

UNITED STATES BANKRUPTCY COURT Northern District of Texas (Dallas Division)

PROOF OF CLAIM

Name of Debtor:  
Ashburn Campus, LLC

Case Number:  
09-37018

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):  
Western Surety Company

Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:

Harold E. McKee  
Riordan McKee & Piper, LLC, 20 North Wacker Drive, Suite 910, Chicago, Illinois 60606

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

Telephone number:  
(312) 663-9400

RECEIVED

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

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

FEB 27 2010  
BMC GROUP

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: \$ 396,200.00

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.

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.

Specify the priority of the claim.

Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

2. Basis for Claim: See Attached  
(See instruction #2 on reverse side.)

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).

3. Last four digits of any number by which creditor identifies debtor: 7502

3a. Debtor may have scheduled account as: \_\_\_\_\_  
(See instruction #3a on reverse side.)

Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5).

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:

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).

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: \$ \_\_\_\_\_ Amount Unsecured: \$ \_\_\_\_\_

Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8).

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(\_\_\_\_).

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.)

Amount entitled to priority:

\$ \_\_\_\_\_

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

\*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 the documents are not available, please explain:

Date:  
02/24/2010

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.

FOR COURT USE ONLY

Harold E. McKee

Its Attorney

Erickson Ret. Comm. LLC



01629

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

In re: )  
 ) Case No. 09-37018  
 )  
ASHBURN CAMPUS, LP, et al., ) Chapter 11  
 )  
Debtors. )  
 )

**ASHBURN CAMPUS, LP**  
**PROOF OF CLAIM ADDENDUM**

On or about April 3, 2007, at the request of Ashburn Campus, LP, Western Surety Company ("WSC") issued a Grading Permit Surety Bond, Bond #929417733, with Ashburn Campus, LP as principal, the County of Loudon as obligee and WSC as surety, in the penal sum of \$396,200.00, in connection with certain construction improvements commonly known as the Ashby Ponds (the "Bond"). A true and correct copy of the Bond is attached hereto as Exhibit A.

Pursuant to the Bond, WSC is obligated to pay the just claims of the obligee thereto in accordance with the terms and conditions thereof. As the work is not completed and/or the bonds have not been released by the Obligee, WSC has potential liability at this time. If WSC sustains any losses as a result of its having issued this bond, WSC will have a right to seek reimbursement from Ashburn Campus, LP.

Accordingly, WSC submits this unsecured contingent claim in the amount of \$396,200.00 to protect itself in the event it receives future claims on the Bond.

WSC expressly reserves its right to amend its Proof of Claim in accordance with and pursuant to applicable Federal Rules of Bankruptcy Procedure.

**Exhibit A**



Loudoun County, Virginia  
www.loudoun.gov

Department of Building and Development  
1 Harrison Street, S. E., P. O. Box 7000, Leesburg, VA 20177-7000  
Administration: 703/777-0397 - Fax: 703/771-5215

13/01/07

**RECEIVED**  
APR 05 2007  
By \_\_\_\_\_

**GRADING PERMIT SURETY BOND**  
(EROSION AND SEDIMENT CONTROL)

<b>BOND NO.:</b> 929417733	<b>DATE BOND EXECUTED:</b> April 3, 2007
<b>PRINCIPAL(S)/CO-PRINCIPAL(S)</b> (Legal Name(s), Status and Business Address(es)) Ashburn Campus, LLC 703 Maiden Choice Lane Baltimore, MD. 21228	<b>TYPE OF ORGANIZATION: (Check one)</b> <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Joint Venture <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> Other (Specify) <u>LLC</u>
(Hereinafter "Principal" whether one or more than one)	State of Organization: <u>Maryland</u>
<b>SURETY(IES):</b> (Name(s) and Business Address(es)) Western Surety Company P.O. Box 5077 Sioux Falls, SD 57117	<b>SUM OF BOND:</b> Three Hundred Ninety Six Thousand Two Hundred and 00/100 [Million(s)] [Thousand(s)] [Hundred(s)] \$ _____ / 396 / 200
A.M. Best No. <u>00974</u> A.M. Best F.S.C. <u>IX</u> A.M. Best Rating <u>A</u> (Hereinafter "Surety" whether one or more than one)	Date of Grading Permit Application: <u>January 16, 2007</u>  Project Name (As written on the plans): <u>Ashby Ponds</u>

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto recite and declare that:

1. We are held and firmly bound to the obligee Board of Supervisors of Loudoun County, Virginia (hereinafter called County), in the sum written above in lawful money of the United States of America, to be paid to the County, its successors or assigns, for the payment Whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this Bond.

2. The condition of this Bond is that if the Principal shall in every respect discharge its obligations under the Grading Permit Application identified above, which Grading Permit Application is incorporated herein by reference, then this Bond shall be void; otherwise, this Bond shall remain in full force and effect until discharged in accordance with its terms.

3. Surety expressly WAIVES any right to receive notice of, review or approve any revisions to the erosion and sediment control plans referred to in the Grading Permit Application, and no such revision shall in any way affect the obligation of the Surety under this Bond.

10/10/03

4. In the event that any suit, action, or proceeding is brought by the County in order to enforce the provisions of this Bond, it is expressly agreed and understood that, regardless of when the breach of the underlying Grading Permit Application occurs, or the breach of the obligations of this Bond, the measure of damages recoverable shall be computed as the costs of completion or correction, or both, of the work required by the Grading Permit Application (1) at the time the work is actually completed and/or corrected to local and state approval and acceptance or (2) at the time of final judgement of a court of competent jurisdiction; it is further expressly agreed and understood that the measure of damages shall include expenses attributable, but not limited, to administrative costs, litigation costs, attorney's fees, maintenance, deterioration, inflation, and any cost increases arising from delay occasioned by litigation, action, or proceedings necessary to enforce the provisions of this Bond.

5. Nothing in this Bond shall be construed as creating an obligation upon the County to pay for the completion/correction of the work guaranteed under the provision of this Bond.

6. By signatures, hereto, the Principal and the Surety do hereby expressly WAIVE any objection that they, or either of them, might interpose to the authority of the County to require each and every provision of the foregoing Bond.

IN WITNESS WHEREOF, the parties hereto have caused this Bond to be executed under seal as of the day and year on the date set forth above.

<b>PRINCIPAL</b>	
Signature: Ashburn Campus, LLC	(SEAL)
Name and Title: _____ (Typed) _____	
Notary:	
State of: _____	
County: _____	
The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____	
_____ Notary Public	
My term of office expires:	

CORPORATE SURETY

Name and Address:

Western Surety Company

P.O. BOX 5077

SIOUX FALLS, SD 57117

1/10/07

State of Incorporation:

South Dakota

Liability Limit (Company's entire Liability Limit):

\$ 26,837,000.00

Attorney(s)-in-Fact

Signature 1: \_\_\_\_\_ (Seal) 2. \_\_\_\_\_ (Seal)

Name(s) 1. Brian P. Gibson,

2. \_\_\_\_\_

And Title(s) Atty-in-Fact

(Typed) \_\_\_\_\_

\_\_\_\_\_

Notary for Attorney(s)-in-Fact

State of: Maryland

County: Baltimore

The foregoing instrument was acknowledged before me this 3rd day of April, 20 07, by Brian P. Gibson on behalf of the corporation.

Notary Public  
Margaret A. Benjamin

My term of office expires: June 1, 20 09

VIRGINIA RESIDENT AGENT COUNTERSIGNATURE

Countersigned by Virginia Resident Agent: (unless current Certificate of Good Standing and Certificate to transact surety business in Virginia has been approved by the County attorney. Please note the address must be a deliverable address in the State of Virginia)

(Seal)

Signature

Name, Title and Business Address (Typed or Printed):

Dana H. Lang

4200 Innslake Drive

Glen Allen, VA 23060



CORNELIUS F. RIORDAN  
HAROLD E. McKEE  
WILLIAM S. PIPER

20 NORTH WACKER DRIVE, SUITE 910  
CHICAGO, ILLINOIS 60606  
TEL: (312) 663-9400  
FAX: (312) 663-1028  
WEB ADDRESS: RMP-LLC.COM

STEPHANIE M. KEDDY  
REGINA E. GAEBEL  
JAMES D. MAJOR

HAROLD E. MCKEE  
DIRECT NO.: (312) 589-6033  
EMAIL: [HMCKEE@RMP-LLC.COM](mailto:HMCKEE@RMP-LLC.COM)

OF COUNSEL:  
LAURENCE A. VELCHEK  
(LICENSED INDIANA)

February 26, 2010

**Via Federal Express Overnight (Saturday Delivery)**

BMC Group Inc  
Attn: Erickson Retirement Communities, LLC Claims Processing  
18750 Lake Drive East  
Chanhassen, MN 55317

**Re: Ashburn Campus, LLC  
United States Bankruptcy Court, Northern District of Texas (Dallas Division)  
Case No. 09-37018**

Attn: Erickson Retirement Communities, LLC Claims Processing:

I enclose for filing an original and two (2) copies of Western Surety Company's Proof of Claim against Ashburn Campus, LLC. Please file the original and return the file-stamped copies to my attention in the enclosed postage paid envelope. Thank you for your assistance and please feel free to call me with any questions you may have regarding this matter.

Very truly yours,

**RIORDAN MCKEE & PIPER, LLC**

Harold E. McKee

cc: Jerome C. Gardocky, Esq.