

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

METROPOLITAN UTILITIES  
DISTRICT OF OMAHA, a  
Nebraska Metropolitan Utility  
District,

Plaintiff,

v.

HAWKINS CONSTRUCTION  
COMPANY,

Defendant.

CASE NO: CI \_\_\_\_\_

**COMPLAINT  
AND  
DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff, Metropolitan Utilities District of Omaha (“District”), and files this Complaint against Defendant Hawkins Construction Company and alleges and states as follows:

**PARTIES**

1. The District is a municipal corporation and a political subdivision of the State of Nebraska with its principal place of business at 7350 World Communications Drive, in Omaha, Nebraska.

2. Hawkins Construction Company (“Hawkins”) is a Nebraska corporation with its principal place of business at 2516 Deer Park Blvd., Omaha, Nebraska 68105; references herein shall include its officers, agents, employees, subcontractors, or anyone under its direction and control for the purpose of completing the Project.

**JURISDICTION AND VENUE**

3. This Court has personal jurisdiction over the Defendant pursuant to Neb. Rev. Stat. § 25-536 because the Defendant transacts,

has transacted, and will transact business in Nebraska, and has other sufficient contacts within the State of Nebraska.

4. This Court has subject matter jurisdiction pursuant to Neb. Rev. Stat. § 24-302.

5. Venue is proper in this Court pursuant to Neb. Rev. Stat. §§ 25-403.01 and 25-403.02.

### **FACTUAL ALLEGATIONS**

6. The District is the owner and operator of the Florence Water Treatment Plant (“Plant”) which operates intake pumps that draw water from the Missouri River for processing and ultimate use by the residents of the City of Omaha and surrounding suburbs.

7. The District engaged the services of Hawkins to complete the Florence Water Treatment Plant Site Piping Improvements Project (“Project”), a planned capital improvement project to upgrade numerous components of the Plant.

8. The District and Hawkins entered into a written contract, awarded June 1, 2022, that set forth the terms and conditions between the District and Hawkins in reference to the Project and Hawkins completion thereof (“Contract”).

9. Under the Contract, Hawkins was obligated, among other tasks, to replace existing pipe with new suction and discharge piping for the Minne Lusa High Service Pump Station (“Facility”) along with associated valves, meters, and vaults (“Work”).

10. Throughout the Project and pursuant to the Contract, Hawkins was aware that the District would be occupying and using the Facility during and throughout Hawkins’ Work on the Project

resulting in certain water pipelines in and around the Facility being charged to operating pressures.

11. Under the Contract, Hawkins was obligated to coordinate its activities with the District to ensure, at a minimum, two pumping units were operational at all times through the Project, except for certain limited pre-arranged times where the Plant would need to be fully shut down.

12. Hawkins was to plan its Work and exercise caution (1) to ensure the functioning of the Plant would not be disrupted and (2) to minimize the inconvenience to the District and minimize the frequency and duration of complete facility shutdowns necessary to complete the Work.



13. On or about July 25, 2023, Hawkins, while removing earth required to perform its duties under the Contract, was operating its excavator in close proximity to an operational and pressurized pipeline without the requisite care to safely complete its work.

14. Hawkins' failure to exercise the requisite care was the direct and proximate cause of the rupture of the operational and pressurized piping.



15. The rupture of the operational and pressurized pipeline resulted in the uncontrolled release of over 14 million gallons of water, damaging the District's facility, equipment and further resulting in the full shutdown of the Plant.

16. The rupture necessitated an extended shutdown of the District's Plant and curtailed operations for months with the exact amount of time to be proven at trial.



## **CLAIMS FOR RELIEF**

### **COUNT I - Negligence**

17. The District re-alleges and incorporates the allegations of all preceding paragraphs as though fully set forth herein.

18. Hawkins owed the following non-exhaustive list of non-delegable duties:

- a. To exercise reasonable care in connection with the Project and their Work; and
- b. To oversee that their Work is carefully performed to avoid injury or damage to others and property.

19. Hawkins breached its duties and was negligent with respect to the Work and the removal and installation of replacement pipe in numerous ways, particularly, without limitation, in the following respects:

- a. In failing to take reasonable care to properly develop, adopt, and follow a plan in coordination with the District that would not cause the uncontrolled release of water resulting in damage to the District's property;
- b. In failing to act in accordance with its knowledge that certain pipelines located on the District's property were pressurized to operational pressures and to sufficiently coordinate the District's operational use of the Plant with the construction activities engaged in by Hawkins at the time of incident;
- c. In failing to take reasonable care in the operation of the excavator while working in close proximity to operational and pressurized pipelines in use by the District; and
- d. In failing to properly isolate and protect the operational segments of the District's pipelines prior to conducting earth moving work in close proximity thereto.

20. As a direct and proximate result of Hawkins' breach of its duties, the District's infrastructure and property has been damaged and the ability for the District to use its property was materially impeded to the potential detriment and risk of public safety.

21. Hawkins is vicariously liable for the negligence of its employees, agents, and subcontractors, including, but not limited to, under the doctrine of *respondeat superior*, and all theories of agency.

22. As a result of Hawkins' negligence, the District has suffered, and will continue to suffer, damages.

### **COUNT II - *Res Ipsa Loquitur***

23. The District re-alleges and incorporates the allegations of all preceding paragraphs as though fully set forth herein.

24. Alternatively, absent direct evidence of negligence, the District pleads *res ipsa loquitur*.

25. Hawkins, through its employees or subcontractors, was in exclusive control of the excavator.

26. The events that have occurred as alleged in the preceding paragraphs are events that are of a type that could not have occurred without negligence.

27. The Work conducted by Hawkins was under its control and direction.

28. The District seeks damages proximately caused by Hawkins' rupture of its pipeline.

### COUNT III – BREACH OF CONTRACT

29. The District re-alleges and incorporates the allegations of all preceding paragraphs as though fully set forth herein.

30. The District and Hawkins entered into the Contract.

31. The Contract provided that, among many other tasks, Hawkins would perform the demolition of existing pipelines and installation of new pipelines consistent with the terms and conditions of the Contract and in coordination with the District's ongoing use of the Facility and the Plant.

32. Hawkins failed to perform its obligations under the Contract with the required care and skill implied in all contracts under Nebraska law resulting in the careless rupture of the operational pipeline and uncontrolled release of over 14 million gallons of water and associated property damage and loss of use of the District's Facility and the Plant.

WHEREFORE, the District respectfully requests the Court enter Judgment in favor of the District against Hawkins and award the following relief:

1. Damages in an amount to be proven at trial, including but not limited to:
  - a. \$1,901,438 in lost revenue resulting from the disruption caused by the water main rupture;
  - b. \$3,474,638.49 in costs for the repair of property damage, infrastructure, and associated remediation;

- c. Prejudgment interest, from July 25, 2023, and post-judgment interest thereon at the highest legal rate allowed by law;
- d. The costs of this lawsuit; and
- e. Such further relief as the Court deems just and equitable.

**JURY DEMAND**

The District hereby demands a trial by jury on all issues so triable.

DATED this 11<sup>th</sup> day of July, 2025.

METROPOLITAN UTILITIES  
DISTRICT, a Nebraska Metropolitan  
Utility District, Plaintiff

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