


B 10 (Official Form 10) (12/07)

<b>UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF TEXAS</b>		<b>PROOF OF CLAIM</b>
Name of Debtor: <b>OPUS WEST CORPORATION, et.al.</b>		Case Number: <b>09-34356-hdh-11</b>
<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. § 503.</i>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>GATE PRECAST COMPANY</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  Court Claim Number: _____ (If known)  Filed on: _____
Name and address where notices should be sent:  <b>Brad C. Parrott, Esq.</b> <b>One Midtown Plaza, Suite 1200, 1360 Peachtree Street, Atlanta, GA. 30309</b>  Telephone number: <b>(404) 870-2200</b>		
Name and address where payment should be sent (if different from above):  <div style="text-align: center;"><b>RECEIVED</b> <b>OCT 02 2009</b> <b>BMC GROUP</b></div>		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number: _____		
1. Amount of Claim as of Date Case Filed: \$ <u>68,755.00</u>  If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  If all or part of your claim is entitled to priority, complete item 5.  <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim.  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4).  <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).  <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).  <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).  <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____).  Amount entitled to priority: \$ _____  *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
2. Basis for Claim: <u>Goods and Services</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: <u>0593</u>  3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.  Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: <b>Affidavit Claiming Mechanics' and Materialmans' Lien</b> Value of Property: \$ <u>3,671,025.00</u> Annual Interest Rate: <u>   </u> %  Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____  Amount of Secured Claim: \$ <u>68,755.00</u> 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:		
Date: <u>8/18/09</u> Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  <b>Brad C. Parrott, Esq. Attorney for Gate Precast Company, Georgia Bar No. 595999</b>		FOR COURT USE ONLY  OPUS WEST  00261

*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.*



**Precast Company** LIEN AFFADAVIT AND CLAIM

THE STATE OF TEXAS

COUNTY OF DALLAS

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

1. My name is Andi Harris. I am an authorized representative of Gate Precast Company with principal offices at P.O. Box 1305, Hillsboro, TX 76645 and 1220 North Highway 77, Hillsboro, TX 76645. I am duly authorized to make and do make this affidavit on behalf of said company.
2. The amount of this claim is \$68,755.00, and said amount is just and reasonable and is due and unpaid. Said claim constitutes the reasonable value of the materials furnished and labor performed after all credits, offsets, and payments have been allowed.
3. The name of the owner or reputed owner of the real estate hereinafter described is Opus West Corporation, whose last known address is: 15455 N. Dallas Parkway, Suite 450, Addison, TX 75001.
4. The property sought to be charged with the lien is described as follows: Two Addison Circle Spec Office, 15725 N. Dallas Parkway, Addison, TX 75001, Final Plat of a 3.371 acre tract into Lot 1, Block 1, Opus Addition, located in the town of Addison, Texas, and being out of the G.W. Fisher Survey, Abstract No. 482, Dallas County, Texas. (See Attachment A)
5. Claimant furnished and installed materials for the improvement of said real estate, consisting generally of architectural precast concrete cladding and erection of same.
6. Claimant furnished materials and labor pursuant to a contract with Opus West Construction Corporation whose last known address is: 15455 N. Dallas Parkway, Suite 450, Addison, TX 75001, the original contractor on the project.
7. The month or months that the work was done and materials were furnished for which payment is requested are February 2009.
8. Notice of the claim was sent to the Owner and original contractor on the following dates and by the following method:

<u>Method Sent</u>	<u>Date Sent</u>
VIA Certified Mail No. 7007 1490 0002 9841 8912 Return Receipt Requested	5/4/09

Opus West Corporation

Attachment A

Two Addison Circle Spec Office  
15725 N. Dallas Parkway  
Addison, TX 75001

This attachment is to be used in conjunction with the Lien Affidavit and Claim for the above referenced project.

STATE OF TEXAS  
COUNTY OF DALLAS

WHEREAS, OPUS WEST, LP is the owner of a 3.571 acre tract of land situated in the G. W. Fisher Survey, Abstract No. 462, Dallas County, Texas; said tract being all of a tract of land granted to Opus West, LP in Special Warranty Deed recorded in instrument No. 20070175801 of the Official Public Records of Dallas County, Texas; said 3.571 acre tract being more particularly described as follows:

BEGINNING, at a "+" cut in concrete found for corner; said point being the intersection of the west right-of-way line of Dallas Parkway (a variable width right-of-way) with the northwest right-of-way line of Addison Circle (a 100-foot wide right-of-way);

THENCE, South 72 degrees, 58 minutes, 59 seconds West, along said northwest right-of-way line of Addison Circle, a distance of 247.36 feet to a "+" cut in concrete found for corner; said point being the most easterly corner of Lot 1, Block A of The Ashton addition, an addition to the Town of Addison, Dallas County, Texas according to the plat thereof recorded in Volume 20000336, Page 2813 of the Plat Records of Dallas County, Texas;

THENCE, departing said northwest right-of-way line of Addison Circle, along the northeast line of said Lot 1, Block A, the following three (3) calls:

North 17 degrees, 01 minutes, 01 seconds West, a distance of 59.32 feet to a "+" cut in concrete found for corner;

North 58 degrees, 20 minutes, 25 seconds West, a distance of 261.51 feet to a 5/8-inch iron rod with "Hult-Zollars" cap found for corner;

North 89 degrees, 04 minutes, 47 seconds West, a distance of 104.49 feet to a 5/8-inch iron rod with "Hult-Zollars" cap found for corner; said point being the northwest corner of said Lot 1, Block A; said point being in the east right-of-way line of Spectrum Drive (a 60-foot wide right-of-way);

THENCE, North 00 degrees, 55 minutes, 13 seconds East, departing said northeast line of Lot 1, Block A, along said east right-of-way line of Spectrum Drive, a distance of 193.64 feet to "+" cut in concrete found for corner; said point being the most westerly southwest corner of a tract of land granted to SNK Allegro Spectrum, LP in Special Warranty Deed recorded in instrument No. 20070227088 of said Official Public Records;

THENCE, departing said east right-of-way line of Spectrum Drive, along the south line of said SNK tract, the following three (3) calls:

South 89 degrees, 04 minutes, 47 seconds East, a distance of 326.83 feet to a 5/8-inch iron rod with "Hult-Zollars" cap found for corner;

Due South, a distance of 72.67 feet to a 5/8-inch iron rod with "Hult-Zollars" cap found for corner;

Due East, a distance of 239.67 feet to a 5/8-inch iron rod with "Hult-Zollars" cap found for corner; said point being in said west right-of-way line of Dallas Parkway; said point being the beginning of a non-tangent curve to the right;

THENCE, departing said south line of SNK tract, along said east right-of-way line of Dallas Parkway the following three (3) calls:

Southerly, along said curve, having a central angle of 85 degrees, 29 minutes, 07 seconds, a radius of 628.62 feet, on a chord bearing and distance of South 04 degrees, 17 minutes, 38 seconds East, 59.07 feet, an arc distance of 59.89 feet to a "+" cut in concrete found for end of said curve;

South 01 degrees, 33 minutes, 02 seconds East, a distance of 82.43 feet to a "+" cut in concrete found for corner; said point being the beginning of a non-tangent curve to the left;

Southerly, along said curve, having a central angle of 02 degrees, 46 minutes, 45 seconds, a radius of 1887.84 feet, on a chord bearing and distance of South 02 degrees, 58 minutes, 28 seconds East, 86.90 feet, an arc distance of 98.91 feet to the POINT OF BEGINNING;

CONTAINING 148,851 square feet or 3.571 acres of land, more or less.

NOTE:

1. Bearing system for this survey is based on a bearing of South 72 degrees, 58 minutes, 59 seconds West for the northwest right-of-way line of Addison Circle according to Special Warranty Deed recorded in instrument No. 20070175801 of the Official Public Records of Dallas County, Texas.



**CONFORMED COPY**

OFFICIAL PUBLIC RECORDS

A handwritten signature in black ink, appearing to read "J. F. Warren", is written over the printed name.

John F. Warren County Clerk

Dallas County TEXAS

May 05, 2009 02:14:15 PM

FEE: \$24.00

200900128051

Project Name : Two Addison Circle Spec Office  
 Subcontractor : Gate Precast  
 Address : 1220 North Highway 77  
Hillsboro, TX 76645  
 Phone : 254-582-7200  
 Mailing Address : OPUS West Construction Corporation  
Attn : Accounts Payable  
15455 N. Dallas Parkway, Suite 450  
Addison, TX 75001

Project Number : 10593  
 Date of Application : 2/24/2009  
 Application Number : 5-Final  
 Period From : 2/1/2009 Period To: 2/28/2009

**CONTRACT INFORMATION**

ITEM	SALES TAX(\$)(if applicable)	TOTAL(\$)
ORIGINAL CONTRACT AMOUNT		
OPUS APPROVED CHANGE ORDER # 1 THRU # 07		\$2,717,000.00
CONTRACT AMOUNT TO DATE TOTAL		\$14,083.00
		\$2,731,083.00

**APPLICATION INFORMATION**

Total Completed & Stored to Date	\$ 2,731,083.00	
Less Retainage <u>10%</u>	\$ .00	
Total Earned Less Retainage (A - B)		\$ 2,731,083.00
Less Previous Billings (previous req's line C)	\$ 2,662,328.00	
Current Payment Due (C - D)		\$ 68,755.00
Balance to Finish, Plus Retainage (E - A + B)	\$ 68,755.00	
Current Gross Amount Completed This Period	\$ 3,065.00	

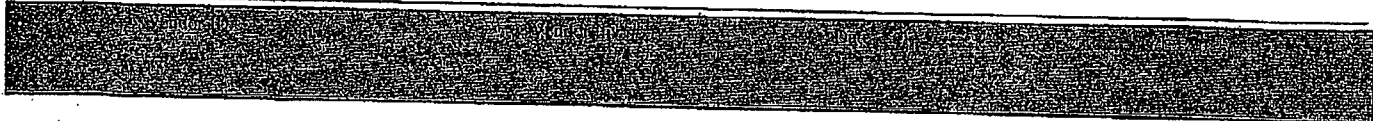
SUBCONTRACTOR : Gate Precast Supplier #: \_\_\_\_\_  
 BY : [Signature]  
 DATE : 2/24/2009

**APPLICATION BREAKDOWN**

THIS SECTION MUST BE COMPLETE IN ORDER FOR THIS PAYMENT TO BE PROCESSED BY OPUS

Account Code	Description	Current Contract Amount	From Previous Application	This Period	Total Work Complete	Percent Complete	Retainage This Application	Net Payment
					I + G	A / H		G - K
193.01-E10-03094.00-S	Arch Precast Conc - Subcontract	\$1,948,343.00	\$1,951,408.00	-\$3,065.00	\$1,948,343.00	100.00%	\$0.00	\$3,065.00
193.02-E10-03094.00-S	Arch Precast Conc - Subcontract	\$782,740.00	\$782,740.00	\$0.00	\$782,740.00	100.00%	\$0.00	\$0.00
	<b>TOTAL</b>	\$2,731,083.00	\$2,734,148.00	-\$3,065.00	\$2,731,083.00	100.00%	\$0.00	-\$3,065.00
		H	I	G	A	J	K	E

SHADED AREA FOR OPUS ACCOUNTING USE ONLY





Precast Company

PAYMENT REQUEST FORM

PROJECT NAME: Two Addison Office

PAYMENT REQUEST NO: 5-Final

INVOICE NO: 5-Final

DATE: 02/24/09

Subcontract/PO Agreement No: 10593.00

Original Subcontract/PO Amount: \$2,717,000

Approved Subcontract/PO Change Order Numbers \$14,083

Total Current Subcontract/PO Amount \$2,731,083

~~100.00%~~ Complete to Date, or Total Value of Work in Place to date, per attached breakdown \$2,731,083

Value of Material Suitably Stored, per attached copies of invoices (when Agreement so provides) \$0

Gross Amount due to date \$2,731,083

Less - Gross Amount shown on Previous Requests \$2,662,328

Gross Amount due this Period \$68,755

Less retainage for work completed this Period 10% \$0

NET AMOUNT DUE THIS PERIOD \$68,755

TOTAL RETAINED TO DATE \_\_\_\_\_

	Man Hours	Accidents	Lost Time Accidents
Total Current	0	0	0
Total To Date	0	0	0

**APPLICATION AND CERTIFICATION FOR PAYMENT**

AIA DOCUMENT G702

TO GENERAL CONTRACTOR:  
**Opus West Construction Co.**  
 15455 No. Dallas Pkwy #450  
 Addison, Texas 75001

APPLICATION NO: 5-Final

Distribution to:

OWNER

ARCHITECT

CONTRACTOR

FROM CONTRACTOR:  
**Gate Precast Company**  
 P O Box 1305  
 Hillisboro, Texas 76645  
 254-582-7200 \* Fax 254-582-7205

PERIOD TO: 28-Feb-09

PROJECT NOS: 10593

Gate # 28255

CONTRACT DATE:

CONTRACT FOR: Architectural Precast

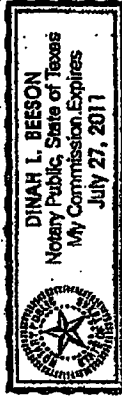
**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM .....	\$2,717,000
2. Net change by Change Orders .....	\$14,083
3. CONTRACT SUM TO DATE (Line 1 +/- 2) .....	\$2,731,083
4. TOTAL COMPLETED & STORED TO DATE .....	\$2,731,083
(Column G on G703)	
5. RETAINAGE:	
a. 10 % of Completed Work .....	\$0
b. 0 % of Stored Material .....	\$0
(Column F on G703)	
Total Retainage (Lines 5a + 5b or Total in Column I of G703) .....	\$0
6. TOTAL EARNED LESS RETAINAGE .....	\$2,731,083
(Line 4 Less Line 5 Total)	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) .....	\$2,662,328
8. CURRENT PAYMENT DUE .....	\$68,755
9. BALANCE TO FINISH, INCLUDING RETAINAGE .....	\$0
(Line 3 less Line 6)	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Gate Precast Company



By: *[Signature]* Date 24-Feb-09

State of Texas County of Hill

Subscribed and sworn to before me this 24th day of February, 2009

Notary Public *[Signature]*

My Commission expires: July 27, 2011

**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$

*(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)*

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name, Title  
 This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0	\$0
Total approved this Month:	\$0	\$0
<b>TOTALS</b>	\$0	\$0
<b>NET CHANGES by Change Order</b>		\$0

PAGE 1 OF 1

January 2009  
Schedule of Values

A Item No.	B Description of Work	C Scheduled Value	D Work Completed		E This Period	F Stored Mat. (not in D or E)	G Total Stored & Completed	H Percentage Complete	I Retainage	J Balances To Finish
			Previous Application	Work Completed						
	Engineering	112,011		112,011			112,011	100.00%	0	112,011
	Hardware	145,152		145,152			145,152	100.00%	0	145,152
	Material	1,100,207		1,100,207			1,100,207	100.00%	0	1,100,207
	Freight	45,360		45,360			45,360	100.00%	0	45,360
	Erection	508,293		508,293			508,293	100.00%	0	508,293
	Engineering	61,501		61,501			61,501	100.00%	0	61,501
	Hardware	60,425		60,425			60,425	100.00%	0	60,425
	Material	482,550		482,550			482,550	100.00%	0	482,550
	Freight	23,220		23,220			23,220	100.00%	0	23,220
	Erection	178,281		178,281			178,281	100.00%	0	178,281
	Change Order #01	35,885		35,885			35,885	100.00%	0	35,885
	Change Order #02	-18,737		-18,737			-18,737	100.00%	0	-18,737
	Change Order #03	0		0			0	100.00%	0	0
	Change Order #04	0		0			0	100.00%	0	0
	Change Order #05	-1,790		0	-1,790		-1,790	100.00%	0	-1,790
	Change Order #06	0		0			0	100.00%	0	0
	Change Order #07	-1,275		0	-1,275		-1,275	100.00%	0	-1,275
	<b>TOTAL</b>	<b>2,731,083</b>	<b>2,734,148</b>	<b>3,065</b>	<b>0</b>	<b>2,731,083</b>	<b>2,731,083</b>	<b>100.00%</b>	<b>0</b>	<b>2,731,083</b>

Gate Precast Company  
Two Addison - Building and Garage  
Opus West Construction Corporation  
15465 North Dallas Parkway Suite #450  
Addison, Texas 75001

Application No.: S-Final  
Application Date: 2/24/2009  
Period: 2/1-2/28/2009  
Project: 2 Addison Circle  
Office Bldg Job#: 10593.00  
Gate #28255

COR - Change Order Request  
ROM - Rough Order of Magnitude



