

94771

7903  
20.10

SUPERVISORY AGREEMENT  
BETWEEN  
TRACY FEDERAL BANK, F.S.B.,  
AND  
THE OFFICE OF THRIFT SUPERVISION

This Supervisory Agreement ("Agreement") is entered into and made effective this 17 day of FEB., 2000, ("Effective Date"), by and between Tracy Federal Bank, F.S.B., Tracy, California ("Tracy Federal" or the "Institution"), and the Office of Thrift Supervision ("OTS").

WHEREAS, the OTS and the Board of Directors of Tracy Federal ("Board") have a common interest in assuring the current and future financial viability and profitability of the Institution, and in assuring that the Institution is operated in a safe and sound manner; and,

WHEREAS, in pursuit of that interest, the Regional Director of the West Region office of the OTS and the Board have determined that certain actions should be taken by Tracy Federal for the benefit of the Institution, its shareholders and its depositors;

NOW THEREFORE, TRACY FEDERAL AND THE OTS AGREE AS FOLLOWS:

OFFICIAL FILE COPY  
OTS/WEST

I. SAFETY AND SOUNDNESS EXAMINATION  
CORRECTIVE ACTION PLAN

a. The Board shall cause the Institution and its management to prepare a comprehensive detailed corrective action plan ("Corrective Action Plan") designed to correct each of the exceptions, deficiencies, requirements, and concerns (collectively, the "exceptions") set forth in the regular safety and soundness examination conducted by the OTS dated November 8, 1999, including each of the "Corrective Actions" identified in the Report of Examination ("ROE"). The Corrective Action Plan shall include a description of the additional procedures, internal controls, and follow-up mechanisms which Tracy Federal has developed, or will develop to prevent a reoccurrence of similar exceptions. No later than April 1, 2000, Tracy Federal shall submit to the Assistant Regional Director ("ARD") for review and nonobjection the Corrective Action Plan, including a timetable specifying completion dates for each of the items listed.

b. Once the Corrective Action Plan and timetable are submitted pursuant to this Agreement and Tracy Federal obtains the OTS's nonobjection, Tracy Federal shall implement and adhere to the Corrective Action Plan. Further, the Institution may not

amend, suspend, or revoke the Corrective Action Plan or timetable without the prior written nonobjection from the ARD.

## II. CAPITAL

a. Immediately upon the execution of this Agreement, Tracy Federal shall use its best efforts to obtain additional capital for the Institution. By June 30, 2000, Tracy Federal shall have sufficient capital to meet the definition of a "well-capitalized" institution set forth under Section 38 of the Federal Deposit Insurance Act.

b. At all times thereafter, the Institution shall maintain sufficient capital to meet, at a minimum, the definition of a well-capitalized institution.

## II. MANAGEMENT

### a. The Board

Immediately upon the execution of this Agreement, the Board shall take such action as may be necessary to ensure that each Board member obtains, and continues to receive, adequate information relating to the business of Tracy Federal. This information shall be sufficient to allow each Board member to be

fully informed with respect to matters that are appropriate for Board review. The information provided shall allow each Board member to 1) make informed decisions and 2) fulfill his or her fiduciary duties to the Institution.

b. Senior Management

1. Tracy Federal shall have and retain sufficient qualified management and qualified staff acceptable to the OTS. Each member of management and of staff shall have qualifications and experience commensurate with his or her duties and responsibilities at the Institution.

2. Immediately upon execution of this Agreement, the Board shall assess the qualifications and sufficiency of management and staff, commensurate with their duties and responsibilities, to:

- (i) comply with the requirements of this Agreement;
- (ii) operate Tracy Federal in a safe and sound manner; and
- (iii) comply with applicable laws and regulations.

The results of this management assessment shall be reflected in the Corrective Action Plan submitted to the OTS pursuant to Section I, above.

#### IV. BUSINESS PLAN

a. No later than April 1, 2000 the Board shall develop and submit to the OTS, a comprehensive business and operations plan ("Business Plan") to improve the financial performance of Tracy Federal and attain profitable operations. At a minimum, the Business Plan shall cover a three year period and shall:

- (1) include supportable financial goals, with specific benchmarks for assessing attainment of, and compliance with, such goals and specific timetables for completion of such goals;
- (2) include plans for maintaining capital as required by the Agreement;
- (3) reduce general and administrative expenses;
- (4) lower Tracy Federal's overall risk exposure;
- (5) provide for consistent positive core earnings;
- (6) provide for enhanced information systems to better analyze operations and to facilitate strategic decision making; and
- (7) provide for a full analysis of business lines (old and new). This analysis shall include, but not be limited to, the following relating to Stanwell:

- (i) its operational, credit, interest rate, market, and other risks associated with Stanwell's operations and portfolio;
- (ii) a detailed cost/benefit analysis of Tracy Federal's options, such as continuing, streamlining, closing, or selling Stanwell;
- (iii) the Board's conclusions on the measures that should be taken with respect to Stanwell, given its earnings and effect on Tracy Federal's capital; and
- (iv) a statement indicating what option the Board prefers and when such option can be effected.

b. Once the OTS provides its written nonobjection to the Business Plan, Tracy Federal shall immediately implement and adhere to it. Thereafter, Tracy shall monitor the Business Plan and shall submit a report to the OTS comparing actual to projected results on at least a quarterly basis, with an explanation of any variances. Thereafter, Tracy Federal shall not modify or amend the Business Plan without obtaining the prior written nonobjection of the ARD.

## V. ALLOCATION OF RESOURCES

The Board shall authorize sufficient resources and allocate an adequate amount of experienced and qualified staff to fulfill the obligations under this Agreement.

## VI. EXISTING SUPERVISORY AGREEMENT; "TROUBLED" DESIGNATION; PCA CAPITAL STATUS

Execution of this Agreement by the parties shall not operate to terminate the existing OTS Supervisory Agreement between Tracy Federal and the OTS dated February 28, 1996, which, among other things, sets forth certain corrective actions to be taken regarding compliance-related matters. Further, Tracy Federal shall continue to be treated as a "problem institution," in "need of more than normal supervision" and in "troubled condition." As long as this Agreement is in effect, Tracy Federal may not be treated as a "well-capitalized" institution, even though it may otherwise meet the minimum capital levels required for this designation and the "well-capitalized" levels required by this Agreement. Such designations are imposed for the purpose of requiring the Institution to adhere to additional restrictions and requirements as set forth in OTS rules and regulations,

bulletins, memoranda and statements in effect now and in the future.

#### VII. DIRECTOR RESPONSIBILITY

Notwithstanding the requirements of this Agreement that Tracy Federal submit various matters to the Regional Director or the ARD for the purpose of review, approval, or nonobjection, such regulatory oversight does not derogate or supplant an individual Board member's continuing fiduciary duties to the Institution. The Board shall continue to have the ultimate responsibility for overseeing the safe and sound operation of Tracy Federal at all times, including compliance with the determinations of the Regional Director or the ARD as required by this Agreement.

#### VIII. COMPLIANCE WITH AGREEMENT

a. The Board and the executive officers of Tracy Federal shall cause the Institution to comply with the terms of this Agreement and shall take all actions necessary or appropriate thereafter to cause the Institution to carry out its provisions.

b. The Board, on a monthly basis, shall adopt a board resolution (the "Compliance Resolution") formally resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding month, Tracy Federal has complied with each provision of this Agreement currently in effect, except as otherwise stated. The Compliance Resolution shall either directly or through reference to a separately proposed report: (i) specify in detail how compliance was achieved with each provision of this Agreement; (ii) specify in reasonable detail how, if at all, full compliance was found not to exist; and (iii) identify all notices of exemption or nonobjection issued by the Regional Director or the ARD that were outstanding as of the date of its adoption.

c. The minutes of each meeting of the Board at which a Compliance Resolution is adopted shall set forth the following information with respect to the adoption of such Compliance Resolution: (i) the identity of each director voting in favor of its adoption; and (ii) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth each such director's reasoning for opposing or abstaining.

d. No later than fifteen (15) days after the date of the monthly Board meeting, beginning with the first Board meeting after the Effective Date of this Agreement, Tracy Federal shall provide to the ARD a certified true copy of the Compliance Resolution(s) adopted by the Board. The Board, by virtue of Tracy Federal's submission of a certified true copy of each such Compliance Resolution to the ARD, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution, except as provided below. In the event that one or more directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the Institution.

#### IX. 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, the Home Owners' Loan Act ("HOLA"), the Federal Deposit Insurance Act ("FDIA"), or OTS Memoranda. Any such technical words or terms used in this Agreement 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.

#### X. SUCCESSOR STATUTES, REGULATIONS, GUIDANCE, AMENDMENTS

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

#### XI. NOTICES

a. Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document (collectively, "Notices") provided or permitted by this Agreement to be made upon, given, or furnished to, delivered to, or filed with the OTS or Tracy Federal shall be in writing and mailed, by first class mail or overnight courier, or delivered by means of electronic transmission or personal delivery, addressed as follows:

Office of Thrift Supervision  
West Region Office  
One Montgomery Street  
Suite 400  
San Francisco, CA 94104

Tracy Federal Bank, F.S.B.  
1003 Central Avenue  
Tracy, CA 95376  
Attn: Board of Directors

b. Any Notice shall be deemed duly given when received by the addressee thereof. Any party to this Agreement may from time to time change its address for receiving Notices by giving written notice thereof to the other party in the manner set forth above.

**XII. DURATION, AMENDMENT, TERMINATION,  
OR SUSPENSION OF AGREEMENT**

a. This Agreement shall: (i) become effective upon its execution by the OTS, through its authorized representative whose signature appears below; and (ii) remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or the Regional Director (including any authorized designee thereof). No amendment or modification of this Agreement shall be valid or binding unless executed in writing by the OTS and the Institution, acting through the Director, Regional Director or his or her authorized designee.

b. The Regional Director, or his or her designee, in his or her sole discretion, may, by written notice, suspend or waive

(temporarily or permanently) any or all provisions of this Agreement.

#### XIII. TIME LIMITS

Time limitations for compliance with the terms of this Agreement run from the Effective Date, unless otherwise noted.

#### XIV. EFFECT OF HEADINGS

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

#### XV. 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 sole discretion determines otherwise.

XVI. NO VIOLATIONS OF LAW, RULE, REGULATION OR POLICY  
STATEMENT AUTHORIZED; OTS NOT RESTRICTED

a. Nothing in this Agreement shall be construed as:

- (i) allowing or requiring Tracy Federal to violate any law, rule, regulation, or policy statement to which it is subject; or
- (ii) restricting the OTS from taking such action(s) that is appropriate in fulfilling the responsibilities placed upon it by law, including, without limitation, any type of supervisory, enforcement or resolution action that the OTS determines to be appropriate.

b. The OTS does not relinquish any of its rights to take any supervisory or other action whatsoever with respect to Tracy Federal as a result of this Agreement. Tracy Federal acknowledges that it has not received any oral or written representations to the contrary by the OTS or any of its agents or employees.

XVII. SUCCESSORS IN INTEREST

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 the Federal Deposit Insurance Corporation and their successors and assigns, any benefit or any legal or equitable right, remedy or claim under this Agreement.

**XIII. INTEGRATION CLAUSE; IMPACT ON  
OTHER ENFORCEMENT DOCUMENTS**

This Agreement represents the final written agreement of the parties with respect to the subject matter hereof and constitutes the sole agreement of the parties, as of the Effective Date, with respect to its subject matter. This Agreement does not modify or supplant the existing Supervisory Agreement dated February 28, 1996, or any document relating to the Institution.

**XIX. ENFORCEABILITY OF AGREEMENT**

Tracy Federal 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 Institution. Tracy Federal acknowledges that this Agreement is a "written agreement" entered into with the OTS within the meaning of Section 8 of the FDIA, 12 U.S.C. § 1818.



DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

John D. Woods

John O. Brooks

<sup>15/</sup>  
Donald M. Woods

David H. Runyon

G. Archer Bakerink

C. Todd Conover

Sue L. Ohlendorf

Robert Matthews

DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

\_\_\_\_\_  
John D. Woods

\_\_\_\_\_  
John O. Brooks

\_\_\_\_\_  
Donald M. Woods

\_\_\_\_\_  
David H. Runyon

*15/*  
\_\_\_\_\_  
G. Archer Bakerink

\_\_\_\_\_  
C. Todd Conover

\_\_\_\_\_  
Sue L. Ohlendorf

\_\_\_\_\_  
Robert Matthews

DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

\_\_\_\_\_  
John D. Woods

\_\_\_\_\_  
John O. Brooks

\_\_\_\_\_  
Donald M. Woods

\_\_\_\_\_  
David H. Runyon

\_\_\_\_\_  
G. Archer Bakerink

\_\_\_\_\_  
C. Todd Conover

→ \_\_\_\_\_ 151  
Sue L. Ohlendorf 0

\_\_\_\_\_  
Robert Matthews

DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

\_\_\_\_\_  
John D. Woods

\_\_\_\_\_  
John O. Brooks

151

\_\_\_\_\_  
Donald M. Woods

\_\_\_\_\_  
David H. Runyon

\_\_\_\_\_  
G. Archer Bakerink

\_\_\_\_\_  
C. Todd Conover

\_\_\_\_\_  
Sue L. Ohlendorf

\_\_\_\_\_  
Robert Matthews

DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

\_\_\_\_\_  
John D. Woods

\_\_\_\_\_  
John O. Brooks

\_\_\_\_\_  
Donald M. Woods

\_\_\_\_\_  
David H. Runyon

\_\_\_\_\_  
G. Archer Bakerink

*/S/*  
\_\_\_\_\_  
C. Todd Conover

\_\_\_\_\_  
Sue L. Ohlendorf

\_\_\_\_\_  
Robert Matthews

DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

*151*  
\_\_\_\_\_  
John D. Woods

*151*  
\_\_\_\_\_  
John O. Brooks

\_\_\_\_\_  
Donald M. Woods

\_\_\_\_\_  
David H. Runyon

\_\_\_\_\_  
G. Archer Bakerink

\_\_\_\_\_  
C. Todd Conover

\_\_\_\_\_  
Sue L. Ohlendorf

\_\_\_\_\_  
Robert Matthews

DIRECTORS OF TRACY FEDERAL BANK, F.S.B.

\_\_\_\_\_  
John D. Woods

\_\_\_\_\_  
John O. Brooks

\_\_\_\_\_  
Donald M. Woods

\_\_\_\_\_  
David H. Runyon

\_\_\_\_\_  
G. Archer Bakerink

\_\_\_\_\_  
C. Todd Conover

\_\_\_\_\_  
Sue L. Ohlendorf

*157*  
\_\_\_\_\_  
Robert Matthews

CERTIFIED COPY OF  
RESOLUTION OF BOARD OF DIRECTORS

I, the undersigned, being the duly appointed and qualified Secretary of Tracy Federal Bank, F.S.B. (the "Institution"), hereby certify as follows:

1. A duly called meeting of the Board of Directors of the Institution was held on FEB 17, 2000;
2. At said meeting a quorum was present and voting throughout;
3. The following is a true copy of resolutions duly adopted by the Institution's Board of Directors on the above date, which resolutions have not been rescinded or modified and are now in full force and effect:

WHEREAS, the Board of Directors of the Institution wishes to cooperate with the OTS and to demonstrate that said Board and the Institution have the intent to engage in safe and sound practices; and

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

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

NOW THEREFORE, BE IT RESOLVED, that the Institution 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 Institution 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 Institution 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 N/A) and all members of the Board of Directors (except N/A) voted in favor of the resolution;

IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the seal of the Institution on this 18<sup>th</sup> day of FEBRUARY, 2000.

[Signature]  
Name:

Title:

(SEAL)