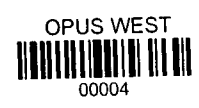


<b>UNITED STATES BANKRUPTCY COURT      Northern District of Texas</b>		<b>PROOF OF CLAIM</b>
Name of Debtor: <b>Opus West Construction Corporation</b>		Case Number: <b>09-34360</b>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>Stewart Builders, Inc. dba Keystone Sitework</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: <b>Scott T. Citek, Lamm &amp; Smith, PC                  3730 Kirby Drive, Suite 650                  Houston, Texas 77098</b>		Court Claim Number: _____ (If known)
Telephone number: <b>(713) 228-2481</b>		Filed on: _____
Name and address where payment should be sent (if different from above):		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
Telephone number:		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed:      \$ <u>167,608.46</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim.
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  If all or part of your claim is entitled to priority, complete item 5.  <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		
2. Basis for Claim: <u>labor and materials</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____  3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe:  Value of Property: \$ _____ Annual Interest Rate _____ %  Amount of arrearage and other charges as of time case filed included in secured claim if any: \$ _____ Basis for perfection: _____  Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).  <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).  <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).  <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).  <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)( ).  Amount entitled to priority: \$ _____
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) See Exhibits "A" and "B" attached hereto DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.		
If the documents are not available, please explain:		
Date: <u>7-20-09</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. BY: <u>Mark A. Stewart</u> <u>Mark Stewart, Vice President</u>		<b>FOR COURT USE ONLY</b>

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.



4  
laff  
H

AFFIDAVIT FOR STATUTORY AND CONSTITUTIONAL  
MECHANIC'S AND MATERIALMAN'S LIEN

THE STATE OF TEXAS ]  
COUNTY OF HARRIS ] KNOW ALL MEN BY THESE PRESENTS:

STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK, Claimant, of 16565 Village Drive, Houston, Texas 77040, a Texas limited partnership, acting by and through its Vice-President, MARK A. STEWART, makes oath and states as follows for the purpose of perfecting a statutory and constitutional lien on the property and improvements herein described:

That Claimant, from December 2008 through April 2009 (retainage) and from February 2009 through April 2009 (progress billings), furnished the labor and materials required to provide and install earthwork, sanitary sewer, water distribution, storm sewer, and other site work for the construction of improvements to the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas, pursuant to a contract with OPUS WEST CONSTRUCTION CORP., whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, and which materials were used in construction of the project generally described as follows: construction of improvements to the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas.

That, as a result of the furnishing of said labor and materials, OPUS WEST CONSTRUCTION CORP. is indebted to Claimant in the amount of ONE HUNDRED FORTY-EIGHT THOUSAND SEVEN HUNDRED FORTEEN AND 50/100 DOLLARS (\$148,714.50) for labor and materials provided to the project and for retainage. That said amount is just, reasonable and unpaid.

That STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK is the original contractor on the job or that portion of the job for which the above described materials were furnished pursuant to the provisions of § 53.026 of the Texas Property Code. Alternatively, OPUS WEST CONSTRUCTION CORP. is the original contractor on the job or that portion of the job for which the above-described materials were furnished.

(2)  
lee  
lee

That OPUS WEST LP, whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, is the owner or reputed owner of the real property upon which the above-described project is located and that OPUS WEST LP is the owner or reputed owner of the improvements located thereon.

By letters dated December 12, 2008, and May 1, 2009, forwarded to said owner via certified mail, return receipt requested, Claimant provided said owner of the project with written notice of this claim.

That the real property upon which the above-described project is located is generally described as follows and more commonly known as the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas, being a part of:

Restricted Reserves "A" and "B," Block One (1), in CROSSINGS AT FORT BEND PARKWAY, a subdivision in Harris County, Texas, according to the map or plat thereof recorded at Film Code No. 597210 of the Map Records of Harris County, Texas;

SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTIES:

Tract 1: Being all of that certain tract or parcel containing 0.6887 acres (30,000 square feet) of land situated in the C. W. Adams Survey, Abstract Number 101 and being out of and a part of Restricted Reserve "A", Block 1 of Crossings At Fort Bend Parkway, a subdivision of record at Film Code Number 597210 of the map Records, Harris County, Texas; said 0.6887 acres being more particularly described in Special Warranty Deed recorded at Document Number 20060236239 in the Official Public Records of Real Property of the County Clerk of Harris County, Texas.

Tract 2: Being all that certain tract or parcel containing 11.7452 acres (511,621 square feet) of land, situated partially in the C.W. Adams Survey, Abstract Number 101 and the T.T.R.R. Co. Survey, Abstract No. 1005 Harris County, Texas, and being out of and a part of the residue of a called 63.948 acres, known as Tract H-1, conveyed to Max A. Friedman, Trustee, recorded under Clerk's File Number P772865, Harris County, Texas, said 11.7452 acres being more particularly described in Special Warranty Deed recorded at Document Number Z273239 in the Official Public Records of Real Property of the County Clerk of Harris County, Texas.

Tract 3: Being all that certain tract or parcel containing 1.174 acres (51,118 square feet) of land, situated in the C.W. Adams Survey, Abstract Number 101 and the T.T.R.R. Co. Survey, Abstract Number 1005 Harris County, Texas, and being a portion of Restricted Reserve "A" of Crossings At Fort Bend Parkway, a subdivision of record at Film Bode Number 597210 of the Map Records, Harris County, Texas, said 1.174 acres being more particularly described in Special Warranty Deed recorded in at Document Number 20060053974 in the Official Public Records of Real Property of the County Clerk of Harris County, Texas.

That the improvements located upon said real property are generally described as follows: construction of improvements to the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas.

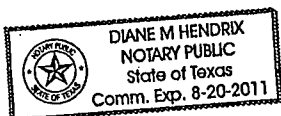
Affiant's principal claim is a lien upon said building and improvements above-described and upon said land upon which said building and improvements are situated. Said lien is a prior lien to any other lien for removables that may be removed without material injury to the real property. This lien is claimed in accordance with Chapter 53 of the Property Code of the State of Texas and in accordance with the Constitution of the State of Texas.

Affiant further makes oath and states that he is duly authorized to make this Affidavit for Statutory and Constitutional Mechanic's and Materialman's Lien on behalf of STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK.

STEWART BUILDERS, INC. DBA KEYSTONE  
SITEWORK

BY: Mark A Stewart  
Mark A. Stewart, Vice-President

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this the 30<sup>th</sup> day of April, 2009, to certify which witness my hand and seal of office.



Diane Hendrix  
Notary Public, State of Texas

201  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

2009 MAY - 1 PM 2:25

FILED

THE STATE OF TEXAS ]

COUNTY OF HARRIS ]

This instrument was acknowledged before me on this the 30<sup>th</sup> day of April, 2009, by MARK A. STEWART, Vice-President of STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK, on behalf of corporation.



Diane Hendrix  
Notary Public, State of Texas

PREPARED IN THE LAW OFFICES OF:  
PLEASE RETURN TO:

LAMM & SMITH, P.C.  
3730 Kirby Drive, Ste. 650  
Houston, Texas 77098

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that this instrument was FILED in the number Sequence on the date and at time stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County Texas on

MAY -1 2009



Dorothy E. Kaufman  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

3  
aff  
H

AFFIDAVIT FOR STATUTORY AND CONSTITUTIONAL  
MECHANIC'S AND MATERIALMAN'S LIEN

THE STATE OF TEXAS ]  
COUNTY OF HARRIS ]

KNOW ALL MEN BY THESE PRESENTS:

STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK, Claimant, of 16565 Village Drive, Houston, Texas 77040, a Texas limited partnership, acting by and through its Vice-President, MARK A. STEWART, makes oath and states as follows for the purpose of perfecting a statutory and constitutional lien on the property and improvements herein described:

That Claimant, from October 2008 through February 2009 (retainage) and in February 2009 (progress billing), furnished the labor and materials required to provide and install earthwork, demolition, erosion control, and other site work for the construction of improvements to the Two Westway project located at 11025 Equity Drive, Houston, Harris County, Texas, pursuant to a contract with OPUS WEST CONSTRUCTION CORP., whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, and which materials were used in construction of the project generally described as follows: construction of improvements to the Two Westway project located at 11025 Equity Drive, Houston, Harris County, Texas.

That, as a result of the furnishing of said labor and materials, OPUS WEST CONSTRUCTION CORP. is indebted to Claimant in the amount of EIGHTEEN THOUSAND NINE HUNDRED EIGHTY-THREE AND 96/100 DOLLARS (\$18,893.96) for labor and materials provided to the project and for retainage. That said amount is just, reasonable and unpaid.

That STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK is the original contractor on the job or that portion of the job for which the above described materials were furnished pursuant to the provisions of § 53.026 of the Texas Property Code. Alternatively, OPUS WEST CONSTRUCTION CORP. is the original contractor on the job or that portion of the job for which the above-described materials were furnished.

That DEVRY PARK LIMITED PARTNERSHIP, whose mailing address is 10350 Bren Road West, Minnetonka, Minnesota 55343, is the owner or reputed owner of the real property upon which the above-described project is located and that DEVRY PARK LIMITED PARTNERSHIP is the owner or reputed owner of the improvements located thereon. *lee*

By letters dated September 10, 2008, and May 1, 2009, forwarded to said owner via certified mail, return receipt requested, Claimant provided said owner of the project with written notice of this claim.

That the real property upon which the above-described project is located is generally described as follows and more commonly known as the Two Westway project located at 11025 Equity Drive, Houston, Harris County, Texas, being a part of:

Reserve "A" in Block One (1) of WESTWAY PARK, Section Four (4), a subdivision in Harris County, Texas, according to the map or plat thereof recorded at Film Code No. 479022 of the Map Records of Harris County, Texas;

D

SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

The property conveyed by Special Warranty Deed under County Clerk's File No. Y201243, Official Records of Harris County, Texas.

That the improvements located upon said real property are generally described as follows: construction of improvements to the Two Westway project located at 11025 Equity Drive, Houston, Harris County, Texas.

Affiant's principal claim is a lien upon said building and improvements above-described and upon said land upon which said building and improvements are situated. Said lien is a prior lien to any other lien for removables that may be removed without material injury to the real property. This lien is claimed in accordance with Chapter 53 of the Property Code of the State of Texas and in accordance with the Constitution of the State of Texas.

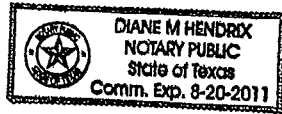
Affiant further makes oath and states that he is duly authorized to make this Affidavit for Statutory and Constitutional Mechanic's and Materialman's Lien on behalf of STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK.

STEWART BUILDERS, INC. DBA KEYSTONE  
SITEWORK

207

BY: Mark A. Stewart  
Mark A. Stewart, Vice-President

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this the 30<sup>th</sup> day of April, 2009, to certify which witness my hand and seal of office.



Diane Hendrix  
Notary Public, State of Texas

THE STATE OF TEXAS ]  
COUNTY OF HARRIS ]

This instrument was acknowledged before me on this the 30<sup>th</sup> day of April, 2009, by MARK A. STEWART, Vice-President of STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK, on behalf of corporation.



Diane Hendrix  
Notary Public, State of Texas

PREPARED IN THE LAW OFFICES OF:  
PLEASE RETURN TO:

LAMM & SMITH, P.C.  
3730 Kirby Drive, Ste. 650  
Houston, Texas 77098

Brenda L. Hayden  
COUNTY CLERK  
HARRIS COUNTY, TEXAS  
2009 MAY - 1 PM 2: 25  
FILED

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW, THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that this instrument was FILED in file number Sequence on the date and at time stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County Texas on

MAY - 1 2009



Brenda L. Hayden  
COUNTY CLERK  
HARRIS COUNTY, TEXAS



**LAMM & SMITH, P.C.**

ATTORNEYS AT LAW  
RIVER OAKS TOWER  
3730 Kirby Drive, Suite 650  
Houston, Texas 77098

EDWIN LAMM, III  
CANDICE C. SMITH  
SCOTT T. CITEK

TEL. (713) 228-2481

FAX (713) 651-1044

July 23, 2009

U. S. Bankruptcy Clerk  
Northern District of Texas  
Dallas Division  
1100 Commerce St., Room 1254  
Dallas, Texas 75242-1496

RE: Case No. 09-34360; In Re: Opus West Construction Corporation; In the United States Bankruptcy Court for the Northern District of Texas; Dallas Division

PLEASE TAKE CARE OF THE ENCLOSED:

Plaintiffs \_\_\_\_\_ Petition

Please serve Defendant(s) \_\_\_\_\_

Please issue out-of-county citation and return to us.

Defendant's \_\_\_\_\_ Answer

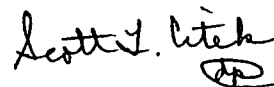
Motion and Order for \_\_\_\_\_ Judgment and Affidavits

Issue Abstract of Judgment and Execution

CHECK ENCLOSED \$ \_\_\_\_\_

Enclosed for filing with the Court in the captioned proceeding is an original and one copy of Proof of Claim of Creditor Stewart Builders, Inc. dba Keystone Sitework. Please file-stamp the additional copy of the Proof of Claim enclosed and return same to the undersigned in the enclosed envelope. Thank you for your prompt attention to this matter.

Sincerely,



Scott T. Citek

STC/dp  
Enclosure