



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

**AB 6113  
July 5, 2022  
Consent Agenda**

**AGENDA BILL INFORMATION**

<b>TITLE:</b>	AB 6113: Water Main Break - Authorization to File Suit	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
<b>RECOMMENDED ACTION:</b>	Authorize the City Attorney to file suit for damages and indemnity from a water main break caused by MidMountain.	

<b>DEPARTMENT:</b>	City Attorney
<b>STAFF:</b>	Bio Park, City Attorney
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	n/a
<b>CITY COUNCIL PRIORITY:</b>	n/a

<b>AMOUNT OF EXPENDITURE</b>	\$ n/a
<b>AMOUNT BUDGETED</b>	\$ n/a
<b>APPROPRIATION REQUIRED</b>	\$ n/a

**EXECUTIVE SUMMARY**

The purpose of this agenda bill is to seek authorization from the City Council to file a lawsuit in King County Superior Court against MidMountain Contractors, Inc. (MidMountain) for damages and indemnity from a water main break caused by MidMountain while performing utility work at the Mercer Island Light Rail Station.

**BACKGROUND**

In June 2020, MidMountain was performing utility work on the Mercer Island Light Rail Station on behalf of Sound Transit as part of the ST2 project. As a condition of doing so, MidMountain agreed that any problem arising out of the work would be addressed by them. The construction work included installing and testing a double-check valve assembly. Without authority or permission from the City, MidMountain activated the City’s valve across 80th Avenue SE charging the water mains on the Sound Transit construction site to test for leaks. The end cap failed, however, unloading an extraordinary amount of water on North Mercer Way—and nearly showering I-90 with water and debris. Both public and private properties were flooded.

MidMountain immediately admitted fault and took responsibility stating, “this is our problem, this is our situation, we’ll take care of it.” Meanwhile, the flooding event created a massive pressure spike in the City’s water system. This pressure spike caused breakages and failures throughout the City’s system and flooded a number of homes. MidMountain was advised of this, but to date, they have not taken any step to help the

homeowners and residents whose properties were damaged—thereby necessitating a lawsuit to force them to take responsibility.

## **ISSUE/DISCUSSION**

In the complaint, among other remedies, the City will be asking the Court (1) for monetary damages suffered by the City (in an amount to be determined at trial); (2) to order defendants to defend and indemnify the City against claims from homeowners and residents flooded by the water main break caused by them; and (3) for fees and costs related to the lawsuit. Because Sound Transit is the owner of the public works project that MidMountain was constructing when they broke the City’s water main, Sound Transit will be named in the lawsuit as well.

## **NEXT STEPS**

Upon authorization from the City Council, the City Attorney will file a summons and complaint for damages and indemnity in King County Superior Court.

## **RECOMMENDED ACTION**

Authorize the City Attorney to file suit for damages and indemnity from a water main break caused by MidMountain.