

UNITED STATES OF AMERICA  
BEFORE THE  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D.C.

Written Agreement by and between

BW BANCORP  
Ely, Minnesota

and

FEDERAL RESERVE BANK OF  
MINNEAPOLIS  
Minneapolis, Minnesota

Docket No. 11-059 -WA/RB-HC

WHEREAS, BW Bancorp, Ely, Minnesota (“BWB”), a registered bank holding company, owns and controls Boundary Waters Bank, Ely, Minnesota (the “Bank”), a state nonmember bank, and one nonbank subsidiary;

WHEREAS, it is the common goal of BWB and the Federal Reserve Bank of Minneapolis (the “Reserve Bank”) to maintain the financial soundness of BWB so that BWB may serve as a source of strength to the Bank;

WHEREAS, BWB and the Reserve Bank have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on May 10, 2011, the board of directors of BWB, at a duly constituted meeting, adopted a resolution authorizing and directing John A. Nigh to enter into this Agreement on behalf of BWB, and consenting to compliance with each and every provision of this Agreement by BWB and its institution-affiliated parties, as defined in

sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. §§ 1813(u) and 1818(b)(3)).

NOW, THEREFORE, BWB and the Reserve Bank agree as follows:

### **Source of Strength**

1. The board of directors of BWB shall take appropriate steps to fully utilize BWB’s financial and managerial resources, pursuant to section 225.4 (a) of Regulation Y of the Board of Governors of the Federal Reserve System (the “Board of Governors”) (12 C.F.R. § 225.4(a)), to serve as a source of strength to the Bank, including, but not limited to, taking steps to ensure that the Bank complies with the Consent Order issued by the Federal Deposit Insurance Corporation (“FDIC”) on January 27, 2011, and any other supervisory action taken by the Bank’s federal or state regulator.

### **Dividends and Distributions**

2. (a) BWB shall not declare or pay any dividends without the prior written approval of the Reserve Bank and the Director of the Division of Banking Supervision and Regulation (the “Director”) of the Board of Governors.

(b) BWB shall not directly or indirectly take dividends or any other form of payment representing a reduction in capital from the Bank without the prior written approval of the Reserve Bank.

(c) BWB and its nonbank subsidiary shall not make any distributions of interest, principal, or other sums on subordinated debentures or trust preferred securities without the prior written approval of the Reserve Bank and the Director.

(d) All requests for prior approval shall be received by the Reserve Bank at least 30 days prior to the proposed dividend declaration date, proposed distribution on

subordinated debentures, and required notice of deferral on trust preferred securities. All requests shall contain, at a minimum, current and projected information on BWB's capital, earnings, and cash flow; the Bank's capital, asset quality, earnings, and allowance for loan and lease losses; and identification of the sources of funds for the proposed payment or distribution. For requests to declare or pay dividends, BWB must also demonstrate that the requested declaration or payment of dividends is consistent with the Board of Governors' Policy Statement on the Payment of Cash Dividends by State Member Banks and Bank Holding Companies, dated November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323).

### **Debt and Stock Redemption**

3. (a) BWB shall not, directly or indirectly, incur, increase, or guarantee any debt without the prior written approval of the Reserve Bank. All requests for prior written approval shall contain, but not be limited to, a statement regarding the purpose of the debt, the terms of the debt, and the planned source(s) for debt repayment, and an analysis of the cash flow resources available to meet such debt repayment.

(b) BWB shall not, directly or indirectly, purchase or redeem any shares of its stock without the prior written approval of the Reserve Bank.

### **Compliance with Laws and Regulations**

4. (a) In appointing any new director or senior executive officer, or changing the responsibilities of any senior executive officer so that the officer would assume a different senior executive officer position, BWB shall comply with the notice provisions of section 32 of the FDI Act (12 U.S.C. § 1831(i) and Subpart H of Regulation Y of the Board of Governors (12 C.F.R. §§ 225.71 *et seq.*).

(b) BWB shall comply with the restrictions on indemnification and severance payments of section 18(k) of the FDI Act (12 U.S.C. § 1828(k)) and Part 359 of the FDIC's regulations (12 C.F.R. Part 359).

### **Progress Reports**

5. Within 45 days after the end of each calendar quarter following the date of this Agreement, the board of directors shall submit to the Reserve Bank written progress reports detailing the form and manner of all actions taken to secure compliance with the provisions of this Agreement and the results thereof, and a parent company only balance sheet, income statement, and, as applicable, report of changes in stockholders' equity.

### **Communications**

6. All communications regarding this Agreement shall be sent to:

(a) Ms. Diann G. Townsend  
Assistant Vice President  
Federal Reserve Bank of Minneapolis  
90 Hennepin Avenue  
Minneapolis, Minnesota 55480

(b) Mr. John Nigh  
Chairman and Director  
BW Bancorp  
2230 Eagle Creek Lane  
Suite A  
Woodbury, Minnesota 55129

### **Miscellaneous**

7. Notwithstanding any provision of this Agreement, the Reserve Bank may, in its sole discretion, grant written extensions of time to BWB to comply with any provision of this Agreement.

8. The provisions of this Agreement shall be binding upon BWB and its institution-affiliated parties, in their capacities as such, and their successors and assigns.

9. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank.

10. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, or any other federal or state agency from taking any other action affecting BWB, the Bank, or any of their current or former institution-affiliated parties and their successors and assigns.

11. Pursuant to section 50 of the FDI Act (12 U.S.C. § 1831aa), this Agreement is enforceable by the Board of Governors under section 8 of the FDI Act (12 U.S.C. § 1818).

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 20<sup>th</sup> day of May, 2011.

BW BANCORP

FEDERAL RESERVE BANK  
OF MINNEAPOLIS

By: /s/ John A. Nigh  
John A. Nigh  
Chairman

By: /s/ James M. Barnes  
James M. Barnes  
Vice President