



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6352
October 17, 2023
Consent Agenda**

AGENDA BILL INFORMATION

TITLE:	AB 6352: Luther Burbank Park Aquatic Lands Lease	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Authorize the City Manager to execute the Washington State Department of Natural Resources Aquatic Lands Lease for Luther Burbank Park.	

DEPARTMENT:	Public Works
STAFF:	Jason Kintner, Chief of Operations Paul West, Senior CIP Project Manager
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Map of Luther Burbank Park Aquatic Lands Lease 2. Aquatic Lands Lease 20-B09917 for Luther Burbank Park
CITY COUNCIL PRIORITY:	2. Sustain and enhance our natural environment, especially parks and open spaces, to benefit this generation and others that follow.

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is to approve an Aquatic Lands Lease with the Washington State Department of Natural Resources for second class shorelands along the eastern portion of the Luther Burbank Park waterfront and authorize the City Manager to execute the lease agreement.

- Luther Burbank Park is comprised of land that is owned by the City and land that is owned by Washington State Department of Natural Resources (DNR). See Exhibit 1.
- The City leases the DNR-owned land to provide public access to the shoreline. This is a no-cost lease, except for a small portion of the lease area that has non-water dependent use of the shorelands (the Boiler Building).
- The current lease is effective from 2016 to 2046.
- The City has pending grant agreements with Washington State for anticipated capital work at this site that require a minimum land tenure of 25 years from project completion. The current lease does not provide sufficient tenure to meet that requirement.
- DNR is offering a new 30-year lease to meet the grant requirement. The terms of the new lease are similar to the current lease.

BACKGROUND

The shorelands of Luther Burbank Park were first leased to King County by the Department of Natural Resources (DNR) in 1973 for a term of thirty years. The lease was to expire in 2003, the same year the City of Mercer Island was acquiring Luther Burbank Park. To expedite the sale of the property, DNR granted an amendment to the lease to transfer tenancy to the City and extended the lease term for an additional ten years. That lease expired in 2013. DNR provided a letter extending the City's tenancy in the interim until the current lease could be negotiated. The current thirty-year lease was executed in 2016.

The current lease from the Department of Natural Resources (DNR) for the Luther Burbank Park shorelands primarily concerns the second class shorelands adjacent to Government Lot 6, the eastern portion of the Luther Burbank Park waterfront (Exhibit 1). Additional information about the history and ownership of the shorelands for the three parcels that make up Luther Burbank Park is available in [AB 5144](#).

ISSUE/DISCUSSION

The Luther Burbank Dock and Waterfront Improvements Project (PA0122) includes grant funding through the Washington State Recreation Office, which requires a minimum land tenure of 25 years from project completion. The current lease with DNR for the Luther Burbank shorelands does not provide sufficient tenure to meet that requirement.

DNR has been responsive to the City efforts and has supported grant applications for the Luther Burbank Waterfront Improvements Project, as evidenced by their issuance of the new lease agreement. DNR is offering a new 30-year lease to meet the grant requirement.

Aquatic Lands Lease 20-B09917 (Exhibit 2) is similar to the current lease. It requires the City to provide public access to the State property for aquatic recreation, documents the existing improvements in the leased area, and assigns the City ownership of them. To add, modify, or remove improvements in the leased area, the City must receive DNR's permission first. DNR enforces conditions and standards for work in the leased area.

The lease also details the assignment of environmental liability and requires the replacement of creosote pilings and non-grated decking on the docks in the final four years of the thirty-year lease term, conditions that apply specifically to the north pier. As part of the upcoming waterfront project, the north pier is to remain. The creosote pilings will be jacketed with fiberglass to extend their useful life. The existing decking on the north pier is in satisfactory condition and will not need to be replaced for 20 to 25 years. As such, the lease requirement to replace the creosote pilings and non-grated decking aligns with the City's anticipated replacement cycle for the north pier and is anticipated to occur after 2050.

Under the existing lease, the City has been paying annual rent for the footprint of the Boiler Building which DNR considers non-water dependent use. This fee continues under the new lease starting at \$4,523.61 per year, which is similar to the current annual lease rate. This fee is adjusted annually based on the Consumer Price Index and reevaluated by DNR every four years for fair market value.

NEXT STEPS

Following City Council approval, the City Manager will execute the new lease agreement. The lease will be signed by the Public Lands Commissioner and recorded by the City. No budgetary impacts will result from the newly executed lease.

RECOMMENDED ACTION

Authorize the City Manager to execute the Washington State Department of Natural Resources Aquatic Lands Lease 20-B09917 for Luther Burbank Park, substantially in the form as set forth in Exhibit 2, and any future technical non-substantive amendments required to administer the lease.