

ECR 1

Office of the President
January 15, 2015

Members, Executive Committee:

AUTHORIZATION TO SELL THE COLDSTREAM LABORATORIES INC.
MANUFACTURING FACILITY LOCATED ON COLDSTREAM RESEARCH CAMPUS

Recommendation: that the Executive Committee of the Board of Trustees act on behalf of the Board of Trustees of the University of Kentucky during the period between Board meetings as authorized by Kentucky Revised Statute (“KRS”) 164.190 and Governing Regulation II.E.2.a(2) by:

- (A) acknowledging receipt of the offer from Coldstream Laboratories Inc. (“CLI”) to purchase the University’s interest in the manufacturing facility that CLI current leases from the University, located at the Coldstream Research Campus at 1575 McGrathiana Parkway, Lexington, Kentucky (“CLI Building”), for its appraised value immediately following CLI’s acquisition by PH Kentucky, Inc.;
- (B) finding that, in accordance with 164A.575(7), it is in the best interests of both the University and the public to sell the CLI Building, but not the land on which it sits, to CLI as part of the same competitive arms-length bid and negotiation process used by CLI and its shareholders, rather than through a traditional sealed bid or public auction process, because (i) the CLI Building is specially designed for the type of pharmaceutical manufacturing business conducted by CLI, (ii) a sale of the CLI Building to CLI after the stock transaction will likely result in the maximum return to the University, and (iii) the sale will encourage the purchaser of CLI to keep and expand the CLI business in the Commonwealth of Kentucky at the Coldstream Research Campus;
- (C) finding that, in accordance with 164A.575(7), a sale of the CLI Building following CLI’s acquisition by PH Kentucky, Inc., would be a use more suitable consistent with the public interest than retaining ownership of the CLI Building;
- (D) approving the sale of the CLI Building to CLI for its appraised value of \$5,650,000, subject to a ninety-nine (99) year ground lease with the University for the land on which it sits, in accordance with KRS 164A.575(7); and
- (E) authorizing the President or his designee to execute any documents necessary or required by law to be recorded to effect such sale, convey the University’s interest in such building and enter into a long-term ground lease with CLI.

Background: The CLI Building is a sterile pharmaceutical manufacturing facility built in 2006 and currently leased by the University to CLI, a company incorporated by and primarily owned by the University of Kentucky Research Foundation (“UKRF”). CLI has engaged an independent third party to solicit competitive bids for a purchase of all of CLI’s stock from UKRF and its other shareholders, and after an arms-length negotiating process, the preferred bidder for CLI,

PH Kentucky, Inc., an affiliate of Piramal Enterprises Limited, has also offered to have CLI purchase the CLI Building for its appraised value of \$5,650,000 immediately following the stock purchase transaction.

Kentucky Revised Statute 164A.575(7) allows the Board of Trustees of the University to sell real property which “would be more suitable consistent with the public interest for some other use, as determined by the board.” Though a sale usually is conducted through sealed bid or public auction, the same statute allows the Board to sell real property through a different process if the Board deems that it is in the best interest of the University to do so.

In this instance, the University believes that it is in the best interests of both the University and the public to sell the CLI Building as part of the same competitive arms-length bid and negotiation process being used by CLI and its shareholders, rather than through a traditional sealed bid or public auction process, because (i) the CLI Building is specially designed for the type of pharmaceutical manufacturing business conducted by CLI, (ii) a sale of the CLI Building to CLI after the stock transaction will likely result in the maximum return to the University, and (iii) the sale will encourage the purchaser of CLI to keep and expand the CLI business in the Commonwealth of Kentucky at the Coldstream Research Campus.

This is a proposed sale of the CLI Building only, subject to a ground lease with the University, and does not include a sale of the fee simple title to the land.

Governing Regulation II.E.2.a(2) authorizes the Executive Committee of the Board to exercise oversight of the financial and business interests of the University and possess the same powers as the Board of Trustees during the periods between meetings of the full Board of Trustees.

Action taken: ☒ Approved ☐ Disapproved ☐ Other _____