construed to limit the requirements of the Environmental Quality Act of 1970, Division 13 (commencing with Section 21000).

The public property of all cities, counties, and city and county located within the limits of the city, county, and city and county, except for all parklands in excess of 100 acres, shall be exempt from the provisions of this chapter. Nothing in this section shall, however, nullify protections for Indian cemeteries under other statutes.

### **PUBLIC RESOURCES CODE SECTION 5097.993**

#### **5097.993.**

(a)(1) A person who unlawfully and maliciously excavates upon, removes, destroys, injures, or defaces a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources pursuant to Section 5024.1, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site, any inscriptions made by Native Americans at such a site, any archaeological or historic Native American rock art, or any archaeological or historic feature of a Native American historic, cultural, or sacred site, is guilty of a misdemeanor if the act was committed with specific intent to vandalize, deface, destroy, steal, convert, possess, collect, or sell a Native American historic, cultural, or sacred artifact, art object, inscription, or feature, or site, and the act was committed as follows:

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(A) On public land.

(B) On private land, by a person, other than the landowner, as described in subdivision (b).

(2) A violation of this section is punishable by imprisonment in the county jail for up to one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) This section does not apply to any of the following:

(1) An act taken in accordance with, or pursuant to, an agreement entered into pursuant to subdivision (l) of Section 5097.94.

(2) An action taken pursuant to Section 5097.98.

(3) An act taken in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(4) An act taken in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(5) An act authorized under the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4).

(6) An action taken with respect to a conservation easement in accordance with Chapter 4 (commencing with Section 815) of Division 2 of the Civil Code, or any similar nonperpetual enforceable restriction that has as its purpose the conservation, maintenance, or provision of physical access of Native Americans to one or more Native American historic, cultural, or sacred sites, or pursuant to a contractual agreement for that purpose to which most likely descendants of historic Native American inhabitants are signatories.

(7) An otherwise lawful act undertaken by the owner, or an employee or authorized agent of the owner acting at the direction of the owner, of land on which artifacts, sites, or other Native American resources covered by this section are found, including, but not limited to, farming, ranching, forestry, improvements, investigations into the characteristics of the property conducted in a manner that minimizes adverse impacts unnecessary to that purpose, and the sale, lease, exchange, or financing of real property.

(8) Research conducted under the auspices of an accredited postsecondary educational institution or other legitimate research institution on public land in accordance with applicable permitting requirements or on private land in accordance with otherwise applicable law.