

MERGER AGREEMENT

THIS AGREEMENT is made and entered into to be effective for all purposes as of January 1, 2001, by and between SHADOWCREST HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation ("Shadowcrest"), and CONCORD HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation ("Concord").

RECITALS:

A. Shadowcrest and Concord have entered into a certain Agreement (the "Pre-Merger Agreement") dated as of September 1, 1998, which Pre-Merger Agreement is recorded in Volume 3287, Page 216 of the Real Property Records of Brazos County, Texas.

B. Shadowcrest and Concord desire to enter into this Agreement as the Merger Agreement described in the Pre-Merger Agreement.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Concord and Shadowcrest hereby agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

- A. "Concord Owner" shall mean any owner of a platted lot situated in the Concord Property.
- B. The "Concord Property" shall mean the real property more particularly described on Exhibit "A", attached hereto and made a part hereof.
- C. The "Concord Restrictions" shall mean the Declaration of Covenants, Conditions, and Restrictions for Woodcreek Section Nine, dated April 8, 1998, and recorded in Volume 3081, Page 215 of the Real Property Records of Brazos County, Texas.
- D. The "Merger Date" shall mean January 1, 2001.
- E. "Shadowcrest Owner" shall mean any owner of a platted lot situated in the Shadowcrest Property.
- F. The "Shadowcrest Property" shall mean the real property which is more particularly described on Exhibit "B", attached hereto and made a part hereof for all purposes.
- G. The "Shadowcrest Restrictions" shall mean the covenants and restrictions applicable to the Shadowcrest Property which are recorded in Volume 545, Page 268, Volume 545, Page 303, Volume 557, Page 25, Volume 774, Page 827 and Volume 969, Page 793 of the Real Property Records of Brazos County, Texas.

2. Merger. Shadowcrest and Concord hereby agree that the Merger Date shall be January 1, 2001. Effective as of the Merger Date, (i) the "Association", as defined in the Concord Restrictions, shall mean and refer to Shadowcrest Homeowners' Association, Inc., a Texas non-profit corporation; (ii) Shadowcrest assumes and agrees to perform all of the obligations of the Association under the Concord Restrictions and shall succeed to all of the power and authority of the

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Association under the Concord Restrictions; (iii) Concord assigns to Shadowcrest all of Concord's rights and obligations under the Concord Restrictions; and (iv) Shadowcrest shall jointly administer the Shadowcrest Property and the Concord Property, subject to the terms and provisions of the Shadowcrest Restrictions, the Concord Restrictions, and this Agreement. Regular assessments levied from time to time by Shadowcrest from and after the Merger Date shall be apportioned equally to each lot in the Shadowcrest Property and in the Concord Property; and each lot in the Shadowcrest Property and each lot in the Concord Property shall have equal voting rights in Shadowcrest.

3. Effect of Restrictions. Effective as of the Merger Date, the provisions of Articles II, III, IV, V, VI, VII and VIII of the Concord Restrictions shall be of no further force and effect, and shall be superseded and replaced in their application to the Concord Property by Articles II, III, and IV of the Declaration of Covenants and Restrictions for Shadowcrest recorded in Volume 774, Page 827 of the Official Records of Brazos County, Texas. Notwithstanding anything to the contrary in the Concord Restrictions, the Shadowcrest Restrictions or this Agreement, Shadowcrest and Concord agree that the provisions of Article XII of the Concord Restrictions may not be amended on or after the Merger Date without the prior written consent of TAC Realty, Inc., a Texas corporation, the Declarant under the Concord Restrictions.

4. Conveyance of Common Area. Simultaneously with the execution of this Agreement, Concord has executed and delivered to Shadowcrest a Special Warranty Deed conveying to Shadowcrest the "Common Area", as defined in the Concord Restrictions, free and clear of liens.

5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of Shadowcrest, Concord, and the owners or all or any portion of the Shadowcrest Property and the Concord Property and their respective heirs, executors, successors, legal representatives and assigns.

6. Governing Law, Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any legal action arising out of this Agreement shall be in Brazos County, Texas.

7. Headings. Headings used in this Agreement are for reference purposes only and do not constitute substantive matter to be considered in construing the terms of this Agreement.

8. Interpretation. If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the other terms and provisions of this Agreement, and such other terms and provisions of this Agreement shall continue in full force and effect. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be automatically added to this Agreement a provision similar to the invalid, illegal or unenforceable provision as may be possible and be legal, valid and enforceable.

9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument, regardless of whether or not the signatures of all of the parties hereto appear on any single counterpart hereof.

10. Construction. Each party to this Agreement has had the opportunity to have this Agreement reviewed by legal counsel for each party; and the terms of this Agreement shall be interpreted without the application of any canon or rule of construction regarding interpretation of an agreement against the party drafting such agreement.

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11. Entirety and Amendments. This Agreement embodies the entire Agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, if any, relating to the subject matter of this Agreement. This Agreement may be amended or supplemented only by written instrument executed after the date hereof by the party against whom enforcement is sought.

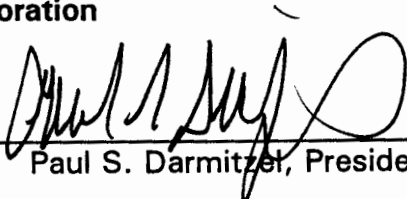
12. Authority. By its execution hereof, each party to this Agreement warrants and represents to the other party hereto that such party has full right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and that the terms and provisions of this Agreement are enforceable against such party in accordance with its terms.

IN WITNESS WHEREOF, Shadowcrest and Concord have executed this Agreement to be effective for all purposes as of the Merger Date.

SHADOWCREST HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation

By: 
Name: C.T. Smith
Title: PRESIDENT, SHOA

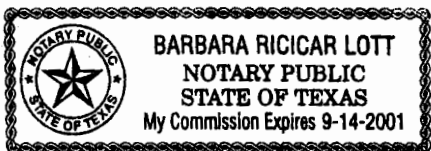
CONCORD HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation


By: 
Paul S. Darmitzel, President

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 5th day of April, 2001, by C.T. SMITH, PRESIDENT of SHADOWCREST HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.

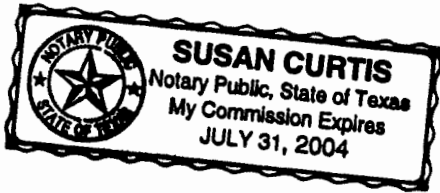



NOTARY PUBLIC, STATE OF TEXAS
Notary's Printed Name: _____
My commission expires: _____

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 29th day of March, 2001, by Paul S. Darmitzel, President of CONCORD HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation, on behalf of said corporation.



Susan Curtis
NOTARY PUBLIC, STATE OF TEXAS
Notary's Printed Name: _____
My commission expires: _____

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EXHIBIT "A"

(CONCORD PROPERTY)

FIELD NOTES
WOODCREEK, SECTION NINE
11.373 ACRES

Being all that certain tract or parcel of land lying and being situated in the THOMAS CARUTHERS LEAGUE, A-9 in College Station, Brazos County, Texas and being a portion of the tract of land called 40.50 Acres out of Tract Four, said Tract Four being part of the 88.52 acres conveyed by the Federal Deposit Insurance Corporation (FDIC), in its capacity as Liquidator of the First Bank & Trust, Bryan, Texas to TAC REALTY, INC. by Special Warranty Deed, Volume 1157, Page 194 of the Official Records of Brazos County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING: at a found 1/2-inch iron rod marking the west corner of Lot 10, Block 7 of Foxfire, Phase II subdivision as recorded in Volume 358, Page 291, said iron rod also being an angle point in the south line of Lot 4 in said Block 7;

THENCE: S 45° 03' 33" E (called S 45° 00' 14" E) along the southwest line of said Foxfire, Phase II subdivision for a distance of 675.35 feet to a 1/2-inch iron rod set for corner;

THENCE: S 58° 18' 47" W through the said 40.50 acre tract and along the northwest line of Lots 6 and 7, Block Eleven of Woodcreek, Section Two as recorded in Volume 750, Page 347, for a distance of 341.64 feet to a found 1/2-inch iron rod for corner;

THENCE: N 40° 00' 15" W along the northeast line of Lot 1, Block Eleven of said Woodcreek, Section Two for a distance of 120.76 feet to a found 1/2-inch iron rod in the southeast line of Concord Circle (a 50' wide street right-of-way formerly known as Courtlandt Circle);

THENCE: N 36° 21' 07" W for a distance of 50.58 feet to a 1/2-inch iron rod set for corner;

THENCE: S 44° 56' 17" W along the northwest line of said Concord Circle for a distance of 100.00 feet to a found 1/2-inch iron rod for the Point of Curvature of a curve to the right;

THENCE: 121.70 feet along the arc of said curve having a central angle of 25° 21' 21", a radius of 275.00 feet, a tangent of 61.86 feet and a long chord bearing S 57° 36' 58" W at a distance of 120.71 feet to a 1/2-inch iron rod set for the Point of Curvature of a Compound Curve;

THENCE: 39.59 feet along the arc of said compound curve having a central angle of 90° 44' 13", a radius of 25.00 feet, a tangent of 25.32 feet and a long chord bearing N 64° 20' 15" W at a distance of 35.58 feet to a 1/2-inch iron rod set for a Point of Curvature of a Reverse Curve;

THENCE: 18.71 feet along the arc of said reverse curve in the northeast line of a 60' wide street right-of-way called Stonebrook Drive, said curve having a central angle of 01° 17' 26", a radius of 830.81 feet, a tangent of 9.36 feet and a long chord bearing N 19° 36' 52" W at a distance of 18.71 feet to a 1/2-inch iron rod set for corner;

THENCE: S 73° 08' 01" W for a distance of 60.12 feet to a 1/2-inch iron rod set in the southwest line of said Stonebrook Drive for corner;

THENCE: 200.29 feet in a clockwise direction along the arc of a curve having a central angle of 14° 53' 18", a radius of 770.81 feet, a tangent of 100.71 feet and a long chord bearing S 13° 04' 48" E at a distance of 199.73 feet to a 1/2-inch iron rod set for corner, said iron rod also marking the northeast corner of Lot 1, Block Six of the beforementioned Woodcreek, Section Two addition;

THENCE: S 84° 00' 31" W along the northwest line of said Lot 1 for a distance of 109.76 feet to a 1/2-inch iron rod set for corner;

THENCE: 18.01 feet in a clockwise direction along the arc of a curve in the southwest line of said Lot 1, said curve having a central angle of 01° 33' 49", a radius of 660.00 feet, a tangent of 9.01 feet and a long chord bearing S 04° 09' 55" E at a distance of 18.01 feet to a 1/2-inch iron rod set for corner;

THENCE: S 86° 36' 59" W for a distance of 130.00 feet along the northwest line of a 20' wide Public Alley and along the northwest line of Block One of Woodcreek, Section Two as recorded in Volume 579, Page 345 to a 1/2-inch iron rod set for corner;

THENCE: S 03° 23' 01" E along the southwest line of said Block One for a distance of 122.00 feet to a found 1/2-inch iron rod for corner;

THENCE: S 86° 36' 59" W along the northwest line of Timber Knoll Drive (a 50' wide right-of-way described by plat in Volume 529, Page 23) for a distance of 50.00 feet to a 1/2-inch iron rod set for corner;

THENCE: 39.27 feet in a clockwise direction along the arc of a curve having a central angle of 90° 00' 00", a radius of 25.00 feet, a tangent of 25.00 feet and a long chord bearing S 41° 36' 59" W at a distance of 35.36 feet to a found 1/2-inch iron rod for corner;

THENCE: S 86° 36' 59" W along the northwest line of Shadowcrest Drive (a 50' wide right-of-way

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FIELD NOTES
Woodcreek, Section Nine
11.373 Acres

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described by plat in Volume 529, Page 23) for a distance of 85.04 feet to a 1/2-inch iron rod set for corner, said iron rod also marking the southeast corner of a 6.58 acre City Park tract described in Volume 918, Page 678;

THENCE: N 03° 23' 01" W along said City Park tract for a distance of 139.96 feet to a 1/2-inch iron rod found for corner;

THENCE: N 41° 52' 37" W continuing along the City Park tract for a distance of 246.31 feet to a 1/2-inch iron rod set for corner, said iron rod also marking the south corner of Lot 13, Block 6 of the beforementioned Foxfire, Phase 2 subdivision;

THENCE: N 44° 52' 58" E for a distances of 998.98 feet (called N 44° 56' 17" W - 998.94') to the POINT OF BEGINNING and containing 11.373 acres of land more or less.

I, Michael R. McClure, Registered Professional Land Surveyor No. 2859 in the State of Texas do certify to the best of my knowledge information and belief and in my professional opinion that this survey is true correct and agrees with a survey made on the ground under my supervision.

Michael R. McClure 3/17/98

Michael R. McClure, R.P.L.S. #2859



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EXHIBIT "B"

(SHADOWCREST PROPERTY)

All those certain lots, tracts or parcels of land lying and being situated in Brazos County, Texas, and being Blocks 1-5 (inclusive), Woodcreek Phase One, an addition to the City of College Station, Texas, according to plat recorded in Volume 529, page 23 of the Official Records of Brazos County, Texas; and Blocks 6-11 (inclusive), Woodcreek Phase Two, an addition to the City of College Station, Texas, according to plat recorded in Volume 750, page 347 of the Official Records of Brazos County, Texas; and Block 12, Woodcreek Phase Three, an addition to the City of College Station, Texas, according to plat recorded in Volume 959, page 797 of the Official Records of Brazos County, Texas.

Filed for Record in:
BRAZOS COUNTY,

On: Apr 09, 2001 at 03:28PM

As a
Recordings

Document Number: 0740412

Amount 18.00

Receipt Number - 169977

By,
Susie Cohen

STATE OF TEXAS

COUNTY OF

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of:

BRAZOS COUNTY,
as stamped hereon by me.

Apr 09, 2001

HONORABLE KAREN MCGUIRE, COUNTY CLERK
BRAZOS COUNTY,