

# State of Idaho

## Department of State

### CERTIFICATE OF MERGER OR CONSOLIDATION

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho hereby certify that  
duplicate originals of Articles of Merger of  
ACTION EXPRESS OF UTAH, INC. and ACTION EXPRESS OF MAGIC VALLEY, INC.

into ACTION EXPRESS, INC.,  
duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have  
been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this certificate of  
MERGER, and attach hereto a duplicate original of the Articles of  
MERGER.

Dated March 30, 1984.



*Pete T. Cenarrusa*

SECRETARY OF STATE

*John F. Clark*

Corporation Clerk

94 MAY 30 PM 2 01  
ARTICLES OF MERGER  
OF DOMESTIC CORPORATIONS

INTO

ACTION EXPRESS, INC.

SECRETARY OF  
STATE

Pursuant to the provisions of Section 30-1-74 of the Idaho Business Corporation Act, the undersigned corporations adopt the following Articles of Merger for the purpose of merging them into one of such corporations:

FIRST: The Plan And Agreement Of Merger annexed hereto as Exhibit "A" and by reference made a part hereof was approved by the shareholders of each of the undersigned corporations in the manner prescribed by the Idaho Business Corporation Act.

SECOND: The number of shares outstanding and the designation and number of shares of each class entitled to vote as a class on the Plan And Agreement Of Merger for each of the undersigned corporations is as follows:

<u>Corporation</u>	<u>Number of Shares Outstanding</u>	<u>Number of Shares of Each Class Entitled to Vote</u>	
		<u>Class</u>	<u>Shares</u>
Action Express, Inc.	876,071	Common	876,071
Action Express of Utah, Inc.	10,000	Common	10,000
Action Express of Magic Valley, Inc.	10,000	Common	10,000

THIRD: As to each of the undersigned corporations, the

total number of shares voted for and against such Plan, respectively, and, as to each class entitled to vote thereon as a class, the number of shares of such class voted for and against such Plan, respectively, is as follows:

Name of Corporation	Total Voted For	Total Voted Against	Class	Entitled to Vote as a Class	
				Voted For	Voted Against
Action Express, Inc.	876,071	-0-	Common	876,071	-0-
Action Express of Utah, Inc.	10,000	-0-	Common	10,000	-0-
Action Express of Magic Valley, Inc.	10,000	-0-	Common	10,000	-0-

DATED this 1st day of May, 1984.

ACTION EXPRESS, INC.

ATTEST:

Deborah A. Kennedy By William J. Nulle  
Secretary President

ACTION EXPRESS OF UTAH, INC.

ATTEST:

William J. Nulle By Paul D. Willden  
Secretary President

ACTION EXPRESS OF MAGIC VALLEY, INC.

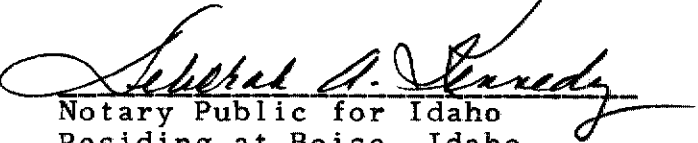
ATTEST:

William J. Nulle By Paul D. Willden  
Secretary President

STATE OF IDAHO )  
 : ss.  
County of Ada )


I, Deborah A. Kennedy, a notary public, do hereby  
certify that on this 1 day of May, 1984, per-

sonally appeared before me WILLIAM L. MILLER, who, being by me first duly sworn, declared that he is the President of ACTION EXPRESS, INC., an Idaho corporation, that he signed the foregoing documents as President of the corporation, and that the statements therein contained are true.

  
Notary Public for Idaho  
Residing at Boise, Idaho

STATE OF IDAHO       )  
                              : ss.  
County of Ada        )

I, Deborah A. Kennedy, a notary public, do hereby certify that on this 1 day of May, 1984, personally appeared before me PAUL D. WILDEH, who, being by me first duly sworn, declared that he is the President of ACTION EXPRESS OF UTAH, INC., an Idaho corporation, that he signed the foregoing documents as President of the corporation, and that the statements therein contained are true.

  
Notary Public for  
Residing at

STATE OF IDAHO       )  
                              : ss.  
County of ADA        )

I, Deborah A. Kennedy, a notary public, do hereby certify that on this 1 day of May, 1984, personally appeared before me David Peck, who, being by me first duly sworn, declared that he is the President of ACTION EXPRESS OF MAGIC VALLEY, INC., an Idaho corporation, that he signed the foregoing documents as President of the corporation, and that the statements therein contained are true.

  
Notary Public for  
Residing at

PLAN AND AGREEMENT OF MERGER

THIS PLAN AND AGREEMENT OF MERGER, dated this 1st day of May, 1984, by and between ACTION EXPRESS, INC., an Idaho corporation, hereinafter referred to as the "Surviving Corporation," and ACTION EXPRESS OF UTAH, INC., an Idaho corporation, and ACTION EXPRESS OF MAGIC VALLEY, INC., an Idaho corporation, hereinafter referred to as the "Merging Corporations," said corporations being sometimes referred to collectively hereinafter as the "Constituent Corporations";

WITNESSETH, that

WHEREAS, the Surviving Corporation is validly organized, existing and in good standing under the laws of the State of Idaho with authorized capital of 10,000,000 shares of common stock with a par value of 10¢ per share of which 876,071 shares have been issued and are presently outstanding; and

WHEREAS, the Merging Corporation, ACTION EXPRESS OF UTAH, INC., is validly organized, existing and in good standing under the laws of the State of Idaho with authorized capital of 100,000 shares of common stock, par value of \$1.00 each, of which at the date hereof 10,000 shares have been issued and are outstanding; and

WHEREAS, the merging corporation, ACTION EXPRESS OF MAGIC VALLEY, INC., is validly organized, existing and in good standing

under the laws of the State of Idaho with authorized capital of 100,000 shares of common stock, par value of \$1.00 each, of which at the date hereof 10,000 shares have been issued and are outstanding; and

WHEREAS, the Boards of Directors of the Constituent Corporations have deemed it advisable and in the best interests of their respective corporations and stockholders to merge said Merging Corporations with and into the Surviving Corporation in accordance with the provisions of applicable statutes of the State of Idaho;

NOW, THEREFORE, intending to be legally bound hereby, the parties covenant and agree as follows:

Section 1. AGREEMENT OF MERGER. The Constituent Corporations agree that on the effective date of the merger, the Merging Corporations shall be merged with and into ACTION EXPRESS, INC., and the separate existence of the Merging Corporations shall cease, and the Constituent Corporations shall thereupon become a single corporation under the name of "ACTION EXPRESS, INC.," an Idaho corporation, which shall be the Surviving Corporation.

Section 2. RESTATED ARTICLES OF INCORPORATION OF SURVIVING CORPORATION. The Restated Articles of Incorporation of ACTION EXPRESS, INC., which are set forth in Exhibit "A" to this Agreement shall be and become the articles of incorporation of the Surviving Corporation without amendment thereto.

Section 3. BY-LAWS OF SURVIVING CORPORATION. The By-Laws of ACTION EXPRESS, INC., in effect immediately prior to the effective date of the merger shall continue to be the By-Laws of the Surviving Corporation until amended or repealed in the manner provided by law and under such By-Laws.

Section 4. DIRECTORS AND OFFICERS OF SURVIVING CORPORATION. The directors and officers of ACTION EXPRESS, INC., immediately prior to the effective date of the merger shall continue to be the directors of the Surviving Corporation and shall hold office for the term specified in the By-Laws of the Surviving Corporation and until their respective successors are duly elected and qualified.

Section 5. MANNER AND BASIS OF CONVERSION OF SHARES. The manner of converting the shares of the Merging Corporations into shares of common stock of the Surviving Corporation shall be as follows:

(a) Each share of common stock of ACTION EXPRESS, INC., issued and outstanding or in its treasury immediately prior to the effective date of merger shall by virtue of the merger be converted into and shall become, without further action on the part of the holder of such common stock, Eight Hundred Seventy-Six Thousand Seventy-One (876,071) shares of fully paid and nonassessable common stock of the Surviving Corporation with a par value of 10¢ per share.

(b) Each share of common stock of ACTION EXPRESS OF UTAH, INC., which is issued, outstanding and held in the name of PAUL D. WILLDEN immediately prior to the effective date of merger shall by virtue of the merger be converted into and shall become without further action on the part of the holder of such common stock, 17,476 shares of fully paid and nonassessable common stock of the Surviving Corporation with a par value of 10¢ per share.

(c) Each share of common stock of ACTION EXPRESS OF MAGIC VALLEY, INC., which is issued, outstanding and held in the name of DAVID PECK immediately prior to the effective date of merger shall by virtue of the merger be converted into and shall become without further action on the part of the holder of such common stock, 24,148 shares of fully paid and nonassessable common stock of the Surviving Corporation with a par value of 10¢ per share.

(d) Each share of the Merging Corporations' common stock which is issued, outstanding and held in the name of ACTION EXRESS, INC., shall be deemed cancelled and no shares of common stock of the Surviving Corporation shall be issued therefor.

(e) Each outstanding certificate of common stock of the Merging Corporations shall upon the effective date of merger be deemed for all purposes to evidence ownership of the number of full shares of common stock of the Surviving Corporation into which the same shall have been converted at the rate set forth above; provided, however, that until the holder of such certificate shall have surrendered the same for exchange as set forth



hereinafter, no dividend payable to holders of record of common stock of the Surviving Corporaiton as of any date subsequent to the effective date of the merger shall be paid to such holder with respect to the common stock of the Surviving Corporation represented by such certificate. However, upon surrender and exchange of such certificate as herein provided, there shall be paid to the record holder of the certificate or certificates of common stock of the Surviving Corporation issued in exchange therefor an amount with respect to such shares of common stock equal to all dividends, without any interest thereon, which shall have been paid or shall become payable to holders of record of common stock of the Surviving Corporation between the effective date of the merger and the date of such exchange.

(f) On the effective date of the merger, each holder of outstanding certificates for common stock theretofore issued by the Constituent Corporations shall, upon surrender of the same by such holder for cancellation, be entitled to receive new certificates for the number of shares of common stock of the Surviving Corporation to which he is entitled.

(g) On the effective date of the merger, any shares of common stock of the Merging Corporations which are then held in their treasury shall be cancelled and retired without further action, and no shares of common stock of the Surviving Corporation shall be issued in respect thereof.

Section 6. EFFECT OF MERGER. On the effective date of the merger, the Surviving Corporation shall possess all of the rights, privileges, immunities and franchises, of a public as well as of a private nature, of each of the Constituent Corporations, and shall become subject to all of the restrictions, disabilities and duties of each of the Constituent Corporations and to all of the singular rights, privileges, powers and franchises of each of the Constituent Corporations. All property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged, shall be taken and deemed to be transferred to and vested in such Surviving Corporation without further act or deed, and the title to any real estate, or any interests therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger. The Surviving Corporations shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the Constituent Corporations so merged, and any claim existing or action or proceeding pending by or against any of such Constituent Corporations may be prosecuted as if such merger had not taken place, or such Surviving Corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger. The Articles of Incorporation of the Surviving Corpora-

tion shall be deemed to be amended to the extent, if any, that changes in its Articles of Incorporation are stated in this Plan And Agreement of Merger upon the effective date of the merger, the shares of the Merging Corporations shall cease to exist and the holders of such shares shall thereafter be entitled only to the shares, obligations, other securities, cash and other property unto which they shall have been converted or for which they shall have been exchanged in accordance with the plan, subject to any rights under Section 30-1-80 of the Idaho Code.

Section 7. FURTHER ASSURANCES. If at any time after the merger becomes effective it shall appear to the Surviving Corporation that any further assignments or assurances are necessary or desirable to evidence the vesting of the title in the Surviving Corporation to any of the property or rights of the Merging Corporations, those persons who were proper officers and directors of the Merging Corporations as of the effective date of the merger shall execute, acknowledge and deliver such assignments or other instruments and do such acts as may be necessary or appropriate to evidence the vesting of title to such property or rights in the Surviving Corporation. For such purposes the capacity and authority of the Merging Corporations and their officers shall be deemed to be continuing.

Section 8. ACCOUNTING AND STATED CAPITAL. Upon the effective date of the merger, subject to such additions, adjustments or deletions as may be made in accordance with generally accepted

accounting principles, the assets and liabilities of the Constituent Corporations shall be recorded in the accounting records of the Surviving Corporation and the amount of stated capital shall be One Million Dollars (\$1,000,000).

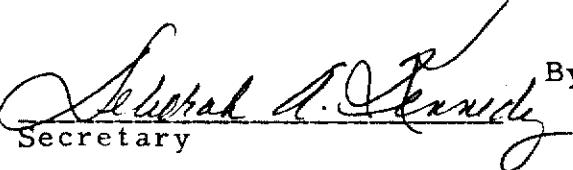
Section 9. REPRESENTATIONS AND WARRANTIES. The Constituent Corporations each represent and warrant to the other that between the date hereof and the time when the merger becomes effective they will not enter into any employment contracts, grant any stock options or issue any stock or securities, or declare or pay any dividends in stock or cash or make any other distribution on or with respect to their outstanding stock.

Section 10. EFFECTIVE DATE. The effective date of the merger provided for by this Agreement shall be January 1, 1984.

IN WITNESS WHEREOF, the undersigned officers have signed their names hereunto and have caused their respective corporate seals of the Constituent Corporations to be affixed hereto the day and year first above written.

ATTEST:


ACTION EXPRESS, INC.,  
an Idaho corporation  
(the "Surviving Corporation")


  
Secretary

By   
President

ATTEST:

ACTION EXPRESS OF UTAH, INC.,  
an Idaho corporation  
(the "Merging Corporation")

  
Secretary

By   
President

ACTION EXPRESS OF MAGIC VALLEY, INC.  
an Idaho corporation  
(the "Merging Corporation")

ATTEST:

William L. Miller  
Secretary

By [Signature]  
President

STATE OF IDAHO )  
: ss.  
County of Ada )

On this 1 day of May, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared WILLIAM L. MILLER and DEBORAH A. KENNEDY, known or identified to me to be the President and Secretary of ACTION EXPRESS, INC., said corporation being one of the corporations that that executed the above and foregoing instrument, and acknowledged to me that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said WILLIAM L. MILLER and DEBORAH A. KENNEDY acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


[Signature]  
Notary Public for Idaho  
Residing at Boise, Idaho

STATE OF Idaho )  
: ss.  
County of Ada )

On this 1 day of May, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared Paul D. Willden and William L. Miller, known or identified to me to be the President and Secretary of ACTION EXPRESS OF UTAH, INC., said corporation being one of the corporations that that executed the above and foregoing instrument, and acknowledged to me that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said PAUL D.

WILLDEN and WILLIAM L. MILLER acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

  
Notary Public for  
Residing at

STATE OF                    )  
                              : ss.  
County of                 )

On this 1 day of May, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared David Peck and William L. Miller, known or identified to me to be the President and Secretary of ACTION EXPRESS OF MAGIC VALLEY, <sup>INC.</sup> corporation being one of the corporations that that executed the above and foregoing instrument, and acknowledged to me that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said DAVID PECK and WILLIAM L. MILLER acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

  
Notary Public for  
Residing at