PUBLIC WORKS PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this <u>Hand</u> day of <u>April</u>, 2025 by and between the City of Pleasant Hill, Missouri, ("City"), and Hanson Sports ("Contractor").

RECITALS:

WHEREAS, the Cass County Fair is moving into its 31st year and continues to grow in capacity and has caused the City Council to desire to move forward with the construction and installation of new bleachers on the south side of the rodeo area, Bleacher Replacement Phase 1 2025 "**Project**"; and

WHEREAS, the City has elected to utilize a cooperative contract through Sourcewell for the purchase and construction of the ALSE 12 row system through contract number 081523-DCT; and

WHEREAS, the City, in the manner prescribed by law is procuring this project through a cooperative contract for the work and has duly awarded to the said Contractor a contract therefore, for the sum or sums named in the Contractor's proposal, a copy of which is attached to and made part of this Agreement.

NOW THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreement herein contained, the parties to these presents have agreed and hereby agree, the City for itself and its successors, and the Contractor for itself, himself, or themselves, or its his or their successors and assigns, or its, his or their executors and administrators, as follows:

SECTION 1. SCOPE OF WORK

The Contractor shall furnish all materials, supplies, tools, equipment, labor, supervision, and all other incidentals which may be necessary to perform all of the work specified in the proposal as **Exhibit A** for the Project, and shall construct and complete the work described as follows ("Work"):

Bleacher Installation according to Exhibit A

The City reserves the right to have representatives at the site of the Work as it may decide during the construction to observe the work in progress.

SECTION 2. CONTRACT PRICE

The City, in accordance with Section 34.507, RSMo, shall pay to the Contractor for the performance of the Work in the amount of <u>Three Hundred Forty-Two Thousand Five Hundred</u> <u>Dollars (\$342,500)</u> for the purchase, shipping, and installation of the proposed bleacher system.

SECTION 3. ACCEPTANCE AND PAYMENT

- A. When the Work has been fully completed in accordance with the terms of this Agreement, the City shall make a final inspection, and any defects arising out of the inspection shall be remedied by the Contractor. After final acceptance of the Work by the City, the Contractor shall submit an itemized bill and lien waivers to the City. Upon receipt of the itemized bill and lien waivers, the City shall, within Thirty (30) days pay the Contractor for the Work based on the lump sum amount stated in Section 3 less any deposits previously paid.
- B. In the event the Missouri Department of Labor and Industrial Relations has determined that a violation of Section 292.675, RSMo, has occurred and that a penalty as described in Section 13 shall be assessed, the City shall withhold and retain all sums and amounts due and owing when making payments to Contractor under this Contract.

SECTION 4. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release from the Contractor to the City of all claims and all liability. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under this Agreement.

SECTION 5. COMMENCEMENT OF WORK, TIME OF COMPLETION, AND LIQUIDATED DAMAGES

- A. Contractor shall not begin the Work until receipt of a written Notice to Proceed from the City, after which the Contractor shall commence the Work and shall complete the Work by July 1, 2025.
- B. The date of beginning and the time for completion of the work are essential conditions of this Agreement.
- C. In the event that the Contractor fails in the performance of the Work specified and required to be performed within the periods of time specified, the Contractor shall pay the City, as and for liquidated damages, and not as a penalty, the sum of five hundred (\$500.00) per calendar day that the Contractor shall be in default.
- D. Provided that the Contractor has promptly given Written Notice of such delay to the Assistant City Administrator, the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following:
 - 1. acts of war or civil insurrection, breach of this Agreement by the City or any natural occurrence, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, litigation, tornadoes, or periods of inclement weather such as days of rain (collectively "Excusable Delays"); and
 - 2. Delays of authorized subcontractors occasioned by any of the causes specified in paragraph 1 of this subsection D.

E. In the event that Excusable Delays occur, the time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any of the foregoing causes, which approval shall not be arbitrarily or unreasonably withheld.

SECTION 6. CHANGES IN THE WORK

The City may, at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Agreement, or in the time required for performance of the work, an equitable adjustment shall be authorized by Change Order. The City shall review and give final approval to all Change Orders, which shall be agreed to in writing by both parties, evidenced by signature of both parties.

SECTION 7. SUSPENSION OF WORK, TERMINATION AND DELAY

- A. The City reserves the right to terminate this contract by giving at least fifteen (15) days prior written notice to the Contractor, with or without cause and Contractor shall immediately stop work. In such an event, the City shall not be liable to Contractor except for payment for actual work performed or materials procured prior to such notice. The City may suspend the work or any portion thereof for a period of not more than thirty (30) days, or such further time as agreed upon by the Contractor, by written notice to the Contractor, which notice shall fix the date on which work shall be resumed. The Contractor will resume that work on the date so fixed and will be allowed an extension of time to complete the Work as mutually agreed to by the parties.
- B. If the Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work or if he disregards the authority of the City, or if he otherwise violates any provision of this Agreement, then the City may, without prejudice to any other right or remedy and after giving the Contractor and his surety a minimum of ten (10) days from delivery of a written notice, terminate the services of the Contractor and take possession of the Project and finish the work by whatever method is deemed expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the project, including compensation for direct costs of completing the project, such excess shall be paid to a Contractor selected by the City to complete the work. If such costs exceed such unpaid balance, the Contractor or his insurance company will pay the difference to the City. Such costs incurred by the City will be determined by the Building Official and incorporated in a Change Order.
- C. Where the Contractor's services have been so terminated by the City, said termination shall not affect any right of the City against the Contractor then existing or which may

thereafter accrue. Any retention or payment of monies by the City due the Contractor will not release the Contractor from compliance with this Agreement.

- D. If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (30) days by the City or under an order of court or other public authority, or the City fails to act on any request for payment within (30) days after it is submitted, or the City fails to recommend payment to the Contractor substantially the sum approved by the City or awarded by a court within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the City, terminate the Contract and recover from the City payment for all work executed and expenses sustained. In addition and in lieu of terminating the Contract, if the City has failed to act on a request for payment or if the City has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to the City stop the work until he has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to stoppage of the work.
- E. If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the City to act within the time specified in this Agreement, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the City.

SECTION 8. ASSIGNMENTS AND SUBCONTRACTS

The Contractor shall not assign the contract or subcontract any portion of this contract without written consent of the City. The request for the assignment must be addressed to the City Administrator. The Contractor is responsible for all work carried out by any Subcontractor.

SECTION 9. SPECIFICATIONS, CODES, AND REGULATIONS

Contractor shall comply with all appropriate specifications, including the general conditions provided separately to the Contractor and codes referred to and with all regulations, ordinances and laws of the City, the State of Missouri, and the Federal Government, and permit reasonable inspection of all work by authorized inspectors.

SECTION 10. CITY REQUIREMENTS; PRIOR APPROVAL

The Contractor shall obtain and pay for all permits and licenses necessary for the completion and execution of the work and labor to be performed.

SECTION 11. PREVAILING WAGES

A. Pursuant to Sections 290.210 to 290.340, RSMo, Contractor shall pay all labor utilized in the installation of the work described herein not less than the prevailing hourly rate of wages as found by the Department of Labor and Industrial Relations of the State of Missouri and listed on the current Wage Order for Cass County.

B. It is further stipulated that the Contractor shall forfeit a penalty to the City of one hundred dollars (\$100.00) or each calendar day, or portion thereof, if a worker is paid less than the prevailing rate for any work done under the contract by the Contractor or by any subcontractor. The Contractor shall maintain payroll records as proof of compliance with this requirement and shall provide the same to the City upon request. Failure to do so shall be considered a material breach of this Agreement.

SECTION 12. CONSTRUCTION SAFETY TRAINING

- A. Pursuant to Section 292.675, RSMo., the Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site performing the work described herein. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations that is at least as stringent as an approved OSHA program as required by Section 292.675 RSMo. Contractors and subcontractors in violation of this Section will forfeit to the City Two Thousand Five Hundred Dollars (\$2500.00) plus One Hundred Dollars (\$100.00) a day for each employee who is employed without training. In the event that the Missouri Department of Labor and Industrial Relations of Section 292.675, RSMo. has occurred and that a penalty as described herein shall be assessed, the City shall withhold and retain all sums and amount due and owing when making payments to the Contractor pursuant to this Agreement.
- B. If any on-site employees had not previously completed a construction safety program, Contractor shall require those on-site employees to complete a construction safety within sixty (60) days after the date work on the project commences.
- C. The Contractor acknowledges and agrees that any of Contractor's employees found on the project site without documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days or will be subject to removal from the project.
- D. The Contractor shall require all of its subcontractors to comply with the requirements of this Section and Section 292.675 RSMo.

SECTION 13. UNAUTHORIZED ALIENS

Pursuant to RSMo 285.530(1), by its sworn affidavit in substantially the form attached hereto as **Exhibit B** and incorporated herein, Contractor hereby affirms its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Furthermore, Contractor affirms that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

SECTION 14. ANTI-DISCRIMINATION AGAINST ISRAEL ACT

Pursuant to RSMo 34.600, by its sworn affidavit in substantially the form attached hereto as **Exhibit** C and incorporated herein, Contractor hereby affirms it is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

SECTION 15. BONDS

A. <u>Performance Bond and Payment Bond</u>. Prior to commencement of construction and ending upon acceptance of the improvement by the City, Contractor shall maintain a performance bond and a payment bond in a form acceptable to the City Attorney, in an amount equal to 100% of the total cost of completing the Work, as determined by the City, conditioned upon the faithful performance of the provisions, terms and conditions of this contract. The performance and payment bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City prior to the commencement of construction. The payment bond shall comply with 107.170, RSMo. In the case that any or all of this work is subcontracted (in accordance with Section 8), the Contractor shall require the authorized Subcontractor to maintain such performance bond and payment bond.

SECTION 16. INSURANCE

- A. The Contractor shall procure and maintain in effect throughout the duration of this Agreement, insurance coverage not less than the types and amounts specified below. In case any or all of this work is subcontracted (in accordance with Section 8), the Contractor shall require the authorized Subcontractor to procure and maintain all insurance required under this Agreement and in like amounts. Contractor shall also require any and all Subcontractors with who it enters into a contract to perform work on this project to protect the City through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.
- B. <u>General Comprehensive Liability Insurance</u>. Concurrent with submitting the signed Agreement to the City, Contractor shall provide the the City with a certificate of insurance evidencing a commercial general liability insurance policy with coverages of not less than the Inflation Adjusted Waiver Amounts for claims (i) arising out of a single accident or occurrence and, (ii) for any one person in a single accident or occurrence (the "Insurance Policy"). The Insurance Policy shall provide coverage for dangerous conditions on public property and the operation of motor vehicles and motorized vehicles, and any exclusions to the contrary shall be deleted. The Insurance Policy shall be adjusted upward annually, to remain at all times not less than the most recently published Inflation Adjusted Waiver Amounts. The Insurance Policy shall provide that it may not be canceled, terminated, allowed to lapse or be substantially modified without at least thirty (30) days prior written notice to the City. The Insurance Policy shall include

a severability of interest clause and the insurance shall be primary with respect to any applicable insurance maintained by the City. The requirements of this section shall terminate upon the City's acceptance of the Work.

- C. This section and the insurance coverage obtained pursuant to this Section 16 shall not affect and are not intended to waive nor shall be construed to waive the City's ability to claim sovereign immunity as a defense to any demand, claim, proceeding, action or lawsuit arising from or in connection with the Contractor's performance of this Agreement. For purposes of this Section, "Inflation Adjusted Waiver Amounts" shall mean the amounts published on an annual basis in the Missouri Register pursuant to Section 537.610, RSMo, which are the inflation adjusted amounts of the absolute statutory waivers of sovereign immunity in Sections 537.600 and 537.610, RSMo. At the effective date of the Agreement the Inflation Adjusted Waiver Amounts were \$517,306 for any one person per occurrence and \$3,448,710 for claims arising out of a single accident or occurrence. The minimum limits for commercial general liability insurance may be satisfied by maintaining excess/umbrella liability coverage in an amount sufficient to meet the minimum limits.
- D. <u>Workers' Compensation and Employer's Liability Insurance</u>: Contractor shall obtain and keep in force workers compensation insurance at statutory limits and Employer's Liability insurance with limits of at least One Million Dollars (\$1,000,000.00) (may include an umbrella policy). The Contractor shall provide the City with proof of such coverage of all employees working on location in connection with the Work to be completed under this Agreement.
- E. <u>Commercial Automobile Liability Insurance:</u> Contractor shall obtain and keep in force commercial automobile liability insurance with a minimum limit of \$517,306 for any one person per occurrence and \$3,448,7108 for claims arising out of a single accident or occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. The insurance will be written on a Commercial Business Auto form, or an acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with this Agreement, by the Contractor or Subcontractors. The minimum limits for commercial automobile liability insurance may be satisfied by maintaining excess/umbrella liability coverage in an amount sufficient to meet the minimum limits.
- A. <u>Proof of Insurance</u>. Contractor must supply evidence of its insurance coverage as required herein in the form of a Certificate of Insurance and proof that this insurance coverage cannot be canceled without giving the City thirty (30) days advance written notice. The Certificate of Insurance must be provided before the Contractor commences the Work. In the event of a loss, Contractor waives any subrogation right Contractor may have against the City arising out of the loss or payment of insurance. The City shall be named as an additional insured. The Certificate of Insurance shall state that the insurance coverage provided is not intended to waive nor shall be construed to waive the City's ability to claim sovereign immunity as a defense to any demand, claim, proceeding, action, or lawsuit arising from or in connection with the Contractor's performance of this Agreement.

SECTION 17. LIABILITY AND INDEMNITY

- B. <u>General Indemnity.</u> Contractor shall indemnify, release, defend, be responsible for and forever hold harmless the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any character and from any cause whatsoever, brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, omission, or intentional act of Contractor or its agents, employees, or Subcontractors.
- C. <u>Indemnity for failure to provide bonds</u>. Contractor shall indemnify the City and its officers and employees for any damage resulting to the City, its officers or employees from failure of Contractor to provide the bonds set forth in Section 15.
- D. No Limitations or Waiver. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement, or by a limitation of the amount or type of damages or compensation payable by or for Contractor, as the case may be, under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitation of any insurance held by Contractor, as the case may be. The City does not, and shall not, waive any rights against Contractor which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by Contractor (as the case may be), of any of the insurance policies described in this Agreement. In addition, the parties agree that this indemnification by Contractor shall not be limited by reason of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- E. <u>Notification of Claims</u>. With respect to any claims which are subject to indemnity hereunder, Contractor shall immediately notify the City of any and all claims filed against Contractor and the City jointly and shall provide the City with a copy of the same.
- F. <u>Use of Independent Contractors</u>. If authorized as provided herein, the fact that Contractor, as the case may be, carries out any activities under this Agreement through independent contractors shall not constitute an avoidance of, or defense to, the Contractor's duty of defense and indemnification under this section.

SECTION 18. GUARANTEE

The Contractor hereby expressly guarantees the Work as to workmanship and quality of materials used in connection with this Agreement for a term of three (3) years on finishes and five (5) years on the structure commencing from the date the City accepts the Work in accordance with Section 3.

SECTION 19. GENERAL PROVISIONS

- A. <u>Conflict of Interest</u>. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of Section 105.450, RSMo, et seq. shall not be violated.
- B. <u>Nondiscrimination</u>. The Contractor agrees in the performance of this contract not to discriminate on the grounds or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- C. <u>Notice</u>. Any notice required or permitted by this Agreement shall be in writing and will be deemed effective when personally delivered in writing (with receipt for delivery) or three (3) days after notice is deposited with the United States Postal Service, postage prepaid, certified and return receipt requested, addressed as follows:

If Contractor:

Attn:

If City:

City of Pleasant Hill, Missouri 203 Paul Street Pleasant Hill, MO 64080 Attn: Jeremy Cover, City Attorney

- D. Entire Agreement. This Agreement and the acts provided for herein is the entire agreement between the parties with respect to the subject matter hereof, the terms and provisions of this Agreement are contractual and not mere recitals and no alterations, amendment, modification, or interpretation hereof shall be binding unless in writing and signed by all parties. The underlined paragraph headings are for the convenience of the reader, and are not intended to modify, expand or limit the material terms of each section or subsection in this Agreement. All Exhibits referenced in this Agreement are incorporated into this Agreement by such reference as if set forth in full in the text of this Agreement.
- E. <u>Jointly Drafted</u>. The parties hereto agree that this Agreement has been jointly drafted and shall not be construed more strongly against either party.
- F. <u>Applicable Law</u>. This Agreement shall be governed by and construed according to the laws of the State of Missouri.
- G. <u>No Oral Modifications</u>. This Agreement represents the full agreement between the Parties with respect to the subject matter set forth herein and supersedes any and all prior negotiations and understandings between them. Neither this Agreement nor any provisions of it may be modified or amended except in writing signed by both parties.

- H. <u>Waiver</u>. The waiver of a breach of any term or condition of this Agreement shall not be deemed to constitute the waiver of any other or subsequent breach of the same or any other term or condition, nor shall it constitute a continuing waiver.
- I. <u>Severability</u>. Any provision of this Agreement which is not enforceable according to law will be severed herefrom, and the remaining provisions shall be enforced to the fullest extent permitted by law.
- J. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
- K. <u>Authority</u>. The undersigned represent that they each have the authority and capacity from the respective Parties to execute this Agreement.
- L. Jurisdiction. Should any part of this Agreement be litigated, venue shall be proper only in the Circuit Court of Cass County, Missouri.

SECTION 20. EFFECTIVE DATE

This contract will not be binding and effective until confirmed by the City.

IN WITNESS WHEREOF: The parties have executed this contract as of the day and year first above written.

CITY OF PLEASANT HILL, MISSOURI	HANSON SPORTS
BY:	BY: All
TITLE:	TITLE:
ATTEST:	ATTEST:
, City Clerk	, Title

Sourcewell Awarded Contract Contract #081523-DCT

Date: 3/26/2025

Hanson Sports

REPRESENTING DANT CLAYTON CORPORATION

13421 NE 120th Street, Kearney, MO 64060

Exhibit A

FOR: Pleasant Hill Fairgrounds

ATTN: Nici Wilson & Jeff Hull

DANT CLAYTON REP: PM REP PHONE: E-MAIL ADDRESS: Alan Cotton (805) 795-9079 Alan@hansonsports.com

NO. 51059

Description	Quantity
ALSE 12 row x 186' – 8x24 Rise/Run	1
Stairs & Ramps	Included
ADA & Companion Accommodations	Included
Installation	Included
Freight	Included
Sourcewell Procurement	Included
Excluded is permits, licenses, testing, state approval, taxes, bonding, demolition, shimming, concrete material and/or install, or liquidated damages, unless noted otherwise.	Total: \$342,500

**Economical mill finish footboards have been specified on this quote. Hanson Sports will not be responsible for discoloration, staining, and fading resulting from unavoidable condensation that occurs during packing, transporting, and storage, preceding and/or

during installation. A clear anodized or Stain and Slip Resistant Deck finish may be purchased to avoid potential staining if selected as an upgrade finish at an additional cost. *Taxes: State and local taxes, if applicable, will be added to the invoicing unless a tax exempt certificate is provided at the time of order entry.

The City agrees and understands that it will be invailed separately for cust of the required payment band, not to exceed 270 of the contract costs.

IMPORTANT NOTE: Drawings stamped by a registered professional engineer are not included, unless noted above. Please consult with local code officials to determine any additional features which may be desired or required. The owner remains responsible for compliance with local codes, official interpretation, and application rests solely with local authorities. Hanson Sports, its suppliers, and its representatives cannot assume liability for code compliance and presents information as unofficial guidelines only.

Above prices are good until <u>7 days</u>.

Signing this quotation denotes a contract when accepted and approved and will be subject to terms and conditions of this quotation. Return signed quotation to place an order. A 30% down payment is required to process the order.

SELLER Hanson Sports C/O Dant Clayton

Al-Gcop

Pleasant HI

