

Appendix C242

Uniondale Fire District Agreement

AGREEMENT

AGREEMENT made this 3rd day of August, 2009 by and between the Uniondale Fire District (the "Fire District"), a fire district formed and operating under the laws of the State of New York, having an address at PO Box 248, 501 Uniondale Avenue, Uniondale, New York 11553 and Lighthouse Development Group, LLC ("Lighthouse"), a Delaware limited liability company, having an address at 1600 Old Country Road, Plainview, New York 11803

WHEREAS, Lighthouse has made application to the Town Board of the Town of Hempstead (the "Town") for an amendment to its Building Zone Ordinance permitting the creation of a mixed use zoning district known as the Planned Development District (the "PDD") concerning approximately 150 acres of land located at Uniondale, New York on which there are currently located the Nassau County Veterans Memorial Coliseum (the "Coliseum"), the Marriott Hotel and parking adjacent thereto (collectively, the "Property"); and

WHEREAS, the Property lies within the boundaries of the Fire District; and

WHEREAS, the Planned Development District will provide the zoning authorization to construct on the Property a mixed use project to be known as the Lighthouse at Long Island consisting of the upgrade and renovation of the Coliseum as well as the construction of new hotels, convention facilities, offices, retail establishments, sports facilities and residential housing (the "Project");

NOW THEREFORE, in order to mitigate any potential impact of the construction of the Project on the ability of the Fire District to accomplish its mission of servicing the greater Uniondale community, Lighthouse and the Fire District agree as follows:

1. Lighthouse, its successors and assigns, subject to the other and further provisions of this Agreement, shall pay to the Fire District a total sum of \$425,000 (the "Lighthouse Contribution") for those purposes and in that manner hereinafter set forth.
2. The Lighthouse Contribution shall be allocated among each of the following purposes and be paid as follows:
 - 2.1 Purpose: Training
 - 2.1.1 Lighthouse will pay to Fire District the sum of \$15,000 annually for each of the first two (2) years next succeeding the date of this Agreement for the purpose of funding high rise training and other training deemed appropriate by the Fire District either through the Fire Service Academy of the Nassau County Vocational Education and Extension Board or through such other agency as the Fire District, in its sole determination, shall otherwise elect.
 - 2.1.2 The first such annual payment shall be made to the Fire District thirty (30) days after the date upon which the first pile foundation is started for either the luxury tower condominiums or the tower hotel/ condominiums.

2.1.3. The second such annual payment shall be made to the Fire District on the first anniversary of the first such payment.

2.2 Purpose: Enhance membership recruitment and retention

2.2.1 Lighthouse will pay to the Fire District the sum of \$10,000 for each of the first two (2) years next succeeding the date of this Agreement

2.2.2 The first such payment will be made to the Fire District 180 days after the date upon which Lighthouse commences construction of the first on site infrastructure improvements on the Property.

2.2.3. The second such annual payment shall be made to the Fire District on the first anniversary of the first such payment.

2.3 Purpose: Purchase of a "Mini-Attack Pumper" for rapid and efficient fire suppression in such structures as those for parking with low overhead clearance and narrow access.

2.3.1 Lighthouse will pay to the Fire District the sum of \$200,000 for the purchase of a Mini-Attack Pumper promptly after the date upon which Lighthouse commences construction of any above ground parking structure of two (2) levels or more at the Project.

2.4 Purpose: Purchase of an Emergency Medical Service Ambulance to support the additional residential, retail, tourist and venue participants

2.4.1 Lighthouse will pay the sum of \$175,000 to the Fire District within 180 days after the date of issuance of the certificate of occupancy for the renovations to the Coliseum.

3. The Fire District has reviewed and evaluated the Draft Generic Environmental Impact Statement submitted by Lighthouse to the Town in connection with each of the following criteria and has determined that the mitigation measures proposed therein and herein will adequately address the maintenance and enhancement of fire and medical services to the greater Uniondale community and to the Project:

3.1 Personnel training;

3.2 Membership recruitment and retention;

3.3 Equipment and apparatus;

3.4 Building heights;

3.5 Construction materials;

3.6 Master planning layouts with respect to streets, structures and site access;

3.7 The provision of ambulance service to the greater Uniondale community and the Project.

4. Lighthouse and the Fire District agree that details concerning fire protection for the Project will be addressed during the approval process of the Conceptual Master Plan provided for in the PDD. In this regard, during construction of the Project, Lighthouse will cause its construction manager from time to time to invite representatives of the Fire Department to the Project for periodic site visits to familiarize themselves with current construction activities and site conditions.

5. Lighthouse shall not be relieved of its obligation to pay the Lighthouse Contribution to the Fire District under the terms of this Agreement if Lighthouse should hereafter sell, assign or otherwise devise or convey its interest in the entire Property to another developer or convey to another developer any part of the Property.

6. All notices under this Agreement shall be in writing and delivered personally (with receipt obtained) or mailed by certified mail, postage prepaid, or by overnight delivery service, addressed to the parties and their attorneys at the addresses specified below or any other address as to which the party giving such notice shall have been notified or by facsimile transmission at the facsimile number as to which the party giving such notice shall have been notified followed by mailing in accordance with the provisions of this Paragraph. Either party hereto (or its attorney) may change the persons to be notified hereunder or the address or facsimile number thereof upon notice to the other party. Any notice given hereunder shall be deemed given (1) when received by personal delivery or by overnight delivery service or (2) five business days after mailing a facsimile transmission with confirmation of receipt followed by mailing in the manner prescribed herein.

If to Lighthouse:

Lighthouse Development Group, LLC
1600 Old Country Road
Plainview, NY 11803
Attention: Michael J. Picker, President

with a copy to:

Lighthouse Development Group, LLC
1600 Old Country Road
Plainview, NY 11803
Attention: Robert V. Guido, Esq., Assistant General Counsel

If to Fire District:

Russell Rinchuso
Commissioner
Uniondale Fire Department
501 Uniondale Avenue
Uniondale, NY 11553

7. The provisions of this Agreement shall be deemed binding on the successors and assigns of each of the parties hereto.

8. It shall be a condition precedent to the obligation of Lighthouse to make the Lighthouse Contribution that the Fire District, that, on or prior to August 17, 2009 (the last day of the public comment period established by the Town in connection with its review of the Draft Generic Environmental Impact Statement submitted by Lighthouse) shall submit to the Town

documentation indicating that the Fire District has determined that, subject to compliance by Lighthouse of its obligation to make the Lighthouse Contribution, the mitigation measures undertaken by Lighthouse are sufficient to address the environmental impact of the Project on the Fire District.

9. The Fire District and Lighthouse agree that this Agreement sets forth the entire agreement between them and that no communications, documents, letters or other conversations, negotiations or representations not expressly incorporated herein are made a part of this Agreement. Any amendment to this Agreement shall be in writing, dated, and signed and agreed to by both parties hereto.

10. The person signing this Agreement on behalf of each party represents and warrants that he or she has been duly authorized by said party to sign this Agreement on its behalf and bind said party thereto.

11. This Agreement shall not be binding upon either party until signed by both parties.

12. The failure of any party to insist upon the strict performance of any covenant, agreement, provision, or condition of this Agreement shall not constitute a waiver thereof. No waiver by any party of any of the terms or provisions of this Agreement shall be enforceable unless expressed in writing and signed by the party against whom enforcement is sought.

13. If any provision of this Agreement or the application thereof to any party or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other party or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by Law.

14. This Agreement may be executed in separate facsimile counterparts. It shall be deemed fully executed when each party has signed at least one facsimile counterpart, even though no single facsimile counterpart contains the signature of all the parties.

15. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular. This Agreement shall not be interpreted in favor of any party by virtue of said party not having prepared this Agreement. If any time period provided for in this Agreement ends on a day other than a business day, the time period shall be extended to the next business day.

16. This Agreement shall be governed by the laws of the State of New York.

UNIONDALE FIRE DISTRICT

by: 

Russell Rinchuso
Commissioner

LIGHTHOUSE DEVELOPMENT GROUP, LLC

by: 

Michael J. Picker
PRESIDENT