



Dec-01-03 09:59

Division of Corporations

P.01

Page 1 of 1

**P98000090934**

Florida Department of State  
Division of Corporations  
Public Access System

Electronic Filing Cover Sheet

**Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.**

(((H03000343495 3)))

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.**

To: Division of Corporations  
Fax Number : (850) 205-0380

From: Account Name : C T CORPORATION SYSTEM  
Account Number : FCA000000023  
Phone : (850) 222-1092  
Fax Number : (850) 222-9428

03 DEC 30 PM 2:57

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS

**MERGER OR SHARE EXCHANGE**

**Builders FirstSource - Florida Design Center, LLC**

Certificate of Status	0
Certified Copy	0
Page Count	95 9
Estimated Charge	\$87.30

\$ 60.00

*Please back-date this JEP*

Name Availability	
Document Examiner	DCC
Updater	DCC
Updater Verifier	DCC
Acknowledgement	DCC
W. P. Verifier	DCC

Electronic Filing Menu

Corporate Filing

Public Access Menu

Department of State 12/30/2003 3:26 PAGE 1/1 RightFAX



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood  
Secretary of State

December 30, 2003

BUILDERS FIRSTSOURCE OF JACKSONVILLE DESIGN CENTER, INC  
6550 ROOSEVELT BLVD  
JACKSONVILLE, FL 32244

SUBJECT: BUILDERS FIRSTSOURCE OF JACKSONVILLE DESIGN CENTER, INC.  
REF: P98000090934

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

Pursuant to section 608.438(3)(e), F.S., the plan of merger must provide the name(s) and address(es) of the manager(s) or managing member(s).

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6025.

Trevor Brumbley  
Document Specialist

FAX Aud. #: H03000343495  
Letter Number: 103A00069298

**ARTICLES OF MERGER  
OF  
BUILDERS FIRSTSOURCE OF JACKSONVILLE DESIGN CENTER, INC.  
AND  
BUILDERS FIRSTSOURCE - FLORIDA DESIGN CENTER, LLC.**

The following Articles of Merger are being submitted in accordance with section 607.1109, Florida Statutes.

**FIRST:** The exact name, street address of its principal office, jurisdiction, and entity type for each merging party are as follows:

Name and Street Address

1. Builders FirstSource of Jacksonville Design Center, Inc.  
6550 Roosevelt Blvd.  
Jacksonville, FL 32244

Jurisdiction  
Florida

Entity Type  
corporation

Florida Document/Registration Number: P98000090934

FEI Number: 59-3534078

2. Builders FirstSource - Florida Design Center, LLC  
6550 Roosevelt Blvd.  
Jacksonville, FL 32244

Delaware

limited liability  
company

**SECOND:** The exact name, street address of its principal office, jurisdiction, and entity type of the surviving party are as follows:

Name and Street Address

Builders FirstSource - Florida Design Center, LLC  
6550 Roosevelt Blvd.  
Jacksonville, FL 32244

Jurisdiction  
Delaware

Entity Type  
limited liability  
company

**THIRD:** The attached Plan of Merger meets the requirements of section 607.1108, Florida Statutes, and was approved by each domestic corporation that is a party to the merger in accordance with Chapter 607, Florida Statutes.

**FOURTH:** The attached Plan of Merger was approved by the other business entity that is party to the merger in accordance with the respective laws of all applicable jurisdictions.

**FIFTH:** The surviving entity hereby appoints the Florida Secretary of State as its agent for substitute service of process pursuant to Chapter 48, Florida Statutes, in any proceeding to enforce any obligation or rights of any dissenting shareholders, partners, and/or members of each domestic corporation, partnership, limited partnership and/or limited liability company that is a party to the merger.

**SIXTH:** The surviving entity agrees to pay the dissenting shareholders, partners, and/or members of each domestic corporation, partnership, limited partnership and/or limited

03 DEC 30 PM 2:57

FILED  
SECRETARY OF STATE  
JAN 1 2004

liability company that is a party to the merger the amount, if any, to which they are entitled under section(s) 607.1302, 620.205, and/or 608.4384, Florida Statutes.

**SEVENTH:** The merger is permitted under the respective laws of all applicable jurisdictions and is not prohibited by the agreement of any partnership or limited partnership or the regulations or articles of organization of any limited liability company that is a party to the merger.

**EIGHTH:** The merger shall become effective as of 11:59 p.m. on December 31, 2003.

**NINTH:** The Articles of Merger comply and were executed in accordance with the laws of each party's applicable jurisdiction.

**IN WITNESS WHEREOF,** the undersigned have executed these Articles of Merger as December 22, 2003.

Builders FirstSource of Jacksonville Design Center, Inc.

Signature: Jeffrey A. Wier  
Jeffrey A. Wier  
Vice President

Builders FirstSource - Florida Design Center, LLC

Signature: Jeffrey A. Wier  
Jeffrey A. Wier  
Vice President

03 DEC 30 PM 2:57

FILED  
SEC. TOLSON  
12/30/03

**PLAN OF MERGER  
OF  
BUILDERS FIRSTSOURCE OF JACKSONVILLE DESIGN CENTER, INC.  
AND  
BUILDERS FIRSTSOURCE - FLORIDA DESIGN CENTER, LLC.**

The following plan of merger, which was adopted and approved by each party to the merger in accordance with section 607.1103, is being submitted in accordance with section 607.1109, Florida Statutes.

03 DEC 30 PM 2:57

FILED  
SECRETARY OF STATE  
DAVID L. HARRIS

## AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (the "Plan of Merger") dated December 22, 2003 sets forth the terms, conditions, manner of converting interests, and other provisions with respect to the proposed merger (the "Merger") of Builders FirstSource of Jacksonville Design Center, Inc., a Florida corporation (the "Corporation") with and into Builders FirstSource - Florida Design Center, LLC, a Delaware limited liability company (the "Company"). The Corporation and the Company desire to make certain representations, warranties, covenants and agreements in connection with the Merger and also to establish various conditions to the Merger.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, the parties agree as follows:

### ARTICLE I

#### THE MERGER

1.1 **THE MERGER.** Upon the terms and subject to the conditions set forth in this Plan of Merger, and in accordance with the Florida Business Corporation Act ("FBCA") and the Delaware Limited Liability Act ("DLLCA"), the Corporation shall be merged with and into the Company at the Effective Time (as defined in Section 1.2). Following the Effective Time, the separate corporate existence of the Corporation shall cease and the Company shall continue as the surviving entity and shall succeed to and assume all the rights and obligations of the Corporation in accordance with the FBCA and the DLLCA. The Company will survive as the wholly-owned subsidiary of Builders FirstSource - Florida, LLC, a Delaware limited liability company.

1.2 **EFFECTIVE TIME.** Subject to the provisions of this Plan of Merger, the parties shall file a certificate of merger (the "Certificate of Merger") with the Delaware Secretary of State executed in accordance with the relevant provisions of the FBCA and the DLLCA, shall deliver articles of merger (the "Articles of Merger") to the Florida Department of State executed in accordance with the relevant provisions of the FBCA and the DLLCA and shall make all other filings or recordings required under the FBCA and the DLLCA. The Merger shall become effective at 11:59 P.M. E.S.T. on December 31, 2003 or at such other time as the Corporation and the Company shall agree and shall specify in the Certificate of Merger and the Articles of Merger (the time the Merger becomes effective being hereinafter referred to as the "Effective Time").

1.3 **EFFECTS OF THE MERGER.** The Merger shall have the effects specified in Section 18-209 of the DLLCA and Section 607.11101 of the FBCA. The separate existence of the Corporation will cease and the Corporation will merge with and into the Company, and the Company will be the surviving entity pursuant to the Plan of Merger.

1.4 **CERTIFICATE OF FORMATION.** The Merger will not effect any change to the Certificate of Formation of the Company. The Certificate of Formation of the Company, as in

effect immediately prior to the Effective Time, shall be the Certificate of Formation of the surviving Company until thereafter changed or amended as provided therein or by applicable law. Additionally, the Limited Liability Company Agreement of the Company, as in effect immediately prior to the Effective Time, shall be the Limited Liability Company Agreement of the surviving Company until thereafter changed or amended as provided therein or by applicable law.

**1.5 EFFECT ON THE CORPORATION'S STOCK.** As of the Effective Time, by virtue of the Merger and without any action on the part of the holder of any shares of the Corporation's Common Stock:

(a) Common Stock of the Corporation. Each issued and outstanding share of common stock of the Corporation shall be cancelled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefore.

(b) Cancellation of Treasury Stock. Each share of the Corporation's Common Stock owned by the Corporation shall automatically be cancelled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefore.

**1.6 MANAGEMENT.** As of the Effective Time, the members of the Board of Managers of the surviving Company, shall be the persons who were the members of the Board of Directors of the Corporation immediately prior to the merger, to serve thereafter in accordance with the limited liability company agreement of the surviving Company and until their respective successors shall have been duly elected and qualified in accordance with the limited liability company agreement of the surviving Company and the laws of the State of Delaware. As of the Effective Time, the officers of the surviving Company shall be the officers of the surviving Company immediately prior to the merger, such officers to serve thereafter in accordance with the limited liability company agreement of the surviving Company and until their respective successors shall have been duly elected and qualified in accordance with such limited liability company agreement and the laws of the State of Delaware. The name and address of the sole managing member of the Company is Builders FirstSource of Jacksonville, Inc., 1209 Orange Street, Wilmington DE 19801.

## ARTICLE II

### TERMINATION OF AGREEMENT

**2.1 TERMINATION.** This Plan of Merger may be terminated at any time prior to the Effective Time:

(a) by the mutual written consent of the Corporation and the Company;

(b) by either party, if a permanent injunction or other order by any federal or state court that would make illegal or otherwise restrain or prohibit the consummation of the Merger will have been issued and will have become final and nonappealable.

Any termination of this Plan of Merger under this Section 2.1 will be effective by the delivery of written notice of the terminating party to the other party.

### ARTICLE III

#### MISCELLANEOUS

3.1 **GOVERNING LAW; DISPUTE RESOLUTION.** The laws of the State of Delaware (without regard to its choice of law principles that might apply the law of another jurisdiction) will govern the validity of this Plan of Merger, the construction of its terms, and the interpretation and enforcement of the rights and duties of the parties.

3.2 **SEVERABILITY.** If any provision of this Plan of Merger, or the application thereof, is for any reason held to any extent to be invalid or unenforceable, then the remainder of this Plan of Merger and application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties. The parties further agree to replace such unenforceable provision of this Plan of Merger with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of the invalid or unenforceable provision.

3.3 **COUNTERPARTS.** This Plan of Merger may be executed in counterparts, each of which will be an original as regards any party whose signature appears thereon and all of which together will constitute one and the same instrument. This Plan of Merger will become binding when one or more counterparts hereof, individually or taken together, bear the signatures of all parties reflected hereon as signatories.

3.4 **OTHER REMEDIES.** Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby or by law on such party, and the exercise of any one remedy will not preclude the exercise of any other.

3.5 **AMENDMENT AND WAIVERS.** Any term or provision of this Plan of Merger may be amended, and the observance of any term of this Plan of Merger may be waived (either generally or in a particular instance and either retroactively or prospectively), only by a writing signed by the party to be bound thereby. The waiver by a party of any breach hereof or default in the performance hereof will not be deemed to constitute a waiver of any other default of any succeeding breach or default. This Plan of Merger may be amended by the parties at any time.

3.6 **NO WAIVER.** The failure of any party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such party thereafter to enforce such provisions. The waiver by any party of the right to enforce any of the provisions hereof on any occasion will not be construed to be a waiver of the right of such party to enforce such provisions on any other occasion.

3.7 **CONSTRUCTION OF AGREEMENT; KNOWLEDGE.** The language hereof will not be construed for or against either party. A reference to a section, schedule or exhibit



refers to a section in, or a schedule or an exhibit to, this Plan of Merger, unless otherwise explicitly set forth. The titles and headings in this Plan of Merger are for reference purposes only and will not in any manner limit the construction of this Plan of Merger.

3.8 **FURTHER ASSURANCES.** Each party agrees to cooperate fully with the other party and to execute such further instruments, documents and agreements and to give such further written assurances as may be reasonably requested by the other party to evidence and reflect the transactions provided for herein and to carry into effect the intent of this Plan of Merger.

3.9 **ABSENCE OF THIRD PARTY BENEFICIARY RIGHTS.** No provisions of this Plan of Merger are intended, nor will be interpreted, to provide or create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, partner or employee of any party or any other person or entity, unless specifically provided otherwise herein, and, except as so provided, all provisions hereof will be personal solely between the parties to this Plan of Merger.

IN WITNESS WHEREOF, the Company and the Corporation have each caused this Plan of Merger to be executed in its corporate name all as of the date first above written.

**SURVIVING COMPANY**

BUILDERS FIRSTSOURCE -  
FLORIDA DESIGN  
CENTER, LLC,  
a Delaware limited liability company

By: Jeffrey A. Wier  
Jeffrey A. Wier  
Vice President

**NON-SURVIVING CORPORATION**

BUILDERS FIRSTSOURCE OF  
JACKSONVILLE DESIGN  
CENTER, INC.,  
a Florida corporation

By: Jeffrey A. Wier  
Jeffrey A. Wier  
Vice President