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## **SETTLEMENT AND RELEASE AGREEMENT**

This Settlement and Release Agreement ("Agreement") is made as of this 30th day of December, 2011, by, between, and among the following undersigned parties:

(1) Federal Deposit Insurance Corporation, acting as receiver of Washington Mutual Bank, N.A. ("FDIC-Receiver") and (2) Coast Capital Group, Inc. ("CCG") (individually, the FDIC-Receiver, and CCG may be referred to herein as "Party" and collectively as the "Parties").

### **RECITALS**

#### **WHEREAS:**

Prior to September 25, 2008, Washington Mutual Bank, NA ("Bank") was a depository institution organized and existing under the laws of the State of Utah.

On September 25, 2008, the Bank was closed by the Office of Thrift Supervision and the FDIC was appointed receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC-Receiver succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets. Among the assets to which the FDIC-Receiver succeeded were any and all of the Bank's claims, demands, and causes of action related to Bank contracts.

On or about July 5, 2011, the FDIC-Receiver sent a demand letter to CCG alleging breach of the Mortgage Broker Agreement entered into by the Bank, Long Beach Mortgage Company (the Bank's subsidiary), and CCG on or about July 21, 2005 (the "Broker Agreement"). The demand letter sought repayment of certain yield spread premium payments made by the Bank to CCG under the Broker Agreement.

The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of litigation.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the Parties agree, each with the other, as follows:

**SECTION I: Payment to FDIC-Receiver**

A. As an essential covenant and condition to this Agreement, and without admission of liability, CCG agrees to pay directly to the FDIC-Receiver, the total sum of one-hundred ninety-five thousand dollars and no/cents (\$195,000.00) (the "Settlement Funds"). Upon the execution of the Agreement by all Parties, CCG shall direct wire transfer the full amount of the Settlement Funds into the following designated account:

**BANK:** Federal Home Loan Bank of

(b)(2),(b)(4)

**ROUTING #:**

(b)(2),(b)(4)

**FOR CREDIT TO:** FDIC National Liquidation Account

**ACCOUNT #:**

(b)(2),(b)(4)

**OBI:** FIN  Washington Mutual Bank, Henderson, NV

(b)(2)

**CONTACT:** Len DePasquale; 703-562-2063; Professional Liability (37100);

DIF Fund

B. In the event that the Settlement Funds are not tendered to the FDIC-Receiver by January 13, 2012, interest shall accrue on all unpaid amounts of the Settlement Funds at the rate of 5% per annum from January 13, 2012 until the date of payment.

C. In addition, and without waiving any other rights that the FDIC-Receiver may have, in the event that the Settlement Funds (including all accrued interest) are not received by the FDIC-Receiver on or before January 13, 2012, then, the FDIC-Receiver, in its sole discretion, shall have the right at any time prior to receipt of all Settlement Funds (including all accrued interest) to declare this Agreement null and void, shall have the right to extend this

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Agreement for any period of time until it receives all Settlement Funds (including all accrued interest), and/or shall have the right to enforce this Agreement against CCG, in which event the CCG agrees to jurisdiction in Federal District Court in the Central District of California and agrees to pay all of the FDIC-Receiver's reasonable attorney's fees expended in enforcing the terms of this Agreement. Any decision by the FDIC-Receiver to extend the terms of this Agreement or to accept a portion of the Settlement Funds shall not prejudice its rights to declare this Agreement null and void at any time prior to receipt of all Settlement Funds (including all accrued interest) or to enforce the terms of this Settlement Agreement; provided however, that in the event the FDIC-Receiver declares this Agreement null and void, the FDIC-Receiver will return all amounts paid to it under this Agreement by CCG.

**SECTION II: Releases**

A. Release of CCG by FDIC-Receiver.

Effective upon receipt in full of the Settlement Funds plus any accrued interest, and except as provided in Paragraph II.D. below, the FDIC-Receiver, for itself and its successors and assigns, hereby releases and discharges CCG and its respective employees, officers, directors, heirs, executors, administrators, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, known or unknown, in law or in equity, belonging to the FDIC-Receiver, that arise from or relate to the performance, nonperformance, or manner of performance of CCG's functions, duties and actions related to repayment of yield spread premiums under the Broker Agreement.

B. Release of FDIC-Receiver by CCG

Effective simultaneously with the release granted in Paragraph II.A. above, CCG, on behalf of itself individually, and its respective heirs, executors, administrators, agents, representatives, successors and assigns, hereby releases and discharges the FDIC-Receiver, and

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its employees, officers, directors, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, known or unknown, in law or in equity, that arise from or relate to the performance, nonperformance, or manner of performance of the Bank's or CCG's respective functions, duties and actions related to repayment of yield spread premiums under the Broker Agreement.

C. Waiver of Unknown Claims

The Parties acknowledge that, subsequent to the execution of this Agreement, they may discover facts or claims that are presently unexpected, unknown or unforeseen that arise from or relate to the Bank or to the performance, nonperformance, or manner of performance of CCG's respective functions, duties and actions related to repayment of yield spread premiums under the Broker Agreement. The parties acknowledge the existence of Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties hereby knowingly and voluntarily waive the provisions of Section 1542 and any and all rights and benefits conferred by any statute, regulation, or principle of common law or civil law of the United States, of any state, commonwealth, territory, or other jurisdiction thereof, or of any foreign country or other foreign jurisdiction, which is similar, comparable, or equivalent to Section 1542.

D. Express Reservations From Releases By FDIC-Receiver.

1. Notwithstanding any other provision, by this Agreement, the FDIC-Receiver does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims or causes of action:
  - a. against CCG or any other person or entity for liability, if any, incurred as the maker, endorser or guarantor of any promissory note or indebtedness payable or owed by them to the FDIC-Receiver, the Bank, other financial institutions, or any other person or entity, including without limitation, any claims acquired by the FDIC-Receiver as successor in interest to the Bank or any person or entity other than Bank;
  - b. against any person or entity not expressly released in this Agreement; and
  - c. which are not expressly released in Paragraph II.A above.
2. Notwithstanding any other provision, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing or compromising the jurisdiction and authority of the FDIC in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition or any other administrative enforcement action which may arise by operation of law, rule or regulation.
3. Notwithstanding any other provision, this Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office in any federal judicial district. In addition, the FDIC-Receiver specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, et. seq., if appropriate.

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**SECTION III: Representations and Acknowledgements**

- A. No Admission of Liability. The Parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims, and that this Agreement is not an admission or evidence of liability by any of them regarding any claim.
- B. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties named herein and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all Parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Party or Parties subscribed thereto upon the execution by all Parties to this Agreement.
- C. Binding Effect. Each of the undersigned persons represents and warrants that they are a Party hereto or are authorized to sign this Agreement on behalf of the respective Party, and that they have the full power and authority to bind such Party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, representatives, successors and assigns.
- D. Choice of Law. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, California state law.
- E. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the Party or Parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s).

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F. Reasonable Cooperation.

1. The Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing or causing their agents and attorneys to do, whatever is reasonably necessary to effectuate the signing, delivery, execution, filing, recording, and entry, of any documents necessary to perform the terms of this Agreement.

2. Further, CCG agrees to cooperate fully with the FDIC-Receiver in connection with any action required under this Agreement. Any such cooperation that involves any reasonable out of pocket costs will be reimbursed by the FDIC-Receiver pursuant to its internal guidelines and policy for such reimbursement. Such cooperation shall consist of:

a. producing additional copies of CCG's records relating to the subject matter of the Broker Agreement. CCG represents and warrants that it has already produced to the FDIC-Receiver all of its records relating to the subject matter of the Broker Agreement;

b. making themselves available upon request by the FDIC-Receiver at reasonable times and places for interviews regarding facts, as determined by the FDIC-Receiver in its sole discretion, to be relevant to the Bank so long as it relates to the subject matter of the Broker Agreement;

c. appearing to testify, upon request by the FDIC-Receiver, in any matter determined by the FDIC-Receiver in its sole discretion, to be related to the Bank, without the necessity of subpoena so long as it relates to the subject matter of the Broker Agreement;

d. signing truthful affidavits upon request by the FDIC-Receiver, regarding any matter, as determined by the FDIC-Receiver in its sole discretion, to be relevant to the Bank so long as it relates to the subject matter of the Broker Agreement.

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G. Advice of Counsel. Each Party hereby acknowledges that it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that Party by his or her counsel.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed  
by each of them or their duly authorized representatives on the dates hereinafter subscribed.

Date: December 30 2011

FEDERAL DEPOSIT INSURANCE CORPORATION  
as Receiver to Washington Mutual Bank

(b)(6)

BY:

Name: *Emily G. Sommers*

Title: *Supervisory Counsel*

COAST CAPITAL GROUP, INC.

(b)(6)

Date: December 30 2011

By

Name: *Christian D. Salceda*

Title: *President*