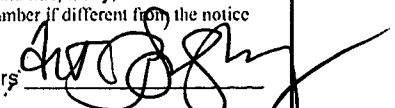


UNITED STATES BANKRUPTCY COURT      Northern District of Texas		PROOF OF CLAIM
Name of Debtor: Erickson Construction, LLC		Case Number: 09-37016
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative 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): A. Tasker, Inc. t/a Salco Mechanical Contractors		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  Court Claim Number: _____ (If known)  Filed on: _____
Name and address where notices should be sent:  615 S. Stonestreet Avenue Rockville, MD 20850-4131		
Telephone number: (301) 309-1800		
Name and address where payment should be sent (if different from above):  same		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number:		
1. Amount of Claim as of Date Case Filed:      \$ <u>198,256.40</u>  If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  If all or part of your claim is entitled to priority, complete item 5.  <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim.  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).  <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4).  <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).  <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7).  <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).  <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____).  Amount entitled to priority: \$ _____  *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
2. Basis for Claim: <u>M&amp;M Lien (see Exhibit A)</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: <u>retirement complex</u>  Value of Property: \$ _____ Annual Interest Rate <u>6%</u>  Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____  Amount of Secured Claim: \$ <u>198,256.40</u> Amount Unsecured: \$ <u>0.00</u>		
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: 02/25/2010	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.  Arthur Salzberg, Vice President, A. Tasker, Inc., t/a Salco Mechanical Contractors 	

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.

Erickson Ret. Comm. LLC



01617

## EXHIBIT A

At the request of Erickson Construction, LLC (the "Debtor"), A. Tasker, Inc., t/a Salco Mechanical Contractors ("Salco") provided various materials and services to Ashby Ponds Retirement Community, a retirement complex owned and operated by the Debtor and located at 21170 Ashby Ponds Blvd., Ashburn, VA 20147-6128 (the "Complex"). Such materials and services include: (i) furnishing and installation of waste, vent, water, and storm piping; (ii) furnishing and installation of pumps, water heaters, plumbing fixtures, floor and areas drains; (iii) installation of hydronic piping for condenser water to water source heat pumps provided by others; (iv) setting of heat pumps and connecting condensate drainage and hydronic piping; (v) furnishing and installation of duct work for distribution of air from heat pumps; and (vi) installation of control wiring. Pursuant to Virginia state law, any person who performs labor or furnishes materials in connection with the repair or improvement of any building or structure is entitled to a mechanic's and materialman's lien on said building or structure. VA. CODE § 43-3. Accordingly, Salco asserts mechanic's and materialman's liens (the "Liens") against the Complex for materials and services provided to the Debtor.

Salco has complied with both Virginia law and the Bankruptcy Code to preserve and perfect the Liens, as Salco has timely filed: (i) on November 4, 2009, two memoranda of lien (the "Lien Memoranda," copies of which are attached hereto as **Exhibit 1**) in the mortgage records of Loudoun County, State of Virginia;<sup>1</sup> and (ii) on February 16, 2010, a Notice of Perfection of Lien in Property of the Estate in the Debtor's bankruptcy case (NDTX, Case No. 09-37010, jointly administered).<sup>2</sup> Accordingly, the Liens asserted by Salco are valid, enforceable, perfected, and non-avoidable, and Salco asserts a secured claim against the Debtor in the aggregate amount of \$198,256.40 as of October 19, 2009, which includes the base lien amounts, accrued prepetition interest, and prepetition attorney's fees, but does not include interest, attorney's fees, or recording fees which were accrued postpetition (see **Exhibit 2**).<sup>3</sup>

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<sup>1</sup> To preserve a mechanic's and materialman's lien, a claimant must file a memorandum of lien in the mortgage records of the county where the building or structure subject to the lien is located within 90 days from the last day of the month in which the claimant last performed labor or furnished material. VA. CODE § 43-4.

<sup>2</sup> A claimant under Virginia law must commence an action to enforce its lien within six months after the date that the memorandum of lien is recorded. VA. CODE § 43-17. Salco has refrained from commencing such an action against the Debtor due to the imposition of the automatic stay. However, section 546(b)(2) of the Bankruptcy Code provides that if state law requires commencement of an action to accomplish or maintain perfection of an interest in property, and an action has not been commenced, then such interest in property shall be perfected or such perfection shall continue by giving notice within the time fixed by such state law for such commencement of an action.

<sup>3</sup> As the value of the Complex exceeds the amount of Salco's claim, Salco is oversecured and entitled to such postpetition amounts under section 506(b) of the Bankruptcy Code.

**EXHIBIT 1 – BREAKDOWN OF SALCO'S CLAIM AGAINST DEBTOR**

**BREAKDOWN OF SALCO'S CLAIM AMOUNT AGAINST DEBTOR AS OF  
PETITION DATE<sup>4</sup>**

Lien #1:

Base Lien Amount:	\$160,888.30
Prepetition Interest (6% under VA law)	\$2,350.26

Lien #2

Base Lien Amount:	\$32,841.50
Prepetition Interest (6% under VA law)	\$296.92

Prepetition Attorney's Fees	\$1,879.42
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<b>TOTAL AMOUNT DUE</b>	<b>\$198,256.40</b>
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<sup>4</sup> This calculation does not include interest, attorney's fees, or recording fees which were accrued by Salco postpetition. As an oversecured creditor, Salco is entitled to these amounts under section 506(b) of the Bankruptcy Code.

**EXHIBIT 2 – COPIES OF MEMORANDA OF MECHANIC'S AND  
MATERIALMAN'S LIENS**

VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY

**MEMORANDUM OF MECHANIC'S LIEN CLAIMED BY SUBCONTRACTOR**

NAME OF OWNER: **ASHBURN CAMPUS, LLC**

ADDRESS OF OWNER: 701 Maiden Choice Lane  
Baltimore, MD 21228

NAME OF GENERAL CONTRACTOR: **ERICKSON CONSTRUCTION, LLC**

ADDRESS OF GENERAL CONTRACTOR: 701 Maiden Choice Lane  
Baltimore, MD 21228

NAME OF CLAIMANT: **A. TASKER, INCORPORATED,**  
**t/a SALCO MECHANICAL CONTRACTORS**

ADDRESS OF CLAIMANT: 615 South Stonestreet Avenue  
Rockville, MD 20850

HART & HORAN, P.C.  
10505 JUDICIAL DRIVE, SUITE 101  
FAIRFAX, VIRGINIA 22030  
TELEPHONE: 703/552-7330  
FAX: 703/552-6940

1. **Type of Materials or Services Furnished:** Labor and materials for plumbing and mechanical installation for Building 1.4, including furnishing and installation of waste, vent, water and storm piping, furnishing and installation of pumps, water heaters, plumbing fixtures, floor and area drains, installation of hydronic piping for condenser water to water source heat pumps provided by others; setting of heat pumps, connecting condensate drainage and hydronic piping; furnishing and installation of duct work for distribution of air from heat pumps; installation of control wiring.
2. **Amount Claimed:** \$160,888.30, including retainage, plus interest at 6% per annum.
3. **Type of Structure on Which Work was Done or Materials Furnished:** Residential apartment building 1.4 for a retirement community known as Ashby Ponds.
4. **Brief Description and Location of Real Property:** ALL OF the parcel known as Loudoun County PIN No. 060-49-8809-000, being a portion of the property acquired by deed from Edward St. John, LLC and Beaumeade Investors, LLC, recorded as Instrument No. 20061215-0104677 and described in a deed of boundary line adjustment, easement, deed of trust modification and subordination recorded as Instrument No. 200807160043738, and corrected as Instrument No. 20081030-0064827, and as shown on a plat recorded as Instrument No. 20080716-0043740, containing 123.84 acres, more or less, formerly 127.4469 acres, or so much of the foregoing parcel as is reasonably necessary for the use and enjoyment of the Building 1.4 improvements thereon.

AND BEING more commonly known as Parcel B1, located at 21125 Cardinal Pond Terrace, Ashburn, VA 20147.

5. **Dates from which Interest is Claimed:** From June 25, 2009 on \$89,321.00 and from August 25, 2009 on \$71,567.30.

It is the intent of the claimant to claim the benefit of a lien.

A. TASKER, INCORPORATED,  
t/a SALCO MECHANICAL CONTRACTORS

By: *Stephen Exelbert, President*  
Stephen Exelbert, President and  
Authorized Agent

**AFFIDAVIT**

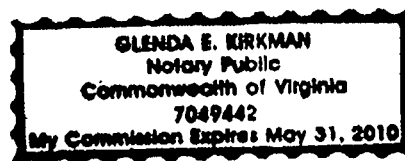
STATE OF ~~MARYLAND~~ <sup>VIRGINIA</sup>  
CITY/COUNTY OF Fairfax, to-wit:

I, *Glenda E. Kirkman*, a Notary Public for the city/county aforesaid, do certify that Stephen Exelbert, President and authorized agent for A. Tasker, Incorporated, trading as Salco Mechanical Contractors, the claimant, this day made oath before me in my city/county aforesaid that Erickson Construction, LLC is justly indebted to claimant in the sum of \$160,888.30 with interest as stated above, for the consideration stated in the foregoing memorandum, and that the same is payable as therein stated.

Given under my hand this 14<sup>th</sup> day of November, 2009.

*Glenda E. Kirkman*  
NOTARY PUBLIC

My Commission Expires: 5-31-10  
Notary Registration No: 7049442



NOTICE

TO: Ashburn Campus, LLC, Owner  
701 Maiden Choice Lane  
Baltimore, MD 21228

TO: Erickson Construction, LLC, General Contractor  
701 Maiden Choice Lane  
Baltimore, MD 21228

You are hereby notified that Erickson Construction, LLC is indebted to A. Tasker, Incorporated, trading as Salco Mechanical Contractors, Claimant, in the sum of One Hundred Sixty Thousand Eight Hundred Eighty-Eight Dollars and Thirty Cents (\$160,888.30), with interest thereon from the 25<sup>th</sup> day of June, 2009 on \$89,321.00 and from the 25<sup>th</sup> day of August, 2009 on \$71,567.30, for labor and materials furnished in and about residential apartment building 1.4 for a retirement community known as Ashby Ponds, which Erickson Construction, LLC (general contractor), has contracted to perform for Ashburn Campus, LLC (owner), on property owned by Ashburn Campus, LLC (owner), which property is located in the County of Loudoun, and that I, on behalf of A. Tasker, Incorporated, trading as Salco Mechanical Contractors, have duly recorded a mechanic's lien for the same.

Given under my hand this 4<sup>th</sup> day of November, 2009.

A. TASKER, INCORPORATED,  
t/a SALCO MECHANICAL CONTRACTORS

By *Stephen Exelbert, President*  
Stephen Exelbert, President and  
Authorized Agent



HART & HORAN, P.C.  
10505 JUDICIAL DRIVE, SUITE 101  
FAIRFAX, VIRGINIA 22030  
TELEPHONE: 703/552-7330  
FAX: 703/552-6940

VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY

**MEMORANDUM OF MECHANIC'S LIEN CLAIMED BY SUBCONTRACTOR**

NAME OF OWNER: **ASHBURN CAMPUS, LLC**

ADDRESS OF OWNER: 701 Maiden Choice Lane  
Baltimore, MD 21228

NAME OF GENERAL CONTRACTOR: **ERICKSON CONSTRUCTION, LLC**

ADDRESS OF GENERAL CONTRACTOR: 701 Maiden Choice Lane  
Baltimore, MD 21228

NAME OF CLAIMANT: **A. TASKER, INCORPORATED,**  
**t/a SALCO MECHANICAL CONTRACTORS**

ADDRESS OF CLAIMANT: 615 South Stonestreet Avenue  
Rockville, MD 20850

1. **Type of Materials or Services Furnished:** Labor and materials for plumbing and mechanical installation for Building 1.4, including furnishing and installation of waste, vent, water and storm piping, furnishing and installation of pumps, water heaters, plumbing fixtures, floor and area drains, installation of hydronic piping for condenser water to water source heat pumps provided by others; setting of heat pumps, connecting condensate drainage and hydronic piping; furnishing and installation of duct work for distribution of air from heat pumps; installation of control wiring.
2. **Amount Claimed:** \$32,841.50 including sums for which the general contractor has not received funds from the owner, plus interest at 6% per annum.
3. **Type of Structure on Which Work was Done or Materials Furnished:** Residential apartment building 1.4 for a retirement community known as Ashby Ponds.
4. **Brief Description and Location of Real Property:** ALL OF the parcel known as Loudoun County PIN No. 060-49-8809-000, being a portion of the property acquired by deed from Edward St. John, LLC and Beaumeade Investors, LLC, recorded as Instrument No. 20061215-0104677 and described in a deed of boundary line adjustment, easement, deed of trust modification and subordination recorded as Instrument No. 200807160043738, and corrected as Instrument No. 20081030-0064827, and as shown on a plat recorded as Instrument No. 20080716-0043740, containing 123.84 acres, more or less, formerly 127.4469 acres, or so much of the foregoing parcel as is reasonably necessary for the use and enjoyment of the Building 1.4 improvements thereon.

AND BEING more commonly known as Parcel B1, located at 21125 Cardinal Pond Terrace, Ashburn, VA 20147.

5. **Dates from which Interest is Claimed:** From August 25, 2009, or such date as the general contractor receives payment from the owner.

It is the intent of the claimant to claim the benefit of a lien.

A. TASKER, INCORPORATED,  
t/a SALCO MECHANICAL CONTRACTORS

By: *Stephen Exelbert, President*  
Stephen Exelbert, President and  
Authorized Agent

**AFFIDAVIT**

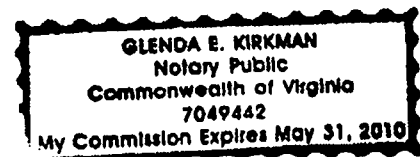
VIRGINIA  
STATE OF ~~MARYLAND~~  
CITY/COUNTY OF Fairfax, to-wit:

I, *Glenda E. Kirkman*, a Notary Public for the city/county aforesaid, do certify that Stephen Exelbert, President and authorized agent for A. Tasker, Incorporated, trading as Salco Mechanical Contractors, the claimant, this day made oath before me in my city/county aforesaid that Erickson Construction, LLC is justly indebted to claimant in the sum of \$32,841.50 with interest as stated above, for the consideration stated in the foregoing memorandum, and that the same is payable as therein stated.

Given under my hand this 4<sup>th</sup> day of November, 2009.

*Glenda E. Kirkman*  
NOTARY PUBLIC

My Commission Expires: 5-31-10  
Notary Registration No: 7049442



NOTICE

TO: Ashburn Campus, LLC, Owner  
701 Maiden Choice Lane  
Baltimore, MD 21228

TO: Erickson Construction, LLC, General Contractor  
701 Maiden Choice Lane  
Baltimore, MD 21228

You are hereby notified that Erickson Construction, LLC is indebted to A. Tasker, Incorporated, trading as Salco Mechanical Contractors, Claimant, in the sum of Thirty-Two Thousand Eight Hundred Forty-One Dollars and Fifty Cents (\$32,841.50), with interest thereon from the 25<sup>th</sup> day of August, 2009, or such date as the general contractor receives payment from the owner, for labor and materials furnished in and about residential apartment building 1.4 for a retirement community known as Ashby Ponds, which Erickson Construction, LLC (general contractor), has contracted to perform for Ashburn Campus, LLC (owner), on property owned by Ashburn Campus, LLC (owner), which property is located in the County of Loudoun, and that I, on behalf of A. Tasker, Incorporated, trading as Salco Mechanical Contractors, have duly recorded a mechanic's lien for the same.

Given under my hand this 4<sup>th</sup> day of November, 2009.

A. TASKER, INCORPORATED,  
t/a SALCO MECHANICAL CONTRACTORS

By: *Stephen Exelbert, President*  
Stephen Exelbert, President and  
Authorized Agent

**HART & HORAN, P.C.**  
ATTORNEYS AND COUNSELLORS AT LAW  
10505 JUDICIAL DRIVE, SUITE 101  
FAIRFAX, VIRGINIA 22030

JAMES R. HART  
ROBERT F. HORAN, III

TELEPHONE (703) 352-7330  
FACSIMILE (703) 352-6940  
email: jhart@tidalwave.net

November 4, 2009

**VIA FEDERAL EXPRESS**

Loudoun County Circuit Court  
Attn: Land Records  
18 E. Market Street  
P.O. Box 550  
Leesburg, VA 20178

*Re: Salco Mechanical Contractors/Erickson Construction, LLC  
Our File No. 09-247*

Dear Sir or Madam:

Please find enclosed the originals of two memoranda of mechanic's lien. Please cause them to be recorded. Our firm checks in the amount of \$21.00 each for the recording fees are enclosed herewith.

Also enclosed is a copy of each lien memorandum and two stamped self-addressed envelopes. Please stamp in the copies, showing the date filed, and return them to me in one of the envelopes. The other is for return of the originals after imaging.

Please let me know if anything further will be required. Thank you for your kind assistance in this regard.

Very truly yours,



James R. Hart

JRH/gek

Enclosures

cc: Stephen Exelbert, President  
✓ Arthur J. Salzberg, Esquire

**HART & HORAN, P.C.**  
ATTORNEYS AND COUNSELLORS AT LAW  
10505 JUDICIAL DRIVE, SUITE 101  
FAIRFAX, VIRGINIA 22030

JAMES R. HART  
ROBERT F. HORAN, III

TELEPHONE (703) 352-7330  
FACSIMILE (703) 352-6940  
email: jhart@tidalwave.net

November 5, 2009

**VIA CERTIFIED MAIL # 7003 1010 0002 1800 4272**

Ashburn Campus, LLC, Owner  
701 Maiden Choice Lane  
Baltimore, MD 21228

*Re: Salco Mechanical Contractors/Erickson Construction, LLC  
Our File No. 09-247*

Dear Sir or Madam:

Please find enclosed copies of two memoranda of mechanic's lien, with affidavit and notice attached, recently recorded among the land records of Loudoun County, Virginia.

Copies of these mechanic's liens are provided to you in your capacity as the owner of the property.

Very truly yours,



James R. Hart

JRH/gek

Enclosures

cc: Stephen Exelbert, President

✓ Arthur J. Salzberg, Esquire

**HART & HORAN, P.C.**  
ATTORNEYS AND COUNSELLORS AT LAW  
10505 JUDICIAL DRIVE, SUITE 101  
FAIRFAX, VIRGINIA 22030

JAMES R. HART  
ROBERT F. HORAN, III

TELEPHONE (703) 352-7330  
FACSIMILE (703) 352-6940  
email: jhart@tidalwave.net

November 5, 2009

**VIA CERTIFIED MAIL, # 7003 1010 0002 1800 4265**

Erickson Construction, LLC  
701 Maiden Choice Lane  
Baltimore, MD 21228

*Re: Salco Mechanical Contractors/Erickson Construction, LLC  
Our File No. 09-247*

Dear Sir or Madam:

Please find enclosed copies of two memoranda of mechanic's lien, with affidavit and notice attached, recently recorded among the land records of Loudoun County, Virginia.

Copies of these mechanic's liens are provided to you in your capacity as the general contractor for the project.

Very truly yours,



James R. Hart

JRH/gek

Enclosures

cc: Stephen Exelbert, President

✓ Arthur J. Salzberg, Esquire