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REGULATORY AGREEMENT

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Federal Home Loan Bank of Boston  
New England Fund  
For Rental Projects

This Regulatory Agreement (this "Agreement") is made as of the <sup>15<sup>th</sup></sup> day of July, 2004 by **Warner Woods LLC**, a Massachusetts limited liability company having an address at 144 Sudbury Road, Concord, MA 01742 ("Developer") and **Middlesex Savings Bank** (the "Member Bank"), a member institution of the Federal Home Loan Bank of Boston (FHLBB), with an address at 6 Main Street, Natick, MA 01760 and **Citizens Housing and Planning Association**, with an address at 18 Tremont Street, Boston, MA 02109 ("Monitoring Agent").

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Laird  
Concord MA

BACKGROUND:

A. The Developer intends to construct an eighty (80) unit rental development on a 8.09<sup>±</sup> acre site on Laws Brook Road in Concord, Massachusetts, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

B. The Developer has received a comprehensive permit (the "Comprehensive Permit") from the Zoning Board of Appeals for the Town of Concord (the "Municipality") under Chapter 40B of the Massachusetts General Laws, which permit is recorded at the Registry of Deeds in Book 42752, Page 505;

C. The Developer has, pursuant to the provisions of the Comprehensive Permit, designated sixteen (16) units, or twenty percent (20%) of the total units in the Project, to be affordable units (the "Affordable Units"), which Affordable Units will be rented to households earning no more than fifty percent (50%) of the median income, by household size, for the Boston Primary Metropolitan Statistical Area (the "Base Income") as published from time to time by the Department of Housing and Community Development or successor agency ("DHCD"), and that those Affordable Units will remain affordable for a period of 99 years, or for as long as the development is not in full compliance with the Town's Zoning Bylaw, whichever is longer;

D. The Project is being financed by the Member Bank with proceeds from an advance under the FHLBB's New England Fund ("NEF") and the NEF requires the Developer to provide the number of Affordable Units described above;

E. The Monitoring Agent has agreed to monitor compliance of the Project with the Affordability Requirement set forth in Section 2 below, compliance of the Developer with the Limited Dividend Requirement set forth in Section 3 below and other requirements set forth in this Agreement for the duration of the term of this Agreement as established under Section C. above.

NOW THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer, the Member Bank and the Monitoring Agent hereby agree and covenant

Return to:  
**Comins & Newbury LLP**  
9 Damonmill Square, 4D  
Concord, MA 01742

as follows:

1. Unit Distribution. The distribution of the Affordable Units by unit size shall be as set forth below:

	<u>1 BR</u>	<u>2 BR</u>
Number of Units	10	6
Initial Maximum Monthly Rent* **	\$775.00	\$930.00

\* subject to annual adjustment in accordance with the provisions of Paragraph 2 below.

\*\* maximum rent (subject to annual adjustment) to be charged directly to tenant(s) of Affordable Units, additional rent may be paid to Developer under H.U.D. Section 8 program under vouchers issued thereunder or other programs.

The Affordable Units shall be disbursed throughout the Project at the Developer's reasonable discretion but shall not be situated so as to segregate these units from the market rate units in the Project.

2. Affordability. The Affordable Units shall be rented at rents, including all basic utilities such as heat, hot and cold water and sewer use charges (but not electricity, cable television and internet services, food or the cost of other supportive services), which shall not exceed 30% of the gross income of a household at Base Income calculated as follows:

1 Bedroom unit	1 - 2 person household
2 Bedroom unit	3 person household

Throughout the term of this Agreement, the Developer shall annually determine the income of each tenant of an Affordable Unit. This determination shall be certified to the Monitoring Agent and the Municipality on an annual basis. Any Affordable Unit occupied by a certified household at the commencement of occupancy shall be deemed an Affordable Unit so long as (i) such unit continues to be rent restricted and (ii) the tenant's income does not exceed 140% of the Base Income. If the tenant's income exceeds 140% of the Base Income at the time of the annual income determination ("a Disqualified Tenant"), his/her unit shall be deemed an Affordable Unit until the next available unit with the same or greater number of bedrooms which is not an Affordable Unit is rented. In the event that a tenant becomes a Disqualified Tenant and the next available unit that is not an Affordable Unit and that contains the same or greater number of bedrooms as the unit of the Disqualified Tenant (the "Market Unit") becomes available for rent, the Developer shall ensure that the distribution of Affordable Units that is set forth in Section 1 above is maintained by either (a) ensuring that the Disqualified Tenant moves to the Market Unit so that the unit of the Disqualified Tenant remains an Affordable Unit or (b) renting the Market Unit so that it qualifies as an Affordable Unit.

3. Dividend Limitation. Developer agrees that throughout the term of this Agreement distribution of return to the Developer or to the partners, shareholders, or other owners of Developer or of the Project, after satisfaction of all payments to project expenses, debt service, reserves and Developer's loans for the

Project, shall not exceed ten percent (10%) of Developer's Equity in the project where Developer's Equity is the sum of:

- Actual cash contributed by the Developer to the project
- Developer's Fee contributed to the Project of up to the maximum allowed fee of 25% under the NEF Program
- Appraised acquisition value, upon completion, in excess of acquisition costs (if any)

Dividends earned in any year will accrue with up to 5% simple interest in years in which funds are not available to make such payments, and may be paid in any subsequent years if funds are available at that time. From time to time, the Developer may request that the Monitoring Agent retain, at the Developer's sole expense, a third party appraiser, experienced in appraising such mixed income multifamily developments, to conduct a new appraisal of the property for the purpose of determining whether there has been an increase in the equity of the Project. If the appraisal demonstrates that the market or investment value has increased and, thereby additional equity is available in the project, the Developer's Equity and the 10% Limited Dividend will be increased accordingly. Any subsequent sale or refinancing of the Project during the term of this Agreement shall not alter the initial calculated dividend limitation.

Proceeds of any refinancing, or insurance or condemnation proceeds, or from the sale of any of Developer's assets shall be excluded from the determination of the Dividend Limitation. Upon issuance of a final Certificate of Occupancy for all of the units in the Project, the Developer shall deliver to the Member Bank and to the Monitoring Agent an itemized statement of total development costs together with a statement of gross income from the Project received by the Developer to date certified by the Developer ("Certified Cost and Income Statement"). If all units in the Project have not been rented as of the date the Certified Cost and Income Statement is delivered to the Bank, the Developer shall at least once every ninety (90) days thereafter, until such time as all of the units are rented, deliver to the Member Bank and to the Monitoring Agent an updated Certified Cost and Income Statement. After all units in the Project have been rented, the Developer/Owner shall, on or before March 31 of every year thereafter during the term of this Agreement, deliver to the Member Bank and to the Monitoring Agent an itemized statement of income and expenditures in form satisfactory to the Member Bank and Monitoring Agent for the prior year. All profits from the Project in excess of the Allowable Profit shall be paid by the Developer to the Municipality for deposit in an affordable housing fund to be used by the Municipality for the purposes of encouraging, creating or subsidizing the construction or rehabilitation of affordable housing elsewhere in the Municipality.

4. Affirmative Marketing. The Developer shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, national origin or any other basis prohibited by law in the selection of the tenants for the Affordable Units. The Developer shall affirmatively market the Affordable Units to minority households through direct outreach efforts to local churches, social service and civic organizations as well as local and area-wide newsprint media where minority households are most likely to be contacted. This outreach effort must continue for a period of at least 60 days prior to the selection of tenants for the Affordable Units. As provided in Condition 19 of the Comprehensive Permit, the Developer shall submit an affirmative fair marketing plan for the Project to the Board of Appeals for its review and approval before any certificate of occupancy is issued for the Project. In addition, the Developer agrees to adopt a preference for Concord residents, children or parents of Concord residents, and/or employees of the Town of Concord pursuant to a lottery or selection process that is initially reviewed and approved by the Concord Board of Appeals, that is thereafter periodically reviewed by the Concord Planning Division at the discretion of the Concord Planning Division and that is administered during the term of this Agreement by the Developer. As provided in Condition 19 of the Comprehensive Permit, the Developer shall submit such preference plan to the Concord Board of Appeals for its review

and approval before any certificate of occupancy is issued for the Project. The Developer agrees to maintain for at least five (5) years following the rental of the Affordable Units, a record of all newspaper ads, outreach letters, translations, leaflets and any other outreach efforts, which may be inspected by the Member Bank or the Municipality.

5. Recording. Upon execution hereof, the Developer shall immediately cause this Agreement to be recorded with the Registry of Deeds for the County where the Project is located and/or, if the Project consists in whole or in part of registered land, to be filed with the Registry District of the Land Court for the County where the Project is located. Upon recording and/or filing as applicable, the Developer shall immediately transmit to the Member Bank evidence of such recording and/or filing.

6. Representations. The Developer hereby represents, covenants and warrants as follows:

- (a) The Developer (i) is a limited liability company duly organized under the laws of Massachusetts, and is qualified to transact business under the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own properties and assets and to carry on its business as now being conducted, and (iii) has full legal right, power and authority to execute and deliver this Agreement.
- (b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the Project free and clear of any lien or encumbrance, subject to the encumbrances created pursuant to this Agreement, any loan documents relating to the Project, or other permitted encumbrances.

7. Governing Law/Amendments/Severability. This Agreement shall be governed by the laws of The Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

8. Monitoring Agent. (a) Monitoring Agent shall monitor the compliance of the Project with the Affordability Requirement and the compliance of the Developer with the Limited Dividend Requirement based on and in accordance with the following:

- (i) Receipt of annual reports from the Developer, within 90 days after the end of each calendar year, with respect to compliance of the project with the Affordability Requirements, which reports shall include copies of tenant income certifications.
- (ii) Receipt of annual financial reports prepared by an auditor or an accountant for the Developer, within 90 days after the end of each fiscal year of the Developer;
- (iii) Review of (x) the adequacy and completeness of the annual reports and annual financial statements and (y) the substantive compliance of the Project with the Affordability Requirement and of the Developer with the Limited Dividend Requirement.

(iv) Preparation annually of a report (the "Annual Compliance Report") within 120 days after the end of each fiscal year of the Project to the Member Bank and the zoning enforcement officer of the Municipality on the compliance (x) of the Developer with reporting requirements, (y) of the Project with the Affordability Requirement and (z) of the Developer with the Limited Dividend Requirement. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action against the Developer.

The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable the compliance of the Project and the Developer with the Affordability Requirement and the Limited Dividend Requirement. The services hereunder shall not include any construction period monitoring. The services hereunder shall include follow-up discussions with the Developer after an event of noncompliance.

The Developer shall deliver to the Monitoring Agent the reports described in (i) and (ii) above within the specified times.

(b) The Monitoring Agent shall receive an annual fee of \$2,000 + \$40 per Affordable Unit for each Affordable Unit in excess of 25 Affordable Units to be paid by the Developer by January 31 of each year beginning with the first year that any units have received a certificate of occupancy. The Member Bank shall have no responsibility for payment of any fee to the Monitoring Agent hereunder. (Or such other arrangement mutually acceptable to Monitoring Agent and Developer.)

(c) The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without negligence.

(d) The Developer agrees to indemnify and hold harmless the Monitoring Agent against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent by reason of its relationship with the Project under this Agreement except with respect to any such damages, costs or liabilities arising from improper or inadequate performance by Monitoring Agent hereunder or otherwise from the negligence or willful misconduct of the Monitoring Agent.

9. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

Developer:

Guy. P. DiGiovanni, Manager  
Warner Woods LLC  
144 Sudbury Road  
Concord, MA 01742

Municipality:

Town Manager's Office  
Town of Concord  
Town House  
P.O. Box 535  
Concord, MA 01742

## Member Bank:

Middlesex Savings Bank  
6 Main Street  
Natick, MA 01760

## Monitoring Agent:

Citizens Housing & Planning  
Association  
18 Tremont Street  
Boston, MA 02108

10. Term. The term of this Agreement shall be ninety-nine (99) years, or for as long as the development is not in full compliance with the Town's Zoning Bylaw, whichever is longer, provided that this Agreement shall terminate if the Project is acquired by foreclosure or instrument in lieu of foreclosure so long as the holder of the mortgage has given the Municipality not less than sixty (60) days' prior written notice of the holder's intention to foreclose the mortgage or to accept an instrument in lieu of foreclosure.

11. Successors and Assigns. The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of The Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

12. Default. If any default, violation or breach by the Developer is not cured to the satisfaction of the Member Bank within thirty (30) days after notice to the Developer thereof, then the Member Bank may send notification to the Municipality's Zoning Enforcement Officer and any other mortgagee that the Developer is in violation of the terms and conditions hereof. The Municipality may exercise any legal remedy available to it with respect to such default. The Developer shall pay all costs and expenses, including legal fees, incurred by the Member Bank or the Municipality in enforcing this Agreement and Developer hereby agrees that the Member Bank and the Municipality shall have the right to place a lien on the Project to secure payment of any such costs and expenses. The Member Bank and/or the Municipality may perfect such a lien on the Project by recording a certificate setting forth the amount of the costs and expenses due and owing in the Registry of Deeds or the Registry District of the Land Court for the county in which the Project is located. A purchaser of the Project or any portion thereof shall be liable for the payment of any unpaid costs and expenses which were the subject of a perfected lien prior to the purchaser's acquisition of the Project or portion thereof.

13. Mortgagee Consent. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed a consent to this Agreement and have subordinated their interests under any existing Mortgage to this Agreement.

14. Controlling Documents. In the event of any inconsistency or discrepancy between the terms of the Comprehensive Permit, this Agreement and any other instrument, document or agreement pertaining to the Project, the terms of the Comprehensive Permit (and this Regulatory Agreement, the terms of which are incorporated into the Comprehensive Permit by reference) shall control.

15. Third-party Beneficiary. The parties to this Agreement hereby agree that (a) the Town of Concord is a third-party beneficiary hereto because the Developer will be constructing Affordable Units which will be added to the affordable housing inventory of the Town of Concord under Massachusetts General Laws Chapter 40B, Section 20-23, and (b) while the Town of Concord is not required to enforce the terms of this Agreement, the Town of Concord may choose to enforce the terms hereof at any time as a third-party beneficiary to this Agreement.

16. The under-building parking spaces shall be allocated at the same percentage as the unit mix (80:20). Parking spaces shall be allocated to units on a first come, first served basis and there shall be no more than one under-building parking space per unit (any additional spaces per unit shall be located within the exterior parking areas).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as a sealed instrument as of the date first above written.

DEVELOPER:

MONITORING AGENT

Warner Woods, LLC

Citizens Housing & Planning Association

By: *Guy P. DiGiovanni*  
Guy. P. DiGiovanni, Manager  
Duly authorized

By: \_\_\_\_\_  
Duly authorized

MEMBER BANK

Middlesex Savings Bank

By: *Patrick Paddy* VP

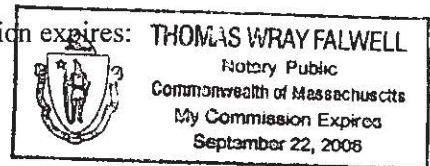
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 29<sup>th</sup> day of March 2006, before me, the undersigned notary public, personally appeared Guy P. DiGiovanni, known to me to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed it voluntarily for its stated purpose as Manager of Warner Woods, LLC.

*Thomas Wray Falwell*  
Thomas Wray Falwell  
Notary Public

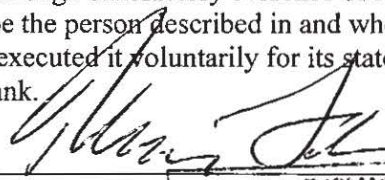
My commission expires: THOMAS WRAY FALWELL



COMMONWEALTH OF MASSACHUSETTS

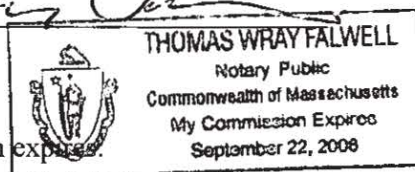
Middlesex, ss.

On this 4<sup>th</sup> day of April 2006, before me, the undersigned notary public, personally appeared PATRICK F PADDEN, JR, proved to me through satisfactory evidence of identification, which was/were MA DRIVER'S LICENSE to be the person described in and who executed the foregoing instrument, and acknowledged to me that he executed it voluntarily for its stated purpose as VICE PRESIDENT of Middlesex Savings Bank.



Notary Public

My commission expires:



COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_ 2006, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was/were \_\_\_\_\_ to be the person described in and who executed the foregoing instrument, and acknowledged to me that (s)he executed it voluntarily for its stated purpose as \_\_\_\_\_ of Citizens Housing & Planning Association.

\_\_\_\_\_  
Notary Public

My commission expires:



**EXHIBIT "A" TO REGULATORY AGREEMENT FOR WARNER WOODS**

The land and buildings in Concord, Middlesex County, Massachusetts and known and numbered as 247 Laws Brook Road, Concord, MA and shown as containing 8.09± ACRES on a plan entitled "Plan of Land In Concord, Mass. Owned by Guy P. DiGiovanni, Trustee of Period Realty Trust", Scale 1" = 80', dated July 11, 2002, by David W. Perley, Civil Engineers, Concord, Mass., recorded with Middlesex South District Deeds on May 11, 2004 as Plan No. 466 of 2004, said premises containing 8.09± ACRES, be however otherwise said premises may be bounded, measured and/or described.

For Developer's title see Deed dated May 7, 2004 and recorded with said Deeds in Book 42752, Page 502.