

B 10 (Official Form 10) (12/08)

UNITED STATES BANKRUPTCY COURT Northern District of Texas		PROOF OF CLAIM
Name of Debtor: Opus West Construction Corporation		Case Number: 09-34360-hdh11
<i>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. § 303.</i>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Crocker & Reynolds Construction, LP		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: Counsel to Crocker & Reynolds Construction, LP, Bretton C. Gerard, Esq. (TX No. 07831350) 1601 Elm Street, Suite 3000, Dallas, Texas 75201		Court Claim Number: _____ (If known)
Telephone number: (214) 999-4694		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: \$110,952.61 + unknown		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>See attached Exhibit A</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).
3. Last four digits of any number by which creditor identifies debtor: _____		<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).
3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).
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.		<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).
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other		<input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).
Describe:		<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)().
Value of Property: \$ <u>Unknown</u> Annual Interest Rate <u> </u> %		Amount entitled to priority: \$ _____
Amount of arrearage and other charges as of time case filed included in secured 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.
if any: \$ <u>M&M Lien</u> Basis for perfection: <u>Lien affidavits attached</u>		
Amount of Secured Claim: \$ <u>106,452.61</u> Amount Unsecured: \$ <u>0.00</u>		
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.)		
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.		
If the documents are not available, please explain:		
Date: 09/21/2009	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. xEric Reynolds, Vice President of Crocker & Reynolds Construction, LP	FOR COURT USE ONLY

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.

RECEIVED
OCT 02 2009
BMC GROUP



**EXHIBIT A IN SUPPORT OF CLAIM OF CROCKER & REYNOLDS
CONSTRUCTION, L.P.,
AGAINST OPUS WEST CONSTRUCTION CORPORATION**

Amounts Claimed	
Amounts Due and Owing Pursuant to Contract	\$106,452.61
Related Attorney's Fees (as of 9/21/09)	\$4,500.00
Total	\$110,952.61

On or about July 6, 2009 (the "**Petition Date**"), Opus West Construction Corporation (the "**Debtor**") and Opus West L.P. (the "**Affiliate**"), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "**Bankruptcy Code**").

Some time prior to the Petition Date, Crocker & Reynolds Construction, L.P. (the "**Claimant**" or "**Crocker & Reynolds**"), performed labor, furnished materials and/or incurred expenses pursuant to a contract for labor, materials, and construction services at commercial properties owned by Debtor known as the Mustang Electric Supply TI Project (the "**Contract**"), and located at 2525 E. Highway 121, Lewisville, Texas 75056 (the "**Property**"). Debtor entered into the Contract with Crocker & Reynolds and agreed to pay to Crocker & Reynolds an agreed upon price for such materials, labor, and construction. After fully performing the Contract and not being paid, Claimant filed an Affidavit for Mechanic's Lien (the "**Lien Affidavit**") with the County Clerk of Denton County, Texas. On about May 11, 2009, Claimant served a copy of the Lien Affidavit and Notice of Claims by certified mail, return receipt requested, on Debtor. Copies of the Lien Affidavit and Notice of Claims filed are attached hereto as Exhibits A-1 and A-2.

Claimant ultimately filed a lawsuit against Debtor and Affiliate (the "**Litigation**") seeking redress for these amounts due and owing under the Contract. On or about July 8, 2009, Claimant received Debtor's and Affiliate's Suggestion of Bankruptcy, which notified Claimant that Debtor and Affiliate filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on or about July 6, 2009. Accordingly, the Litigation was then stayed. As of the filing of this Proof of Claim, Claimant estimates that it is owed \$106,452.61 for prepetition amounts due under the Contract.

Claimant has also incurred and continues to incur legal fees and expenses exceeding \$4,500.00 (as of September 21, 2009) related to its claims against Debtor and Affiliate. As a result of Debtor's and Affiliate's failure to pay the amounts due to Crocker & Reynolds, Crocker & Reynolds had to employ attorneys to bring suit. Pursuant to the applicable provisions of the Texas Civil Practice and Remedies Code and the Texas Property Code, Claimant is entitled to necessary and reasonable attorneys fees. Moreover, there are no provisions of the Bankruptcy

Claimant's right to recover these attorney's fees. Therefore, all of Claimant's reasonable attorney's fees are recoverable. See *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, No. 05-1429, 2007 WL 816795 (United States Supreme Court; March 20, 2007); see also *In re New Power Co.*, 313 B.R. 496 (Bankr. N.D. Ga. 2004) (holding that unsecured creditors may assert a general unsecured claim for postpetition attorney fees to which they have a contractual or statutory right). This \$4,500.00 amount does not include all attorney's fees related to the claims of Claimant against Debtor and Affiliate, as additional legal fees have yet to be fully processed. These fees that have yet to be fully processed comprise a portion of the "unknown" amount of this Proof of Claim, and Claimant reserves the right to amend this Proof of Claim to include such additional amounts as and when incurred.

Claimant is uncertain if this Proof of Claim should be filed in the bankruptcy case of the Debtor or in the bankruptcy case of Affiliate. On August 10, 2009, the Debtor filed its Schedules of Assets and Liabilities (the "Debtor's Schedules"). The Debtor's Schedules lists Claimant as holding unsecured non-priority claims against the Debtor's estate in the amounts of \$255.00, \$83,487.10, and \$21,295.51, for a total of \$105,037.61. On the same date, Affiliate filed its Schedules of Assets and Liabilities (the "Affiliate's Schedules"). The Affiliate's Schedules lists Claimant as holding an unsecured non-priority claim against Affiliate's estate in the amount of \$105,037.61. Although Claimant is filing a proof of claim in the cases of both the Debtor and the Affiliate, Claimant is not seeking a double recovery of the amounts claimed herein. Claimant is only seeking one recovery of the amounts claimed herein, whether that recovery is ultimately granted in the case of the Debtor or in the case of Affiliate.

This Proof of Claim is filed to protect Claimant from the forfeiture of its claims. The execution and filing of this Proof of Claim is: (a) without waiver of, without prejudice to, and with full reservation of Claimant's rights and claims based on or related to any and all reclamation demands; (b) without waiver or release of any of Claimant's rights, claims, actions, defenses, setoffs or counter-claims against the Debtor or Affiliate or against any other entity or person liable for all or part of the claims or rights of Claimant under applicable law; (c) not a consent by Claimant to the subject matter jurisdiction of the Bankruptcy Court with respect to any proceeding commenced before or after the Petition Date by or against or otherwise involving Claimant or the claims or rights of Claimant set forth herein; (d) without waiver of the right to withdraw the reference with respect to the subject matter of the claims or rights of Claimant set forth herein, any objection or other proceedings commenced with respect thereto or any other proceeding commenced in this bankruptcy case against or otherwise involving Claimant; (e) without waiver of, without prejudice to, and with full reservation of Claimant's rights to a jury trial or arbitration with respect to the subject matter of the claims or rights of Claimant set forth herein; and (f) not an election of remedy which waives or otherwise affects any other remedy.

Claimant expressly reserves all rights including, without limitation, its rights: (a) to amend, modify or supplement in any respect this Proof of Claim, including any exhibit, schedule or annex, or to file an amended proof of claim for the purpose of modifying or liquidating the amount of any interest, fees, costs and expenses accrued or incurred subsequent to the Petition Date or any contingent or unliquidated claims or rights of Claimant set forth herein; (b) to file additional proofs of claim; and (c) against third parties.

EXHIBIT A-1

LIEN AFFIDAVIT

Denton County
Cynthia Mitchell
County Clerk
Denton, Tx 76202



70 2009 00055759

Instrument Number: 2009-55759

As

Recorded On: May 08, 2009

Mechanics Lien Affidavit

Parties: CROCKER & REYNOLDS CONSTRUCTION LP

Billable Pages: 3

To

Number of Pages: 3

Comment:

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

Mechanics Lien Affidavit	19.00
Total Recording:	19.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

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.

File Information:

Document Number: 2009-55759

Receipt Number: 582024

Recorded Date/Time: May 08, 2009 03:57:48P

Record and Return To:

SLATES C VEAZEY
5203 RIDGEDALE DR
DALLAS TX 75206

User / Station: H Dunn - Cash Station 4



THE STATE OF TEXAS }
COUNTY OF DENTON }

I hereby certify that this instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

C Mitchell

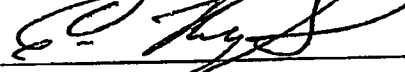
County Clerk
Denton County, Texas

STATE OF TEXAS § AFFIDAVIT FOR
 §
COUNTY OF DALLAS § MECHANIC'S AND MATERIALMAN'S LIEN

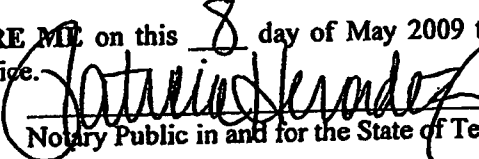
BEFORE ME, the undersigned authority, personally appeared Eric Reynolds, who, upon his oath, deposed and stated the following:

1. My name is Eric Reynolds. I am the Vice President of Crocker & Reynolds Construction, L.P. hereinafter referred to as "Claimant". I have personal knowledge of the facts set forth below and am competent to make this Affidavit.
2. Claimant's business address is 16803 N. Dallas Parkway, Suite 100, Addison, Texas 75001.
3. Pursuant to a contract by and between Claimant, as original contractor, and Opus West Construction Corporation, Claimant furnished materials and labor to improve certain real property located at 2525-B Highway 121, Lewisville, TX 75056. The materials and labor furnished by Claimant are generally described as construction services associated with the demolition and construction of offices situated on the real property defined below. The materials and labor were furnished to the below real property from November 2008 to January 2009.
4. The real property sought to be charged with a lien by Claimant is located at 2525-B Highway 121, Lewisville, TX 75056, and is legally described as set forth in Exhibit "A" attached hereto.
5. Opus West Construction Corporation is the owner or reputed owner of the above described real property. Opus West Construction Corporation may be given notice through its project manager on this project, Travis Bradley, at 15455 N. Dallas Parkway, Suite 450, Dallas, Texas 75001. Additional notice may be given to Opus West Construction Corporation at 2555 E. Camelback Road, Suite 800, Phoenix, Arizona 85016.
7. After allowing all just credits, offsets, and payments, the amount of \$106,452.61 remains unpaid and is due and owing to Claimant under its agreement/contract, and Claimant Crocker & Reynolds Construction, L.P. claims a lien on said property and improvements to secure payment of said amount.

Crocker & Reynolds Construction, L.P.


Eric Reynolds

SUBSCRIBED AND SWORN TO BEFORE ME on this 8 day of May 2009 to certify which witness my hand and official seal of office.


Notary Public in and for the State of Texas

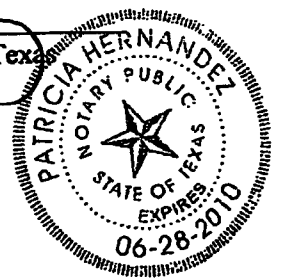


EXHIBIT "A"

Crossroads Centre North Blk A Lot 1r-1

DALLAS 2042773v.1

EXHIBIT A-2

NOTICE OF CLAIMS

GARDERE

attorneys and counselors ■ www.gardere.com

Direct: 214-999-4443
Direct Fax: 214-999-3443
svezey@gardere.com

May 11, 2009

Mr. Travis Bradley and Mr. Paul Lembke
Opus West Construction Corporation
15455 N. Dallas Parkway, Suite 450
Dallas, Texas 75001

Via CM/RRR #

Certified Article Number

7160 3820 3530 0283 7608

SENDERS RECORD

Re: Indebtedness of Opus West Construction Corporation to Crocker & Reynolds Construction, L.P. d/b/a Crocker & Reynolds Construction

Dear Mr. Bradley and Mr. Lembke:


This law firm represents Crocker & Reynolds Construction, L.P. ("Crocker & Reynolds") in order to perfect and foreclose a mechanic's and materialman's lien on the real property and improvements located at 2525-B Highway 121, Lewisville, TX 75056.

In accordance with the provisions of the Texas Property Code concerning the perfection of mechanic's and materialman's liens, enclosed is one (1) copy of the Affidavit and attached exhibit for Mechanic's Lien which was filed with the Denton County Clerk on May 8, 2009.

Demand is made that you immediately pay Crocker the sum of \$106,452.61 (One Hundred and Six Thousand Four Hundred Fifty Two and 61/100 Dollars), the amount due and owing, plus attorneys' fees in the amount of \$1,500 (One Thousand Five Hundred Dollars). If payment in full is not received within five (5) days of your receipt of this letter, a lawsuit to foreclose the liens (accompanied by written discovery requests and notices to take depositions) will be served upon you without further notice.

Mr. Travis Bradley
 May 11, 2009
 Page 2

I trust that you will avoid the difficulty and expense of litigation by promptly complying with the demand set forth in this letter. If you or your attorney have any questions or comments, then please contact the undersigned attorney at your earliest convenience.

Yours very truly,

 Slates C. Veazey

Enclosure

cc: Mr. Eric Reynolds (w/Enc.)
 Crocker & Reynolds Construction, L.P.
 16803 N. Dallas Parkway, Suite 100
 Addison, Texas 75001

Mustang Electric Supply, LLC (w/Enc.)
 2525 East State Highway 121, Suite 300
 Lewisville, TX 75056

Bretton C. Gerard (firm w/o Enc.)

TO: Mr. Travis Bradley
 Mr. Paul Lembke
 Opus West Construction Corp.
 15455 N. Dallas Parkway, Suite 450
 Dallas, TX 75001

SENDER: Slates C. Veazey

REFERENCE: 133000-11

7160 3820 3530 0283 7608

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	0.44
	Certified Fee	2.80
	Return Receipt Fee	2.30
	Restricted Delivery	41.08
	Total Postage & Fees	


US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided
 Do Not Use for International Mail



COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>R. Mayer</i>	B. Date of Delivery 5.13.09
C. Signature <i>[Signature]</i>	<input checked="" type="checkbox"/> Agent Addressed <input type="checkbox"/> Yes <input type="checkbox"/> No
D. Is delivery address different from item 1? If YES, enter delivery address below:	
Reference Information	

Article Number:  7160 3820 3530 0283 7608

Service Type: CERTIFIED MAIL

Restricted Delivery? (Extra Fee) Yes

Article Addressed to:

Mr. Travis Bradley
 Mr. Paul Lembke
 Opus West Construction Corp.
 15455 N. Dallas Parkway, Suite 450
 Dallas, TX 75001

5 Form 3811, January 2005 Domestic Return Receipt

STATE OF TEXAS § AFFIDAVIT FOR
COUNTY OF DALLAS § MECHANIC'S AND MATERIALMAN'S LIEN

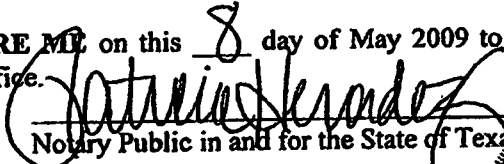
BEFORE ME, the undersigned authority, personally appeared Eric Reynolds, who, upon his oath, deposed and stated the following:

1. My name is Eric Reynolds. I am the Vice President of Crocker & Reynolds Construction, L.P. hereinafter referred to as "Claimant". I have personal knowledge of the facts set forth below and am competent to make this Affidavit.
2. Claimant's business address is 16803 N. Dallas Parkway, Suite 100, Addison, Texas 75001.
3. Pursuant to a contract by and between Claimant, as original contractor, and Opus West Construction Corporation, Claimant furnished materials and labor to improve certain real property located at 2525-B Highway 121, Lewisville, TX 75056. The materials and labor furnished by Claimant are generally described as construction services associated with the demolition and construction of offices situated on the real property defined below. The materials and labor were furnished to the below real property from November 2008 to January 2009.
4. The real property sought to be charged with a lien by Claimant is located at 2525-B Highway 121, Lewisville, TX 75056, and is legally described as set forth in Exhibit "A" attached hereto.
5. Opus West Construction Corporation is the owner or reputed owner of the above described real property. Opus West Construction Corporation may be given notice through its project manager on this project, Travis Bradley, at 15455 N. Dallas Parkway, Suite 450, Dallas, Texas 75001. Additional notice may be given to Opus West Construction Corporation at 2555 E. Camelback Road, Suite 800, Phoenix, Arizona 85016.
7. After allowing all just credits, offsets, and payments, the amount of \$106,452.61 remains unpaid and is due and owing to Claimant under its agreement/contract, and Claimant Crocker & Reynolds Construction, L.P. claims a lien on said property and improvements to secure payment of said amount.

Crocker & Reynolds Construction, L.P.


Eric Reynolds

SUBSCRIBED AND SWORN TO BEFORE ME on this 8 day of May 2009 to certify which witness my hand and official seal of office.


Notary Public in and for the State of Texas

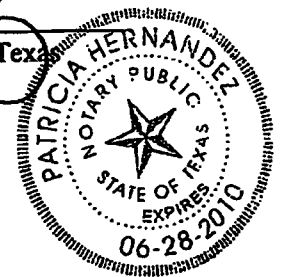


EXHIBIT "A"

Crossroads Centre North Blk A Lot 1r-1

DALLAS 2042773v.1

Affidavit for Mechanic's and Materialman's Lien - Page 2

Northern District of Texas Claims Register

09-34360-hdh11 Opus West Construction Corporation

Judge: Harlin DeWayne Hale **Chapter:** 11
Office: Dallas **Last Date to file claims:**
Trustee: **Last Date to file (Govt):**

<i>Creditor:</i> (12455324) Crocker and Reynolds Construction, LP 16803 North Dallas Parkway, Suite 100 Addison, TX 75001	Claim No: 3 <i>Original Filed</i> Date: 09/24/2009 <i>Original Entered</i> Date: 09/24/2009	<i>Status:</i> Filed by: CR Entered by: Early, Joanne Modified:
--	--	--

Secured claimed: \$106452.61 Total claimed: \$106452.61

<i>History:</i> <u>Details</u> <u>3-1</u> 09/24/2009 Claim #3 filed by Crocker and Reynolds Construction, LP, total amount claimed: \$106452.61 (Early, Joanne)
--

<i>Description:</i>

<i>Remarks:</i>

Claims Register Summary