

CITY ATTORNEY LEGAL ANALYSIS
State Law Provisions Applicable to Transfer of Land from City to District
Summary Table

Park or Property	Summary of Applicable State Law(s) Requirements Regarding the Sale or Lease of City Property	Staff Comments
Boothbay Park (Purchased 1977)	<p style="text-align: center;"><u>Sale</u></p> <p>Per Govt. Code §37111.1:</p> <ol style="list-style-type: none"> 1. City Council must find land not appropriate, convenient and necessary for park purposes. 2. City Council could then adopt ordinance by 4/5 vote finding it is necessary to transfer land for other municipal purpose if <ol style="list-style-type: none"> A. Equal or greater amount of land acquired within last 3 years – dedicated/developed for park B. Proposed use of land conforms to General Plan <p style="text-align: center;"><u>Lease</u></p> <p>AG Opinion 95-107 – District must comply with Public Resources Code §5401 by paying money to acquire new park land or providing land to replace the park.</p> <p>Cal. Const. art. XVI §6 – Prohibits gift of public funds</p>	<p style="text-align: center;"><u>Sale</u></p> <p>Sale is precluded:</p> <ol style="list-style-type: none"> A. School use ≠ Municipal purpose B. No equal or greater amount of land acquired within last 3 years <p style="text-align: center;"><u>Lease</u></p> <p>Can be considered for lease, but only if the District were to pay money to acquire new park land or provide land to replace the park.</p> <p>Would need to be considered if the proposed lease were for less than the fair rental value of the land, as determined by an independent appraisal of the property.</p>
Port Royal Park (Acquired by Dedication 1984)	<p style="text-align: center;"><u>Sale</u></p> <ol style="list-style-type: none"> 1. City must obtain consent of original dedicator or successors/assigns <u>Slavich v. Hamilton</u> (1927) 201 Cal. 299 <p>Per Govt. Code §38403:</p> <ol style="list-style-type: none"> 2. If consent obtained, City Council must find that land is not appropriate, convenient or necessary for park purposes. 3. City must acquire from District an option to purchase other land of at least equal area to Port Royal Park in order to replace it. 	<p style="text-align: center;"><u>Sale</u></p> <p>Sale could be considered if:</p> <ol style="list-style-type: none"> A. Obtain consent per <u>Slavich v. Hamilton</u> B. Comply with Govt. Code §38403 C. Comply with Govt. Code §5401 D. Address Cal. Const. art. XVI §6

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	<p>Per Govt. Code §5401 – District must pay money to acquire new park land or provide land to replace the park.</p> <p>Cal. Const. art. XVI §6 – Prohibits gift of public funds</p> <p style="text-align: center;"><u>Lease</u></p> <p>AG Opinion 95-107 – District must comply with Public Resources Code §5401 by paying money to acquire new park land or providing land to replace the park.</p> <p>Cal. Const. art. XVI §6 – Prohibits the gift of public funds</p>	<p>Would need to be considered if the proposed sale were for less than the fair market value of the land as determined by an independent appraisal of the property.</p> <p style="text-align: center;"><u>Lease</u></p> <p>Could be considered if not precluded by terms of dedication.</p> <p>Would need to be considered if the proposed lease were for less than the fair rental value of the land, as determined by an independent appraisal of the property.</p>
<p>Terminus of Halbut Street @ Beach Park Blvd</p>	<p style="text-align: center;"><u>Sale/Lease</u></p> <p>Cal. Const. art. XVI §6 – Prohibits the gift of public funds</p>	<p style="text-align: center;"><u>Sale/Lease</u></p> <p>Would need to be considered if the proposed sale or lease were for less than the fair market/rental value of the property, as determined by an independent appraisal</p>
<p>City-owned 15 Acres Adjacent to Government Center</p>	<p style="text-align: center;"><u>Sale/Lease</u></p> <p>Cal. Const. art. XVI §6 – Prohibits the gift of public funds</p>	<p style="text-align: center;"><u>Sale/Lease</u></p> <p>Would need to be considered if the proposed sale or lease were for less than the fair market/rental value of the property, as determined by an independent appraisal, but City contractually bound by terms of Exclusive Right to Negotiate Agreement through April 2010.</p>