

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF TEXAS		PROOF OF CLAIM
Name of Debtor: OPUS WEST CORPORATION		Case Number: 09-34356-11
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): AMERICAN STRUCTURAL METALS, INC. Name and address where notices should be sent: c/o Jeffrey R. Fine, Esq.; K&L Gates LLP; 1717 Main St., Ste. 2800; Dallas, TX 75201 jeff.fine@klgates.com Telephone Number: 214.939.5567 Name and address where payment should be sent (if different from above): n/a Telephone number: 	Check this box to indicate that this claim amends a previously filed claim. ☐ Court Claim Number: _____ Filed on: _____ 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. ☐ Check this box if you are the debtor Or trustee in this case. ☐	
1. Amount of Claim as of Date Case Filed: \$2,982,606.10** 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. 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. Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). ☐ 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). ☐ Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5). ☐ 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). ☐ Taxes or penalties owed to governmental units - 11 U.S.C. §507(a)(8). ☐ Other - Specify applicable paragraph of 11 U.S.C. §507(a)(____). Amount entitled to priority: \$ _____ *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	
2. Basis for Claim: Breaches by the Debtor (SEE ATTACHMENT "A") (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.) 4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: ☒ Real Estate ☐ Motor Vehicle ☐ Other Describe: Value of Property: \$29,918,000. Annual Interest Rate: _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: <u>statutory and relevant law</u> Amount of Secured Claim: \$2,982,606.10 Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See 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: 		
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. DATE: <u>9/25/09</u> <u>Brant Russman</u> BRANT RUSSMAN Executive Vice 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.



In re: OPUS WEST CORPORATION
Case No. 09-34356-11

The claimant is American Structural Metals, Inc. ("ASM"). Brant Rossman, Executive Vice President of ASM, or any employee of ASM, is/are authorized to file this claim on behalf of ASM.

ASM is a primary supplier of structural steel and metal fabrication for major building projects throughout the United States.

Debtor Opus West, L.P. owns the 121 Lakepointe Project located at 2525 & 2535 East State Highway 121, Lewisville, Denton County, Texas 75056 (the "Property") and more particularly described as:

Lot 1 R-1, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet Y, Page 662, Real Property Records, Denton County, Texas;

Lot 3, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet W, Page 7, Real Property Records, Denton County, Texas;

Lot 4R, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet Y, Page 662, Real Property Records, Denton County, Texas.

On or about August 19, 2008, one or more of the Debtors engaged ASM to furnish labor and materials for the fabrication and erection of structural steel and metal entrance canopies on the Property ("Contract 1"). A true and correct copy of Contract 1 is attached as Exhibit A and incorporated herein by reference.

On or about August 22, 2008, one or more of the Debtors engaged ASM to furnish labor and materials for the fabrication and erection of structural steel and metal entrance canopies on the Property ("Contract 2"). A true and correct copy of Contract 2 is attached as Exhibit B and incorporated herein by reference.

ASM provided materials and labor on the Property from August 2008 through May 2009 with an aggregate value of **\$2,982,606.10** for which it has not been paid. ASM is owed the amount of \$5,227.60 for labor and materials provided under Contract 1. ASM is owed the amount of \$2,977,378.50 for labor and materials provided under Contract 2.

On May 4, 2009, ASM sent a written notice of the unpaid amounts owed, made demand for payment from the Debtors, and made demand upon the owner, pursuant to Section 53.083 of the Texas Property Code, for payment of the claim. A true and correct copy of ASM's demand notice and invoices for the unpaid amounts are attached as Exhibits C and D, respectively, and are incorporated herein by reference.

On May 6, 2009, ASM filed a mechanic's lien affidavit (the "Lien") with the County Clerk for Denton County, Texas in accordance with Chapter 53 of the Texas Property Code. On or about May 5, 2009, ASM provided notice to Debtors, via certified mail, of its Lien, in accordance with Section 53.055 of the Texas Property Code. True and correct copies of the Lien and notice are attached as Exhibits E and F, respectively, and are incorporated herein by reference.

On or about June 4, 2009, ASM filed a lawsuit seeking to foreclose its Lien against the Debtors in the 158th Judicial District Court, Denton County, cause no. 2009-20173-158 (the "Lawsuit"). In addition, on July 31, 2009, ASM filed in the Bankruptcy Court its notice under Section 546(b) of perfection of mechanic's lien under Texas law against the Property.

ASM is owed \$2,982,606.10 for its work on the Property (the "Claim"). ASM seeks pre and post petition interest on its Claim as well as all attorney fees and costs of collection to the maximum extent provided by law.

ASM also reserves all rights to claim some or all of the materials as "removables" under relevant law.

NOTE: ASM RESERVES THE RIGHT TO AMEND, SUPPLEMENT, OR WITHDRAW THIS PROOF OF CLAIM IF FURTHER RELEVANT INFORMATION BECOMES AVAILABLE. ASM ALSO RESERVES ALL RIGHTS, CLAIMS, AND PRIVILEGES, INCLUDING, WITHOUT LIMITATION, THOSE OF SETOFF AND/OR RECOUPMENT THAT IT MAY BE ENTITLED TO EXERCISE. ASM ALSO RESERVES THE RIGHT TO ASSERT ANY AND ALL ADMINISTRATIVE CLAIMS AVAILABLE TO IT RELATED TO THE DEBTOR'S CONDUCT, INCLUDING THE RIGHT TO ASSERT THAT SOME OR ALL OF THE AMOUNTS INCLUDED IN THE CLAIM ASSERTED HEREIN ARE ENTITLED TO TREATMENT AS ADMINISTRATIVE EXPENSES OF THE DEBTOR'S ESTATE.

EXHIBIT "A"



2937

Decorator's Choice Entrances / 97381.31
5190/5340 / Structural Steel
American Structural Metal / Ed Norrem
Contact Phone # 952.833.0121
Contact Fax # 952.833.0249
Payment Terms: Standard

SUBCONTRACT AGREEMENT (Labor and Materials)

This Subcontract Agreement ("Subcontract") is made as of this 19th day of August, 2008, by and between OPUS West Construction Corporation ("Contractor"), with its office located at 15455 N. Dallas Parkway - Suite 450, Addison, TX 75001, and American Structural Metal ("Subcontractor") with its office located at 777 Lehman Way, Somerset, WI 54085.

Contractor and Subcontractor agree as follows:

- Subcontract Documents.** The term "Subcontract Documents" is defined in Paragraph 1 of the attached Rider "A".
- Project.** Contractor is providing design and construction-related services to Owner (defined below) in connection with the project generally described as Decorator's Choice Entrances ("Project"), located at 2525 E. Highway 121, Lewisville, TX 75056 ("Project Site"), and consisting of the total work provided by Contractor under contract documents between Owner and Contractor.
- Owner.** The Owner of the Project is Opus West Corporation ("Owner").
- Architect/Engineer.** The architect and engineers ("Architect/Engineer") of record for the Project are:
Architect: Opus Architects & Engineers, Inc.
Structural Engineer: Opus Architects & Engineers, Inc.
- 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.
- 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, as to allow the entire Project to be substantially completed on or before 08/12/2008. 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".
- Subcontract Sum.** Contractor shall pay Subcontractor the sum of \$ 61,726.00 ("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".
- Riders.** The following Riders are attached to and made a part of this Subcontract:
R.1 Rider A (Scope of Work)
R.2 Rider B (Indemnification)
R.3 Rider C (Insurance)

Contractor and Subcontractor sign as follows:

Approved by Contractor's project manager

CONTRACTOR
Opus West Construction Corporation

By:

Paul Lemke

(Print Name)

Vice President of Construction, Texas Region

(Title)

(Date)

SUBCONTRACTOR
American Structural Metal

By:

Jon Riermann

(Print Name)

Vice-President

(Title)

08/27/08

(Date)

Decorator's Choice Entrances / 97301.31
Structural Steel

RIDER A

This Rider A is attached to and made a part of the Subcontract between OPUS West Construction Corporation and American Structural Metal dated 08/19/2008. All capitalized terms used, but not defined in this Rider "A" have the meaning ascribed to them in the Subcontract.

I. 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 Structural Steel 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
Title Sheet	TS	06/24/2008
Floor Plans & Elevations	A2.1	06/24/2008
Wall Sections and Details	A3.1	06/24/2008
Title Sheet	B1	06/24/2008
Statement Of Special Inspections	S1.1	06/24/2008
Framing Plans	S2	06/24/2008
Sections and Details	S3	06/24/2008

Field Builfilms

Date	Number	Name
N/A		

Supplemental Design Documents

Description	Date
Exhibit A - Lien Waivers (Pages I-IV)	06/01/2008
Special Conditions	05/23/2008
General Conditions of Subcontract	02/01/2008
Exhibit B - Sample Subcontractor Application for Payment (Pages I-II)	06/01/2008
Exhibit C - Certificate of Insurance Sample	06/01/2008
Supplemental General Conditions of Subcontract	02/01/2008
121 Lakeshore Crossing Full Spec Book	06/26/2008

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:

1. Provide lien releases from all second and third tier subcontractors/suppliers.
2. Sale tax included
3. Steel erection included
4. Roof deck painted
5. Anchor bolts included

This Subcontract excludes the following:

II. Schedule Subcontractor will submit the following schedules attached to the "Schedule"

N/A

Opus Group Subcontract (Labor and Materials)

June 2005 Edition

Schedule Notes

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

Subcontract Breakdown

Sub-Job Number	Sub-Job Name	Name	Rate
97301.31	Decorator's Choice Entrances	Structural Steel	\$16,726.00
97301.31	Decorator's Choice Entrances	Metal Canopies	\$45,000.00
Total			\$ 61,726.00

Subcontract Sum Breakdown

Name	Account Code	Amount
Struct Steel Met/Entr - Subcontract	97301.31-D20-03100.00-S	\$16,726.00
Metal Canopies - Subcontract	97301.31-D20-03340.00-S	\$45,000.00
Total		\$61,726.00

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 until:

Unit Price List
N/A.

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 until:

Alternate Notes

END OF RIDER A

Decorator's Choice Entrances / 97301.31
Structural Steel

RIDER B

This Rider B is attached to and made a part of the Subcontract between OPUS West Construction Corporation and American Structural Metal dated 08/19/2008. All capitalized terms used but not defined in this Rider B have the meaning ascribed to them in the Subcontract or 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. Pay When and If Paid

At all times Subcontractor shall be paid only to the extent that Contractor has been paid by Owner for the Work performed by Subcontractor. Notwithstanding any other provision of this Subcontract, and notwithstanding any provisions between Contractor and Owner with respect to payment, the parties agree that payment by Owner to Contractor shall be an express condition precedent to Contractor's obligation to pay Subcontractor. The parties clearly and unambiguously agree that payment by Contractor to Subcontractor is expressly contingent upon Contractor receiving its funds from Owner. All payments to Subcontractor shall be made by the Contractor solely out of the funds actually received by the Contractor from the Owner, and from no other source whatsoever. Subcontractor acknowledges that it is sharing, to the extent of payments to be made to Subcontractor, in the risk that Owner may fail to make one or more payments to the Contractor for all or a portion of the Work.

Section 4. 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 retainer), or (b) incorporation of such Work into the Project.

Section 5. 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 (b) 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"); (c) 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 workmen's compensation acts, disability acts, other employee benefits acts, or any insurance required to be carried by Subcontractor under the Subcontract Documents; and (d) specifically and expressly include (without limitation) any Claims caused in part by the negligence (whether active or passive) or other misconduct of any Indemnitee. 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. **THE OBLIGATIONS OF SUBCONTRACTOR UNDER THE FOREGOING INDEMNIFICATION SHALL APPLY TO ALL MATTERS EXCEPT THOSE ARISING SOLELY FROM THE WILLFUL NEGLIGENCE OR MALICIOUS ACTS OR OMISSIONS OF THE INDEMNITEE, INCLUDING MATTERS CAUSED BY THE ORDINARY NEGLIGENCE OF THE INDEMNITEE.**

(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 Claims ("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 law, 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 6. Payments Withheld

Notwithstanding anything to the contrary in this Subcontract, Contractor shall retain ten percent (10%) of the entire Subcontract Sum until thirty (30) days following Final Completion of the entire Project by withholding ten percent (10%) of each progress payment.

OWCC Subcontract Form Rider B (Texas)

Rider B Page 1 of 2

February 2008 Edition

ON ELECTION ONLY
9.1

Decorator's Choice Entrances / 97301.31
Structural Steel

Section 7. Payment Bond.

Any payment bonds required by Contractor under this Subcontract will fully comply with all requirements of Section 53.201 et. seq. of the Texas Property Code.

Section 8. Limitations.

If any limitation of time applicable to Subcontractor contained in this Subcontract for the bringing of any action, the enforcement of any remedy, or the recovery of any claim is prohibited or invalid by or under applicable law, then such provision shall be reformed and in that event no suit or action shall be commenced or maintainable in respect of such action, remedy or claim unless commenced within two years and one day after such expiration of action, remedy or claim accrues.

END OF RIDER B

Decorator's Choice Entrances / 9730L31

Structural Steel

RIDER C

This Rider C is attached to and made a part of the Subcontract between OPUS West Construction Corporation, and American Structural Metals dated 08/19/2008. 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) Worker's 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 contract" 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 on the 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 "cause 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 "cause 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 fitwork, 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 \$25,000.00) 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

EXHIBIT "B"



131 Lakepointe Crossing Phase 2 / 97306.00
5100 / Structural Steel
American Structural Metal / Ed Noreen
Contact Phone # 982.853.0121
Contact Fax # 982.853.0249
Payment Terms: Standard

SUBCONTRACT AGREEMENT (Labor and Materials)

This Subcontract Agreement ("Subcontract") is made as of this 22nd day of August, 2008, by and between OPUS West Construction Corporation ("Contractor"), with its office located at 15455 N. Dallas Parkway - Suite 450, Addison, TX 75001, and American Structural Metal ("Subcontractor") with its office located at 777 Lehmann Way, Somerset, WI 54025.

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 121 Lakepointe Crossing Phase 2 ("Project"), located at 2325 H. State Hwy 121, Lewisville, TX 75056 ("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: Opus Architects & Engineers, Inc.
Civil Engineer: Jones & Boyd Inc.
Structural Engineer: 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 12/31/2008. 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 \$ 3,735,935.00 ("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)

Contractor and Subcontractor sign as follows:

Approved by Contractor's project manager:

CONTRACTOR
Opus West Construction Corporation
By:

Paul Lemke

(Print Name)

Vice President of Construction, Texas

(Title)

(Date)

8/29/08

SUBCONTRACTOR
American Structural Metal
By:

Jon Riemann

(Print Name)

Vice-President

(Title)

08/27/08

(Date)

121 Lakepointe Crossing Phase 2 / 97306.00

Structural Steel

RIDER A

This Rider A is attached to and made a part of the Subcontract between OPUS West Construction Corporation and American Structural Metal dated 08/27/2008. All capitalized terms used, but not defined in this Rider "A" have the meaning ascribed to them in the Subcontract.

1. 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 Structural Steel 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
Final Plot - Building 1	C1	07/14/2008
Paving Plan - Building 1	C10	08/04/2008
TxDot Paving Plan - Building 1	C11	08/04/2008
TxDot Paving Plan - Building 1	C12	08/04/2008
Grading Plan - Building 1	C13	08/04/2008
Grading Plan - Building 1	C14	08/04/2008
Wall Plan - Building 1	C15	08/04/2008
Wall Plan - Building 1	C18	07/14/2008
Existing Drainage Area Map - Building 1	C17	08/04/2008
Drainage Area Map - Building 1	C18	08/04/2008
Drainage Area Map - Building 1	C19	08/04/2008
Final Plot - Building 1	C2	07/14/2008
Storm Sewer Calculations - Building 1	C20	08/04/2008
Storm Sewer Calculations - Building 1	C21	08/04/2008
Storm Sewer Plan - Building 1	C22	08/04/2008
Storm Sewer Plan & Profile - Building 1	C23	08/04/2008
Storm Sewer Profiles - Building 1	C24	08/04/2008
Storm Sewer Profiles - Building 1	C26	08/04/2008
Water & Sanitary Sewer Plan - Building 1	C28	08/04/2008
Existing Diagram - Building 3	A0.1	07/08/2008
Existing Diagram - Existing Building - Building 1	A0.1	07/14/2008
Existing Diagram - Addition - Building 1	A0.2	07/14/2008
Site Plan - Building 3	A1.1	07/08/2008
Site Plan - Building 1	A1.1	07/14/2008
Overall Floor Plan - Building 3	A2.0	07/08/2008
Overall Floor Plan - Building 1	A2.0	07/14/2008
Floor Plan - West - Building 3	A2.1	07/08/2008
Floor Plan - Quadrant A - Building 1	A2.1	07/14/2008
Floor Plan - East - Building 3	A2.2	07/08/2008
Floor Plan - Quadrant B & Door Information - Building 1	A2.2	07/14/2008
Roof Plan And Details - Building 3	A2.3	07/08/2008

Opus Group Subcontract (Labor and Materials)

June 2005 Edition

Floor Plan - Quadrant C & Window Information - Building 1	A2.3	07/14/2008
Enlarged Floor Plans and Details - Building 3	A2.4	07/08/2008
Floor Plan - Quadrant D - Building 1	A2.4	07/14/2008
Roof Plan & Details - Building 1	A2.6	07/14/2008
Enlarged Floor Plans - Building 1	A2.6	07/14/2008
Enlarged Floor Plans & Details - Building 1	A2.7	07/14/2008
Exterior Elevations - Building 3	A3.1	07/08/2008
Exterior Elevations - Building 1	A3.1	07/14/2008
Enlarged Exterior Elevations - Building 3	A3.2	07/14/2008
Exterior Elevations - Building 1	A3.2	07/14/2008
Enlarged Exterior Elevations - Building 3	A3.3	07/08/2008
Enlarged Exterior Elevations - Building 1	A3.3	07/14/2008
Wall Sections - Building 3	A4.1	07/08/2008
Wall Sections - Building 1	A4.1	07/14/2008
Wall Sections - Building 1	A4.2	07/08/2008
Construction Details - Building 3	A5.1	07/08/2008
Construction Details - Building 1	A5.1	07/14/2008
Construction Details - Building 3	A5.2	07/08/2008
Construction Details - Building 1	A5.2	07/14/2008

Field Bulletins

Date	Number	Name
N/A		

Supplemental Drawn Documents

Description	Date
Full Project Specification book	06/26/2008
General Conditions of Subcontract	06/01/2005
Supplemental General Conditions of Subcontract (June 2005 - Modified for Texas March 9, 2006)	03/09/2006
Special Conditions of Subcontract (Modified 1/14/2008)	01/14/2008
Exhibit A - Lien Waivers (Pages I-IV)	06/01/2005
Exhibit B - Sample Subcontractor Application for Payment	06/01/2005
Exhibit C - Certificate of Insurance Sample	06/01/2005

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:

- 1 Provide lien releases from all second and third tier subcontractors/suppliers.
- 2 Will provide and erect the structural steel and masonry steel along with concrete tilt panel erection for this project.
- 3 Retainage to be held on erection only.
- 4 Sales tax on material included.
- 5 Alternate pricing item #1 included.
- 6 RAM steel is the steel erector.

Opus Group Subcontract (Labor and Materials)

June 2005 Edition

This Subcontract excludes the following:

1. Roof opening frames
2. Installation of ramp rails, pipe bollards and dock angles
3. Joint reinforcing for roof equipment

Schedule

Description	Planned Start	Planned End	Planned Duration
Shop Drawings Bldg 1	08/18/2008	09/05/2008	
Shop Drawings Bldg 3	09/08/2008	09/19/2008	

Schedule Notes

Subcontract Sum Breakdown The total sum of the Subcontract sum was as follows:

Subcontract Reven

Sub-Job Number	Sub-Job Name	Name	Rate
97306.10	121 Lakepointe Crossing - Bldg 1	Wdg 1 Structural Steel	\$2,802,000.00
97306.20	Expansion - Phase II		
	121 Lakepointe Crossing Bldg. 3 - Phase II	Bldg 3 Structural Steel	\$933,935.00
Total			\$3,735,935.00

Subcontract Sum Breakdown

Name	Account Code	Amount
Struct Steel Mat/Reet - Subcontract	97306.10-D20-05100.00-8	\$2,802,000.00
Struct Steel Mat/Reet - Subcontract	97306.20-D20-05100.00-8	\$933,935.00
Total		\$3,735,935.00

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, and all tools and all sales, use and other applicable taxes. Unit prices do not include design. Unit prices will also apply to net quantity charges in the Work made pursuant to the Subcontract Documents.

The following unit prices shall be in effect until:

Unit Price List

Name	Rate	Quantity UOM
Bollard (Furnish Only)	\$130.00	Each
Dock Stairs (Furnish & Install)	\$11,000.00	Each
Roof Ladder (Furnish & Install)	\$13,200.00	Each

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

Line Number	Name	Amount
1	2 roof rails for two concrete ramps for bldg. 3 (same as Bldg. 1)	\$ -
2	White bottom deck (both bldgs.)	\$ 19,100.00

The alternate prices shall be in effect until:

Alternates Notes

END OF RIDER A

Opus Group Subcontract (Labor and Materials)

June 2005 Edition

121 Lakepointe Crossing Phase 2 / 97306.00
Structural Steel

RIDER B

This Rider B is attached to and made a part of the Subcontract between OFUS West Construction Corporation and American Structural Metal dated 08/22/2008. All capitalized terms used but not defined in this Rider B have the meaning ascribed to them in the Subcontract or 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. Pay When and If Paid.

At all times Subcontractor shall be paid only to the extent that Contractor has been paid by Owner for the Work performed by Subcontractor. Notwithstanding any other provision of this Subcontract, and notwithstanding any provisions between Contractor and Owner with respect to payment, the parties agree that payment by Owner to Contractor shall be an express condition precedent to Contractor's obligation to pay Subcontractor. The parties clearly and unambiguously agree that payment by Contractor to Subcontractor is expressly contingent upon Contractor receiving its funds from Owner. All payments to Subcontractor shall be made by the Contractor solely out of the funds actually received by the Contractor from the Owner, and from no other source whatsoever. Subcontractor acknowledges that it is sharing, to the extent of payments to be made to Subcontractor, in the risk that Owner may fail to make one or more payments to the Contractor for all or a portion of the Work.

Section 4. 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 5. 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 "Indemnitors") 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 workmen's compensation acts, disability acts, other employee benefits acts, or any insurance required to be carried by Subcontractor under the Subcontract Documents; and (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. 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. THE OBLIGATIONS OF SUBCONTRACTOR UNDER THE FOREGOING INDEMNIFICATION SHALL APPLY TO ALL MATTERS EXCEPT THOSE ARISING SOLELY FROM THE WILLFUL NEGLIGENCE OR MALEFICIOUS ACTS OR OMISSIONS OF THE INDEMNITEE, INCLUDING MATTERS CAUSED BY THE ORDINARY NEGLIGENCE OF THE INDEMNITEE.

(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 Indemnitors 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 law; 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 6. Payments Withheld.

Notwithstanding anything to the contrary in this Subcontract, Contractor shall retain ten percent (10%) of the entire Subcontract Sum until thirty (30) days following Final Completion of the entire Project by withholding ten percent (10%) of each progress payment.

121 Lakepointe Crossing Phase 2 / 97306.00
Structural Steel

Section 7. Payment Bond.

Any payment bonds required by Contractor under this Subcontract will fully comply with all requirements of Section 53.201 et. seq. of the Texas Property Code.

Section 8. Limitations.

If any limitation of time applicable to Subcontractor contained in this Subcontract for the bringing of any action, the enforcement of any remedy, or the recovery of any claim is prohibited or invalid by or under applicable law, then such provision shall be reformed and in that event no suit or action shall be commenced or maintainable in respect of such action, remedy or claim unless commenced within two years and one day after such cause of action, remedy or claim accrues.

END OF RIDER B

121 Lakepointe Crossing Phase 2 / 97306.00

Structural Steel

RIDER C

This Rider C is attached to and made a part of the Subcontract between OFUS West Construction Corporation, and American Structural Metal dated 08/22/2008. 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 USLAH if applicable

\$1,000,000 each accident
\$1,000,000 disease-policy limit
\$1,000,000 disease-cash employee

Commercial General Liability
(Electrical, HVAC, Plumbing, Fire Protection, Sprinkler, Steel Erection, Elevation, Excavating, Roofing, Foundation and Curtain Wall Subcontractors)

\$5,000,000 each occurrence
\$3,000,000 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 endorsements 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 forming 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 earthquakes 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 \$25,000.00) 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

EXHIBIT "C"



FORD
NASSEN
BALDWIN

Jeffrey A. Ford
Direct: (214) 523-5120
E-Mail Address: jaford@fordnassen.com

May 4, 2009

CM/RRR # 7008 3230 0002 9703 3822

Opus West LP
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016-9256

CM/RRR # 7008 3230 0002 9703 3812

Opus West Construction Corporation
Attention: Paul Lembke
Vice President of Construction, Texas
15455 North Dallas Parkway, Suite 450
Addison, TX 75001

Re: Notice of Unpaid Amounts Owed for 121 Lakepointe Crossing, Located at
2525 & 2535 East State Highway 121, Lewisville, Texas (the "Project")

To whom it may concern:

This firm represents American Structural Metals, Inc. ("ASM"). ASM has furnished labor, materials and equipment for the fabrication and erection of metal entrance canopies and structural steel at the Project. ASM performed work on the Project under contracts with Opus West Construction Corporation. It is our understanding that Opus West LP is the owner of the real property on which the improvements have been made. If this is incorrect, please advise us immediately.

There remains due and owing to ASM \$2,982,606.10 for such labor, materials and/or equipment comprised of \$5,227.60 for the Decorator's Choice entrance canopies and structural steel, and \$2,977,378.50 for structural steel at Buildings 1 and 3, Phase II. A report of ASM's accounts receivable listing outstanding invoices on the Project is attached to this letter.

ASM's total claim for \$2,982,606.10 has accrued under §53.053 of the Texas Property Code and is past-due under the terms of the contracts between ASM and Opus West Construction Corporation. Demand is hereby made upon Opus West LP under §53.083 of the Texas Property Code for payment of such past due amount.

If this claim remains unpaid, the owner may be personally liable and the owner's property subjected to a lien unless payment is withheld from Opus West Construction Corporation for the payment of this claim or unless the bill is otherwise paid or settled.

111 Congress Avenue, Suite 1010
Austin, Texas 78701
Phone (512) 236-0009
Fax (512) 236-0682
99692.1/2432.002

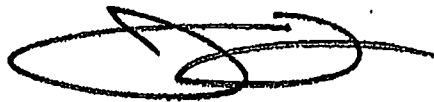
8080 North Central Expressway, Suite 1600, LB 65
Dallas, Texas 75206-1819
Phone (214) 523-5100
Fax (214) 521-4601

A Professional Corporation of Attorneys and Counselors
www.fordnassen.com

Opus West LP
Opus West Construction Corporation
May 4, 2009
Page 2

This notice is in addition to all prior notices given concerning the amounts due ASM and is being given to protect ASM's lien rights under Texas law.

Sincerely,



Jeffrey A. Ford

JAF:jh

Enclosures

cc: (all w/ enclosures)

Via E-Mail: fredr@asm-mmfc.com
Fred Riermann
American Structural Metals, Inc.

Via E-Mail: jonr@asm-mmfc.com
Jon Riermann
American Structural Metals, Inc.

Via E-Mail: brant@asm-mmfc.com
Brant Rossman
American Structural Metals, Inc.

Ford Nassen & Baldwin P.C.

99692.1/2432.002

AMERICAN STRUCTURAL METALS, INC.
Unpaid Invoices

	<u>Invoice ID</u>	<u>Date</u>	<u>Amount</u>
2936 - Lakepointe Crossing, Bldgs 1 & 3	5311	10/22/08	\$27,972.50
	5350	11/19/08	\$2,000,000.00
	5386	12/19/08	\$538,785.00
	5414	01/21/09	\$160,740.00
	5431	02/17/09	\$133,326.00
	5448	03/17/09	\$84,474.00
	5480	04/22/09	\$32,081.00
			<u>\$2,977,378.50</u>
2937 - Lakepointe Crossing, Structural Steel, Decorator's Choice Entrance Canopies	5285	09/17/08	\$5,227.60
			<u>\$5,227.60</u>
Opus West Construction Corporation Totals			\$2,982,606.10
Report Totals			\$2,982,606.10

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CERTIFIED MAIL[®] RECEIPT
(Domestic Mail Only: No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 4.42
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 9.32

Postmark: MAY - 4 2009
JAN 12 432 002

Send To: Opus West LP
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016-9256
City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
Opus West LP
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016-9256

2. Article Number (Transfer from service) 7008 3230 0002 9703 3829

PS Form 3811, February 2004 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature: *Paul Lembke*
B. Date of Delivery: 5-7-09
C. Agent Address: *MEANS*
D. Is delivery address different from item? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type: ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

U.S. Postal ServiceTM
CERTIFIED MAIL[®] RECEIPT
(Domestic Mail Only: No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 4.42
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 9.32

Postmark: MAY - 4 2009
JAN 12 432 002

Send To: Opus West Construction Corporation
Attention: Paul Lembke
Vice President of Construction, Texas
15455 North Dallas Parkway, Suite 450
Addison, TX 75001

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
Opus West Construction Corporation
Attention: Paul Lembke
Vice President of Construction, Texas
15455 North Dallas Parkway, Suite 450
Addison, TX 75001

2. Article Number (Transfer from service label) 7008 3230 0002 9703 3812

PS Form 3811, February 2004 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature: *Paul Lembke*
B. Date of Delivery: 5-5-09
C. Agent Address: *MEANS*
D. Is delivery address different from item? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type: ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

EXHIBIT "D"



777 Lehman Way - PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5950
Fax 715-247-5990

To: OPUS WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: October 22, 2008
Invoice ID 5311
Customer I.D.: OPL/3
PO# 97308

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2525 EAST HWY 121
LEWISVILLE, TX

TERMS NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL.	272,888.00 *
2	JOISTS	
3	DECK	
4	MISCELLANEOUS	
5	ERECTION	
6	FREIGHT	6,737.00
7	X1 BULLETIN SB-01	
8	X2 REVISED DRWGS, 7/8 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
Total		279,725.00

Invoice Sub-total 279,725.00

Sales Tax 0.00

Amount due this Invoice

279,725.00

* \$195,200 Stored @ 777 Lehmann Way, Somerset, WI
* 77,788.00 Shipped to Site

251,752.50
27,972.50



777 Lehmann Way • PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5950
Fax 715-247-5990

To: OPU3 WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: November 19, 2008
Invoice ID 5350
Customer I.D.: OPU3
PO# 97308

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2525 EAST HWY 121
LEWISVILLE, TX

TERMS: NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL	223,117.00
2	JOISTS	1,413,788.00
3	DECK	891,980.00
4	MISCELLANEOUS	
5	ERECTION	
6	FREIGHT	10,000.00
7	X1 BULLETIN SB-01	
8	X2 REVISED DRWGS, 7/8 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
11	X5 ANGLE FRAME	
Total		2,538,885.00

Invoice Sub-total 2,538,885.00

Sales Tax 0.00

Amount due this Invoice

2,538,885.00

Rec'd 1-8-09 538,885.00



777 Lehmann Way - PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5950
Fax 715-247-5990

To: OPUS WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: December 19, 2008
Invoice ID 5386
Customer I.D.: OPU3
PO# 97306

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2626 EAST HWY 121
LEWISVILLE, TX

TERMS: NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL	35,000.00
2	JOISTS	
3	DECK	
4	MISCELLANEOUS	252,322.00
5	ERECTION	223,200.00
6	FREIGHT	28,263.00
7	X1 BULLETIN SB-01	
8	X2 REVISED DRWGS, 7/8 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
11	X5 ANGLE FRAME	
12	X6 FB #20	
Total		538,785.00

Invoice Sub-total 538,785.00

Sales Tax 0.00

Amount due this Invoice 538,785.00



777 Lehmann Way - PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5960
Fax 715-247-5990

To: OPUS WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: January 21, 2009
Invoice ID 5414
Customer I.D.: OPU3
PO# 97308

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2525 EAST HWY 121
LEWISVILLE, TX

TERMS: NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL	
2	JOISTS	
3	DECK	
4	MISCELLANEOUS	
5	ERECTION	160,740.00
6	FREIGHT	
7	X1 BULLETIN SB-01	
8	X2 REVISED DRWGS, 7/6 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
11	X5 ANGLE FRAME	
12	X6 FB #20	
13	X7 EMBED PLATES	
Total		160,740.00

Invoice Sub-total 160,740.00

Sales Tax 0.00

Amount due this Invoice 160,740.00



777 Lehmann Way • PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5950
Fax 715-247-5990

To: OPUS WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: February 17, 2009
Invoice ID 5431
Customer I.D.: OPU3
PO# 97306

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2525 EAST HWY 121
LEWISVILLE, TX

TERMS: NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL	
2	JOISTS	
3	DECK	
4	MISCELLANEOUS	
5	ERECTION	133,326.00
6	FREIGHT	
7	X1 BULLETIN SB-01	
8	X2 REVISED DRWGS, 7/8 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
11	X5 ANGLE FRAME	
12	X6 I'B #20	
13	X7 EMBED PLATES	
14	X8 BENT PLATE	
Total		133,326.00

Invoice Sub-total 133,326.00

Sales Tax 0.00

Amount due this Invoice 133,326.00



777 Lehmann Way - PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5950
Fax 715-247-5990

To: OPUS WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: March 17, 2009
Invoice ID 5448
Customer I.D.: OPU3
PO# 97308

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2525 EAST HWY 121
LEWISVILLE, TX

TERMS: NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL	
2	JOISTS	
3	DECK	
4	MISCELLANEOUS	28,000.00
5	ERECTION	57,474.00
6	FREIGHT	1,000.00
7	X1 BULLETIN SB-01	
8	X2 REVISED DRWGS, 7/6 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
11	X5 ANGLE FRAME	
12	X6 FB #20	
13	X7 EMBED PLATES	
14	X8 BENT PLATE	
15	X9 FIELD WORK #5788- 5791	
Total		84,474.00

Invoice Sub-total 84,474.00

Sales Tax 0.00

Amount due this Invoice 84,474.00



777 Lehmann Way • PO Box 40 • Somerset, WI 54025 • Telephone 715-247-5950
Fax 715-247-5990

To: OPUS WEST CONSTRUCTION
15455 NORTH DALLAS PARKWAY
SUITE 450
ADDISON, TX 75001

Date: April 22, 2009
Invoice ID 5480
Customer I.D.: OPU3
PO# 97306

CONTRACT ID: 2936
LAKEPOINTE CROSSINGS, BLDG 1
LOCATION: 2525 EAST HWY 121
LEWISVILLE, TX

TERMS: NET 30 DAYS

Item	Description	Current Billing
1	STRUCTURAL STEEL	
2	JOISTS	
3	DECK	
4	MISCELLANEOUS	
5	ERECTION	
6	FREIGHT	
7	X1 BULLETIN SB-01	7,572.00
8	X2 REVISED DRWGS, 7/8 & 7/14	
9	X3 BULLETIN SB-02	
10	X4 BULLETINS SB-03, 04 & AB-03	
11	X5 ANGLE FRAME	14,502.00
12	X6 FB #20	
13	X7 EMBED PLATES	
14	X8 BENT PLATE	
15	X9 FIELD WORK #5789- 5791	3,812.00
16	X10 WORK ORDERS 3872,5643-44	6,195.00

Total	32,081.00
Invoice Sub-total	32,081.00
Sales Tax	0.00
Amount due this Invoice	<u>32,081.00</u>

OPUS WEST CONSTRUCTION
2936 LAKEPOINTE CROSSINGS, BLDG 1

Invoice ID: 5480
Date: 4/22/09

EXHIBIT "E"

Denton County
Cynthia Mitchell
County Clerk
Denton, Tx 76202



Instrument Number: 2009-54013

Recorded On: May 08, 2009

As
Mechanics Lien Affidavit

Parties: AMERICAN STRUCTURAL METALS INC
To

Billable Pages: 4
Number of Pages: 4

Comment:

(Parties listed above are for Clerks reference only)

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

Mechanics Lien Affidavit	23.00
Total Recording:	23.00

***** 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: 2009-54013

Receipt Number: 580841

Recorded Date/Time: May 08, 2009 08:31:12A

User / Station: D Fahrney - Cash Station 3

Record and Return To:

FORD NASSEN & BALDWIN PC
8080 N CENTRAL EXPWY STE 1600 LB65
DALLAS TX 75208-1819



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. J. J. J.

County Clerk
Denton County, Texas

STATE OF TEXAS
COUNTY OF DENTON

§
§
§

AFFIDAVIT OF MECHANIC'S LIEN

BEFORE ME, a notary public in and for the State of Wisconsin, on this day personally appeared the undersigned who, being by me duly sworn, on oath deposed and stated:

1. My name is Brant Rossman. I am the Executive Vice President of American Structural Metals, Inc. ("Claimant"). I am over 18 years of age, have personal knowledge of the facts set forth herein, all of which are true and correct, and am competent and authorized to make this Affidavit on Claimant's behalf as the sworn statement of its claim.

2. Claimant's mailing address is 777 Lehmann Way, PO Box 40, Somerset, Wisconsin 54025. Claimant's physical address is 777 Lehmann Way, Somerset, Wisconsin 54025.

3. Claimant furnished materials, equipment and other services to improve structures commonly known as 121 Lakepointe Crossing on real property (the "Property") located at 2525 East State Highway 121, Lewisville, Denton County, Texas 75056, and 2535 East State Highway 121, Lewisville, Denton County, Texas 75056, and more particularly described as:

Lot 1R-1, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet Y, Page 662, Real Property Records, Denton County, Texas;

Lot 3, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet W, Page 7, Real Property Records, Denton County, Texas;

Lot 4R, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet Y, Page 662, Real Property Records, Denton County, Texas.

4. The kind of work done and materials furnished by Claimant are generally described as furnishing and installing structural steel, metal canopies, steel joists and deck and otherwise improving structures on the property.

5. Claimant furnished such services under agreements with the purported original contractor for such improvements, Opus West Construction Corporation (the "Original Contractor"), whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, Texas 75001.

6. The owner or reputed owner of the Property is Opus West, LP, whose last known address is 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016-9256 (the "Owner").

7. Claimant hereby asserts a mechanic's lien claim for unpaid labor, materials, equipment and other services furnished in the total amount of TWO MILLION, NINE HUNDRED AND EIGHTY-TWO THOUSAND, SIX HUNDRED AND SIX DOLLARS AND 10/100 (\$2,982,606.10) for materials and erection services supplied during the months of August of 2008 through May of 2009.

8. Claimant hereby claims a statutory lien against the property and all improvements now or hereafter located thereon in the amount set forth in Paragraph 7, pursuant to Chapter 53 of the Texas Property Code. To the extent that Claimant is deemed to be an original contractor, Claimant further claims a constitutional lien against the property and all improvements now or hereafter located thereon in the amount set forth in Paragraph 7, pursuant to Article 16, Section 37 of the Constitution of the State of Texas.

9. To the extent permitted by Section 53.026 of the Texas Property Code, Claimant asserts the right to have its lien considered to be the lien of an original contractor.

10. Notice of this claim was sent by Certified Mail, Return Receipt Requested to the Owner and Original Contractor at the addresses set forth above on May 4, 2009.

11. A copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the Owner and Original Contractor at its addresses set forth above.

AMERICAN STRUCTURAL METALS, INC.

By:



Brant Rossman
Executive Vice President

STATE OF WISCONSIN §
COUNTY OF SAINT CROIX §

ACKNOWLEDGED, SUBSCRIBED AND SWORN TO BEFORE ME by Brant Rossman, Executive Vice President of American Structural Metals, Inc., on this 30th day of April, 2009 to certify which witness my hand and official seal of office.

Debra J. Petty
Notary Public - State of Wisconsin
My Commission Expires: 12/5/2010

[SEAL]

AFTER RECORDING PLEASE RETURN TO:
Danielle Seann
Ford Nassen & Baldwin P.C.
8080 North Central Expressway
Suite 1600, LB65
Dallas, Texas 75206

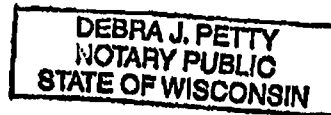


EXHIBIT "F"



FORD
NASSEN
BALDWIN

Jeffrey A. Ford
Direct: (214) 523-5120
E-Mail Address: jaford@fordnassen.com

May 5, 2009

CM/RRR # 7008 3230 0002 9703 3713

Opus West LP
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016-9256

CM/RRR # 7008 3230 0002 9703 3867

Opus West Construction Corporation
Attention: Paul Lembke
Vice President of Construction, Texas
15455 North Dallas Parkway, Suite 450
Addison, TX 75001

Re: Notice to Owner of Filing of Affidavit of Mechanic's Lien on the Following
Project:
121 Lakemonte Crossing
2525 and 2535 East State Highway 121
Lewisville, Denton County, Texas 75056

Gentlemen:

In accordance with Section 53.055 of the Texas Property Code, enclosed is a copy of the Affidavit of Mechanic's Lien that was filed in the real property records of Denton County, Texas on behalf of American Structural Metals, Inc.

Very truly yours,

Jeffrey A. Ford

JAF:jh
Enclosure

cc: (all w/enclosure)
Via E-Mail: fredr@asm-nmf.com
Fred Riermann
American Structural Metals, Inc.

Via E-Mail: jonr@asm-nmf.com
Jon Riermann
American Structural Metals, Inc.

Via E-Mail: brant@asm-nmf.com
Brant Rossmann
American Structural Metals, Inc.

Danielle N. Senn (of the firm)

111 Congress Avenue, Suite 1010
Austin, Texas 78701
Phone (512) 236-0009
Fax (512) 236-0682
99734.1/2432.002

8080 North Central Expressway, Suite 1600, LB 65
Dallas, Texas 75206-1819
Phone (214) 523-5100
Fax (214) 521-4601

A Professional Corporation of Attorneys and Counselors
www.fordnassen.com

STATE OF TEXAS
COUNTY OF DENTON

§
§
§

AFFIDAVIT OF MECHANIC'S LIEN

BEFORE ME, a notary public in and for the State of Wisconsin, on this day personally appeared the undersigned who, being by me duly sworn, on oath deposed and stated:

1. My name is Brant Rossman. I am the Executive Vice President of American Structural Metals, Inc. ("Claimant"). I am over 18 years of age, have personal knowledge of the facts set forth herein, all of which are true and correct, and am competent and authorized to make this Affidavit on Claimant's behalf as the sworn statement of its claim.

2. Claimant's mailing address is 777 Lehmann Way, PO Box 40, Somerset, Wisconsin 54025. Claimant's physical address is 777 Lehmann Way, Somerset, Wisconsin 54025.

3. Claimant furnished materials, equipment and other services to improve structures commonly known as 121 Lakepointe Crossing on real property (the "Property") located at 2525 East State Highway 121, Lewisville, Denton County, Texas 75056, and 2535 East State Highway 121, Lewisville, Denton County, Texas 75056, and more particularly described as:

Lot 1R-1, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet Y, Page 662, Real Property Records, Denton County, Texas;

Lot 3, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet W, Page 7, Real Property Records, Denton County, Texas;

Lot 4R, Block A, Crossroads Centre North, an Addition to the City of Lewisville, Denton County, Texas, according to the Final Plat thereof recorded in Cabinet Y, Page 662, Real Property Records, Denton County, Texas.

4. The kind of work done and materials furnished by Claimant are generally described as furnishing and installing structural steel, metal canopies, steel joists and deck and otherwise improving structures on the property.

5. Claimant furnished such services under agreements with the purported original contractor for such improvements, Opus West Construction Corporation (the "Original Contractor"), whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, Texas 75001.

6. The owner or reputed owner of the Property is Opus West, LP, whose last known address is 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016-9256 (the "Owner").

7. Claimant hereby asserts a mechanic's lien claim for unpaid labor, materials, equipment and other services furnished in the total amount of TWO MILLION, NINE HUNDRED AND EIGHTY-TWO THOUSAND, SIX HUNDRED AND SIX DOLLARS AND 10/100 (\$2,982,606.10) for materials and erection services supplied during the months of August of 2008 through May of 2009.

8. Claimant hereby claims a statutory lien against the property and all improvements now or hereafter located thereon in the amount set forth in Paragraph 7, pursuant to Chapter 53 of the Texas Property Code. To the extent that Claimant is deemed to be an original contractor, Claimant further claims a constitutional lien against the property and all improvements now or hereafter located thereon in the amount set forth in Paragraph 7, pursuant to Article 16, Section 37 of the Constitution of the State of Texas.

9. To the extent permitted by Section 53.026 of the Texas Property Code, Claimant asserts the right to have its lien considered to be the lien of an original contractor.

10. Notice of this claim was sent by Certified Mail, Return Receipt Requested to the Owner and Original Contractor at the addresses set forth above on May 4, 2009.

11. A copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the Owner and Original Contractor at its addresses set forth above.

AMERICAN STRUCTURAL METALS, INC.

By:



Brant Rossman
Executive Vice President

STATE OF WISCONSIN §
COUNTY OF SAINT CROIX §

ACKNOWLEDGED, SUBSCRIBED AND SWORN TO BEFORE ME by Brant Rossman, Executive Vice President of American Structural Metals, Inc., on this 30th day of April, 2009 to certify which witness my hand and official seal of office.

[SEAL]

Debra J. Petty
Notary Public - State of Wisconsin
My Commission Expires: 12/5/2010

AFTER RECORDING PLEASE RETURN TO:
Danielle Seun
Ford Nassen & Baldwin P.C.
8080 North Central Expressway
Suite 1600, LB65
Dallas, Texas 75206

DEBRA J. PETTY
NOTARY PUBLIC
STATE OF WISCONSIN

U.S. Postal Service[®]
CERTIFIED MAIL[®] RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 4.42
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.32

Send To: Opus West LP
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016-9256
City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

LOUISIANA FINANCE STA. DALLAS TX
Postmark Here
MAY 5 2009
JAF 124-22-000

7008 3230 0002 9703 3713

U.S. Postal Service[®]
CERTIFIED MAIL[®] RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 4.42
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.32

Send To: Opus West Construction Corporation
Attention: Paul Lembke
Vice President of Construction, Texas
15455 North Dallas Parkway, Suite 450
Addison, TX 75001

PS Form 3800, August 2006 See Reverse for Instructions

LOUISIANA FINANCE STA. DALLAS TX
Postmark Here
MAY 5 2009
JAF 124-22-000

7008 3230 0002 9703 3817

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
Opus West LP
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016-9256

2. Article Number:
(Transfer from service label) 7008 3230 0002 9703 3713

PS Form 3811, February 2004 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

3. Signature: *Paul Lembke*

4. Return Receipt for Merchandise: ☐ Agent ☐ Addressee

5. Date of Delivery: 5-6-09

6. Is delivery address different from item 1? ☐ Yes ☐ No

7. If YES, enter delivery address below:

8. Service Type: ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Insured Mail ☐ C.O.D.

9. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
Opus West Construction Corporation
Attention: Paul Lembke
Vice President of Construction, Texas
15455 North Dallas Parkway, Suite 450
Addison, TX 75001

2. Article Number:
(Transfer from service label) 7008 3230 0002 9703 3817

PS Form 3811, February 2004 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

3. Signature: *Paul Lembke*

4. Return Receipt for Merchandise: ☐ Agent ☐ Addressee

5. Date of Delivery: 5-6-09

6. Is delivery address different from item 1? ☐ Yes ☐ No

7. If YES, enter delivery address below:

8. Service Type: ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Insured Mail ☐ C.O.D.

9. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

Northern District of Texas Claims Register

09-34356-hdh11 Opus West Corporation

Judge: Harlin DeWayne Hale

Chapter: 11

Office: Dallas

Last Date to file claims: 11/09/2009

Trustee:

Last Date to file (Govt):

Creditor: (12485569) American Structural Metals, Inc. c/o Jeffrey R. Fine K&L Gates 1717 Main Street, Suite 2800 Dallas, Texas 75201	Claim No: 22 <i>Original Filed</i> <i>Date: 09/25/2009</i> <i>Original Entered</i> <i>Date: 09/25/2009</i>	Status: <i>Filed by: CR</i> <i>Entered by: Fine, Jeffrey</i> <i>Modified:</i>
Secured claimed: \$2982606.10 Total claimed: \$2982606.10		
History: <u>Details</u> <u>22-1</u> 09/25/2009 Claim #22 filed by American Structural Metals, Inc., total amount claimed: \$2982606.1 (Fine, Jeffrey)		
Description: (22-1) mechanic's lien		
Remarks:		

Claims Register Summary