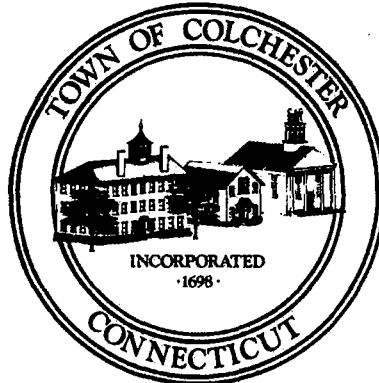


Linda M. Hodge



First Selectman

**Board of Selectmen Regular Meeting Minutes
Thursday, August 7, 2008
Colchester Town Hall
Meeting Room 1 – 7:00 p.m.**

NANCY A. BRAY
TOWN CLERK

2008 AUG - 8 PM 2:40

RECEIVED
COLCHESTER, CT

MEMBERS PRESENT: First Selectman Linda Hodge, John Malsbenden, Rosemary Coyle

MEMBERS ABSENT: Stan Soby, Greg Cordova

OTHERS PRESENT: Mike Caplet, Andrew George, Darrell York, Dorothy Mrowka, Evan Evans, Charles Edenburn, Jason Cohen

1. **Call to Order:** First Selectman L. Hodge called the meeting to order at 7:10 p.m.
2. **Additions to the Agenda:** R. Coyle moved to add "Discussion and Possible Action on America the Beautiful Grant Application" as new item #15, and renumbering the remaining consecutively starting with item #16, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
3. **Approve Minutes of the July 17, 2008 Colchester Commission Chairmen Meeting:** R. Coyle moved to approve the July 17, 2008 Colchester commission chairmen meeting minutes with an amendment to item #2, to replace all of the text following "...- John Malsbenden:" with "John Malsbenden presented a workshop on Freedom of Information requirements to the chairs.", seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
4. **Approve Minutes of the July 17, 2008 Regular Board of Selectmen Meeting:** R. Coyle moved to approve the July 17, 2008 regular Board of Selectmen meeting minutes with an amendment to item #26, to replace all of the text following "... for the Town." with, "R. Coyle moved to not pursue a four-day work week at this time, seconded by G. Cordova. Unanimously approved. MOTION CARRIED", seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
5. **Citizen's Comments:** None
6. **Boards and Commissions – Interviews and/or Possible Appointments and Resignations**
 - a. **Conservation Commission (member/alternate; term expires 10/1/11): Darrell York (to be interviewed):** The Board of Selectmen interviewed Darrell York.
 - b. **Conservation Commission (member/alternate; term expires 10/1/11): Andrew George (to be interviewed):** The Board of Selectmen interviewed Andrew George.
 - c. **Commission on Aging (alternate; term expires 12/31/11): Suzanne Maikshilo (interviewed on 7/17/08):** J. Malsbenden moved to appoint Suzanne Maikshilo to the Commission on Aging as an alternate with a term to expire on 12/31/11, seconded by R. Coyle. Following discussion, all members present voted in favor. MOTION CARRIED.

- d. **Sewer & Water Commission (member; term expires 6/30/11): Daniel Ferrigno (interviewed on 7/17/08):** J. Malsbenden moved to appoint Daniel Ferrigno to the Sewer & Water Commission as a member with a term to expire on 06/30/11, seconded by R. Coyle. Unanimously approved. MOTION CARRIED.
- e. **Housing Authority (member; term expires 07/30/11): Janet LaBella (interviewed on 7/17/08):** J. Malsbenden moved to appoint Janet LaBella to the Housing Authority as a member with a term to expire on 07/30/11, seconded by R. Coyle. Unanimously approved. MOTION CARRIED.

7. Budget Transfers - None

8. Tax Refunds & Rebates:

- a. After review, R. Coyle moved to postpone approval of the tax refund in the amount of \$24,641.40 to S&S Worldwide pending the Board of Selectmen's receipt of the court's stipulated judgment, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
- b. After review, R. Coyle moved to approve tax refunds in the amount of \$4.43 to Jerome and Donna Thompson, \$18.17 to Michael Dapson, \$222.50 to Laura Soulor and Patricia Bromley, \$186.61 to Vasana Vileo, \$59.14 to Nancy Riella, \$55.18 to Steven Conn and Albert Amara, \$16.86 to James and Donna Kask, \$16.11 to John Rebillard, \$54.54 to Jeanne Kowalsky, \$526.01 to Willimantic Waste, \$3.01 to Diana Theodore and Peter Galetsa, \$41.41 to Emile Bourgue, \$5.76 to Barbara Dedor, \$3.68 to Matthew and Carla Koyama, \$127.94 to Mary and Anton Smith, \$755.31 to Wilma Zemko, \$3.87 to Frederick and Patricia Brown, \$95.96 to Robert Fradette, \$26.46 to Christian Dorio, \$31.07 to Heather Carragher and Irene Knapp, \$19.56 to Kaja and David Hiscox, \$83.99 to Honda Lease Trust, \$5.72 to Francis and Rosanne Goodrich, \$476.77 to Jamie Wilson, \$32.91 to Melvyn Hyatt, \$4.37 to Vincent Incandella, \$47.64 to Hope Plumbing, \$23.47 to Michael Carbonneau, \$2733.59 to Christopher and Donna Connolly, \$90.43 to Peter Reneson, \$3.92 to Wayne Mohrlein, \$7.90 to RF Landscaping LLC, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.

- 9. **Discussion and Possible Action on Involvement of Colchester Clergy With '57 Fest:** Jay Cohen presented on the Clergy's proposed involvement with the '57 Fest. R. Coyle moved to approve the Colchester Clergy's involvement with the '57 Fest per the recommendation of Jay Cohen in his memorandum to the Board of Selectmen dated August 4, 2008, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
- 10. **Discussion and Possible Action on Water Department Plant/Distribution System Assistant Job Description:** J. Malsbenden moved to approve and accept the Water Department Plant/Distribution System Assistant job description as presented, seconded by R. Coyle. Unanimously approved. MOTION CARRIED.
- 11. **Update on the Cody Camp Memorial Field:** First Selectman L. Hodge reported on the status of the Cody Camp Memorial Field. Board members provided additional questions pertaining to the documents provided (attached).
- 12. **Discussion and Possible Action on Senior Services DSS Grant Contract and Resolution:** R. Coyle moved to approve the Senior Services DSS Grant contract in the amount of \$8,450 and resolution and to authorize the First Selectman to sign all necessary documents, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.

- 13. Discussion and Possible Action on Contract and Resolution for DEP Project Funding for "Trail Extension – Air Line State Park Trail":** (Without objection, this item was addressed following item #9) R. Coyle moved to approve the contract in the amount of \$26,510.98 and resolution for the DEP project funding for "Trail Extension – Air Line State Park Trail" and to authorize the First Selectman to sign all necessary documents, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
- 14. Discussion and Possible Action on 2009 Preventive Health Block Grant Resolution:** R. Coyle moved to approve the 2009 Preventive Health Block Grant resolution and to authorize the First Selectman to sign all necessary documents, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.
- 15. Discussion and Possible Action on America the Beautiful Grant Application:** J. Malsbenden moved to approve the America the Beautiful Grant Application with the amount of \$6396 and to authorize the First Selectman to sign all necessary documents, seconded by R. Coyle. Unanimously approved. MOTION CARRIED.
- 16. Citizen's Comments:** None
- 17. First Selectman's Report:** First Selectman L. Hodge reported on the CGI movies for the website, the efforts of the Health and Safety Committee, the ongoing purchasing policy revision process, the Local Emergency Planning Committee activities (August 21st next meeting), staff's attendance of CIRMA training courses held at Colchester town hall, the dog park subcommittee meeting, the ongoing repair of the police cruisers, the full roster of police officers, the implementation of police vehicle inspection procedures, the implementation of a police rank structure, the issue of building security, issuance of town identification badges, implementation of purchase orders through Munis, the work on the Capital Improvement Plan for 2008-2013, the pandemic tabletop exercise at Backus Hospital, the hiring of the new part-time social services clerk, and the development of the Town technology plan.
- 18. Liaison Reports:** The selectmen reported on their respective boards.
- 19. Executive Session Regarding Strategies for Collective Bargaining for Police and Administrators Unions:** R. Coyle moved to go into executive session to discuss strategies for collective bargaining for Police and Administrators Unions, seconded by J. Malsbenden. Unanimously approved. MOTION CARRIED.

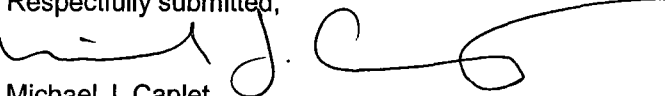
The selectmen entered into executive session at 8:20 p.m. and came out of executive session at 8:34 p.m.

- 20. Adjourn:** J. Malsbenden moved to adjourn at 8:35 p.m., seconded by R. Coyle. Unanimously approved. MOTION CARRIED.

Attachments

1. Memorandum from Jason Cohen to the Board of Selectmen dated August 4, 2008 regarding "Clergy at 57 Fest"
2. Letter from Mary J. Blain Andrews of Shipman & Goodwin to First Selectman Linda Hodge dated August 4, 2008 regarding "Cody Camp Memorial Foundation Field Project"
3. S&G Draft dated August 5, 2008 titled "DONATION, ACCESS AND CONSTRUCTION AGREEMENT"

Respectfully submitted,


Michael J. Caplet

Executive Assistant to the First Selectman



"Creating Community Through People, Parks and Programs"

127 Norwich Avenue, Colchester, CT 06415

(860) 537-7297 | Fax: (888) 468-6093 | parksandrec@colchesterct.gov | www.colchesterct.gov

MEMO

To: Board of Selectmen
From: Jason Cohen, Director
Date: August 4, 2008
Re: Clergy at 57 Fest

Based on BOS recommendations, and further discussion with the First Selectman and Mike Brubaker of the Colchester Clergy, we recommend the following inclusion of a clergy presentation at the 2008 57 Fest:

At 5:50pm, just prior to the 6:00pm start of the headline concert, the clergy will be introduced. The clergy, with representatives of multiple faiths and congregations, will recite a short series of prayers blessing the community, its leaders and staff, and the class of 2009. The choir will also sing an appropriate song for the occasion.

This timing will allow for a large, focused audience.



SHIPMAN & GOODWIN LLP.
COUNSELORS AT LAW

Mary J. Blain Andrews
Phone: (860) 251-5118
Fax: (860) 251-5213
Email: mandrews@goodwin.com

August 4, 2008

VIA EMAIL AND US MAIL

The Honorable Linda Hodge
First Selectman
Town of Colchester
127 Norwich Avenue
Colchester, CT 06415

Re: Cody Camp Memorial Foundation Field Project

Dear Linda:

You have asked for our opinion on certain procedural matters relating to the proposal by The Cody Camp Memorial Field Foundation, Inc. to build a baseball field (the "Field") on the grounds of Jack Jackter Intermediate School and to donate the Field to the Town of Colchester. The particular matters you have asked us to address in this opinion are set forth in the attachment to this letter. Shipman & Goodwin attorney Thomas Mooney, counsel to the Colchester Board of Education, provided the portions of the opinion relating to Board of Education matters.

As we have discussed, there are several other approvals that will be required for the construction and operation of the Field (e.g., Conn. Gen. Stat. Section 8-24 and other land use approvals). Such other approvals are not addressed in this letter or the attachment.

Please contact me if you have any questions.

Sincerely,



Mary Jo Andrews

cc: Thomas B. Mooney, Esq. (with attachment)
Karen Loiselle, Superintendent of Schools (with attachment)
William Hettrick, Chairman, Board of Education (with attachment)

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SHIPMAN & GOODWIN LLP.
COUNSELORS AT LAW

ATTACHMENT TO AUGUST 4, 2008 LETTER FROM
ATTORNEY MARY JO ANDREWS TO FIRST SELECTMAN LINDA HODGE
REGARDING CODY CAMP MEMORIAL FIELD FOUNDATION, INC.

Brief Facts:

The Cody Camp Memorial Field Foundation, Inc. (the "Foundation") has proposed that the Foundation, at the Foundation's sole expense, build a baseball field (the "Field") on the grounds of Jack Jackter Intermediate School and donate the Field to the Town of Colchester (the "Town"); the Field would then be dedicated to school use. A Donation, Access and Construction Agreement (the "Agreement"), by and among the Town, the Colchester Board of Education (the "Board of Education") and the Foundation would set forth the terms and conditions pursuant to which the Field project would be undertaken.

Questions Presented:

1. What procedures must the Town and the Board of Education follow to approve the entering into of the Agreement?
2. What procedures must the Town and the Board of Education follow to accept the donation of the Field?
3. What procedures must the Board of Education follow to dedicate the Field to school use?

Discussion:

1. What procedures must the Town and the Board of Education follow to approve the entering into of the Agreement?
 - A. Town
 - i. The Board of Selectmen must act to approve the entering into of the Agreement and authorize the First Selectman to execute the Agreement (see Conn. Gen. Stat. Section 7-12, and Colchester Charter Sections C-302(C) and C-402).
 - ii. Town Meeting approval is not required, as the transaction contemplated by the Agreement does not fall within the provisions of Colchester Charter Section C-1001.
 - B. Board of Education
 - i. The Board of Education must vote to authorize the Chairperson to sign the Agreement on behalf of the Board of Education. This Agreement requires

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that the Board exercise its statutory authority for the “care, maintenance and operation of buildings, lands, apparatus and other property used for school purposes,” and a simple vote is sufficient for that purpose.

2. What procedures must the Town and the Board of Education follow to accept the donation of the Field?
 - A. Town: The Town, as fee owner of the land, will be the fee owner of the Field improvements that constitute real property. When the Field is completed in accordance with the terms of the Agreement, the Foundation should execute and deliver a deed donating the Field improvements to the Town.
 - (i) The Board of Selectmen must act to accept the deed (see Conn. Gen. Stat. Section 7-12 and Colchester Charter Section C-402). In accepting the deed, the Board of Selectmen must acknowledge the purpose of the donation and state that the property is dedicated to use for school purposes, thus conferring authority over the property to the Board of Education.
 - (ii) Town Meeting approval is not required for acceptance of the deed, as this action does not fall within the provisions of Colchester Charter Section C-1001 (see in particular Charter Sections C-1001B(5) and (10)).
 - B. Board of Education: To the extent any portion of the Field constitutes personal property, as distinct from real property¹, the Board of Education must vote to accept the donation of such personal property from the Foundation in accordance with Conn. Gen. Stat. Section 10-237(c).
3. What procedures must the Board of Education follow to dedicate the Field to school use?

After the Board of Selectmen has accepted the deed with the acknowledgment that the real property involved is dedicated to school use (as contrasted with the underlying real estate that is already dedicated to use for school purposes), the property is automatically under the jurisdiction of the Board of Education. For clarity, we recommend that the Board of Education vote to accept the property for school purposes. The Board of Education will also want to assure that the Field as constructed is suitable for school use. In that regard, prior approval of the Foundation's plans would be appropriate, as well as ongoing supervision of the construction by the Director of Facilities and Operations, as the staff person responsible for both Town and school facilities.

515186 v.02

¹ We do not yet have information sufficient to determine whether the Field will include personal property as well as real property. Following is an example of the difference between the two types of property that might be applicable in the context of baseball Field: if there is a permanently installed flag pole, the pole would constitute real property, while the flag itself would constitute personal property.

DONATION, ACCESS AND CONSTRUCTION AGREEMENT

THIS DONATION, ACCESS AND CONSTRUCTION AGREEMENT (the "Agreement") made as of this _____ day of _____, 2008, by and among the **Town of Colchester**, a Connecticut municipal corporation with an address of 127 Norwich Avenue, Colchester, Connecticut 06415 (the "Town"), the **Colchester Board of Education**, a local board of education pursuant to the Connecticut General Statutes with an address c/o Town Hall, 127 Norwich Avenue, Colchester, Connecticut 06415 (the "Board"), and **The Cody Camp Memorial Field Foundation, Inc.**, a Connecticut nonstock corporation with an address of 108 Norwich Avenue, Colchester, Connecticut 06415 (the "Foundation"),

WITNESSETH:

WHEREAS, to honor and preserve the memory of Cody Camp, the Foundation has raised funds and desires to construct a baseball field (the "Field") (the "Project") on the campus of Jack Jackter Intermediate School (such school and its grounds, together, the "School"); and

WHEREAS, the School is owned by the Town; and

WHEREAS, the School is dedicated for school purposes and is under the control of the Board; and

WHEREAS, the Foundation desires to construct the Field and donate it to the Town and the Board, and the Town and the Board desire to accept such donation, all in accordance with the terms and conditions set forth herein; and

WHEREAS, the Project is not a "school building project" as defined in Conn. Gen. Stat. § 10-282.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. PLANS.

(a) Plans. Prior to the commencement of any work on the School grounds, the Foundation shall submit first schematic and then final construction drawings, specifications and plans for the Field and a construction schedule (collectively, the "Plans"), which Plans shall be subject to the written approval of or modification by the Town and the Board in their sole discretion. In the event the Foundation disagrees with modifications to the Plans required by the Town or the Board, the Foundation shall have the right to terminate this Agreement upon written notice to the Town and the Board.

[The Plans shall be in compliance with the following specifications for school or league sports fields: (Board to check on whether there are applicable specifications).]

(b) Modifications. Material modifications to the Plans approved pursuant to Subsection (a) above shall be subject to the written approval of the Town and the Board in their sole discretion. Minor modifications to the Plans shall be subject to the written approval of the Colchester Director of Facilities and Operations (the "Director of Facilities") as set forth in Section 5(c) herein. The Director of Facilities shall determine whether a proposed modification to the Plans is material or minor. The word "Plans" shall mean the approved Plans as modified in accordance with this section.

2. FINANCIAL MATTERS.

(a) All costs and expenses associated with the Project shall be borne by the Foundation.

(b) Notwithstanding anything in this Agreement to the contrary, the Foundation shall not have access to the School grounds for the construction of the Field until such time as the Foundation demonstrates to the satisfaction of the Town and the Board that it has one hundred percent (100%) of the money necessary to conduct the Project. Prior to the Foundation being granted access for the construction of the Field, fifty percent (50%) of the money necessary to conduct the Project shall be transferred to the Town to be held in escrow (the "Escrow Funds") and to be requisitioned by the Foundation only after the Foundation has expended the remaining fifty percent (50%) still in its possession. Procedures for drawing down the Escrow Funds are set forth in Exhibit A attached hereto and made a part hereof.

(c) The Town and the Board shall have the right at any time during the construction of the Field to inspect the construction being performed on the Field and to ascertain whether the remaining unexpended funds are sufficient to complete the Project. If it is determined that additional funds are needed to complete the Project, the Town and the Board may require that the work cease until such time as such funds are raised by the Foundation.

3. CONSTRUCTION SCHEDULE.

(a) The construction of the Field is scheduled to commence approximately [] and shall be scheduled for completion by [] (the "Term"). The Term may be extended as necessary by written notice to the Town and the Board stating the new proposed completion date. In no event shall such Term be extended beyond [], without the written consent of the Town and the Board.

(b) Construction shall not commence until all of the following have occurred: (i) approval of the Plans as provided in Section 1; (ii) satisfaction of the financial conditions as provided in Section 2(b); (iii) obtaining the necessary permits and approvals

as provided in Section 4(b); (iv) providing copies of licenses and registrations as provided in Section 4(b); and (v) providing evidence of insurance as provided in Section 7.

(c) Notwithstanding anything in this Agreement to the contrary, the Board shall have the right in its sole discretion to approve the scheduling of the construction of the Field in order to accommodate the activities of the School.

4. RESPONSIBILITIES OF THE FOUNDATION.

The Foundation shall be responsible for each of the following:

(a) The Foundation shall perform the Project in a good and workmanlike manner consistent with the Plans and using good quality materials.

(b) The Foundation shall obtain, with the cooperation of the Town and the Board, any and all governmental land use or other permits and approvals necessary for the Project. Notwithstanding the foregoing, the Town shall, with the cooperation of the Board and the Foundation, make application to the Colchester Zoning and Planning Commission for a review pursuant to Conn. Gen. Stat. Section 8-24. Any and all necessary permits and/or approvals shall be obtained at the sole expense of the Foundation. The Foundation acknowledges and understands that the fact that the Town and the Board are parties to this Agreement does not substitute for, or constitute approval by the Town and the Board of, any application by the Foundation for necessary Project permits and approvals from any municipal official, agency, board, committee or commission.

(c) The Foundation shall be responsible for the performance of the Project in compliance with all applicable laws, rules, regulations, ordinances, codes, orders, policies and permits of all federal, state and local government bodies, agencies, authorities and courts having jurisdiction over the Project.

(d) As applicable to the work of the Project, the Foundation's volunteers, contractors, subcontractors and other workers or entities involved with the Project shall be currently licensed or registered by or with the State of Connecticut to perform their portion of the work of the Project. The Foundation shall provide copies of such licenses and/or registrations to the Director of Facilities prior to commencing work on the Project.

(e) The Foundation shall keep the construction site and surrounding area free from any accumulation of waste materials or rubbish and shall use its best efforts to prevent dust, debris and odor.

(f) The Foundation shall cause the Project's contractors, subcontractors and suppliers to provide standard warranties and guaranties, which warranties and guaranties shall be in favor of the Town and the Board or shall be assignable and, at completion of the Project, assigned to the Town and the Board.

and the Board and shall contain a provision whereby each insurer agrees not to cancel such insurance without thirty (30) days' prior written notice to the Town and the Board. To the extent reasonably obtainable, all such insurance shall also contain appropriate endorsements denying the Foundation's insurers the right to subrogation against the Town and the Board and waivers by all such insurers of all rights of recovery against the Town and the Board in connection with any loss or damage by peril included within such insurance coverage. Prior to the commencement of construction of the Field, the Foundation shall furnish the Town and the Board with a policy evidencing the aforesaid insurance coverage, and renewal policies shall be furnished to the Town and the Board at least thirty (30) days prior to the expiration date of such insurance. The Foundation shall have no right of access to the School for construction of the Field at any time when either required insurance is not in effect or the Town and the Board are not in receipt of a required policy of insurance.

(b) Insurance of Contractors/Subcontractors. In addition to the foregoing, the Foundation shall cause all contractors and subcontractors that perform work on the Project to carry the following insurance: (i) commercial general liability with a limit not less than \$_____ combined single limit for bodily injury and property damage per occurrence and \$_____ total aggregate liability; (ii) worker's compensation with statutory limits; (iii) motor vehicle liability coverage with a limit not less than \$_____ for each occurrence and \$_____ total aggregate liability; and (iv) umbrella insurance with a limit not less than \$_____ for each occurrence and \$_____ total aggregate liability. The Town, the Board and the Foundation shall be named additional insureds on such liability policies. The Foundation shall cause such contractors and subcontractors to provide certificates evidencing such insurance to the Town and the Board. Such certificates shall be provided prior to work being performed by the applicable contractor or subcontractor.

8. INDEMNIFICATION.

To the maximum extent this section may be made effective according to law, and except to the extent caused by the negligence or willful misconduct of the indemnified party, the Foundation hereby agrees to indemnify and save harmless the Town and the Board from and against all claims of whatever nature arising from or claimed to have arisen from (i) any breach of this Agreement by the Foundation or (ii) any accident, injury or damage whatsoever caused to any person, or to the property of any person, occurring in or about the School in connection with the Project including but not limited to acts or omissions of the Foundation's invitees, contractors, licensees, agents, servants, independent contractors, volunteers or employees. This indemnity and hold harmless provision shall include indemnity against all costs, attorneys' fees, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

9. DEFAULT; REMEDIES UPON DEFAULT.

(a) A "Default" as to any party shall mean the failure by such party to perform any of its obligations under this Agreement if such failure continues uncorrected for fifteen (15) days after written notice from another party, or, if such failure is not susceptible of cure within such fifteen (15) day period, the cure of such failure is not commenced during such period and diligently prosecuted thereafter.

(b) In the event of a Default, if the Town is still in possession of any of the Escrow Funds, the Town and the Board may use such funds for the completion of the construction of the Field. In addition, upon a Default each party may exercise any and all remedies available to it pursuant to law and equity.

10. APPROVAL.

This Agreement shall not be effective unless and until written approval is received from both the Colchester Board of Selectmen and the Colchester Board of Education.

11. GENERAL PROVISIONS.

(a) Naming.

(i) The Board, which has the right to name facilities that are dedicated to school use, hereby agrees to name the Field after Cody Camp. The Board acknowledges the desire of the Foundation to have the Field named after Cody Camp in perpetuity.

(ii) The Town, which has the right to name Town facilities that are not dedicated to school use, hereby acknowledges that in the event the Field was no longer to be dedicated to school use, the Foundation desires that the Town name the Field, or, as appropriate, another sports field located in the Town, after Cody Camp.

(b) Other Improvements. Without limiting the other provisions of this Agreement, the Foundation acknowledges that (i) there shall be no concession stands built in connection with the Project, and (ii) there shall be no additional parking constructed in connection with the Project. All rights of the Foundation to make improvements to the School property are set forth herein. If the Foundation desires to make further improvements to the School grounds which are not contemplated by this Agreement, the Foundation shall present a written request to the Town and the Board, and such request shall be accepted or rejected in the Town's and the Board's sole discretion.

(c) Waivers. Failure on the part of any party to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be a waiver by such party of any of the rights hereunder. Further, no waiver at any time of any of the provisions hereof by any party shall be construed as a waiver of any of

the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

(d) Counterparts and Originals. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

(e) Amendments. This Agreement may be amended or otherwise modified only by an instrument in writing executed by each of the parties.

(f) Notices. Notices given pursuant to this Agreement shall be in writing, and shall be sent by (a) registered or certified mail, return receipt requested, with postage prepaid, (b) express mail or courier (next day delivery), or (c) personal delivery (receipt acknowledged in writing), addressed as follows:

(i) if to the Town:

Town of Colchester
127 Norwich Avenue
Colchester, Connecticut 06415
Attn: Linda Hodge, First Selectman

with a copy to the Director of Facilities

(ii) if to the Board:

Colchester Board of Education
c/o Town Hall
127 Norwich Avenue
Colchester, Connecticut 06415
Attn: _____

with a copy to the Director of Facilities

(iii) if to the Director of Facilities:

Town of Colchester
127 Norwich Avenue
Colchester, Connecticut 06415
Attn: Greg Plunkett, Director of Facilities and Operations

(iv) if to the Foundation:

The Cody Camp Memorial Foundation, Inc.
108 Norwich Avenue
Colchester, Connecticut 06415

Attn: _____

(g) Governing Law; Severability. This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut. If any provision of this Agreement, or portions thereof, or the application thereof to any person or circumstance shall to any extent, be deemed invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(h) Headings. All titles and headings in this Agreement are intended solely for convenience of reference and shall in no way limit or otherwise affect the interpretation of any of the provisions hereof.

(i) Merger. This Agreement sets forth the entire understanding among the parties with respect to the matters set forth herein.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

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IN WITNESS WHEREOF, the parties have hereunto executed this document as of the day and year first above mentioned.

Town of Colchester

By: _____
Name:
Title:
Date:

Colchester Board of Education

By: _____
Name:
Title:
Date:

**The Cody Camp Memorial Field
Foundation, Inc.**

By: _____
Name:
Title:
Date:

EXHIBIT A

Requisition Procedures

505083 v.05 S3

