


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: <div style="font-family: cursive; font-size: 1.2em;">09-34334-11 TOP</div> <div style="font-family: cursive; font-size: 1.2em;">09-34356-hdh11</div> <div style="font-family: cursive; font-size: 1.2em;">7012</div> <div style="font-family: cursive; font-size: 1.2em;">0934360-11</div>	
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): <div style="font-size: 1.5em; font-family: cursive;">Teri A. Krawitz</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;">NOV 02 2009</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;">BMC GROUP</div>	<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: <div style="font-family: cursive; font-size: 1.2em;">TERI KRAWITZ</div> <div style="font-family: cursive; font-size: 1.2em;">1827 E. LA VIEVE LANE; TEMPE, AZ 85284</div> Telephone number: 480.820.6711 Email Address: tkrawitz@gmail.com	<input checked="" 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:		
1. Amount of Claim as of Date Case Filed: \$ <u>56,615.50</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 checked="" type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(). Amount entitled to priority: <div style="text-align: right; font-size: 1.2em;">\$5,615.50</div>	
2. Basis for Claim: <u>Money earned as incentive</u> (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: <div style="font-size: 1.2em; font-family: cursive;">10/28/09</div>	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. <div style="font-family: cursive; font-size: 1.5em;">Teri A. Krawitz</div> <div style="text-align: right; font-weight: bold; font-size: 1.2em;">PROJECT MANAGER</div>	FOR COURT USE ONLY <div style="text-align: center;"> OPUS WEST  00336 </div>

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.

Modified B10 (GCG) (12/08)

TERI A. KRAWITZ



THE OPUS GROUP
ARCHITECTS
CONTRACTORS
DEVELOPERS

OPUS WEST CORPORATION

A member of The Opus Group

2555 East Camelback Road, Suite 800 • Phoenix, AZ 85016

Phone: 602-468-7000 • Fax: 602-468-7045

www.opuscorp.com

Memo

To: Opus West Employees
From: Tom Roberts
Date: March 10, 2009
Re: 2008 Incentive Compensation

Attached is the summary of your 2008 Incentive Compensation.

The ROE and bottom line portions of your Incentive Compensation will be delayed until finalization of the 2008 Audit. In addition, fifty percent (50%) of the Subjective portion will be paid in cash on March 13, 2009, with the balance being delayed due to Company cash flow. One hundred percent (100%) of all vested deferred payments will be made on March 13, 2009. This will apply to both existing and laid off employees.

Opus is committed to making all payments due to employees. Our goal is to have all payments made by year-end 2009.

Thank you for your patience and understanding.

Opus West Construction Corporation
Year End Incentive Worksheet

Location: Phoenix
Title: PM

teri krawitz

Incentive Target:		\$ 16,000
	<u>weight</u>	<u>factor</u>
Opus West Corporation vs. Business Plan	25%	TBD
OWCC regional net revenue vs. plan	25%	104%
Safety Accountability Program	10%	101%
Individual Performance Modifier	40%	85%
Incentive Total:		\$ 11,231
Other:		\$ -
Total		\$ 11,231

Please contact your local Sr. Director or VP of Construction with any questions. 2008 ROE calculations for Opus West Corporation are not yet finalized. As a result, ROE related amounts are not currently included in above.

3/9/2009

OPUS WEST CONSTRUCTION CORPORATION
Long-Term Incentive Compensation
Teri Krawitz

Year Paid	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
2002 Deferral	2,639.40	2,639.40									
Interest @ 8%		211.15									
Subtotal		2,850.55									
2004 payment		(570.11)									
Balance		2,280.44									
Interest @ 8%			2,280.44								
Subtotal			182.44								
2005 payment			2,462.88								
Balance			(643.09)								
Interest @ 8%			1,819.79								
Subtotal				1,819.79							
2006 payment				145.58							
Balance				1,965.37							
Interest @ 8%				(693.95)							
Subtotal				1,271.42							
2007 payment					1,271.42						
Balance					101.71						
Interest @ 8%					1,373.13						
Subtotal					(717.08)						
2008 payment					656.05						
Balance						656.05					
Interest @ 8%						52.48					
Subtotal						708.53					
2009 payment						(708.53)					
Balance						0.00					
2003 Deferral		2,237.00	2,237.00								
Interest @ 8%			178.96								
Subtotal			2,415.96								
2005 payment			(483.19)								
Balance			1,932.77								
Interest @ 8%				1,932.77							
Subtotal				154.62							
2006 payment				2,087.39							
Balance				(545.04)							
Interest @ 8%				1,542.35							
Subtotal					1,542.35						
2007 payment					123.39						
Balance					1,665.74						
Interest @ 8%					(588.15)						
Subtotal					1,077.59						
2008 payment						1,077.59					
Balance						86.21					
Interest @ 8%						1,163.80					
Subtotal						(607.75)					
2009 payment						556.05					
Balance							556.05				
Interest @ 8%							44.48				
Subtotal							600.53				
2010 payment							(600.53)				
Balance							0.00				
2004 Deferral			0.00	0.00							
Interest @ 8%				0.00							
Subtotal				0.00							
2006 payment				0.00							
Balance				0.00							
Interest @ 8%				0.00							
Subtotal					0.00						
2007 payment					0.00						
Balance					0.00						
Interest @ 8%					0.00						
Subtotal						0.00					
2008 payment						0.00					
Balance						0.00					
Interest @ 8%						0.00					
Subtotal							0.00				
2009 payment							0.00				
Balance							0.00				
Interest @ 8%							0.00				
Subtotal								0.00			
2010 payment								0.00			
Balance								0.00			
Interest @ 8%								0.00			
Subtotal									0.00		
2011 payment									0.00		
Balance									0.00		
Interest @ 8%										0.00	
Subtotal										0.00	
2012 payment										0.00	
Balance										0.00	
Interest @ 8%											0.00
Subtotal											0.00
2013 payment											0.00
Balance											0.00

Continued on next page

OPUS WEST CONSTRUCTION CORPORATION

Long-Term Incentive Compensation

Teri Krawitz

Year Paid	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
2005 Deferral				0.00	0.00						
Interest @ 8%					0.00						
Subtotal					0.00						
2007 payment					0.00						
Balance					0.00						
Interest @ 8%					0.00	0.00					
Subtotal					0.00	0.00					
2008 payment						0.00					
Balance						0.00					
Interest @ 8%						0.00	0.00				
Subtotal						0.00	0.00				
2009 payment							0.00				
Balance							0.00				
Interest @ 8%							0.00	0.00			
Subtotal							0.00	0.00			
2010 payment								0.00			
Balance								0.00			
Interest @ 8%								0.00		0.00	
Subtotal								0.00		0.00	
2011 payment									0.00		
Balance									0.00		
Interest @ 8%									0.00		
Subtotal									0.00		
2012 payment										0.00	
Balance										0.00	
Interest @ 8%										0.00	
Subtotal										0.00	
2013 payment											0.00
Balance											0.00
2006 Deferral					0.00	0.00					
Interest @ 8%						0.00					
Subtotal						0.00					
2008 payment						0.00					
Balance						0.00					
Interest @ 8%						0.00	0.00				
Subtotal						0.00	0.00				
2009 payment							0.00				
Balance							0.00				
Interest @ 8%							0.00	0.00			
Subtotal							0.00	0.00			
2010 payment								0.00			
Balance								0.00			
Interest @ 8%								0.00	0.00		
Subtotal								0.00	0.00		
2011 payment									0.00		
Balance									0.00		
Interest @ 8%									0.00		
Subtotal									0.00		
2012 payment										0.00	
Balance										0.00	
Interest @ 8%										0.00	0.00
Subtotal										0.00	0.00
2013 payment											0.00
Balance											0.00
2007 Deferral						0.00	0.00				
Interest @ 8%							0.00				
Subtotal							0.00				
2009 payment							0.00				
Balance							0.00				
Interest @ 8%							0.00	0.00			
Subtotal							0.00	0.00			
2010 payment								0.00			
Balance								0.00			
Interest @ 8%								0.00	0.00		
Subtotal								0.00	0.00		
2011 payment									0.00		
Balance									0.00		
Interest @ 8%									0.00		
Subtotal									0.00		
2012 payment										0.00	
Balance										0.00	
Interest @ 8%										0.00	0.00
Subtotal										0.00	0.00
2013 payment											0.00
Balance											0.00
Balance Forward	0.00	2,639.40	4,517.44	3,752.56	2,813.77	1,733.64	556.05	0.00	0.00	0.00	0.00
L.T. Additions	2,639.40	2,237.00	0.00	0.00	0.00	0.00	556.05	0.00	0.00	0.00	0.00
Total Interest	0.00	211.15	381.40	300.20	225.10	138.69	44.48	0.00	0.00	0.00	0.00
Total Payment	0.00	(570.11)	(1,126.28)	(1,238.99)	(1,305.23)	(1,316.28)	(600.53)	0.00	0.00	0.00	0.00
L.T. Balance	2,639.40	4,517.44	3,752.56	2,813.77	1,733.64	556.05	0.00	0.00	0.00	0.00	0.00



The Opus Group
www.opuscorp.com

OPUS WEST CORPORATION

2555 E. Camelback Road, Suite 580, Phoenix, AZ 85016
Phone 602-468-7000 Fax 602-468-7045

October 15, 2009

Teri A. Krawitz
1827 E La Vieve Ln
Tempe, AZ 85284

Re: *2008 Opus Compensation Plan Statements*

Dear Teri:

The attached statement(s) summarize the activity for the 2008 Opus incentive compensation plan(s) in which you were a participant. Please review them thoroughly.

These statements are intended to inform you of the balance of your Compensation Accounts as of June 30, 2009. They are not intended to be a summary of the Plans, nor an amendment or modification thereof. You must consult the Plan Documents for an interpretation of your rights under the Plans.

The aggregate amounts on the statements have been submitted on schedules to the U.S. Bankruptcy Court. If you disagree with the numbers, you may file a proof of claim with the Court. You may also choose to file a proof of claim even if you agree with these numbers. Please note that the claim must be received no later than November 9, 2009.

If you have any questions on these statements, please call Vickie Sixta at 602-468-7095.

Sincerely,

Claire C. Janssen
Chief Financial Officer

Attachments

2008 Incentive

Attached is the final calculation of your 2008 incentive incorporating final company results for 2008. Since the company recorded a loss for 2008, the return on equity component (if applicable) is zero. In most cases, employees received approximately 50% of the 2008 incentive on March 13, 2009.

Opus West Construction Corporation
Year End Incentive Worksheet

Location: Phoenix
Title: PM

teri krawitz

Incentive Target:		\$ 16,000
	<u>weight</u>	<u>factor</u>
Opus West Corporation vs. Business Plan	25%	TBD 0%
OWCC regional net revenue vs. plan	25%	104%
Safety Accountability Program	10%	101%
Individual Performance Modifier	40%	85%
Incentive Total:		\$ 11,231
Other:		\$ -
Total		\$ 11,231

~~Please contact your local Sr. Director or VP of Construction with any questions. 2008 ROE calculations for Opus West Corporation are not yet finalized. As a result, ROE related amounts are not currently included in above.~~

3/9/2009

Opus 80/20 Plan for Officers and Non-Officers

The Opus 80/20 Incentive Plan has been discontinued as of 12/31/08. The attached statement reflects the value of your account as of 6/30/09 and is included in the aggregate amount submitted on the schedules to the U.S. Bankruptcy Court. If your termination date was after 6/30/09, the value of your account will be reduced by 50% of the unvested portion.



2008 Deferred Compensation Statement

Non-Officer 80/20 Plan

As of June 30, 2009

Participant Name: Krawitz, Teri A.

Company Name: Opus West Construction Corporation

Account Balance as of 12/31/2008	556.05
2008 Vested Interest (if applicable)	44.48
2008 Deferral (if applicable)	-
Total Account Balance	<u>600.53</u>
3/15/2009 Vested Payment	(600.53)
Vested Total Paid at Termination	-
Total Vested Paid Out	<u>(600.53)</u>
Vested Balance	-
2009 Interest (if applicable)	-
Net Vested Balance	<u>-</u>
Unvested Balance	-
Unvested Total @ 50% (if termed by 6/30/09)	-
1st Installment Paid at Termination (if applicable)	-
Net Unvested Balance *	<u>-</u>

Net Account Balance at 6/30/09

Vested	-
Unvested *	-
Total Balance	<u>-</u>

*If termination date is after 6/30/2009, unvested balance should be reduced by 50% to arrive at actual current unvested balance.

OPUS WEST CONSTRUCTION CORPORATION
Long-Term Incentive Compensation
Teri Krawitz

Year Paid	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
2002 Deferral	2,639.40	2,639.40									
Interest @ 8%		211.15									
Subtotal		2,850.55									
2004 payment		(570.11)									
Balance		2,280.44	2,280.44								
Interest @ 8%			182.44								
Subtotal			2,462.88								
2005 payment			(643.09)								
Balance			1,819.79	1,819.79							
Interest @ 8%				145.58							
Subtotal				1,965.37							
2006 payment				(693.95)							
Balance				1,271.42	1,271.42						
Interest @ 8%					101.71						
Subtotal					1,373.13						
2007 payment					(717.08)						
Balance					656.05	656.05					
Interest @ 8%						52.48					
Subtotal						708.53					
2008 payment						(708.53)					
Balance						0.00					
2003 Deferral		2,237.00	2,237.00								
Interest @ 8%			178.98								
Subtotal			2,415.98								
2005 payment			(483.19)								
Balance			1,932.77	1,932.77							
Interest @ 8%				154.62							
Subtotal				2,087.39							
2006 payment				(545.04)							
Balance				1,542.35	1,542.35						
Interest @ 8%					123.39						
Subtotal					1,665.74						
2007 payment					(588.15)						
Balance					1,077.59	1,077.59					
Interest @ 8%						86.21					
Subtotal						1,163.80					
2008 payment						(607.75)					
Balance						556.05	556.05				
Interest @ 8%							44.48				
Subtotal							600.53				
2009 payment							(600.53)				
Balance							0.00				
2004 Deferral			0.00	0.00							
Interest @ 8%				0.00							
Subtotal				0.00							
2006 payment				0.00							
Balance				0.00	0.00						
Interest @ 8%					0.00						
Subtotal					0.00						
2007 payment					0.00						
Balance					0.00	0.00					
Interest @ 8%						0.00					
Subtotal						0.00					
2008 payment						0.00					
Balance						0.00	0.00				
Interest @ 8%							0.00				
Subtotal							0.00				
2009 payment							0.00				
Balance							0.00	0.00			
Interest @ 8%								0.00			
Subtotal								0.00			
2010 payment								0.00			
Balance								0.00			
Interest @ 8%									0.00		
Subtotal									0.00		
2010 payment									0.00		
Balance									0.00		

Continued on next page

**ENTERED**TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 7, 2009

Hamlin DeWayne Hale
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

**OPUS WEST CONSTRUCTION
CORPORATION,**

Debtor.

§
§
§
§
§
§

Case No. 09-34360-11

ORDER TRANSFERRING CASE

It has come to the Court's attention that a related case is presently pending on its docket (Case No. 09-34334-HDH-11). The Court finds that in the interest of judicial economy and efficient administration, the above styled and numbered case should be transferred to this Court's docket. It is, therefore

ORDERED that the Clerk is instructed to transfer the above entitled case to this Court's docket and re-designate it 09-34360-HDH-11..

###End of Order###

**ENTERED**TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 7, 2009

Hamlin DeWayne Hale
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

OPUS WEST CORPORATION,

Debtor.

§
§
§
§
§

Case No. 09-34356-11

ORDER TRANSFERRING CASE

It has come to the Court's attention that a related case is presently pending on its docket (Case No. 09-34334-HDH-11). The Court finds that in the interest of judicial economy and efficient administration, the above styled and numbered case should be transferred to this Court's docket. It is, therefore

ORDERED that the Clerk is instructed to transfer the above entitled case to this Court's docket and re-designate it 09-34356-HDH-11..

###End of Order###



ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 17, 2009

Harlin DeWayne Hale
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

OPUS WEST CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-34356

Jointly Administered

**ORDER GRANTING COMPLEX
CHAPTER 11 BANKRUPTCY CASE TREATMENT**

This bankruptcy case was filed on July 6, 2009. A *Notice of Designation as Complex Chapter 11 Case* was filed on that date. After review of the initial pleadings filed in this case, the court concludes that this case appears to be a complex Chapter 11 case. Accordingly, unless the court orders otherwise,

IT IS ORDERED:

1. The debtor shall maintain a service list identifying the parties that must be served whenever a motion or other pleading requires notice. Unless otherwise required by the

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5535); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

Bankruptcy Code or Bankruptcy Rules, notices of motions and other matters will be limited to the parties on the service list.

- a. The service list shall initially include the debtor, debtor's counsel, counsel for the unsecured creditors' committee (if any), the U.S. Trustee, all secured creditors, the 20 largest unsecured creditors of each debtor, any indenture trustee, and any party that requests notice.
- b. Any party-in-interest that wishes to receive notice, other than as listed on the service list, shall be added to the service list by filing and serving the debtor and debtor's counsel with a notice of appearance and request for service.
- c. Parties on the service list, who have not otherwise consented to service by e-mail, through the act of becoming a registered e-filer in this district, are encouraged to provide an e-mail address for service of process and to authorize service by e-mail; consent to e-mail service may be included in the party's notice of appearance and request for service; in the event a party has not consented to e-mail service, a "hard copy" shall be served by fax, overnight delivery, or by regular mail.
- d. The initial service list shall be filed within 3 days after entry of this order. A revised list shall be filed 7 days after the initial service list is filed. The debtor shall update the service list, and shall file a copy of the updated service list, (i) at least every 7 days during the first 30 days of the case; (ii) at least every 15 days during the next 60 days of the case; and (iii) at least every 30 days thereafter throughout the case.

2. All motions and other matters requiring hearing, but not requiring an expedited or emergency hearing, shall be noticed for hearing, on a day that is at least 23 days after the notice is mailed. As a preface to each pleading, just below the case caption, in lieu of the language required by any Local Bankruptcy Rule, the pleading shall state:

**A HEARING WILL BE CONDUCTED ON THIS MATTER
ON _____ AT _____ AM/PM
IN COURTROOM AT 1100 COMMERCE STREET, 14TH
FLOOR, DALLAS, TEXAS 75242.**

**IF YOU OBJECT TO THE RELIEF REQUESTED, YOU
MUST RESPOND IN WRITING, SPECIFICALLY
ANSWERING EACH PARAGRAPH OF THIS PLEADING.
UNLESS OTHERWISE DIRECTED BY THE COURT, YOU
MUST FILE YOUR RESPONSE WITH THE CLERK OF
THE BANKRUPTCY COURT WITHIN TWENTY-THREE
DAYS FROM THE DATE YOU WERE SERVED WITH
THIS PLEADING. YOU MUST SERVE A COPY OF YOUR
RESPONSE ON THE PERSON WHO SENT YOU THE
NOTICE; OTHERWISE, THE COURT MAY TREAT THE
PLEADING AS UNOPPOSED AND GRANT THE RELIEF
REQUESTED.**

3. All motions and other matters requiring expedited or emergency hearing shall comply with the usual court requirements for explanation and verification of the need for emergency or expedited hearing. Specifically, if a party-in-interest has a situation that it believes requires consideration on less than 23-days' notice, or an emergency that it believes requires consideration on less than 5 business days' notice, then the party should file and serve a separate, written motion for expedited or emergency hearing with respect to the underlying motion. The court will make its best effort to rule on the motion for expedited or emergency hearing within 24 hours of the time it is presented. If the court grants the motion for expedited or emergency hearing, the underlying motion will be set by the courtroom deputy at an appropriate shortened

date approved by the court. The party requesting the hearing shall be responsible for providing proper notice in accordance with this order and the Bankruptcy Code and Bankruptcy Rules.

4. Emergency and expedited hearings (and other hearings in limited circumstances) in this case may be conducted by telephone or, where available, video. Parties must request permission to participate by telephone by e-mailing **Jodie Chapman**, the court's courtroom deputy, at **hdh_settings@txnb.uscourts.gov**.

5. If a matter is properly noticed for hearing and the parties reach a settlement of the dispute prior to the final hearing, the parties may announce the settlement at the scheduled hearing. If the court determines that the notice of the dispute and the hearing is adequate notice of the effects of the settlement (*i.e.*, that the terms of the settlement are not materially different from what parties-in-interest could have expected if the dispute were fully litigated), the court may approve the settlement at the hearing without further notice of the terms of the settlement.

6. The debtor shall give notice of this order to all parties-in-interest within seven (7) days. If any party-in-interest, at any time, objects to the provisions of this order, that party shall file a motion articulating the objection and the relief requested. After hearing the objection and any responses the court may reconsider any part of this order and may grant relief, if appropriate.

END OF ORDER

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

OPUS WEST CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-34356-hdh-11

Jointly Administered

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5535); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).



NORTHERN DISTRICT OF TEXAS
ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 7, 2009

Harlin DeWayne Hale
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: OPUS WEST LP, Debtor.	Chapter 11 Case No. 09-34334-11 Joint Administration Pending
In re: OPUS WEST CORPORATION, Debtor.	Chapter 11 Case No. 09-34356-11 Joint Administration Pending
In re: OPUS WEST CONSTRUCTION CORPORATION, Debtor.	Chapter 11 Case No. 09-34360-11 Joint Administration Pending
In re: O.W. COMMERCIAL, INC., Debtor.	Chapter 11 Case No. 09-34363- 11 Joint Administration Pending

In re: OPUS WEST PARTNERS, INC., Debtor.	Chapter 11 Case No. 09-34373- 11 Joint Administration Pending
---	--

**ORDER AUTHORIZING JOINT
ADMINISTRATION OF CHAPTER 11 CASES**

Upon the joint motion (the "**Motion**") filed by the above-captioned debtors and debtors-in-possession (collectively, the "**Debtors**") seeking entry of an order (a) authorizing and directing the joint administration of the Debtors' related Chapter 11 cases for procedural purposes only, pursuant to Rule 1015(b) and (c) of the Federal Rules of Bankruptcy Procedure and Rule 1015.1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Texas, and (b) providing any additional relief required in order to effectuate the foregoing; the Court, having reviewed the Motion, finds that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, this is a core matter pursuant to 28 U.S.C. § 157(b)(2), notice of the Motion was sufficient under the circumstances, and an order of joint administration would serve judicial economy and is in the best interests and without prejudice to the rights of the Debtors' estates, creditors, and other parties-in-interest.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The above-captioned Chapter 11 cases are hereby consolidated for procedural purposes only and shall be jointly administered by this Court under the bankruptcy case of Opus West Corporation, under Case Number 09-34356 (the "Lead Case").
3. All orders, pleadings, papers and documents, except proofs of claim, shall be filed and docketed in Case Number 09-34356.

4. All proofs of claim shall be filed and docketed under the case number representing the estate in which the claim is made, and a creditor of more than one estate shall file and docket a proof of claim in each case to which a claim may be made, and only in the amount which the creditor may make a claim from that estate.

5. All pleadings, papers, and documents, except proofs of claim, filed in the jointly administered cases shall bear the caption of the jointly administered cases and shall be listed as shown in Exhibit A (attached).

6. If pleadings, papers, and documents have been filed in any of the above captioned cases other than the Lead Case prior to the entry of this Order, and those matters have not yet been heard and decided, the party who filed the pleading, paper, or document shall (i) re file that pleading, paper, or document in the Lead Case within 3 business days of the entry of this Order, (ii) set the pleading, paper, or document for hearing before the judge assigned to the Lead Case, and (iii) notice the hearing to all appropriate parties.

7. Nothing contained in this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of the above-captioned cases, and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective cases.

8. A docket entry shall be made in each of the Debtors' cases substantially as follows:

An Order has been entered in this case directing the joint administration of the Chapter 11 cases listed below under Case No. 09-34356. The docket in Case No. 09-34356 should be consulted for all matters affecting this case. The following Chapter 11 cases are jointly administered pursuant to such Order: Case No. 09-34334; Case No. 09-34356; Case No. 09-34360; Case No. 09-34363; and Case No. 09-34373.

9. Counsel for Debtors shall serve a copy of this Order on the United States Trustee, all creditors, persons filing Notices of Appearance, and other parties-in-interest, and shall file a certificate of service with the Clerk of Court after completing service of this Order.

10. Counsel for Debtors shall file with the Clerk of Court a master service list in the Lead Case of all creditors, persons filing Notices of Appearance, and all parties-in-interest in the jointly administered cases in the form prescribed by Local Bankruptcy Rule 1007.2

11. The Court shall retain jurisdiction to hear and determine all matters arising from or relating to the interpretation or implementation of this Order.

END OF ORDER

Clifton R. Jessup, Jr.
State Bar No. 10655020
Bruce H. White
State Bar No. 21288850
Bryan L. Elwood
State Bar No. 24029535
GREENBERG TRAURIG, LLP
2200 Ross Ave., Suite 5200
Dallas, Texas 75201
Telephone: 214-665-3600
Facsimile: 214-665-5938

Counsel for Opus West Corporation,
Opus West Construction Corporation, and
O.W. Commercial, Inc.

Peter Franklin
State Bar No. 07378000
Doug Skierski
State Bar No. 24008046
Erin K. Lovall
State Bar No. 24032553
FRANKLIN SKIERSKI LOVALL HAYWARD, LLP
10501 N. Central Expressway, Suite 106
Dallas, Texas 75231
Telephone: 214-702-4061
Facsimile: 214-723-5345

Counsel for Opus West LP and
Opus West Partners, Inc.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:

OPUS WEST CORPORATION, et al.,¹

Debtors.

Chapter 11

Case No. 09-34356-hdh-11

Jointly Administered

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION
OF CERTAIN OF THE DEBTORS' PROPERTY, (B) AUCTION,
(C) OBJECTION DEADLINE, AND (D) FINAL HEARING
[Docket No. 9]

PLEASE TAKE NOTICE THAT, on July 28, 2009, the United States Bankruptcy Court for the Northern District of Texas (the "Court") entered an order (the "Bidding Procedures Order") on the motion (the "Motion") filed as Docket No. 9 with the Court by the above-captioned debtors and debtors-in-possession (the "Debtors") for an order (a) approving the sale of certain assets of the Debtors (the "Property") free and clear of all liens, claims, encumbrances, restrictions, and other interests pursuant to Sections 105, 363(b), (f), and (m) of

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5535); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' PROPERTY, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 1
DAL 07/28/09 17:35:17

Title 11 of the United States Code (the "Bankruptcy Code"), (b) authorizing the assumption, assignment, and sale of certain executory contracts and unexpired leases pursuant to Sections 363 and 365 of the Bankruptcy Code, (c) approving bidding procedures, and (d) granting related relief.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to and as set forth in the Bidding Procedures Order, certain bidding procedures have been established with regard to the Auction (as defined below) and the disposition of the Property.²

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, an auction for the disposition of the Property will take place on August 27, 2009, at 10:00 a.m. (Prevailing Texas Time), at the offices of Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201 (the "Auction").

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, all objections to the Transaction shall be filed with the Bankruptcy Court and served on the Notice Parties on or before August 28, 2009, at 12:00 p.m. (Prevailing Texas Time).

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, a final hearing on the relief sought in the Motion, including the Transaction, will be held before the Court on August 31, 2009, at 9:00 a.m. (Prevailing Texas Time), at the Bankruptcy Court located at 1100 Commerce Street, 14th Floor, Dallas, Texas 75242 (the "Hearing").

PLEASE TAKE FURTHER NOTICE THAT a copy of the Bidding Procedures Order and all attachments thereto, is attached to this Notice as Exhibit "A". Copies of the Motion can be obtained upon request from counsel for the Debtors as identified below.

² Terms not defined in this Notice, shall have the same definitions as set forth in the Motion.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' PROPERTY, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 2
DAL 07/28/09 17:35:17

Dated: July 29, 2009

Respectfully Submitted,

/s/ Clifton R. Jessup, Jr.
Clifton R. Jessup, Jr.
State Bar No. 10655020
Bruce H. White
State Bar No. 21288850
Bryan L. Elwood
State Bar No. 24029535
GREENBERG TRAURIG, LLP
2200 Ross Ave., Suite 5200
Dallas, Texas 75201
Telephone: 214-665-3600
Facsimile: 214-665-5938
E-mail: jessupc@gtlaw.com
whiteb@gtlaw.com
elwoodb@gtlaw.com

Counsel for Opus West Corporation,
Opus West Construction Corporation, and
O.W. Commercial, Inc.

-and-

/s/ Peter Franklin
Peter Franklin
State Bar No. 07378000
Doug Skierski
State Bar No. 24008046
Erin K. Lovall
State Bar No. 24032553
FRANKLIN SKIERSKI LOVALL HAYWARD, LLP
10501 N. Central Expressway, Suite 106
Dallas, Texas 75231
Telephone: 214-702-4061
Facsimile: 214-723-5345
E-mail: pfranklin@fslhaw.com
dskierski@fslhaw.com
elovall@fslhaw.com
Counsel for Opus West LP and
Opus West Partners, Inc.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' PROPERTY, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 3
DAL 07/28/09 17:35:17

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of (A) Bidding Procedures for Disposition of Certain of the Debtors' Property, and (B) Auction, (C) Objection Deadline, and (D) Final Hearing was served on July 29, 2009, (1) upon those parties receiving notice pursuant to the Court's ECF notification system, and (2) by pre-paid, first-class United States mail on those listed on the attached Service List.

/s/ Bryan L. Elwood
Bryan L. Elwood

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' PROPERTY, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 4
DAL 07/28/09 17:35:17

EXHIBIT A



ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 28, 2009

Amie De Noya Hill
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:
OPUS WEST CORPORATION, et al.,¹
Debtors.

Chapter 11
Case No. 09-34356-hdh-11
Jointly Administered

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS, AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF
[Docket No. 9]

Upon the motion (the "Motion") filed by the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") requesting entry of an order (the "Procedures Order") pursuant to Sections 105, 363(b), (f), and (m), and 365 of Title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"): (1) approving the proposed Bidding Procedures (as

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5535); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS, AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 1
DAL 77,582,558v4

defined below) related to the disposition of certain assets of the Debtors; (2) approving the form, extent, and manner of notice of the Auction, Final Hearing, and Cure Amounts (each as defined in the Bidding Procedures attached hereto as Exhibit "1" and incorporated herein by reference); and (3) granting related relief; the Court, having reviewed the Motion and the objections thereto and having heard the statements of counsel and considered the agreements of the parties and the evidence presented at a hearing before the Court on the Motion,

FINDS AND CONCLUDES AS FOLLOWS:

A. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N), and (O). Venue of this case and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

B. The Debtors filed the Motion on July 6, 2009, proposing to sell certain property it owns at various locations as listed on Exhibit "A" attached to the Motion (the "Property"), whether individually or as one or more packages, and seeking approval of certain bidding procedures related to the proposed sales. All bids will be analyzed on an Property-by-Property basis to determine highest and best qualified bid.

C. The statutory and legal predicates for the relief sought in the Motion are Sections 105, 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, and 9014. The Court reserves all of the parties' rights with respect to objections to the potential sale under Section 363 of the Bankruptcy Code, and this Procedures Order does not constitute a ruling that the grounds for a sale under Section 363(f) of the Bankruptcy Code have or have not been satisfied.

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS, AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 2
DAL 77,582,558v4

D. The Debtors have articulated good and sufficient reasons for approving the Bidding Procedures and the form and manner of notice of the proposed Cure Amounts, Auction, and the Final Hearing thereon.

E. The Bidding Procedures (as defined below) attached hereto as Exhibit "1" are reasonable and appropriate, and represent the best method, under the circumstances, for maximizing the value of and return for the Property.

F. The relief granted herein is in the best interests of the Debtors, their estates, creditors, and other parties-in-interest.

G. The Debtors have complied with the Local Rules for the United States Bankruptcy Court for the Northern District of Texas.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Court hereby approves the bidding procedures (the "Bidding Procedures") attached hereto as Exhibit "1". Capitalized terms used herein that are not otherwise defined in this Procedures Order shall have the meaning given thereto in the Bidding Procedures.
3. The Debtors are authorized and empowered to take such steps, expend such sums of money (to the extent authorized herein or under some other financing, cash collateral, or protective advances order), and do such other things as may be necessary to implement and effect the terms and requirements of this Procedures Order.
4. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Procedures Order.
5. The Debtors shall solicit bids for the Property individually and may solicit bids for the Property in one or more groups with other of the Debtors (each such bid a "Group Bid")

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS, AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 3
DAL 77,582,558v4

and collectively, "Group Bids"); provided, however, any Group Bid made by a Qualified Bidder shall detail the allocation of the gross bid price among the individual Property covered by the Group Bid. In determining highest and best offer, the bids shall be analyzed on an Property-by-Property basis.

6. Any fully executed contract memorializing an agreement for the disposition of all or a part of the Property by and between the Debtors and a purchaser shall be substantially in the form of the APA and shall be substantially consistent with the terms and conditions thereof.

7. The Debtors are authorized to reject any bid or offer made by a Potential Bidder, in the exercise of the Debtors' reasonable business judgment, after consultation with any unsecured creditors' committee appointed in this case (the "Committee"), is not in conformity with the terms and conditions of the APA or the Bidding Procedures.

8. The failure of any objecting person or entity to timely file and serve its objection to the Motion, the transactions contemplated thereby, or the Debtors' consummation and performance of any Modified APA, including the assumption and assignment of the Assigned Contracts, on or before the Objection Deadline shall be a bar to the assertion, at the Final Hearing or thereafter, of any objection to the Motion, the Auction, or the Debtor's consummation and performance of any Modified APA, including the assumption and assignment of the Assigned Contracts, if authorized by the Court.

9. Subject to the terms of this Procedures Order, any sale of the Property pursuant to the Motion, this Procedures Order, and any other order of the Court approving a sale shall be free and clear of all claims, including, but not limited to, successor liability claims, successor development claims, all junior lien holders and mechanic lien claims, and shall be free and clear of any liability for warranties or as a successor developer. The Debtors acknowledge, however,

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,582,556-4

that such sale shall remain subject to any easements and covenants with Wal-Mart Stores, Inc. of record.

10. The Debtors (a) shall determine, in their sole reasonable business judgment with respect to the Property subject to a Qualified Bid, after consultation with the Committee, which Qualified Bid is the Winning Bid, after considering, among other things, the total consideration to be received by the Debtors' estate with respect to any Property after taking into account the payment of liabilities to be assumed by each Qualified Bidder, (b) at the conclusion of the Auction, shall announce its determination as to the Winning Bidder submitting the Successful Bid with respect to any Property, and (c) may reject, at any time before entry of a final order granting the relief sought in the Motion, any Qualified Bid that, in the Debtors' sole reasonable business judgment, after consultation with the Committee, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, this Procedures Order, or the terms and conditions of the APA, or (iii) contrary to the best interest of the Debtors, their respective estates, and/or their creditors.

11. In accordance with Section 363(k) of the Bankruptcy Code, the credit bid rights of any secured party are preserved with respect to the Property as to which its lien(s) apply and any such secured party(ies) shall be deemed to be Qualified Bidders, subject to the terms of the Bidding Procedures. The valid liens of any such party(ies) with respect to any particular Property, together with valid mechanics' and materialman's liens, shall attach to the net proceeds of the sale of the applicable Property in the order of their priority under applicable State law, with the same validity, force, and effect which they now have as to the applicable Property.

12. Ad valorem taxes related to the Property for the 2009 tax year shall be an assumed liability of the respective purchaser, or its assignee, and the 2009 tax liens shall be a

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,582,556-4

permitted encumbrance. The ad valorem tax liens for the 2009 tax year related to the Property are hereby expressly retained until the payment by the respective purchaser, or its assignee, of such 2009 ad valorem tax liens, and any penalties or interest which may ultimately accrue to those 2009 taxes, in the ordinary course of business. The liens of ad valorem tax creditors shall attach to the proceeds of the sale in the same priority, validity, and extent as those liens attached to the Property on the Petition Date.

13. Notwithstanding anything herein to the contrary, the Committee shall have the right to approve the sale of any Property that is in an amount less than the full amount of all valid mortgage liens and mechanics' liens related to such Property, which approval shall not unreasonably be withheld.

14. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

15. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

End of Order

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,582,556-4

Exhibits to this Order (1) Approving Bidding Procedures in Advance of Auction, (2) Approving Form and Manner of Notice of Proposed Cure Amounts, Auction, and Final Hearing, and (3) Granting Related Relief have been previously filed as Docket No. 188.

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,582,556-4

Exhibit "1"

Bidding Procedures

The following bidding procedures (the "Bidding Procedures") shall govern all proceedings relating to the Proposed Sale requested in that certain *Joint Motion of the Debtors for Orders: (I) Authorizing the Sale of Certain Property in Certain Entities Free and Clear Of Liens, Claims, Interests, and Encumbrances; (II) Establishing Bidding Procedures and Scheduling an Expedited Hearing Relating to the Approval Thereof; (III) Approving the Form of Notice Related to the Auction and Sale Hearing; and (IV) Scheduling a Sale Approval Hearing Immediately After the Auction* (the "Motion"):

1. Assets to Be Sold. The assets the subject of these Bidding Procedures are the following: The Debtor's property located at various locations named in Exhibit "A" attached to the Motion (the "Property").
2. Potential Bidder. Parties interested in participating in the bidding process ("Potential Buyers") and mortgagees with a valid lien in the applicable Property interested in participating in the bidding process ("Credit Buyers," and together with Potential Buyers, the "Potential Bidders") may participate in the sale process. Potential Buyers will be required to deliver to the Debtors the following:
 - (a) An executed confidentiality agreement in form and substance acceptable to the Debtors; and
 - (b) The most current financial information evidencing the Potential Buyer's ability to close the transaction that meets with the Debtors' satisfaction (the "Financial Information").

As promptly as practicable after a Potential Buyer delivers the above information, the Potential Buyer shall be eligible to access information regarding to the Property. The Debtors reserve the right to refuse any Potential Bidder access to the due diligence materials if such access is deemed to be harmful to the Debtors' estate. Credit Buyers will not be obligated to comply with subparagraphs (i) and (ii) above.

3. Deadline for Submission of Bids. The deadline for Potential Bidders submitting any and all competing bids shall be on or before August 21, 2009, at 5:00 p.m. (Prevailing Texas Time) (the "Bid Deadline").
4. Deadline for Submission of Statement of Claim. Each Credit Buyer shall be required to submit a statement of its claim amount in writing to the Debtors on or before August 14, 2009.
5. Submission of Bids by Potential Buyers. In order to qualify as a potential Qualified Bidder (as defined below) of any Property, a Potential Buyer must timely submit a written bid for a portion or all of the Property that:

DAL 77,582,557v4

- (a) Contains an executed asset purchase agreement, a form of which is attached hereto as Exhibit "I" (the "APA"), marked to show all modifications thereto (a "Modified APA"), wherein the Potential Buyer identifies:
 1. Which of the Properties the Potential Buyer seeks to acquire;
 2. To the extent the total bid submitted relates to the assets of more than one Debtor, the allocation of such total bid between each Debtor's property bid upon by such Potential Buyer; and
 3. Which of the Debtors' executory contracts and unexpired leases such bidder seeks to assume and the proposed terms of cure.
- (b) Includes a blacklined copy of the Modified APA showing all changes made to the APA.
- (c) Does not contain:
 1. A request for any type of expense reimbursement or similar type of payment; or
 2. Any due diligence, financing contingencies, or other contingency of any kind not otherwise contained in the APA.
- (d) Is accompanied by evidence of authorization and approval from such Potential Buyer's board of directors (or comparable governing body) with respect to the submission, execution, delivery, and closing of the Modified APA.
- (e) Is accompanied by financial and other information regarding such Potential Buyer's financial condition and capability to consummate the transactions contemplated by the Modified APA and which will allow the Debtors and the official committee of unsecured creditors appointed in this case (the "Committee") to make a reasonable determination as to whether such written bid is a Qualified Bid, including, without limitation:
 1. The most current Financial Information of such Potential Buyer; or
 2. If the Potential Buyer is an entity formed for the purpose of acquiring a Property, then:
 - A. The Financial Information of the equity holder(s) of the Potential Buyer or such other form of financial disclosure acceptable to the Debtors; and
 - B. The written commitment of such equity holder(s) to be responsible for the Potential Buyer's obligations in connection with the acquisition of a Property.

DAL 77,582,557v4

2

- (f) Discloses fully the identity of each entity that will be bidding for the Property or otherwise participating in connection with such Qualified Bid, and the complete terms of any such participation.
 - (g) Discloses fully the terms of the proposed employment of any of Debtors' employees, management, or officers in connection with such bid.
 - (h) Is accompanied by a cash deposit in an amount equal to 10% of the total purchase price set forth in the Modified APA (a "Deposit").
 - (i) Permits the Debtors to maintain reasonable access to its books and records following the closing of any sale of a Property, as necessary for the administration of its bankruptcy case and estate.
 - (j) Is delivered to (i) Debtors' counsel such that it is received by the close of business on the Bid Deadline by the following individuals: (1) Clifton R. Jessup, Jr., Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201; and (2) Peter Franklin, Franklin Skierski Lovell Hayward, LLP, 10501 N. Central Expressway, Suite 106, Dallas, Texas, 75231, and (ii) counsel for the Committee, Gardere Wynne Sewell LLP, Attn: Deirdre B. Ruckman, 1601 Elm Street, Suite 3000, Dallas, Texas, 75201 (collectively, the "Notice Parties").
6. Submission of Bids by Credit Buyers. Except as set forth herein, in order to submit a Qualified Bid, a Credit Buyer must timely submit a written bid for a Property that:
 - (a) Contains an executed Modified APA, with all modifications thereto, wherein the Credit Buyer identifies:
 1. The Property on which the Credit Buyer has a lien and seeks to acquire; and
 2. Which of the Debtors' executory contracts and unexpired leases such Credit Buyer seeks to assume and the proposed terms of cure.
 - (b) Includes a blacklined copy of such Modified APA showing all changes made to the APA and a statement of the amount of the Credit Buyer's full claim, which will represent the largest amount the Credit Buyer may bid. Nothing will require the Credit Buyer to bid its entire amount. If the Debtors object to the amount of the Credit Buyer's claim, they will inform the Credit Buyer of such dispute by August 24, 2009, at 5:00 p.m. (Prevailing Texas Time). Any dispute that cannot be resolved by the Credit Buyer and the Debtors will be resolved by the Court prior to the Auction.
 - (c) Does not contain:
 1. A request by the Credit Buyer for any type of expense reimbursement or similar type of payment; or

DAL 77,582,557v4

3

2. Any due diligence, financing contingencies, or other contingency of any kind not otherwise contained in the APA.
 - (d) Discloses fully the terms of the proposed employment of any of the Debtors' employees, management, or officers in connection with such bid.
 - (e) Permits the Debtors to maintain reasonable access to its books and records following the closing of any sale of a Property, as necessary for the administration of its bankruptcy case and estate.
 - (f) Is delivered to the Notice Parties by the close of business on the Bid Deadline.
7. Submission of Credit Bid by Guaranty Bank and M&I Marshall & Isley Bank. Guaranty Bank and M&I Marshall & Isley Bank, to the extent they are a Credit Buyer, shall not be required to submit an executed Modified APA as set forth in Paragraph 6 herein above, but shall otherwise be required to provide the information set forth in Paragraph 6 and shall otherwise comply with the terms of these Bidding Procedures.
 8. Qualification of Bid. After a Potential Bidder has delivered a bid, the Debtors and the Committee will determine whether such Potential Bidder is a "Qualified Bidder" and such bid is a "Qualified Bid." Promptly after making such determination, the Debtors will advise such bidder of this determination. The Debtors reserve the right to reject any bid for whatever reason, including but not limited, to amounts of any offer made by a Potential Bidder.
 9. Auction. The Debtors will conduct an auction with the Qualified Bidders to determine the highest or best bid for the Property beginning at 10:00 a.m. (Prevailing Texas Time) on August 27, 2009, at the law offices of Greenberg Traurig, LLP located at 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201 (the "Auction"). The Auction may be adjourned by announcement of the adjournment at the Auction to those parties who appear at the Auction. Each Qualified Bid other than the opening bid is referred to as a "Subsequent Bid." At the conclusion of the Auction, or as soon thereafter as practicable, the Debtors: (a) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the process, the Debtors' estate, and the Transactions, including those factors affecting the speed and certainty of consummating the Transactions; (b) identify, after consultation with the Committee, the highest or otherwise best offer(s) for each Asset received at the Auction (the "Winning Bid", and the bidder(s) making such bid, the "Winning Bidder"); and (c) designate, upon consent of the Committee (which consent will not be unreasonably withheld), any Back-Up Bidders (as defined below).
 10. Auction Procedures. The Auction will be conducted as follows:
 - (a) The Auction will be conducted openly and all of the Debtors' creditors will be permitted to attend.
 - (b) Only Qualified Bidders may make any subsequent Qualified Bids at the Auction.

DAL 77,582,557v4

4

- (c) At least one (1) business day prior to the Auction, each Qualified Bidder who has submitted timely a Qualified Bid or their representatives must inform the Debtors whether it or its representative intends to attend and to participate in the Auction. Failure to comply with this provision may preclude an otherwise Qualified Bidder from attending and/or participating in the Auction.
- (d) All Qualified Bidders who have submitted a Qualified Bid or their representative must be present for all Subsequent Bids with the understanding that the true identity of each bidder shall be fully disclosed to all other bidders and that all material terms of each Subsequent Bid, upon request, will be disclosed to all the bidders throughout the entire Auction.
- (e) All Qualified Bidders shall agree to remain ready, willing, and able to close a Transaction with respect to specific Property under the terms of their last Qualified Bid submitted at or before such Auction with respect to specific Property as the back-up bidder (the "Back-Up Bidder" and such last bid, the "Back-Up Bid") until the earlier of (i) the close of the Transaction with respect to the specific Property, or (ii) September 4, 2009, and shall close if the Winning Bidder fails to close, if, as, and when determined by the Debtors to be the new Winning Bidder.
- (f) The Debtors may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction, provided that such rules are not inconsistent with these Bidding Procedures, the Bankruptcy Code, or any order entered in connection herewith.
- (g) Bidding at the Auction shall begin with the highest or otherwise best Qualified Bid. The bidding shall be in minimum increments to be set by the Debtors at the Auction. The Auction shall also continue in one or more rounds of bidding and shall conclude after each participating bidder has had the opportunity to submit one or more additional Subsequent Bids with full knowledge of the then-existing highest bid or bids.
- (h) Each Qualified Bidder shall represent and certify in writing at the Auction that it is not engaged in any collusion with respect to the bidding or sale.
- (i) Immediately after the Auction, the deposit for the Winning Bid shall be increased to 10% of the Winning Bid amount by the Winning Bidder.
- (j) Bidding at the Auction may be transcribed or videotaped.
11. **Final Hearing.** A hearing to approve the Transactions (the "Final Hearing") will be held on August 31, 2009, at 2:00 p.m. (Prevailing Texas Time). All objections to any Transaction, including the assumption and assignment of any Assigned Contract and the proposed Cure Amount, shall be filed with the Bankruptcy Court and served on the Notice Parties on or before August 28, 2009, at 12:00 p.m. (Prevailing Texas Time) (the "Objection Deadline"). The Winning Bidder(s) and any Back-Up Bidder(s) must produce a competent witness at the Final Hearing (and any subsequent hearing) to provide testimony, if necessary, to establish adequate assurance of future performance

DAL 77,582,557W

- by each such bidder under the unexpired leases and executory contracts to be assigned to such bidder, to the extent required by Sections 365(b) of the Bankruptcy Code. At the Final Hearing, the Debtors will request that the Court approve each Transaction with regard to the Back-Up Bidder in the event the contemplated Transaction with the Winning Bidder does not timely close; in which case such Back-Up Bidder shall become the Winning Bidder without further order of the Court. At the hearing or promptly thereafter, the Court shall enter an order providing that the Winning Bidder, (i) if a Potential Bidder, free and clear of all liens, claims, and encumbrances and contract claims, warranties, and successor liability claims on the Property.
12. **Notice of Auction and Final Hearing.** Within two (2) business days after the Court's entry of this Procedures Order, the Debtors (or its agents) shall serve a copy of the form of sale notice attached to the Motion as Exhibit "C" by first-class United States mail, postage pre-paid, upon (a) the Office of the United States Trustee, (b) any persons who have entered an appearance in the case or otherwise in writing requested notice, (c) all entities known to have expressed an interest in a transaction with respect to the Property during the past twelve months (12) months, (d) all entities known to have a present interest in the Property, and (e) counsel for any committee(s) formed pursuant to Section 1102 of the Bankruptcy Code (if any hereafter is formed).
13. **Cure Notice.** On or before July 31, 2009, the Debtors shall file with the Court and serve by first-class United States Mail, postage pre-paid, on all non-debtor parties to executory contracts and unexpired leases that may be assumed and assigned (collectively, the "Assigned Contracts") a copy of the Cure Notice (as defined in the Motion) of (a) the Debtors' intent to make the Assigned Contracts available for assumption and assignment, and (b) the proposed cure amount (the "Cure Amount"). Each non-debtor party to an Assigned Contract shall have until the Objection Deadline to object to the assumption and assignment of the Assigned Contract or the Cure Amount. If objecting to the Cure Amount, the non-debtor party must state in its objection with specificity what Cure Amount it believes is required and the default to which it relates (with appropriate documentation in support thereof). Any objection to the Cure Amounts that is timely filed and served by any non-debtor party to an Assigned Contract in accordance with the Cure Notice, and which is not otherwise resolved by the parties, shall be heard and resolved by the Court at the Final Hearing. If no objection is timely filed and served, the Assigned Contract may be assumed and assigned to any purchaser on the closing date of the applicable Transaction, and the Cure Amount set forth in the Cure Notice shall be binding on the non-debtor party, notwithstanding anything to the contrary in any Assigned Contract or any other document. The non-debtor party to the Assigned Contract shall be forever barred from asserting any other claims against the Debtors, any purchaser, or their property that arise out of or relate to the Assigned Contract, the Property, or the Transaction. Each non-debtor party to an Assigned Contract shall be served with a copy of the Court's order authorizing the assumption and assignment of any such contract(s) within five (5) business days after the entry of such order. Within two (2) business days after the Auction, the Debtors shall file with the Court a list of which Assigned Contracts each Winning Bidder intends to have assumed and assigned to it.
14. **Closing.** The closing of a Transaction shall take place on or before September 2, 2009, except upon the waiver of this requirement by the Debtors.

DAL 77,582,557W

15. **Return of Deposits.** The Deposits of all Qualified Bidders (except for the Winning Bidder) shall be held in a non-interest bearing escrow account. Notwithstanding the foregoing, any Deposit, if any, submitted by the Winning Bidder, shall be applied against the payment of the Purchase Price upon closing of the Transaction with the Winning Bidder. Except as otherwise provided in a Modified APA and herein, all Deposits shall be returned to each Qualified Bidder not selected by the Debtors as either the Winning Bidder or the Back-Up Bidder within five (5) business days of the adjournment of the Auction. The Deposit of the Back-Up Bidder, to the extent not designated as the Winning Bidder, shall be returned to the Back-Up Bidder within five (5) business days of the date of closing the Transaction with respect to the related Property.

DAL 77,582,557W

Exhibit "I" to Bidding Procedures

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement") is entered into as of this _____ day of _____, 2009, by and between _____ a _____ ("Purchaser"), and _____ a _____ ("Seller").

RECITALS:

A. Seller is the owner of certain real property known as _____ and located in _____ County, _____ as further described on Exhibit A, attached hereto (the "Property").

B. Seller has agreed to sell to Purchaser, and Purchaser has agreed to purchase from Seller, all Sellers right, title and interest in the Property (the "Assets"), on the terms and conditions set forth herein.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do agree as follows:

**ARTICLE 1
PURCHASE AND SALE OF ASSETS**

1.1 **Commitment to Sell and Assign.** Upon the terms and subject to the conditions set forth in this Agreement, Seller shall sell, transfer, assign, convey and deliver to Purchaser, the Assets, as such existed as of the date hereof.

1.2 **Consideration.** Purchaser shall deliver as consideration for the purchase and sale of the Assets at the Closing (as hereinafter defined) payment to Seller of _____ (\$) (the "Purchase Price").

1.3 **Closing.** The purchase and sale of the Assets shall be consummated at a closing (the "Closing") to occur on or before _____ (the "Closing Date"). At the Closing, the following items shall be exchanged: (a) Purchaser shall deliver to Seller the Purchase Price in cash or immediately available good funds and (b) Seller shall deliver to Purchaser (i) possession or constructive possession of the Assets; and (ii) such other agreements, documents and/or instruments, including such specific assignments, bills of sale and other instruments of conveyance and transfer, in form and substance acceptable to Purchaser and Seller, as may be necessary to transfer, convey and deliver the Assets from Seller to Purchaser and to vest in Purchaser title thereto.

DAL 77,582,557W

ARTICLE 2 REPRESENTATIONS, WARRANTIES AND COVENANTS OF PURCHASER

Purchaser represents and warrants to Seller that the statements contained in this Section 2 are correct and complete as of the date of this Agreement.

2.1 Organization of Purchaser. Purchaser is a _____ duly organized, validly existing, and in good standing under the laws of the jurisdiction of the State of _____.

2.2 Authorization of Transaction. Purchaser has the legal right and capacity to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly executed and delivered, and constitutes or upon execution and delivery will constitute the valid and legally binding obligations, of Purchaser, enforceable in accordance with its terms, except as enforcement may be limited by general principles of equity whether applied in a court of law or a court of equity and by bankruptcy, insolvency and similar laws affecting creditors' rights and remedies generally. No authorization, consent, approval, permit or license of, or filing with, any governmental or public body or authority, or any other person or entity is required to authorize, or is required in connection with, the execution, delivery and performance of this Agreement on the part of Purchaser.

ARTICLE 3 REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

Seller represents and warrants to Purchaser that the statements contained in this Section 3 are correct and complete as of the date of this Agreement.

3.1 Organization and Good Standing. Seller is a _____ duly organized and validly existing, with all requisite power and authority to own the Assets.

3.2 Authorization of Transaction. Seller has the legal right and capacity to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement has been duly executed and delivered, and constitutes or upon execution and delivery will constitute the valid and legally binding obligations, of Seller, enforceable in accordance with its terms, except as enforcement may be limited by general principles of equity whether applied in a court of law or a court of equity and by bankruptcy, insolvency and similar laws affecting creditors' rights and remedies generally. No authorization, consent, approval, permit or license of, or filing with, any governmental or public body or authority, or any other person or entity is required to authorize, or is required in connection with, the execution, delivery and performance of this Agreement on the part of Seller.

3.3 Title to Assets. Seller is the true and lawful owner of the Assets. Seller has all necessary power and authority to sell the Assets to Purchaser. Upon delivery to Purchaser of the Purchase Price to be delivered at Closing, Seller will transfer good title to the Assets.

DAL 77,583,503v1

3.4 AS-IS. Notwithstanding anything contained in this Agreement to the contrary, Purchaser acknowledges and agrees that Seller is not making any representations or warranties whatsoever, express or implied, beyond those expressly given by Seller to Purchaser in Article 3 hereof, and Purchaser acknowledges and agrees that, except for the representations and warranties contained herein, the Assets are being transferred to Purchaser on a "WHERE IS" and, as to condition, "AS IS" basis. Purchaser acknowledges that it has conducted or, as of the Closing Date, will have conducted, to its satisfaction, its own independent investigation of the Assets and, in making the determination to proceed with the transactions contemplated by this Agreement, Purchaser has, or will have, relied on the results of its own independent investigation. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PURCHASER ACKNOWLEDGES THAT SELLER HAS NOT MADE ANY REPRESENTATION RELATING TO THE PROPERTY REGARDING SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, COMPLIANCE WITH ZONING LAWS, ENVIRONMENTAL LAWS, OR ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES, REGULATIONS OR ORDINANCES RELATING TO THE USE THEREOF. PURCHASER ALSO ACKNOWLEDGES AND AGREES THAT THE INSPECTION AND INVESTIGATION OF THE ASSETS BY PURCHASER HAS BEEN ADEQUATE TO ENABLE PURCHASER TO MAKE ITS OWN DETERMINATION WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PROPERTY, INCLUDING WITH RESPECT TO SOIL CONDITIONS, AVAILABILITY OF UTILITIES, DRAINAGE, ZONING LAWS, ENVIRONMENTAL LAWS, AND ANY OTHER FEDERAL, STATE OR LOCAL STATUTES, CODES REGULATIONS OR ORDINANCES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE ASSETS ARE BEING SOLD BY SELLER, AND PURCHASER AGREES TO ACCEPT THE PURCHASED ASSETS, IN "AS-IS" AND "WHERE-IS" CONDITION ON THE CLOSING DATE. PURCHASER ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT (I) PURCHASER HAS HAD AN OPPORTUNITY TO MAKE AN INDEPENDENT INVESTIGATION AND EXAMINATION OF THE ASSETS (AND ALL MATTERS RELATED THERETO), AND TO BECOME FULLY FAMILIAR WITH THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY, AND (II) SELLER AND ITS EMPLOYEES, AGENTS, MEMBERS, DIRECTORS, AND OFFICERS HAVE NOT MADE AND SHALL NOT MAKE ANY VERBAL OR WRITTEN REPRESENTATIONS, WARRANTIES OR STATEMENTS OF ANY NATURE OR KIND WHATSOEVER TO PURCHASER, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE ABOVE, AND, IN PARTICULAR, EXCEPT AS EXPRESSLY SET FORTH HEREIN, NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE OR SHALL BE MADE WITH RESPECT TO (A) THE PHYSICAL CONDITION OR OPERATION OF THE ASSETS, INCLUDING THE EXISTENCE OF ANY ENVIRONMENTAL HAZARDS OR CONDITIONS THEREON (INCLUDING THE PRESENCE OF ASBESTOS OR ASBESTOS CONTAINING MATERIALS OR THE RELEASE OR THREATENED RELEASE OF HAZARDOUS SUBSTANCES), (B) THE REVENUES OR EXPENSES OF THE PROPERTY, (C) THE ZONING AND OTHER LEGAL REQUIREMENTS APPLICABLE TO THE PROPERTY OR THE COMPLIANCE OF THE PROPERTY THEREWITH, (D) THE NATURE AND EXTENT OF ANY MATTER AFFECTING TITLE TO THE PROPERTY, (E) THE QUANTITY, QUALITY, OR CONDITION OF THE ASSETS, OR (F) ANY OTHER MATTER OR THING AFFECTING OR RELATING TO THE PROPERTY, OR ANY PORTION THEREOF, THE INTERESTS THEREIN TO BE

DAL 77,583,503v1

CONVEYED TO PURCHASER PURSUANT TO THE TERMS OF THE TRANSACTIONS CONTEMPLATED HEREBY. PURCHASER ACKNOWLEDGES THAT THE DISCLAIMERS, AGREEMENTS AND OTHER STATEMENTS SET FORTH IN THIS SECTION ARE AN INTEGRAL PORTION OF THIS AGREEMENT.

ARTICLE 4 MISCELLANEOUS

4.1 Entire Agreement. This Agreement sets forth the entire agreement and understanding of the parties with respect to the transactions contemplated hereby, and supersedes all prior agreements, arrangements, and understandings relating to the subject matter hereof.

4.2 Notices. All notices, payments and other required communications ("Notices") to the parties shall be in writing, and shall be addressed, respectively, as follows:

If to Seller:

Attention: _____

If to Purchaser:

Attention: _____

All Notices shall be given (i) by personal delivery, or (ii) by electronic communication, with a confirmation sent by registered or certified mail, return receipt requested, or (iii) by registered or certified mail, return receipt requested. All Notices shall be deemed delivered (i) if by personal delivery, on the date of delivery if delivered during normal business hours, and, if not delivered during normal business hours, on the next business day following delivery, (ii) if by electronic communication, on the date of receipt of the electronic communication, and (iii) if solely by mail, on the date of receipt. A party may change its address by Notice to the other party in accordance with this Section 4.2.

4.3 Applicable Law. All questions concerning the construction, validity and interpretation of this Agreement shall be governed by the internal laws, and not the law of conflicts, of the State of _____.

4.4 Attorneys' Fees. If any legal action is brought by any party hereto, the prevailing party in such legal action shall be entitled to recover from the other party reasonable attorneys' fees in addition to any other relief that may be awarded. For the purposes of this Section, the "prevailing party" shall be the party in whose favor final judgment is entered. If declaratory or injunctive relief alone is granted, the court may determine which, if either, of the parties is the prevailing party. The amount of reasonable attorneys' fees shall be determined by the court.

DAL 77,583,503v1

4.5 Waiver. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.

4.6 Severability. If any term, provision, covenant, or restriction of this Agreement is held by the final, nonappealable order of a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

4.7 Amendments. This Agreement may be amended, modified, or superseded only by written instrument executed by all parties hereto.

4.8 Headings. The Article and Section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent or for any purpose, to limit or define the text of any Article or Section.

4.9 Gender and Number. Whenever required by the context, as used in this Agreement, the singular number shall include the plural and the neuter shall include the masculine or feminine gender, and vice versa.

4.10 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the same counterpart.

[Remainder of page intentionally left blank; signature page follows]

DAL 77,583,503v1

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

Seller:

[NAME]

By: _____
Name: _____
Title: _____

Purchaser:

[NAME]

By: _____
Name: _____
Title: _____

Clifton R. Jessup, Jr.
State Bar No. 10655020
Bruce H. White
State Bar No. 21288850
Bryan L. Elwood
State Bar No. 24029535
GREENBERG TRAURIG, LLP
2200 Ross Ave., Suite 5200
Dallas, Texas 75201
Telephone: 214-665-3600
Facsimile: 214-665-5938

Counsel for Opus West Corporation,
Opus West Construction Corporation, and
O.W. Commercial, Inc.

Peter Franklin
State Bar No. 07378000
Doug Skierski
State Bar No. 24008046
Erin K. Lovall
State Bar No. 24032553
FRANKLIN SKIERSKI LOVALL HAYWARD, LLP
10501 N. Central Expressway, Suite 106
Dallas, Texas 75231
Telephone: 214-702-4061
Facsimile: 214-723-5345

Counsel for Opus West LP and
Opus West Partners, Inc.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:

OPUS WEST CORPORATION, et al.,¹

Debtors.

Chapter 11

Case No. 09-34356-hdh-11

Jointly Administered

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION
OF CERTAIN OF THE DEBTORS' INTERESTS, (B) AUCTION,
(C) OBJECTION DEADLINE, AND (D) FINAL HEARING
(Docket No. 10)

PLEASE TAKE NOTICE THAT, on July 27, 2009, the United States Bankruptcy Court for the Northern District of Texas (the "Court") entered an order (the "Bidding Procedures Order") on the motion (the "Motion") filed as Docket No. 10 with the Court by the above-captioned debtors and debtors-in-possession (the "Debtors") for an order (a) approving the sale of certain assets of the Debtors (the "Interests") free and clear of all liens, claims, encumbrances, restrictions, and other interests pursuant to Sections 105, 363(b), (f), and (m) of

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5355); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS'
INTERESTS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 1
DAL 77,383,541v2

Title 11 of the United States Code (the "Bankruptcy Code"), (b) authorizing the assumption, assignment, and sale of certain executory contracts and unexpired leases pursuant to Sections 363 and 365 of the Bankruptcy Code, (c) approving bidding procedures, and (d) granting related relief.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to and as set forth in the Bidding Procedures Order, certain bidding procedures have been established with regard to the Auction (as defined below) and the disposition of the Interests.²

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, an auction for the disposition of the Interests will take place on August 26, 2009, at 10:00 a.m. (Prevailing Texas Time), at the offices of Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201 (the "Auction").

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, all objections to the Transaction shall be filed with the Bankruptcy Court and served on the Notice Parties on or before August 27, 2009, at 4:00 p.m. (Prevailing Texas Time).

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, a final hearing on the relief sought in the Motion, including the Transaction, will be held before the Court on August 31, 2009, at 9:00 a.m. (Prevailing Texas Time), at the Bankruptcy Court located at 1100 Commerce Street, 14th Floor, Dallas, Texas 75242 (the "Hearing").

PLEASE TAKE FURTHER NOTICE THAT a copy of the Bidding Procedures Order and all attachments thereto, is attached to this Notice as Exhibit "A". Copies of the Motion can be obtained upon request from counsel for the Debtors as identified below.

² Terms not defined in this Notice shall have the same definitions as set forth in the Motion.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS'
INTERESTS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 2
DAL 77,383,541v2

Dated: July 29, 2009

Respectfully Submitted,

/s/ Clifton R. Jessup, Jr.
Clifton R. Jessup, Jr.
State Bar No. 10655020
Bruce H. White
State Bar No. 21288850
Bryan L. Elwood
State Bar No. 24029535
GREENBERG TRAURIG, LLP
2200 Ross Ave., Suite 5200
Dallas, Texas 75201
Telephone: 214-665-3600
Facsimile: 214-665-5938
E-mail: jessupc@gtlaw.com
whiteb@gtlaw.com
elwoodb@gtlaw.com

Counsel for Opus West Corporation,
Opus West Construction Corporation, and
O.W. Commercial, Inc.

-and-

/s/ Peter Franklin
Peter Franklin
State Bar No. 07378000
Doug Skierski
State Bar No. 24008046
Erin K. Lovall
State Bar No. 24032553
FRANKLIN SKIERSKI LOVALL HAYWARD, LLP
10501 N. Central Expressway, Suite 106
Dallas, Texas 75231
Telephone: 214-702-4061
Facsimile: 214-723-5345
E-mail: pfranklin@fhlhllaw.com
dskierski@fhlhllaw.com
elovall@fhlhllaw.com

Counsel for Opus West LP and
Opus West Partners, Inc.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS'
INTERESTS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 3
DAL 77,383,541v2

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of (A) Bidding Procedures for Disposition of Certain of the Debtors' Interests, and (B) Auction, (C) Objection Deadline, and (D) Final Hearing was served on July 29, 2009, (1) upon those parties receiving notice pursuant to the Court's ECF notification system, and (2) by pre-paid, first-class United States mail on those listed on the attached Service List.

/s/ Bryan L. Elwood
Bryan L. Elwood

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS'
INTERESTS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 4
DAL 77,383,541v2

EXHIBIT A



ENTERED
TAWANA C. MARSHALL, CLERK
THIS DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed July 27, 2009

Harold DeWayne Hale
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:

OPUS WEST CORPORATION, et al.,¹

Debtors.

Chapter 11

Case No. 09-34356-hdh-11

Jointly Administered

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION, (2)
APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF
[Docket No. 10]

Upon the joint motion (the "Motion") filed by the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") requesting entry of an order (the "Procedures Order") pursuant to Sections 105, 363(b), (f), and (m), and 365 of Title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"): (1) approving the proposed Bidding

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5535); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 1
DAL 77,577,504v7

Procedures (as defined below) related to the disposition of certain Interests of the Debtors; (2) approving the form, extent, and manner of notice of the Auction, and Final Hearing (each as defined in the Bidding Procedures attached hereto as Exhibit "1" and incorporated herein by reference); and (3) granting related relief; the Court, having reviewed the Motion and the objections thereto and having heard the statements of counsel and considered the agreements of the parties and the evidence presented at a hearing before the Court on the Motion,

FINDS AND CONCLUDES AS FOLLOWS:

A. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N), and (O). Venue of this case and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

B. The Debtors filed the Motion on July 6, 2009, proposing to sell certain interests (the "Interests") they own in certain special purposes entities listed on Exhibit "A" attached to the Motion (collectively, the "Special Purpose Entities"), whether individually or as one or more packages, and seeking approval of certain bidding procedures related to the proposed sales. All Bids will be analyzed on an Interest-by-Interest basis to determine highest and best qualified bid.

C. The statutory and legal predicates for the relief sought in the Motion are Sections 105, 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, and 9014. The Court reserves all of the parties' rights with respect to objections to the potential sale under Section 363 of the Bankruptcy Code, and this Procedures Order does not constitute a ruling that the grounds for a sale under Section 363(f) of the Bankruptcy Code have or have not been satisfied.

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 2
DAL 77,577,504v7

D. The Debtors have articulated good and sufficient reasons for approving the Bidding Procedures and the form and manner of notice of the proposed Cure Amounts, Auction, and the Final Hearing thereon.

E. The Bidding Procedures (as defined below) attached hereto as Exhibit "1" are reasonable and appropriate, and represent the best method, under the circumstances, for maximizing the value of and return for the Interests.

F. The relief granted herein is in the best interests of the Debtors, their estates, creditors, and other parties-in-interest.

G. The Debtors have complied with the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Texas.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Court hereby approves the bidding procedures (the "Bidding Procedures") attached hereto as Exhibit "1". Capitalized terms used herein that are not otherwise defined in this Procedures Order shall have the meaning given thereto in the Bidding Procedures.
3. The Debtors are authorized and empowered to take such steps, expend such sums of money (to the extent authorized herein or under some other financing, cash collateral, or protective advances order), and do such other things as may be necessary to implement and effect the terms and requirements of this Procedures Order.
4. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Procedures Order.
5. The Debtors shall solicit bids for their Interests individually and may solicit bids for groups of Interests with other of the Debtors (each such bid a "Group Bid" and collectively,

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 3
DAL 77,577,504v7

"Group Bids"); provided, however, any Group Bid made by a Qualified Bidder shall detail the allocation of the gross bid price among the individual Interests covered by the Group Bid. In determining highest and best offer, the bids shall be analyzed on an Interest-by-Interest basis.

6. Any fully executed contract memorializing an agreement for the disposition of all or a part of the Interests by and between the Debtors and a purchaser shall be substantially in the form of Bill of Sale and shall be substantially consistent with the terms and conditions thereof.

7. The Debtors are authorized to reject any bid or offer made by a Potential Bidder that, in the exercise of the Debtors' reasonable business judgment, after consultation with the unsecured creditors' committee appointed in this case (the "Committee"), is not in conformity with the terms and conditions of the Bill of Sale or the Bidding Procedures.

8. The original transfer to the Special Purpose Entities of title to the collateral for certain loans (collectively, the "Loans"), and the proposed change in ownership or control contemplated by the sale of the Interests in the Special Purpose Entities, may be events of default under the applicable loan documents related to the Loans (collectively, the "Loan Documents") and/or an abridgment of the rights or claims of a valid lienholder at the project and/or Debtor levels and/or claimant and that the right to declare a default and/or breach, accelerate, or exercise other rights and remedies under the Loan Documents or pursuant to a valid lien or claim is not waived, released, extinguished, or altered by the transfer of the Interests to the Special Purpose Entities or the sale process or ultimate sale. Notwithstanding the fact that the title to the collateral for the Loans is in the name of a Special Purpose Entity, the collateral remains subject to all valid liens, claims, encumbrances, and mortgages of any applicable lienholder, whether such liens, claims encumbrances or mortgages are established by Loan Documents or otherwise.

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,577,504v7

9. The failure of any objecting person or entity to timely file and serve its objection to the Motion, the transactions contemplated thereby, or the Debtors' consummation and performance of any Modified Bill of Sale, including the assumption and assignment of the Assigned Contracts, on or before the Objection Deadline shall be a bar to the assertion, at the Final Hearing or thereafter, of any objection to the Motion, the Auction, or the Debtors' consummation and performance of any Modified Bill of Sale, including the assumption and assignment of the Assigned Contracts, if authorized by the Court.

10. Unless otherwise provided in this Procedures Order, any sale of the Interests pursuant to the Motion, this Procedures Order, and any other order of the Court approving a sale shall be free and clear of all claims, including, but not limited to, claims, liens, interest, restrictions, and encumbrances on the Interests.

11. The Debtors (a) shall determine, in their sole reasonable business judgment with respect to the Interests subject to a Qualified Bid, after consultation with the Committee, which Qualified Bid is the Winning Bid, after considering, among other things, the total consideration to be received by the Debtors' estate with respect to any Interest after taking into account the payment of liabilities to be assumed by each Qualified Bidder, (b) at the conclusion of the Auction, shall announce its determination as to the Winning Bidder submitting the Successful Bid with respect to any Interests; and (c) may reject, at any time before entry of a final order granting the relief sought in the Motion, any Qualified Bid that, in the Debtors' sole reasonable business judgment, after consultation with the Committee, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, this Procedures Order, or the terms and conditions of the Bill of Sale, or (iii) contrary to the best interest of the Debtors, their respective estates, and/or their creditors.

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,577,504v7

12. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

13. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

End of Order

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL 77,577,504v7

Exhibits to this Order (1) Approving Bidding Procedures in Advance of Auction, (2) Approving Form and Manner of Notice of Proposed Cure Amounts, Auction, and Final Hearing, and (3) Granting Related Relief have been previously filed as Docket No. 179.

ORDER (1) APPROVING BIDDING PROCEDURES IN ADVANCE OF AUCTION,
(2) APPROVING FORM AND MANNER OF NOTICE OF PROPOSED CURE AMOUNTS,
AUCTION, AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 7
DAL 77,577,504v7

Exhibit "1"

Bidding Procedures

The following bidding procedures (the "Bidding Procedures") shall govern all proceedings relating to the Proposed Sale requested in that certain *Joint Motion of the Debtors for Orders: (i) Authorizing the Sale of Their Interests in Certain Entities Free and Clear of Liens, Claims, Interests, Restrictions and Encumbrances; (ii) Establishing Bidding Procedures and Scheduling an Expedited Hearing Relating to the Approval Thereof; (iii) Approving the Form of Notice Related to the Auction and Sale Hearing; and (iv) Scheduling Sale Approval Hearing Immediately After Auction* (the "Motion"):

1. **Assets to Be Sold.** The assets the subject of these Bidding Procedures are the following: The Debtor's interests in certain special purpose entities named in Exhibit "A" attached to the Motion (collectively, the "Interests").
2. **Potential Bidders.** Parties interested in participating in the bidding process ("Potential Bidders") may participate in the sale process. Potential Bidders will be required to deliver to the Debtors (to the extent not already delivered) the following:
 - (a) An executed confidentiality agreement in form and substance acceptable to the Debtors; and
 - (b) The most current financial information evidencing the Potential Bidder's ability to close the transaction that meets with the Debtors' satisfaction (the "Financial Information"). As promptly as practicable after a Potential Bidder delivers the above information, the Potential Bidder shall be eligible to access information regarding the Interests. The Debtors reserve the right to refuse any Potential Bidder access to the due diligence materials if such access is deemed to be harmful to the Debtors' estates.
3. **Deadline for Submission of Bids.** The deadline for Potential Bidders submitting any and all competing bids shall be on or before **August 21, 2009, at 5:00 p.m. (Prevalence Texas Time)** (the "Bid Deadline").
4. **Submission of Bids by Potential Bidders.** In order to qualify as a potential Qualified Bidder (as defined below) of any Interests, a Potential Bidder must timely submit a written bid for a portion or all of the Interests that:
 - (a) Contains an executed bill of sale, a form of which is attached hereto as Exhibit "1" (the "Bill of Sale"), marked to show all modifications thereto (a "Modified Bill of Sale"), wherein the Potential Bidder identifies:
 - (i) Which of the Interests the Potential Bidder seeks to acquire;
 - (ii) To the extent the total bid submitted relates to Interests in more

DAL 77,577,423-6

than one entity, the allocation of such total bid between such Interests bid upon by such Potential Bidders; and

- (ii) Which of the Debtors' executory contracts and unexpired leases related to the Interests such bidder seeks to assume and the proposed cure terms.
- (b) Includes a blacklined copy of the Modified Bill of Sale showing all changes made to the Bill of Sale.
- (c) Does not contain:
 - (i) A request for any type of expense reimbursement or similar type of payment; or
 - (ii) Any due diligence, financing contingencies, or other contingency of any kind not otherwise contained in the Bill of Sale.
- (d) Is accompanied by evidence of authorization and approval from such Potential Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery, and closing of the Modified Bill of Sale.
- (e) Is accompanied by financial and other information regarding such Potential Bidder's financial condition and capability to consummate the transactions contemplated by the Modified Bill of Sale and which will allow the Debtors to make a reasonable determination as to whether such written bid is a Qualified Bid, including, without limitation:
 - (i) The most current Financial Information of such Potential Bidder; or
 - (ii) If the Potential Bidder is an entity formed for the purpose of acquiring Interests then:
 - (1) The Financial Information of the equity holder(s) of the Potential Bidder or such other form of financial disclosure acceptable to the Debtors; and
 - (2) The written commitment of such equity holder(s) to be responsible for the Potential Bidder's obligations in connection with the acquisition of Interests.
- (f) Discloses fully the identity of each entity that will be bidding for Interests or otherwise participating in connection with such Qualified Bid, and the complete terms of any such participation.
- (g) Discloses fully the terms of the proposed employment of any of Debtors'

DAL 77,577,423-6

employees, management, or officers in connection with such bid.

- (b) Is accompanied by a cash deposit in an amount equal to 30% of the total purchase price set forth in the Modified Bill of Sale (a "Deposit").
- (c) Permits the Debtors, pursuant to the local rules of the Court, to maintain reasonable access to its books and records following the closing of any sale of an Asset, as necessary for the administration of its bankruptcy case and estate.
- (d) Is delivered to (i) Debtors' counsel such that it is received by the close of business on the Bid Deadline by the following individuals: (1) Clifton R. Jessup, Jr., Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201, and (2) Peter Franklin, Franklin Siderick Lovell Hayward, LLP, 10501 N. Central Expressway, Suite 106, Dallas, Texas, 75231; and (ii) counsel for the unsecured creditors' committee appointed in these cases (the "Committee"), Gardner Wynne Sowell LLP, Attn: Deirdre B. Ruckman, 1601 Elm Street, Suite 3000, Dallas, Texas, 75201 (collectively, the "Notice Parties").
5. **Qualification of Bid.** After a Potential Bidder has delivered a bid, the Debtors, will, after consultation with the Committee, determine whether such Potential Bidder is a "Qualified Bidder" and such bid is a "Qualified Bid." Promptly after making such determination, the Debtors will advise such bidder of this determination. The Debtors reserve the right to reject any bid for whatever reason, after consultation with the Committee, including but not limited, to the amount of any offer made by a Potential Bidder.
6. **Auction.** The Debtors will conduct an auction with the Qualified Bidders to determine the highest or best bid for the Interests beginning at **10:00 a.m. (Prevalence Texas Time) on August 26, 2009, at the law offices of Greenberg Traurig, LLP located at 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201** (the "Auction"). The Auction may be adjourned by announcement of the adjournment at the Auction to those parties who appear at the Auction. Each Qualified Bid other than the opening bid is referred to as a "Subsequent Bid." At the conclusion of the Auction, or as soon thereafter as practicable, the Debtors shall: (a) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the process, the Debtors' estates, and the Transactions, including those factors affecting the speed and certainty of consummating the Transactions; (b) identify, after consultation with the Committee, the highest or otherwise best offer(s) for each Asset received at the Auction (the "Winning Bid", and the bidder(s) making such bid, the "Winning Bidder"); and (c) designate any Back-Up Bidders (as defined below).
7. **Auction Procedures.** The Auction will be conducted as follows:

DAL 77,577,423-6

- (a) The Auction will be conducted openly and all of the Debtors' creditors will be permitted to attend.
- (b) Only Qualified Bidders may make any subsequent Qualified Bids at the Auction.
- (c) At least one (1) business day prior to the Auction, each Qualified Bidder who has submitted timely a Qualified Bid or their representatives must inform the Debtors whether it or its representative intends to attend and to participate in the Auction. Failure to comply with this provision may preclude an otherwise Qualified Bidder from attending and/or participating in the Auction.
- (d) All Qualified Bidders who have submitted a Qualified Bid or their representative must be present for all Subsequent Bids with the understanding that the true identity of each bidder shall be fully disclosed to all other bidders and that all material terms of each Subsequent Bid, upon requests, will be disclosed to all the bidders throughout the entire Auction.
- (e) All Qualified Bidders shall agree to remain ready, willing, and able to close a Transaction with respect to specific Interests under the terms of their last Qualified Bid submitted at or before such Auction with respect to specific Interests as the back-up bidder (the "Back-Up Bidder" and such last bid, the "Back-Up Bid") until the earlier of (i) the close of the Transaction with respect to the specific Interests, or (ii) September 4, 2009, and shall close if the Winning Bidder fails to close, if, as, and when determined by the Debtors to be the new Winning Bidder.
- (f) The Debtors may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction, provided that such rules are not inconsistent with these Bidding Procedures, the Bankruptcy Code, or any order entered in connection herewith.
- (g) Bidding at the Auction shall begin with the highest or otherwise best Qualified Bid. The bidding shall be in minimum increments to be set by the Debtors at the Auction. The Auction shall also continue in one or more rounds of bidding and shall conclude after each participating bidder has had the opportunity to submit one or more additional Subsequent Bids with full knowledge of the then-existing highest bid or bids.
- (h) Each Qualified Bidder shall represent and certify in writing at the Auction that it is not engaged in any collusion with respect to the bidding or sale.
- (i) Immediately after the Auction, the deposit for the Winning Bid shall be increased to 30% of the Winning Bid amount by the Winning Bidder.

DAL 77,577,423-6

Clifton R. Jessup, Jr.
State Bar No. 10635020
Bruce H. White
State Bar No. 21288850
Bryan L. Elwood
State Bar No. 24029535
GREENBERG TRAUJIG, LLP
2200 Ross Ave., Suite 5200
Dallas, Texas 75201
Telephone: 214-665-3600
Facsimile: 214-665-5938

Counsel for Opus West Corporation,
Opus West Construction Corporation, and
O.W. Commercial, Inc.

Peter Franklin
State Bar No. 07378000
Doug Skierski
State Bar No. 24008046
Erin K. Lovall
State Bar No. 24032553
FRANKLIN SKIERSKI LOVALL HAYWARD, LLP
10501 N. Central Expressway, Suite 106
Dallas, Texas 75231
Telephone: 214-702-4061
Facsimile: 214-723-5345

Counsel for Opus West LP and
Opus West Partners, Inc.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:

OPUS WEST CORPORATION, et al.,

Debtors.

Chapter 11

Case No. 09-34356-bdh-11

Jointly Administered

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION
OF CERTAIN OF THE DEBTORS' ASSETS, (B) AUCTION,
(C) OBJECTION DEADLINE, AND (D) FINAL HEARING
[Docket No. 11]

PLEASE TAKE NOTICE THAT, on July 27, 2009, the United States Bankruptcy Court for the Northern District of Texas (the "Court") entered an order (the "Bidding Procedures Order") on the motion (the "Motion") filed as Docket No. 11 with the Court by the above-captioned debtors and debtors-in-possession (the "Debtors") for an order (a) approving the Bidding Procedures and Bid Protections related to the disposition of certain of the Debtor's Purchased Assets (the "Purchased Assets")¹, free and clear of all liens, claims, encumbrances,

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5535); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

² Terms not defined in this Notice, shall have the same definitions as set forth in the Motion.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' ASSETS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 1
Dkt. 77,623,740v1

restrictions, and other interests pursuant to Sections 105, 363(b), (f), and (m) of Title 11 of the United States Code (the "Bankruptcy Code"), (b) approving the form, extent, and manner of notice of the Auction and Final Hearing, and (c) granting related relief.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to and as set forth in the Bidding Procedures Order, certain bidding procedures have been established with regard to the Auction (as defined below) and the disposition of the Purchased Assets.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, an auction for the disposition of the Purchased Assets will take place on August 27, 2009, at 10:00 a.m. (Prevailing Texas Time), at the offices of Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201 (the "Auction").

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, all objections to the Transaction shall be filed with the Bankruptcy Court and served on the Notice Parties on or before August 28, 2009, at 12:00 p.m. (Prevailing Texas Time),

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the Bidding Procedures Order, a final hearing on the relief sought in the Motion, including the Transaction, will be held before the Court on August 31, 2009, at 9:00 a.m. (Prevailing Texas Time), at the Bankruptcy Court located at 1100 Commerce Street, 14th Floor, Dallas, Texas 75242 (the "Hearing").

PLEASE TAKE FURTHER NOTICE THAT a copy of the Bidding Procedures Order and all attachments thereto, is attached to this Notice as Exhibit "A". Copies of the Motion and the APA can be obtained upon request from counsel for the Debtors as identified below.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' ASSETS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 2
Dkt. 77,623,740v1

Dated: July 29, 2009

Respectfully Submitted,

/s/ Clifton R. Jessup, Jr.
Clifton R. Jessup, Jr.
State Bar No. 10655020
Bruce H. White
State Bar No. 21288850
Bryan L. Elwood
State Bar No. 24029535
GREENBERG TRAUJIG, LLP
2200 Ross Ave., Suite 5200
Dallas, Texas 75201
Telephone: 214-665-3600
Facsimile: 214-665-5938
E-mail: jessupc@gtlaw.com
whiteb@gtlaw.com
elwoodb@gtlaw.com

Counsel for Opus West Corporation,
Opus West Construction Corporation, and
O.W. Commercial, Inc.

-and-

/s/ Peter Franklin
Peter Franklin
State Bar No. 07378000
Doug Skierski
State Bar No. 24008046
Erin K. Lovall
State Bar No. 24032553
FRANKLIN SKIERSKI LOVALL HAYWARD, LLP
10501 N. Central Expressway, Suite 106
Dallas, Texas 75231
Telephone: 214-702-4061
Facsimile: 214-723-5345
E-mail: pfranklin@fslhlaw.com
dskierski@fslhlaw.com
elovall@fslhlaw.com
Counsel for Opus West LP and
Opus West Partners, Inc.

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' ASSETS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 3
Dkt. 77,623,740v1

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of (A) Bidding Procedures for Disposition of Certain of the Debtors' Assets, and (B) Auction, (C) Objection Deadline, and (D) Final Hearing was served on July 29, 2009, (1) upon those parties receiving notice pursuant to the Court's ECF notification system, and (2) by pre-paid, first-class United States mail on those listed on the attached Service List.

/s/ Bryan L. Elwood
Bryan L. Elwood

NOTICE OF (A) BIDDING PROCEDURES FOR DISPOSITION OF CERTAIN OF THE DEBTORS' ASSETS, (B) AUCTION, (C) OBJECTION DEADLINE, AND (D) FINAL HEARING - Page 4
Dkt. 77,623,740v1



ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S BOOKS

The following constitutes the ruling of the court and has the force and effect therein described.

Harold DeWayne Hale

Signed July 27, 2009

United States Bankruptcy Judge

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:

OPUS WEST CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-34356-hdh-11

Jointly Administered

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS
IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF
[Docket No. 11]

Upon the motion (the "Motion") filed by Opus West Corporation, a debtor and debtor-in-possession in the above-referenced case (the "Debtor") requesting entry of an order pursuant to Sections 105, 363(b), (f), and (m), and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, and 6006 for, *inter alia*, entry of an order (the "Procedures Order"): (1) approving proposed Bidding Procedures and Bid Protections (each as defined below) related to the

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Opus West Corporation (1533); Opus West Construction Corporation (5917); Opus West LP (5533); Opus West Partners, Inc. (5537); and O.W. Commercial, Inc. (9134).

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 1
DAL77,662,663-4

disposition of certain of the Debtor's Purchased Assets (the "Purchased Assets"), as more particularly identified in the *Asset Purchase Agreement*, dated July 1, 2009 (the "APA"); (2) approving the form, extent, and manner of notice of the Auction and Final Hearing (each as defined below); and (3) granting related relief; the Court, having reviewed the Motion and the objections thereto and having heard the statements of counsel and considered the evidence presented at a hearing before the Court on the Motion,

THE COURT FINDS AND CONCLUDES AS FOLLOWS:

A. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N), and (O). Venue of this case and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. The Debtor filed the Motion on July 6, 2009, proposing to sell the Purchased Assets to the Purchaser, and approval of the Bidding Procedures related to the proposed Transaction.

C. The statutory and legal predicates for the relief sought in the Motion are, *inter alia*, Sections 105, 363, 365, and 1146 of Title 11 of the United States Code (the "Bankruptcy Code"), and Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 2002, 6004, 6006, and 9014.

D. The Debtor has articulated good and sufficient reasons for approving the Bidding Procedures and the Bid Protections and the form and manner of notice of the Auction and the Final Hearing thereon.

E. The Purchaser has expended substantial time and expense in this matter, resulting in the executed APA, and this has provided significant value to the Debtor.

² Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Motion and the APA.

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 3
DAL77,662,663-4

F. The Bidding Procedures and the Bid Protections are reasonable and appropriate, and represent the best method for maximizing the return for the Purchased Assets.

G. The relief granted herein is in the best interests of the Debtor, its estate, creditors, and other parties-in-interest.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted, subject to reconsideration of the Break-Up Fee under Section 328 of the Bankruptcy Code. The final hearing on the Motion is set for August 31, 2009, at 9:00 a.m. (Prevailing Texas Time), before the United States Bankruptcy Court for the Northern District of Texas at which time the Court shall consider the Motion, confirm the results of the Auction, if any, and approve the Transaction (the "Final Hearing").

2. Objections to the Motion must be filed and served such that they are received by the Notice Parties no later than 12:00 p.m. (Prevailing Texas Time) on August 28, 2009 (the "Objection Deadline").

3. The failure of any objecting person or entity to file and serve its objection to the Motion, the Transaction, or the Debtor's consummation and performance of the APA on or before the Objection Deadline shall be a bar to the assertion, at the Final Hearing or thereafter, of any objection to the Motion, the Auction, the Transaction, or the Debtor's consummation and performance of the APA if authorized by the Court.

4. The Debtor is authorized and empowered to take such steps, expend such sums of money, and do such other things as may be necessary to implement and effect the terms and requirements of this Procedures Order.

5. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Procedures Order.

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 1
DAL77,662,663-4

6. Notice of the Procedures Order, Auction, and Final Hearing shall be good and sufficient, and no other or further notice shall be required, if given as soon as practicable after the Court's entry of this Procedures Order, the Debtor (or its agents) shall serve a copy of this Procedures Order by first-class United States mail, postage pre-paid, upon (a) the Office of the United States Trustee, (b) counsel for the Purchaser, (c) any persons who have entered an appearance in the case or otherwise requested notice, (d) all entities known to have expressed an interest in a transaction with respect to the Purchased Assets during the past twelve months (12) months, (e) all entities known to have a present interest in the Purchased Assets; (f) all federal, state, and local regulatory or taxing authorities or recording offices which have a known interest in the relief requested by the Motion; (g) all secured creditors of the Debtor; (h) all known unsecured creditors of the Debtor; (i) the Texas Attorney General's office; (j) counsel for the committee of unsecured creditors appointed in this case (the "Committee"); (k) all persons or entities entitled to receive notice pursuant to the Bankruptcy Rules, the Local Rules of the Court, or other applicable law; and (l) all other entities identified on the Debtor's Official Service List.

7. Any final agreement purporting to memorialize an agreement for the disposition of substantially all of the Debtor's Purchased Assets by and between the Debtor and either the Purchaser or the Successful Bidder, as the case may be, shall be substantially in the form of the APA and shall be substantially consistent with the terms and conditions thereof.

8. The Debtor is authorized to reject any bid or offer that, in the Debtor's sole discretion, after consultation with the Committee, is not in conformity with the terms and conditions of the APA.

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 4
DAL77,562,563W

9. The Court hereby approves the following bidding procedures (the "Bidding Procedures"), which procedures shall govern all proceedings relating to the APA and any subsequent bids for the Purchased Assets in this case:

a. **Potential Bidder.** Parties interested in participating in the bidding process (each person other than the Purchaser, a "Potential Bidder") will be required to deliver to the Debtor (to the extent not already delivered) the following:

- An executed confidentiality agreement in form and substance acceptable to the Debtor; and
- The most current financial information evidencing the Potential Bidder's ability to close the transaction that meets with the Debtor's satisfaction (the "Financial Information"), in consultation with the Committee.

As promptly as practicable after a Potential Bidder delivers the above information, the Potential Bidder shall be eligible to commence due diligence with respect to the Property as defined in the APA. The Debtor, in consultation with the Committee, reserves the right to refuse any Potential Bidder access to the due diligence materials if such access is deemed to be harmful to the Debtor's estate.

b. **Deadline for Submission of Bids.** The deadline for submitting any and all competing bids shall be on or before August 21, 2009, at 5:00 p.m. (Prevailing Texas Time) (the "Bid Deadline").

c. **Submission of Bids.** In order to qualify as a potential Qualified Bidder (as defined below) of the Purchased Assets, a Potential Bidder must timely submit a written bid (a "Qualified Bid") for the Purchased Assets that:

- Contains an executed asset purchase agreement in substantially the same form with all modifications, which shall be no less favorable than those proposed by the Purchaser in the APA (a "Modified APA").
- The Modified APA shall be accompanied by a blacklined copy of the Modified APA showing all changes made to the APA.
- The Modified APA shall not contain:
 - A request for any type of break-up fee, expense reimbursement, or similar type of payment; or

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 5
DAL77,562,563W

2. Any due diligence, financing contingencies, or other contingency of any kind.

iv. Evidence of authorization and approval from such Potential Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery, and closing of the APA or the Modified APA, as the case may be.

v. Information regarding such Potential Bidder's financial capability to consummate the transactions contemplated by the APA or Modified APA, as the case may be, containing such financial and other information that will allow the Debtor, in consultation with the Committee, to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transactions contemplated by the APA or the Modified APA, as the case may be, including, without limitation:

- The most current Financial Information of such Potential Bidder; or
- If the Potential Bidder is an entity formed for the purpose of acquiring the Property then:

A. The Financial Information of the equity holder(s) of the Potential Bidder or such other form of financial disclosure acceptable to the Debtor; and

B. The written commitment of such equity holder(s) to be responsible for the Potential Bidder's obligations in connection with the acquisition of the Assets.

vi. Discloses fully the identity of each entity that will be bidding for the Property or otherwise participating in connection with such Qualified Bid, and the complete terms of any such participation.

vii. Discloses fully the terms of the proposed employment of any of Debtor's employees, management, or officers in connection with such bid.

viii. Is in an amount that exceeds the amount initially bid by the Purchaser in the APA (the "Stalking Horse Bid") by not less than \$1,700,000 Purchase Price; plus a three percent (3%) breakup fee (\$51,000) and an over bid amount of \$50,000 for a total over bid of not less than \$1,801,000.

ix. Is accompanied by a cash deposit in an amount equal to \$180,000 (the "Deposit").

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 6
DAL77,562,563W

x. Is delivered to the following parties (except items under subsections (v) and (viii) above are only to be delivered to the Debtor and Debtor's counsel) such that they are received by the close of business on the Bid Deadline: (1) the Debtor's Chief Restructuring Officer, Attn: John Greer, 2555 East Camelback Road, Suite 800, Phoenix, AZ 85016; (2) the Debtor's counsel, Greenberg Traurig, LLP, Attn: Clifton R. Jessup, Jr., 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201; (3) counsel for the Committee, Gardere Wynne Sewell LLP, Attn: Deirdre B. Ruckman, 1601 Elm Street, Suite 3000, Dallas, Texas, 75201; and (4) the Purchaser, Arbeit Investments Limited Partnership, 10350 Buena Vista, West Mittenka, MN 55343, Attn: Suzanne Flannigan (the "Notice Parties").

d. **Qualification of Bid.** After a Potential Bidder has delivered a bid, the Debtor, in consultation with the Committee, will determine whether such Potential Bidder is a "Qualified Bidder" and such bid is a "Qualified Bid." Promptly after making such determination, the Debtor will advise such bidder of this determination. The Debtor, in consultation with the Committee, reserves the right to reject any bid if such bid is on terms that are materially more burdensome or conditional than the terms of the APA.

e. **Auction.** In the event that one or more competitive Qualified Bids other than that of the Purchaser are received, the Debtor will conduct an auction to determine the highest or best bid for the Assets beginning at 10:00 a.m. (Prevailing Texas Time) on August 27, 2009, at the law offices of Greenberg Traurig, LLP, 2200 Ross Avenue, Suite 5200, Dallas, Texas, 75201 (the "Auction"). The Auction may be adjourned by announcement of the adjournment at the Auction to those parties who appear at the Auction. Each Qualified Bid other than the opening bid is referred to as a "Subsequent Bid." If Debtor does not receive any Qualified Bids other than the Stalking Horse Bid in the APA received from Purchaser, the Debtor will report the same to the Court and will promptly proceed with the Transaction pursuant to the terms of the APA, upon entry of an order approving the Transaction.

At the conclusion of the Auction, or as soon thereafter as practicable, the Debtor, in consultation with its financial advisors and the Committee, shall: (i) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the process, including those factors affecting the speed and certainty of consummating the Transaction; (ii) identify the highest or otherwise best offer(s) for the Assets received at the Auction (the "Highest Bid"), and the bidder(s) making such bid, the "Highest Bidder"; and (iii) designate the Back-Up Bidder.

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 7
DAL77,562,563W

f. **Auction Procedures.** In the event an Auction is necessary, such Auction will be conducted as follows:

- i. Only the Debtor, the Purchaser, any representative of the Committee, and any Qualified Bidder who has timely submitted a Qualified Bid (and the legal and financial advisers to each of the foregoing) may attend the Auction, and only the Purchaser and the other Qualified Bidders may make any subsequent Qualified Bids at the Auction.
- ii. At least one (1) business days prior to the Auction, each Qualified Bidder who has submitted timely a Qualified Bid must inform the Debtor whether it or its representative intends to participate in the Auction. Failure to comply with this provision may preclude an otherwise Qualified Bidder from attending and/or participating in the Auction.
- iii. All Qualified Bidders who have submitted a Qualified Bid or its representative shall be entitled to be present for all Subsequent Bids with the understanding that the true identity of each bidder shall be fully disclosed to all other bidders and that all material terms of each Subsequent Bids (including any Subsequent Bid by Purchaser) will, upon request, be fully disclosed to all other bidders throughout the entire Auction.
- iv. All Qualified Bidders or their representatives (including the Purchaser) shall agree to remain ready, willing, and able to close the Transaction under the terms of its last Qualified Bid (including the Stalking Horse Bid by Purchaser, if Purchaser is the designated Back-Up Bidder) submitted at or before such Auction as the sole back-up bidder (the "Back-Up Bidder" and such last bid, the "Back-Up Bid") until the earlier of (1) the close of the Transaction, or (2) September 4, 2009, and shall close if the Highest Bidder fails to close, if, as, and when determined by the Debtor to be the new Highest Bidder.
- v. The Debtor, in consultation with the Committee, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction, provided that such rules are not inconsistent with these Bidding Procedures, the Bankruptcy Code, or any order entered in connection herewith.
- vi. Bidding at the Auction shall begin with the highest or otherwise best Qualified Bid. The bidding shall be in minimum increments

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 8
DAL77,562,563M

of at least \$50,000 higher than the previous bid or bids (after giving effect to the minimum required to exceed the Stalking Horse Bid for each bid to be determined to be a Qualified Bid). The Auction shall also continue in one or more rounds of bidding and shall conclude after each participating bidder has had the opportunity to submit one or more additional Subsequent Bids with full knowledge of the then-existing highest bid or bids. For the purpose of evaluating the value of the consideration provided by Subsequent Bids (including any Subsequent Bid by Purchaser), the Debtor must give effect to any Break-Up Fee that may be payable to the Purchaser under the APA such that the Purchaser's bid in an amount that is as much as \$51,000 less than a competing bid in fact matches any such Qualified Bid.

- vii. Purchaser shall be entitled to cancel any outstanding amounts owed by Debtor due pursuant to the priority security financing extended to the Debtor by the Purchaser and use such cancellations as a credit or offset (the "Credit Amount") against the purchase price for the assets, including principal, interest, fees, and expenses, and also including using the Credit Amount as a portion of any "bid" submitted for the Property.
- viii. The credit bid rights of any secured party, including the Purchaser, shall be preserved in accordance with Section 363(k) of the Bankruptcy Code (provided that cash payment of the Bid Protections shall still apply).

g. **Bid Protections.** In the event that the Debtor consummate any Alternative Transaction, including a sale of all or a substantial portion of the Purchased Assets by a competing bid from a party other than the Purchaser, or the confirmation of any Chapter 11 Plan, within 180 days of the execution of the APA, the Purchaser shall be entitled to a fee of three percent (3%) of the Purchase Price (\$51,000) (the "Break-Up Fee"), to be paid from the proceeds of the closing of such transaction. The Break-Up Fee shall be payable to the Purchaser as a super-priority administrative expense claim under Section 507(b) of the Bankruptcy Code. In no event shall the Purchaser be entitled to the Break-Up Fee if the APA is terminated under Section 4.4(b) thereof.

h. **Final Hearing.** The Court has scheduled the Final Hearing to approve the Transaction on August 31, 2009, at 9:00 a.m. (Prevailing Texas Time). All objections to the Transaction shall be filed with the Bankruptcy Court and served on the Notice Parties by the Objection Deadline. The Highest Bidder and the Back-Up Bidder must produce a competent witness at the Final Hearing (and any subsequent hearing) to provide testimony, if necessary, to establish adequate assurance of future performance by each

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 8
DAL77,562,563M

such bidder under the unexpired leases and executory contracts to be assigned to such bidder, to the extent required by Sections 365(b) of the Bankruptcy Code. At the Final Hearing, the Debtor will request that the Court approve the Transaction with regard to the Back-Up Bidder in the event the contemplated Transaction with the Highest Bidder does not timely close; in which case such Back-Up Bidder shall become the Highest Bidder without further order of the Court. The Highest Bidder (if other than the Purchaser) shall be substituted for the Purchaser under the APA (as amended to reflect terms of the Highest Bidder's bid) and the proposed Order.

- i. **Closing.** Closing shall take place on or before September 2, 2009, and shall be only upon such order becoming a final order, except upon the waiver of this prerequisite (of a final order) by the Highest Bidder.
- j. **Return of Deposits.** The Deposits of all Qualified Bidders (except for the Highest Bidder) shall be held in non-interest-bearing escrow account. Notwithstanding the foregoing, the Deposit, if any, submitted by the Highest Bidder, shall be applied against the payment of the Purchase Price upon closing of the Transaction with the Highest Bidder. Except as otherwise provided in the APA and herein, all Deposits shall be returned to each Qualified Bidder not selected by the Debtor as either the Highest Bidder or the Back-Up Bidder within five (5) business days of the adjournment of the Auction. The Deposit of the Back-Up Bidder, to the extent not designated as the Highest Bidder, shall be returned to the Back-Up Bidder within five (5) business days of the date of closing the Transaction.

10. The Break-Up Fee is approved as actual and necessary costs and expenses of preserving the Debtor's bankruptcy estate within the meaning of, and are entitled to the priority provided under, Sections 503(b)(1)(A) and 507(a)(1) of the Bankruptcy Code and constitute binding obligations on the Debtor's estate. Such amounts shall be paid at the time and under the circumstances set forth in the APA.

11. The Debtor shall allow the Purchaser to submit an equivalent bid to any Qualified Competing Bid that Debtor receives. The Purchaser is deemed to be a Qualified Bidder for all purposes hereunder.

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 10
DAL77,562,563M

12. The Debtor (a) shall determine, in its business judgment, after consultation with the Committee, which Qualified Bid is the Highest Bid, after considering, among other things, the total consideration to be received by the Debtor's estate after taking into account the payment of the Break-Up Fee and the amount of liabilities to be assumed by each bidder, (b) at the conclusion of the Auction, shall announce its determination as to the Highest Bidder submitting the Successful Bid, and (c) may reject, at any time before entry of a final order granting the relief sought in the Motion, any bid that, in the Debtor's sole discretion, after consultation with the Committee, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code, the Bidding Procedures, or the terms and conditions of the APA, or (iii) contrary to the best interest of the Debtor, its estate, and/or its creditors.

13. The credit bid rights of any secured party are preserved in accordance with Section 363(k) of the Bankruptcy Code (provided that cash payment of the Bid Protections shall still apply).

14. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

15. Notwithstanding the possible applicability of Bankruptcy Rules 6004(b), 7062, 9014, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

End of Order

ORDER (1) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS IN
ADVANCE OF AUCTION, (2) APPROVING FORM AND MANNER OF NOTICE OF
AUCTION AND FINAL HEARING, AND (3) GRANTING RELATED RELIEF - PAGE 11
DAL77,562,563M

(j) Bidding at the Auction may be transcribed or videotaped.

8. **Final Hearing.** A hearing to approve the Transactions (the "Final Hearing") will be held on August 31, 2009, at 9:00 a.m. (Prevailing Texas Time). All objections to any Transaction, including the assumption and assignment of any Assigned Contract and the proposed Cure Amount, shall be filed with the Bankruptcy Court and served on the Notice Parties on or before August 27, 2009, at 4:00 p.m. (Prevailing Texas Time) (the "Objection Deadline"). The Winning Bidder(s) and any Back-Up Bidder(s) must produce a competent witness at the Final Hearing (and any subsequent hearing) to provide testimony, if necessary, to establish adequate assurance of future performance by each such bidder under the unexpired leases and executory contracts to be assigned to such bidder, to the extent required by Sections 365(b) of the Bankruptcy Code. At the Final Hearing, the Debtors will request that the Court approve each Transaction with regard to the Back-Up Bidder in the event the contemplated Transaction with the Winning Bidder does not timely close; in which case such Back-Up Bidder shall become the Winning Bidder without further order of the Court. At the hearing or promptly thereafter, the Court shall enter an order providing that the interests are being purchased free and clear of all liens, claims, restrictions and encumbrances.
9. **Notice of Auction and Final Hearing.** Within two (2) business days after the Court's entry of this Procedures Order, the Debtors (or its agents) shall serve a copy of the form of sale notice attached to the Motion as Exhibit "C" by first-class United States mail, postage pre-paid, upon (a) the Office of the United States Trustee, (b) any persons who have entered an appearance in the case or otherwise in writing requested notice, (c) all entities known to have expressed an interest in a transaction with respect to the Interests during the past twelve months (12) months, (d) all entities known to have a present interest in the Interests; and (e) counsel for the Committee formed pursuant to Section 1102 of the Bankruptcy Code (if any hereafter is formed).
10. **Cure Notice.** On or before July 31, 2009, the Debtors shall file with the Court and serve by first-class United States Mail, postage pre-paid, on all non-debtor parties to executory contracts and unexpired leases that may be assumed and assigned (collectively, the "Assigned Contracts") a copy of the Cure Notice (as defined in the Motion) of (a) the Debtors' intent to make the Assigned Contracts available for assumption and assignment, and (b) the proposed cure amount (the "Cure Amount"). Each non-debtor party to an Assigned Contract shall have until August 27, 2009, at 4:00 p.m. (Prevailing Texas Time), to object to the assumption and assignment of the Assigned Contract or the Cure Amount. If objecting to the Cure Amount, the non-debtor party must state in its objection with specificity what Cure Amount it believes is required and the default to which it relates (with appropriate documentation in support thereof). Any objection to the Cure Amounts that is timely filed and served by any non-debtor party to an Assigned Contract in accordance with the Cure Notice, and which is not otherwise resolved by the parties, shall be heard and resolved by the Court at the

DAL 77,577,422v6

Final Hearing. If no objection is timely filed and served, the Assigned Contract may be assumed and assigned to any purchaser on the closing date of the applicable Transaction, and the Cure Amount set forth in the Cure Notice shall be binding on the non-debtor party, notwithstanding anything to the contrary in any Assigned Contract or any other document. The non-debtor party to the Assigned Contract shall be forever barred from asserting any other claims against the Debtors, any purchaser, or their property that arise out of or relate to the Assigned Contract, the interests, or the Transaction. Each non-debtor party to an Assigned Contract shall be served with a copy of the Court's order authorizing the assumption and assignment of any such contract(s) within five (5) business days after the entry of such order. Within two (2) business days after the Auction, the Debtors shall file with the Court a list of which Assigned Contracts each Winning Bidder intends to have assumed and assigned to it.

11. **Closing.** The closing of a Transaction shall take place on or before September 2, 2009, except upon the waiver of this requirement by the Debtors.
12. **Return of Deposits.** The Deposits of all Qualified Bidders (except for the Winning Bidder) shall be held in a non-interest bearing escrow account. Notwithstanding the foregoing, any Deposit, if any, submitted by the Winning Bidder, shall be applied against the payment of the Purchase Price upon closing of the Transaction with the Winning Bidder. Except as otherwise provided in a Modified Bill of Sale and herein, all Deposits shall be returned to each Qualified Bidder not selected by the Debtors as either the Winning Bidder or the Back-Up Bidder within five (5) business days of the adjournment of the Auction. The Deposit of the Back-Up Bidder, to the extent not designated as the Winning Bidder, shall be returned to the Back-Up Bidder within five (5) business days of the date of closing the Transaction with respect to the related Interests.

DAL 77,577,422v6

Exhibit "I" to Bidder Procedures

BILL OF SALE AND ASSIGNMENT OF MEMBERSHIP/STOCK INTEREST

THIS BILL OF SALE AND ASSIGNMENT OF [MEMBERSHIP/STOCK] INTEREST IN _____ (the "Assignment Agreement") is made and entered into as of the _____ day of _____, 2009, by and between _____, a _____ ("Assignor"), and _____, a _____ ("Assignee").

RECITALS:

WHEREAS, Assignor is [a] [the sole] member of _____, a _____ limited liability company [a] [the sole] shareholder of the _____, [which owns all of the issued and outstanding stock of _____, a _____] (the "Company");

WHEREAS, Assignor desires to sell and transfer to Assignee all of Assignor's right, title, and interest in and to the Company (the "Assigned Interest");

WHEREAS, Assignee desires to acquire the Assigned Interest;

NOW, THEREFORE, for and in consideration of the promises, warranties, and mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Sale and Assignment of Assigned Interest.** Assignor does hereby sell, assign, transfer, convey and deliver to the Assignee, and the Assignee hereby purchases from the Assignor, all of the Assignor's right, title and interest in and to the Assigned Interest, including, but not limited to, all right, title, and interest of Assignor in and to the properties (real and personal), capital, cash flow distributions, profits, and losses of the Company attributable to the Assigned Interest.

2. **Purchase Price.** Assignee hereby agrees to pay and will pay to Assignor the amount of \$ _____ in cash simultaneously upon the execution and delivery of this Assignment Agreement.

3. **Representations of Assignor.** Assignor warrants and represents to Assignee that (i) Assignor is the owner of the Assigned Interest, and (ii) Assignor has the power and authority to assign the Assigned Interest in accordance with this Assignment Agreement.

4. **AS-IS. EXCEPT AS OTHERWISE PROVIDED HEREIN, ASSIGNEE ACKNOWLEDGES THAT THE ASSIGNED INTEREST IS BEING TRANSFERRED ON AN**

DAL 77,583,492v1

"AS IS" BASIS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND WHATSOEVER BY ASSIGNOR.

5. **Assumption.** Solely for the benefit of Assignor, Assignee hereby agrees to assume all liabilities and obligations of Assignor to the Company with respect to the Assigned Interest attributable to the period beginning as of the date of this Assignment Agreement.

6. **Successors and Assigns.** This Assignment Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors, and assigns.

7. **Governing Law.** This Assignment Agreement is being executed and delivered and is intended to be performed in the State of _____, and the substantive laws of such state shall govern the validity, construction, enforcement, and interpretation of this Assignment Agreement.

8. **Counterparts.** This Assignment Agreement may be executed in several counterparts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument.

(Signature Page Follows)

DAL 77,583,492v1

IN WITNESS WHEREOF, this Assignment Agreement is executed as of the day and
year first above written.

ASSIGNOR:

By: _____

Name: _____

Title: _____

ASSIGNEE:

By: _____

Name: _____

Title: _____