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AGREEMENT

This Agreement (Agreement) is made and is effective this 18 day of May, 2000 (Effective Date), by and between **First Heights Bank, a FSB (Bank)**, a stock-chartered savings association, having its main office located in Houston, Texas; and the **Office of Thrift Supervision (OTS)**, an office within the United States Department of the Treasury, having its principal executive offices located at 1700 G Street, N.W., Washington, D.C., acting through its Midwest Regional Director or his/her designee (Regional Director).

WHEREAS, OTS is the primary federal regulator of the Bank; and

WHEREAS, OTS finds that: (1) a final judgment was entered by the United States District Court for the Eastern District of Michigan dated March 5, 1999, against the Bank and Pulte Diversified Companies, Inc., Bloomfield Hills, Michigan (PDCI), a holding company of the Bank, for approximately \$220 million, with an offset due to the Bank and PDCI by the Federal Deposit Insurance Corporation (FDIC) in the amount of approximately \$110 million (Judgment); (2) the Bank and PDCI appealed the Judgment and posted appellate bonds in furtherance thereof; (3) PDCI and Pulte Corporation, Bloomfield Hills, Michigan (Pulte), a holding company of the Bank, have paid and will continue to pay all litigation-related fees and costs incurred by PDCI and the Bank in the appeal of the Judgment; and (4) the Bank, PDCI, and Pulte have complied with all regulatory directives and requests made by OTS to them since the date of the Judgment; and

WHEREAS, OTS is of the view that it is appropriate to formally recognize the measures previously taken by the Bank to ensure that the Bank will: (i) continue to comply with all applicable laws and regulations; and (ii) engage in safe and sound practices; and

WHEREAS, the Bank, acting through its Board of Directors (Board), wishes to continue to cooperate with OTS and to evidence its intent to: (i) continue to comply with all applicable laws and regulations; and (ii) engage in safe and sound practices. Further, this Agreement formally recognizes previous resolutions and commitments by the Bank.

NOW THEREFORE, in consideration of the above premises, the mutual undertakings set forth herein, the parties hereto agree as follows:

1. **Compliance with Regulations**

The Bank will continue to take all necessary and appropriate actions to confirm compliance with the following:

(a) Section 562.4 of OTS Regulations, 12 C.F.R. Section 562.4 (regarding

- audits);
- (b) Section 563.41 of OTS Regulations, 12 C.F.R. Section 563.41 (regarding loans and other transactions with affiliates and subsidiaries); and
 - (c) Section 563.42 of OTS Regulations, 12 C.F.R. Section 563.42 (regarding additional standards applicable to transactions with affiliates and subsidiaries).

2. Asset Growth

Pursuant to OTS Regulatory Bulletin 3b, dated November 26, 1996, without the prior written approval of the Regional Director, the Bank shall not increase its Total Assets during any quarter in excess of an amount equal to net interest credited on deposit liabilities at the end of each calendar quarter, except for: (i) accrued interest with respect to assets on the books of the Bank as of the effective date of this Agreement; and (ii) assets received from the Bank's parent in connection with the issuance of notes by the Bank to the parent.

3. Deposits

The Bank shall not offer or issue any type of depository accounts, brokered or otherwise, that are insured by FDIC.

4. Audits

Pursuant to Section 562.4(b) of OTS Regulations, 12 C.F.R. Section 562.4(b), the Bank shall either: (i) obtain an independent audit of its 1999 and subsequent year-end financial statements and submit copies of the audit reports to the Regional Director; or (ii) submit a written request for waiver of the audit requirement by the end of the first quarter of this and each subsequent calendar year.

5. Changes in Directors or Executive Officers; Terms of Employment and Golden Parachute Payments

- (a) As required by Section 32 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. Section 1831i, and Section 563, Subpart H of OTS Regulations, 12 C.F.R. Section 563.550, et seq., the Bank shall provide to OTS at least 30 days prior written notice of any changes to its directorate or executive officer staff before the employment becomes effective.
- (b) Pursuant to OTS Regulatory Bulletin 27a, dated March 5, 1993, the Bank shall not enter into, renew, extend, or revise any contractual arrangement related to compensation or benefits with any director or senior executive officer of the Bank or any subsidiary thereof, unless it first: (i) provides a minimum of 30 days advance notice of a proposed transaction; and (ii) receives a written notice of non-objection from the Regional Director, after

submitting a copy of the contract for his/her review.

- (c) The Bank shall not make any "golden parachute payment", as that term is defined in Section 18(k) of the FDIA, 12 U.S.C. Section 1828(k), and as it may be further defined in regulations adopted by the FDIC under that authority, unless it first: (i) provides a minimum of 30 days advance notice of a proposed transaction; and (ii) receives a written notice of non-objection from the Regional Director.
- (d) Pursuant to OTS Regulatory Bulletin 27a, dated March 5, 1993, the Bank shall not increase the compensation of any senior executive officer or director of the Bank, or any subsidiary thereof, unless it first: (i) provides a minimum of 30 days advance notice of a proposed transaction; and (ii) receives a written notice of non-objection from the Regional Director.

6. Restrictions on Transactions With Affiliates

Without first providing a minimum of 30 days advance notice of the proposed payment, and receiving a written notice of non-objection from the Regional Director with regard thereto, the Bank shall not engage in any transaction with any affiliate (including, but not limited to, service corporations and operating subsidiaries), except for transactions: (i) that comply with all applicable statutory and regulatory requirements of Sections 563.41 and 563.42 of OTS Regulations, 12 C.F.R. Sections 563.41 and 563.42; and (ii) where the consideration paid or received is less than \$200,000.00 per transaction.

7. Third Party Contracts; TB 50 Review

The Bank shall not enter into any third party contracts outside the normal course of business pursuant to OTS Thrift Bulletin 50, dated November 19, 1991, unless it first: (i) provides a minimum of ten days advance notice of a proposed transaction; and (ii) receives a written notice of non-objection from the Regional Director.

8. Capital Distributions

The Bank shall not make any capital distribution, as that term is defined in Subpart 563, Subpart E of OTS Regulations, 12 C.F.R. Section 563.140 et seq., unless it first: (i) provides a minimum of 30 days advance notice of a proposed capital distribution; and (ii) receives a written notice of non-objection from the Regional Director.

9. Director Responsibility

Notwithstanding the requirements of this Agreement that the Board of the Bank submit various matters to the Regional Director for the purpose of receiving his/her approval, non-objection, or notice of acceptability, such regulatory oversight does not derogate or supplant each individual member's continuing fiduciary duty. The Board of the Bank shall have the ultimate responsibility for overseeing the safe and sound operation of the Bank at all times, including compliance with the determinations of the Regional Director as required by this Agreement.

10. Compliance with Agreement

The Board and officers of the Bank shall take immediate action to cause the Bank to continually comply with the terms of this Agreement, and shall take all actions necessary or appropriate thereafter to cause the Bank to continue to carry out the provisions of this Agreement.

11. Definitions

All technical words or terms used in this Agreement for which meanings are not specified or otherwise provided by the provisions of this Agreement shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, HOLA, FDIA, or OTS Memoranda. Any such technical words or terms used in this Directive and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Memoranda shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

12. Successor Statutes, Regulations, Guidance, Amendments

Reference in this Agreement to provisions of statutes, regulations, and OTS Memoranda shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

13. Notices

Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document to be made upon, given or furnished to, delivered to, or filed with OTS or the Bank shall be in writing and mailed, first class or overnight courier, or means of electronic transmission, or physically delivered, and addressed as follows:

OTS: Midwest Regional Office
122 W. John Carpenter Fwy.
Suite 600
Irving, TX 75039
(972) 281-2000 - Main Number
(973) 281-2001 - Main Facsimile

Bank: First Heights Bank, a FSB
2050 North Loop W., Ste. 201
Houston, TX 77018-0000
(713) 316-1011 - Main Number
(713) 316-1019 - Main Facsimile

14. Duration, Termination or Suspension of Agreement

- (a) This Agreement shall: (i) become effective upon its execution by OTS, through its authorized representative whose signature appears below; and (ii) remain in effect until terminated, modified or suspended in writing by OTS, acting through its Director or the Regional Director (including any authorized designee thereof).
- (b) The Regional Director in his or her sole discretion may, by written notice, suspend any or all provisions of this Agreement.

15. Effect of Headings

The Section headings herein are for convenience only and shall not affect the construction hereof.

16. Separability Clause

In case any provision in this Agreement is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his/her sole discretion determines otherwise.

17. No Violations of Law, Rule, Regulation or Policy Statement Authorized; OTS Not Restricted

Nothing in this Agreement shall be construed as: (i) allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject; or (ii) restricting OTS from taking appropriate action(s) in fulfilling the responsibilities placed upon it by law, including, without limitation, any type of supervisory, enforcement, or resolution action that OTS determines to be appropriate.

18. Successors in Interest/Benefit

The terms and provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this

Agreement, express or implied, shall give to any person or entity, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Agreement.

19. Signature of Directors

Each Director signing this Agreement attests by such act that she or he, as the case may be, voted in favor of the resolution, in the form attached to this Agreement, authorizing the execution of this Agreement by the Bank.

20. Integration Clause; Impact On Other Enforcement Documents

The March 12, 1998, and March 16, 1999, Directives issued by the Regional Director to the Board of the Bank remain in full force and effect and are hereby integrated into the terms of this Agreement, except to the extent that those Directives are modified by Paragraph 2 of this Agreement.

21. Enforceability of Agreement

The Bank represents and warrants that this Agreement has been duly authorized, executed, and delivered, and constitutes, in accordance with its terms, a valid and binding obligation of the Bank. The Bank acknowledges that this Agreement is a "written agreement" entered into with OTS within the meaning of Section 8 of the FDIA, 12 U.S.C. Section 1818.

IN WITNESS WHEREOF, OTS, acting by and through the Regional Director, and the Bank, in accordance with a duly adopted resolution of its Board (copy attached hereto), hereby execute this Agreement as of the Effective Date.

OFFICE OF THRIFT SUPERVISION

FIRST HEIGHTS BANK, a FSB

By:

By:

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Frederick R. Casteel
Midwest Regional Director

151
Robert E. Zambie
President and Director

DIRECTORS OF THE BANK

151
Barry D. Blankon, Director

151
Calvin R. Boyd, Director

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James C. Leiferman, Director

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Peter C. Staaf, Director

**CERTIFIED COPY OF
RESOLUTION OF BOARD OF DIRECTORS**

I, the undersigned, being the duly appointed and qualified Secretary of First Heights Bank, a FSB, Houston, Texas (Bank), hereby certify as follows:

1. A duly called meeting of the Board of Directors of the Bank was held on May 4, 2000;
2. At said meeting a quorum was present and voting throughout;
3. The following is a true copy of a resolution duly adopted by the Bank's Board of Directors, which resolution has not been rescinded or modified and is now in full force and effect:

WHEREAS, the Board of Directors of the Bank wishes to continue to cooperate with OTS, and to demonstrate that said Board and the Bank intend to continue to: (1) comply with all applicable laws and regulations; and (2) engage in safe and sound practices; and

WHEREAS the Directors of the Bank have read and considered the proposed Agreement (Agreement) which shall be attached to the minutes of this meeting; and

WHEREAS after due consideration, the Directors of the Bank have determined to cause the Bank to enter into the proposed Agreement which is in the best interest of the Bank;

NOW THEREFORE, BE IT RESOLVED, that the Bank be and it hereby is authorized to enter into the Agreement in the form attached to the minutes of the meeting.

FURTHER RESOLVED, that the execution and delivery of, and performance of all of the provisions of the Agreement be, and they hereby are, authorized and approved.

FURTHER RESOLVED, that the Directors and Officers of the Bank be, and they hereby are, authorized and directed to execute and deliver the Agreement and to take all steps necessary or appropriate to implement the terms of the Agreement and to cause the Bank to comply in all respects with the terms of the Agreement.

4. All members of the Board of Directors were present and voted at the meeting (except None) and all members of the Board of Directors (except None) voted in favor of the resolution;

