

AGREEMENT BY AND BETWEEN  
Valley National Bank  
Española, New Mexico  
and  
The Comptroller of the Currency

Valley National Bank, Espanola, New Mexico (“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 has found unsafe and unsound banking practices relating to a high and increasing level of classified assets, weak earnings, and deficiencies in credit risk management.

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  
Arizona/New Mexico Field Office  
9633 South 48<sup>th</sup> Street, Suite 265  
Phoenix, Arizona, 85044

## ARTICLE II

### COMPLIANCE COMMITTEE

(1) Within ten days of the date of this Formal Agreement (“Agreement”), the Board shall appoint a Compliance Committee of at least three directors. 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. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement.

(2) Within ten (10) days of the appointment of any external director as required by Paragraph (1) of Article III, the Board shall appoint such new external director to serve on the Compliance Committee.

(3) The Compliance Committee shall meet at least monthly.

(4) Within thirty days of the date of this Agreement and quarterly 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.

(5) The Board shall forward the first progress report for the quarter ending June 30, 2009 to the Assistant Deputy Comptroller within thirty days of that date. Thereafter, progress reports will be due to the Assistant Deputy Comptroller within thirty days after the quarter end.

(6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the provisions of this Agreement.

### ARTICLE III

#### APPOINTMENT OF ADDITIONAL OUTSIDE DIRECTORS

(1) The Board shall utilize its best efforts to add, at a minimum, two (2) new independent directors within ninety (90) days of the date of this Agreement. Upon the expiration of ninety (90) days from the date of this Agreement, the Board shall report in writing the efforts it has made to add new independent directors, as well as the results of those efforts. If the Bank has been unable to make the additions here directed within ninety (90) days of the date of this Agreement, the Bank shall continue utilizing its best efforts to add two new independent directors, and it shall continue the written reporting on its efforts quarterly, until two (2) new independent directors have been added. The term “independent director” means a person who is not an officer or employee of the Bank, and who is not a director, officer or employee of its affiliates, and who is not a relative of any of these persons.

(2) Prior to appointing any new director, the Bank must provide the Assistant Deputy Comptroller with written notice as required by 12 C.F.R. § 5.51 (notice forms and instructions are in the “Changes in Directors and Senior Executive Officers” and “Background Investigations” booklets of the Comptroller’s Licensing Manual).

(3) The Assistant Deputy Comptroller shall have the power to disapprove the

appointment of the proposed new director. However, the lack of disapproval of such individual shall not constitute an approval or endorsement of the proposed director.

(4) The requirement to submit information and the prior disapproval provisions of this Article are based on the authority of 12 U.S.C. § 1818(b) and do not require the Comptroller to complete his/her review and act on any such information or authority within ninety (90) days.

#### ARTICLE IV

##### CRITICIZED ASSETS

(1) The Bank shall continue to take ongoing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within sixty (60) days of the date of this Agreement, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets criticized in the ROE, in any subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination as "doubtful," "substandard," or "special mention." This program shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and

(d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

(3) Upon adoption, a copy of the program for all criticized assets equal to or exceeding five hundred thousand dollars (\$500,000) shall be forwarded to the Assistant Deputy Comptroller.

(4) The Board shall continue to conduct a review, on at least a monthly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds five hundred thousand dollars (\$500,000);
- (b) management's continued adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the written program; and
- (d) the need to revise the program or take alternative action.

(5) Upon its completion, a copy of the review as of the end of each quarter shall be forwarded to the Assistant Deputy Comptroller.

(6) The Bank may extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed five hundred thousand (\$500,000) only if each of the following conditions is met:

- (a) the Board or designated committee finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior

to renewing, extending or capitalizing any additional credit, a majority of the full Board (or designated committee) approves the credit extension and records, in writing, why such extension is necessary to promote the best interests of the Bank; and

- (b) a comparison to the written program adopted pursuant to this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

(7) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

## ARTICLE V

### CREDIT RISK RATINGS

(1) Within sixty days (60) of the date of this Agreement, the Bank shall perform a portfolio-wide credit review, with a focus on real estate secured loans, to determine the current extent of risk. Factors that must be considered in this review are:

- (a) new appraised values or other updated valuations;
- (b) project performance;
- (c) payment performance;
- (d) maturity dates;
- (e) remaining interest reserves; and
- (f) current financial information regarding principals and guarantors.

(2) Within forty five (45) days of the date of this Agreement, the Board shall develop a program to ensure that the risk associated with the Bank's loans is properly reflected and

accounted for on the Bank's books and records, to include, at a minimum, provisions requiring that:

- (a) the Bank's loans and other assets are appropriately and timely risk rated and charged-off by the lending officers using a loan grading system that is based upon current facts, existing repayment terms and that is consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the *Comptroller's Handbook*;
- (b) the Bank's loan review system provides meaningful, detailed reports to the Board on portfolio quality, risks, and trends; and
- (c) loan officers are accountable for failing to appropriately and timely risk rate loans.

## ARTICLE VI

### CREDIT UNDERWRITING AND ADMINISTRATION

(1) Effective as of the date of this Agreement, the Board shall ensure that all lending officers comply with all laws, rules, regulations, Bank policies and procedures, safe and sound banking practices, and fiduciary duties.

(2) The Board shall continue to take actions to improve its credit underwriting procedures, including the following, at a minimum:

- (a) procedures to ensure that loan officers are performing consistent global cash flow analyses of borrowers and guarantors, including, at a minimum:
  - (i) comprehensive credit analysis of each borrower's or guarantor's global cash flow and debt service requirements

at a level that is commensurate with the level of risk associated with the complexity of the credit; and

- (ii) consideration of each borrowers's and guarantor's ability to: make principal reductions; make meaningful curtailment payments; and/or amortize the debt over a reasonable period.

(b) Procedures to ensure that adequate loan policy exception tracking occurs, including, at a minimum:

- (i) a system that comprehensively and effectively aggregates and reports exceptions to the CRE lending policy;
- (ii) tracks exceptions by type and officer totals; and
- (iii) monitors trends in loan policy exceptions.

## ARTICLE VII

### ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within forty-five (45) days, the Board shall adopt, implement, and thereafter ensure adherence to written policies and procedures for maintaining an adequate Allowance for Loan and Lease Losses ("ALLL") in accordance with generally accepted accounting principles. The ALLL policies and procedures shall be consistent with the guidance set forth in the Federal Financial Institutions Examination Council's "Interagency Policy Statement on the Allowance for Loan and Lease Losses" dated December 13, 2006 (OCC Bulletin 2006-47), and shall at a minimum include:

- (a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with FASB Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan;
- (b) procedures for segmenting the loan portfolio and estimating loss on groups of loans, consistent with FASB Statement of Financial Accounting Standards No. 5, Accounting for Contingencies;
- (c) procedures for validating the ALLL methodology; and
- (d) a process for summarizing and documenting, for the Board's review and approval, the amount to be reported in the Consolidated Reports of Condition and Income ("Call Reports") for the ALLL. Any deficiency in the ALLL shall be remedied in the quarter it is discovered, prior to the filing of the Call Reports, through additional provision expense.

## ARTICLE VIII

### CAPITAL AND STRATEGIC PLAN

(1) Within sixty (60) days of the date 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 (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 determination of no supervisory objection by the Assistant Deputy Comptroller. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the dividend policy.

(2) Within ninety (90) days of the date of this Agreement, the Board shall develop a written strategic plan for the Bank covering at least a three-year period. The strategic plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital adequacy, reduction in the volume of nonperforming assets, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives and, at a minimum, include:

- (a) the development of strategic goals and objectives to be accomplished over the short and long term;

- (b) an identification of the Bank's present and future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in (1 )(c) of this Article;
- (c) a management employment and succession program to promote the retention and continuity of capable management;
- (d) a board succession program that addresses the requirements of Article III as well as long term planning for board succession;
- (e) an action plan to improve bank earnings and accomplish identified strategic goals and objectives, including individual responsibilities, accountability and specific time frames;
- (f) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the strategic plan;
- (g) systems to monitor the Bank's progress in meeting the plan's goals and objectives;
- (h) a comprehensive review of the Bank's current and future staffing needs in the lending function that includes, at a minimum:
  - (i) an analysis of additional personnel necessary in the Bank's lending function in order to accomplish the goals and objectives developed under this Article and the requirements of this Agreement and an action plan to obtain that level of staffing; and

- (ii) long-term staffing projections for the lending function of the Bank.
- (i) a written asset diversification program consistent with OCC Banking Circular 255. For purposes of this Article, a concentration of credit is as defined in the “Loan Portfolio Management” booklet of the Comptroller's Handbook. The program shall include, but not necessarily be limited to, the following:
  - (i) a review of the balance sheet to identify any concentrations of credit;
  - (ii) a written analysis of any concentration of credit identified above in order to identify and assess the inherent credit, liquidity, and interest rate risk;
  - (iii) policies and procedures to control and monitor concentrations of credit;
  - (iv) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis.
  - (v) The Board shall ensure that future concentrations of credit are subjected to the analysis required by this subparagraph and that the analysis demonstrate that the concentration will not subject the Bank to undue credit or interest rate risk.
  - (vi) Upon adoption, a copy of the plan required by this subparagraph shall be forwarded to the Assistant Deputy Comptroller for review and prior written determination of

no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the strategic plan.

(3) Upon completion, the Bank's capital and strategic plan shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the provisions of the capital and strategic plan. The Board shall review and update the Bank's capital and strategic plan on an annual basis, or more frequently as necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller

## ARTICLE IX

### CONTINGENCY FUNDING PLAN

(1) Within thirty (30) days of the date of this Agreement, the Board shall take appropriate action to finalize the enhanced Bank's Contingency Funding Plan (CFP) it has initiated to reflect the increase in problem assets and the uncertain economic conditions that are facing the Bank.

(2) Upon adoption of the enhanced CFP required by Paragraph (1) of this Article, the CFP shall be forwarded to the Assistant Deputy Comptroller for review.

## ARTICLE X

### 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/her 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:

- (i) 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;

- (ii) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (iii) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (iv) require corrective action be taken in a timely manner of any non-compliance 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/

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Richard F. Schobert  
Assistant Deputy Comptroller  
Phoenix/Albuquerque Field Office

6/2/2009

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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.

/s/  
Richard P. Cook

May 29, 2009  
Date

/s/  
Al Hernandez

May 29, 2009  
Date

/s/  
C.L. Hunter

May 29, 2009  
Date

/s/  
Lillian Martinez

May 29, 2009  
Date

/s/  
Nick Vigil

May 29, 2009  
Date

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