


B 10 (Official Form 10) (12/08)

<b>UNITED STATES BANKRUPTCY COURT</b>		<b>PROOF OF CLAIM</b>
Name of Debtor: <b>Opus West Construction Corporation</b>		Case Number: <b>09-BK-34360</b>
<i>NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.</i>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>Austin Commerical Masonry, LLC</b>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  Court Claim Number: _____ (If known)  Filed on: _____
Name and address where notices should be sent: <b>N. West Short c/o West Short &amp; Associates, P.C. 313 West 10th Street Georgetown, Texas 78626</b>		
Telephone number: <b>(512) 864-3911</b>		
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 filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number:		
1. Amount of Claim as of Date Case Filed: \$ <u>48,643.43</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim.  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4).  <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).  <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).  <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).  <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)( ).  Amount entitled to priority: \$ _____  *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
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.		
2. Basis for Claim: <u>Texas Trust Fund Statute</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 checked="" 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: \$ <u>48,643.43</u> Basis for perfection: <u>Tx Trust Fund S</u>  Amount of Secured Claim: \$ <u>48,643.43</u> Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See 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: <b>11/09/2009</b>	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.  <i>Travis D. White</i> for <b>N. WEST SHORT, attorney-at-law for Creditor</b>	
		FOR COURT USE ONLY  OPUS WEST  00518



AF CLAIM 2009067032

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STATE OF TEXAS

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**AFFIDAVIT FOR MECHANIC'S AND MATERIALMAN'S LIEN**

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared JASON HARRISON, who, after being duly sworn, upon his oath deposed and stated as follows:

1. "My name is Jason Harrison, and I am over 18 years of age and am in all respects competent and authorized to make this affidavit. All facts recited in this affidavit are based upon my personal knowledge and are true and correct.
2. I am the Project Manager for **AUSTIN COMMERCIAL MASONRY, LLC** (the "Claimant"), and whose business address is P.O. Box 1414, Georgetown, Texas 78627. I am duly authorized to make and do make this affidavit on behalf of said Claimant.
3. Claimant furnished labor and materials pursuant to a contract with **OPUS WEST CONSTRUCTION CORPORATION** (the "Contractor"), whose last known address is 15455 N. Dallas Parkway, Addison, Texas 75001. Contractor is also known to use the address 2555 E. Camelback Road, Suite 800, Phoenix, Arizona 85016. Said labor and materials were used to make improvements to real property in the State of Texas.
4. The owners or reputed owner of the real property described herein is **HILL COUNTRY GALLERIA, L.P.** (the "Owner"), and whose last known address is 2555 E. Camelback Road, Suite 800, Phoenix, Arizona 85016. Owner is also known to use the address c/o Joel Despain, 101 E. Old Settlers Blvd., Suite 230, Round Rock, Texas 78664-2159.
5. The labor, materials, and/or work furnished by Claimant are generally described as follows: stone masonry and related labor and materials for Anchor 2A. Labor and materials were supplied in March 2009 and April 2009.
6. The real property, located at 4005 F.M. 620 South, Bee Cave, Texas 78738, sought to be charged with a lien by Claimant is described as follows:

Lot 1, Block "A" of HILL COUNTRY GALLERIA, a subdivision in Travis County, Texas, according to the map or plat recorded as the Amended Final Plat, Hill Country Galleria of Lots 1-8 and 10-26, Block A, Lots 1-3 and 5-8, Block B and Lot 1, Block A, under Document Number 200700378, in the Official Public Records of Travis County, Texas.

7. Based on information provided by Contractor that Contractor is the original contractor as defined under Section 53.001(7) of the TEXAS PROPERTY CODE, Claimant is a sub-contractor for the improvements for which a lien is claimed, and all notices required by the TEXAS PROPERTY CODE will be sent to the Owner and Contractor as specified therein. Alternatively, Contractor is, and was at all times relevant, the agent of the Owner with

respect to the improvements to the real property described herein, Claimant is an original contractor as defined under Section 53.001(7) of the TEXAS PROPERTY CODE, and all notices required by the TEXAS PROPERTY CODE will be sent to the Owner as specified therein. As of the date of this Affidavit, the following notices were sent:

**Notice Addressee & Method Sent**

**Date Sent**

VIA CM/RRR NO. 7008 1140 0002 5938 8824

April 24, 2009

COPY VIA REGULAR MAIL

Opus West Construction Corporation  
15455 N. Dallas Parkway  
Addison, Texas 75001

VIA CM/RRR NO. 7008 1140 0002 5938 8831

April 24, 2009

COPY VIA REGULAR MAIL

Opus West Construction Corporation  
2555 E. Camelback Road, Suite 800  
Phoenix, Arizona 85016

VIA CM/RRR NO. 7008 1140 0002 5938 8848

April 24, 2009

COPY VIA REGULAR MAIL

Hill Country Galleria, L.P.  
2555 E. Camelback Road, Suite 800  
Phoenix, Arizona 85016

VIA CM/RRR NO. 7008 1140 0002 5938 8855

April 24, 2009

COPY VIA REGULAR MAIL

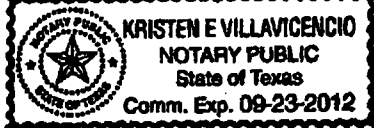
Hill Country Galleria, L.P.  
c/o Joel Despain  
101 E. Old Settlers Blvd., Suite 230  
Round Rock, Texas 78664-2159

8. After allowing all just credits, offsets, and payments, but before considering the attorney's fees incurred by Claimant or any interest or penalties that will accrue, whether under the TEXAS PROMPT PAY ACT or otherwise, the amount of \$47,864.00 currently remains unpaid and is due and owing to Claimant under its contract with Contractor, and Claimant claims a lien on said property and improvements under the provisions of Chapter 53 of the TEXAS PROPERTY CODE to secure payment of said amount. Said amount is just and reasonable.
9. In the event that Contractor is, and was at all relevant times, the agent or alter ego of the Owner and Claimant is, therefore, an original contractor as defined under Section 53.001(7) of the TEXAS PROPERTY CODE, Claimant also claims a constitutional lien on such property pursuant to the provisions of Article 16, Section 37, of the TEXAS CONSTITUTION.
10. One copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the Owner at his last known address, and one copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to Contractor at its last known address.

11. Further, affiant sayeth not."

Jason Harrison, Project Manager  
Austin Commercial Masonry, LLC

SUBSCRIBED AND SWORN TO before me by the said JASON HARRISON on this 24th day of April, 2009, to certify which witness my hand and official seal of office.



Notary Public in and for the State of Texas

AFTER RECORDING, RETURN TO:

WEST SHORT & ASSOCIATES, P.C.  
313 West 10th Street  
Georgetown, Texas 78626

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

2009 Apr 27 02:31 PM 2009067032

FERGUSONLL \$24.00

DANA DEBEAUVOIR COUNTY CLERK  
TRAVIS COUNTY TEXAS

# 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> (12791505) Austin Commercial Masonry, LLC c/o West Short & Associates, P.C. 313 West 10th Street Georgetown, Texas 78626	<b>Claim No: 20</b> <i>Original Filed</i> Date: 11/09/2009 <i>Original Entered</i> Date: 11/09/2009	<i>Status:</i> Filed by: CR Entered by: Short, Noel Modified:
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Secured claimed: \$48649.43 <b>Total claimed: \$48649.43</b>
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<i>History:</i> <u>Details</u> <u>20-1</u> 11/09/2009 Claim #20 filed by Austin Commercial Masonry, LLC, total amount claimed: \$48649.43 (Short, Noel )
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<i>Description:</i> (20-1) Texas Trust Fund Statute/Mechanic's Lien
<i>Remarks:</i>

## Claims Register Summary