

AGREEMENT BY AND BETWEEN  
Bank of the Rockies, National Association  
White Sulphur Springs, Montana  
and  
The Comptroller of the Currency

Bank of the Rockies, National Association, White Sulphur Springs, Montana (“Bank”) and the Comptroller of the Currency of the United States of America (“Comptroller”) wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller, through his National Bank Examiner, has examined the Bank, and his findings are contained in the Report of Examination for the examination that commenced on October 17, 2008.

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (“Board”), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). *See* 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to the:

Assistant Deputy Comptroller  
Salt Lake City Field Office  
2795 E. Cottonwood Parkway, Suite 390  
Salt Lake City, Utah 84121

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) Within ten (10) days of this Agreement, the Board shall appoint a Compliance Committee of at least three (3) directors, a majority of which may not be employees or controlling shareholders of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon appointment, the names of the members of the Compliance Committee and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller.

(2) The Compliance Committee shall be responsible for monitoring and coordinating the Bank’s adherence to the provisions of this Agreement and shall meet at least monthly.

(3) By no later than June 5, 2009, and by the end of every calendar month thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) a description of the action needed to achieve full compliance with each Article of this Agreement;

- (b) actions taken to comply with each Article of this Agreement; and
- (c) the results and status of those actions.

(4) The Board shall provide a summary report of the progress reached in attaining compliance with each Article of this Agreement to the Assistant Deputy Comptroller within ten (10) days of each calendar quarter end.

### ARTICLE III

#### CAPITAL PLAN

(1) Within sixty (60) days of this Agreement, the Board shall develop, implement, and thereafter ensure Bank adherence to a three year capital program. The program shall include:

- (a) specific plans for the maintenance of adequate capital;
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) contingency plans that identify alternative methods should the primary source(s) under subparagraph (d) above not be available; and
- (f) a dividend policy that permits the declaration of a dividend only:
  - (i) when the Bank is in compliance with its approved capital program;
  - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and

(iii) with the prior written approval by the Assistant Deputy Comptroller.

(2) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller and the Bank shall thereafter implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently, if necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller.

#### ARTICLE IV

##### MANAGEMENT AND BOARD SUPERVISION

(1) Within ninety (90) days of this Agreement, the Board shall take the necessary steps to appoint a Senior Lending Officer, with the knowledge, skills, and abilities, including but not limited to, the technical expertise and the leadership skills, necessary to return the Bank's loan portfolio and lending operations to a safe and sound condition and manage its lending affairs thereafter in a safe and sound manner.

(2) Prior to the appointment or employment of the Senior Lending Officer, or entering into any contract with any person for this position, the Board shall submit the name and qualifications of this individual and the proposed terms of employment to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(3) The Assistant Deputy Comptroller shall have the power to disapprove the appointment of the proposed Senior Lending Officer. However, the lack of disapproval of such individual shall not constitute an approval or endorsement of such individual.

(4) Within ninety (90) days of this Agreement, the Board shall ensure that it maintains qualified, competent management and staff to ensure the Bank operates in a safe and sound manner.

## ARTICLE V

### PROBLEM ASSET MANAGEMENT

(1) Within ninety (90) days of this Agreement, the Board shall develop, implement, and thereafter ensure Bank adherence to a program to reduce the level of assets graded Substandard or Doubtful as set forth in the “Rating Credit Risk” booklet of the *Comptroller’s Handbook*. The program shall include:

- (a) written action plans for all loans over one hundred thousand dollars (\$100,000) graded Substandard or Doubtful. These plans should be updated monthly and include all significant information about the loan relative to the amount, purpose, due dates, realistic collateral value, repayment sources, and any other relevant information. The plans should also detail a workout strategy relative to collection efforts that include trigger dates and backup plans.
- (b) quarterly action plans for all other real estate owned properties that include key information about the property including a description, booked value, and appraisal date. The action plans should also detail management’s efforts to sell the property and include any offers.
- (c) active supervision of problem assets by the Board and management. The problem loan action plans should be provided to the Board monthly, and the other real estate owned action plans each quarter. Also, the Board or

designated committee should approve any renewal, extension, or other significant action for a loan graded Substandard or Doubtful. The approval should clearly document why that action was in the best interests of the Bank.

## ARTICLE VI

### LOAN REVIEW

(1) Within sixty (60) days of this Agreement, the Board shall establish an effective, independent and ongoing loan review system to review the Bank's loan and lease portfolios to assure the timely identification and categorization of problem credits. The system shall provide for a written report to be filed with the Board after each review and shall use a loan and lease grading system consistent with the guidelines set forth in the "Rating Credit Risk" and "Allowance for Loan and Lease Losses" booklets of the *Comptroller's Handbook*. Such reports shall include, at a minimum, conclusions regarding:

- (a) the overall quality of the loan and lease portfolios;
- (b) the identification, type, rating, and amount of problem loans and leases;
- (c) the identification and amount of delinquent loans and leases;
- (d) credit and collateral documentation exceptions;
- (e) concentrations of credit;
- (f) follow up on previously noted deficiencies listed in either regulatory examination reports or internal loan review reports;
- (g) the identification and status of credit related violations of law, rule or regulation; and

(h) loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

(2) A written description of the program called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon implementation.

(3) The Board shall evaluate the internal loan and lease review report(s) and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the report(s).

(4) A copy of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be preserved in the Bank.

## ARTICLE VII

### LOAN PRESENTATIONS

(1) Within sixty (60) days of this Agreement, the Board shall review and revise the Bank's written loan policy to require:

- (a) credit presentations to, and approval by, the Board or a committee of the Board for all loans above a reasonable level established in the loan policy;
- (b) credit presentations to the Board or committee of the Board are in a format that includes all required information, including, at a minimum:
  - (i) accurate analysis of the credit being presented, including related borrowings;
  - (ii) all of the borrower's debt service requirements; and
  - (iii) full guarantor analyses to evaluate guarantor capacity to support the project, which should include an evaluation of projects

financed elsewhere, partnership, corporate and individual financial statements and tax returns, and bank and brokerage statements that support guarantor liquidity;

- (c) all lending personnel receive training in completing appropriate loan analysis; and
- (d) credit presentations are reviewed on a timely basis to ensure compliance with the loan policy.

(2) A written description of the loan policy revisions called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon implementation.

## ARTICLE VIII

### APPRAISALS OF REAL PROPERTY

(1) Within sixty (60) days of this Agreement, the Board shall adopt and implement a process to correct any violations of the real estate appraisal regulation (12 C.F.R. Part 34) identified in any report of examination, internal or external loan review, or internal or external audit.

(2) Within sixty (60) days of this Agreement, the Board shall adopt and implement an appraisal process that requires an appraisal or evaluation in conformance with the real estate appraisal regulation whenever a loan is renewed, extended, or moved to problem loan status.

(3) A written description of the processes adopted pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller for review upon implementation.



## ARTICLE IX

### CONSTRUCTION DISBURSEMENT CONTROLS

(1) Within sixty (60) days of this Agreement, the Board shall review, revise and implement the loan policy to ensure that construction loan disbursement controls are in place. At a minimum, the revisions must ensure that:

- (a) construction draws are kept up to date in the Bank's records;
- (b) formal independent inspections are performed when required;
- (c) reports include comparison of inspections by budget line item to actual budget;
- (d) construction progress reports include equity contributions, and identify whether the contributions are land, cash, or other;
- (e) limits exist for budget variances, and that exceptions are reported to senior management and the Board for corrective action to be taken; and
- (f) budget variances are monitored, and construction is stopped in appropriate circumstances until variances are resolved.

(2) A written description of the loan policy revisions adopted pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller for review when implemented.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## ARTICLE X

### CONTINGENCY FUNDING PLAN

(1) Within sixty (60) days of this Agreement, the Board shall adopt, implement, and ensure adherence to a comprehensive Contingency Funding Plan (“CFP” or “plan”) consistent with the guidelines set forth in the Liquidity booklet of the *Comptroller’s Handbook*. The plan shall, among other things, address ways to improve the Bank’s liquidity position and maintain adequate sources of stable funding given the Bank’s anticipated liquidity and funding needs. At a minimum, the revised CFP should:

- (a) expand the scenarios to include temporary disruptions in funding, long-term distressed environments, significant losses, and regulatory issues. These scenarios should show the impact on each funding source (reduced availability, no availability, increased collateral requirements, *etc.*) and the Bank’s overall liquidity;
- (b) expand the plan to clearly identify, quantify, and rank all sources of funding by preference. The scenarios should include both asset and liability sources of funding as well as off-balance sheet sources;
- (c) prioritize strategies that address each stage of a funding crisis;
- (d) include liquidity crisis triggers relating to regulatory matters (*e.g.*, formal enforcement action, drop in capital category, reduction in composite rating) and asset quality deterioration;
- (e) establish frequency of management meetings and reporting to oversee implementation of contingency plans while the Bank is in a liquidity crisis;

- (f) address management contact with correspondent banks on an ongoing basis to inform them of adverse conditions and determine the likelihood of continued line availability;
- (g) develop and implement a testing schedule to validate the CFP;
- (h) address the responsibilities of senior management during a funding crisis. It should include the names, addresses, and telephone numbers of crisis team members. It also should assign responsibility for initiating external contacts with regulators, analysts, investors, external auditors, the press, significant customers and others;
- (i) be reviewed and approved by the Board in advance of its implementation;  
and
- (j) be reviewed and updated by the Board annually or more frequently if circumstances warrant.

## ARTICLE XI

### CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Agreement;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (c) follow up on any noncompliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner of any noncompliance with such actions.

(6) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of

consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

**IN TESTIMONY WHEREOF**, the undersigned, authorized by the Comptroller, has hereunto set his hand on behalf of the Comptroller.

/s/

5/21/2009

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H. Gene Robinson  
Assistant Deputy Comptroller  
Salt Lake City Field Office

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Date

**IN TESTIMONY WHEREOF**, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

_____ Dirk Adams  /s/	_____ Date  4/30/2009
_____ Sky Anderson  /s/	_____ Date  4/30/2009
_____ David Brewer  /s/	_____ Date  4/30/2009
_____ Mike Grove	_____ Date
_____ Dan Grove  /s/	_____ Date  4/30/2009
_____ Larry Johnston  /s/	_____ Date  4/30/2009
_____ Keith Kelly	_____ Date