

<b>UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS</b>		<b>PROOF OF CLAIM</b>
<b>Name of Debtor: (Check Only One):</b> <input checked="" type="checkbox"/> Opus West Corporation <input checked="" type="checkbox"/> Opus West Construction Corporation <input type="checkbox"/> O.W. Commercial, Inc. <input type="checkbox"/> Opus West LP <input type="checkbox"/> Opus West Partners, Inc.		<b>Case Number:</b>  <p style="text-align: center; font-size: 1.2em;">34356-bjh-11</p>
<p style="text-align: center; font-size: 0.8em;">NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. All other requests for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</p>		
<b>Name of Creditor (the person or other entity to whom the debtor owes money or property):</b>  <p style="text-align: center;">Bergelectric Corp.          650 Opper Street          Escondido, CA 92029          Phone: (760) 746-1003</p>		<div style="border: 1px solid black; padding: 5px; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="border: 1px solid black; padding: 5px; font-weight: bold; font-size: 1.2em;">SEP 02 2009</div> <div style="border: 1px solid black; padding: 5px; font-weight: bold; font-size: 1.2em;">BMC GROUP</div>
<b>Name and address where notices should be sent:</b> <p style="text-align: center;">Same as Above</p> <b>Telephone number:</b> (760) 746-1003 <b>Email Address:</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  <b>Court Claim Number: (if known)</b>  <b>Filed on:</b>
<b>Name and address where payment should be sent (if different from above):</b>  <p style="text-align: center;">Same a Above</p> <b>Telephone number:</b> (760) 746-1003		<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.
<b>1. Amount of Claim as of Date Case Filed:</b> \$ <u>30,250.00</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.		<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).</b> 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)( ).  <b>Amount entitled to priority:</b>  <p style="text-align: center;">\$</p>
<b>2. Basis for Claim:</b> <u>Electrical Services</u> (See instruction #2 on reverse side.)		
<b>3. Last four digits of any number by which creditor identifies debtor:</b> _____ 3a. Debtor may have scheduled account as: _____ (See instruction §3a on reverse side).		
<b>4. Secured Claim (See instruction #4 on reverse side.)</b> Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. <b>Nature of property or right of setoff:</b> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Equipment <input type="checkbox"/> Other <b>Value of Property:</b> \$ _____ <b>Annual Interest Rate</b> ____% <b>Amount of arrearage and other charges as of time case filed included in secured claim, if any:</b> \$ _____ <b>Basis for perfection:</b> _____ <b>Amount Unsecured:</b> \$ <u>30,250.00</u>		
<b>6. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim. <b>7. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or 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.) <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b> If the documents are not available, please explain: _____		
<b>Date:</b> 9/1/09	<b>Signature:</b> 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.  <p style="text-align: center; font-size: 1.5em; font-family: cursive;">Brunnie Bailey</p>	
		<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.*

Modified B10 (GCC) (12/08)



## INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules. The attorneys for the Debtors and their court-appointed claims agent (The BMC Group) are not authorized and are not providing you with any legal advice.

PLEASE SEND YOUR ORIGINAL, COMPLETED CLAIM FORM AS FOLLOWS: **IF BY MAIL:** OPUS WEST CORPORATION, et al C/O BMC GROUP, PO BOX 3020, CHANHASSEN, MN, 55317-3020. **IF BY HAND OR OVERNIGHT COURIER:** OPUS WEST CORPORATION, et al C/O BMC GROUP, 18750 LAKE DRIVE EAST, CHANHASSEN, MN, 55317. ANY PROOF OF CLAIM SUBMITTED BY FACSIMILE OR E-MAIL WILL NOT BE ACCEPTED.

**THE GENERAL BAR DATE IN THESE CHAPTER 11 CASES IS November 9, 2009**

### Court, Name of Debtor, and Case Number:

These chapter 11 cases were commenced in the United States Bankruptcy Court for the Northern District of Texas on July 6, 2009. You should select the Debtor against which you are asserting your claim.

**A SEPARATE PROOF OF CLAIM FORM MUST BE FILED AGAINST EACH DEBTOR.**

### Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. Please provide us with a valid email address. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

### 1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the Petition Date. Follow the instructions concerning whether to complete items 4 and/or 5. Check the box if interest or other charges are included in the claim.

### 2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if the debtor, trustee or another party in interest files an objection to your claim.

### 3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the Debtor, if any.

### 3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the Debtor.

### 4. Secured Claim:

Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

### 5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

### 6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the Debtor credit for any payments received toward the debt.

### 7. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). If the claim is based on the delivery of health care goods or services, see instruction 2. Do not send original documents, as attachments may be destroyed after scanning.

### Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

## DEFINITIONS

### Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

### Creditor

A creditor is a person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

### Claim

A claim is the creditor's right to receive payment on a debt owed by the Debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

### Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the BMC Group as described in the instructions above and in the Bar Date Notice.

### Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

### Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

### Claim Entitled to Priority Under 11 U.S.C. §507(a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

### Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information: A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

### Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

## INFORMATION

### Acknowledgment of Filing of Claim

To receive acknowledgment of your filing from the BMC Group, please provide a self-addressed stamped envelope and a copy of this proof of claim when you submit the original claim to the BMC Group.

### Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.



Opus West Construction Corporation  
 2020 Main Street, Suite 800  
 Irvine, CA 92614  
 (949) 622-1950  
 Fax: (949) 622-1148

**TRANSMITTAL**

To: Bergelectric Corp  
3595 Cadillac Avenue, Suite 101  
Costa Mesa, CA 92626

Date: 7/18/2008  
 Job No.: 10439.00  
 Re: Haven Point

**RECEIVED**

JUL 23 2008

**Bergelectric Corp.**  
 Phone #: 714-433-7100 - Orange County  
 Fax #: 714-433-7111

Attention: Dave Jacques

We are sending you:  Attached  Under Separate Cover  Via: \_\_\_\_\_  
 Shop Drawings  Change Order  Plans  Specifications  
 Submittals  Samples  Other: Agreement

No. of Copies	Dated	Description
1	November 13, 2007	Executed Subcontract Agreement

These are transmitted:  Approved  For Your Use  
 For Approval  Not Approved  For Your Information  
 For Review and Comment  Approved As Noted  As Requested  
 Revise and Resubmit  For Bids Due \_\_\_\_\_

**Notes:** Attached is the fully executed agreement for the above-referenced project. Please maintain insurance certificates and coverage for one (1) year after substantial completion of project, based on Warranty period(s) noted in the agreement and Div.1 General and Special Conditions. Please contact us if you have any questions on this or any other items. Thank you and we look forward to a successful project!

cc: (1) file 10439/See Subcontract Sum Breakdown  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**OPUS WEST CONSTRUCTION CORPORATION**  
 \_\_\_\_\_  
 Sue Tyler, Administrative Assistant  
 949-622-2189

*Billing #11165  
 Executed Contract*

MFB  
Stacy Wattle

RECEIVED



MAY 09 2008

OPUS WEST-IRVINE

Haven Point / 10439.00

/Electrical

Bergelectric Corp / Dave Jacques

Contact Phone # 714-433-7100

Contact Fax # 714-433-7111

Payment Terms: Standard

**SUBCONTRACT AGREEMENT (Labor and Materials)**

This Subcontract Agreement ("Subcontract") is made as of this 13th day of November, 2007, by and between OPUS West Construction Corporation ("Contractor"), with its office located at 2020 Main St., Suite 800, Irvine, CA 92614, and Bergelectric Corp ("Subcontractor") with its office located at 3595 Cadillac Avenue, Suite 101, Costa Mesa, CA 92626.

Contractor and Subcontractor agree as follows:

1. Subcontract Documents. The term "Subcontract Documents" is defined in Paragraph 1 of the attached Rider "A".
2. Project. Contractor is providing design and construction-related services to Owner (defined below) in connection with the project generally described as Haven Point ("Project"), located at Northwest Corner of Haven Avenue and Arrow Route, Rancho Cucamonga, CA 91729 ("Project Site"), and consisting of the total work provided by Contractor under contract documents between Owner and Contractor.
3. Owner. The Owner of the Project is Opus West Corporation ("Owner").
4. Architect/Engineer. The architect and engineers ("Architect/Engineer") of record for the Project are:  
 Architect of Record: Opus Architects & Engineers, Inc.  
 Structural Engineer of Record: Opus Architects & Engineers, Inc.
5. Scope of Work. Subcontractor's scope of work for the Project is described in the attached Rider "A" and is defined therein as the Work.
6. Schedule. Time is of the essence. Accordingly, all time limits and requirements for completion set forth in the Subcontract Documents, including any intermediate milestones (collectively referred to in the Subcontract Documents as the "Schedule"), are of the essence of this Subcontract. Subcontractor shall begin its Work as soon as the Project is ready for the Work or within three (3) calendar days after being notified orally or in writing to proceed by Contractor. The Substantial Completion of the Work (defined in the General Conditions of Subcontract) shall be achieved as required by job progress, so as to allow the entire Project to be substantially completed on or before 02/23/2009. Subcontractor shall conform to all progress and schedule requirements of the Subcontract Documents and as directed by Contractor's project manager, and must achieve the milestones (if any) as described in the attached Rider "A".
7. Subcontract Sum. Contractor shall pay Subcontractor the sum of \$ 1,057,300.00 ("Subcontract Sum"). The Subcontract Sum includes freight and delivery charges and all applicable state and local taxes including sales and use tax, and if required by law, these taxes must be separately stated on any payment applications, invoices or similar documents delivered by Subcontractor to Contractor for completion of the Work in accordance with the terms and conditions of the Subcontract Documents. A breakdown of the components of the Subcontract Sum is set forth in the attached Rider "A".
8. Riders. The following Riders are attached to and made a part of this Subcontract:
  - 8.1 Rider A (Scope of Work)
  - 8.2 Rider B (Indemnification)
  - 8.3 Rider C (Insurance)

RECEIVED

APR 17 2008

Bergelectric Corp.  
- Orange County

Contractor and Subcontractor sign as follows:

Approved by Contractor's project manager Jason Knudson

CONTRACTOR  
OPUS West Construction Corporation

By: Jeffrey J. Dickerson

(Print Name)

Vice President of Construction

(Title)

7/17/08  
(Date)

SUBCONTRACTOR  
Bergelectric Corp

By: Ken Bertalan

(Print Name)

Sr. V.P. of Construction

(Title)

May 18, 2008  
(Date)

ORIGINAL

JJK

**RIDER A**

This Rider A is attached to and made a part of the Subcontract between OPUS West Construction Corporation and Bergelectric Corp dated 11/13/2007. All capitalized terms used, but not defined in this Rider "A" have the meaning ascribed to them in the Subcontract.

**Work/Subcontract Documents**

Subcontractor shall furnish all necessary labor, materials, equipment, skills, services (including design and engineering, if applicable), supervision and appurtenances necessary to complete all Section Electrical work ("Work") for the Project, including but not limited to, strict compliance with the following documents (the "Subcontract Documents"):

Drawings and Specifications

Description	Number	Last Revision
General Conditions of Subcontract	Division 1	06/01/2005
Supplemental General Conditions	Division 1	06/01/2005
Special Conditions of Subcontract	Division 1 Section 1.2	06/27/2007
Structural Metal Framing, Joists and Deck	Section 05100	09/28/2007
Metal Fabrication	Section 05500	09/28/2007
Hydraulic Elevators	Section 14240	09/28/2007
General Mechanical Requirements	Section 15010	09/28/2007
Fire Protection	Section 15300	09/28/2007
Plumbing	Section 15400	09/28/2007
Heating Ventilation and Air Conditioning	Section 15500	09/28/2007
Energy Management System	Section 15800	09/28/2007
Electrical	Section 16000	09/28/2007

Field Bulletins

Date	Number	Name
N/A		

Supplemental Design Documents

Description	Date
Preliminary Geotechnical Investigation, Rancho Cucamonga Office Park, Northwest Corner of Arrow Highway and Haven Avenue as prepared by MTGL, Inc. Dated December 28, 2006	12/28/2006
City of Rancho Cucamonga Resolution No. 07-61	10/10/2007
City of Rancho Cucamonga Resolution No. 07-62	10/10/2007
City of Rancho Cucamonga Resolution No. 07-63	10/10/2007

Other Documents

N/A

Subcontractor acknowledges that Contractor has made available to Subcontractor all of the Subcontract Documents, and Subcontractor shall be responsible for obtaining copies pertinent to its Work. Subcontractor represents that it has carefully examined the Subcontract Documents.

Modifications and Clarifications

This Subcontract includes, but is not limited to, the following items:

Subcontractor shall provide a complete Electrical scope of Work, for the Sitework, Bank Pad, Office Building and Retail Buildings per the Contract Documents.

This Subcontract excludes the following:

AK

**2. Schedule: Subcontractor will achieve the following milestones (referred to as the "Schedule"):**

N/A

**Schedule Notes**

(1) In accordance with requirements as described in periodic project schedules and Superintendent's two and three week schedules.

(2) Per Opus West Construction Corporaiton - Haven Point - Construction Time Plan, with a Data Date of June 27, 2007 and a Run Date of January 3, 2008.

**3. Subcontract Sum Breakdown: The breakdown of the Subcontract Sum is as follows:**

**Subcontract Recap**

Sub-Job Number	Sub-Job Name	Name	Rate
10439.10	Office	Office Site Electrical	\$650,000.00
10439.10	Office	Office Electrical System	\$200,300.00
10439.10	Office	Office Fire Alarm System	\$20,000.00
10439.20	Retail	Retail Site Electrical	\$75,000.00
10439.20	Retail	Retail Electrical System	\$55,000.00
10439.20	Retail	Retail Fire Alarm System	\$12,000.00
10439.30	Bank	Bank Pad Site Electrical	\$25,000.00
10439.30	Bank	Bank Pad Electrical System	\$15,000.00
10439.30	Bank	Bank Pad Fire Alarm System	\$5,000.00
<b>Total</b>			<b>\$ 1,057,300.00</b>

**Subcontract Sum Breakdown**

Name	Account Code	Amount
Site Electrical - Subcontract	10439.10-B10-16100.00-S	\$650,000.00
Electrical Systems - Subcontract	10439.10-K10-16000.00-S	\$200,300.00
Fire Alarm System - Subcontract	10439.10-K20-16320.00-S	\$20,000.00
Site Electrical - Subcontract	10439.20-B10-16100.00-S	\$75,000.00
Electrical Systems - Subcontract	10439.20-K10-16000.00-S	\$55,000.00
Fire Alarm System - Subcontract	10439.20-K20-16320.00-S	\$12,000.00
Site Electrical - Subcontract	10439.30-B10-16100.00-S	\$25,000.00
Electrical Systems - Subcontract	10439.30-K10-16000.00-S	\$15,000.00
Fire Alarm System - Subcontract	10439.30-K20-16320.00-S	\$5,000.00
<b>Total</b>		<b>\$1,057,300.00</b>

**4. Unit Pricing:**

If requested by Contractor, Subcontractor will provide additional units of work, as directed, at the unit prices set forth below. Unit prices will apply to all building construction and will include, without limitation, all material, labor, equipment, compensation, general conditions, benefits, overhead, clean-up, supervision, profit, parking, shop drawings, small tools and all sales, use and other applicable taxes. Unit prices do not include design. Unit prices will also apply to net quantity changes in the Work made pursuant to the Subcontract Documents.

The following unit prices shall be in effect for the duration of the project:

*HW*

Unit Price List

Name	Rate	Quantity UOM
01) Foreman	\$76.95	Hour
02) Journeyman	\$69.75	Hour
03) Apprentice	\$59.29	Hour
04) Parking Lot Lights	\$2,132.85	Each
05) Light Bollard	\$1,141.99	Each
06) Tree Uplight	\$648.64	Each
07) Primary Electrical Conduit 5" w/o trench	\$7.47	Lineal Foot
08) Telephone Conduit 4" w/o trench	\$7.47	Lineal Foot
09) Provide engineering services for lease improvements on a per square foot basis.	\$0.48	Sq Foot
10) 2 x 4 Parabolic w/ conduit and wire	\$184.21	Each
11) 2 x 4 Parabolic (emergency circuit)	\$330.64	Each
12) 2 x 2 Parabolic	\$196.26	Each
13) PL Downlight	\$220.73	Each
14) HID Downlight	\$363.67	Each
15) Wraparound	\$196.12	Each
16) Fluorescent Strip	\$194.26	Each
17) Cove Strip	\$119.69	Each
18) Exit Light	\$310.38	Each
19) Custom Pendant	\$4,630.37	Each
20) Wall Sconce	\$782.59	Each
21) Furnish and install one (1) each wall duplex receptacle (20 amp)	\$77.52	Each
22) Furnish and install one (1) each wall duplex receptacle dedicated (20 amp)	\$101.46	Each
23) Furnish and install one (1) each fire alarm horn/strobe	\$555.44	Each
24) Furnish and install permanent power wiring for additional VAV boxes	\$267.57	Each
25) Hook-up water heater - 6KW Insta Hot	\$316.31	Each
26) Hook-up water heater - 3 Gallon Unit	\$316.31	Each
27) Hook-up water heater - 5 Gallon Unit	\$316.31	Each
28) Furnish and install one (1) 4' x 4' plywood phone board and one (1) duplex outlet	\$248.82	Each

**5 Alternates**

If requested by Contractor, Subcontractor will promptly provide the alternate work set forth below for the stated amount. When requested by Contractor, the alternate work will become part of the Work defined in Paragraph 1 above.

Alternates

N/A

The alternate prices shall be in effect for the duration of the project:

Alternates Notes

END OF RIDER A

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## RIDER B

This Rider B is attached to and made a part of the Subcontract between OPUS West Construction Corporation and Bergelectric Corp dated 11/13/2007. All capitalized terms used but not defined in this Rider B have the meaning ascribed to them in the Subcontract or the General Conditions of Subcontract, as applicable. To the extent of any conflict between the provisions of this Rider B and the provisions of any other Subcontract Document, this Rider B shall be controlling.

### Section 1. Licensing.

Subcontractor represents and warrants that it and each of its Sub-subcontractors are and will remain duly and validly licensed to the full extent required under all applicable Laws for the performance by each such party of their respective portion of the Work under this Subcontract, and that each such party shall maintain such required license(s) in good standing throughout the full and complete performance of the Work by such party hereunder. Subcontractor will submit proof of such licensure to Contractor upon request.

### Section 2. Change Orders.

Any "Change Order" shall be set forth in writing, on Contractor's form, signed by an authorized representative of Contractor, and shall be executed by Contractor prior to Subcontractor proceeding with the requested change in the Work under the applicable conditions of the Subcontract Documents.

### Section 3. Title to Work.

Title to all Work, including materials, equipment, and systems, covered by an Application for Payment, whether incorporated in the Project or not, will pass to Contractor and Owner upon the earlier of (a) receipt of such payment (net of any retainage), or (b) incorporation of such Work into the Project.

### Section 4. Indemnification

(a) Subject to Subsections (b) and (c) below, Subcontractor will defend, indemnify and hold harmless Contractor, Owner and Architect/Engineer, and their respective officers, directors, partners, members, agents, and employees (each, an "Indemnitee" and collectively, the "Indemnitees") from and against any and all claims, demands, obligations, actions, causes of action, damages, costs, losses, liabilities and expenses (including, without limitation, attorneys' fees and costs and other litigation, mediation, arbitration, or dispute resolution expenses), arising from or in any way connected with Subcontractor's performance or non-performance of this Subcontract (all of the foregoing being referred to as "Claims"). Any such defense of an Indemnitee will be provided by Subcontractor by legal counsel reasonably satisfactory to such Indemnitee. Subject to Subsections (b) and (c) below, Subcontractor's obligations to defend and indemnify (i) include (without limitation) all Claims, whether occurring before, during or after the performance of this Subcontract, which arise from or relate to the activities, products, actions or omissions of Subcontractor, its Sub-subcontractors, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable (collectively, the "Subcontractor Parties"); (ii) shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Subcontractor or any Subcontractor Party under workers' or workman's compensation acts, disability acts, other employee benefits acts, or any insurance required to be carried by Subcontractor under the Subcontract Documents; (iii) specifically and expressly include (without limitation) any Claims caused in part by the negligence (whether active or passive) or other misconduct of any Indemnitee; and (iv) shall be triggered by the assertion of a Claim against any Indemnitee without the requirement that it first be determined that Subcontractor or any Subcontractor Party was negligent or otherwise at fault or that the Claim has any merit. Subcontractor's failure to procure specific contractual liability and other types of insurance for the benefit of any Indemnitee, as required under the Subcontract Documents, will not render the foregoing provisions unenforceable under any applicable law.

(b) Notwithstanding the provisions of Subsection (a) above, Subcontractor is not obligated to indemnify an Indemnitee for a Claim which is ultimately determined, upon final adjudication, settlement or other resolution of the Claim ("Finally Determined"), to have been caused solely by the active negligence or willful misconduct of that Indemnitee; provided, however, that this exception does not limit or relieve Subcontractor's defense obligations prior to the Claim being so Finally Determined or Subcontractor's obligations to indemnify all other Indemnitees which are not Finally Determined to have participated in such negligence or misconduct.

(c) The parties intend that Subcontractor's indemnity and defense obligations under this Subcontract will be enforced to the fullest extent allowable under applicable laws, and agree that if any of the provisions of this Section are, to any extent, held to be invalid, illegal or unenforceable for any reason, any remaining portion thereof and all other provisions of this Section will not be affected by such holding, but will remain valid and in force to the fullest extent permitted by law.

### Section 5. Waiver.

Subcontractor hereby waives the benefits of, and Subcontractor's rights under, California Business and Professions Code Section 7108.5 to the fullest extent the same may be waived by Subcontractor under applicable Laws.



Section 6. SWPPP.

Subcontractor shall comply with (i) all applicable water quality Laws, including those enforced by the California State Water Resources Control Board (the "SWRCB") and the Regional Water Quality Control Board (Region 9); (ii) the National Pollutant Discharge Elimination System and the Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (SWRCB Order No. 99-08-DWQ) and all amendments and modifications thereto; (iii) any Storm Water Pollution Prevention Plan applicable to the Project (as modified from time to time, the "SWPPP") and all associated Best Management Practices; and (iv) City and/or County ordinances, guidelines, and manuals applicable to stormwater discharges from construction sites. If Subcontractor observes any violation of any Laws, it shall immediately correct such violation. Any Work performed by Subcontractor that is not in compliance with applicable Laws shall be redone in compliance with applicable Laws at Subcontractor's sole expense. The SWPPP is a part of the Subcontract Documents.

Section 7. California License Law.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

Contractor's California License No. 509591

Subcontractor's California License No. 85046

END OF RIDER B

## RIDER C

This Rider C is attached to and made a part of the Subcontract between OPUS West Construction Corporation, and Bergelectric Corp dated 11/13/2007. All capitalized terms used but not defined in this Rider "C" have the meaning ascribed to them in the Subcontract or General Conditions of Subcontract, as applicable.

1 Liability/Worker's Compensation Insurance. Prior to commencing the Work, Subcontractor shall purchase and maintain during the progress of the Work and any periods of warranty and additional work performed by Subcontractor, insurance that will protect against claims for bodily injury, death, damage to property or other damages arising out of or in connection with the performance of the Work (including warranty and additional work) by Subcontractor, Sub-subcontractor or by anyone employed by any of them, or by anyone for whose acts any of them may be liable. Subcontractor's liability insurance may be maintained in a combination of primary and umbrella policies, and the cost of such insurance shall be included in the Subcontract Sum. Subcontractor's policies of insurance shall have the following minimum limits, coverage and requirements:

(a) Workers' Compensation	Statutory Limits
Employer's Liability, including "Stop Gap" coverage and USL&H if applicable	\$1,000,000 each accident \$1,000,000 disease-policy limit \$1,000,000 disease-each employee
Commercial General Liability (Electrical, HVAC, Plumbing, Fire Protection Sprinkler, Steel Erection, Elevator, Excavating, Roofing, Foundation and Curtain Wall Subcontractors)	\$5,000,000 each occurrence \$5,000,000 products/completed operations aggregate \$5,000,000 general aggregate (minimum \$2,000,000 per project)
Commercial General Liability (All Other Subcontractors)	\$2,000,000 each occurrence \$2,000,000 products/completed operations aggregate \$2,000,000 general aggregate (per project)
Commercial Automobile Liability	\$1,000,000 any one accident or loss
Professional Liability (to the extent required of Subcontractor under the Subcontract Documents)	\$1,000,000 each claim \$1,000,000 annual aggregate

(b) The Commercial General Liability insurance required under Paragraph 1(a) will (i) be on ISO Form CG 00 01 or its equivalent, (ii) include coverage for products/completed operations, (iii) be maintained for a period of three (3) years after completion of the Work, (iv) specifically cover as "insured contracts" the Subcontractor's indemnity obligations as set forth in this Subcontract and other contractual indemnities assumed by the Subcontractor under the Subcontract Documents and (v) provide a \$2,000,000 minimum general aggregate limit of liability on a per project basis.

The Commercial Automobile Liability insurance required under Paragraph 1(a) will include coverage for all owned, hired and non-owned automobiles. Professional Liability, if applicable to the Subcontractor's Work, shall be maintained for a period of three (3) years after completion of the Work. Any retroactive date on such Professional Liability policy shall be prior to the commencement of any Work under this Subcontract.

- (c) Employer's Liability, Commercial General Liability and Automobile Liability insurance may be arranged under separate policies for the full minimum limits required, or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy.
- (d) The Subcontractor shall endorse its Commercial General Liability, Commercial Automobile Liability, and Umbrella/Excess Liability policies to add the Contractor and the Owner (and others as specifically required by the Subcontract Documents) as "additional insureds". Such insurance afforded to the Contractor and the Owner as "additional insureds" under the Subcontractor's policies will be primary insurance and not excess over, or contributing with, any insurance purchased or maintained by the Contractor or the Owner. The "additional insured" endorsement to Subcontractor's Commercial General Liability policy will be on ISO Form 20 10 07 04 and 20 37 07 04 or their equivalent and will include coverage for ongoing and completed operations.
- (e) All insurance policies required under Paragraph 1 or the Subcontract Documents will (i) be issued by insurance companies that have an A.M. Best rating of A- VII or better and (ii) contain a provision that coverage afforded thereunder shall not be cancelled or restrictive modifications added, without thirty (30) days prior written notice by certified mail to the Contractor. If Subcontractor fails to purchase and maintain the insurance coverage required herein, Contractor may, but shall not be obligated to, obtain such insurance and either charge all costs for such insurance to the Subcontractor or offset the costs of such insurance against amounts due Subcontractor under the Subcontract.
- (f) Certificates of Insurance will be filed with the Contractor prior to the start of the Subcontractor's Work on the Project Site. Such Certificates of Insurance will be in a form and substance acceptable to the Contractor and will provide satisfactory evidence that the Subcontractor has complied with all insurance requirements, including Contractor's, Owner's and any other required parties status as "additional insureds".
- (g) Contractor may exclude Subcontractor from the Project Site and withhold payments to Subcontractor until a properly executed certificate of insurance evidencing the insurance required herein is received by Contractor.
- (h) It is understood and agreed that the insurance coverages and limits required by this Subcontract shall not limit the extent of Subcontractor's responsibilities and liabilities specified within the Subcontract documents or under law.

## 2 Contractor's Builder's Risk Insurance.

- 2.1 Unless otherwise provided in the Subcontract Documents, Contractor will cause builder's risk insurance to be purchased and maintained with a "causes of loss" or equivalent policy form covering work to be performed by Contractor (including those working for or under Contractor) at the Project Site to the full insurable value thereof, on a replacement cost basis and subject to reasonable deductibles. Covered "causes of loss" means risks of direct physical loss or damage to covered property unless specifically excluded or limited under the policy. This insurance will include the interests of Owner, Contractor, Subcontractor and Sub-subcontractors in respect to the work to be performed by Contractor at the Project, and shall insure against perils of fire (with extended coverage), theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, temporary falsework, shoring and forms and debris removal, and such other matters as are insured against in the form of the policy maintained by Contractor. Unless specifically provided in writing, such insurance will not include coverage for any property, structure(s) and contents (whether real or personal) owned by the Owner or third parties existing as of commencement of Contractor's work or otherwise. Contractor will carry earthquake and flood insurance if Contractor deems it appropriate.

To the extent of coverage afforded by builder's risk or any other property or equipment floater insurance applicable to the Work or the Project or equipment used in the performance of the Work or Project, regardless of whether such insurance is owned by or for the benefit of Subcontractor, Contractor or Owner or their respective subcontractors and agents, Contractor and Subcontractor agree to waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Owner and any of its contractors, subcontractors, agents and employees, whether under subrogation or otherwise, for loss or damage to the extent covered by such insurance, except such rights as they may have to the proceeds of such insurance. If policies of insurance referred to in this paragraph require an endorsement to provide for continued coverage where there is a waiver of subrogation, then the owners of such policies will cause them to be so endorsed. A waiver of subrogation shall be effective as to a party even though that party would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the party had an insurable interest in the property damaged.

If (i) the Project suffers an insurable loss, (ii) the loss is due in part to the negligence of Subcontractor and (iii) an insurance deductible amount (not to exceed \$10,000.00) is applied to the loss payable under builder's risk or other property insurance applicable to the Project, Subcontractor will be liable to Contractor for the deductible amount; however, Contractor may, in its discretion, apportion the deductible amount among other parties responsible for the loss. Subcontractor will promptly pay Contractor, upon demand, for any such deductible amount, and Contractor may offset the deductible amount against any amounts due Subcontractor under the Subcontract. Neither Contractor nor Owner represents that builder's risk or property insurance, if any, applicable to the Project or the Work is adequate to protect the interests of Subcontractor. It is Subcontractor's obligation to determine whether it should purchase and maintain supplementary property insurance to protect its interests in the Work.

- 2.2 Any insured loss is to be adjusted by Owner and Contractor and made payable to Contractor, as trustee, or to Owner and Contractor, as joint trustees for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage or loss payable clause.
- 2.3 Subcontractor hereby releases and agrees to defend and indemnify Contractor and Owner from all claims for loss or damage to or loss of use of Subcontractor's property in or about the Project Site and shall purchase such insurance in respect thereto as Subcontractor deems appropriate. Subcontractor shall require a similar release and indemnity by Sub-subcontractors.

END OF RIDER C

JK

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MAY 15 2009

OPUS WEST-IRVINE



OPUS West Construction Corporation  
SUBCONTRACT CHANGE ORDER

Change Order Date: 02/16/2009  
Change Order #: 1  
To Subcontract Agreement dated: 11/13/2007

Electrical  
CON-10439.00-7

TO: Bergelectric Corp  
3595 Cadillac Avenue, Suite 101  
Costa Mesa, CA 92626

PROJECT: Haven Point  
Northwest Corner of Haven Avenue and Arrow Route  
Rancho Cucamonga, CA 91729

WD 11603  
Closeout  
#4

CHANGE DETAILS

Item	Description	Amount
1	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(627,500.00)
2	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(75,000.00)
3	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(25,000.00)
4	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(181,170.00)
5	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(55,000.00)
6	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(15,000.00)
7	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(11,130.00)
8	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(12,000.00)
9	Due to the current delay in commencing the project, Contractor elects to terminate the Subcontract Agreement in accordance with Article 14, "Termination of the Subcontract" in the General Conditions of Subcontract. Subcontractor shall provide credit for all unexecuted work included in the Subcontract Agreement.	\$(5,000.00)
10	Subcontractor acknowledges that this change order represents all final outstanding costs and claims for the project.	\$0.00

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\$(1,006,800.00)

SCHEDULE

Completion date of original contract will not be adjusted, unless noted herein.

MAY 21 2009

Bergelectric Corp.  
O.C. Office



WD



**OPUS West Construction Corporation**  
**SUBCONTRACT CHANGE ORDER**

Change Order Date: 02/16/2009  
 Change Order #: 1  
 To Subcontract Agreement dated: 11/13/2007

Electrical  
 CON-10439.00-7

TO: Bergelectric Corp  
 3595 Cadillac Avenue, Suite 101  
 Costa Mesa, CA 92626

PROJECT: Haven Point  
 Northwest Corner of Haven Avenue and Arrow Route  
 Rancho Cucamonga, CA 91729

**CONTRACT SUMMARY**

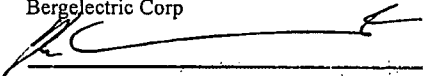
<u>Cost Code</u>	<u>Previous Amount</u>	<u>This Change Order</u>	<u>Current Contract Amount</u>
10439.10-B10-16100.00-S	\$650,000.00	\$(627,500.00)	\$22,500.00
10439.10-K10-16000.00-S	\$200,300.00	\$(181,170.00)	\$19,130.00
10439.10-K20-16320.00-S	\$20,000.00	\$(11,130.00)	\$8,870.00
10439.20-B10-16100.00-S	\$75,000.00	\$(75,000.00)	\$0.00
10439.20-K10-16000.00-S	\$55,000.00	\$(55,000.00)	\$0.00
10439.20-K20-16320.00-S	\$12,000.00	\$(12,000.00)	\$0.00
10439.30-B10-16100.00-S	\$25,000.00	\$(25,000.00)	\$0.00
10439.30-K10-16000.00-S	\$15,000.00	\$(15,000.00)	\$0.00
10439.30-K20-16320.00-S	\$5,000.00	\$(5,000.00)	\$0.00
	<u>\$1,057,300.00</u>	<u>\$(1,006,800.00)</u>	<u>\$50,500.00</u>

Original Contract Amount.....	\$1,057,300.00
Previously Approved Change Orders.....	\$0.00
Amount this Change Order.....	\$(1,006,800.00)
Contract Amount to Date.....	\$50,500.00

**ACKNOWLEDGEMENT**

Please sign and return all original copies

Bergelectric Corp



Kevin Conner  
 Printed Name

5/12/09  
 Date

OPUS West Construction Corporation



Jason Knudson  
 Printed Name

5/19/09  
 Date

Reference this change order number on all Application for Payment documents.

The work covered by this Subcontract Change Order will be performed under the same terms and conditions as those in the Subcontract Agreement. Subcontractor agrees this Subcontract Change Order is inclusive of all Subcontractor's claims for additional compensation for work heretofore authorized or performed beyond the scope of the Subcontract Agreement as amended this date. No other claims will be accepted by Contractor.

10

For all invoices entered on or before 07/13/09

### Bergelectric Corporation Progress Billing Open Items

For job 11165

	Cust Job#	Invoice	Invoice Date	Amount Billed	Date Paid	Check#	Amount Paid	Balance Due
Opus West Construction Corporation								
11165 - Opus West Construction Corporation	10439.00	11165-1	05/21/08	20,250.00	11/26/08	112254	20,250.00	0.00
11165 - Opus West Construction Corporation	10439.00	11165-2	05/27/09	25,200.00				25,200.00
11165 - Opus West Construction Corporation	10439.00	11165-3	07/08/09	5,050.00				5,050.00
		Total for Contract: 11165		50,500.00			20,250.00	30,250.00