

Ames Community School District
Ames, IA

Exhibit No. C-3a
Date: January 12, 2015

BOARD AGENDA FORM

Subject: Facility Agreement with Iowa Sate University for 2015 AHS Golf Season

Prepared by: Judge Johnston, Athletic Director

Action Requested: Approval of as part of Consent Item(s)

Executive Summary: The Ames High School Girl's Golf team will once again use Veenker Memorial Golf Course as the home course for the 2015 season. This contract has been reviewed and is consistent with our expectations.

Financial Information:

Fund: AHS Athletic Building Budget

Estimated Cost: \$2,000

Budget Amount: \$2,000

**IOWA STATE UNIVERSITY
VEENKER MEMORIAL GOLF COURSE
FACILITY AND GROUNDS USE AGREEMENT**

This Facility and Grounds Use Agreement ("Agreement") is entered into by Iowa State University of Science and Technology, on behalf of Veenker Memorial Golf Course (ISU and/or VMGC), and The Ames Community School District, specifically, the AHS Girls Golf Team (Customer). The Effective Date of this Agreement shall be the date on which the last party signs this Agreement. Attachments A and B are incorporated into this Agreement by reference.

1. **Permission to Use Space.** VMGC grants Customer permission to use the space described in Attachment A (the "Space") during the period described in Attachment A ("Use Period"). Equipment or services to be provided by VMGC in connection with Customer use of the Space are set forth in Attachment A.
2. **Use of Space.** Customer may use the Space only for the purpose described in Attachment A. Customer acknowledges that others may be using other areas of VMGC's property during the Use Period. Customer shall not disrupt such use by others. VMGC reserves the right to inspect the Space, access the Space to perform maintenance, enforce applicable laws, regulations, and policies and remove any person who is disruptive to VMGC's operations or where VMGC reasonably believes such person is acting in an unsafe manner or may cause or has caused harm to people, the Space, or other property. Customer shall vacate the Space at the end of the Use Period or upon cancellation of this Agreement and leave the Space in as good condition as the Space was upon entry by Customer, reasonable wear and tear excepted. Except for reasonable wear and tear, Customer shall be responsible for any damage to or loss of VMGC property caused by Customer or Customer's employees, agents, subcontractors or guests and for any excessive trash. Customer shall notify VMGC immediately of any such damage or loss. VMGC may repair or replace such damaged or lost VMGC property and remove excessive trash. In such event, VMGC shall provide Customer with an invoice for the costs incurred by VMGC for such repair, replacement or removal and Customer shall pay such invoice within fifteen days of receipt.
3. **Compliance with Law and ISU Policies.** Customer shall comply with, and shall require its employees, agents, subcontractors and guests to comply with, all applicable laws, regulations, ordinances and VMGC policies. VMGC policies include, but are not limited to, the following prohibitions in ISU buildings and on ISU property: (a) smoking; (b) alcohol, unless prior written permission has been granted; (c) intoxicants, narcotics, and drugs; (d) firearms, weapons, ammunition, fireworks, explosives, and highly flammable materials; (e) gambling; and (f) solicitation. Motor vehicles of any type are prohibited from being driven on ISU sidewalks or outdoor green space areas. Illegally parked vehicles will be ticketed and subject to towing, without warning, at the owner's expense. Customer shall obtain the consent of VMGC before bringing, or permitting its employees, agents, subcontractors or guests to bring animals on VMGC property and shall comply with ISU's Animals on Campus policy and other applicable policies. Prior consent is not required when the animal is assisting persons with disabilities.
4. **Customer Equipment and Property.** VMGC shall not be responsible for loss or damage to property, material, or equipment belonging to Customer or its employees, agents, subcontractors or guests ("Customer Property"). Customer shall remove all Customer Property prior to the expiration of the Use Period or promptly upon termination or cancellation of this Agreement. VMGC may remove and store any Customer Property that Customer fails to remove. Customer shall pay all expenses associated with such removal or storage.
5. **Decorations and Publicity.** All signs, banners, decorations, displays, and exhibits and the location of such items must have prior written approval from VMGC. The parties agree not to use the name or trademarks of the other party or the name of any of the other party's employees in publicity or advertising without the prior written consent of the other party. Customer may use VMGC's name when providing the address of the location of Customer's event. Unless express written permission has been granted, Customer shall not represent or imply that it is affiliated with VMGC or that Customer's event is endorsed or approved by VMGC.

6. **Financial.** In consideration for the use of the Space and any equipment or services provided by VMGC, Customer shall pay VMGC the fees set forth in Attachment A. Customer shall pay the fees to VMGC in accordance with the Payment Schedule set forth in Attachment A or as set forth in this Agreement. Checks should be made payable to Veenker Memorial Golf Course and submitted to the VMGC contact person identified in Attachment A. Customer shall reference the Facility Use Agreement Number shown above on all payments. If payment is not received from Customer when due, ISU may cancel this Agreement. In addition, the full account balance may be accelerated. ISU may also impose a finance charge computed at a periodic monthly rate of 1% per month on the balance or an annual percentage rate (APR) of 12% when computed from the billing date. The unpaid account may be referred for collection, and Customer agrees to pay all collection costs and reasonable attorneys' fees if ISU must take action to recover any past due amounts.
7. **Insurance.** Insurance and indemnification requirements and limitations on liability are set forth in Attachment B.
8. **Cancellation.**
 - a. **Notice.** A party seeking to cancel this Agreement must send written notice to the other party of such intention.
 - b. **Customer Cancellation.** Customer may cancel this Agreement as set forth in Attachment A.
 - c. **VMGC Cancellation.** VMGC may cancel this Agreement for the following reasons:
 - i. **Force Majeure.** VMGC may cancel this Agreement if its performance of any obligation under this Agreement is prevented or delayed by causes beyond its reasonable control, such as fire, strikes or labor disputes, floods, inclement weather, acts of God, war, terrorism, civil disturbances, or energy shortages. VMGC's failure to perform or delayed performance for such reasons shall not be deemed a breach of this Agreement.
 - ii. **For Cause.** VMGC may cancel this Agreement immediately upon written notice to Customer if: (a) Customer fails to pay VMGC as set forth in Section 6; (b) Customer fails to carry the required insurance or submit evidence of insurance coverage as set forth in Attachment B; or (c) if Customer or Customer's employees, agents, subcontractors or guests (i) disrupt the VMGC's operations or other's use of other VMGC property, (ii) act in a manner VMGC reasonably believes to be unsafe or that may cause or has caused harm to persons, the Space, or other property, or (iii) violate applicable laws, regulations, or VMGC policies. VMGC may also cancel if Customer fails to cure any other material breach of this Agreement within ten days of receiving written notice of such breach from VMGC. The foregoing shall be in addition to any other remedies to which VMGC is entitled.
 - d. **Cancellation Fee.** Any fee that Customer must pay as a result of cancellation ("Cancellation Fee") is set forth in Attachment A. VMGC shall notify Customer of the amount of any applicable Cancellation Fee within thirty days of receiving or sending a notice of cancellation. Client shall pay all such Cancellation Fees within fifteen days of receiving the notice from VMGC of the amount.
9. **Notice.** Notices relating to this Agreement shall be in writing and shall be delivered by messenger, overnight carrier, e-mail or mailed by first class mail, certified mail or registered mail to the other party's contact person identified in Attachment A. Notice made by messenger, overnight mail or e-mail shall be deemed to be effective upon receipt. Notices made by first class mail, certified mail or registered mail shall be deemed to be effective on the third business day following the mailing of such notice.
10. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements, whether written, oral, or implied. This Agreement shall not be changed, modified, altered, or amended in any respect without the mutual consent of the parties. The parties' rights and obligations in this Agreement that, by their

nature, would continue beyond the cancellation or expiration of this Agreement shall survive such cancellation or expiration. This Agreement shall be construed in accordance with the laws of the State of Iowa, and any litigation or actions commenced in connection with this Agreement shall be instituted in an appropriate court in the State of Iowa.

IOWA STATE UNIVERSITY
OF SCIENCE AND TECHNOLOGY
Veenker Memorial Golf Course

AMES COMMUNITY SCHOOL DISTRICT
AMES HIGH SCHOOL
GIRLS GOLF

Name: _____
Title: _____

Name: _____
Title: _____

Date _____

Date _____

42-6004224

IRS Entity Identification Number

IRS Entity Identification Number

ATTACHMENT A

Space

VMGC shall provide the following space to Customer:

Practice Facility Tee Space
Golf Course Proper

Purpose

Customer may use the Space for only the following purpose(s):

Daily athletic team practice for approximately 18 golfers.
Golf Meets as specified in "Use Period".

Use Period

Customer may use the Space on the following dates and times:

Practice Facility Tee Space:

Approximately 40 days during the 2015 Spring Golf Season as specified by the Iowa High School Athletic Association for approximately 18 golfers Monday – Friday only. AHS Golf Coach will be required to provide a practice schedule to VMGC 1 week prior to the 1st scheduled practice date.

Golf Course:

April 14th - Ames/Dowling Dual
April 27th – Ames Invite
April 28th – Ames/Marshalltown Dual
May 19th – Ames/SE Polk Dual

Dates may be added and/or rescheduled by agreement of both Customer and VMGC.

VMGC Equipment and Services

VMGC shall provide the following equipment and/or services to Customer in connection with Customer's use of the Space:

One 55 Gallon Barrel of range balls per practice day or equivalent range ball tokens to be checked out by AHS Golf Coach during scheduled practice times only.

Golf Course proper for use during golf meets.

Fee and Payment Schedule

Customer shall pay VMGC the following fees in accordance with the following schedule for the use of the Space:

\$2,000.00 to be paid upon receipt of invoice following the AHS Spring Golf Season.

Additionally, one work day for players and family may be scheduled in the Spring of 2015 to offset costs of course usage.

Cancellation by Customer and Cancellation Fees

If a meet is cancelled and cannot be rescheduled, the \$2,000.00 seasonal fee may be reduced as agreed upon by both the Customer and VMGC.

Contact Persons

For VMGC:

Tess Balsley, Clubhouse Mgr. c/o VMGC
1925 Stange Rd,
Ames, IA 50011 (515) 294-9493
tbalsley@iastate.edu

For Customer:

Judge Johnson, Athletic Director c/o Ames High
1921 Ames High Drive
Ames, IA 50010 (515) 817-0611
jjohnston@ames.k12.ia.us

**ATTACHMENT B
INSURANCE AND INDEMNIFICATION REQUIREMENTS**

Insurance

Customer shall carry, and require its subcontractors who will be present on ISU property to carry, the insurance coverage checked below. ISU reserves the right to increase the minimum limits if ISU determines additional types or limits of coverage are necessary. The insurance companies providing coverage must be of an acceptable financial rating as determined by ISU. All policies must be written on a primary basis, non-contributory with any other insurance and/or any self-insured funds of the following: State of Iowa; Boards of Regents, State of Iowa; or ISU.

- Commercial General Liability***

General Aggregate per location	\$1,000,000
Each Occurrence Limit	\$1,000,000

*Customer may purchase commercial general liability insurance through the ISU Special Event Liability Program. Please contact ISU's Office of Risk Management for additional information.

- Excess/Umbrella Liability (may be required depending on type of event and number of attendees)**
 The policy must provide for \$1,000,000 per occurrence.

- Automobile (if applicable)**
 \$1,000,000 combined single limit each accident to include non-owned, hired, or rented vehicles.

- Worker's Compensation and Employer's Liability (if applicable)**
 Statutory Limits of \$100,000/\$500,000/\$100,000.
 Must include a Waiver of Subrogation in favor of Iowa State University/State Board of Regents.

Customer shall provide a certificate of insurance listing the following as additional insureds: State of Iowa; Board of Regents, State of Iowa; and Iowa State University. The certificate must also contain a clause stating that such insurance shall not be modified, reduced, canceled, or terminated without the insurer providing ISU with thirty days' prior written notice. The certificate must be submitted to VMGC's contact person identified in Attachment A no later than ten business days prior to the beginning of the Use Period. Customer is responsible for verifying that its subcontractors are carrying the required insurance.

VMGC shall have the right to prohibit Customer from entering VMGC property until ISU receives such certificates or other evidence that the required insurance has been obtained. If Customer or its subcontractors fail to carry the required insurance or if Customer fails to submit evidence of insurance coverage, VMGC may, in its sole discretion: (i) cancel this Agreement as stated in the section on Cancellation or (ii) purchase the required insurance on Customer's behalf, and Customer shall reimburse VMGC for the cost of such purchase.

Limitation of Liability and Indemnification

The Space, equipment and services are provided "AS IS". Customer assumes all risk of loss, damage, and liability which Customer may sustain while using the Space and equipment. IN NO EVENT SHALL ISU OR VMGC BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. Customer shall indemnify and hold harmless VMGC, the State of Iowa, and the Board of Regents – State of Iowa and their officers, employees, and agents from and against all liability, claims, demands or causes of action (including claims by Customer's employees, agents and guests) arising from the acts or omissions of Customer or its employees, agents, subcontractors or guests or arising from Customer's Event, except those resulting from the negligence of any VMGC employee or agent.