

City of Portland, Oregon

## FINANCIAL IMPACT STATEMENT For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator David Logsdon		2. Telephone No. 823-6958	3. Bureau/Office/Dept. .OMF - Facilities
5a. To be filed (date) January 22, 2010	5b. Calendar (Check One) Regular      Consent      4/5ths ΓΞ            Γ            Γ		4. Date Submitted to FPD Budget Analyst: January 22, 2010

**1) Legislation Title:**

Approve agreements between the City and Peregrine Sports LLC for the renovation and operation of PGE Park for use by Major League Soccer.

**2) Purpose of the Proposed Legislation:**

The ordinance approves 7 separate agreements for the project as summarized below:

Redevelopment Agreement (RDA) – addresses project funding, design, construction and project management for the renovation of the stadium.

Operating Agreement (OA) – addresses stadium maintenance, operations, repairs, event management and payments to the City for the 25 year term of Peregrine's right to operate the stadium.

Exclusive Use & Guaranty Agreement – guarantees that the MLS team will play all home games at the stadium for the duration of the operating agreement.

Revenue Stream Guaranty – provides the personal guarantee of the Paulson family for the payment of the stadium license fee and user fees for years 1-7 of the operating agreement. At closing, Peregrine will pre-pay all license and user fees for years 8-25, therefore, the guaranty is only needed for years 1-7.

Completion Guaranty - obligates the Paulson family to complete the construction of stadium improvements in the event of a delay or interruption in the project.

MAC Amended Easement – provides MAC's consent to build project elements within the area owned by MAC and used by the stadium under the easement agreement.

Project Funding Agreement – defines the procedures for the parties' depositing of project funds into a trustee account and for the disbursement of funds to pay for project improvements during the course of construction.

**3) Revenue:**

**Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source.**

The transition to MLS soccer will bring additional revenues to the Spectator Facilities Fund. Under the current operating agreement – which expires at the end of 2010 – the City gets 6% of ticket revenue, an annual license fee and a deferred payment. Annual revenues have averaged about \$1.2 million per year over the past three years. Under the new agreement, the City receives 7% of ticket revenues and a license fee. Revenues in years 1-7 are guaranteed and start at \$1.50 million and increase to \$1.73 million by the 7<sup>th</sup> year.

For years 8-25 of the operating agreement, the license fee and user fee are prepaid in present value per the attached Exhibit B from the project documents.

**4) Expense:**

**What are the costs to the City as a result of this legislation?** (Please include costs in the current fiscal year as well as costs in future years) (If the action is related to a grant or contract please include the local contribution or match required)

Under the new operating agreement the contractor (Peregrine Sports LLC will continue to be responsible for all operating and maintenance cost at the stadium and will pay a larger share of repair costs over the 25 year term of the agreement. As a result the on-going costs of the City will not change substantially and the City will not be paying for certain repair costs. In sum, there is no significant increase in costs to the city for the running of PGE Park, and depending on the volume and nature of needed repairs in future years, the City costs will be less than what they would have been under the current agreement.

The Spectator Fund will contribute \$11.9 to the capital cost of the project through a combination of cash and a future bond issue. Initially, the City's share will be financed through a line of credit until the project is finished in the spring of 2011. At that time, decisions will be made on the amount of the cash contribution and the balance will be financed through a bond sale. The debt service for the new bonds will be paid for from revenues in the Spectator Fund.

**Staffing Requirements:**

**5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** (If new positions are created please include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term please indicate the end of the term.)

No.

**6) Will positions be created or eliminated in future years as a result of this legislation?**

No.

**7) Change in Appropriations** (Please reflect the dollar amount to be appropriated by this legislation. Include the appropriate center codes and accounts that are to be loaded by accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.)

Fund	Center Code	Account	Amount	Project Fund	Project No.

No appropriations changes are needed in the current fiscal year for the project.



APPROPRIATION UNIT HEAD (Typed name and signature)

## Amendments passed by Council January 27, 2010

**WEDNESDAY, 2:00 PM, JANUARY 27, 2010**

- 149      **TIME CERTAIN: 2:00 PM** – Approve agreements between the City and Peregrine Sports LLC for the renovation and operation of PGE Park for use by Major League Soccer (Ordinance introduced by Mayor Adams and Commissioner Leonard) 2 hours requested

**Motion to accept “Amendments to MLS Transaction Documents” (See attached):** Moved by Mayor Adams and seconded by Commissioner Leonard (Y-5)

**Motion to amend Redevelopment Agreement page 20, line 3 to read consider developing a parking facility:** Moved by Commissioner Fritz and seconded by Commissioner Saltzman (Y-5)

**PASSED TO  
SECOND READING  
AS AMENDED  
FEBRUARY 3, 2010  
AT 9:30 AM**

1/27/10

Amendments to MLS Transaction Documents**Redevelopment Agreement Amendments:**

The following new Section 22.4.5 shall be added to the Redevelopment Agreement:

22.4.5 If MLS has not awarded the Team to Peregrine within two (2) Business Days of the Closing Date, then, on or before January 31, 2011, Peregrine shall have obtained from MLS the award of the Team. Within the foregoing time periods, as applicable, Peregrine shall deliver to the City written evidence that MLS has awarded the Team to Peregrine, which evidence shall be reasonably satisfactory to the City.

The following new clause shall be added to the end of Section 26.1.1 of the Redevelopment Agreement:

“... and provided further that in the event of Peregrine’s failure to achieve the condition set forth in Section 22.4.5, such time period shall not be longer than one (1) year from the Substantial Completion Date.”

The following new Section 26.2.3 shall be added to the Redevelopment Agreement:

26.2.3 Notwithstanding anything to the contrary set forth in this Agreement, upon an Event of Default due to a failure of the condition set forth in Section 22.4.5, the City’s sole and exclusive remedies shall be as follows:

26.2.3.1 Peregrine shall pay to the City an amount equal to the City Debt, including interest on the Interim Financing and the costs associated with issuance of the Stadium Bonds, if any. Payment in full by Peregrine of the amounts required by this Section 26.2.3.1 shall relieve Peregrine of its obligation to pay amounts owing under Sections 6.2 and 6.3 of the Operating Agreement.

26.2.3.2 Not later than one hundred eighty (180) days after the Event of Default due to a failure of the condition set forth in Section 22.4.5, the City may terminate this Agreement by delivering written notice to Peregrine of such termination. Upon such termination, the City, through the grant of an entry permit, will allow Peregrine to remain on the Project Site for the sole purpose of completing the Project Improvements, provided that Peregrine has agreed in writing to complete the Project Improvements. In such event, the provisions of this Agreement related to Substantial Completion and Final Completion shall remain in full force and effect.

26.2.3.3 Nothing in this Section 26.2.3 shall be deemed to release the Guarantors from their obligations under the Project Completion Guaranty. The provisions of this Section 26.2.3 shall survive the termination of this Agreement.

**Revenue Stream Guaranty Amendments:**

The following Recitals shall be added to the Revenue Stream Guaranty:

WHEREAS, Peregrine has further agreed pursuant to the Redevelopment Agreement that, if MLS has not awarded the Team (as defined in the Redevelopment Agreement) to Peregrine on or before the Closing Date (as defined in the Redevelopment Agreement), then Peregrine must have obtained the award of the Team from MLS no later than January 31, 2011;

WHEREAS, as an inducement to the City to enter into the Redevelopment Agreement and the Operating Agreement, the Guarantors have agreed to guarantee the payment to the City of amounts due and owing under Section 26.2.3.1 of the Redevelopment Agreement for Peregrine's failure to have obtained the award of the Team on or before January 31, 2011;

Paragraph 1 of the Revenue Stream Guaranty shall be revised to read as follows:

1. The Guarantors hereby unconditionally, irrevocably and absolutely guarantee to the City the full and prompt payment when due (a) for each of the first seven years of the Operations Term of (i) Annual Payments and (ii) any Guaranteed User Fee Amounts, both of which Peregrine is obligated to pay under, pursuant to or in connection with the Operating Agreement, and (b) any and all amounts due to the City from Peregrine pursuant to Section 26.2.3.1 of the Redevelopment Agreement (collectively, the "Payment Obligations"), until each and all of the Payment Obligations have been fully and finally paid and/or satisfied. The Guarantors acknowledge and agree that Peregrine's obligation to promptly pay the Payment Obligations to the City remains in full force and effect even if (x) the Operating Agreement expires or is terminated prior to the end of the seventh year of the Operations Term for any reason other than a City Event of Default (as defined in the Operating Agreement) thereunder or (y) the Redevelopment Agreement is terminated pursuant to Section 26.2.3.2 thereof. Notwithstanding the foregoing, if the Guarantors are required to make payments under clause (b) of the first sentence of this Section 1 and make all such payments, or if payment of amounts owing under Section 26.2.3.1 of the Redevelopment Agreement are paid in full by Peregrine, then the obligation of the Guarantors to pay Annual Payments and Guaranteed User Fee Amounts for each of the first seven years of the Operations Terms shall terminate and be of no further force or effect.

**Project Completion Guaranty Amendments:**

The following new Section 1.1.6 shall be added to the Project Completion Guaranty:

1.1.6 The City terminates the Redevelopment Agreement pursuant to Section 26.2.3.2 thereof, Peregrine has not Substantially Completed the Project Improvements and Peregrine does not continue to diligently pursue completion of the Project Improvements.

**Operating Agreement Amendments:**

The following new Section 18.1.1.8 shall be added to the Operating Agreement:

18.1.1.8 If an Event of Default (as defined in the Redevelopment Agreement) occurs under the Redevelopment Agreement due to a failure of the condition set forth in Section 22.4.5 thereof; in the case of a Peregrine Event of Default under the Redevelopment Agreement, the City need not give written notice of a default under this Agreement.

MLS Project  
Summary of Deal Terms  
January 2010

*This summary of terms addresses the key financial, business and city policy issues contained in the series of agreement between the City and Peregrine Sports for the conversion of PGE Park into a Major League Soccer facility. The City team working on the project was guided by the work of a citizens' task force on MLS. In addition, City Council provided guidance in approving several resolutions during 2009 some of which included transaction terms and other city policy requirements.*

*The agreements for the MLS project include:*

*Redevelopment Agreement (RDA) – addresses project funding, design, construction and project management for the renovation of the stadium.*

*Operating Agreement (OA) – addresses stadium maintenance, operations, repairs, event management and payments to the City for the 25 year term of Peregrine's right to operate the stadium.*

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### *Financial Guarantees and Protections*

1. City Revenue Personal Guarantee – Transaction Terms contained in Resolutions 36687 and 36717 required that Peregrine guarantee the payment of PGE Park license and user fees for the life of the city bonds. The Revenue Stream Guaranty unconditionally guarantees payment to the City of PGE Park license and user fees for years 1-7 of the operating term (except for a City default). Peregrine will prepay PGE Park license and user fees for years 8-25 as required in the Redevelopment Agreement (RDA Section 17.1.1). This requirement has been fully met.

2. Project Cost Overruns Responsibility of Peregrine – Terms attached to Resolution 36687 called for the City to pay for the first \$2.5 million in cost overruns for the MLS and Triple-A facilities, with Peregrine responsible for any additional cost overruns. This condition was changed in the MLS-only Resolution No. 36717 and in the Redevelopment Agreement. Peregrine will be responsible for paying all cost overruns and will be able to recover the present value of \$1 million in cost overruns through the waiver of license and user fee payments for years 26-28 (RDA Section 11.9.2 and 17.3.4).
3. Project Completion Personal Guaranty – This issue was not addressed in the Transaction Terms in either resolution. The Completion Guaranty obligates Hank and Merritt Paulson to complete project improvements in the event that Peregrine fails to do so. The Paulson's commitment to complete the project carries a maximum financial liability of \$20 million.
4. Team Relocation Prohibited – The Transaction Terms called for a Peregrine guarantee that the MLS team would not be relocated for the term of the City bonds sold for the project and the 25 year term of the Operating Agreement. This obligation is fulfilled by the Exclusive Use and Guaranty Agreement.

### *Financial and Business Terms*

1. Project Cost Shared Between Peregrine and Spectator Sport Attendees (No General Fund Contribution) – The project budget remains \$31 million based on the Transaction Terms contained in Resolution No. 36717. Funding includes \$8 million in Peregrine cash, \$11.1 million in Peregrine prepaid license and user fees (RDA Section 17.1), and \$11.9 million in Spectator Fund cash and bond proceeds (RDA Section 17.1.3). The City's share could be reduced if savings are achieved in project Systems Development Charges and/or the 2% for Art program RDA Section 17.1.3).
2. Payments to the City Fixed at 7%/ City to Share in Potential Upside – Other than being converted from a fiscal to a calendar year, the schedule of Rent and Payments and User Fees which were a part of Resolution No. 36717 has not changed. The user fee rate is 7% and the City could realize additional revenues should user fees exceed the projected amounts per the schedule.
3. Peregrine Responsible for Stadium Operations and Maintenance - Under the Operating Agreement Peregrine is responsible for all operating and maintenance costs for PGE Park (OA Section 6).
4. Repairs and Replacements – (OA Section 4) Peregrine is responsible for the repair and replacement of the electronic video/scoreboard, all electronic advertising signs and signs associated with naming rights. The City is responsible for the repair and replacement of the turf. The replacement cycle is eight years, and if the turf needs to be replaced in less than eight years, Peregrine will pay 20% of the cost. With the approval of the City, Peregrine may replace the artificial turf with natural grass if required by MLS at Peregrine's expense (OA Section 4.12)

The City is fully responsible for structural inspections and repairs. The City is responsible for the replacement of building systems (HVAC, plumbing, electrical,



elevators). A portion of the repair costs for building systems will be shared 50/50, with additional costs to be paid by the City. For all other elements of the facility, repair costs will be split 50/50. All costs (operations, maintenance, repair, or replacements) associated with the clinic facility are the responsibility of Peregrine (OA Section 4.5.14).

### *City Policy and Council Directives*

1. Youth Athletic Fields - For 2010 – 2014, Peregrine will contribute \$50,000 per year for the improvement of youth athletic fields within the City (OA Section 3.8.3.2).
2. LEED Silver Certification – Peregrine is responsible for achieving a Silver Certification from US Green Buildings Council for Existing Buildings Operation and Maintenance (RDA Section 4.7).
3. City Directed Wages - The current program will continue under which the City reimburses Peregrine for the fair wage differential for part-time, direct employees of Peregrine (RDA Section 4.8, OA Section 4.11).
4. Clinic Facility – Peregrine plans to build a sports clinic facility as part of the expanded stadium structure. Peregrine will pay all costs of constructing the clinic facility, which is not included in the \$31 million project budget (RDA Section 11.10.4 and 12.10). Peregrine anticipates entering into an agreement to allow Providence to use the clinic facility on terms acceptable to the City. The clinic facility will be open to the general public and will provide services to patients insured by Medicare, Medicaid and the Oregon Health Plan (OA 4.13).
5. MWESB - City policies and goals in the area of minority and women owned businesses and for emerging small businesses will be implemented by Peregrine through requirements within the agreement for the general contractor (RDA Section 3.2.5 and Exhibit 3.2.5).
6. Tanner Creek – Peregrine is required to construct a freestanding foundation system that will not suffer damage if the Tanner Creek sewer line should fail or surcharge and to take measures to protect the sewer line during construction and during the 25 year term of the Operating Agreement (RDA Section 3.6, OA Section 4.14).
7. MLS Approval – As a condition to closing, MLS must confirm in writing that the planned stadium improvements meet MLS facility requirements and MLS approves the stadium as a site for MLS games. MLS will also acknowledge the waiver of any MLS requirements that can not be met by the stadium improvements. (RDA Section 21.2.13)
8. PSU Football – Peregrine is obligated to allow PSU to resume use of the stadium for home football games beginning in 2011 under terms and conditions acceptable to the parties. The City encourages the parties to enter into a multi-year agreement subject to dispute resolution. (RDA Section 2.5, OA Section 3.8.6)
9. Triple-A Baseball - Peregrine must indemnify the City from any claim by the PCL or Portland Beavers related to the inability of the Beavers to use the stadium following the 2010 season. (RDA Section 5.2)

**Exhibit B**  
**Schedule of Rent Payments and Projected User Fees**  
**Calendar Year Conversion**

Discount Rate: 8.00%

<del>Fiscal</del> Year	Year	PGE Park Rent	Projected PGE Park User Fees	Total	Present Value	Cumulative Present Value
2010						
2011	1	\$875,000	\$612,500	\$1,487,500		
2012	2	900,000	626,500	1,526,500		
2013	3	925,000	640,920	1,565,920		
2014	4	950,000	655,772	1,605,772		
2015	5	975,000	671,070	1,646,070		
2016	6	1,000,000	686,828	1,686,828		
2017	7	1,025,000	703,057	1,728,057		
2018	8	1,050,000	719,774	1,769,774	\$956,154	\$956,154
2019	9	1,075,000	736,992	1,811,992	906,447	1,862,601
2020	10	1,100,000	754,727	1,854,727	859,097	2,721,698
2021	11	1,125,000	772,994	1,897,994	814,017	3,535,716
2022	12	1,150,000	791,809	1,941,809	771,119	4,306,835
2023	13	1,175,000	811,188	1,986,188	730,317	5,037,152
2024	14	1,200,000	831,149	2,031,149	691,527	5,728,679
2025	15	1,225,000	851,708	2,076,708	654,665	6,383,344
2026	16	1,250,000	872,884	2,122,884	619,650	7,002,993
2027	17	1,275,000	894,696	2,169,696	586,401	7,589,395
2028	18	1,300,000	917,162	2,217,162	554,843	8,144,238
2029	19	1,325,000	940,302	2,265,302	524,898	8,669,135
2030	20	1,350,000	964,136	2,314,136	496,494	9,165,629
2031	21	1,375,000	988,685	2,363,685	469,560	9,635,189
2032	22	1,400,000	1,013,970	2,413,970	444,027	10,079,216
2033	23	1,425,000	1,040,015	2,465,015	419,830	10,499,045
2034	24	1,450,000	1,066,840	2,516,840	396,904	10,895,949
2035	25	1,475,000	1,094,471	2,569,471	375,189	11,271,138

Contingent Cost Overrun Recovery Period						
Fiscal Year	Year	PGE Park Rent	PGE Park Only User Fees	Total	PV	Cumulative PV
2036	26	1,500,000	1,122,930	2,622,930	354,625	354,625
2037	27	1,525,000	1,152,243	2,677,243	335,155	689,780
2038	28	1,550,000	1,182,435	2,732,435	316,727	1,006,507