MEMORANDUM

To: Board of Regents

From: Board Office

Subject: Memorandum of Agreement with the United States Department of Agriculture for Development of the Livestock Infectious Disease Isolation Biosafety Level 3 Facility

Date: June 5, 2000

Recommended Actions:

1. Approve the memorandum of agreement between Iowa State University and the United States Department of Agriculture for development of a biosafety level 3 Livestock Infectious Disease Isolation Facility to be constructed by Iowa State University at the U. S. Department of Agriculture National Animal Disease Center in Ames, Iowa.

2. Authorize Iowa State University to transfer ownership of the building to the United States Government following completion of construction, subject to Executive Council approval prior to entering into the agreement and commencing construction.

Executive Summary:

In May 1999, Iowa State University presented a report to the Board on a proposed agreement with the Agricultural Research Service (ARS) of the U. S. Department of Agriculture (USDA) to construct a Livestock Infectious Disease Isolation Biosafety Level 3 Facility at the National Animal Disease Center (NADC) in Ames. The project will provide state-of-the-art facilities to house large animals for the purpose of conducting highly infectious disease research at biosafety level 3 (BL-3), which requires systems with more stringent control of waste products. The total cost for construction of the BL-3 facility would be funded by state appropriations, which must be fully expended by June 30, 2003.

Since presentation of the report to the Board in May 1999, the University has consulted with the Attorney General's Office and representatives of the General Counsel's Office of the Agricultural Research Service to develop the proposed agreement. The University believes that the proposed agreement reflects the

best set of terms and conditions that can be obtained under the current statutory constraints of the USDA.

Under the terms of the agreement, USDA would grant an easement to the University which would allow the University to construct the facility at the NADC. The easement will terminate with satisfactory construction of the facility and acceptance of the building by the federal government. At that time, title to the facility would transfer to the United States government. Transfer of title would require approval of the Executive Council of Iowa; the Attorney General's Office has recommended that this approval be obtained prior to proceeding with construction of the facility.

The proposed agreement also permits the University to conduct BL-3 infectious disease research at the site and addresses the joint operation of the facility and the University's access to the USDA facilities at the Center. The agreement would be in effect for a period of 50 years and would be subject to review at least once every five years for programmatic relevancy. The Attorney General's Office review of the proposed agreement noted that legally there is nothing that would prevent the Board from entering into the agreement. However, the Attorney General's Office also stated that there were risks to Iowa State University arising from the proposed agreement. These potential risks are outlined in the Analysis section of this Memorandum.

Representatives of the University will be prepared to answer questions relating to the proposed agreement with the USDA for the BL-3 facility at the June Board meeting.

Background:

The 1994 legislative session authorized the issuance of $2,000,000 in Academic Building Revenue Bonds to finance planning costs for intensive livestock research facilities at Iowa State University including the Livestock Infectious Disease Isolation Facility. In June 1994, the Board granted the University permission to proceed with planning for the two components of the intensive livestock research facilities – Kildee / Meats Lab Addition and the Livestock Infectious Disease Isolation Facility. In November 1994, the Board approved the program statement for the two components; at that time it was noted that better facilities would allow for increased collaboration between University departments and colleges and Ames area U.S. Department of Agriculture (USDA) Laboratories.

According to the program statement, the Livestock Infectious Disease Isolation Facility was to include 16,027 net assignable square feet and be located at the Veterinary Medical Research Institute (VMRI). In April 1995, the Board approved

the schematic design for a 20,045 net square foot biosafety level 2 (BL-2) facility at VMRI. At that time, the University noted that biosafety level 3 (BL-3) high security isolation rooms would be designed to work with infectious agents of the zoonotic potential and that a location for that facility had not been determined.

The 1997 General Assembly appropriated $9,270,000 for construction of the Livestock Infectious Disease Isolation Facility. In September 1997, the University received approval of a project description and budget in the amount of $9,270,000 for the facility. The budget included construction funds of approximately $5,400,000 for the BL-2 facility, construction of which was recently completed at the VMRI site. This project provides state-of-the-art facilities to house large animals, including cattle, horses, sheep, and swine, for the purpose of conducting highly infectious disease research. The project budget also included $3,000,000 in the project reserve for the BL-3 facility.

The University originally planned to construct the BL-3 facility at the ISU Veterinary Medical Research Institute (VMRI). However, the University determined that it was not possible to provide large animal facilities for conducting BL-3 research at the VMRI site with the available funds. The University pursued other alternatives for locating the facility.

Research on infectious diseases is a major strength at the College of Veterinary Medicine. Research by University scientists is essential to reducing inefficiencies resulting from infectious disease, which causes up to an estimated 25 percent loss in livestock productivity. The results of infectious disease research reduces animal suffering, enhances profitability in livestock production, and maintains and improves Iowa's competitive position in animal agriculture. Several researchers at the College are working on development of improved vaccines using recombinant DNA technology. The National Institutes of Health (NIH) and USDA regulations require that such genetically-altered organisms be handled under BL-3 conditions.

In his presentation to the Board in May 1999, Dean Ross of the College of Veterinary Medicine outlined several advantages with the proposed location of the BL-3 facility at NADC. Included were the enhanced collaboration in research and graduate education with location of the facility at a USDA site, and the improved stature of Iowa State University and the state of Iowa as a center for animal health research.

The University reports that there are currently a number of collaborative projects involving the College of Veterinary Medicine and researchers at NADC and that working relationships have existed for more than 50 years.

Analysis:

The review by the Attorney General's Office noted the following potential risks associated with the proposed agreement, which:

- Provides for the three members of the Facility Management Committee, comprised of the Dean of the College of Veterinary Medicine; Director of the NADC; and the Director of the National Veterinary Services Laboratories, Animal Plant Health Inspection Service (APHIS), to make decisions by consensus, meaning that all three members must agree; there is no provision in the event of a lack of agreement among the three parties;

- Requires the use of a Reimbursable Cooperative Agreement which will outline the amount of funding to be contributed by the University, the ARS, and the APHIS, for operation of the facility; this agreement has not yet been drafted. Each of the entities is to contribute, on a yearly basis, sufficient funds to minimally maintain the BL-3 facility. "Minimal maintenance" is not defined;

    - The University reports that from a facility operation and cost accounting perspective the University and the ARS have an understanding of the level of support that would be required to "minimally maintain" the facility. In the worst case where the facility is not operating, there would be minimal utility and security costs, which should not exceed $25,000 / year.

- Includes a provision for reviewing capital maintenance projects and assessing each party's share of these costs; however, "capital maintenance" is not defined; and

- Requires the University to be responsible for all environmental hazards, except to the extent contributed to the facility by the Agricultural Research Service. The Attorney General's Office has noted that this appears to be quite broad since the University does not own the land and does not have direct control over the building.

In its docket exhibit, the University acknowledges the risk in investing state resources in a facility that will be transferred to the federal government and operated on a cooperative basis, but believes that it has minimized the risks. The University also states that there are provisions for termination if funding is not available or there is a material alteration of programming.

Due to the specialized nature of the facility and its potential contribution to both the Iowa livestock industry, animal and human health on a very cost-effective basis, the University believes the proposed collaborative arrangement is an appropriate approach for development of the facility, which will contribute to the state's economic development initiatives. The University has indicated that the 50-year term of the agreement should well exceed the estimated life expectancy for this type of highly-specialized research facility. Therefore, it's not likely that the University would have an interest in acquiring the facility at the end of the 50-year period.

The University believes the joint development and operation of the facility will provide an optimal and cost-effective arrangement for this research effort which would result in substantial savings to both the USDA and the University. Without such an arrangement, the University estimates that replication of the various support facilities and security systems which currently exist at NADC would require an investment of approximately $10 million.

In addition, the University reports that continued development and improvement of the USDA facilities is anticipated at the site, and therefore they should continue to serve as one of the world's premiere research facilities for infectious diseases.

Sheila Lodge

Approved: Frank J. Stork

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