

<b>UNITED STATES BANKRUPTCY COURT</b> Northern District of Texas		<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>Straus Systems, Inc.</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  Court Claim Number: _____ (If known)  Filed on: _____
Name and address where notices should be sent: <b>Scott T. Citek, Lamm &amp; Smith, PC</b> <b>3730 Kirby Drive, Suite 650</b> <b>Houston, Texas 77098</b>  Telephone number: <b>(713) 228-2481</b>		
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>303,888.21</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.
2. Basis for Claim: <u>labor and materials</u> (See instruction #2 on reverse side.)		<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)( ).
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.)		Amount entitled to priority: \$ _____
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: \$ _____		*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.
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.) <b>See Exhibit "A" attached hereto</b> <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b>  If the documents are not available, please explain:		FOR COURT USE ONLY
Date: <u>9/23/09</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 Rick Beefer, President		

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.



EXHIBIT "A"

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UJFF  
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20090205725  
05/14/2009 RPI \$24.00

AFFIDAVIT FOR MECHANIC'S  
AND MATERIALMAN'S LIEN

THE STATE OF TEXAS ]  
COUNTY OF HARRIS ]

KNOW ALL MEN BY THESE PRESENTS:

STRAUS SYSTEMS, INC., Claimant, of 7 Straus Court, Stafford, Texas 77477 (mailing address P. O. Box 1189, Stafford, Texas 77497-1189), a Texas corporation, acting by and through its President, RICK BEELER, makes oath and states as follows for the purpose of perfecting a constitutional and statutory lien on the property and improvements herein described:

That Claimant, during the months of January through April 2009 furnished labor and materials to install an HVAC system to OPUS WEST CONSTRUCTION CORP, whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001 and 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016, pursuant to an agreement between Claimant and said party, which materials were used in construction of the project generally described as follows: construction of Energy Crossing office building, located at 15021 Katy Freeway, Houston, Harris County, Texas.

That as a result of the furnishing of said materials and labor, OPUS WEST CONSTRUCTION CORP is indebted to Claimant in the amount of FOUR THOUSAND NINE HUNDRED SEVENTY-FIVE AND 40/100 DOLLARS (\$4,975.40) for labor and materials delivered in January through April 2009. This sum is in addition to the sum of SIX HUNDRED SIX THOUSAND SEVEN HUNDRED THREE AND NO/100 DOLLARS (\$606,703.00) for a mechanic's and materialman's lien was claimed in the affidavit for same recorded at Harris County Clerk's File Number 20090183673. That said amount is just, reasonable and unpaid.

That Claimant is the original contractor on the job or that portion of the job for which the above described materials and labor were furnished.

That OPUS WEST CONSTRUCTION CORP whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001 and 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 and/or OPUS WEST, L.P. INC., whose mailing address is 3555 E. Camelback Road, Suite 800, Phoenix, Arizona 85018 or 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 is/are the owner(s) or reputed owner of the real property upon which the above described project is located and that OPUS WEST CONSTRUCTION CORP whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001 and 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 and/or OPUS

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WEST, L.P. INC., whose mailing address is 3555 E. Camelback Road, Suite 800, Phoenix, Arizona 85018 or 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 is/are the owner(s) or reputed owner(s) of the improvements located thereon.

By letter dated May 13, 2009, forwarded to said owner(s) 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 more commonly known as 15021 Katy Freeway, Houston, Texas, and generally described as follows, to-wit:

RESEERVE A, BLOCK ONE (1) of ENERGY CROSSING, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in the Map Records of Harris County, Texas. ①

That the improvements located upon said real property are generally described as follows: construction of Energy Crossing office building, located at 15021 Katy Freeway, 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 damage to the real property. This lien is claimed in accordance with Chapter 53 of the Property Code of the State of Texas as well as the constitution of the State of Texas.

Affiant further makes oath and states that he is duly authorized to make this Affidavit for Mechanic's and Materialman's Lien on behalf of STRAUS SYSTEMS, INC.

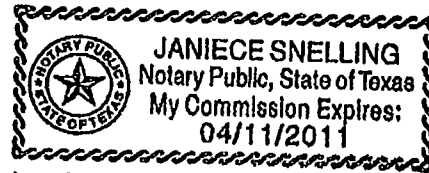
STRAUS SYSTEMS, INC. 102

By   
Rick Beeler, President

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this the 13<sup>th</sup> day of MAY, 2009, to certify which witness my hand and seal of office.

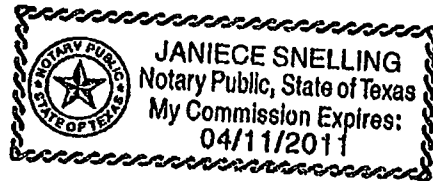
*Janiece Snelling*  
Notary Public, State of Texas

THE STATE OF TEXAS ]  
COUNTY OF FORT BEND ]



This instrument was acknowledged before me on this the 13<sup>th</sup> day of MAY, 2009, by RICK BEELER, President of STRAUS SYSTEMS, INC., a Texas corporation, on behalf of said corporation.

*Janiece Snelling*  
Notary Public, State of Texas



PREPARED IN THE LAW OFFICE OF:

LAMM & SMITH, P.C.  
River Oaks Tower  
3730 Kirby Drive, Suite 650  
Houston, Texas 77098  
713\228-2481

PLEASE RETURN TO:

LAMM & SMITH, P.C. ✓  
River Oaks Tower  
3730 Kirby Dr., Suite 650  
Houston, Texas 77098

2009 MAY 14 PM 3: 07  
*Beverly L. Kayman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

FILED

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS NULL AND VOID IN ACCORDANCE WITH 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 the time stamped hereon by me, and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas on

MAY 14 2009



*Beverly L. Kayman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

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Affidavit  
#

AFFIDAVIT FOR MECHANIC'S  
AND MATERIALMAN'S LIEN

THE STATE OF TEXAS ]  
COUNTY OF HARRIS ]

KNOW ALL MEN BY THESE PRESENTS:

STRAUS SYSTEMS, INC., Claimant, of 7 Straus Court, Stafford, Texas 77477 (mailing address P. O. Box 1189, Stafford, Texas 77497-1189), a Texas corporation, acting by and through its President, RICK BEELER, makes oath and states as follows for the purpose of perfecting a constitutional and statutory lien on the property and improvements herein described:

That Claimant, during the months of January through April 2009 furnished labor and materials to install an HVAC system to OPUS WEST CONSTRUCTION CORP, whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001 and 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016, pursuant to an agreement between Claimant and said party, which materials were used in construction of the project generally described as follows: construction of Energy Crossing office building, located at 15021 Katy Freeway, Houston, Harris County, Texas.

That as a result of the furnishing of said materials and labor, OPUS WEST CONSTRUCTION CORP is indebted to Claimant in the amount of SIX HUNDRED SIX THOUSAND SEVEN HUNDRED THREE AND NO/100 DOLLARS (\$606,703.00) for labor and materials delivered in January through April 2009, plus for retainage. That said amount is just, reasonable and unpaid.

That Claimant is the original contractor on the job or that portion of the job for which the above described materials and labor were furnished.

That OPUS WEST CONSTRUCTION CORP whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001 and 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 and/or OPUS WEST, L.P., whose mailing address is 3555 E. Camelback Road, Suite 800, Phoenix, Arizona 85018 or 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 is/are the owner(s) or reputed owner of the real property upon which the above described project is located and that OPUS WEST CONSTRUCTION CORP whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001 and 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 and/or OPUS WEST, L.P., whose mailing address is 3555 E. Camelback Road, Suite 800, Phoenix, Arizona 85018 or 2555 E Camelback Road, Suite 800, Phoenix, Arizona 85016 is/are the owner(s) or reputed owner(s) of the improvements located thereon.

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By letter dated April 30, 2009, forwarded to said owner(s) 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 more commonly known as 15021 Katy Freeway, Houston, Texas, and generally described as follows, to-wit:

RESEERVE A, BLOCK ONE (1) of ENERGY CROSSING, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in the Map Records of Harris County, Texas. D

That the improvements located upon said real property are generally described as follows: construction of Energy Crossing office building, located at 15021 Katy Freeway, Houston, Harris County, Texas.

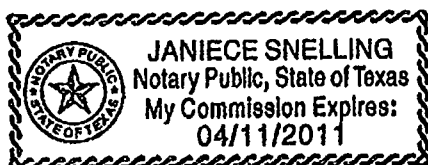
Affiant's principal claim is a lien upon said building and improvements above described and upon said land upon which said building and improvements are situated. Said lien is a prior lien to any other lien for removables that may be removed without damage to the real property. This lien is claimed in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

Affiant further makes oath and states that he is duly authorized to make this Affidavit for Mechanic's and Materialman's Lien on behalf of STRAUS SYSTEMS, INC.

STRAUS SYSTEMS, INC. 107

By *Rick Beeler*  
Rick Beeler, 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.

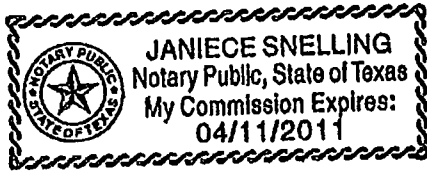


*Janiece Snelling*  
Notary Public, State of Texas

THE STATE OF TEXAS ]

COUNTY OF FORT BEND ]

This instrument was acknowledged before me on this the 30<sup>th</sup> day of April, 2009, by RICK BEELER, President of STRAUS SYSTEMS, INC., a Texas corporation, on behalf of said corporation.



*Janiece Snelling*  
\_\_\_\_\_  
Notary Public, State of Texas

PREPARED IN THE LAW OFFICE OF:

LAMM & SMITH, P.C.  
River Oaks Tower  
3730 Kirby Drive, Suite 650  
Houston, Texas 77098  
713\228-2481

PLEASE RETURN TO:

LAMM & SMITH, P.C.  
River Oaks Tower  
3730 Kirby Dr., Suite 650  
Houston, Texas 77098

*Bonnie L. Kuyper*  
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 the place stated herein by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

MAY -1 2009



*Bonnie L. Kuyper*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS



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PARTIAL RELEASE OF MECHANIC'S AND MATERIALMAN'S LIEN

THE STATE OF TEXAS ]

COUNTY OF HARRIS ]

On May 1, 2009, and May 14, 2009, the undersigned filed Affidavits claiming Mechanic's and Materialman's Liens with the County Clerk of Harris County, Texas. Said liens were recorded at Clerk's Document Nos. 20090183673 and 20090205725, respectively, in the Official Public Records of Real Property of Harris County, Texas.

The affidavits claimed a lien for labor and materials furnished for the improvement of real property owned by OPUS WEST CONSTRUCTION CORP. and/or OPUS WEST, L.P. and improvements thereon owned by OPUS WEST CONSTRUCTION CORP. and/or OPUS WEST, L.P. and legally described as follows:

zee

RESERVE A, BLOCK ONE (1) of ENERGY CROSSING, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in the Map Records of Harris County, Texas.

D

Subsequent to the recording of said affidavits for mechanic's and materialman's lien, the above referenced owner paid the sum of THREE HUNDRED SEVEN THOUSAND SEVEN HUNDRED NINETY AND 19/100 DOLLARS (\$307,790.19) to the undersigned (via cash and contract adjustment). The undersigned does, hereby relinquish its lien to the extent, and only to the extent, of the above-referenced payment; the lien is hereby released to the extent, and only to the extent of the above-referenced payment; and the County Clerk of Harris County, Texas, is authorized and requested to record this partial relinquishment and satisfaction as required by Section 53.152 of the Property Code of the State of Texas.

DATED: July 15, 2009.

STRAUS SYSTEMS, INC.

106

By Rick Beeler  
Rick Beeler, President

2009-07-16 10:53:53

FILED

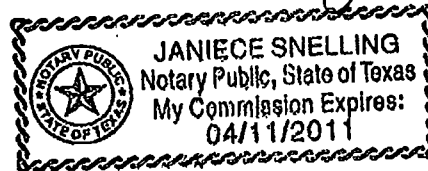
2009 JUL 16 PM 2:55

*Beeler*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

STATE OF TEXAS ]  
COUNTY OF HARRIS ]

This instrument was acknowledged before me on this the 15<sup>th</sup>  
day of July, 2009, by RICK BEELER, President of STRAUS  
SYSTEMS, INC., a Texas corporation, on behalf of said corporation.

*Janiece Snelling*  
\_\_\_\_\_  
Notary Public, State of Texas



PREPARED IN THE LAW OFFICES OF:

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

PLEASE RETURN TO:

Lamm & Smith, P.C.  
3730 Kirby Drive, Suite 650  
Houston, Texas 77098

**RECORDER'S MEMORANDUM:**  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

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 the time stated herein by me, and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas on

JUL 16 2009



*Bonnie B. Layman*  
\_\_\_\_\_  
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

September 25, 2009

BMC Group  
Debtors' Claims Agent  
Opus West Corporation, et al  
P. O. Box 3020  
Chanhassen, MN 55317-3020

RE: Case No. 09-34334; In re: Opus West, LP, Debtor; Case No.09-34356; In re: Opus West Corporation; and 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

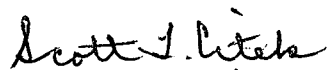

\_\_\_\_\_ Motion and Order for \_\_\_\_\_ Judgment and Affidavits

\_\_\_\_\_ Issue Abstract of Judgment and Execution

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

XX Enclosed for filing with the Court in the captioned proceedings are original Proof of Claims on behalf of Creditor Straus Systems, Inc.. Please file-stamp the copy of each enclosed and return same to the undersigned in the enclosed envelope. The Debtors and Debtors' attorneys are being notified of this filing and are being served with a copy of the Proof of Claim. Thank you for your prompt attention to this matter.

Sincerely,

  
Scott T. Citek 

STC/dp  
Enclosure