

UNITED STATES BANKRUPTCY COURT Northern District of Texas PROOF OF CLAIM

Name of Debtor: Opus West Construction Case Number: 09-34356-hdh11

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): Hazard Construction Company
Name and address where notices should be sent: c/o Laurence R. Phillips, Esq. and Jae K. Park, Esq. McKenna Long & Aldridge LLP 750 B Street, Suite 3300, San Diego, CA 92101
Telephone number: (619) 595-5400
RECEIVED NOV 09 2009 BMC GROUP
Check this box to indicate that this claim amends a previously filed claim.
Court Claim Number: (if known)
Filed on: 11/09/2009

Name and address where payment should be sent (if different from above): Mr. Noli Gavino Hazard Construction Company P.O. Box 229000, San Diego, CA 92192
Telephone number: (858) 587-3600
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: \$ 116,813.33
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: services rendered
(See instruction #2 on reverse side.)
3. Last four digits of any number by which creditor identifies debtor: N/A
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: [X] Real Estate [ ] Motor Vehicle [ ] Other
Describe: see attached documents
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: \$ 116,813.33 Amount Unsecured: \$
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: \$

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: 11/09/2009 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.
Jae K. Park, attorney for Hazard Construction Company
FOR COURT USE ONLY
OPUS WEST
00621

DOC # 2009-0276538



RECORDING REQUESTED BY  
Hazard Construction Company

WHEN RECORDED MAIL TO:

Hazard Construction Company  
PO Box 229000  
San Diego, CA 92192-9000

f12  
IP  
icc

MAY 26, 2009 9:41 AM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
DAVID L. BUTLER, COUNTY RECORDER  
FEES: 15.00

NOTICES: 1  
PAGES: 1



**MECHANIC'S LIEN**  
(CLAIM OF LIEN)

The undersigned, Hazard Construction Company, referred to in this Claim of Lien as the Claimant, claims a mechanic's lien for the labor, services, equipment and/or materials described below, furnished for a work of improvement upon that certain real property located in the County of San Diego, State of California, and described as follows:

Horizon Tech Center  
10301 Meanley Drive, San Diego, CA 92131

After deducting all just credits and offsets, the sum of \$30,148.22, together with interest thereon at the rate of 10 percent per annum from February 28, 2009 is due Claimant for the following labor, services, equipment and/or materials furnished by Claimant:

Asphalt Paving and Striping

The name of the person or company by whom Claimant was employed, or to whom Claimant furnished the labor, services, equipment and/or materials is  
Opus West Construction Corporation, 2050 Main Street, Suite 800, Irvine, CA 92614

The name(s) and address(es) of the owner(s) or reputed owner(s) of the real property is/are:  
Opus West Corporation, a Minnesota Corporation  
2050 Main Street Suite 800, Irvine, CA 92614

Name of Claimant Hazard Construction Company  
By: [Signature]

VERIFICATION  
I, the undersigned, declare: I am the President of Hazard Construction Company, the Claimant named in the foregoing claim of mechanic's lien; I am authorized to make this verification for the Claimant; I have read the foregoing claim of mechanic's lien and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
May 26, 2009  
[Signature]  
Doug Urbick President

**STOP NOTICE**  
**LEGAL NOTICE TO WITHHOLD CONSTRUCTION FUNDS**  
(Public or Private Work)  
(Per California Civil Code Section 3103)

To: LaSalle Bank National Assoc Project: Horizon Tech Center  
Address: 135 South LaSalle St, Ste 1260 Address: 10301 Meanley Drive  
Chicago, IL 60603 San Diego, CA 92131

YOU ARE HEREBY NOTIFIED THAT Hazard Construction Company  
whose address is 6465 Marindustry Place, San Diego, CA 92121

has performed labor, services, equipment and furnished materials for work of improvement  
described as follows:  
Horizon Tech Center

The labor, services, equipment and materials furnished by the claimant are of the following  
general kind:  
Asphalt Paving and Striping

The labor, services, equipment and materials were furnished to or for the following party:  
Opus West Corporation, a Minnesota Corporation  
2050 Main Street, Suite 800, Irvine, CA 92614

|   |                     |
|---|---------------------|
| The total value of the whole amount of labor, services, equipment and materials<br>agreed to be furnished is..... | <u>\$642,935.00</u> |
| The value of the labor, services, equipment and materials furnished to date is .....                              | <u>\$642,935.00</u> |
| Claimant has been paid the sum of .....   | <u>\$612,786.78</u> |
| And there is due, owing and unpaid the sum of .....   | <u>\$30,148.22</u>  |

You are required to set aside sufficient funds to satisfy this claim with interest, court costs and  
reasonable costs of litigation, as provided by law. You are also notified that claimant claims an  
equitable lien against any construction funds for this project which are in your hands.

CLAIMANT: Hazard Construction Company By: Doug Urbick Doug Urbick  
(OWNER OR AGENT OF STOP NOTICE MUST SIGN AND VERIFY BELOW)

**VERIFICATION**

I, the undersigned, say: I am the president of the claimant named  
in the foregoing Stop Notice; I have read said Stop Notice and know the contents thereof; the  
same is true of my own knowledge. I declare under penalty of perjury under the laws of the  
State of California that the foregoing is true and correct.

Executed on May 27, 2009 at San Diego, California  
Doug Urbick Doug Urbick

(Personal Signature of the Individual who is swearing that the contents of Stop Notice are true)

**BOND OF STOP NOTICE**

KNOW ALL MEN BY THESE PRESENTS, That we, HAZARD CONSTRUCTION COMPANY, 6465 MARINDUSTRY PLACE, SAN DIEGO, CA 92121 as Principal, and TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a corporation created, organized and existing under and by virtue of the laws of the State of CONNECTICUT and duly authorized to transact a general surety business in the State of California, as Surety, are held and firmly bound unto LASALLE BANK NATIONAL ASSOC, 135 SOUTH LASALLE ST, STE 1260, CHICAGO, IL 60603 as Obligee, in the sum of THIRTY-SEVEN THOUSAND SIX HUNDRED EIGHTY-FIVE AND 28/100THS DOLLARS (\$37,685.28) for which payment well and truly to be made, we bind ourselves, our heirs, executors, successors, jointly and severally, firmly by these presents.

**THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That,**

**WHEREAS**, the above named Principal has furnished labor and/or materials, or both to OPUS WEST CORPORATION, A MINNESOTA CORPORATION, 2050 MAIN STREET, SUITE 800, IRVINE, CA 92614

in connection with installation of certain improvements at HORIZON TECH CENTER, 10301 MEANLEY DRIVE, SAN DIEGO, CA 92131 and,

**WHEREAS**, the Principal has filed or is about to file concurrently with this bond a stop notice in respect to said labor and/or materials, and pursuant to California Civil Code Section 3083, 3103 and 3159, and has demanded or is by such stop notice about to demand that the Obligee withhold from the borrower or other person to who it or the owner may be obligated to make payments or advancement out of the construction fund for such project or job as identified in such stop notice, sufficient money to answer the claim and any claim or lien of the Principal for labor and/or materials furnished; and in accordance with California Civil Code Section 3083, the Principal is required to serve and deliver to the Obligee a bond in the sum of THIRTY-SEVEN THOUSAND SIX HUNDRED EIGHTY-FIVE AND 28/100THS DOLLARS (\$37,685.28) being **ONE AND ONE-FOURTH** times the amount of such claim and any claim of lien;

**NOW, THEREFORE**, the condition of the above obligation is such that if the defendant recovers judgment in an action brought on by such stop notice (verified claim) or on the lien filed by the Principal, the Principal will pay all costs that may be awarded against the owner, original contractor, Obligee, or any of them, and all damages that such owner, original contractor, or Obligee may sustain by reason of the equitable garnishment specified in this bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

**IN WITNESS THEREOF**, the signature of the said Principal is hereto affixed and the corporate seal and name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at San Diego, California this 26th day of MAY, 2009.

HAZARD CONSTRUCTION COMPANY

Principal

BY: [Signature]

BOND NO.: 105234592

PREMIUM : \$358.00

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

Surety

BY: [Signature]

TARA BACON, ATTORNEY-IN-FACT

RECORDING REQUESTED BY  
Hazard Construction Company

WHEN RECORDED MAIL TO:

Hazard Construction Company  
PO Box 229000  
San Diego, CA 92192-9000

FD  
IP  
ICC

DOC # 2009-0276539



MAY 26, 2009 9:41 AM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
DAVID L. BUTLER, COUNTY RECORDER  
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**MECHANIC'S LIEN**  
(CLAIM OF LIEN)

The undersigned, Hazard Construction Company, referred to in this Claim of Lien as the Claimant, claims a mechanic's lien for the labor, services, equipment and/or materials described below, furnished for a work of improvement upon that certain real property located in the County of San Diego, State of California, and described as follows:

Opus Point IV  
3197 Lions Head Avenue, Carlsbad, CA 92010

After deducting all just credits and offsets, the sum of \$86,665.11, together with interest thereon at the rate of 10 percent per annum from March 31, 2009 is due Claimant for the following labor, services, equipment and/or materials furnished by Claimant:

Asphalt Paving and Striping

The name of the person or company by whom Claimant was employed, or to whom Claimant furnished the labor, services, equipment and/or materials is

Opus West Construction Corporation, 2050 Main Street, Suite 800, Irvine, CA 92614

The name(s) and address(es) of the owner(s) or reputed owner(s) of the real property is/are:

Opus West Construction Corporation  
2050 Main Street Suite 800, Irvine, CA 92614

Name of Claimant Hazard Construction Company

By: [Signature]

VERIFICATION

I, the undersigned, declare: I am the President of Hazard Construction Company, the Claimant named in the foregoing claim of mechanic's lien; I am authorized to make this verification for the Claimant; I have read the foregoing claim of mechanic's lien and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

May 26, 2009

[Signature]  
Doug Urbick President

**STOP NOTICE**  
**LEGAL NOTICE TO WITHHOLD CONSTRUCTION FUNDS**  
(Public or Private Work)  
(Per California Civil Code Section 3103)

To: Wachovia Bank, N.A.  
Address: Real Estate Financial Services  
Mail Code AZ-1400  
16435 N. Scottsdale Rd St 200  
Scottsdale, AZ 85254

Project: Opus Point IV  
Address: 3197 Lionshead Ave  
Carlsbad, CA 92010

YOU ARE HEREBY NOTIFIED THAT Hazard Construction Company

whose address is 6465 Marindustry Place, San Diego, CA 92121  
has performed labor, services, equipment and furnished materials for work of improvement  
described as follows:

Opus Point IV  
The labor, services, equipment and materials furnished by the claimant are of the following  
general kind:  
Asphalt Paving and Striping

The labor, services, equipment and materials were furnished to or for the following party:  
Opus West Corporation  
2050 Main Street, Suite 800, Irvine, CA 92614

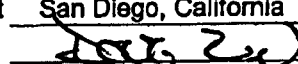
|   |                     |
|---|---------------------|
| The total value of the whole amount of labor, services, equipment and materials<br>agreed to be furnished is..... | <u>\$672,242.00</u> |
| The value of the labor, services, equipment and materials furnished to date is .....                              | <u>\$672,242.00</u> |
| Claimant has been paid the sum of .....   | <u>\$585,576.89</u> |
| And there is due, owing and unpaid the sum of .....   | <u>\$86,665.11</u>  |

You are required to set aside sufficient funds to satisfy this claim with interest, court costs and  
reasonable costs of litigation, as provided by law. You are also notified that claimant claims an  
equitable lien against any construction funds for this project which are in your hands.

CLAIMANT: Hazard Construction Company By:  Doug Urbick  
(OWNER OR AGENT OF STOP NOTICE MUST SIGN AND VERIFY BELOW)

**VERIFICATION**

I, the undersigned, say: I am the president of the claimant named  
in the foregoing Stop Notice; I have read said Stop Notice and know the contents thereof; the  
same is true of my own knowledge. I declare under penalty of perjury under the laws of the  
State of California that the foregoing is true and correct.

Executed on May 26, 2009 at San Diego, California  
 Doug Urbick

(Personal Signature of the Individual who is swearing that the contents of Stop Notice are true)

**BOND OF STOP NOTICE**

**KNOW ALL MEN BY THESE PRESENTS**, That we, HAZARD CONSTRUCTION COMPANY, 6465 MARINDUSTRY PLACE, SAN DIEGO, CA 92121 as Principal, and TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a corporation created, organized and existing under and by virtue of the laws of the State of CONNECTICUT and duly authorized to transact a general surety business in the State of California, as Surety, are held and firmly bound unto WACHOVIA BANK, N.A., REAL ESTATE FINANCIAL SERVICES, MAIL CODE AZ-1400, 16435 N. SCOTTSDALE RD ST 200, SCOTTSDALE, AZ 85254 as Obligee, in the sum of ONE HUNDRED EIGHT THOUSAND THREE HUNDRED THIRTY-ONE AND 39/100THS DOLLARS (\$108,331.39) for which payment well and truly to be made, we bind ourselves, our heirs, executors, successors, jointly and severally, firmly by these presents.

**THE CONDITION OF THE ABOVE OBLIGATION IS SUCH**, That,

**WHEREAS**, the above named Principal has furnished labor and/or materials, or both to OPUS WEST CORPORATION, 2050 MAIN STREET, SUITE 800, IRVINE, CA 92614

in connection with installation of certain improvements at OPUS POINT IV, 3197 LIONSHEAD AVE, CARLSBAD, CA 92010 and,

**WHEREAS**, the Principal has filed or is about to file concurrently with this bond a stop notice in respect to said labor and/or materials, and pursuant to California Civil Code Section 3083, 3103 and 3159, and has demanded or is by such stop notice about to demand that the Obligee withhold from the borrower or other person to who it or the owner may be obligated to make payments or advancement out of the construction fund for such project or job as identified in such stop notice, sufficient money to answer the claim and any claim or lien of the Principal for labor and/or materials furnished; and in accordance with California Civil Code Section 3083, the Principal is required to serve and deliver to the Obligee a bond in the sum of ONE HUNDRED EIGHT THOUSAND THREE HUNDRED THIRTY-ONE AND 39/100THS DOLLARS (\$108,331.39) being ONE AND ONE-FOURTH times the amount of such claim and any claim of lien;

**NOW, THEREFORE**, the condition of the above obligation is such that if the defendant recovers judgment in an action brought on by such stop notice (verified claim) or on the lien filed by the Principal, the Principal will pay all costs that may be awarded against the owner, original contractor, Obligee, or any of them, and all damages that such owner, original contractor, or Obligee may sustain by reason of the equitable garnishment specified in this bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

**IN WITNESS THEREOF**, the signature of the said Principal is hereto affixed and the corporate seal and name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at San Diego, California this 26th day of MAY, 2009.

HAZARD CONSTRUCTION COMPANY

Principal

BY: [Signature]

BOND NO.: 105234591

PREMIUM: \$1,029.00

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

Surety

BY: [Signature]

TARA BACON, ATTORNEY-IN-FACT