

AGREEMENT BY AND BETWEEN
Bank of the Rio Grande, N.A.
Las Cruces, New Mexico
and
The Comptroller of the Currency

Bank of the Rio Grande, N.A., Las Cruces, 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 credit risk management weaknesses and an excess level of classified assets.

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 48th Street, Suite 265
Phoenix, Arizona 85044.

ARTICLE II

COMPLIANCE COMMITTEE

(1) Within fifteen (15) days of this Agreement, the Board shall appoint a Compliance Committee of at least three (3) directors, of which no more than one (1) shall be an employee or controlling shareholder 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. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement.

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

(3) Within thirty (30) 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.
- (4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller within ten (10) days of receiving such report.
- (5) As of the Date of this Agreement, the Bank shall immediately establish and adhere to a dividend policy that permits the declaration of a dividend only:
 - (a) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
 - (b) with the prior written determination of no supervisory objection by the Assistant Deputy Comptroller.
- (6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the requirements of this Agreement.

ARTICLE III

CRITICIZED ASSETS

- (1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized (those listed as “special mention,” “substandard,” or “doubtful”) 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) The Board shall immediately take all necessary steps to ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets in the ROE, in any subsequent Report of Examination or OCC correspondence, or by any internal or external loan review. 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) The Board, or a designated committee, shall conduct a review, on at least a quarterly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds two hundred thousand dollars (\$200,000);
- (b) management's 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.

(4) The Bank may not extend credit, directly or indirectly, including renewals or extensions, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination or OCC correspondence, 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 two hundred thousand dollars (\$200,000), unless the Board certifies in writing that each of the following conditions is met:

- (a) the extension or renewal is necessary to promote the best interests of the Bank;
- (b) the Board has documented the reason(s) that the extension or renewal is necessary to promote the best interests of the Bank; and

(c) the Board's formal plan to collect or strengthen the criticized asset will not be compromised;

(5) A copy of the written certification required by paragraph (4) of this article shall be maintained in the credit file of the borrower.

ARTICLE IV

CREDIT RISK RATINGS

(1) Within forty five (45) days of this Agreement, the Board shall take the necessary steps 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;
- (c) loan officers are accountable for failing to appropriately and timely risk rate loans; and
- (d) troubled debt restructures (TDR) are properly accounted for in the Bank's call reports. Management must appropriately monitor and risk rate TDRs according to regulatory and accounting guidance. Loan officers and

management need to become more educated in TDR accounting and grading criteria.

(2) Within thirty days (30) of this Agreement, the Board shall review the recent real estate focused portfolio-wide credit review and take the necessary steps to ensure that the Bank's credit risk has been accurately reflected upon the Bank's books and records and takes into account the following factors:

- (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.

ARTICLE V

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within forty-five (45) days of this Agreement, 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 VI

CONTINGENCY FUNDING PLAN

(1) Within thirty (30) days of this Agreement, the Board shall take the necessary steps to ensure that the Bank's recently revised Contingency Funding Plan (CFP) is commensurate with the risk and complexity of the institution and includes at a minimum, the following enhancements:

- (a) policies and procedures to address the potential impact and management response from various liquidity crisis scenarios, including but not limited to:

- (i) deterioration in asset quality grade;
 - (ii) deterioration in overall composite rating; and
 - (iii) the reduction of wholesale funding or borrowing lines.
- (b) the plan must clearly identify, quantify and rank all sources of funding by preference;
- (c) Different liquidity ratios or limits that, if exceeded, would trigger management to take immediate action;
- (d) a detailed description of the responsibilities of senior management during a liquidity crisis. This must include the names addresses, and telephone numbers of crisis team members. This must also include the assignment of responsibility for initiating external contact with regulators, investors, external auditors, the press, significant customers, and others as considered necessary.

(2) Upon Board confirmation, the Bank shall submit the CFP to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. Upon receipt of a prior written determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall immediately implement and ensure adherence to the revised CFP.

ARTICLE VII

IT RISK MANAGMENT

(1) Within sixty (60) days of the date of this Agreement the Board must ensure that the Bank takes the following actions and implements processes to ensure these actions are

maintained to improve the Bank's IT Risk Management:

- (a) engage a qualified auditor to test the effectiveness of IT policies and internal controls. The auditor must also determine compliance with Gramm-Leach-Bliley Act of 1999 (GLBA) and the adequacy of business continuity planning;
- (b) update the risk assessment and ensure that it identifies the risks inherent in each IT asset or function, any mitigating controls and the residual risk of each asset. The risk assessment must:
 - (i) reflect findings of the most recent audit and shall be used to determine the scope and frequency of future audits;
 - (ii) be updated on a regular basis; and
 - (iii) be included in the annual security report to the Board of Directors.
- (c) develop and implement a formal patch management program that ensures all programs have the most current security patches in a timely manner;
- (d) perform a business impact analysis that identifies all mission critical functions and ensures that these functions are planned for in the disaster recovery plan. This analysis shall be updated annually and presented to the Board of Directors and must include:
 - (i) allowable downtime;
 - (ii) estimated recovery time; and
 - (iii) acceptable levels of data loss and estimates of costs and time associated with any downtime;

- (e) develop an enhanced vendor risk management program that ensures that all vendors with access and potential access to customer information are identified. This program must ensure that vendors have appropriate controls in place given the type of customer information available. The adequacy of vendor controls must be monitored annually. Vendor performance compared to expectations and financial analysis of critical vendors must be included in the program.

ARTICLE VIII

FLOOD DISASTER PROTECTION ACT (FDPA) COMPLIANCE

(1) As of the date of this Agreement, management and the board must ensure that the Bank's FDPA compliance procedures are being followed and lending staff, including loan operations, are provided adequate training to ensure compliance with the FDPA.

(2) By no later than December 31, 2009, the Bank shall complete an FDPA compliance audit to determine if all loans have adequate flood insurance. The Bank shall continue to maintain a program that ensures timely FDPA compliance audits and corrective action.

ARTICLE IX

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:

- (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 non-compliance with such actions in a timely and appropriate manner; and

(d) 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/

Steven D. Jacobs
Assistant Deputy Comptroller
Arizona/New Mexico Field Office

2/17/2010

Date

