

SOUTH DAKOTA BOARD OF REGENTS

Budget & Finance
Consent

AGENDA ITEM: 4 – S
DATE: March 30-31, 2021

SUBJECT

Herbicide Injury Study Joint Powers Agreement Amendment – SDSU & SD Department of Agriculture

CONTROLLING STATUTE, RULE, OR POLICY

[BOR Policy 5:3](#) – Agreements and Contracts

BACKGROUND / DISCUSSION

The South Dakota Department of Agriculture (DOA) entered into a joint powers agreement (“JPA”) with South Dakota State University (SDSU) in to investigate and survey the impact of herbicide use on trees in community and rural forests. The JPA was originally approved by the Board at its [August 2020](#) meeting. The parties now wish to extend the term of the JPA from September 30, 2021 to December 31, 2021 and increase the funding provided from \$20,000 to \$31,008 to allow the parties to accomplish the intended outcomes of the JPA.

BOR Policy 5:3 (“Contracts Requiring Board Action...D. Joint powers agreements”), requires Board approval of Joint Powers Agreements (JPA). As such, Board approval of the JPA set forth in Attachment I is necessary.

IMPACT AND RECOMMENDATION

The proposed amendment will extend the end date on the JPA from September 30, 2021 to December 31, 2021, and increase the total funding provided from \$20,000 to \$31,008, allowing the parties to accomplish the intended outcomes of the JPA.

Board staff recommends approval.

ATTACHMENTS

Attachment I – Amendment to Joint Powers Agreement

(Continued)

DRAFT MOTION 20210330_4-S:

I move to approve the Amendment to the Joint Powers Agreement in substantially similar form to that set forth in Attachment I, and further authorize the Executive Director to approve any subsequent amendments to the JPA which further extend the term and/or increase the funding provided.

AMENDMENT TO THE
JOINT POWERS AGREEMENT
BETWEEN
SD DEPARTMENT OF AGRICULTURE
RESOURCE CONSERVATION AND FORESTRY DIVISION
AND
SD STATE UNIVERSITY
HERBICIDE INJURY ON TREES #2

Amendment made and entered into between the State of South Dakota, Department of Agriculture, Resource Conservation and Forestry Division, 523 East Capitol, Pierre, South Dakota 57501, (“SDDA”), and South Dakota State University, 1015 Campanile Ave, SAD 200, Box 2201, Brookings, SD 57007 (“SDSU”).

WITNESSETH:

WHEREAS, the SDDA and SDSU entered into an Agreement (the “Agreement”) last dated August 5, 2020 for the SDSU to perform certain services as set forth in Exhibit A of the Agreement; and

WHEREAS, Paragraph 8 of the Agreement provides in relevant part: “This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto”; and

WHEREAS, the SDDA and the SDSU mutually agreed to extend duration of the agreement and increase the payment for SDSU’s services.

NOW THEREFORE IT IS MUTUALLY AGREED AS FOLLOWS:

1. That section I paragraph 2 of the Agreement be amended to read as follows:

“Services under this Agreement shall commence upon signing and end on December 31, 2021, unless sooner terminated pursuant to the terms hereof.”

2. That section I paragraph 3 of the Agreement be amended to read as follows:

“The total contract amount will not exceed \$31,008.”

3. This Amendment is expressly identified as a part of the Agreement.
4. That except as specifically amended hereby, the terms and conditions of the Agreement shall continue in full force and effect according to the tenor thereof.

IN WITNESS WHEREOF, the parties signify their agreement effective the date first written by the signatures affixed below.

SOUTH DAKOTA STATE UNIVERSITY

STATE OF SOUTH DAKOTA

(Date)

(Date)

Dianne Nagy
Interim Director of Sponsorship and Development
South Dakota State University

Hunter Roberts
Interim Secretary
South Dakota Department of
Agriculture