

RESOLUTION NO. 26819

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH ISS, INC. TO CONSTRUCT ONE ATHLETIC FIELD AND THE VARIOUS COMPONENTS REQUIRED TO SUPPORT SAID FIELD AT MONTAGUE PARK, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THIRTY-THREE THOUSAND SEVENTY-SEVEN AND 35/100 DOLLARS (\$133,077.35).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Administrator of the Department of Parks and Recreation is hereby authorized to enter into an agreement with ISS, Inc. to construct one athletic field and the various components required to support said field at Montague Park, in an amount not to exceed \$133,077.35.

ADOPTED: August 23, 2011

/mms

U-23-11
approved by
CRF

**AGREEMENT FOR CONSTRUCTION OF ATHLETIC FIELD AT
MONTAGUE PARK**

This Agreement is entered into this _____ day of August, 2011, by and between the City of Chattanooga, hereinafter referred to as "City", and Integrated Structural Services, Inc., a Georgia Corporation, hereinafter referred to as "Contractor" for the construction of one athletic field at Montague Park.

WITNESSETH:

WHEREAS, the City owns property located at _____,
commonly referred to as "Montague Park" in Hamilton County, Tennessee and;

WHEREAS, the City desires to contract with a Contractor for the construction of one athletic field at Montague Park;

NOW THEREFORE, in consideration of the mutual benefits to be derived from this agreement, it is mutually agreed that the Contractor will construct one athletic field and the various components required to support said field at Montague Park in accordance with the terms and conditions of this Agreement.

1. The Contractor agrees to construct one athletic field with dimensions of four hundred fifteen feet by two hundred fifty feet (415' x 250') at Montague Park for the City of Chattanooga, hereinafter referred to as "Project". The construction of the Project at Montague Park shall be in accordance with the Project Plans and Specifications prepared by Barge Waggoner Sumner & Cannons, Inc. of Chattanooga, Tennessee dated April 8, 2011 and included in City Bid Number 301248, Contract Number R-11-001, attached as Exhibit #1 to this Agreement. The Plans and Specifications include, but are not limited to, the following: placement of topsoil stockpiled on site, finish grading, laser grading, athletic field construction, irrigation design and installation, sodding, sprigging, seeding, and any other items incidental to completion of Project. All construction should follow the Plans and Specifications depicted for Item Number 1, Alternate Number 1 Sod in lieu of sprigging Field #2 in the bid submitted by Contractor. Construction shall include total labor, materials and equipment necessary to perform the work as described in the Plans and Specifications.

2. Contractor shall guarantee the construction workmanship and materials for one (1) year from date of completion.

3. The City agrees to pay the Contractor the total amount of ONE HUNDRED THIRTY THREE THOUSAND SEVENTY SEVEN DOLLARS AND THIRTY FIVE CENTS (\$133,077.35) for the specified athletic field construction at Montague Park in accordance with Exhibit #1. In no event shall the City's liability under this agreement exceed the total of ONE HUNDRED THIRTY THREE THOUSAND SEVENTY SEVEN DOLLARS AND THIRTY FIVE CENTS (\$133,077.35) without prior written approval by the City in accordance with the City's purchasing procedures.

4. The Contractor shall commence work on this contract on or before September 1, 2011, and complete all work under this agreement on or before _____, 2011. The Contractor shall promptly notify the City upon the discovery of any unforeseen condition that would delay the completion of the work.

5. The Contractor shall at all times observe and comply with all applicable federal, State and local laws, ordinances and regulations. Contractor shall maintain workers compensation insurance as required by law.

6. Contractor shall permit an official or representative of the City to inspect and approve the work at any time during the progress of the work and before final payment is made.

7. Contractor shall, at all times, keep the premises clean and free from accumulation of waste materials or rubbish caused by its operations. At the completion of the work, the Contractor shall remove all his waste material and rubbish from and about the project, as well as all his tools, construction equipment, machinery, and surplus materials. The Contractor shall properly dispose of any equipment or materials removed or replaced by the Contractor as part of the work performed. If the Contractor fails to return the property to the original state of cleanliness upon completion of this agreement, the City may do so, and the cost thereof shall be charged to the Contractor and may be off-set against any obligations owed to the Contractor by the City.

8. The Contractor shall provide a comprehensive liability insurance policy naming the City as an additional insured to protect the Contractor and the City against all claims for injuries to members of the public and damage to property of others arising out of the work performed under this Agreement. The liability limits shall not be less than:

Bodily Injury	\$ 1,000,000.00 to-each person \$ 1,000,000.00 each occurrence
Property Damage	\$ 1,000,000.00 each occurrence

The Contractor agrees to save the City, its officers, agents, employees, successors, and assigns, harmless and to indemnify them against any and all claims or liability for any claims, actions, causes of action, suits or demands of any sort for damages on account of personal injuries or injuries to property related to or arising out of the work performed under this agreement.

9. Contractor shall be responsible for any and all injury or damage to persons or to property arising from the execution of the work and due to any act, omission, neglect or misconduct in its manner or method of performing the work or due to its non-execution of the work or defective work or materials.

10. Contractor shall remedy any deficiencies identified by the City or the City's representative as failing to conform to the requirements of the Contract prior to receiving payment for any work performed. The provisions of this paragraph apply to work done by

subcontractors under the supervision of the Contractor, as well as to work done by direct employees of the Contractor,

11. Violation of any of the conditions, provisions, or requirements of this Contract by the Contractor shall give the City the option of immediately terminate this Contract and any further payments thereunder, except for acceptable work performed prior to the violation.

12. This Contract may be terminated by either party by giving written notice to the other, at least ten (10) days before the effective date of termination. Should the City exercise this provision, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Should the Contractor exercise this provision, the City shall have no liability to the Contractor except for work which has been satisfactorily completed as determined by the final audit. The final decision as to what constitutes satisfactory completion of the work shall be determined by the City.

13. Contractor agrees that no person on the grounds of handicap, race, color, religion, sex, age or national origin will be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract, or in the employment practices of the Contractor. The Contractor shall upon request show proof of such nondiscrimination, and shall post in conspicuous places, available to all employees and applicants, notices of non-discrimination.

14. The City or its assign may audit all financial and related records (including digital) associated with the terms of the Agreement including timesheets, reimbursable out of pocket expenses, materials, goods, and equipment claimed by the Company. The City may further audit any contractor records to conduct performance audits (to identify waste and abuse or to determine efficiency and effectiveness of the contract or agreement) or to identify conflicts of interest.

15. The Contractor shall at all times during the term of the Agreement and for a period of five (5) years after the end of the Agreement, keep and maintain records of the work performed pursuant to this Agreement. This shall include proper records of quotations, contracts, correspondence, invoices, vouchers, timesheets, and other documents that support actions taken by the Contractor. Documents shall be maintained by the Contractor necessary to clearly reflect all work and actions taken. All such records shall be maintained in accordance with generally accepted accounting principles. The Contractor shall at its own expense make such records available for inspection and audit (including copies and extracts of records as required) by the City at all reasonable times and without prior notice.

The obligations of this paragraph shall be explicitly included in any subcontracts or agreements formed between the Contractor and any subcontractors or suppliers of goods or services to the extent that those subcontracts or agreements relate to fulfillment of the Company's obligations to the City.

Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by the City unless the audit identifies significant findings that would

benefit the City. The Contractor shall reimburse the City for the total costs of an audit that identifies significant findings that would benefit the City.

This Section shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the Contractor may have by Federal, State, or Municipal law, whether those rights, powers, or obligations are express or implied.

16. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be illegal, unenforceable, or in conflict with any law of the State where made, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

17. This Contract shall be interpreted, construed and governed by and in accordance with the laws of the State of Tennessee,

18. This Contract shall not be assigned by either party, in whole or in part, without the prior written consent of the non-assigning party. The duties, obligations, rights and remedies under this Contract are in addition to and not in limitation of those otherwise imposed or available by law.

19. The parties hereto agree that the obligations, warranties and representations pursuant to paragraph Two (2) shall survive the termination of this Contract for any reason.

20. This Contract constitutes the entire understanding and agreement between the parties and no variations or substitutions shall be made except in writing by the parties or their duly authorized representatives.

IN WITNESS WHEREOF, the parties have hereunto executed this Contract, by having the same signed by their duly authorized representatives, the day and year first above written.

CITY OF CHATTANOOGA

By: _____
Lawrence A. Zehnder, Administrator of Parks and Recreation

INTEGRATED STRUCTURAL SERVICES, INC.

By: _____
Printed Name: _____
Title: _____