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| UNITED STATES BANKRUPTCY COURT Northern District of Texas | | PROOF OF CLAIM |
| Name of Debtor: Opus West Construction Corporation | | Case Number: 09-34360 |
| 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): Stewart Builders, Inc. dba Keystone Concrete Placement | | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. |
| Name and address where notices should be sent: Scott T. Citek, Lamm & Smith, PC 3730 Kirby Drive, Suite 650 Houston, Texas 77098 Telephone number: (713) 228-2481 | | Court Claim Number: _____ (If known) Filed on: _____ |
| Name and address where payment should be sent (if different from above): Telephone number: _____ | | <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. <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>263,120.20</u> 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. | | 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. <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: \$ _____ *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. |
| 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: \$ _____ | | |
| 6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. | | |
| 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 Exhibit "A" 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> | | FOR COURT USE ONLY |

FILED

JUL 27 2009

TAWANA C. MARSHALL, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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.

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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 CONCRETE PLACEMENT, 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 July 2008 through January 2009 (retainage), furnished the labor and materials required to provide and install slab foundations, topping, paving, column footing, sidewalk, and other concrete work for the construction of improvements to Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, 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 Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, 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 TWO HUNDRED SIXTY-THREE THOUSAND ONE HUNDRED TWENTY AND 20/100 DOLLARS (\$263,120.20) 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 CONCRETE PLACEMENT 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.

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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 March 14, 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

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is located is generally described as follows and more commonly known as Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, Harris County, Texas, being a part of:

A tract of land containing approximately 16.898 acres, more or less, out of the David Middleton Survey, Abstract 535, Harris County, Texas, as more fully described in Special Warranty Deed with KT6-A Corporation as Grantor and Opus West LP as Grantee recorded under Clerk's File No. 20070373880 in the Official Public Records of Real Property of Harris County, Texas

And also being described as Unrestricted Reserve "A," Block One (1), and Unrestricted Reserves "B" and "C," Block Two (2), in ENERGY CROSSING, a subdivision in Harris County, Texas, according to the map or plat thereof recorded at Film Code No. 617276 (File Number 20070679952) of the Map Records of Harris County, Texas.

That the improvements located upon said real property are generally described as follows: construction of improvements to Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, 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 CONCRETE PLACEMENT.

STEWART BUILDERS, INC. DBA KEYSTONE
CONCRETE PLACEMENT

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

