

SCHEDULE 16

FORM OF ASSIGNABLE SUBCONTRACT AGREEMENT

The following is the form of the Assignable Subcontract Agreement referred to in Section 6.5 (b) of the Project Agreement:

THIS AGREEMENT made as of the ____ day of _____, 201__ (the “Effective Time”)

BETWEEN:

CITY OF REGINA
(the “City”)

AND:

PCL REGINA STADIUM 2014 LTD.
(“Project Co”)

AND:

■
(“SRFC Contractor”)

WHEREAS pursuant to an Agreement to Design, Build and Finance dated as of the 7th day of May, 2014 between Project Co and the City (such agreement, together with all amendments thereto which may hereafter be made in accordance with the terms thereof, being hereinafter called the “**Project Agreement**”), Project Co has agreed to construct or cause to be constructed the Project (as defined in the Project Agreement);

AND WHEREAS the City (either for and on its behalf, or as an assignee of a contract by SRFC or another project stakeholder) and SRFC Contractor entered into a design contract dated the [■] day of [■], 2014, attached hereto at Appendix A, to complete certain SRFC Design Works (as defined in the Project Agreement) (such contract, together with all amendments thereto which may hereafter be made in accordance with the terms thereof, being hereinafter called the “**SRFC Subcontract**”);

AND WHEREAS, pursuant to Section 6.5 of the Project Agreement, the City has chosen to assign to Project Co all of its right, title and interest in and to the SRFC Subcontract (the “**SRFC Assigned Subcontract**”);

AND WHEREAS Project Co has agreed to accept the assignment of the SRFC Assigned Subcontract (as defined in the Project Agreement) from the City and wishes to be novated into the SRFC Subcontract;

NOW THEREFORE, in consideration of the premises and the covenants herein contained, and the sum of \$2.00, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties agree as follows:

1. **Assignment.** The City hereby irrevocably assigns, conveys and sets over to and in favour of Project Co as of the Effective Time (the “**Assignment**”), as and by way of a specific assignment and transfer, all of the right, title and interest of the City in, and with respect to, the SRFC Subcontract and all benefit, power and advantage to be derived therefrom and otherwise to enforce the rights of the City thereunder (collectively, the “**Assigned Rights**”). Notwithstanding the Assignment or any other provision of this Agreement, in the event that the SRFC Contractor fails to observe, perform and fulfill each and every covenant, agreement, duty and obligation of the SRFC Contractor under the SRFC Subcontract, the City may, in its sole discretion, enforce any right, title and interest of Project Co in, and with respect to, the SRFC Subcontract and all benefit, power and advantage to be derived therefrom and otherwise to enforce the rights of the Project Co thereunder.
2. **Assumption.**
 - (a) Project Co hereby accepts the assignment, transfer and conveyance of the Assigned Rights and covenants and agrees with the City and the SRFC Contractor, as applicable, that from and after the Effective Time Project Co shall assume, be bound by and observe, perform and fulfill each and every covenant, agreement, duty and obligation on the part of the City under the SRFC Subcontract as if Project Co had been originally named as a party thereto in the place and stead of the City, to the extent of the Assigned Rights.
 - (b) Project Co shall be entitled to enforce all of the benefits and powers under the SRFC Subcontract and to deal with, and be obligated to, SRFC Contractor in respect of the SRFC Subcontract and matters arising therefrom in the same manner and to the same extent as if Project Co had entered into the SRFC Subcontract on its own behalf.
3. **Consent.** The SRFC Subcontractor hereby:
 - (a) consents to and acknowledges the assignment of the Assigned Rights by the City to Project Co and accepts Project Co as a party to the SRFC Subcontract at all times from and after the Effective Time in the place and stead of the City to the extent of the Assigned Rights;
 - (b) covenants and agrees that Project Co shall be entitled from and after the Effective Time to hold and enforce all the rights and privileges of the City in the SRFC Subcontract, to the extent of the Assigned Rights, and the SRFC Subcontract will continue in full force and effect from the Effective Time with Project Co as party thereto;

- (c) wholly releases and forever discharges the City from the observance and performance of the covenants, agreements, duties and obligations on the part of the City in each of the SRFC Subcontract, to the extent of the Assigned Rights, as of the Effective Time;
- (d) agrees, upon the reasonable request of the City from time to time, to provide a certificate to the City as to the status of the SRFC Subcontract, including a description of any events which, with the passage of time or the giving of notice or both, would constitute a default thereunder.

4. Obligations.

- (a) Nothing herein contained shall render Project Co liable to any person for the fulfilment or non-fulfilment of the obligations, covenants and agreements, including, but not limited to the payment of any money thereunder or in respect thereto, of SRFC Contractor under the SRFC Subcontract, unless and until all parties have signed this Agreement.
- (b) SRFC Contractor acknowledges and agrees that if, after the Assignment, the City has made a proper payment to Project Co on account of SRFC Design Works performed by the SRFC Contractor prior to the Assignment, and Project Co has failed to make payment to the SRFC Contractor, the City shall not be responsible for payment of such amount to the SRFC Contractor.
- (c) If, at the date of the Assignment, there are amounts in dispute between the City and SRFC Contractor relating to the SRFC Subcontract, the City shall only be liable for such amounts once SRFC Contractor has established entitlement to the amounts claimed under the SRFC Subcontract up to the Effective Date. SRFC Contractor acknowledges and agrees that in its assessment of the outstanding claims relating to the amounts claimed, the City shall require a reasonable period of time to review and assess the validity and reasonableness of the claims. SRFC Contractor shall provide such further information as is reasonably necessary to allow the City to make its determination. If the parties cannot agree on the reasonableness of the amounts claimed, then the parties shall resolve the dispute pursuant to the Dispute Resolution Procedure (as defined and set forth in the Project Agreement).
- (d) SRFC Contractor acknowledges and agrees that all of the right, title and interest of Project Co in and to the SRFC Subcontract has been, or may be, without the consent of the SRFC Contractor or the payment of any penalty or other amount, assigned to Project Co's Lenders as security for the obligations of Project Co to Project Co's Lenders and that the Lenders may, upon written notification being given to SRFC Contractor by the Lenders, exercise all of the rights of Project Co under the SRFC Subcontract to the same extent as if the Lenders had been originally named in the place of Project Co in the SRFC Subcontract, provided the

Lenders, except as limited herein, agrees to assume all of the obligations of Project Co under the SRFC Subcontract.

5. **Notices.** Any notice, request or demand required or permitted to be given hereunder shall be in writing and shall be served personally, sent by prepaid registered mail or by confirmed electronic transmission of fax addressed as follows:

- (i) if to the City:

City of Regina
2476 Victoria Avenue
P.O. Box 1790
Regina, Saskatchewan
S4P 3C8

Attention: 

- (ii) if to Project Co:

PCL Regina Stadium 2014 Ltd.


- (iii) if to SRFC Contractor:

■

Attention: ■

E-mail: ■

Any party may from time to time change its address and recipient for service by notice to the other party or parties given in the manner aforesaid.

6. Notices which are served in the manner aforesaid shall be deemed sufficiently served for all purposes of this Agreement, in the case of those personally served or transmitted by facsimile transmission, on the date of such service or transmission, provided same is a Business Day (as hereinafter defined), and if not on the next following Business Day, and in the case of those given by registered mail, on 5 Business Days following the mailing thereof. Provided that in the event normal mail service is interrupted by strikes, slow-down or other cause, then the party sending the notice shall utilise any similar service

which has not been so interrupted in order to ensure the prompt receipt of the notice, request or demand by the other party or parties, and for the purpose of this Section such service shall be deemed to be personal service or facsimile transmission. Business Day shall mean a day which is not: (i) a Saturday or Sunday; or (ii) a day observed as a holiday under the laws of the Province of Saskatchewan or the federal laws of Canada applicable in the Province of Saskatchewan.

7. **Enurement.** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
8. **Governing Law.** This Agreement shall be governed by the laws of the Province of Saskatchewan, including the federal laws of Canada applicable therein.
9. **Further Assurances.** The Parties shall from time to time and at all times hereafter, upon the reasonable written request of a party so to do, make, do, execute and deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances and things as may be desirable, acting reasonably, for more effectually implementing and carrying out the true intent and meaning of this Agreement.
10. **Counterparts.** This Agreement may be executed by the parties in counterparts and may be executed and delivered by facsimile and all such counterparts and facsimiles shall together constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties have executed this Assignable Subcontract Agreement as of the date first above written.

CITY OF REGINA

Per:

Name:

Title:

Per:

Name:

Title:

PCL REGINA STADIUM 2014 LTD.

Per:

Name: _____

Title: _____

[SRFC CONTRACTOR]

Per:

Name:
Title:

Per:

Name:
Title:

APPENDIX A

DESIGN CONTRACT

See attached 19 pages.