

UNITED STATES BANKRUPTCY COURT

Northern District Of Texas

PROOF OF CLAIM

Name of Debtor  
Opus West CorporationCase Number  
09-34356

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):  
R. L. Murphey Commercial Roofing Systems, L.P.
☐ Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:  
H. Joseph Acosta, Esq.  
Looper Reed & McGraw, P.C.  
1601 Elm Street, Suite 4100  
Dallas, TX 75201  
Telephone number: (214) 954.4135

RECEIVED  
NOV 09 2009  
BMC GROUP

Court Claim Number: \_\_\_\_\_  
(If known)

Filed on: \_\_\_\_\_

Name and address where payment should be sent (if different from above):  
Telephone number:

☐ 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.

☐ Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: \$ 1,315,507.50

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: Mechanic's lien claim (services)  
(See instructions #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: \_\_\_\_\_

3a. Debtor may have scheduled account as: \_\_\_\_\_  
(See instructions #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: ☐ Real Estate ☒ Motor Vehicle ☐ Other  
Describe: 121 Lakepointe Crossing and Two Addison Circle and improvements.

Value of Property: \$30+ Million 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: \$1,315,507.50 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:  
11/9/09

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

H. Joseph Acosta, Esq.

FOR COURT USE ONLY

OPUS WEST  
00544

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.



# R.L. MURPHEY

COMMERCIAL ROOF SYSTEMS, L.P.

July 13, 2009

**VIA CM/RRR #7008 0500 0001 5691 5377**

OPUS West Corporation  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, Texas 75001

**VIA CM/RRR #7006 3450 0002 9223 1019**

OPUS West, LP  
2555 E. Camelback Rd.  
Phoenix, Arizona 85016-9256

Re: *Claim of \$88,862.50 Lien by R.L. Murphey Commercial Roofing Systems, L.P. for work performed on Two Addison Circle Spec Office ("Project") and located at 15455 North Dallas Parkway ("Property")*


Ladies and Gentlemen:

Be advised that R.L. Murphey Commercial Roofing Systems, L.P. ("Murphey Roofing") has furnished labor, materials, equipment, skills, services, supervision and appurtenances necessary to complete roofing work ("Work") for the above described Project located on the above described Property as a subcontractor to Opus West Construction Corporation ("Contractor"). Contractor has failed to make payment to Murphey Roofing of \$88,862.50 (the "Claim") which is currently past due and owing on account of the Work. The Claim includes contractual retainage.

Murphey Roofing has previously submitted written statements or invoices to Contractor for the Work. The Claim is comprised of (a) \$67,435.00 which has not been paid from Murphey Roofing's June 25, 2009 invoice (2009-183) and (b) \$21,427.50 which has not been paid from Murphey Roofing's June 25, 2009 invoice (2009-184) for retainage on labor expense. The Work was performed in May of 2009. True and correct copies of Murphey Roofing's invoices and supporting applications for payment are attached hereto for your convenience.

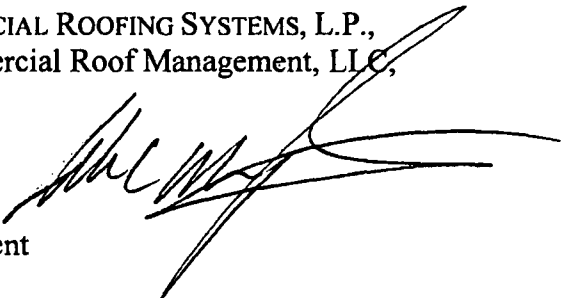
As provided for by § 53.056 of the Texas Property Code, you are hereby notified that if the Claim remains unpaid, the owner of the Property may be personally liable and the owner's

Property may be subjected to a lien unless (1) the owner withholds payment from the Contractor for payment of the Claim or (2) the Claim is otherwise paid or settled.

Take further notice that the Claim has accrued under § 53.053 of the Texas Property Code. In the event that you have filed a Petition for Relief under the Bankruptcy Code, ~~this notice~~ this notice is not intended to violate the automatic stay pursuant to § 362. 

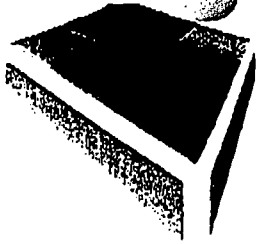
Should there be any questions, do not hesitate to contact me.

R.L. MURPHEY COMMERCIAL ROOFING SYSTEMS, L.P.,  
by R.L. Murphey Commercial Roof Management, LLC,  
General Partner



Rick L. Murphey, President

cc: Ralph C. Perry-Miller

**R.L. MURPHEY**  
**COMMERCIAL ROOF SYSTEMS, L.P.**

5699 N Dardeman Road

P.O. Box 36

Justin, TX 76247

(P) 940-648-9617 (F) 940-648-9627

**INVOICE**

6/25/2009

Invoice # 2009-183

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

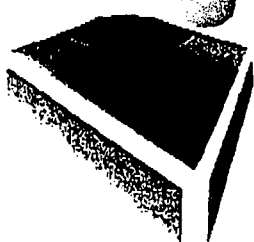
P.O. No. Drw 3

Terms Net 30

Rep PW

**Project:** Two Addison Circle Spec Office  
15725 North Dallas Pkwy  
Addison, TX 75001

Description of Service		Amount
Draw 3		67,435.00
<i>New Remittance Address:</i> P.O. Box 36 Justin, TX 76247	Subtotal	\$67,435.00
	Sales Tax (8.25%)	\$0.00
	Total Amount Due	\$67,435.00
	Payments/Credit	\$0.00
	Balance Due	\$67,435.00

**R.L. MURPHEY**  
**COMMERCIAL ROOF SYSTEMS, L.P.**

5699 N Dardeman Road

P.O. Box 36

Justin, TX 76247

(P) 940-648-9617 (F) 940-648-9627

**INVOICE**

6/25/2009

Invoice # 2009-184

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No.

Terms Net 30

Rep PW

**Project:** Two Addison Circle Spec Office  
15725 North Dallas Pkwy  
Addison, TX 75001

Description of Service		Amount
Final		21,427.50
<i>New Remittance Address:</i> P.O. Box 36 Justin, TX 76247	Subtotal	\$21,427.50
	Sales Tax (8.25%)	\$0.00
	Total Amount Due	\$21,427.50
	Payments/Credit	\$0.00
	Balance Due	\$21,427.50



A Professional Corporation  
4100 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201  
V 214.954.4135  
F 214.953.1332  
www.lrmllaw.com

**RALPH C. PERRY-MILLER**  
Direct Dial: 214.954.4135  
rperry-miller@lrmllaw.com

August 17, 2009

**VIA CM/RRR #7003 2260 0000 7119 0884**

OPUS WEST CORPORATION  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

**VIA CM/RRR #7003 2260 0000 7119 0877**

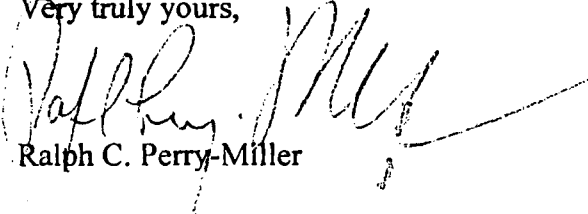
OPUS WEST, LP  
2555 E. Camelback Rd., Suite 800  
Phoenix, AZ 85016-9256

Re: Unpaid Amounts Owed R.L. Murphey Commercial Roofing Systems, L.P.

To Whom it May Concern:

Pursuant to TEXAS PROPERTY CODE § 53.055, take notice that the enclosed Affidavit Claiming Mechanic's Lien was sent Wednesday, August 12, 2009, via overnight delivery addressed to the Denton County Clerk, for filing in the real property records of Denton County, Texas on August 13, 2009, on behalf of our client, R.L. Murphey Commercial Roofing Systems, L.P., and in relation to the \$88,862.50 balance owed in connection with Two Addison Circle Spec Office ("Project") located at 15455 North Dallas Parkway, Addison, Texas 75001.

Very truly yours,

  
Ralph C. Perry-Miller

RPM/cl

Enclosure

cc: R.L. Commercial Roofing Systems, L.P.(via email)

Denton County

Cynthia Mitchell

County Clerk

Denton, Tx 76202



70 2009 00098216

Instrument Number: 2009-98216

As

Recorded On: August 13, 2009

Mechanics Lien Affidavit

Parties: R L MURPHEY COMMERCIAL ROOF SYSTEMS LP

To

Billable Pages: 8

Number of Pages: 8

Comment:

( Parties listed above are for Clerks reference only )

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

Mechanics Lien Affidavit 39.00

Total Recording: 39.00

\*\*\*\*\* 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:**

Document Number: 2009-98216

Receipt Number: 612336

Recorded Date/Time: August 13, 2009 10:52:33A

User / Station: H Dunn - Cash Station 4

**Record and Return To:**

LOOPER REED &amp; MCGRAW PC

1601 ELM ST

DALLAS TX 75201

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

STATE OF TEXAS

COUNTY OF DALLAS

§  
§  
§

**AFFIDAVIT CLAIMING MECHANIC'S LIEN**

BEFORE ME, the undersigned authority, personally appeared, Ralph C. Perry-Miller, who upon his oath, deposed and stated the following:

1. "My name is Ralph C. Perry-Miller, attorney for R.L. Murphey Commercial Roof Systems, L.P., hereinafter referred to as "Claimant." I am over 18 years of age, competent and authorized to make this affidavit on behalf of Claimant by Rick L. Murphey, President of R.L. Murphey Commercial Roof Management, LLC, the General Partner of Claimant.

2. "The amount of the claim for which this affidavit is made is \$88,862.50 which amount, after allowing all just credits, offsets, and payments, remains unpaid and is due and owing to Claimant under its contract with the Original Contractor (defined below), and Claimant claims a mechanic's lien on the property and improvements of Owner (defined below) under the provisions of Texas Property Code § 53.001 *et seq.* to secure payment of said amount.

3. "The name and last known address of the owner(s) or reputed owner(s) ("Owner") of the property sought to be charged are as follows:

Opus West Corporation  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

Opus West, LP  
2555 E. Camelback Rd.  
Phoenix, AZ 85016-9256

4. "The work done and materials furnished by Claimant and for which payment is requested are generally described as follows: labor, materials, equipment, skills, services, supervision and appurtenances necessary to complete roofing work (the "Work") for the construction or improvement of Two Addison Circle Spec Office ("Project") and located at 15455 North Dallas Parkway, Addison, Texas 75001 during May of 2009. "The name of the person to whom the Claimant furnished the Work is Opus West Construction Corporation, whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, TX 75001.

5. "The name of the person to whom the Claimant furnished the Work is Opus West Construction Corporation, whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, TX 75001.

6. "The name of the Original Contractor is Opus West Construction Corporation, whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, TX 75001.

7. "The property sought to be charged with the lien is described as follows: all of Owner's right title and interest in Two Addison Circle Spec Office and located at 15725 North

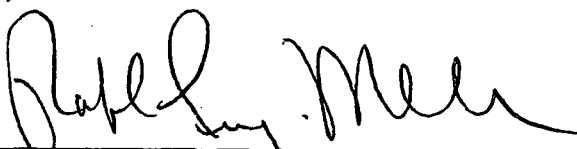


Dallas Parkway, Addison, Texas 75001 (the "Property"), said Property being more fully described as set forth in Exhibit "A."

8. "Claimant's name, mailing address and physical address are as follows: R.L. Murphey Commercial Roof Systems, L.P., 2050 E. Continental Blvd., Southlake, Texas 76092, telephone (817) 410-9030.

9. "Claimant sent notice of its claim to the Owner of the property on July 13, 2009 via United States certified mail, return receipt requested. A true and correct copy of such notice is attached hereto as Exhibit "B".

R.L. MURPHEY COMMERCIAL ROOF SYSTEMS, L.P.,  
by: R.L. Murphey Commercial Roof Management,  
LLC, its General Partner

By:   
Ralph C. Perry-Miller, Attorney

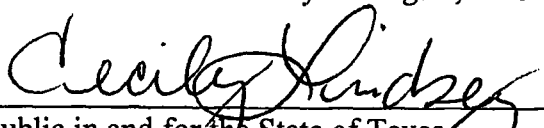
STATE OF TEXAS

§  
§  
§

COUNTY OF DALLAS

Affiant, upon oath and after being duly sworn, states that he has read the above affidavit and facts contained therein and that such statements are true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 12<sup>th</sup> day of August, 2009.

  
Notary Public in and for the State of Texas

My Commission Expires: 07-21-12



BEING a tract of land situated in the G. W. FISHER SURVEY, Abstract No. 482, in the Town of Addison, Dallas County, Texas, and being a portion of two tracts of land described as Tract 4 (15.307 acres) and Tract 5 (0.293 of an acre) in instrument to Gaylord Properties, L. P. as recorded in Volume 97211, Page 1264 of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a "X" cut found in pavement at the intersection of the west right-of-way of Dallas Parkway (variable width) as evidenced by instrument to Gaylord Properties, L. P. (described as Tract 5) as recorded in Volume 97211, Page 1264, of the Deed Records of Dallas County, Texas with the northwesterly right-of-way line of Addison Circle (109 foot wide right-of-way at this point as evidenced by plat of Addison Circle Phase XI, an addition to the Town of Addison, Texas as recorded in Volume 97217, Page 3056 of the Deed Records of Dallas County, Texas;

THENCE South 72 degrees 58 minutes 59 seconds West along the northerly right-of-way line at Addison Circle a distance of 247.36 feet to an set in concrete for a corner, said point being the southeast corner of a 1.388 acre tract of land described in instrument to Amicus Partners, Ltd., a Texas limited partnership as recorded in Volume 92195, Page 7791 of the Deed Records of Dallas County, Texas, the same being the southeast corner of Lot 1, Block A of The Ashton, an addition to the Town of Addison, Texas as recorded in Volume 2000036, Page 2913 of the Deed Records of Dallas County, Texas;

THENCE, North 17 degrees 01 minutes 01 seconds West along the easterly line of said 1.388 acre tract and said Lot 1, Block A of The Ashton a distance of 59.32 feet to a 5/8 inch iron rod set with "Huitt-Zollars" cap for a corner;

THENCE North 58 degrees 20 minutes 25 seconds West along the northeasterly line of said 1.388 acre tract and said Lot 1, Block A of The Ashton, a distance of 261.51 feet to a 5/8 inch iron rod set with "Huitt-Zollars" cap for a corner;

THENCE, North 89 degrees 04 minutes 47 seconds West along the northerly line of said 1.388 acre tract and said lot 1, Block A of The Ashton a distance of 104.49 feet to a 5/8 inch iron rod set with "Huitt-Zollars" cap for a corner on the east right-of-way line of Spectrum Drive (69 feet wide at this point as established by plat recorded in Volume 2000036, Page 2913), said point being the northwest corner of said 1.388 acre tract and said Lot 1, Block A of The Ashton;

THENCE North 00 degrees 55 minutes 13 seconds East along the east right-of-way line of said Spectrum Drive passing a 5/8 inch iron rod found for the northeast corner of said right-of-way at a distance of 9.78 feet and continuing in all a distance of 193.84 feet to a five-eighths inch iron rod set with "Huitt-Zollars" cap for a corner from which a 5/8 inch iron rod found with "Huitt-Zollars" cap bears North 00 degrees 55 minutes 13 seconds East at a distance of 183.77 feet;

THENCE South 89 degrees 04 minutes 47 seconds East a distance of 326.53 feet to a five-eighths inch iron rod set with "Huitt-Zollars" cap for a corner;

THENCE South 00 degrees 00 minutes 00 seconds East a distance of 72.87 feet to a 5/8 inch iron rod set with "Huitt-Zollars" cap for a corner;

THENCE, North 90 degrees 00 minutes 00 seconds East a distance 239.67 feet to a 5/8 inch iron rod set with "Huitt-Zollars" cap for a corner on the westerly right-of-way line of Dallas Parkway as established by said instrument to Gaylord Properties, L. P., described as Tract 5 and recorded in Volume 97211, Page 1264 of the Deed Records of Dallas County, Texas, said point being the beginning of a non-tangent curve to the right having a radius of 626.62 feet;

THENCE, southwesterly along the west right-of-way line of Dallas Parkway and easterly line of said Gaylord Properties Tract 5 through a central angle of 05 degrees 29 minutes 07 seconds, an arc distance of 59.99 feet and being subtended by a chord bearing South 04 degrees 17 minutes 35 seconds East a distance of 59.97 feet to a cut "X" found on curb inlet at the end of said curve;

THENCE, South 01 degree 33 minutes 02 seconds East along the west right-of-way line of Dallas Parkway and easterly line of said Gaylord Properties Tract 5 a distance of 82.43 feet to a cut "X" found, in pavement for the beginning of a curve to the left having a radius of 1,997.84 feet;

THENCE southeasterly along the west right-of-way, line of Dallas Parkway and easterly line of said Gaylord Properties Tract 5 and along said curve to the left through a central angle of 02 degrees 46 minutes 45 seconds, an arc distance of 96.91 feet and being subtended by a chord bearing South 02 degrees 56 minutes 29 seconds East a distance of 96.90 feet to the POINT OF BEGINNING and CONTAINING 3.371 acres of land, more or less.



# R.L. MURPHEY

COMMERCIAL ROOF SYSTEMS, L.P.

July 13, 2009

**VIA CM/RRR #7008 0500 0001 5691 5377**

OPUS West Corporation  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, Texas 75001

**VIA CM/RRR #7006 3450 0002 9223 1019**

OPUS West, LP  
2555 E. Camelback Rd.  
Phoenix, Arizona 85016-9256

Re: *Claim of \$88,862.50 Lien by R.L. Murphey Commercial Roofing Systems, L.P. for work performed on Two Addison Circle Spec Office ("Project") and located at 15455 North Dallas Parkway ("Property")*

Ladies and Gentlemen:

Be advised that R.L. Murphey Commercial Roofing Systems, L.P. ("Murphey Roofing") has furnished labor, materials, equipment, skills, services, supervision and appurtenances necessary to complete roofing work ("Work") for the above described Project located on the above described Property as a subcontractor to Opus West Construction Corporation ("Contractor"). Contractor has failed to make payment to Murphey Roofing of \$88,862.50 (the "Claim") which is currently past due and owing on account of the Work. The Claim includes contractual retainage.


Murphey Roofing has previously submitted written statements or invoices to Contractor for the Work. The Claim is comprised of (a) \$67,435.00 which has not been paid from Murphey Roofing's June 25, 2009 invoice (2009-183) and (b) \$21,427.50 which has not been paid from Murphey Roofing's June 25, 2009 invoice (2009-184) for retainage on labor expense. The Work was performed in May of 2009. True and correct copies of Murphey Roofing's invoices and supporting applications for payment are attached hereto for your convenience.

As provided for by § 53.056 of the Texas Property Code, you are hereby notified that if the Claim remains unpaid, the owner of the Property may be personally liable and the owner's

EXHIBIT

R

Property may be subjected to a lien unless (1) the owner withholds payment from the Contractor for payment of the Claim or (2) the Claim is otherwise paid or settled.

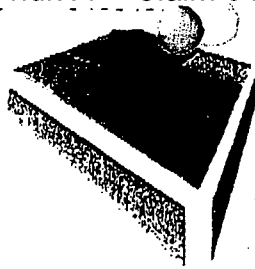
Take further notice that the Claim has accrued under § 53.053 of the Texas Property Code. In the event that you have filed a Petition for Relief under the Bankruptcy Code, ~~this notice~~ this notice is not intended to violate the automatic stay pursuant to § 362. 

Should there be any questions, do not hesitate to contact me.

R.L. MURPHEY COMMERCIAL ROOFING SYSTEMS, L.P.,  
by R.L. Murphey Commercial Roof Management, LLC,  
General Partner

  
Rick L. Murphey, President

cc: Ralph C. Perry-Miller



# R.L. MURPHEY

## COMMERCIAL ROOF SYSTEMS, L.P.

5699 N Dardeman Road  
P.O. Box 36  
Justin, TX 76247  
(P) 940-648-9617 (F) 940-648-9627

### INVOICE

6/25/2009

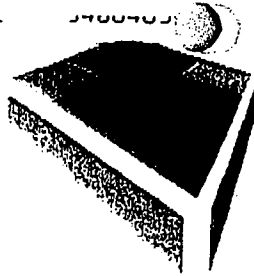
Invoice # 2009-183

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No. Drw 3  
Terms Net 30  
Rep PW

**Project:** Two Addison Circle Spec Office  
15725 North Dallas Pkwy  
Addison, TX 75001

Description of Service		Amount
Draw 3		67,435.00
<i>New Remittance Address:</i> P.O. Box 36 Justin, TX 76247	Subtotal	\$67,435.00
	Sales Tax (8.25%)	\$0.00
	<b>Total Amount Due</b>	<b>\$67,435.00</b>
	Payments/Credit	\$0.00
	<b>Balance Due</b>	<b>\$67,435.00</b>

**R.L. MURPHEY**  
**COMMERCIAL ROOF SYSTEMS, L.P.**

5699 N Dardeman Road

P.O. Box 36

Justin, TX 76247

(P) 940-648-9617 (F) 940-648-9627

**INVOICE**

6/25/2009

Invoice # 2009-184

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No.

Terms Net 30

Rep PW

**Project:** Two Addison Circle Spec Office  
15725 North Dallas Pkwy  
Addison, TX 75001

Description of Service		Amount
Final		21,427.50
<i>New Remittance Address:</i> P.O. Box 36 Justin, TX 76247	Subtotal	\$21,427.50
	Sales Tax (8.25%)	\$0.00
	Total Amount Due	\$21,427.50
	Payments/Credit	\$0.00
	Balance Due	\$21,427.50



A Professional Corporation

H. JOSEPH ACOSTA  
Direct No. 214.237.6386  
hjacosta@lrmlaw.com

4100 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201  
Telephone: 214.954.4135  
Telefax: 214.953.1332

HOUSTON - DALLAS - TYLER

October 22, 2009

*Via Hand Delivery*

Deirdre B. Ruckman  
Gardere Wynne Sewell LLP  
1601 Elm Street, Suite 3000  
Dallas, Texas 75201-4761

Re: *In re Opus West Corporation*, Bankruptcy Case No. 09-34356-hdh-11, pending in the United States Bankruptcy Court for the Northern District of Texas

Dear Ms. Ruckman:

Pursuant to the *Order Establishing Procedures for the Resolution of Mechanic's, Materialmen's and Supplier's Liens with Regard to the 121 Lakepointe Crossing I & II Real Estate Development Project* (the "Order"), R.L. Murphey Commercial Roof Systems, LP ("R.L. Murphey"), our client, hereby notifies the Official Committee of Unsecured Creditors, through its counsel, of its valid mechanics' lien claim for roofing work performed on the construction or improvement of 121 Lakepointe Crossing Phase 2, Building 1-A and 3-C (the "Project"), located at 2525 State Highway 121, Lewisville, Texas 75056, during the months of January, February and March, 2009. R.L. Murphey's mechanic's lien claim is in the amount of \$1,226,645.00.

As provided in the Order, we are enclosing in Exhibit "A" hereto the following documentation supporting R.L. Murphey's claim:

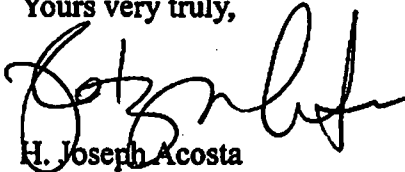
- A copy of the Affidavit Claiming Mechanic's Lien (the "Affidavit"), pursuant to section 53.054 of the Texas Property Code, which sets forth specific details of the basis for R.L. Murphey's mechanic's lien claim, in accordance with the Order.
- Proof that the Affidavit was filed pursuant to section 53.052 of the Texas Property Code.

Deirdre B. Ruckman  
Gardere Wynne Sewell LLP  
October 22, 2009  
Page 2

- A copy of the notice of filed Affidavit, pursuant to section 53.055 of the Texas Property Code.
- A copy of any notice of unpaid balance owed to R.L. Murphey, pursuant to section 53.056 of the Texas Property Code.

We are hereby requesting that R.L. Murphey's mechanic's lien claim be deemed valid, in accordance with the procedures set forth in the Order. If there is any additional information that you need with respect to R.L. Murphey's claim, please do not hesitate to contact Ralph Perry-Miller or me.

Yours very truly,



H. Joseph Acosta

HJA/av

cc: Ralph Perry-Miller, Esq.



Deirdre B. Ruckman  
Gardere Wynne Sewell LLP  
October 22, 2009  
Page 3

**Exhibit "A"**



April 13, 2009

**VIA FIRST CLASS MAIL AND**  
**CM/RRR #7006 3450 0002 9223 1132**

OPUS WEST CORPORATION  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

**VIA FIRST CLASS MAIL AND**  
**CM/RRR #7006 3450 0002 9223 1149**

OPUS WEST CORPORATION  
c/o Corporation Service Company, Registered Agent  
701 Brazos Street, Suite 1050  
Austin, TX 78701

**VIA FIRST CLASS MAIL AND**  
**CM/RRR #7006 3450 0002 9223 1156**

OPUS WEST CONSTRUCTION CORPORATION  
Attn: Paul Lembke, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

Re: *Claim of \$1,226,645.00 Lien by R.L. Murphey Commercial Roof Systems, L.P. for work performed on 121 Lakepointe Crossing Phase 2, Building 1-A and 3-C ("Project") and located at 2525 State Hwy 121, Lewisville, TX 75056 ("Property")*

Ladies and Gentlemen:

Be advised that R.L. Murphey Commercial Roof Systems, L.P. ("Murphey Roof Systems") has furnished labor, materials, equipment, skills, services, supervision and appurtenances necessary to complete roofing work ("Work") for the above described Project located on the above described Property as a subcontractor to Opus West Construction Corporation ("Contractor"). Contractor has failed to make payment to Murphey Roofing of \$1,226,645.00 (the "Claim") which is currently past due and owing on account of the Work. The Claim includes contractual retainage.

Murphey Roof Systems has previously submitted written statements or invoices to Contractor for the Work. The Claim is comprised of (a) \$905,700.00 which has not been paid from Murphey Roof System's January 19, 2008 invoice (2009-026), (b) \$211,500 which has not been paid from Murphey Roof System's February 25, 2009 invoice (2009-064), (c) \$76,810.50 which has not been paid from Murphey Roof System's March 25, 2009 invoice (2009-106) and (d) \$32,634.50 which has not been paid from Murphey

Roof System's March 25, 2009 invoice (2009-107) for retainage on labor expense. The Work was performed in January, February, and March, 2009. True and correct copies of Murphey Roof System's invoices and supporting applications for payment are attached hereto for your convenience.

As provided for by § 53.056 of the Texas Property Code, you are hereby notified that if the Claim remains unpaid, the owner of the Property may be personally liable and the owner's Property may be subjected to a lien unless (1) the owner withholds payment from the Contractor for payment of the Claim or (2) the Claim is otherwise paid or settled.

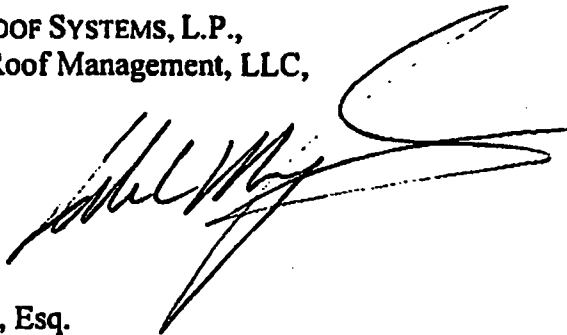
Take further notice that the Claim has accrued under § 53.053 of the Texas Property Code. Therefore, as provided for by § 53.083 of the Texas Property Code, demand is hereby made for immediate payment of the Claim by the owner of the Property to Murphey Roof Systems.

Should there be any questions, do not hesitate to contact me.

R.L. MURPHEY COMMERCIAL ROOF SYSTEMS, L.P.,  
by R.L. Murphey Commercial Roof Management, LLC,  
General Partner

Rick L. Murphey, President

cc: Vernon C. Howerton, Jr., Esq.

A handwritten signature in black ink, appearing to read 'Rick L. Murphey', is written over a horizontal line. The signature is stylized with a large, sweeping flourish at the end.

# **R.L. MURPHEY**

Commercial Roof Systems, L.P.

2050 E. Continental Blvd.

Southlake, TX 76092

817-410-9030 (p)

817-410-9031 (f)

## **INVOICE**

1/19/2009

Invoice # 2009-026

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No. Drw 1

Terms Net 30

Rep PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Draw 1		905,700.00
Note**** \$600 retainage withheld on labor only! No retainage withheld on materials.		
Subtotal		\$905,700.00
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$905,700.00
Payments/Credit		\$0.00
Balance Due		\$905,700.00

**FILE COPY**

**R.L. MURPHEY**

Commercial Roof Systems, L.P.  
2050 E. Continental Blvd.  
Southlake, TX 76092  
817-410-9030 (p)  
817-410-9031 (f)

**INVOICE**

2/25/2009

Invoice # 2009-064

Opus West Construction Corp.

P.O. No.

15455 North Dallas Pkwy., Ste. 450

Addison, Texas 75001

Terms Net 30

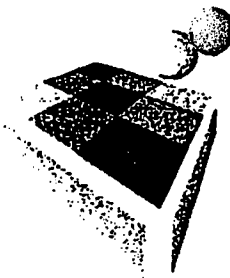
Attn: Travis Bradley

Rep PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Draw <i>x 2</i>		211,500.00
Subtotal		\$211,500.00
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$211,500.00
Payments/Credit		\$0.00
Balance Due		\$211,500.00

**FILE COPY**



**R.L. MURPHEY**  
**COMMERCIAL ROOF SYSTEMS, L.P.**

2050 E. Continental Blvd.  
Southlake, TX 76092  
817-410-9030 (P) 817-410-9031 (F)

**INVOICE**

3/25/2009

Invoice # 2009-106

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001

P.O. No.

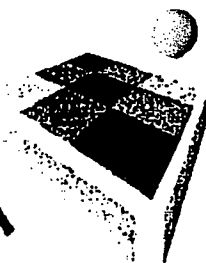
Terms Net 30

Rep PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Draw 3		76,810.50
Subtotal		\$76,810.50
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$76,810.50
Payments/Credit		\$0.00
Balance Due		\$76,810.50

**FILE COPY**



# **R.L. MURPHEY**

## **COMMERCIAL ROOF SYSTEMS, L.P.**

2050 E. Continental Blvd.  
Southlake, TX 76092  
817-410-9030 (P) 817-410-9031 (F)

### **INVOICE**

3/25/2009

Invoice # 2009-107

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No.  
Terms Net 30  
Rep PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Final		32,634.50
Subtotal		\$32,634.50
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$32,634.50
Payments/Credit		\$0.00
Balance Due		\$32,634.50



VERNON C. HOWERTON, JR.  
Direct No. 214.237.6337  
vhowerton@lrnlaw.com

4100 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201  
Telephone: 214.954.4135  
Telefax: 214.953.1332

HOUSTON - DALLAS - TYLER

May 12, 2009

**VIA CERTIFIED MAIL, RRR**

OPUS WEST CORPORATION  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

OPUS WEST, LP  
2555 E. Camelback Rd., Suite 800  
Phoenix, AZ 85016-9256

OPUS WEST CORPORATION  
c/o Corporation Service Company, Agent  
701 Brazos Street, Suite 1050  
Austin, TX 78701

OPUS WEST CONSTRUCTION CORPORATION  
Attn: Paul Lembke, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

Re: *Unpaid Amounts Owed R.L. Murphey Commercial Roofing Systems, L.P.*

To Whom it May Concern:

Pursuant to TEXAS PROPERTY CODE § 53.055, take notice that the enclosed Affidavit Claiming Mechanic's Lien was sent Friday, May 8, 2009, via overnight delivery addressed to the Denton County Clerk, for filing in the real property records of Denton County, Texas on May 11, 2009, on behalf of our client, R.L. Murphey Commercial Roofing Systems, L.P., and in relation to the \$1,226,645.00 balance owed in connection with the 121 Lakepointe Crossing Phase 2, Building 1-A and 3-C ("Project") located at 2525 State Hwy 121, Lewisville, TX 75056.

Please contact the undersigned to make arrangements for discharge of this lien.

LOOPER, REED & MCGRAW,  
A Professional Corporation

By: 

Vernon C. Howerton, Jr.

VCH/per  
cc: Rick Murphey (via email)





VERNON C. HOWERTON, JR.  
Direct Dial: 214.237.6337  
vhowerton@lrmlaw.com

A Professional Corporation  
4100 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201  
V 214.954.4135  
F 214.953.1332  
www.lrmlaw.com

May 8, 2009

**VIA OVERNIGHT**

Denton County Clerk  
Attention: Records Department  
1450 E. McKinney St.  
Denton, Texas 76209

Re: Claim of \$1,222,645.00 Lien by R.L. Murphey Commercial Roof Systems, LP  
OPUS West Corporation and Opus West, LP ("Project")

Dear Clerk:

Enclosed please find an original and one (1) copy of an Affidavit Claiming Mechanic's Lien for filing in the Denton County real estate records. Also enclosed is our firm's check in the amount of \$43.00 to cover your filing fees. Please return a receipt to me along with a file-stamped copy of the Affidavit in the enclosed self-addressed, stamped envelope.

If you should have any questions regarding this matter, please do not hesitate to contact me. Additionally, in the event there is any other problem with the filing, please let me know immediately.

Sincerely,

Vernon C. Howerton, Jr.

VCH/cdl  
Enclosures

cc: RL Murphey Commercial Roof Systems, LP

Denton County  
Cynthia Mitchell  
County Clerk  
Denton, Tx 76202



70 2009 00055898

Instrument Number: 2009-55898

As

Recorded On: May 11, 2009

Mechanics Lien Affidavit

Parties: R L MURPHEY COMMERCIAL ROOF SYSTEMS LP

Billable Pages: 9

To

Number of Pages: 9

## Comment:

( Parties listed above are for Clerks reference only )

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

Mechanics Lien Affidavit	43.00
Total Recording:	43.00

**\*\*\*\*\* 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:

Document Number: 2009-55898

Receipt Number: 582143

Recorded Date/Time: May 11, 2009 09:45:20A

User / Station: D Fahmney - Cash Station 3

## Record and Return To:

LOOPER REED &amp; MCGRAW PC

1601 ELM STREET

DALLAS TX 75201



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.

*Cynthia Mitchell*

County Clerk

Denton County, Texas

STATE OF TEXAS

§

§

§

COUNTY OF DALLAS

**AFFIDAVIT CLAIMING MECHANIC'S LIEN**

BEFORE ME, the undersigned authority, personally appeared Vernon C. Howerton, Jr., who upon his oath, deposed and stated the following:

1. "My name is Vernon C. Howerton, Jr., attorney for R.L. Murphey Commercial Roof Systems, L.P., hereinafter referred to as "Claimant." I am over 18 years of age, competent and authorized to make this affidavit on behalf of Claimant by Rick L. Murphey, President of R.L. Murphey Commercial Roof Management, LLC, the General Partner of Claimant.

2. "The amount of the claim for which this affidavit is made is \$1,226,645.00 which amount, after allowing all just credits, offsets, and payments, remains unpaid and is due and owing to Claimant under its contract with the Original Contractor (defined below), and Claimant claims a mechanic's lien on the property and improvements of Owner (defined below) under the provisions of Texas Property Code § 53.001 *et seq.* to secure payment of said amount.

3. "The name and last known address of the owner(s) or reputed owner(s) ("Owner") of the property sought to be charged are as follows:

Opus West Corporation  
Attn: Ran Holman, Vice President  
15455 North Dallas Parkway, Suite 450  
Addison, TX 75001

Opus West, LP  
2555 E. Camelback Rd.  
Phoenix, AZ 85016-9256

4. "The work done and materials furnished by Claimant and for which payment is requested are generally described as follows: labor, materials, equipment, skills, services, supervision and appurtenances necessary to complete roofing work (the "Work") for the construction or improvement of 121 Lakepointe Crossing Phase 2, Building 1-A and 3-C ("Project") and located at 2525 State Hwy 121, Lewisville, TX 75056 during the months of January, February and March, 2009.

5. "The name of the person to whom the Claimant furnished the Work is Opus West Construction Corporation, whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, TX 75001.

6. "The name of the Original Contractor is Opus West Construction Corporation, whose last known address is 15455 North Dallas Parkway, Suite 450, Addison, TX 75001.

7. "The property sought to be charged with the lien is described as follows: all of Owner's right title and interest in 121 Lakepointe Crossing Phase 2, Building 1-A and 3-C and

located at 2525 State Hwy 121, Lewisville, TX 75056 (the "Property"), said Property being more fully described in the real property records of Denton County, Texas as Crossroads Centre North Blk A, Lot 1r-1.

8. "Claimant's name, mailing address and physical address are as follows: R.L. Murphey Commercial Roof Systems, L.P., 2050 E. Continental Blvd., Southlake, Texas 76092, telephone (817)410-9030.

9. "Claimant sent notice of its claim to the Owner of the property on April 13, 2009 via United States certified mail, return receipt requested. A true and correct copy of such notice is attached hereto as Exhibit "A".

R.L. MURPHEY COMMERCIAL ROOF SYSTEMS, L.P.,  
by: R.L. Murphey Commercial Roof Management,  
LLC, its General Partner

By:   
Vernon C. Howerton, Jr., Attorney

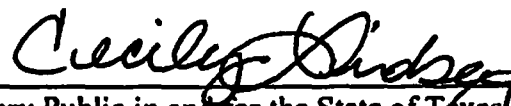
STATE OF TEXAS

COUNTY OF DALLAS

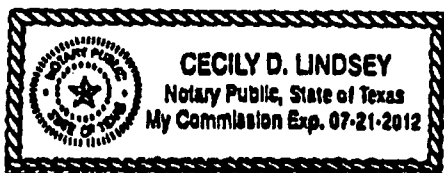
§  
§  
§

Affiant, upon oath and after being duly sworn, states that he has read the above affidavit and facts contained therein and that such statements are true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 8<sup>th</sup> day of May, 2009.

  
Notary Public in and for the State of Texas

My Commission Expires: 07-21-2012



**R.L. MURPHEY**  
COMMERCIAL ROOF SYSTEMS, L.P.

April 13, 2009

**VIA FIRST CLASS MAIL AND**  
**CM/RRR #7006 3450 0002 9223 1132**

OPUS WEST CORPORATION

Attn: Ran Holman, Vice President

15455 North Dallas Parkway, Suite 450

Addison, TX 75001

**VIA FIRST CLASS MAIL AND**  
**CM/RRR #7006 3450 0002 9223 1149**

OPUS WEST CORPORATION

c/o Corporation Service Company, Registered Agent

701 Brazos Street, Suite 1050

Austin, TX 78701

**VIA FIRST CLASS MAIL AND**  
**CM/RRR #7006 3450 0002 9223 1156**

OPUS WEST CONSTRUCTION CORPORATION

Attn: Paul Lembke, Vice President

15455 North Dallas Parkway, Suite 450

Addison, TX 75001

Re: *Claim of \$1,226,645.00 Lien by R.L. Murphey Commercial Roof Systems, L.P. for work performed on 121 Lakepointe Crossing Phase 2, Building 1-A and 3-C ("Project") and located at 2525 State Hwy 121, Lewisville, TX 75056 ("Property")*

Ladies and Gentlemen:

Be advised that R.L. Murphey Commercial Roof Systems, L.P. ("Murphey Roof Systems") has furnished labor, materials, equipment, skills, services, supervision and appurtenances necessary to complete roofing work ("Work") for the above described Project located on the above described Property as a subcontractor to Opus West Construction Corporation ("Contractor"). Contractor has failed to make payment to Murphey Roofing of \$1,226,645.00 (the "Claim") which is currently past due and owing on account of the Work. The Claim includes contractual retainage.

Murphey Roof Systems has previously submitted written statements or invoices to Contractor for the Work. The Claim is comprised of (a) \$905,700.00 which has not been paid from Murphey Roof System's January 19, 2008 invoice (2009-026), (b) \$211,500 which has not been paid from Murphey Roof System's February 25, 2009 invoice (2009-064), (c) \$76,810.50 which has not been paid from Murphey Roof System's March 25, 2009 invoice (2009-106) and (d) \$32,634.50 which has not been paid from Murphey

Roof System's March 25, 2009 invoice (2009-107) for retainage on labor expense. The Work was performed in January, February, and March, 2009. True and correct copies of Murphey Roof System's invoices and supporting applications for payment are attached hereto for your convenience.

As provided for by § 53.056 of the Texas Property Code, you are hereby notified that if the Claim remains unpaid, the owner of the Property may be personally liable and the owner's Property may be subjected to a lien unless (1) the owner withholds payment from the Contractor for payment of the Claim or (2) the Claim is otherwise paid or settled.

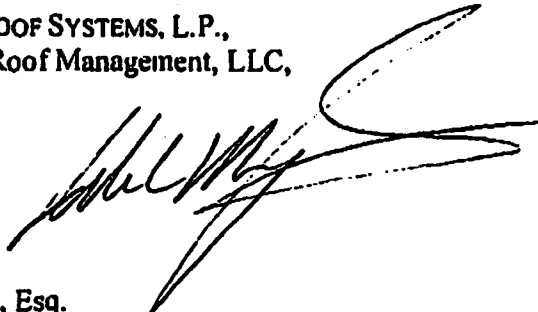
Take further notice that the Claim has accrued under § 53.053 of the Texas Property Code. Therefore, as provided for by § 53.083 of the Texas Property Code, demand is hereby made for immediate payment of the Claim by the owner of the Property to Murphey Roof Systems.

Should there be any questions, do not hesitate to contact me.

R.L. MURPHEY COMMERCIAL ROOF SYSTEMS, L.P.,  
by R.L. Murphey Commercial Roof Management, LLC,  
General Partner

Rick L. Murphey, President

cc: Vernon C. Howerton, Jr., Esq.

A handwritten signature in black ink, appearing to read 'Rick L. Murphey', is written over a horizontal line. The signature is stylized with a large, sweeping flourish at the end.

**FILE COPY****R.L. MURPHEY**

Commercial Roof Systems, L.P.

2050 E. Continental Blvd.

Southlake, TX 76092

817-410-9030 (p)

817-410-9031 (f)

**INVOICE**

1/19/2009

Invoice #

2009-026

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No.

Drw 1

Terms

Net 30

Rep

PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Draw 1		905,700.00
Note**** \$600 retainage withheld on labor only! No retainage withheld on materials.		
Subtotal		\$905,700.00
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$905,700.00
Payments/Credit		\$0.00
Balance Due		\$905,700.00

19

**FILE COPY**

**R. L. MURPHEY**

**Commercial Roof Systems, L.P.**

**2050 E. Continental Blvd.**

**Southlake, TX 76092**

817-410-9030 (p)

817-410-9031 (D)

# INVOICE

2/25/2009

**Invoice #**

**2009-064**

**Opus West Construction Corp.**  
**15455 North Dallas Pkwy., Ste. 450**  
**Addison, Texas 75001**  
**Attn: Travis Bradley**

P.O. No.

## Terms

Net 30

Rep

PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service	Amount
Draw # 2	211,500.00
Subtotal	\$211,500.00
Sales Tax (8.0%)	\$0.00
Total Amount Due	\$211,500.00
Payments/Credit	\$0.00
Balance Due	\$211,500.00



**FILE COPY****R.L. MURPHEY**  
**COMMERCIAL ROOF SYSTEMS, L.P.**

2050 E. Continental Blvd.

Southlake, TX 76092

817-410-9030 (P) 817-410-9031 (F)

**INVOICE**

3/25/2009

Invoice #

2009-106

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001

P.O. No.

Terms

Net 30

Rep

PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Draw 3		76,810.50
Subtotal		\$76,810.50
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$76,810.50
Payments/Credit		\$0.00
Balance Due		\$76,810.50

**FILE COPY**



**R.L. MURPHEY**  
**COMMERCIAL ROOF SYSTEMS, L.P.**

2050 E. Continental Blvd.  
Southlake, TX 76092  
817-410-9030 (P) 817-410-9031 (F)

**INVOICE**

3/25/2009

Invoice # 2009-107

Opus West Construction Corp.  
15455 North Dallas Pkwy., Ste. 450  
Addison, Texas 75001  
Attn: Travis Bradley

P.O. No.

Terms Net 30

Rep PW

**Project:** Lake Pointe Crossing  
2525 E State Hwy 121  
Lewisville, TX 75056

Description of Service		Amount
Final		32,634.50
Subtotal		\$32,634.50
Sales Tax (8.0%)		\$0.00
Total Amount Due		\$32,634.50
Payments/Credit		\$0.00
Balance Due		\$32,634.50

# 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):**

<b>Creditor:</b> (12791430) R. L. Murphey Commercial Roofing Systems, L.P. c/o H. Joseph Acosta Looper Reed & McGraw, P.C. 1601 Elm Street, Suite 4100 Dallas, TX 75201	<b>Claim No: 64</b> <i>Original Filed</i> Date: 11/09/2009 <i>Original Entered</i> Date: 11/09/2009	<b>Status:</b> <i>Filed by:</i> CR <i>Entered by:</i> Acosta, Hirtzan <i>Modified:</i>
Secured claimed: \$1315507.50 <b>Total claimed: \$1315507.50</b>		
<b>History:</b> <u>Details</u> <u>64-1</u> 11/09/2009 Claim #64 filed by R. L. Murphey Commercial Roofing Systems, L.P., total amount claimed: \$1315507.5 (Acosta, Hirtzan )		
<b>Description:</b>		
<b>Remarks:</b>		

## Claims Register Summary