

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA

<i>In re:</i> PITTSBURGH ATHLETIC ASSOCIATION, <i>Debtor</i> ¹ .	Chapter 11 Case No. 17-22222-JAD
PITTSBURGH ATHLETIC ASSOCIATION, <i>Movant,</i> v. ALLEGHENY VALLEY BANK OF PITTSBURGH AND OAKLAND FIFTH AVENUE HOTEL ASSOCIATES, LP, <i>Respondents.</i>	Doc. No. _____ Hearing Date and Time: <u>TBD</u>

EXPEDITED MOTION OF THE DEBTORS FOR ENTRY OF AN INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364 AND 507, FED. R. BANKR. P. 2002, 4001 AND 9014 AND LOCAL RULE 4001-2 (I) AUTHORIZING DEBTOR AND DEBTOR IN POSSESSION TO OBTAIN FIRST PRIORITY AND PRIMING POST-PETITION FINANCING, (II) GRANTING LIENS AND SUPER-PRIORITY CLAIMS, (III) SCHEDULING A FINAL HEARING AND (IV) GRANTING RELATED RELIEF

The Pittsburgh Athletic Association (“**PAA**”), the Debtor in the above captioned case and the Pittsburgh Athletic Association Land Company (“**PAALC**”), the Debtor in the case pending at Case No. 17-22223 in this Court, both acting as debtors-in-possession (collectively, the “**Debtors**”) file this Motion (the “**Motion**”) pursuant to 11 U.S.C. §§105, 361, 362, 364 and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 and Local Rule 4001-2 for Entry of An Interim Order in the substantive form of the Interim Order attached hereto as Exhibit “A” (1) authorizing Debtors to obtain first priority and priming post-petition financing, (2) granting liens and super-

¹ The Chapter 11 case for the Pittsburgh Athletic Association, is pending at 17-22222-JAD and the case for the Pittsburgh Athletic Association Land Company, an affiliated entity of the Debtor, is currently pending at 17-22223-JAD. There is a motion pending for joint administration of these cases.

priority claims, (3) scheduling a final hearing, and (4) granting such other related relief as agreed to by and among the Debtors and JDI Loans, LLC and/or its affiliates (collectively, the “**DIP Lender**”).

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are sections 105(a), 362(d), 363(b), 364 and 507 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended; hereinafter the “**Bankruptcy Code**”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

BACKGROUND

3. On May 30, 2017 (the "Petition Date") and contemporaneous with the filing of this Motion, the Debtors filed in this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

4. The Debtors have continued in the management and operation of their business and properties as debtors-in-possession pursuant to 11 U.S.C. §1107(a), 1108.

5. No trustee or examiner has been appointed.

6. Additional information relating to the Debtors’ businesses, properties, capital structures and the circumstances predicated the commencement of these Chapter 11 cases is detailed in the Declaration of James A. Sheehan, sworn to and filed on the Petition Date.

7. Upon information and belief, and in consultation with the Debtors’ real estate advisors, the real estate holdings of the Debtors carry an estimated value as of the Petition Date of between \$7 - \$10 million dollars.

PRE-PETITION OBLIGATIONS

8. Prior to the commencement of Debtors' Chapter 11 cases, Allegheny Valley Bank of Pittsburgh ("**AVB**") and Oakland Fifth Avenue Hotel Associates, LP ("**OFAHA**") made loans and advances to Debtors as detailed herein below (hereinafter, and unless otherwise noted, from time to time AVB and OFAHA shall be collectively referred to as the "**Pre-Petition Secured Lenders**").

A. Allegheny Valley Bank

9. AVB made loans and advances to the Debtors pursuant to the following agreements executed and delivered by Debtors with, to or in favor of AVB:

- (1) A Business Loan Agreement dated December 16, 2008, as amended by that certain First Modification to Second Mortgage Line of Credit Loan and other Loan Documents dated July 1, 2010 (together, "**AVB Loan Agreement**");
- (2) An Open-End Mortgage Note dated December 16, 2008 in the original principal amount of \$2,625,000.00 ("**AVB Term Note**"); and
- (3) An Open-End Revolving Line of Credit Second Mortgage Note dated December 16, 2008 in the original principal amount of \$200,000.00, as amended by a certain First Modification to Second Mortgage Line of Credit Loan and Other Loan Documents dated July 1, 2010 and that certain Amended and Restated Revolving Line of Credit on Demand Mortgage Note dated July 1, 2010 whereby the line of credit was increased to \$400,000.00 (together, the "**AVB Line of Credit**") (hereinafter, and unless individually noted, the AVB Loan Agreement, AVB Term Note and the AVB Line of

Credit will collectively be referred to as the “**AVB Loans**”).

10. The AVB Loans are secured by, *inter alia*,
 - (1) An Open-End Mortgage and Security Agreement dated December 16, 2008 and recorded on December 16, 2008 with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2008-107801 (“**AVB Mortgage A**”) whereby PAALC granted AVB a first mortgage for PAALC’s real property and improvements thereon located at 4215 Fifth Avenue, Pittsburgh, Pennsylvania (the “**Property**”); and
 - (2) An Assignment of Leases and Rents dated December 16, 2008, executed by PAALC in favor of AVB and recorded on December 17, 2008 with the Department of Real Estate for Allegheny County, Pennsylvania at Instrument No. 2008-35713 (“**AVB Assignment**”).
 - (3) An Open-End Mortgage and Security Agreement dated December 16, 2008 and was recorded on December 16, 2008 with the Department of Real Estate for Allegheny County, Pennsylvania at Instrument No. 2008-107802 (the “**AVB Mortgage B**”); and

11. The Loans are further secured by, *inter alia*, a Commercial Security Agreement dated December 16, 2008 and executed by PAA in favor of AVB (“**AVB Security Agreement**”). To perfect the interests granted to it by PAA pursuant to the Security Agreement, AVB filed a UCC-1 financing statement with the Secretary of the Department of State of the Commonwealth of Pennsylvania on December 18, 2008 at File No. 2008121901078 (“**PAA Financing Statement**”).

12. To perfect the interests granted to it by PAALC pursuant to the AVB Mortgage A and the AVB Mortgage B, AVB filed a UCC-1 financing statement with the Secretary of the

Department of State of the Commonwealth of Pennsylvania on December 18, 2008 at File No. 2008121804870 (the “**PAALC Financing Statement**”) (collectively, the PAA Financing Statement and the PAALC Financing Statements will be referred to as the “**AVB Financing Statements**”).

13. Additionally, AVB entered into a Subordination and Inter-Creditor Agreement dated July 3, 2014 with Oakland Fifth Avenue Hotel Associates, LP (“**OFAHA**”), which agreement subordinated OFAHA’s liens and interests (the “**AVB Subordination Agreement**”) to those of AVB.

14. The AVB Loan Agreement, AVB Term Note, AVB Line of Credit, AVB Mortgage A, AVB Mortgage B, AVB Assignment, AVB Security Agreement, AVB Financing Statements and the AVB Subordination Agreement shall be collectively referred to as the “**AVB Loan Documents**”. True and correct copies of the AVB Loan Documents are too voluminous to file and will be made available to interested parties² upon request.

15. As of the Petition Date, the amount due under the AVB Loan Documents is approximately \$2,134,481.99 (the “**AVB Pre-Petition Debt**”). The AVB Pre-Petition Debt is valid, existing and legally enforceable and is secured and properly perfected as evidenced by the AVB Loan Documents.

16. Prior to the Petition Date, AVB exercised its rights under the AVB Assignment and is currently collecting rent from the Ground Lease between OFAHA and the Debtors.

B. Oakland Fifth Avenue Hotel Associates, LP

(i) OFAHA Loan A

17. Prior to the commencement of Debtors’ Chapter 11 cases, OFAHA made loans and advances to PAALC pursuant to the following agreements executed and delivered by Debtor, PAALC, with, to or in favor of OFAHA (“**OFAHA Loan A**”): (i) A Loan Agreement dated May 20, 2014, to be effective June 3, 2014, as amended by that certain First Amendment to Loan

² Copies of all Loan Documents will be provided to the Court.

Agreement and Release dated March 12, 2015 and that certain Subordination Agreement dated March 12, 2015 (“**OFAHA Loan Agreement A**”); and (ii) a Term Note dated May 20, 2014, to be effective June 3, 2014 in the original principal amount of \$575,000.00 (“**OFAHA Note A**”).

18. OFAHA Loan A is secured by, *inter alia*, the following documents executed by PAALC in favor of OFAHA: (i) an Open-End Mortgage and Security Agreement dated May 20, 2014, to be effective June 3, 2014, and recorded on June 4, 2014 with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2014-36193 (“**OFAHA Mortgage A**”); and (ii) Assignment of Leases and Rents dated May 20, 2014, to be effective June 3, 2014 and recorded on June 4, 2014, with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2014-14161 (“**OFAHA Assignment A**”).

19. OFAHA Loan A is further secured by a Security Agreement dated May 20, 2014, to be effective June 3, 2014, from PAALC in favor of OFAHA (“**OFAHA Security Agreement A**”). To perfect its security interests granted under the Oakland Security Agreement A, OFAHA filed a UCC-1 financing statement on June 4, 2014, with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2014-77988 and with the Secretary of the Department of State for the Commonwealth of Pennsylvania on June 9, 2014, at File No. 2014061106337 (collectively referred to as the “**OFAHA Financing Statements A**”).

20. As additional security for the repayment of OFAHA Loan A, PAA, executed and delivered in favor of OFAHA a Guaranty and Suretyship Agreement, dated May 20, 2014, to be effective June 3, 2014, whereby PAA absolutely and unconditionally guaranteed the repayment of all of the PAALC’s current and future financial obligations to OFAHA (“**PAA Guaranty**”).

21. PAA was released from its obligations under the OFAHA Loan A Documents under the terms and conditions of the First Amendment to the Loan Agreement and Release dated May 12, 2015, and executed by and between PAALC and OFAHA (“**OFAHA Release Agreement**”).

22. The following documents shall be collectively referred to from time to time as the “**OFAHA Loan A Documents**”: (1) OFAHA Loan Agreement A; (2) OFAHA Note A; (3) OFAHA Mortgage A; (4) OFAHA Assignment A; (5) OFAHA Security Agreement A; (6) OFAHA Financing Statements A; (7) PAA Guaranty; and (8) OFAHA Release Agreement.

(ii) OFAHA Loan B

23. Prior to the commencement of Debtors’ Chapter 11 cases, OFAHA made additional loans and advances to PAALC pursuant to the following agreements executed and delivered by Debtor, PAALC, with, to or in favor of OFAHA (“**OFAHA Loan B**”): a Loan Agreement dated March 10, 2015, to be effective March 12, 2015 (“**OFAHA Loan Agreement B**”); and a Delayed Draw Term Note dated March 10, 2015, to be effective March 12, 2015, in the original principal amount of \$1,372,744.00 (“**OFAHA Note B**”).

24. OFAHA Note B is secured by, *inter alia*, the following: (1) an Open-End Mortgage and Security Agreement dated March 10, 2015, to be effective March 12, 2015, whereby PAALC granted OFAHA a mortgage on the Property, subject to the AVB Subordination Agreement, and recorded on March 13, 2015 with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2015-16689 (the “**OFAHA Mortgage B**”); and an Assignment of Leases and Rents dated March 10, 2015, to be effective March 12, 2015 and recorded with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2015-6331 (“**OFAHA Assignment B**”).

25. OFAHA Note B is additionally secured by, *inter alia*, a Security Agreement dated March 10, 2015, to be effective March 12, 2015 (“**OFAHA Security Agreement B**”). To perfect the interests granted to it by PAALC pursuant to the OFAHA Mortgage B and the OFAHA Security Agreement B, OFAHA filed a UCC-1 Financing Statement on March 13, 2015 with the Department of Real Estate of Allegheny County, Pennsylvania at Instrument No. 2015-78988 and with the Secretary of the Department of State of the Commonwealth of Pennsylvania

on March 16, 2015 at File No. 2015031804193 (collectively referred to as the “**OFAHA Financing Statements B**”).

26. Additionally, OFAHA executed a Subordination Agreement dated March 10, 2015, to be effective March 12, 2015 and recorded on March 13, 2015 with the Department of Real Estate of Allegheny County at Instrument No. 2015-16690, whereby OFAHA agreed that any of its liens and security interests under the OFAHA Loan A Documents would be subordinated to any of its liens and security interests under the OFAHA Loan B Documents (“**OFAHA Subordination Agreement**”).

27. The following shall be collectively referred to as the “**OFAHA Loan B Documents**”: (1) **OFAHA** Loan Agreement B; (2) **OFAHA** Note B; (3) **OFAHA** Mortgage B; (4) **OFAHA** Assignment B; (5) **OFAHA** Financing Statements B; and (6) **OFAHA** Subordination Agreement. (hereinafter, and unless otherwise noted, from time to time the **OFAHA** Loan A Documents and the **OFAHA** Loan B Documents shall be collectively referred to as the “**OFAHA Loan Documents**”).

28. As of the Petition Date, the amount allegedly due under the **OFAHA** Loan Documents is approximately \$2,034,763.68 (the “**OFAHA Pre-Petition Debt**”) (hereinafter, from time to time, the AVB Pre-Petition Debt and the **OFAHA** Pre-Petition Debt may be collectively referred to as the “**Pre-Petition Debt**”).

C. Debtors’ Need for DIP Financing

29. Just prior to the Debtors’ petition, the Debtors had temporarily ceased operations of the Club and were in default with many of their supplier, utility providers and employee unions.

30. The Debtors are operating on minimal cash reserves and require additional operating capital to pay certain priority obligations and move forward with the proposed reorganization under Chapter 11.

D. Debtors’ efforts to obtain DIP financing without a Priming Lien

31. Prior to the execution of the DIP Term Sheet, as defined herein, the Debtors were not able to obtain this financing on an unsecured basis without agreeing to grant a priority lien on assets.

RELIEF REQUESTED

32. Debtors move for entry of an interim order (the “**Interim Order**”), substantially in the same form attached hereto as Exhibit “A”, and ultimately, where applicable, a final order (the “**Final Order**”) containing the following relief:

(a) under sections 105, 361, 362 and 364(c), (d) and (e) of the Bankruptcy Code authorizing the Debtor to obtain post-petition financing in the form of a term loan in the amount of \$750,000.00 as set forth in the term sheet attached hereto as Schedule “A” to the Interim Order, attached hereto as Exhibit “A” (the “**DIP Term Sheet**”), by and between Debtors and DIP Lender, of which Debtors shall pay the Lender’s Fees as identified in the DIP Term Sheet;

(b) granting of a priming lien on the Property pursuant to section 364(d)(1) of the Bankruptcy Code;

(c) granting the DIP Loan super-priority administrative expense status (pursuant to sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code);

(d) authorizing the Debtors to execute and deliver additional documentation consistent with the terms of, or as may be required by, the DIP Term Sheet upon entry of the proposed Interim Order;

(e) vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Interim Order and the Final Order;

(f) Finding that the Pre-Petition Secured Lenders are adequately protected by virtue of the equity in the Property;

(g) scheduling an interim hearing on the Motion pursuant to Fed. Bankr. R. P. 4001 and authorizing, from the entry of the Interim Order until the final hearing on the Motion to obtain credit subject to the terms and conditions summarized in the DIP Term Sheet; and

(h) scheduling a Final Hearing on the Motion pursuant to Fed. Bankr. R. P. 4001, and establishing notice procedures in respect of this Final Hearing by this Court to consider entry of the Final Order authorizing the relief requested in this Motion on a permanent basis.

DISCUSSION

33. Sections 364 of the Bankruptcy Code in relevant part, provides:

(c) If the trustee is unable to obtain unsecured credit allowable under Section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt-

(1) with priority over any and all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;

(2) secured by a lien on property of the estate that is not otherwise subject to a lien; or

(3) secured by a junior lien on property of the estate that is subject to a lien.

(d)(1) The court, after notice and a hearing may authorize the obtaining of credit or the incurring of debt secured by a senior or equal line on property of the estate subject to a lien only if-

(A) the trustee is unable to obtain such credit otherwise; and

(B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

11 U.S.C. §§ 364(c) and (d).

34. Section 361 of the Bankruptcy Code provides in relevant part that when adequate protection is required under section 364 of this title, such adequate protection can be provided by “requiring the trustee to make a cash payment or periodic cash payments to such entity, to the extent...any grant of a lien under Section 364 of this Title results in a decrease in the value of such entity’s interest”. Adequate protection may also take the form of a sufficient equity cushion in the collateral where the post-petition financing will allow the debtor to continue operating. *See In re Timber Products, Inc.*, 125 B.R. 433 (Bankr. W.D.Pa. 1990)(citing *In re Southerton Corp.*, 46 B.R. 391, 398-400 (M.D.Pa. 1982)).

35. Leading up to Debtors’ filing the Chapter 11 cases, Debtors unsuccessfully explored alternatives and engaged in negotiations in order to obtain additional financing and liquidity. Considering the immediacy of Debtors’ financing needs, as well as the Pre-Petition Debt, Debtors and their professionals determined that additional unsecured financing was not

available. Therefore, Debtors were unable to obtain alternative post-petition financing through credit allowable as an administrative expense or secured by liens on assets junior to those of the Pre-Petition Secured Lenders.

36. Debtors engaged in good faith, arm's-length negotiations with the DIP Lender, with the result of these negotiations being the DIP Loan, DIP Term Sheet and the form of the proposed Interim Order.

37. The DIP Lender is willing to extend to Debtors a loan in the amount of \$750,000.00, pursuant to terms identified in the Interim Order. Pursuant to Local Rule 4001-2, a summary of the essential terms are included below:

Parties	Lender- JDI Loans, LLC Borrowers/Debtors- Pittsburgh Athletic Association and Pittsburgh Athletic Association Land Company
Loan Amount	\$750,000.00
Purpose of Financing	Loan proceeds shall be allocated pursuant to a disbursement schedule agreed upon by both the Lender and Borrower. With the exception of reserves and fees to be set aside, the loan proceeds will be utilized for Borrower's ordinary business expenses.
Security	Loan will be secured by a recorded, super-priority lien on the Property which will be evidenced by a mortgage and assignment of leases and rents.
Term	The Initial Term of the DIP Loan shall be for twelve (12) months following the Closing and during the Initial Term, Borrower will be allowed to prepay the Loan Amount. Borrower shall have the opportunity to extend the term of the loan for up to six (6) months, subject to additional conditions outlined in the DIP Term Sheet.

Interest	<p>The DIP Loan shall bear interest at an annualized rate of payment equal to the greater of the following: (1) the Prime Rate as quoted in the Money Rates section of the Wall Street Journal plus eight hundred (800) basis points; or (2) 12%.</p> <p>At the Closing, Borrower shall be required to escrow, with Lender, an amount sufficient to satisfy the Loan's debt service requirement for the Initial Term. The amount is estimated at \$90,000.00.</p>
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REQUEST FOR EXPEDITED RELIEF

38. In order to obtain a hearing on an expedited basis a movant must show: (1) just cause to request consideration of the underlying matter on an expedited basis; (2) the specific harm the movant shall incur if a hearing is not granted on an expedited basis; an (3) the need for an expedited hearing has not been caused by any lack of due diligence on the part of the attorney or the attorney's client but has been brought about solely by circumstances beyond their control. See W.D.Pa. LBR 9013-2(a).

39. In the instant case, just cause exists for the Court to hold an expedited hearing on this matter as a obtaining a determination on the Motion under the normal notice period would cause the Debtor to incur harm.

40. Specifically the Pre-Petition Secured Lenders and the Debtors will incur harm if a hearing and interim relief is not granted, because the Debtors will be unable to meet ongoing ordinary expenses necessary to preserve and maintain the integrity of its ongoing business operations and the Property. There is significant equity in the Property and expenditures are required in order to preserve the value of the Property.

41. As discussed above the Debtors have an immediate need for post-petition financing in order to continue operating the business and maintaining the Property. The DIP Loan is critical to the Debtor's continued day-to-day operations.

42. The DIP financing provided for under the Interim Order will enhance the value of the property of the estate and avoid a loss of value that would result if operations were interrupted.

43. The need for expedited hearing was not caused by lack of due diligence because the instant Motion and substantive relief was not available to the Debtor until the petition was filed and the instant Motion has been filed shortly thereafter.

44. Accordingly, the Debtor respectfully requests the Court schedule the Motion for hearing on an expedited basis.

RESERVATION OF RIGHTS

45. Nothing stated herein shall be deemed as an admission by the Debtors as to the validity, amounts, or secured status of the claims and/or debts to Allegheny Valley Bank and/or Oakland Fifth Avenue Hotel Associates, LP. The Debtors expressly reserve the rights to object to any claim, seek to avoid any lien purportedly created under the applicable loan documents and/or take any other action to dispute the aforementioned claims.

NO PRIOR REQUEST

46. This is the Debtor's first Motion seeking the relief as stated herein, and to prior request for said relief has been made by the Debtor or Debtor's Counsel.

NOTICE

47. Notice of the Motion is being given as required by Bankruptcy Rule 4001 to (i) the Office of the United States Trustee, (ii) the twenty (20) largest unsecured creditors of Debtor, (iii) counsel for DIP Lender, (v) the Prepetition Secured Lenders and (iv) all parties in interest that have filed a Notice of Appearance.

WHEREFORE, the Debtors respectfully request entry of the Proposed Interim Order and the Proposed Final Order granting the relief requested herein and such other relief that is just and proper.

Respectfully Submitted,

TUCKER ARENSBERG, P.C.

DATED: May 31, 2017

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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA

<p><i>In re:</i></p> <p>PITTSBURGH ATHLETIC ASSOCIATION,</p> <p style="text-align: center;"><i>Debtor</i>¹.</p>	<p>Chapter 11</p> <p>Case No. 17-22222-JAD</p>
<hr/> <p>PITTSBURGH ATHLETIC ASSOCIATION,</p> <p style="text-align: center;"><i>Movant,</i></p> <p>v.</p> <p>ALLEGHENY VALLEY BANK OF PITTSBURGH AND OAKLAND FIFTH AVENUE HOTEL ASSOCIATES, LP,</p> <p style="text-align: center;"><i>Respondents.</i></p>	<p>Doc. No. _____</p> <p>Hearing Date and Time: <u>TBD</u></p>

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 364 AND 507, FED. R. BANKR. P. 2002, 4001 AND 9014 AND LOCAL RULE 4001-2 (I) AUTHORIZING DEBTOR AND DEBTOR IN POSSESSION TO OBTAIN FIRST PRIORITY AND PRIMING POST-PETITION FINANCING, (II) GRANTING LIENS AND SUPER-PRIORITY CLAIMS, (III) SCHEDULING A FINAL HEARING AND (IV) GRANTING RELATED RELIEF

THIS MATTER came before the Court upon the above captioned Debtors’ Motion for Entry of Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 364 and 507, Fed. R. Bankr. P. 2002, 4001 and 9014 and Local Rule 4001-2: (I) Authorizing Debtors and Debtors-in-Possession to Obtain First Priority and Priming Post-Petition Financing; (II) Granting Liens and Super-Priority Claims; (III) Granting Adequate Protection to Pre-Petition Secured Lenders; (IV) Scheduling a Final Hearing; and (IV) Granting Related Relief (the “DIP Motion”) as filed by Debtors on May 30, 2017.

¹ The Chapter 11 case for the Pittsburgh Athletic Association, is pending at 17-22222-JAD and the case for the Pittsburgh Athletic Association Land Company, an affiliated entity of the Debtor, is currently pending at 17-22223-JAD. There is a motion pending for joint administration of these cases.

This Honorable Court, having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that adequate and sufficient notice of the Motion having been given, and that no other or further notice need be given; and the court having reviewed the Motion; and the Court having held a hearing to consider the relief requested in the Motion on an interim basis (the “**Hearing**”); and upon the Declaration of James A. Sheehan, filed contemporaneously with the Motion, and the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates, and after due deliberation appearing therefore the Motion is granted on an interim basis.

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING THIS HONORABLE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. Petition Date. On May 30, 2017 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Western District of Pennsylvania (the “**Court**”).

B. Debtors in Possession. The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

C. Jurisdiction and Venue. This Court has jurisdiction over the Cases, the Motion, the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Notice. Proper, timely and adequate notice of the Motion has been provided in accordance with all applicable Bankruptcy Code sections, the Bankruptcy Rules and the Local Rules.

E. Pre-Petition Obligations. The Debtors are indebted to the Pre-Petition Secured Lenders as follows:

(1) Allegheny Valley Bank of Pennsylvania (“**AVB**”): the Debtors are indebted to AVB pursuant to the AVB Loan Documents in the amount of \$2,134,481.99, as of the Petition Date.

(2) Oakland Fifth Avenue Hotel Associates, LP (“**OFAHA**”): the Debtors are indebted to Oakland Fifth pursuant to the OFAHA Loan Documents in the amount of \$2,034,763.68, as of the Petition Date.

F. Alternatives to DIP Financing Unavailable. The Debtors were unable to obtain unsecured financing, alternative post-petition financing through credit allowable as an administrative expense or secured by liens on assets junior to those of the Pre-Petition Secured Lenders.

G. DIP Financing. The DIP Financing, as outlined in the DIP Term Sheet attached hereto as Schedule “A”, is critical to the Debtors’ maintaining their businesses and properties. Debtors engaged in good faith, arms-length negotiations with JDI Loans, LLC (the “**DIP Lender**”) to negotiate the DIP Financing.

Based upon the foregoing findings and conclusions, the Motion and the record before the court and after due consideration and good and sufficient cause,

IT IS HEREBY ORDERED that:

1. Interim Financing Approved. The Motion is granted and the Interim Financing as summarized in the DIP Term Sheet, See Schedule “A”, is authorized and approved, subject to the terms and conditions summarized in the DIP Term Sheet and this Interim Order. All

objections to this Interim Order to the extent not withdrawn, waived, settled or resolved are hereby denied and overruled.

2. DIP Obligations. The DIP Loan Documents, which shall be prepared, executed and delivered within 72 hours of entry of this Interim Order, and this Interim Order shall constitute and evidence the validity and binding effect of the Debtors' DIP Obligations, which shall be enforceable against the Debtors, their estates and any successors thereto.

3. DIP Lien. Effective immediately upon entry of this Interim Order, pursuant to sections 361, 362, 364(c) and 364(d) of the Bankruptcy Code, the DIP Lender shall have a lien on certain real estate and improvements thereon owned by Pittsburgh Athletic Association Land Company located at 4215 Fifth Avenue, Pittsburgh, Pennsylvania. The Debtors are authorized to execute any and all documents to effectuate this super-priority lien in the Property.

4. DIP Lien Priority. The DIP Lien is valid, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim.

5. Super-priority Claim. Upon entry of this Interim Order, the DIP Lender is hereby granted, pursuant to section 364 of the Bankruptcy Code, allowed super-priority administrative expense claims in each of the Cases for all obligations owed under the DIP Loan and related documents.

6. Use of Proceeds of DIP Loan. From and after the Petition Date, the Debtors shall use the proceeds of the DIP Loan in accordance with the purposes specifically set forth in the DIP Term Sheet and shall be further elaborated upon in the DIP Loan Documents. *See* Schedule "A".

7. Modification of the Automatic Stay. The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order.

8. Final Hearing. The Final Hearing to consider entry of the Final Order and final approval of the DIP Financing is scheduled for _____, _____, 2017 at _____ before the Honorable _____, United States Bankruptcy Judge in Courtroom _____

at the United States Bankruptcy Court for the Western District of Pennsylvania, U.S. Steel Tower, 54th Floor, 600 Grant Street, Pittsburgh, PA. Sufficient and adequate notice of the Final Hearing and the Final Order shall be given pursuant to the Federal Rules of Bankruptcy Procedure and any applicable Local Rules of Procedure.

9. On or before _____, _____, 2017, the Debtors shall serve by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing Notice, together with copies of this Interim Order, the proposed Final Order and the Motion, on : (a) the parties having been notice of the Interim Hearing; (b) any party which has filed prior to such date a request for notices with this Court; and (c) counsel for a Committee (if appointed). The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file and appropriately and sufficiently serve written objections with the Clerk of Court no later than _____, _____ 2017, at _____ p.m.

10. Retention of Jurisdiction. The Court has and will retain jurisdiction to enforce the terms of, any and all matters arising from or related to the DIP Financing and/or this Interim Order.

SO ORDERED by the Court on this ____, day of _____, 2017.

United States Bankruptcy Judge

JDI Loans, LLC
4 North Main Street
Mezzanine Level
Chagrin Falls, Oh 44022

Mr. Jordan Blask
Shareholder
Tucker Arensberg, P.C.
1500 One PPG Place
Pittsburgh, PA 15222

May 19, 2017

Dear Jordan,

I have outlined below, the general terms and conditions under which JDI Loans, LLC or its affiliate would be prepared to provide bankruptcy court approved, debtor-in-possession, super-priority lien financing (the "Loan") to the Pittsburgh Athletic Association Land Company, which financing will be secured by, among other things, a super-priority lien on the Property (as Property is defined below).

LENDER

JDI Loans, LLC or its affiliate.

BORROWER

The borrowers include the debtor-in-possession, Pittsburgh Athletic Association Land Company, as mortgagee of the Property (as Property is defined below), along with the Pittsburgh Athletic Association. Unless otherwise specifically noted herein, the two borrowers will be referred to collectively as the Borrower.

PROPERTY

The Property includes:

- The approximately 127,000 square foot, six-story, commercial building, plus the approximately .7435-acre underlying land parcel, commonly identified as 4215 5th Avenue, in Pittsburgh, Pennsylvania; and,
- The approximately .561-acre parcel of land commonly identified as 5126-5130 Bigelow Boulevard, in Pittsburgh, Pennsylvania.

Unless otherwise specifically noted herein, the above assets shall be referred to collectively as the Property.

LOAN AMOUNT

Seven hundred and fifty thousand dollars (\$750,000) (US).

PURPOSE OF FINANCING

Pursuant to the unconditional approval of this debtor-in-possession Loan by the court handling the Borrower's bankruptcy, Loan proceeds will be allocated pursuant to a disbursement schedule as mutually agreed upon, prior to Closing (as defined below) between Borrower and Lender. With the exception of reserves and fees to be set aside as provided for within this Agreement, the Loan proceeds will be utilized for Borrower's ordinary business expenses including Borrower's professional fees as approved by the Bankruptcy Court.

SECURITY

The Loan will be secured by a recorded, super-priority lien on the Property to be

evidenced by a Mortgage and an Assignment of Rents and Leases.

**ENVIRONMENTAL
INDEMNITY**

The Borrower and the Guarantor will provide to Lender an environmental indemnification agreement in a form acceptable to Lender, in its sole discretion.

LOAN TERM

Subject to the Prepayment paragraph below, the Loan's term will extend for a period of twelve (12) months from the date of Closing ("Initial Term").

PREPAYMENT

During the Initial Term, Borrower will be allowed to prepay the Loan Amount, in full, at any time, provided Lender is repaid all principal and any fees dues and owing.

EXTENSION OPTION

Borrower shall have the right to extend the Loan past the Initial Term's expiration for one (1) additional six (6) month period ("Extension Period"), subject to the following:

- *Borrower shall not have been in default, including applicable cure periods, during the Initial Term;*
- *There will have been no material negative changes with the Property and/or the Borrower;*
- *Borrower shall notify Lender not less than thirty (30) days prior to expiration of the Loan Term of its intent to extend the Loan;*
- *Borrower shall pay an "Extension Fee" equal to two (2) percent of the Loan's then outstanding principal balance, not less than thirty (30) days prior to the commencement of the Extension Period; and*
- *Borrower shall pay any necessary interest reserve (see Interest Reserve paragraph below) not less than thirty (30) days prior to the commencement of the Extension Period.*

INTEREST RATE

The Loan will bear interest at an annualized rate of payment equal to the greater of the Prime Rate as quoted in the Money Rates section of the Wall Street Journal, plus eight hundred (800) basis points or 12%. This rate will be payable, interest only, on a monthly basis and shall be calculated on the actual number of days outstanding and a 360-day year.

INTEREST RESERVE

At Closing, Borrower will be obligated to escrow, with lender, an amount sufficient to satisfy the Loan's debt service requirements for the entire Initial term. This amount is estimated to be \$90,000 and said funds shall be drawn upon monthly to service the Loan.

LENDER'S FEES

Borrower shall pay to Lender the following fees. Upon final approval of the Loan by the Bankruptcy Court, an additional fee equal to four (4) percent of the Loan Amount, totaling \$30,000, shall be paid by Borrower to Lender ("Initial Fee").

The Initial Fee and supplemental Fee shall be known as the Lender's Fees. Lender's Fees shall be deemed earned by Lender upon the earlier to occur of the time of payment or Closing.

In the event Borrower elects, for whatever reason, not to proceed with the Loan or if the Loan does not close by reason of default by anyone other than Lender, then Lender will be entitled to retain the Initial Fee and Borrower will be additionally obligated to promptly pay, when due, all of Lender's costs, as defined in the Lender's Costs paragraph below. Lender's Fees will be refunded to Borrower, less any third-party costs incurred by Lender, only in the event there is no default by anyone other than Lender and Lender fails to close based on the terms outlined herein. Said refund will be subject to Borrower's execution of Lender's standard release letter.

Upon interim approval of the Loan by the Bankruptcy Court, Borrower will be required to prefund \$12,000 in Lender legal fees. Any of such funds which are unspent will be returned to Borrower either when this proposed transaction is terminated, or at Closing.

In addition to Lender's Fees, Borrower shall promptly pay all of Lender's costs of underwriting, funding, monitoring and enforcing the Loan, including, without limitation, the costs incurred subsequent to Closing. Lender's costs may include, but shall not be limited to, attorney fees, documentation costs, travel expenses, recording and escrow charges.

DUE DILIGENCE

Lender's obligations hereunder are contingent upon Lender completing to its sole and absolute satisfaction, its due diligence, which shall include, but not be limited to, a complete review of Borrower's financials, Property acquisition and ownership information, Property environmental information, Property entitlement and zoning information, Property valuation information and such other information as Lender, in its sole discretion, deems necessary and relevant. At any time prior to Closing, Lender may, in its sole and absolute discretion, elect to terminate this Agreement.

RELEASE PRICING AND DISTRIBUTIONS

Prior to Closing, Borrower and Lender will mutually agree upon a schedule for release pricing for the proposed sale of each asset comprising the Property. During the Loan's Term, Borrower shall be precluded from receiving any unauthorized Property related operating financing, recapitalization or sales proceeds until the Loan is fully redeemed.

ADDITIONAL FINANCING

During the Loan's Term, without the Lender's prior written approval, which approval may be withheld for any reason or no reason at all, neither the Borrower nor the Property will be allowed to procure any additional senior financing, secured by the Property.

OTHER CONDITIONS

In addition to completion of Lender's Due Diligence, Lender's obligations hereunder are contingent upon the satisfactory completion, in Lender's sole and absolute discretion, of any required supplemental environmental testing, title review and insurance underwriting, as well as the Borrower's execution of Loan documentation.

Also, as a condition precedent to this Loan, Borrower will be required to secure unqualified bankruptcy court approval of this debtor-in-possession Loan, on

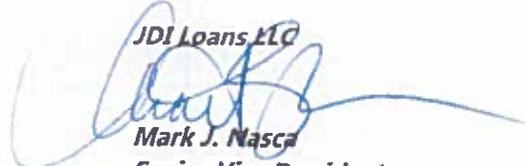
terms and pursuant to conditions acceptable to Lender in its sole and absolute discretion.

CLOSING

Provided all conditions precedent to this Agreement are satisfied, Closing will occur within forty-eight (48) hours of the final approval of the Loan by the Bankruptcy Court.

Respectfully,

JDI Loans LLC



Mark J. Nasca
Senior Vice President

Agreed to and accepted this ___ day of _____, 2017

Borrower

BY: _____



TITLE: _____

PRESIDENT, PITTSBURGH ATHLETIC ASSOC.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA**

<i>In re:</i> PITTSBURGH ATHLETIC ASSOCIATION, <i>Debtor</i> ¹ .	Chapter 11 Case No. 17-22222-JAD
PITTSBURGH ATHLETIC ASSOCIATION, <i>Movant</i> ,	Doc. No. _____
v.	Hearing Date and Time: <u>TBD</u>
ALLEGHENY VALLEY BANK OF PITTSBURGH AND OAKLAND FIFTH AVENUE HOTEL ASSOCIATES, LP, <i>Respondents</i> .	

NOTICE AND ORDER SETTING HEARING

AND NOW, this _____ day of *May*, 2017, **NOTICE IS HEREBY GIVEN THAT** a *Request for an Expedited Hearing on the Motion for Entry of an Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 364 AND 507, Fed. R. Bankr. P. 2002, 4001 and 9014 and Local Rule 4001-2 (I) Authorizing Debtors and Debtors in Possession to Obtain First Priority and Priming Post-Petition Financing, (II) Granting Liens and Super-Priority Claims, (III) Scheduling a Final Hearing and (IV) Granting Related Relief* (“Motion”) has been filed in the above-referenced case by **Jordan S. Blask, Tucker Arensberg, P.C.**, Counsel for the Debtor.

On _____, **20** at _____ **M.** a hearing has been scheduled in Courtroom “ ”, United States Bankruptcy Court, U.S. Steel Building, 54 th Floor, 600 Grant Street, Pittsburgh, Pennsylvania.

On or before _____, **Responses** to the *Motion* shall be filed with the Clerk of the Bankruptcy Court and served on the parties in interest.

Movant shall serve a copy of this completed Scheduling Order and the Motion by U.S. Mail **and**, (1) hand delivery **or** (2) facsimile **or** (3) email (separate from CM/ECF) on the Respondent(s), Trustee, Debtor, Debtor’s Counsel, all secured creditors whose interests may be

¹ The Chapter 11 case for the Pittsburgh Athletic Association, is pending at 17-22222-JAD and the case for the Pittsburgh Athletic Association Land Company, an affiliated entity of the Debtor, is currently pending at 17-22223-JAD. There is a motion pending for joint administration of these cases.

affected by the relief requested, U.S. Trustee and counsel for any committee. In the absence of a committee, the Movant shall serve the 20 largest unsecured creditors. Movant shall immediately file a certificate of service indicating such service.

United States Bankruptcy Judge