


United States Bankruptcy Court NORTHERN District of Texas		PROOF OF CLAIM
Name of Debtor Opus West Construction Corporation		Case Number 09-34360-HDH
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503		
Name of Creditor (the person or other entity to whom the debtor owes money or property) Stewart Builders, Inc.		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: Filed on:
Name and address where notices should be sent: C/o Craig E. Power Cokinos, Bosien & Young Four Houston Center 1221 Lamar, 16 TH Floor Houston, Texas 77010 Telephone number: 713-535-5528		
<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p style="font-size: 24px; margin: 0;">RECEIVED</p> <p style="font-size: 24px; margin: 0;">NOV 09 2009</p> <p style="font-size: 24px; margin: 0;">BMC GROUP</p> </div>		
Name and address where payment should be sent (if different from above):		<input type="checkbox"/> Check this box if you are aware that anyone else has fled 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.
1. Amount of Claim as of Date Case Filed: \$ <u>411,834.70</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not completed 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. A copy of the itemized statement of all interest or additional charges must be provided to debtor's attorney and trustee.		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)(4). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(). Amount entitled to priority: \$ _____ <i>* Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>
2. Basis of Claim: <u>Construction Services and Materials Supplied</u>		
3. Last four digits of any number by which creditor identifies a debtor: _____ 3a. Debtor may have scheduled account as: _____		
4. Secured Claim 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"/> Other Describe: _____ 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 of Secured Claim: \$ _____ Amount Unsecured: \$411,834.70		
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 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: 11/06/2009 Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. /s/ Craig E. Power, Attorney and Agent		FOR COURT USE ONLY OPUS WEST  00452

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.

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AFFIDAVIT FOR STATUTORY AND CONSTITUTIONAL
MECHANIC'S AND MATERIALMAN'S LIEN

THE STATE OF TEXAS]

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS]

STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK, Claimant, of 16565 Village Drive, Houston, Texas 77040, a Texas limited partnership, acting by and through its Vice-President, MARK A. STEWART, makes oath and states as follows for the purpose of perfecting a statutory and constitutional lien on the property and improvements herein described:

That Claimant, from December 2008 through April 2009 (retainage) and from February 2009 through April 2009 (progress billings), furnished the labor and materials required to provide and install earthwork, sanitary sewer, water distribution, storm sewer, and other site work for the construction of improvements to the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas, pursuant to a contract with OPUS WEST CONSTRUCTION CORP., whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, and which materials were used in construction of the project generally described as follows: construction of improvements to the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas.

That, as a result of the furnishing of said labor and materials, OPUS WEST CONSTRUCTION CORP. is indebted to Claimant in the amount of ONE HUNDRED FORTY-EIGHT THOUSAND SEVEN HUNDRED FORTY AND 50/100 DOLLARS (\$148,714.50) for labor and materials provided to the project and for retainage. That said amount is just, reasonable and unpaid.

That STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK is the original contractor on the job or that portion of the job for which the above described materials were furnished pursuant to the provisions of § 53.026 of the Texas Property Code. Alternatively, OPUS WEST CONSTRUCTION CORP. is the original contractor on the job or that portion of the job for which the above-described materials were furnished.

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That OPUS WEST LP, whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, is the owner or reputed owner of the real property upon which the above-described project is located and that OPUS WEST LP is the owner or reputed owner of the improvements located thereon.

By letters dated December 12, 2008, and May 1, 2009, forwarded to said owner via certified mail, return receipt requested, Claimant provided said owner of the project with written notice of this claim.

That the real property upon which the above-described project is located is generally described as follows and more commonly known as the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas, being a part of:

Restricted Reserves "A" and "B," Block One (1), in CROSSINGS AT FORT BEND PARKWAY, a subdivision in Harris County, Texas, according to the map or plat thereof recorded at Film Code No. 597210 of the Map Records of Harris County, Texas;

SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTIES:

Tract 1: Being all of that certain tract or parcel containing 0.6887 acres (30,000 square feet) of land situated in the C. W. Adams Survey, Abstract Number 101 and being out of and a part of Restricted Reserve "A", Block 1 of Crossings At Fort Bend Parkway, a subdivision of record at Film Code Number 597210 of the map Records, Harris County, Texas, said 0.6887 acres being more particularly described in Special Warranty Deed recorded at Document Number 20060236239 in the Official Public Records of Real Property of the County Clerk of Harris County, Texas.

Tract 2: Being all that certain tract or parcel containing 11.7452 acres (511,621 square feet) of land, situated partially in the C.W. Adams Survey, Abstract Number 101 and the T.T.R.R. Co. Survey, Abstract No. 1005 Harris County, Texas, and being out of and a part of the residue of a called 63.948 acres, known as Tract H-1, conveyed to Max A. Friedman, Trustee, recorded under Clerk's File Number P772865, Harris County, Texas, said 11.7452 acres being more particularly described in Special Warranty Deed recorded at Document Number 2273239 in the Official Public Records of Real Property of the County Clerk of Harris County, Texas.

Tract 3: Being all that certain tract or parcel containing 1.174 acres (51,118 square feet) of land, situated in the C.W. Adams Survey, Abstract Number 101 and the T.T.R.R. Co. Survey, Abstract Number 1005 Harris County, Texas, and being a portion of Restricted Reserve "A" of Crossings At Fort Bend Parkway, a subdivision of record at Film Bode Number 597210 of the Map Records, Harris County, Texas, said 1.174 acres being more particularly described in Special Warranty Deed recorded in at Document Number 20060053974 in the Official Public Records of Real Property of the County Clerk of Harris County, Texas.

That the improvements located upon said real property are generally described as follows: construction of improvements to the Crossings at Fort Bend Parkway project located at Beltway 8 and Fort Bend Parkway, Houston, Harris County, Texas.

Affiant's principal claim is a lien upon said building and improvements above-described and upon said land upon which said building and improvements are situated. Said lien is a prior lien to any other lien for removables that may be removed without material injury to the real property. This lien is claimed in accordance with Chapter 53 of the Property Code of the State of Texas and in accordance with the Constitution of the State of Texas.

Affiant further makes oath and states that he is duly authorized to make this Affidavit for Statutory and Constitutional Mechanic's and Materialman's Lien on behalf of STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK.

STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK

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BY: Mark A. Stewart
Mark A. Stewart, Vice-President

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this the 30th day of April, 2009, to certify which witness my hand and seal of office.



Diane Hendrix
Notary Public, State of Texas

2009 MAY -1 PM 2:25
FILED
COUNTY CLERK
HARRIS COUNTY, TEXAS

06-1-11-09590

THE STATE OF TEXAS]

COUNTY OF HARRIS]

This instrument was acknowledged before me on this the 30th day of April, 2009, by MARK A. STEWART, Vice-President of STEWART BUILDERS, INC. DBA KEYSTONE SITEWORK, on behalf of corporation.



Diane Hendrix
Notary Public, State of Texas

PREPARED IN THE LAW OFFICES OF:
PLEASE RETURN TO:

LAMM & SMITH, P.C.
3730 Kirby Drive, Ste. 650
Houston, Texas 77098

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW, THE STATE OF TEXAS, COUNTY OF HARRIS.
I hereby certify that this instrument was FILED in its number Sequence on the date and at time stamped herein by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County Texas on

MAY -1 2009



Dorothy L. Hayden
COUNTY CLERK
HARRIS COUNTY, TEXAS

REC-106-4-0951

0934014

20090183682
05/01/2009 RP2 \$24.00

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AFFIDAVIT FOR STATUTORY AND CONSTITUTIONAL
MECHANIC'S AND MATERIALMAN'S LIEN

THE STATE OF TEXAS]

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS]

STEWART BUILDERS, INC. DBA KEYSTONE CONCRETE PLACEMENT, Claimant, of 16565 Village Drive, Houston, Texas 77040, a Texas limited partnership, acting by and through its Vice-President, MARK A. STEWART, makes oath and states as follows for the purpose of perfecting a statutory and constitutional lien on the property and improvements herein described:

That Claimant, from July 2008 through January 2009 (retainage), furnished the labor and materials required to provide and install slab foundations, topping, paving, column footing, sidewalk, and other concrete work for the construction of improvements to Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, Harris County, Texas, pursuant to a contract with OPUS WEST CONSTRUCTION CORP., whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, and which materials were used in construction of the project generally described as follows: construction of improvements to Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, Harris County, Texas.

That, as a result of the furnishing of said labor and materials, OPUS WEST CONSTRUCTION CORP. is indebted to Claimant in the amount of TWO HUNDRED SIXTY-THREE THOUSAND ONE HUNDRED TWENTY AND 20/100 DOLLARS (\$263,120.20) for labor and materials provided to the project and for retainage. That said amount is just, reasonable and unpaid.

That STEWART BUILDERS, INC. DBA KEYSTONE CONCRETE PLACEMENT is the original contractor on the job or that portion of the job for which the above described materials were furnished pursuant to the provisions of § 53.026 of the Texas Property Code. Alternatively, OPUS WEST CONSTRUCTION CORP. is the original contractor on the job or that portion of the job for which the above-described materials were furnished.

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That OPUS WEST LP, whose mailing address is 15455 N. Dallas Parkway, #450, Addison, Texas 75001, is the owner or reputed owner of the real property upon which the above-described project is located and that OPUS WEST LP is the owner or reputed owner of the improvements located thereon.

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By letters dated March 14, 2008, and May 1, 2009, forwarded to said owner via certified mail, return receipt requested, Claimant provided said owner of the project with written notice of this claim.

That the real property upon which the above-described project

is located is generally described as follows and more commonly known as Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, Harris County, Texas, being a part of:

A tract of land containing approximately 16.898 acres, more or less, out of the David Middleton Survey, Abstract 535, Harris County, Texas, as more fully described in Special Warranty Deed with KT6-A Corporation as Grantor and Opus West LP as Grantee recorded under Clerk's File No. 20070373880 in the Official Public Records of Real Property of Harris County, Texas


And also being described as Unrestricted Reserve "A," Block One (1), and Unrestricted Reserves "B" and "C," Block Two (2), in ENERGY CROSSING, a subdivision in Harris County, Texas, according to the map or plat thereof recorded at Film Code No. 617276 (File Number 20070679952) of the Map Records of Harris County, Texas.

That the improvements located upon said real property are generally described as follows: construction of improvements to Energy Crossing, Phase I, located at 15021 Katy Freeway, Katy, Harris County, Texas.

Affiant's principal claim is a lien upon said building and improvements above-described and upon said land upon which said building and improvements are situated. Said lien is a prior lien to any other lien for removables that may be removed without material injury to the real property. This lien is claimed in accordance with Chapter 53 of the Property Code of the State of Texas and in accordance with the Constitution of the State of Texas.

Affiant further makes oath and states that he is duly authorized to make this Affidavit for Statutory and Constitutional Mechanic's and Materialman's Lien on behalf of STEWART BUILDERS, INC. DBA KEYSTONE CONCRETE PLACEMENT.

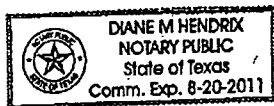
STEWART BUILDERS, INC. DBA KEYSTONE
CONCRETE PLACEMENT

BY: 
Mark A. Stewart, Vice President

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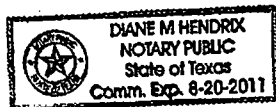
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, on this the 30th day of April, 2009, to certify which witness my hand and seal of office.



Diane Hendrix
Notary Public, State of Texas

THE STATE OF TEXAS]
COUNTY OF HARRIS]

This instrument was acknowledged before me on this the 30th day of April, 2009, by MARK A. STEWART, Vice-President of STEWART BUILDERS, INC. DBA KEYSTONE CONCRETE PLACEMENT, on behalf of corporation.



Diane Hendrix
Notary Public, State of Texas

PREPARED IN THE LAW OFFICES OF:
PLEASE RETURN TO:

LAMM & SMITH, P.C.
3730 Kirby Drive, Ste. 650
Houston, Texas 77098

2009 MAY - 1 PM 2:25
FILED
County Clerk
HARRIS COUNTY TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW. THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in the number Sequence on the date and at the stamped herein by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County Texas on

MAY - 1 2009



Cassidy L. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

- 1) CONTRACT
- 2) CHANGE ORDERS
- 3) PAY APPLICATION

DATE	APP #	AMOUNT
4/20/2008	34014-01	382,855.86
5/20/2008	34014-02	225,922.68
6/20/2008	34014-03	671,734.17
7/20/2008	34014- 4	324,552.96
8/20/2008	34014-05	112,905.00
9/20/2008	34014-06	112,905.00
10/20/2008	34014-07	112,905.00
11/20/2008	34014-08	345,160.80
12/20/2008	34014-09	13,562.10
1/20/2009	34014-10	65,578.23
2/20/2009	34014-RG	263,120.20
		2,631,202.00

Northern District of Texas Claims Register

09-34360-hdh11 Opus West Construction Corporation

Judge: Harlin DeWayne Hale **Chapter:** 11

Office: Dallas

Last Date to file claims:

Trustee:

Last Date to file (Govt):

<i>Creditor:</i> (12787000) Stewart Builders, Inc. c/o Craig E. Power Four Houston Center 1221 Lamar, 16th Floor Houston, Texas 77010	Claim No: 10 <i>Original Filed</i> Date: 11/06/2009 <i>Original Entered</i> Date: 11/06/2009	<i>Status:</i> Filed by: CR Entered by: Power, Craig Modified:
Unsecured claimed: \$411834.70 Total claimed: \$411834.70		
<i>History:</i> <u>Details</u> <u>10-1</u> 11/06/2009 Claim #10 filed by Stewart Builders, Inc., total amount claimed: \$411834.7 (Power, Craig)		
<i>Description:</i> (10-1) Construction Services and Materials Supplied		
<i>Remarks:</i>		

Claims Register Summary