


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

<b>UNITED STATES BANKRUPTCY COURT</b> Northern District of Texas		<b>PROOF OF CLAIM</b>
Name of Debtor: <b>In re Opus West Corporation</b>		Case Number: <b>09-34356</b>
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. § 303.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>Qualtex, Inc.</b>		Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: <b>Qualtex, Inc.                  906 Stanley Dr., Euless, Texas 76040</b>		Court Claim Number: _____ (if known)
Telephone number: <b>(817) 540-3337</b>		Filed on: _____
Name and address where payment should be sent (if different from above):		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.
Telephone number:		Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed:      \$ <u>80,917.10</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.  Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).  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).  Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).  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).  Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).  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.  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>Interior/exterior painting</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: \$ _____ Basis for perfection: <u>Mechanic's lien</u>  Amount of Secured Claim: \$ <u>80,917.10</u> Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)  DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.  If the documents are not available, please explain:		
Date: <u>11/9/09</u>	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  <u>Roy Fran - Vice President, Qualtex Inc</u>	
		FOR COURT USE ONLY  OPUS WEST  00539

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.

**QUALTEX, INC.**

906 Stanley Drive  
Euless, Texas 76040

Telephone No.: (817) 540-3337

Facsimile No.: (817) 540-3338

May 12, 2009

Certified #7008 1300 0001 7023 3739  
Return Receipt Requested and  
Federal Express  
Opus West LP  
Opus West Corporation  
2555 East Camelback Road, Suite 800  
Phoenix, AZ 85016

Certified #7008 1300 0001 7023 3746  
Return Receipt Requested and  
Federal Express  
Opus West Construction Corporation  
15455 N. Dallas Parkway, Suite 450  
Addison, TX 75001

Certified #7008 1300 0001 7023 3753  
Return Receipt Requested and  
Federal Express  
Opus West Construction Corporation  
2555 East Camelback Road, Suite 800  
Phoenix, AZ 85016

Certified #7008 1300 0001 7023 3760  
Return Receipt Requested and  
Federal Express  
Opus West Construction Corporation  
c/o Tax Department  
10350 Bren Road West  
Minnetonka, MN 55343

RE: Notice of Unpaid Account  
Project: 121 Lakepointe Crossing Phase 2  
2525 East State Highway 121  
Lewisville, Texas  
Amount Unpaid: \$80,917.10

Dear Sirs/Madams:

Qualtex, Inc. has furnished labor and materials to the above-referenced project under a contract with Opus West Construction Corporation. There remains due and owing \$80,917.10 for such labor and materials furnished to Opus West Construction Corporation as more fully set forth on the attached pay applications sent to Opus West Construction Corporation.

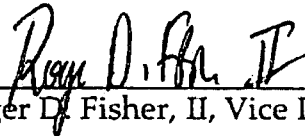
This claim has accrued under § 53.053 of the Texas Property Code and/or is past-due under the terms of the contract referenced above. Demand is hereby made under §53.083 of the Texas Property Code for payment of the amount set forth above.

This notice is sent to comply with the requirements of § 53.056 of the Texas Property Code, which requires that we advise you that if this claim remains unpaid, you may be personally liable and your property subjected to a lien unless payment is withheld from Opus West Construction Corporation for the payment of this claim or unless the bill is otherwise paid or settled.

Opus West LP, et al.  
Page 2

Pursuant to the laws of the State of Texas, attached is a copy of a Lien Affidavit  
and Claim filed of record.

QUALTEX, INC.

By:   
Roger D. Fisher, II, Vice President

LAM:  
Enclosures

**QUALTEX, INC.**  
906 Stanley Drive  
Eules, Texas 76040

Telephone No.: (817) 540-3337

Facsimile No.: (817) 540-3338

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**Statement of Account**

<u>Date</u>	<u>Invoice No./Pay Application No.</u>	<u>Amount</u>
2/25/2009	OPUS15-1/No. 1*	\$ 13,653.90
3/25/09	OPUS15-2/No. 2 *	29,288.61
4/24/09	OPUS15-3/No. 3*	29,882.88
	Retainage (Not yet billed)	<u>8,091.71</u>

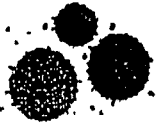
**Amount Due, Owing  
And Unpaid:**

**\$80,917.10**

\*Copies attached

Invoice #:

OPUS15-1



QUALTEX, INC.

906 Stanley Drive  
Eules, Texas 76040  
817/540-3337  
817/540-3338 Fax

Invoice Date:

February 25, 2009

Opus West  
15455 N. Dallas Parkway  
Suite 450  
Addison, TX 75001

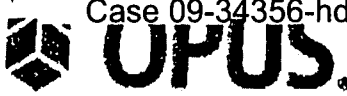
This Invoice is Billing for 13% Completion of Work 10% Retainage Withheld for Project  
121 Lakepointe Crossing Phase 2 Project#97306

13,653.90

Sales Tax

TOTAL DUE

\$13,653.90



**SI CONTRACTOR APPLICATION FOR PAYMENT**

Project Name: 121 Lakewood Crossing Phase 2  
 Subcontractor: Qualtex Inc  
 Supplier #: 1007598  
 Address: 906 Stanley Drive  
Eulless, TX 76040  
 Phone: 817-540-3337  
 Remittance Address: OPUS West Construction Corporation  
Attn: Accounts Payable  
15455 N. Dallas Parkway, Suite 450  
Addison, TX 75001

Project Number: 97306  
 Date of Application: 02/25/09  
 Application Number: 1  
 Period From: 01/24/09 Period To: 02/25/09

**CONTRACT INFORMATION**

ITEM	SALES TAX (5% if applicable)	TOTAL (\$)
ORIGINAL CONTRACT AMOUNT		516,558.00
OPUS APPROVED CHANGE ORDER # 1 thru #		
<b>CONTRACT AMOUNT TO DATE TOTAL</b>		<b>516,558.00</b>

**APPLICATION INFORMATION**

A Total Completed & Shown to Date \$ 15171.00  
 B Less Retainage 10 % \$ 1517.10  
 C Total Earned less Retainage (A - B) \$ 13653.90  
 D Less Previous Billings (previous req's line C) \$ 0.00  
 E Current Payment Due (C - D) \$ 13653.90  
 F Balance to Finish, Plus Retainage (E - A + B) \$ 102,904.10  
 G Current Gross Amount Completed This Period \$ 15171.00

SUBCONTRACTOR: Qualtex Inc Supplier #: 1007598

BY: [Signature]

DATE: February 25, 2009

**APPLICATION BREAKDOWN**

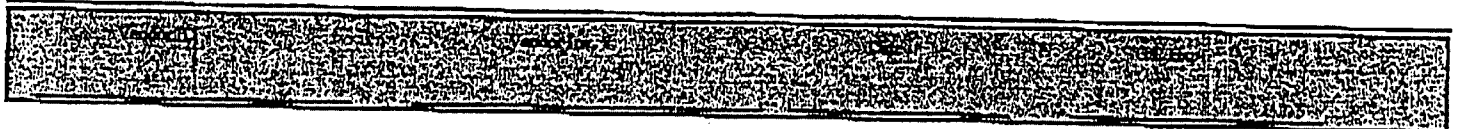
THIS SECTION MUST BE COMPLETED IN ORDER FOR THIS PAYMENT TO BE PROCESSED BY OPUS

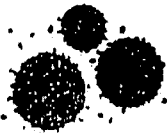
Account Code	Description	Current Contract Amount	Work Completed		Total Work Complete	Percent Complete	Retainage This Application	Net Payment
			From Previous Application	This Period				
97306.10-E10-09921.00-3	Painting-Interior - Subcontract	\$74,743.00			I + G	A / H		G - K
97306.20-E10-09925.00-5	Painting-Exterior - Subcontract	\$41,815.00						
	<b>Total</b>	<b>\$116,558.00</b>						
		<b>H</b>	<b>I</b>	<b>G</b>	<b>A</b>	<b>J</b>	<b>K</b>	<b>E</b>

Entered By: \_\_\_\_\_  
 Accounting Date

Approved By: \_\_\_\_\_  
 Project Manager Date

SHADED AREA FOR OPUS ACCOUNTING USE ONLY





**QUALTEX, INC.**

906 Stanley Drive  
 Euless, TX 76040  
 817/540-3337  
 817/540-3338 Fax

# Invoice

Date	Invoice #
3/25/2009	OPUS15-2

Bill To
Opus West Construction Corporation 2555 E. Camelback Rd., Suite 800 Phoenix, AZ 85016 Attn: Accounts Payable

Project Name	Project#
121 Lakepointe Crossing 2	97306

Description	Pay App#	Value Less Retainage	Total Due
This Invoice is Billing for 40% of Completion of Work Less 10% Retainage Withheld Sales Tax	2	29,288.61	29,288.61  0.00

<b>Total</b>	\$29,288.61
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$29,288.61



**SUBCONTRACTOR APPLICATION FOR PAYMENT**

Project Name: 121 Lakewood Crossing Phase 2  
 Subcontractor: Qualtex Inc  
 Supplier #: 1007598  
 Address: 906 Stanley Drive  
Euleuss, TX 76040  
 Phone: 817-540-3337  
 Remittance Address: OPUS West Construction Corporation  
Attn: Accounts Payable  
15455 N. Dallas Parkway, Suite 450  
Addison, TX 75001

Project Number: 97306  
 Date of Application: 3/25/09  
 Application Number: 2  
 Period From: 03/01/09 Period To: 03/31/09

**CONTRACT INFORMATION**

ITEM	SALES TAX (5% if applicable)	TOTAL (\$)
ORIGINAL CONTRACT AMOUNT		\$116,558.00
OPUS APPROVED CHANGE ORDER thru # 1		\$1,880.00
<b>CONTRACT AMOUNT TO DATE TOTAL</b>		<b>\$118,438.00</b>

**APPLICATION INFORMATION**

A Total Completed & Stored to Date \$ 47713.90  
 B Less Retainage 10 % \$ 4771.39  
 C Total Earned less Retainage (A - B) \$ 42,942.51  
 D Less Previous Billings (previous req's line C) \$ 13653.90  
 E Current Payment Due (C - D) \$ 29288.61  
 F Balance to Finish, Plus Retainage (H - A + B) \$ 75495.49  
 G Current Gross Amount Completed This Period \$ 32542.90

SUBCONTRACTOR: Qualtex Inc Supplier #: 1007598  
 BY: [Signature]  
 DATE: March 25, 2009

**APPLICATION BREAKDOWN**

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

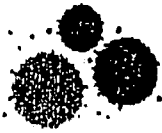
Account Code	Description	Current Contract Amount	Work Completed		Total Work Complete	Percent Complete	Retainage This Application	Net Payment
			From Previous Application	This Period				
97306.10-E10-09925.00-3	Painting-Exterior - Subcontract	576,623.00			I - G	A / E		G - E
97306.20-E10-09925.00-3	Painting-Exterior - Subcontract	341,815.00						
	<b>Total</b>	<b>\$918,438.00</b>						
			H	I	G	A	J	K

Entered By: \_\_\_\_\_ Accounting Date \_\_\_\_\_ Approved By: \_\_\_\_\_ Project Manager Date \_\_\_\_\_

SHADED AREA FOR OPUS ACCOUNTING USE ONLY







**QUALTEX, INC.**

906 Stanley Drive  
 Euless, TX 76040  
 817/540-3337  
 817/540-3338 Fax

# Invoice

Date	Invoice #
4/24/2009	OPUS15-3

Bill To
Opus West Construction Corporation 2555 E. Camelback Rd., Suite 800 Phoenix, AZ 85016 Attn: Accounts Payable

Project Name	Project#
121 Lakepointe Crossing 2	97306

Description	Pay App#	Value Less Retainage	Total Due
This Invoice is Billing for 68% of Completion of Work Less 10% Retainage Withheld Sales Tax	3	29,882.88	29,882.88  0.00

<b>Total</b>	<b>\$29,882.88</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$29,882.88</b>



SL INTRACTOR APPLICATION FOR PAYMENT

Project Name: 121 Lakepoints Crossing Phase 2 Project Number: 97306  
 Subcontractor: Qualtek Inc Date of Application: 4/24/09  
 Supplier #: 1007598  
 Address: 906 Stanley Drive Application Number: 3  
 Euless, TX 76040 Period From: 04/11/2009 Period To: 04/30/2009  
 Phone: 817-540-3337  
 Remittance Address: OPUS West Construction Corporation  
 Attn: Accounts Payable  
 15455 N. Dallas Parkway, Suite 450  
 Addison, TX 75001

CONTRACT INFORMATION

ITEM	SALES TAX (S)(if applicable)	TOTAL (\$)
ORIGINAL CONTRACT AMOUNT		\$116,558.00
OPUS APPROVED CHANGE ORDER # 1 thru # <u>1</u>		1880.00
CONTRACT AMOUNT TO DATE TOTAL		118,438.00

APPLICATION INFORMATION

A Total Completed & Stored to Date \$ 80917.10  
 B Less Retainage 10 % \$ 8091.71  
 C Total Earned less Retainage (A - B) \$ 72825.39  
 D Less Previous Billings (previous req's line C) \$ 42942.51  
 E Current Payment Due (C - D) \$ 29882.88  
 F Balance to Finish, Plus Retainage (H - A + B) \$ 37520.90  
 G Current Gross Amount Completed This Period \$ 33203.20

SUBCONTRACTOR: Qualtek Inc Supplier #: 1007598  
 BY: [Signature]  
 DATE: 4/24/09

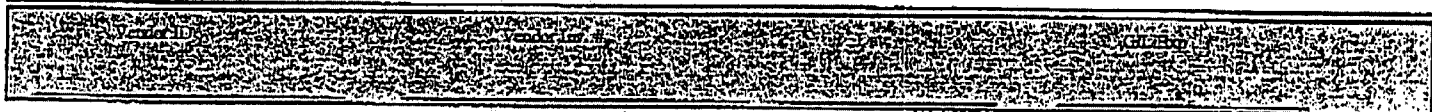
APPLICATION BREAKDOWN

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

Account Code	Description	Current Contract Amount	Work Completed		Total Work Complete	Percent Complete	Retainage This Application	Net Payment
			From Previous Application	This Period				
97306.10-E10-0925.00-3	Painting-Exterior - Subcontract	76,623.00	47713.90	16612.20	64326.10	84%	1661.22	14950.98
97306.20-E10-0925.00-3	Painting-Exterior - Subcontract	41,815.00	0.00	16591.00	16591.00	40%	1659.10	14931.90
	Total	118,438.00	47713.90	33203.20	80917.10	68%	3320.32	29882.88
		H	I	G	A	J	K	E

Entered By: \_\_\_\_\_ Accounting Date \_\_\_\_\_ Approved By: \_\_\_\_\_ Project Manager Date \_\_\_\_\_

SHADED AREA FOR OPUS ACCOUNTING USE ONLY



LIEN AFFIDAVIT AND CLAIM

STATE OF TEXAS §  
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, personally appeared Roger D. Fisher, II, Vice President of Qualtex, Inc., who upon his oath, deposed and stated the following:

1. My name is Roger D. Fisher, II and I am a resident of Tarrant County, Texas. I am Vice President of Qualtex, Inc., hereinafter sometimes referred to as "Claimant." I am over 18 years of age, and am competent and authorized to make this affidavit.

2. Claimant's mailing business address and physical address is 906 Stanley Drive, Euless, Texas 76040.

3. Claimant furnished labor and materials for improvements to the property described herein under a contract by and between Claimant and Opus West Construction Corporation, the original contractor on the project, whose last known addresses are 15455 N. Dallas Parkway, Suite 450, Addison, Texas 75001; 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016 and 10350 Bren Road West, Minnetonka, Minnesota 55343.

4. The name of the owner or reputed owner of the real estate hereinafter described is Opus West LP and/or Opus West Corporation, whose last known address is 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016.

5. The labor, materials, and work furnished by Claimant on the 121 Lakepointe Crossing Phase 2 project are generally described as follows: Commercial interior and exterior painting.

6. The real property sought to be charged with a lien by Claimant is described as the 121 Lakepointe Crossing Phase 2 project located at 2525 East State Highway 121, Lewisville, Denton County, Texas and also described as follows:

Lot 1R-1, Block A, CROSSROADS CENTRE NORTH, an Addition to the City of Lewisville, Denton County, Texas, according to the Map or Plat thereof recorded in Cabinet Y, Page 662, Plat Records of Denton County, Texas.

7. After allowing all just credits, offsets, and payments, the amount of \$80,917.10 remains unpaid and is due and owing to Claimant under its contract with Opus West Construction Corporation and Claimant claims a lien on said property and improvements under the provisions of Texas Property Code § 53.001 et seq. to secure payment of said amount.

8. The month or months that the work was done and materials were furnished for which payment is requested are January, February, March and April 2009.

9. Notice of the claim was sent to the Owner on the following dates and by the following method:

	<u>Date sent</u>	<u>Method Sent</u>
a.	May <u>12</u> , 2009	Certified Mail , Return Receipt Requested

10. The name of the entity with which Claimant contracted on this project is Opus West Construction Corporation. Upon information and belief, Opus West LP can effectively control Opus West Construction Corporation through ownership of voting stock, interlocking directorships or otherwise. Further, upon information and belief, Opus West Construction Corporation can effectively control Opus West LP through ownership of voting stock, interlocking directorships or otherwise. Further, upon information and belief, Opus West LP contracted with Opus West Construction Corporation for the construction or repair of a house, building, or improvements and the contract was made without good faith intention of the parties that Opus West Construction Corporation was to perform the contract. Pursuant to Section 53.026 of the Texas Property Code, Claimant herein should be considered to be in direct contractual relationship with the owner and have a lien as an original contractor.

11. Since Claimant contracted directly with the owner, Claimant also claims its constitutional lien on the above-described real property pursuant to Article 16, §37 of the Constitution of the State of Texas.

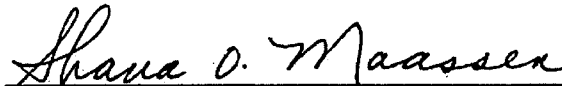
12. One (1) copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the owner described above, addressed to the owner's last known address as described above and one (1) copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the original contractor described above, addressed to the original contractor's last known addresses as described above.

QUALTEX, INC.

By:   
Roger D. Fisher, II, Vice President

SUBSCRIBED AND SWORN TO before me by the said Roger D. Fisher, II, Vice President of Qualtex, Inc., on this 11<sup>th</sup> day of May 2009, to certify which witness my hand and seal of office.



  
Notary Public In and For the State of Texas

Denton County  
Cynthia Mitchell  
County Clerk  
Denton, Tx 76202



70 2009 00057206

Instrument Number: 2009-57206

As

Recorded On: May 12, 2009

Mechanics Lien Affidavit

Parties: QUALTEX INC

Billable Pages: 4

To

Number of Pages: 4

Comment:

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

Mechanics Lien Affidavit	23.00
<b>Total Recording:</b>	<b>23.00</b>

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

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.

**File Information:**

**Record and Return To:**

Document Number: 2009-57206

Receipt Number: 582884

Recorded Date/Time: May 12, 2009 01:53:32P

THOMAS FELDMAN & WILSHUSEN

9400 N CENTRAL EXPWY STE 900

DALLAS TX 75231

User / Station: D Fahrney - Cash Station 3



THE STATE OF TEXAS }  
COUNTY OF DENTON }

I hereby certify that this instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

*C Mitchell*

County Clerk  
Denton County, Texas

SUPPLEMENTAL LIEN AFFIDAVIT AND CLAIM

STATE OF TEXAS

§  
§  
§

COUNTY OF TARRANT

BEFORE ME, the undersigned authority, personally appeared Roger D. Fisher, II, Vice President of Qualtex, Inc., who upon his oath, deposed and stated the following:

1. My name is Roger D. Fisher, II and I am a resident of Tarrant County, Texas. I am Vice President of Qualtex, Inc., hereinafter sometimes referred to as "Claimant." I am over 18 years of age, and am competent and authorized to make this affidavit.
2. Claimant's mailing business address and physical address is 906 Stanley Drive, Euless, Texas 76040.
3. This Supplemental Lien Affidavit and Claim is filed as a supplement to that certain Lien Affidavit and Claim previously filed as Instrument Number 2009-57206 on May 12, 2009 in the Official Records of Denton County, Texas. This Supplemental Lien Affidavit is supplemental to and not a replacement or revocation of said former Lien Affidavit and Claim.
4. The amount of the original claim is \$80,917.10 and said amount is just and reasonable and has not been paid as of this date. Said claim constitutes the reasonable value of the materials furnished and labor performed after all extra charges and offsets had been allowed. Hence, Claimant makes this supplemental lien claim under the provisions of Texas Property Code §53.001 et seq. to secure the amount of \$80,917.10.
5. Claimant furnished labor and materials for improvements to the property described herein under a contract by and between Claimant and Opus West Construction Corporation, the original contractor on the project, whose last known addresses are 15455 N. Dallas Parkway, Suite 450, Addison, Texas 75001; 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016 and 10350 Bren Road West, Minnetonka, Minnesota 55343.
6. The name of the owner or reputed owner of the real estate hereinafter described is Opus West LP and/or Opus West Corporation, whose last known address is 2555 East Camelback Road, Suite 800, Phoenix, Arizona 85016.
7. The labor, materials, and work furnished by Claimant on the 121 Lakepointe Crossing Phase 2 project are generally described as follows: Commercial interior and exterior painting.
8. The real property sought to be charged with a lien by Claimant is described as the 121 Lakepointe Crossing Phase 2 project located at 2525 and 2535 East State Highway 121, Lewisville, Denton County, Texas and also described as follows:

Lot 1R-1 and Lot 4R, Block A, CROSSROADS CENTRE NORTH, an Addition to the City of Lewisville, Denton County, Texas, according to the Map or Plat thereof recorded in Cabinet Y, Page 662, Plat Records of Denton County, Texas.

9. After allowing all just credits, offsets, and payments, the amount of \$80,917.10 remains unpaid and is due and owing to Claimant under its contract with Opus West Construction Corporation and Claimant claims a lien on said property and improvements under the provisions of Texas Property Code § 53.001 et seq. to secure payment of said amount.

10. The month or months that the work was done and materials were furnished for which payment is requested are January, February, March and April 2009.

11. Notice of the claim was sent to the Owner on the following dates and by the following method:

	<u>Date sent</u>	<u>Method Sent</u>
a.	May 12, 2009	Certified Mail , Return Receipt Requested

12. The name of the entity with which Claimant contracted on this project is Opus West Construction Corporation. Upon information and belief, Opus West LP can effectively control Opus West Construction Corporation through ownership of voting stock, interlocking directorships or otherwise. Further, upon information and belief, Opus West Construction Corporation can effectively control Opus West LP through ownership of voting stock, interlocking directorships or otherwise. Further, upon information and belief, Opus West LP contracted with Opus West Construction Corporation for the construction or repair of a house, building, or improvements and the contract was made without good faith intention of the parties that Opus West Construction Corporation was to perform the contract. Pursuant to Section 53.026 of the Texas Property Code, Claimant herein should be considered to be in direct contractual relationship with the owner and have a lien as an original contractor.

13. Since Claimant contracted directly with the owner, Claimant also claims its constitutional lien on the above-described real property pursuant to Article 16, §37 of the Constitution of the State of Texas.

14. One (1) copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the owner described above, addressed to the owner's last known address as described above and one (1) copy of this Affidavit is being sent by Certified Mail, Return Receipt Requested to the original contractor described above, addressed to the original contractor's last known addresses as described above.

QUALTEX, INC.

By: *Roger D. Fisher, II*  
Roger D. Fisher, II, Vice President

SUBSCRIBED AND SWORN TO before me by the said Roger D. Fisher, II, Vice President of Qualtex, Inc., on this 28<sup>th</sup> day of May 2009, to certify which witness my hand and seal of office.



*Shana O. Maassen*  
Notary Public In and For the State of Texas

RETURN ORIGINAL  
RECORDED COPY TO:  
Thomas, Feldman & Wilshusen  
9400 N. Central Expwy. Ste. 900  
Dallas, Texas 75231



Denton County  
Cynthia Mitchell  
County Clerk  
Denton, Tx 76202



70 2009 00063732

Instrument Number: 2009-63732

As  
Affidavit

Recorded On: May 28, 2009

Parties: QUALTEX INC

To

Billable Pages: 4

Number of Pages: 4

Comment:

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

ffidavit	23.00
<b>Total Recording:</b>	<b>23.00</b>

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

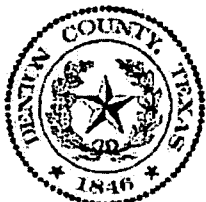
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Record and Return To:

Document Number: 2009-63732  
Receipt Number: 587760  
Recorded Date/Time: May 28, 2009 11:57:14A  
User / Station: D Kitzmiller - Cash Station 2

THOMAS FELDMAN & WILSHUSEN LLP  
9400 N CENTRAL EXPY  
STE 900  
DENTON TX 76202



THE STATE OF TEXAS }  
COUNTY OF DENTON }

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.

C. Mitchell  
County Clerk  
Denton County, Texas

# Northern District of Texas Claims Register

09-34356-hdh11 Opus West Corporation

**Judge:** Harlin DeWayne Hale

**Chapter:** 11

**Office:** Dallas

**Last Date to file claims:** 11/09/2009

**Trustee:**

**Last Date to file (Govt):**

<i>Creditor:</i> (12454295) Qualtex, Inc. 906 Stanley Drive Euless, TX 76040	<b>Claim No: 54</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: Kennedy, Jason Modified:
Secured claimed: \$80917.10 <b>Total claimed: \$80917.10</b>		
<i>History:</i> Details <u>54-1</u> 11/09/2009 Claim #54 filed by Qualtex, Inc., total amount claimed: \$80917.1 (Kennedy, Jason )		
<i>Description:</i>		
<i>Remarks:</i>		

## Claims Register Summary