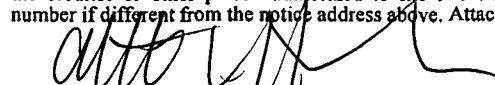


| UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS | | PROOF OF CLAIM |
|--|--|--|
| Name of Debtor: (Check Only One): <input type="checkbox"/> Opus West Corporation <input checked="" type="checkbox"/> Opus West Construction Corporation <input type="checkbox"/> O.W. Commercial, Inc. <input type="checkbox"/> Opus West LP <input type="checkbox"/> Opus West Partners, Inc. | Case Number: 09-34360-hdh11 | |
| NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. All other requests for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503. | | |
| Name of Creditor (the person or other entity to whom the debtor owes money or property): Bingham Heating & Air, Inc. c/o Christopher V. Hawkins Sullivan Hill Lewin Rez & Engel 550 West C Street, Suite 1500 San Diego, CA 92101 | <div style="text-align: center;">  </div> <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: <i>(If known)</i> Filed on: | |
| Name and address where notices should be sent: Same as above. Telephone number: (619) 233.4100 Email Address: Hawkins@sullivanhill.com | <div style="text-align: center;">  </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. | |
| Name and address where payment should be sent (if different from above): Telephone number: | <div style="text-align: center;">  </div> | |
| 1. Amount of Claim as of Date Case Filed: \$ 32,670.29 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: \$ | |
| 2. Basis for Claim: _____ (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: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Equipment <input type="checkbox"/> Other Value of Property: \$____ Annual Interest Rate ____% Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$____ Basis for perfection: _____ Amount 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 or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____ | | |
| Date: 9/22/09 | 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.  | FOR COURT USE ONLY <div style="text-align: center;">  00279 </div> |



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AUG 06 2008

OPUS WEST-IRVINE

Aethercomm TI / 11077.10
15500 /Design/Build Mechanical
Bingham Heating and Air Inc / Bob Bingham
Contact Phone # 858.200.0680
Contact Fax # 858.200.0681
Payment Terms: Standard

SUBCONTRACT AGREEMENT (Labor and Materials)

This Subcontract Agreement ("Subcontract") is made as of this 22nd day of July, 2008, by and between OPUS West Construction Corporation ("Contractor"), with its office located at 4350 La Jolla Village Dr., Ste. 110, San Diego, CA 92122, and Bingham Heating and Air Inc ("Subcontractor") with its office located at 6387 Nancy Ridge Dr., San Diego, CA 92121.

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 Aethercomm TI ("Project"), located at 3205 Lionshead Avenue, Carlsbad, CA 92010 ("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: Smith Consulting Architects
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 01/15/2009. Subcontractor shall conform to all progress and schedule requirements of the Subcontract Documents and as directed by Contractor's project manager, and must achieve the milestones (if any) as described in the attached Rider "A".
7. Subcontract Sum. Contractor shall pay Subcontractor the sum of \$ 326,756.00 ("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

Ralph Miller

CONTRACTOR

OPUS West Construction Corporation

By:

Jeffery Dickerson

(Print Name)

Vice President of Construction

(Title)

(Date)

9/2/08

SUBCONTRACTOR

Bingham Heating and Air Inc

By:

Rick Reinholz

(Print Name)

President/CEO

(Title)

7-25-08

(Date)

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Bingham Heating & Air

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RIDER A

This Rider A is attached to and made a part of the Subcontract between OPUS West Construction Corporation and Bingham Heating and Air Inc dated 07/22/2008. 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 Design/Build Mechanical work ("Work") for the Project, including but not limited to, strict compliance with the following documents (the "Subcontract Documents"):

Drawings and Specifications

| <u>Description</u> | <u>Number</u> | <u>Last Revision</u> |
|--|---------------|----------------------|
| Finish Carpentry | 06200 | 05/16/2008 |
| Millwork | 06400 | 05/16/2008 |
| Caulking & Sealants | 07900 | 03/03/2008 |
| Hollow Metal Doors & Frames | 08100 | 07/05/2007 |
| Wood Doors | 08200 | 05/15/2008 |
| Aluminum Framing & Glazing Systems | 08400 | 02/19/2007 |
| Door Hardware | 08700 | 02/23/2007 |
| Gypsum Board Assemblies | 09250 | 03/27/2007 |
| Ceramic Tile | 09300 | 05/13/2008 |
| Resilient Flooring and Base | 09850 | 05/13/2008 |
| Carpet | 09880 | 05/13/2008 |
| Painting | 09900 | 02/19/2007 |
| Toilet Partitions | 10150 | 05/13/2008 |
| Toilet Accessories | 10160 | 05/13/2008 |
| Postal Specialties | 10550 | 05/13/2008 |
| Window Blinds | 12200 | 05/16/2008 |
| General Mechanical Requirements | 15010 | 01/15/2008 |
| Fire Protection | 15300 | 09/11/2006 |
| Plumbing | 15400 | 09/11/2006 |
| Mechanical | 15500 | 01/15/2008 |
| Electrical | 16000 | 09/14/2006 |
| Title Sheet | TS-1 | 07/02/2008 |
| General Notes and Accessibility Notes | TS-2 | 07/02/2008 |
| Lot 9- Site Plan and Miscellaneous Notes | AS-1.1 | 07/02/2008 |
| First and Second Floor Exit Analysis Plan | EX-1 | 07/02/2008 |
| Overall Floor Plan | TI-1.0 | 07/02/2008 |
| Partial First Floor Plan | TI-1.1 | 07/02/2008 |
| Partial First Floor Plan | TI-1.2 | 07/02/2008 |
| Second Floor Plan | TI-1.3 | 07/02/2008 |
| Partial First Floor Reflected Ceiling Plan | TI-2.1 | 07/02/2008 |
| Architectural Details | AD-1 | 07/02/2008 |

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| | | |
|--|--------|------------|
| Architectural Details | AD-2 | 07/02/2008 |
| Note Sheet | E1.1 | 05/29/2008 |
| Title 24 Sheet | E1.2 | 05/29/2008 |
| Lighting Detail Sheet | E1.3 | 05/29/2008 |
| First Floor Lighting Sheet | E2.1 | 05/29/2008 |
| First Floor Power Sheet | E2.2 | 05/29/2008 |
| Second Floor Lighting Sheet | E3.1 | 05/29/2008 |
| Second Floor Power Sheet | E3.2 | 05/29/2008 |
| Singleline Diagram | E4.1 | 05/29/2008 |
| Panel Schedule Sheet | E5.1 | 05/29/2008 |
| Mechanical Notes and Legend | M0.1 | 07/01/2008 |
| Mechanical Schedules | M0.2 | 07/01/2008 |
| Mechanical Title 24 | M0.3 | 07/01/2008 |
| Mechanical First Floor Plan | M2.1 | 07/01/2008 |
| Mechanical Second Floor Plan | M2.2 | 07/01/2008 |
| Mechanical Roof Plan | M2.3 | 07/01/2008 |
| Mechanical Details | M5.1 | 07/01/2008 |
| Notes, Schedules, Details | P-0.1 | 06/30/2008 |
| First Floor Plumbing Plan | P-1.0 | 06/30/2008 |
| Enlarged 1st and 2nd Floor Plumbing Plans | P2.0 | 06/30/2008 |
| Mechanical First Floor Plan | P3.0 | 06/30/2008 |
| Partial First Floor Reflected Ceiling Plan | TI-2.2 | 07/02/2008 |
| Second Floor Reflected Ceiling Plan | TI-2.3 | 07/02/2008 |
| Partial First Floor Finish Plan | TI-3.1 | 07/02/2008 |
| Partial First Floor Finish Plan | TI-3.2 | 07/02/2008 |
| Second Floor Finish Plan | TI-3.3 | 07/02/2008 |
| Enlarged Interior Elevations/Details | TI-4.1 | 07/02/2008 |
| Enlarged Bathroom Floor Plans/Details | TI-4.2 | 07/02/2008 |
| Enlarged Bathroom Floor Plans | TI-4.3 | 07/02/2008 |
| Door Schedule | TI-5.1 | 07/02/2008 |

Field Bulletins

| Date | Number | Name |
|------|--------|------|
| N/A | | |

Supplemental Design Documents

| Description | Date |
|-------------------------|------------|
| Supplemental Conditions | 07/17/2008 |
| General Conditions | 09/12/2006 |
| Special Conditions | 09/12/2006 |

Other Documents

N/A

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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 Subcontractor shall provide all Design including Title 24 calcs as required and Construction for the Mechanical Work as required to provide fully functional building systems in accordance with the Mechanical specifications and other contract documents.
- 2 Subcontractor shall provide HVAC by means of split systems fitted onto the provided, existing equipment pads on the roof.
- 3 Subcontractor shall provide all duct smoke detectors as required by code. Power to the duct smoke detectors shall be installed by others.
- 4 Subcontractor shall provide twenty-four hour cooling in Server Room and Environmental Test Room.
- 5 Subcontractor shall provide exhaust fans at all breakrooms, restrooms, janitor closet and electric room #146.
- 6 Subcontractor shall provide humidifiers to control humidity levels maintaining a minimum 30% humidity in Electronics Lab 159; Environmental Test Room 148; Quality Lab 149; Classified Room 145; Stock Room 150; Engineering Lab 142; Model Shop 143; Clean Room 151; Server Room 104.
- 7 Subcontractor shall provide 4 ton Standard Duty unit for Clean Room. See alternate for upgrading to Heavy Duty Unit and providing HEPA filtration required to meet class 100,000 clean room.
- 8 Subcontractor shall provide galvanized sheet metal ducting manufactured in accordance with 2005 SMACNA standards with 7' long pre-manufactured flexible duct connections at each register.

This Subcontract excludes the following:

- 1 Payment and/or Performance Bonds
- 2 Cutting, patching, framing or blocking
- 3 Line voltage electrical work of any type including motor starters and disconnect switches
- 4 Condensate lines, gas piping, make-up water or any other plumbing
- 5 Equipment platforms, housekeeping pads, leveling of roof curbs or mechanical screen
- 6 Fire Life Safety Systems
- 7 Overtime or shift premiums
- 8 Painting, priming or surface preparation
- 9 Any work in "Future" space or warehouse

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

N/A

Schedule Notes

1. Completion of all Tenant Improvement Mechanical work by 1/15/08
2. Subcontractor shall make best efforts to accelerate schedule.
3. Subcontractor agrees to work within Contractors Time Plan dated 07/24/08 for trade durations, actual dates may vary.

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

Subcontract Recap

| Sub-Job Number | Sub-Job Name | Name | Rate |
|----------------|--------------|---|---------------|
| 11077 10 | Athercomm TI | Subcontractor to provide design/build for Athercomm TI. | \$326,756.00 |
| Total | | | \$ 326,756.00 |

Subcontract Sum Breakdown

| Name | Account Code | Amount |
|----------------------------|-------------------------|--------------|
| HVAC Systems - Subcontract | 11077.10-J20-15500.00-S | \$326,756.00 |
| Total | | \$326,756.00 |

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4. Unit Pricing.

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

The following unit prices shall be in effect until :

Unit Price List

N/A

5. Alternates.

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

Alternates

| Line Number | Name | Amount |
|-------------|---|--------------|
| 1 | Clean Room - Add for industrial duty split system heat pump with double wall construction, 2" pre-filter, direct expansion coil, belt driven fan, 12" final HEPA filter section, internal vibration isolation, copper tube/aluminum fin coil and secondary condensate overflow plan for 4 tons of cooling a class 100,000 clean room. | \$ 11,922.00 |

The alternate prices shall be in effect until :

Alternates Notes

END OF RIDER A

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RIDER B

This Rider B is attached to and made a part of the Subcontract between OPUS West Construction Corporation and Bingham Heating and Air Inc dated 07/22/2008. All capitalized terms used but not defined in this Rider B have the meaning ascribed to them in the Subcontract or the General Conditions of Subcontract, as applicable. To the extent of any conflict between the provisions of this Rider B and the provisions of any other Subcontract Document, this Rider B shall be controlling.

Section 1. Licensing.

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

Section 2. Change Orders.

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

Section 3. Title to Work.

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

Section 4. Indemnification

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

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

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

Section 5. Waiver.

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

Section 6. SWPPP.

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

Section 7. California License Law.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION

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

Contractor's California License No.

E09591

Subcontractor's California License No.

807323

END OF RIDER B

RIDER C

This Rider C is attached to and made a part of the Subcontract between OPUS West Construction Corporation, and Bingham Heating and Air Inc dated 07/22/2008. 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 USL&H if applicable | \$1,000,000 each accident \$1,000,000 disease-policy limit \$1,000,000 disease-each employee |
| Commercial General Liability (Electrical, HVAC, Plumbing, Fire Protection Sprinkler, Steel Erection, Elevator, Excavating, Roofing, Foundation and Curtain Wall Subcontractors) | \$5,000,000 each occurrence \$5,000,000 products/completed operations aggregate \$5,000,000 general aggregate minimum \$2,000,000 per project) |
| Commercial General Liability (All Other Subcontractors) | \$2,000,000 each occurrence \$2,000,000 products/completed operations aggregate \$2,000,000 general aggregate (per project) |
| Commercial Automobile Liability | \$1,000,000 any one accident or loss |
| Professional Liability (to the extent required of Subcontractor under the Subcontract Documents) | \$1,000,000 each claim \$1,000,000 annual aggregate |

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

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

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

2 Contractor's Builder's Risk Insurance.

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

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

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

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

END OF RIDER C

CALIFORNIA PRELIMINARY 20-DAY NOTICE

(California Civil Code Sections 3097, 3111, 3241 & 3252 et Seq.)

THIS IS NOT A LIEN. THIS IS NOT A REFLECTION ON THE
INTEGRITY OF ANY CONTRACTOR OR SUBCONTRACTOR.

DATE 7/25/2008 ASSESSOR'S PARCEL NO. _____

YOU ARE HEREBY NOTIFIED:

THAT THE UNDERSIGNED HAS FURNISHED OR WILL FURNISH LABOR, SERVICES, EQUIPMENT OR MATERIAL OF THE FOLLOWING DESCRIPTION:

| | |
|------------|--|
| INDIVIDUAL | Bingham Heating & Air, Inc. |
| OR | 6387 NANCY Ridge Drive, Suite B |
| | San Diego, CA 92121 |
| FIRM | By: <u>Laurn Thomas</u> |
| | Laurn Thomas Administrative Assistant |

| | |
|----------|------------------------------|
| TO: | |
| OWNER OR | Opus West Corporation |
| REPUTED | 2050 Main Street, Suite 800 |
| OWNER | Irvine, CA 92614 |

| | |
|------------|---|
| TO: | |
| ORIGINAL | Opus West Construction Corporation |
| CONTRACTOR | 2050 Main Street, Suite 800 |
| | Irvine, CA 92614 |

| | |
|-----------|--------------------------|
| TO: | |
| LENDER OR | Bank of the West |
| REPUTED | REID/Loan Administration |
| LENDER | 3000 Oak Road, Suite 400 |
| | Walnut Creek, CA 94597 |

| |
|-----------------------|
| FOR OFFICIAL USE ONLY |
|-----------------------|

1. THE FOLLOWING IS A GENERAL DESCRIPTION
OF THE LABOR, SERVICE, EQUIPMENT,
OR MATERIAL FURNISHED OR TO BE
FURNISHED BY BINGHAM HEATING & AIR, INC.:

HVAC

2. ESTIMATED PRICE: \$380,000.00

3. THE NAME & ADDRESS OF PERSON
WHO CONTRACTED FOR PURCHASE OF
THAT LABOR, SERVICE, EQUIPMENT OR
MATERIALS IS:

Opus West Construction Corporation
2050 Main Street, Suite 800
Irvine, CA 92614

4. ADDRESS OF BUILDING, STRUCTURE,
WORK OR IMPROVEMENT:

Aethercomm TI
3205 Lionshead Avenue
Carlsbad, CA 92010
Opus West Job No. 1107700

NOTICE TO PROPERTY OWNER

If bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of your property being so improved may be placed against the property even though you have paid your contractor in full. You may wish to protect yourself against this consequence by (1) requiring your contractor to furnish a signed release by the person or firm giving you this notice before making payment to your contractor or (2) any other method or device that is appropriate under the circumstances.

PROOF OF SERVICE BY MAIL AFFIDAVIT

I declare that I served a copy of the above document, and any related documents, by (as required by law) first-class, certified or registered mail, postage prepaid, addressed to the above named parties, at the addresses listed above, on 7/25/2008. I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Diego, California, on 7/25/2008 by Laurn Thomas
Laurn Thomas Administrative Assistant

7006 2760 0005 6216 8950

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 | \$ | Postmark Here |
| Certified Fee | | |
| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total | | |

Sent To: **Opus West Construction Co.**
2050 Main Street, Suite 800
Irvine, CA 92614

PS Form 3800, August 2006 See Reverse for Instructions

7006 2760 0005 6216 8936

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 | \$ | Postmark Here |
| Certified Fee | | |
| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total Postage | | |

Sent To: **Bank of the West**
REID/Loan Administration
3000 Oak Road, Suite 400
Walnut Creek, CA 94597

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece; or on the front if space permits.

1. Article Addressed to:

Opus West Construction Co.
2050 Main Street, Suite 800
Irvine, CA 92614

COMPLETE THIS SECTION ON DELIVERY

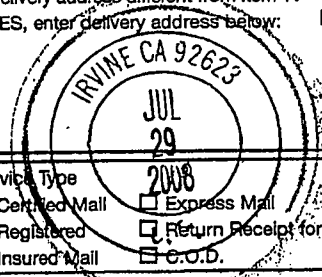
A. Signature **D WINTER** ☐ Agent ☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ 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



2. Article Number (Transfer from service label) **7006 2760 0005 6216 8950**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Bank of the West
REID/Loan Administration
3000 Oak Road, Suite 400
Walnut Creek, CA 94597

2. Article Number (Transfer from service label) **7006 2760 0005 6216 8936**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

20-DAY PRELIMINARY NOTICE INFORMATION/INSURANCE BROKER INFORMATION (*Fax to Ins. Co.*)
as of July 23, 2008

PROJECT: Name: **Aethercomm TI**
Address: 3205 Lionshead Avenue
Carlsbad, CA 92010
Ref. Opus Job No. : **1107700**

OWNER: Name: Opus West Corporation
Address: 2050 Main Street, Suite 800
Irvine, CA 92614
Phone: 949-622-1950

CONTRACTOR: Name: **OPUS WEST CONSTRUCTION CORPORATION**
Address: 2050 Main Street, Suite 800
Irvine, CA 92614
Phone: (949) 622-1950 / FAX: (949) 622-1148

Contacts: *Project Manager: Ralph Miller*
Assoc. Project Manager: Chad Cochran
Project Superintendent: Dave Wimer
Administrative Assistant: Dona Lober
Accounts Payable (all invoicing & insurance): Acct. Dept. (949) 622-2171

FOR PRELIMINARY USE ONLY

ENDER: BANK OF THE WEST
REID/Loan Administration
3000 Oak Road, Suite 400
Walnut Creek CA 94597

Attn: Stacy Walker

FOR PRELIMINARY USE ONLY

LEGAL DESCRIPTION:

LOT 9, OF MAP THEREOF NO. 15013, IN THE CITY OF CARLSBAD, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON MAY 3, 2005 AS INSTRUMENT NO. 2005-0371022, OF OFFICIAL RECORDS. APN: 221-881-03



6387 Nancy Ridge Dr., Ste. B
San Diego, CA 92121

Recording Requested by:

Name: Laura J. Reinholz
Company: Bingham Heating & Air, Inc.
Address: 6387 Nancy Ridge Dr., Ste. B
City: San Diego
State: CA Zip: 92121
Phone: (858) 200-0680
Fax: (858) 200-0681

F12
2P
1C

DOC # 2009-0304279



JUN 05, 2009 11:56 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
DAVID L. BUTLER, COUNTY RECORDER
FEES: 19.00

NOTICES: 1

PAGES: 2



RECEIVED

JUN 25 2009

-----Above this Line for Official Use Only-----

Bingham Heating & Air CALIFORNIA MECHANIC'S LIEN

Name of Claimant: Bingham Heating & Air, Inc., 6387 Nancy Ridge Drive, Suite B, San Diego, CA 92121,

Legal Description of Property where work of improvement occurred: 3205 Lionshead Avenue, Carlsbad, CA 92010.

The sum of \$32,670.29, plus interest at the contract rate or the legal rate, whichever is higher from 04/30/09, which is due and unpaid to claimant (after deducting any just credits and offsets, if any) for labor, services, equipment and/or materials furnished by claimant and consisting of: installation of HVAC system at Aethercomm TI.

Claimant furnished the work and materials at the request of, or under contract, with: Opus West Construction Corporation, 2050 Main Street, Suite 800, Irvine, CA 92614.

Name and address of Owner of Work of Improvement: Opus West Corporation, 2050 Main Street, Suite 800, Irvine, CA 92614.

Firm Name: Bingham Heating & Air, Inc.

By: 
Richard Reinholz, President/CEO

VERIFICATION

I, Richard Reinholz the undersigned, say I am the President/CEO of the claimant of the foregoing Claim of Mechanic's Lien. I have read said Claim of Mechanic's Lien and know the contents thereof; the same is true of my own knowledge. I am authorized to execute this Claim of Lien.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 06/05/2009, at San Diego, California.

Firm Name: Bingham Heating & Air, Inc.

By: 
Richard Reinholz

"See attached certificate"

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

State of California

County of San Diego

Subscribed and sworn to (or affirmed) before me on this

5th day of JUNE, 2009, by
Date Month Year

(1) RICHARD REINHOLD
Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me (.) (.)

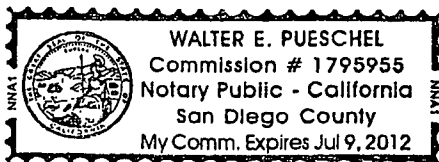
(and

(2) _____
Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me.)

Signature _____

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

*Though the information below is not required by law, it may prove
valuable to persons relying on the document and could prevent
fraudulent removal and reattachment of this form to another document.*

Further Description of Any Attached Document

Title or Type of Document: CALIFORNIA MORTGAGE LIEN

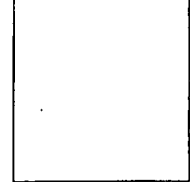
Document Date: JUN 05 2009 Number of Pages: 1

Signer(s) Other Than Named Above: NONE

RIGHT THUMBPRINT
OF SIGNER #1
Top of thumb here



RIGHT THUMBPRINT
OF SIGNER #2
Top of thumb here



Opus West Construction Billing Recap for the Aethercomm Project

Invoice 2942 August '08 Progress \$25,500.00 - \$2,550.00 (retention) = \$22,950.00
Payment by Opus check 28484 dated 09/26/08 \$22,950.00

Invoice 2971 September '08 Progress \$78,005.10 - \$7,800.51 (retention) = \$70,204.59
Payment by Opus check 112258 dated 10/23/08 \$70,204.59

Invoice 2990 October '08 Progress \$151,558.10 - \$15,155.81 (retention) = \$136,402.29
Payment by Opus check 113754 dated 11/24/08 \$136,402.29

Invoice 3000 November '08 Progress \$19,187.85 - \$1,918.79 (retention) = \$17,629.06
Payment by Opus check 115358 dated 12/30/08 \$17,269.06

Invoice 3014 December '08 Progress \$45,075.95 - \$4,507.60 (retention) = \$40,568.35
Payment by Opus check 116414 dated 01/27/09 \$40,568.35

There were credits issued to the contract that resulted in a January credit invoice

Credit Memo 3026 January '09 (\$4,808.00) - (\$480.80 retention) = (\$4,327.20) --see attached application no. 6

Invoice 903003 March '09 Progress \$5,545.58 - \$554.56 (retention) = \$4,991.02 --see attached application no. 7

The combination of the January credit and the March progress leaves a progress amount due of \$663.82.

Invoice 903004 Retention \$32,006.46 --see attached application no. 8

Balance Unpaid = \$32,670.28

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 1 OF 1 PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT,

APPLICATION NO.:

6

containing Contractor's signed Certification, is attached.

APPLICATION DATE: 1/19/09

In tabulations below, amounts are stated to the nearest dollar.

Aethercomm TI

PERIOD TO: 1/31/09

Use Column I on Contracts where variable retainage for line items may apply.

ARCHITECT'S PROJECT NO:

| A | B | C | D | | E | F | G | H | I | |
|---------|--------------------------------|-----------------|---------------------------|--|-------------|--|--|----------|---------------------------|----------------------------------|
| ITEM NO | DESCRIPTION OF WORK | SCHEDULED VALUE | WORK COMPLETED | | THIS PERIOD | MATERIALS PRESENTLY STORED (NOT IN D OR E) | COMPLETED AND STORED TO DATE (D + E + F) | %(G / C) | BALANCE TO FINISH (C - G) | RETAINAGE (IF VARIABLE) RATE 10% |
| | | | FROM PREVIOUS APPLICATION | | | | | | | |
| 1 | PLANS | \$ 259.00 | 259.00 | | 0.00 | | 259.00 | 100% | - | 25.90 |
| 2 | DESIGN | \$ 25,500.00 | 25,500.00 | | 0.00 | | 25,500.00 | 100% | - | 2,550.00 |
| 3 | SCISSOR LIFT RENTAL | \$ 3,103.00 | 3,103.00 | | 0.00 | | 3,103.00 | 100% | - | 310.30 |
| 4 | CRANE | \$ 1,939.00 | 1,939.00 | | 0.00 | | 1,939.00 | 100% | - | 193.90 |
| 5 | TRUCKING/DELIVERY | \$ 3,353.00 | 3,353.00 | | 0.00 | | 3,353.00 | 100% | - | 335.30 |
| 6 | SHEET METAL DETAILING/PLANNING | \$ 8,496.00 | 8,496.00 | | 0.00 | | 8,496.00 | 100% | - | 849.60 |
| 7 | PIPING DETAILING/PLANNING | \$ 2,266.00 | 2,266.00 | | 0.00 | | 2,266.00 | 100% | - | 226.60 |
| 8 | PROJECT MANAGEMENT | \$ 14,868.00 | 14,868.00 | | 0.00 | | 14,868.00 | 100% | - | 1,486.80 |
| 9 | SHEET METAL SUPERINTENDENT | \$ 4,454.00 | 4,454.00 | | 0.00 | | 4,454.00 | 100% | - | 445.40 |
| 10 | PIPING SUPERINTENDENT | \$ 1,997.00 | 1,997.00 | | 0.00 | | 1,997.00 | 100% | - | 199.70 |
| 11 | T-BAR GRILLES | \$ 12,938.00 | 12,938.00 | | 0.00 | | 12,938.00 | 100% | - | 1,293.80 |
| 12 | HEAT PUMP (REFRIGERANT) | \$ 1,310.00 | 1,310.00 | | 0.00 | | 1,310.00 | 100% | - | 131.00 |
| 13 | HUMIDIFIER | \$ 34,526.00 | 34,526.00 | | 0.00 | | 34,526.00 | 100% | - | 3,452.60 |
| 14 | SMALL FAN COIL | \$ 97,027.00 | 97,027.00 | | 0.00 | | 97,027.00 | 100% | - | 9,702.70 |
| 15 | CURB MOUNT EXHAUST/SUPPLY FAN | \$ 4,676.00 | 4,676.00 | | 0.00 | | 4,676.00 | 100% | - | 467.60 |
| 16 | GALVANIZED ROUND DUCT | \$ 48,996.00 | 48,996.00 | | 0.00 | | 48,996.00 | 100% | - | 4,899.60 |
| 17 | FLEX DUCT & FITTINGS | \$ 12,313.00 | 12,313.00 | | 0.00 | | 12,313.00 | 100% | - | 1,231.30 |
| 18 | GALVANIZED RECTANGULAR DUCT | \$ 8,350.00 | 8,350.00 | | 0.00 | | 8,350.00 | 100% | - | 835.00 |
| 19 | REFRIGERATION PIPE | \$ 24,034.00 | 24,034.00 | | 0.00 | | 24,034.00 | 100% | - | 2,403.40 |
| 20 | CONTROLS | \$ 6,869.00 | 6,869.00 | | 0.00 | | 6,869.00 | 100% | - | 686.90 |
| 21 | TEST & BALANCE | \$ 5,376.00 | 0.00 | | 5,376.00 | | 5,376.00 | 100% | - | 537.60 |
| 22 | START-UP | \$ 4,106.00 | 2,053.00 | | 2,053.00 | | 4,106.00 | 100% | - | 410.60 |
| 23 | Change Order 1 | \$ (12,237.00) | 0.00 | | (12,237.00) | | (12,237.00) | 100% | - | (1,223.70) |
| | TOTALS | \$ 314,519 | 319,327.00 | | (4,808.00) | 0.00 | 314,519.00 | 100% | \$ - | 31,451.90 |



| | |
|-----------------------|-----------|
| Project Number : | 11077 |
| Date of Application : | 3/19/2009 |
| Invoice Number: | 0903003 |
| Application Number : | 7 |
| Period From : | 3/1/2009 |
| Period To: | 3/31/2009 |

| ITEM | SALES TAX(\$) <i>(if applicable)</i> | TOTAL(\$) |
|---|--------------------------------------|--------------|
| ORIGINAL CONTRACT AMOUNT | | \$326,756.00 |
| PLUS APPROVED CHANGE ORDER # 1 THRU # 1 | . | -\$6,691.42 |
| CONTRACT AMOUNT TO DATE TOTAL | | \$320,064.58 |

| | | | |
|--|-------------|---------------------|---------------------|
| Total Completed & Stored to Date | | <u>\$320,064.58</u> | |
| Less Retainage | <u>10 %</u> | <u>\$32,006.46</u> | |
| Total Earned Less Retainage (A - B) | | | <u>\$288,058.12</u> |
| Less Previous Billings (previous req's line C) | | <u>\$283,067.10</u> | |
| Current Payment Due (C - D) | | | <u>\$4,991.02</u> |
| Balance to Finish, Plus Retainage (G - A + B) | | <u>\$32,006.46</u> | |
| Current Gross Amount Completed This Period | | <u>\$5,545.58</u> | |

| | | | |
|-----------------|------------------------------------|------------|---------|
| SUBCONTRACTOR : | Bingham Heating & Air, Inc. | Supplier # | 1070104 |
| BY : | Christina Payne, A/R Administrator | | |
| DATE : | 3/19/2009 | | |

HIS 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 |
| 077.10-J20-15500.00-S | HVAC System | \$320,064.58 | \$314,519.00 | \$5,545.58 | \$320,064.58 | 100% | \$554.56 | \$4,991.02 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | TOTAL | \$320,064.58 | \$314,519.00 | \$5,545.58 | \$320,064.58 | 100% | \$554.56 | \$4,991.02 |
| | | H | I | G | A | J | K | E |

ADDED AREA FOR OPUS ACCOUNTING USE ONLY

| Vendor ID | Vendor Inv # | Dat | GTLS |
|-----------|--------------|-----|------|
|-----------|--------------|-----|------|

CONTINUATION SHEET

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT,

AIA UMENT G703

PAGE 1 PAGES 6

APPLICATION NO.:

containing Contractor's signed Certification, is attached.

APPLICATION DATE: 3/19/09

In tabulations below, amounts are stated to the nearest dollar.

Aethercomm TI

PERIOD TO: 3/31/09

Use Column I on Contracts where variable retainage for line items may apply.

ARCHITECT'S PROJECT NO.:

| A ITEM NO | B DESCRIPTION OF WORK | C SCHEDULED VALUE | D WORK COMPLETED | | E THIS PERIOD | F MATERIALS PRESENTLY STORED (NOT IN D OR E) | G TOTAL COMPLETED AND STORED TO DATE (D + E + F) | H BALANCE TO FINISH (C - G) | I RETAINAGE (IF VARIABLE) RATE 10% |
|-----------------|-------------------------------------|-------------------------|------------------------------|--|------------------|---|---|--------------------------------------|--|
| | | | FROM PREVIOUS APPLICATION | | | | | | |
| 1 | PLANS | \$ 259.00 | 259.00 | | 0.00 | | 259.00 | - | 25.90 |
| 2 | DESIGN | \$ 25,500.00 | 25,500.00 | | 0.00 | | 25,500.00 | - | 2,550.00 |
| 3 | SCISSOR LIFT RENTAL | \$ 3,103.00 | 3,103.00 | | 0.00 | | 3,103.00 | - | 310.30 |
| 4 | CRANE | \$ 1,939.00 | 1,939.00 | | 0.00 | | 1,939.00 | - | 193.90 |
| 5 | TRUCKING/DELIVERY | \$ 3,353.00 | 3,353.00 | | 0.00 | | 3,353.00 | - | 335.30 |
| 6 | SHEET METAL DETAILING/PLANNING | \$ 8,496.00 | 8,496.00 | | 0.00 | | 8,496.00 | - | 849.60 |
| 7 | PIPING DETAILING/PLANNING | \$ 2,266.00 | 2,266.00 | | 0.00 | | 2,266.00 | - | 226.60 |
| 8 | PROJECT MANAGEMENT | \$ 14,868.00 | 14,868.00 | | 0.00 | | 14,868.00 | - | 1,486.80 |
| 9 | SHEET METAL SUPERINTENDENT | \$ 4,454.00 | 4,454.00 | | 0.00 | | 4,454.00 | - | 445.40 |
| 10 | PIPING SUPERINTENDENT | \$ 1,997.00 | 1,997.00 | | 0.00 | | 1,997.00 | - | 199.70 |
| 11 | T-BAR GRILLES | \$ 12,938.00 | 12,938.00 | | 0.00 | | 12,938.00 | - | 1,293.80 |
| 12 | HEAT PUMP (REFRIGERANT) | \$ 1,310.00 | 1,310.00 | | 0.00 | | 1,310.00 | - | 131.00 |
| 13 | HUMIDIFIER | \$ 34,526.00 | 34,526.00 | | 0.00 | | 34,526.00 | - | 3,452.60 |
| 14 | SMALL FAN COIL | \$ 97,027.00 | 97,027.00 | | 0.00 | | 97,027.00 | - | 9,702.70 |
| 15 | CURB MOUNT EXHAUST/SUPPLY FAN | \$ 4,676.00 | 4,676.00 | | 0.00 | | 4,676.00 | - | 467.60 |
| 16 | GALVANIZED ROUND DUCT | \$ 48,996.00 | 48,996.00 | | 0.00 | | 48,996.00 | - | 4,899.60 |
| 17 | FLEX DUCT & FITTINGS | \$ 12,313.00 | 12,313.00 | | 0.00 | | 12,313.00 | - | 1,231.30 |
| 18 | GALVANIZED RECTANGULAR DUCT | \$ 8,350.00 | 8,350.00 | | 0.00 | | 8,350.00 | - | 835.00 |
| 19 | REFRIGERATION PIPE | \$ 24,034.00 | 24,034.00 | | 0.00 | | 24,034.00 | - | 2,403.40 |
| 20 | CONTROLS | \$ 6,869.00 | 6,869.00 | | 0.00 | | 6,869.00 | - | 686.90 |
| 21 | TEST & BALANCE | \$ 5,376.00 | 5,376.00 | | 0.00 | | 5,376.00 | - | 537.60 |
| 22 | START-UP | \$ 4,106.00 | 4,106.00 | | 0.00 | | 4,106.00 | - | 410.60 |
| 23 | Change Order 1 | \$ (12,237.00) | (12,237.00) | | 0.00 | | (12,237.00) | - | (1,223.70) |
| 24 | Relocate server room humidifier | \$ 1,795.46 | 0.00 | | 1,795.46 | | 1,795.46 | - | 179.55 |
| 25 | Electrical problems during start-up | \$ 3,750.12 | 0.00 | | 3,750.12 | | 3,750.12 | - | 375.01 |
| | TOTALS | \$ 320,065 | 314,519.00 | | 5,545.58 | 0.00 | 320,064.58 | \$ - | 32,006.46 |

RELEASE FORM #1

Bingham Heating & Air, Inc.

CONDITIONAL WAIVER AND RELEASE UPON
PROGRESS PAYMENT
CALIFORNIA CIVIL CODE SECTION 3262 (d)(1)

Upon receipt by the undersigned of a check from Opus West Construction Corp.

in the sum of \$4,991.02

payable to Bingham Heating & Air, Inc.

and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanics' lien, stop notice, or bond right the undersigned has on the job of

Aethercomm TI

located at 3205 Lionshead Avenue, Carlsbad, CA 92010

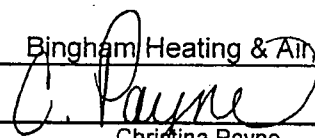
to the following extent. This release covers a progress payment for labor, services, equipment, or material furnished to Opus West Construction Corp. through 3/31/09

only and does not cover any retention's retained before or after the release date; extras furnished before the release date for which payment has not been received; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanics lien, stop notice, or bond right shall not otherwise affect the contract rights, including rights between the parties to the contract based upon a rescission, abandonment, or breach of contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the progress payment. Before any recipient of this document relies on it, said party should verify evidence of payment to the undersigned.

Date: 3/19/2009

By:

Bingham Heating & Air, Inc.


Christina Payne
A/R Administrator

Note: CIVIL CODE 3262 (d)(1) PROVIDES: Where the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a progress payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the form set forth above.



| | | | |
|----------------------|------------------------------------|-----------------------|-------------------|
| Project Name : | Athercomm TI | Project Number : | 11077 |
| Subcontractor : | Bingham Heating & Air, Inc. | Date of Application : | 3/19/2009 |
| Order # : | 1070104 | Invoice Number: | 0903004 RETENTION |
| Address : | 6387 Nancy Ridge Dr., Ste. B | Application Number : | 8 |
| | San Diego, CA 92121 | Period From : | 3/1/2009 |
| Phone : | #(858) 200-0680 | Period To : | 3/31/2009 |
| Remittance Address : | Opus West Construction Corporation | | |
| | Attn : Accounts Payable | | |
| | 2050 Main Street, Suite 800 | | |
| | Irvine, CA 92614 | | |

| ITEM | SALES TAX(\$) (if applicable) | TOTAL(\$) |
|---|----------------------------------|--------------|
| ORIGINAL CONTRACT AMOUNT | | |
| OPUS APPROVED CHANGE ORDER # 1 THRU # 1 | | \$326,756.00 |
| CONTRACT AMOUNT TO DATE TOTAL | | -\$6,691.42 |
| | | \$320,064.58 |

| | | | |
|--|------|--------------|--------------|
| A Total Completed & Stored to Date | | \$320,064.58 | |
| B Less Retainage | 10 % | \$32,006.46 | |
| C Total Earned (A - B) | | | \$320,064.58 |
| D Less Previous Billings (previous req's line C) | | \$288,058.12 | |
| E Current RETENTION Payment Due (C - D) | | | \$32,006.46 |
| F Balance to Finish, Plus Retainage (G - A + B) | | | |
| G Current Gross Amount Completed This Period | | | |

SUBCONTRACTOR : Bingham Heating & Air, Inc. Supplier :# 1070104
BY : Christina Payne, A/R Administrator
DATE : 3/19/2009

HIS 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 |
| 077.10-J20-15500.00-S | HVAC System | \$320,064.58 | \$320,064.58 | | \$320,064.58 | 100% | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | TOTAL | \$320,064.58 | \$320,064.58 | | \$320,064.58 | 100% | | |
| | | H | I | G | A | J | K | E |

ADDED AREA FOR OPUS ACCOUNTING USE ONLY

| Vendor ID | Vendor Inv # | Date | GL Exp |
|-----------|--------------|------|--------|
|-----------|--------------|------|--------|

CONTINUATION SHEET

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT,

containing Contractor's signed Certification, is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

AIA

JMENT G703

PAGE

1 PAGES

APPLICATION NO. 7

APPLICATION DATE: 3/19/09

PERIOD TO: 3/31/09

Aethercomm TI

ARCHITECT'S PROJECT NO:

| A ITEM NO | B DESCRIPTION OF WORK | C SCHEDULED VALUE | D WORK COMPLETED | | E THIS PERIOD | F MATERIALS PRESENTLY STORED (NOT IN D OR E) | G TOTAL COMPLETED AND STORED TO DATE (D + E + F) | H BALANCE TO FINISH (C - G) | I RETAINAGE (IF VARIABLE) RATE 10% |
|-----------------|-------------------------------------|-------------------------|------------------------------|--|------------------|---|---|--------------------------------------|--|
| | | | FROM PREVIOUS APPLICATION | | | | | | |
| 1 | PLANS | \$ 259.00 | 259.00 | | 0.00 | | 259.00 | - | 25.90 |
| 2 | DESIGN | \$ 25,500.00 | 25,500.00 | | 0.00 | | 25,500.00 | - | 2,550.00 |
| 3 | SCISSOR LIFT RENTAL | \$ 3,103.00 | 3,103.00 | | 0.00 | | 3,103.00 | - | 310.30 |
| 4 | CRANE | \$ 1,939.00 | 1,939.00 | | 0.00 | | 1,939.00 | - | 193.90 |
| 5 | TRUCKING/DELIVERY | \$ 3,353.00 | 3,353.00 | | 0.00 | | 3,353.00 | - | 335.30 |
| 6 | SHEET METAL DETAILING/PLANNING | \$ 8,496.00 | 8,496.00 | | 0.00 | | 8,496.00 | - | 849.60 |
| 7 | PIPING DETAILING/PLANNING | \$ 2,266.00 | 2,266.00 | | 0.00 | | 2,266.00 | - | 226.60 |
| 8 | PROJECT MANAGEMENT | \$ 14,868.00 | 14,868.00 | | 0.00 | | 14,868.00 | - | 1,486.80 |
| 9 | SHEET METAL SUPERINTENDENT | \$ 4,454.00 | 4,454.00 | | 0.00 | | 4,454.00 | - | 445.40 |
| 10 | PIPING SUPERINTENDENT | \$ 1,997.00 | 1,997.00 | | 0.00 | | 1,997.00 | - | 199.70 |
| 11 | T-BAR GRILLES | \$ 12,938.00 | 12,938.00 | | 0.00 | | 12,938.00 | - | 1,293.80 |
| 12 | HEAT PUMP (REFRIGERANT) | \$ 1,310.00 | 1,310.00 | | 0.00 | | 1,310.00 | - | 131.00 |
| 13 | HUMIDIFIER | \$ 34,526.00 | 34,526.00 | | 0.00 | | 34,526.00 | - | 3,452.60 |
| 14 | SMALL FAN COIL | \$ 97,027.00 | 97,027.00 | | 0.00 | | 97,027.00 | - | 9,702.70 |
| 15 | CURB MOUNT EXHAUST/SUPPLY FAN | \$ 4,676.00 | 4,676.00 | | 0.00 | | 4,676.00 | - | 467.60 |
| 16 | GALVANIZED ROUND DUCT | \$ 48,996.00 | 48,996.00 | | 0.00 | | 48,996.00 | - | 4,899.60 |
| 17 | FLEX DUCT & FITTINGS | \$ 12,313.00 | 12,313.00 | | 0.00 | | 12,313.00 | - | 1,231.30 |
| 18 | GALVANIZED RECTANGULAR DUCT | \$ 8,350.00 | 8,350.00 | | 0.00 | | 8,350.00 | - | 835.00 |
| 19 | REFRIGERATION PIPE | \$ 24,034.00 | 24,034.00 | | 0.00 | | 24,034.00 | - | 2,403.40 |
| 20 | CONTROLS | \$ 6,869.00 | 6,869.00 | | 0.00 | | 6,869.00 | - | 686.90 |
| 21 | TEST & BALANCE | \$ 5,376.00 | 5,376.00 | | 0.00 | | 5,376.00 | - | 537.60 |
| 22 | START-UP | \$ 4,106.00 | 4,106.00 | | 0.00 | | 4,106.00 | - | 410.60 |
| 23 | Change Order 1 | \$ (12,237.00) | (12,237.00) | | 0.00 | | (12,237.00) | - | (1,223.70) |
| 24 | Relocate server room humidifier | \$ 1,795.46 | 1,795.46 | | 0.00 | | 1,795.46 | - | 179.55 |
| 25 | Electrical problems during start-up | \$ 3,750.12 | 3,750.12 | | 0.00 | | 3,750.12 | - | 375.01 |
| | TOTALS | \$ 320,065 | 320,064.58 | | 0.00 | 0.00 | 320,064.58 | \$ - | 32,006.46 |

RELEASE FORM #3
Bingham Heating & Air, Inc.

**CONDITIONAL WAIVER AND RELEASE UPON
FINAL PAYMENT**

CALIFORNIA CIVIL CODE SECTION 3262 (d)(3)

Upon receipt by the undersigned of a check from Opus West Construction Corp.

in the sum of \$32,006.46

payable to Bingham Heating & Air, Inc.

and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanics' lien, stop notice, or bond right the undersigned has on the job of

Aethercomm TI

located at 3205 Lionshead Avenue, Carlsbad, CA 92010

This release covers the final payment for labor, services, equipment, or material furnished on the job, except for disputed claims for additional work in the amount of \$0.00

Before any recipient of this document relies on it, the party should verify evidence of payment to the undersigned.

Dated: 3/19/09

Bingham Heating & Air, Inc.

By: 

Rick Reinholz, President/CEO

NOTE: This form of release complies with the requirements of Civil Code 3262(d)(3). It is not effective until the check that constitutes final payment has been properly endorsed and has cleared the bank.