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679478

CT CORPORATION SYSTEM

660 EAST JEFFERSON STREET

Requestor's Name
TALLAHASSEE, FL 32301

Address
222-1092

City State Zip Phone

CORPORATION(S) NAME

FILED
97 JUN 13 PM 1:22
TALLAHASSEE
SECRETARY OF STATE

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*****70.00 *****70.00

Merger
Alvarez Taylor Plumbing and Air Conditioning, Inc.
merging w/ & into:
American Residential Services of Florida, Inc.

- | | | |
|--|---|---|
| <input type="checkbox"/> Profit | <input type="checkbox"/> Amendment | <input checked="" type="checkbox"/> Merger |
| <input type="checkbox"/> NonProfit | | |
| <input type="checkbox"/> Limited Liability Co. | | |
| <input type="checkbox"/> Foreign | <input type="checkbox"/> Dissolution/Withdrawal | <input type="checkbox"/> Mark |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Annual Report | <input type="checkbox"/> Other |
| <input type="checkbox"/> Reinstatement | <input type="checkbox"/> Reservation | <input type="checkbox"/> Change of R.A. |
| <input type="checkbox"/> Certified Copy | <input type="checkbox"/> Photo Copies | <input type="checkbox"/> Fictitious Name Filing |
| | | <input type="checkbox"/> CUS |
| <input type="checkbox"/> Call When Ready | <input type="checkbox"/> Call if Problem | <input type="checkbox"/> After 4:30 |
| <input checked="" type="checkbox"/> Walk In | <input type="checkbox"/> Will Wait | <input checked="" type="checkbox"/> Pick Up |
| <input type="checkbox"/> Mail Out | | |

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679478

ARTICLES OF MERGER
Merger Sheet

MERGING: -----

ALVAREZ TAYLOR PLUMBING AND AIR CONDITIONING, INC., a Florida
corporation P94000039457

INTO

AMERICAN RESIDENTIAL SERVICES OF FLORIDA, INC., a Florida
corporation, 679478.

File date: June 13, 1997

Corporate Specialist: Annette Hogan

ARTICLES OF MERGER

OF

ALVAREZ TAYLOR PLUMBING AND AIR CONDITIONING, INC.
(a Florida corporation)

WITH AND INTO

AMERICAN RESIDENTIAL SERVICES OF FLORIDA, INC.
(a Florida corporation)

FILED
97 JUN 13 PM 1:22
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1105 of the Florida Business Corporation Act, each of the undersigned corporations hereby adopts the following articles of merger pursuant to which Alvarez Taylor Plumbing and Air Conditioning, Inc., a Florida corporation ("Alvarez"), will be merged (the "Merger") with and into American Residential Services of Florida, Inc., a Florida corporation ("ARS"), with ARS to continue in existence following the Merger as the surviving corporation (the "Surviving Corporation"):

- FIRST:** The plan of merger ("Plan of Merger") relating to the Merger is set forth in the Agreement and Plan of Reorganization dated June 13, 1997, by and ARS, Alvarez and certain other parties, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.
- SECOND:** These Articles of Merger and the Merger shall become effective at 5:00 p.m., Houston time, on the date of filing.
- THIRD:** The Plan of Merger was duly adopted by the Board of Directors of ARS on June 12, 1997 and by the Board of Directors and shareholders of Alvarez on June 12, 1997. The shareholders of ARS are not required under the Florida Business Corporation Act to approve the merger.

IN WITNESS WHEREOF, each of the undersigned corporations has caused these Articles of Merger to be executed on its behalf as of the 13th day of June, 1997.

ALVAREZ TAYLOR PLUMBING AND AIR
CONDITIONING, INC. ("Alvarez")

By: _____
Scott V. Dols, President

AMERICAN RESIDENTIAL SERVICES
OF FLORIDA, INC. ("ARS")

By: _____
John D. Held, Vice President

0390893.02
069711/1308

IN WITNESS WHEREOF, each of the undersigned corporations has caused these Articles of Merger to be executed on its behalf as of the 13th day of June, 1997.

ALVAREZ TAYLOR PLUMBING AND AIR
CONDITIONING, INC. ("Alvarez")

By: Scott V. Dols
Scott V. Dols, President

AMERICAN RESIDENTIAL SERVICES
OF FLORIDA, INC. ("ARS")

By: _____
John D. Held, Vice President

0390893.02
069711/1308

AGREEMENT AND PLAN OF REORGANIZATION

dated as of June 13, 1997

by and among

AMERICAN RESIDENTIAL SERVICES, INC.,

AMERICAN RESIDENTIAL SERVICES OF FLORIDA, INC.

ALVAREZ TAYLOR PLUMBING AND AIR CONDITIONING, INC.

and

the STOCKHOLDERS named herein

AGREEMENT AND PLAN OF REORGANIZATION

THIS AGREEMENT AND PLAN OF REORGANIZATION (this "Agreement") is made as of June 13, 1997, by and among American Residential Services, Inc., a Delaware corporation ("ARS"), American Residential Services of Florida, Inc., a Florida corporation and a wholly owned subsidiary of ARS ("ARS Sub"), Alvarez Taylor Plumbing and Air Conditioning, Inc. a Florida corporation (the "Company"), and the persons listed on the signature page hereof under the caption "Stockholders."

PRELIMINARY STATEMENT

The parties to this Agreement have determined it is in their best long-term interests to effect a business combination by means of a Merger pursuant to which the Company will merge with and into ARS Sub on the terms and subject to the conditions set forth herein (that Merger being the "Acquisition").

The respective boards of directors of ARS, ARS Sub and the Company have approved and adopted this Agreement to effect a reorganization under Section 368(a)(2)(D) of the Code.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, representations and undertakings contained herein, the parties hereto hereby agree as follows:

Paragraph 1. Certain Defined Terms. As used in this Agreement, the following terms have the meanings assigned to them below in this Paragraph 1. Capitalized terms used in this Agreement and not defined below in this Paragraph 1 have the meanings assigned to them in the Preamble or the Preliminary Statement, Article IX of the Standard Provisions or the Special Provisions, as the case may be.

"Acquired Business" means the Company.

"Acquisition Consideration" has the meaning specified in Paragraph 2.

"Calculated Value" has the meaning specified in Schedule 2(D).

"Ceiling Amount" means \$2,020,000; provided, however, that for purposes of Section 7.06(b) the Ceiling Amount is \$480,000.

"Closing" has the meaning specified in Paragraph 3.

"Closing Date" means June 13, 1997 or such other date as to which ARS and the Company may agree in writing.

"Company" means Alvarez Taylor Plumbing and Air Conditioning, Inc., a Florida corporation.

"Company Capital Stock" means the Common Stock, par value \$1.00 per share, of the Company.

"Counsel for the Company and the Stockholders" means Kass Hodges, P.A.

"Current Balance Sheet" means the balance sheet of the Company as of March 31, 1997.

"Current Balance Sheet Date" means March 31, 1997.

"Effective Date" means the Closing Date.

"Executive Employment Agreement" means the Employment Agreement entered into as of the Effective Date between ARS Sub and Scott V. Dols.

"FBCA" means the Florida Business Corporation Act.

"Initial Financial Statements" means (a) the balance sheets of the Company as of December 31, 1996 and 1995 and the related statements of operations and retained earnings for each of the Company's fiscal years in the two-year period ended December 31, 1996 and (b) the Current Balance Sheet and the related statement of operations for the three months ended the Current Balance Sheet Date, which the Company has delivered to ARS.

"Responsible Officer" means Scott V. Dols.

"Special Provisions" has the meaning specified in Paragraph 5.

"Standard Provisions" has the meaning specified in Paragraph 4.

"Stockholder" means each of the Persons listed on the signature page hereof under the caption "Stockholders" and, for the purposes of Paragraph 2 only (and not for the purposes of any other provision of this Agreement or the Standard Provisions), Alfonso Alvarez, Jr.

"Surviving Corporation" means ARS Sub, which is to be designated in the Certificate of Merger as the surviving corporation of the Merger.

"Threshold Amount" means 1% of the Ceiling Amount.

Paragraph 2. (A) Certificates of Merger. Subject to the terms and conditions hereof, the Company will cause Certificate of Merger to be duly executed and delivered on or promptly after the Closing Date and filed with the Secretary of State of the State of Florida.

(B) The Effective Time. The effective time of the Merger (the "Effective Time") will be the time on the Effective Date which the Certificate of Merger specifies or, if the Certificate of Merger does not specify another time, 5:00 p.m., Houston, Texas time, on the Effective Date.

(C) Certain Effects of the Merger. At and as of the Effective Time, (1) the Company will be merged with and into ARS Sub in accordance with the provisions of the FBCA, (2) the Company will cease to exist as a separate legal entity, (3) ARS Sub will be the Surviving Corporation and, as such, will, all with the effect provided by the FBCA, (a) possess all the properties and rights, and be subject to all the restrictions and duties, of the Company and ARS Sub and (b) be governed by the laws of the State of Florida, (4) the Charter Documents of ARS Sub then in effect will become and thereafter remain (until changed in accordance with (a) applicable law (in the case of the certificate of incorporation) or (b) their terms (in the case of the bylaws)) the Charter Documents of the Surviving Corporation, (5) the initial board of directors of the Surviving Corporation will be the Persons named in Schedule 2(C), and those Persons will hold the office of director of the Surviving Corporation, subject to the provisions of the applicable laws of the State of Florida and the Charter Documents of the Surviving Corporation, and (6) the initial officers of the Surviving Corporation will be as set forth in Schedule 2(C), and each of those Persons will serve in each office specified for that Person in Schedule 2(C), subject to the provisions of the Charter Documents of the Surviving Corporation, until that Person's successor is duly elected to, and, if necessary, qualified for, that office.

(D) Effect of the Merger on Capital Stock. As of the Effective Time, as a result of the Merger and without any action on the part of any holder thereof:

(1) the shares of Company Capital Stock issued and outstanding immediately prior to the Effective Time will (a) be converted into the right to receive, subject to the provisions of Paragraph 2(E), without interest, on surrender of the certificates evidencing those shares, the amount of cash and the number of whole shares of ARS Common Stock determined as provided in Schedule 2(D) (the "Acquisition Consideration"), (b) cease to be outstanding and to exist and (c) be canceled and retired;

(2) each share of Company Capital Stock held in the treasury of the Company or any Company Subsidiary will (a) cease to be outstanding and to exist and (b) be canceled and retired; and

(3) each share of the Common Stock, par value \$1.00 per share, of ARS Sub issued and outstanding immediately prior to the Effective Time will remain unchanged

and such shares will constitute all the issued and outstanding shares of Capital Stock of the Surviving Corporation.

Each holder of a certificate representing shares of Company Capital Stock immediately prior to the Effective Time will, as of the Effective Time and thereafter, cease to have any rights respecting those shares other than the right to receive, subject to the provisions of Paragraph 2(E), without interest, the Acquisition Consideration and the additional cash, if any, owing with respect to those shares as provided in Paragraph 2(F).

(E) Delivery, Exchange and Payment. (1) At or after the Effective Time: (a) the Stockholders, as holders of certificates representing shares of Company Capital Stock, will, on surrender of those certificates to ARS (or any agent that may be appointed by ARS for purposes of this Paragraph 2(E)), receive, subject to the provisions of this Paragraph 2(E) and Paragraph 2(F), the Acquisition Consideration; and (b) until any certificate representing Company Capital Stock has been surrendered and replaced pursuant to this Paragraph 2(E), that certificate will, for all purposes, be deemed to evidence ownership of the Acquisition Consideration payable in respect of that certificate pursuant to Paragraph 2(D) and described in Schedule 2(D). All shares of ARS Common Stock issuable in the Merger will be deemed for all purposes to have been issued by ARS at the Effective Time.

(2) Each Stockholder will deliver to ARS (or any agent that may be appointed by ARS for purposes of this Paragraph 2(E)) on or before the Closing Date the certificates representing all the Company Capital Stock owned by that Stockholder, duly endorsed in blank, or accompanied by stock powers in blank duly executed, by that Person, and with all necessary transfer tax and other revenue stamps, acquired at that Person's expense, affixed and canceled. Each Stockholder shall cure any deficiencies in the endorsement of the certificates or other documents of conveyance respecting, or in the stock powers accompanying, the certificates representing Company Capital Stock delivered by that Person.

(3) No dividends (or interest) or other distributions declared or earned after the Effective Time with respect to ARS Common Stock and payable to the holders of record thereof after the Effective Time will be paid to the holder of any unsurrendered certificates representing shares of Company Capital Stock for which shares of ARS Common Stock have been issued in the Merger until those certificates are surrendered as provided herein, but (a) on that surrender ARS will cause to be paid, to the Person in whose name the certificates representing such shares of ARS Common Stock shall then be issued, the amount of dividends or other distributions previously paid with respect to such whole shares of ARS Common Stock with a record date, or which have accrued, subsequent to the Effective Time, but prior to surrender, and the amount of any cash payable to such Person for and in lieu of fractional shares pursuant to Paragraph 2(F) and (b) at the appropriate payment date or as soon as practicable thereafter, ARS will cause to be paid to that Person the amount of dividends or other distributions with a record date, or which have been accrued, subsequent to the Effective Time, but which are not payable until a date subsequent to surrender, which are payable with respect to such whole shares of ARS Common Stock, subject in all cases to any applicable escheat laws.

No interest will be payable with respect to the payment of such dividends or other distributions or cash for and in lieu of fractional shares on surrender of outstanding certificates.

(F) Notwithstanding any other provision herein, no fractional shares of ARS Common Stock will be issued, and if any Stockholder would be entitled hereunder to receive a fractional share of ARS Common Stock but for this Paragraph 2(F), that Stockholder will be entitled hereunder to receive a cash payment for and in lieu thereof in the amount (rounded upward to the nearest whole cent) equal to that Stockholder's fractional interest in a share of ARS Common Stock multiplied by the Calculated Value.

Paragraph 3. The Closing. On or before the Closing Date, the parties hereto will take all actions necessary to (A) effect the Acquisition (including, as permitted by the FBCA (i) the execution of the Certificate of Merger (a) meeting the requirements of the FBCA and (b) providing that the Merger will become effective on the Effective Date and (ii) the filing of the Certificate of Merger with the Secretary of State of the State of Florida), (B) verify the existence and ownership of the certificates evidencing the Company Capital Stock to be exchanged for the Acquisition Consideration pursuant to Paragraph 2(E) and (C) satisfy the document delivery requirements on which the obligations of the parties to effect the Acquisition and the other transactions contemplated hereby are conditioned by the provisions of Article V (all those actions collectively being the "Closing"). The Closing will take place at the offices of Mayor, Day, Caldwell & Keeton, L.L.P., 700 Louisiana, Houston, Texas at 10:00 a.m., Houston time, on the Closing Date or at such other time and place as the parties shall agree.

Paragraph 4. Incorporation of Standard Provisions. (A) The American Residential Services, Inc. Standard Provisions for Business Combinations, marked "Form 97-2 (BC)" and attached hereto as Annex 1 (the "Standard Provisions"), hereby are incorporated in this Agreement by this reference and constitute a part of this Agreement with the same force and effect as if set forth at length herein.

(B) Section 2.13(a) of the Standard Provisions is hereby amended to add clause (iii) thereof, to read in its entirety as follows:

"(iii) On the Closing Date, the sum of the Company's current and long-term liabilities, calculated in accordance with GAAP, does not exceed the Company's current assets, calculated in accordance with GAAP, by more than \$1,400,000. Any ARS Indemnified Loss resulting from a breach of the representation made in this clause 2.13(a)(iii) shall not be subject to the provisions of Section 7.06(a) which provide that the Stockholders shall not be liable until the aggregate ARS Indemnified Losses exceed the Threshold Amount."

(C) Section 6.01 of the Standard Provisions is hereby amended by adding the following sentence thereto "ARS will file or cause to be filed the Company's federal income tax return for the tax year through the Effective Time."

(D) Section 6.02 of the Standard Provisions is hereby amended to replace the number "90" in the second line thereof with the number "14."

(E) Section 7.02(a) of the Standard Provisions is hereby amended by deleting the word "or" preceding the number "(ii)" in the eighth line thereof and adding before the beginning of the parenthetical in the ninth line thereof the following:

"or (iii) the actions of the Board of Directors of the Company or the Stockholders taken with respect to the planning, calling, noticing or holding of meetings of the Board of Directors and Stockholders of the Company on December 23, 1996 and the approval at such meetings of the issuance of additional common stock of the Company, and all actions of such persons or other officers of the Company taken to implement the resolutions adopted at such meetings.

(F) Section 8.01(a) of the Standard Provisions is hereby amended to replace the definition of "Territory" in the last three lines thereof with the following: "Hillsborough County, Pinellas County, Polk County and Pasco County" and by adding to the end thereof the following: ", provided that, for purposes of this Section, a business in competition with ARS or any subsidiary of ARS is a business engaging in maintenance, repair, replacement and new equipment installation services for heating, ventilating and air conditioning, plumbing and indoor air quality systems."

(H) Section 10.07 of the Standard Provisions is hereby amended to replace the word "Texas" with the word "Delaware."

Paragraph 5. Incorporation of Special Provisions. The following documents attached hereto as Addenda (the "Special Provisions") hereby are incorporated in this Agreement by this reference and constitute a part of this Agreement with the same force and effect as if set forth at length herein:

(A) Addendum A(2)(D): "Special Provisions Relating to Section 368(a)(2)(D) Reorganizations"; and

(B) Addendum R: "Special Provisions Relating to the ARS Common Stock Included in the Acquisition Consideration."

Paragraph 6. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

Paragraph 7. Notices. For purposes of Section 10.06, notices shall be addressed to the Stockholders and the Company, as follows:

(A) if to a Stockholder, addressed to such Stockholder at:

Mr. Michael Kass
5018 San Miguel
Tampa, Florida 33629

Mr. Elliott Robinson
Ms. Pamela Robinson
700 Spottis Woode Lane
Clearwater, Florida 34616

Mr. Scott V. Dols
2404 Tangerine Hill Court
Lutz, Florida 33549

; and

(B) if to the Company, addressed to it at:

Alvarez Taylor Plumbing and Air Conditioning, Inc.
111 Kelsey Lane, Suite A
Tampa, Florida 33619
Fax No.: (813) 740-9033
Attn: President

with copies (which shall not constitute notice for purposes of this Agreement) to:

Kass Hodges, P.A.
1505 N. Florida Avenue
Tampa, Florida 33601
Fax No.: (813) 229-3323
Attn: Denis Cohrs

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

AMERICAN RESIDENTIAL SERVICES, INC.

By: _____

John D. Held
Senior Vice President

AMERICAN RESIDENTIAL SERVICES
OF FLORIDA, INC.

By: _____

John D. Held
Vice President

ALVAREZ TAYLOR PLUMBING AND AIR
CONDITIONING, INC.

By: _____

Scott V. Dols
President

STOCKHOLDERS:

Michael Kass

Elliott Rubinson

Pamela Rubinson

Scott V. Dols

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

AMERICAN RESIDENTIAL SERVICES, INC.

By: _____
John D. Held
Senior Vice President

ARS OF FLORIDA, INC.

By: _____
John D. Held
Vice President

ALVAREZ TAYLOR PLUMBING AND AIR
CONDITIONING, INC.

By: Scott V. Dols
Scott V. Dols
President

STOCKHOLDERS
Michael Kass
Michael Kass

Elliott Robinson
Elliott Robinson

Pamela D. Kerri Robinson
Pamela Robinson

Scott V. Dols
Scott V. Dols

SCHEDULE 2(C)

to the

**Agreement and Plan of Reorganization
to which
American Residential Services, Inc.
and
Alvarez Taylor Plumbing and Air Conditioning, Inc.
are parties**

A. Words and terms used in this Schedule which are defined in the captioned Agreement are used herein as therein defined.

B. The directors of the Surviving Corporation immediately after the Effective Time are as follows: C. Clifford Wright, Jr., Howard S. Hoover, Jr. and John D. Held.

C. The officers of the Surviving Corporation immediately after the Effective Time are as follows:

President	Ed Sasso
Vice President	C. Clifford Wright, Jr.
Vice President and Secretary	John D. Held
Controller	Michael Mamaux
Treasurer	A. Jefferson Walker III
Assistant Secretary	Tana Pool
Assistant Secretary	Beth Sibley

End of Schedule

SCHEDULE 2(D)

to the

Agreement and Plan of Reorganization
to which

American Residential Services, Inc.

and

Alvarez Taylor Plumbing and Air Conditioning, Inc.

are parties

A. Words and terms used in this Schedule which are defined in the captioned Agreement are used herein as therein defined.

B. The aggregate Acquisition Consideration will be comprised of (1) \$2,020,000 in cash, (2) such number of whole shares of ARS Common Stock as, when multiplied by the Calculated Value on the date that is the 10th day prior to the Closing Date (the "Determination Date"), will most nearly approximate, but not exceed, \$480,000, and (3) cash in the amount equal to the excess of \$480,000 over the product of that number of shares of ARS Common Stock multiplied by that Calculated Value. As used in this Agreement, "Calculated Value" means the average of the daily market prices of a share of ARS Common Stock for the 20 consecutive trading days on the New York Stock Exchange immediately preceding the Determination Date. For purposes of this definition, the market price of a share of that stock for each of those trading days means, in each case as reported for equity securities listed on the New York Stock Exchange, the closing sale price, regular way, on that day for a share of that stock or, if no sale of that stock takes place on that day, the average of the closing bid and asked prices on that day for a share of that stock. The Calculated Value of a share of that stock may be higher or lower than the fair market value of that share on the Closing Date.

C. Scott V. Dols will be entitled to receive all of the Acquisition Consideration described in clauses B(2) and (3) above, and collectively Michael Kass, Elliott and Pamela Robinson and Alfonso Alvarez will be entitled to receive the Acquisition Consideration described in clause B(1) above in the following proportions:

Michael Kass:	\$ 993,250.00
Elliott and Pamela Robinson	\$ 993,250.00
Alfonso Alvarez	\$ 33,500.00.

End of Schedule