



SOUTH DAKOTA  
DEPARTMENT  
OF PUBLIC SAFETY  
prevention - protection - enforcement  
EMERGENCY MANAGEMENT

03/18/2024

City of Milbank  
Steve Pendergrass, Administrator  
1001 E 4th Ave, Ste 301  
Milbank, SD 57252-2657

Re: Hazard Mitigation Grant Program (HMGP) Award –DR-4527-HMGP-13R

Dear Mr. Pendergrass:

A grant award has been approved through the Hazard Mitigation Grant Program Grant. This award is to the City of Milbank to construct a 1,445 square foot safe room with a capacity of 164 individuals.. The federal share will not exceed \$1,096,200.00 and Sub-recipient Management Costs \$-. Your entity has been awarded a 10% state share for \$121,800.00. Should the total eligible project cost be less than \$1,218,000.00, the respective federal, state, and sub-applicant share will be reduced accordingly. **Please sign and return the Sub-Recipient Agreement and the Environmental Report to the Office of Emergency Management.**

Ensure all environmental/historical preservation requirements are complied with in the execution of this project per the enclosed FEMA Environmental Report. Any deviation from the original scope of work will require a written request for a change of scope. This request will identify the proposed change of scope and address any adjustments of the total project cost and/or work schedule. Work cannot progress with regard to the request for change of scope until authorization has been received from the state to proceed.

A quarterly report must be submitted by the **15th of July** and then quarterly thereafter until the project has been completed. Quarterly reports are due the 15<sup>th</sup> of January, April, July, and October. **Please review paragraph 30 for further details.** Should you have any questions, please contact me at (605) 773-3231.

Respectfully,

Jim Poppen  
Mitigation Manager/State Hazard Mitigation Officer

CC:

File  
Kevin Schuelke, Grant County EM  
Randy Maddox, Regional Coordinator

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF EMERGENCY MANAGEMENT**

**Sub-Recipient Agreement  
Between**

City of Milbank  
1001 E 4th Ave, Ste 301  
Milbank, SD 57252-2657

State of South Dakota  
Department of Public Safety  
Office of Emergency Management  
118 W. Capitol Ave.  
Pierre SD 57501

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Referred to as Sub-Recipient

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Referred to as State

The State and Sub-Recipient hereby enter into this agreement (the “Agreement” hereinafter) for a grant award of Federal financial assistance to Sub-Recipient.

**A. REQUIRED AUDIT PROVISIONS FOR GRANT AWARDS**

**1. FEDERAL AWARD IDENTIFICATION:**

Information for the Federal Award Identification, as described in 2 CFR 200.331(a) is included in Exhibit A and, is incorporated herein. In the event of a change in the award or funding source, the information inserted below or included in Exhibit A may change. Sub-Recipient’s consent shall not be required for the change in award or funding source and the change shall not be subject to the requirements for an amendment to this Agreement. In the event of a change, the State will provide updated information at least annually.

**2. PERIOD OF PERFORMANCE OF THIS AGREEMENT:**

This agreement shall be effective as indicated in Exhibit A.

**3. SCOPE OF WORK AND PERFORMANCE PROVISIONS:**

A. The Sub-Recipient will undertake and complete the work or performance as follows: to construct a 1,445 square foot safe room with a capacity of 164 individuals.

**4. BASIS FOR SUBAWARD AMOUNTS:**

This grant is made for the purpose of DR-4527-HMGP and the amounts are indicated in Exhibit A.

**5. RISK ASSESSMENTS, MONITORING AND REMEDIES:**

Risk assessments will be ongoing throughout the project period. Sub-Recipient agrees to allow the State to monitor Sub-Recipient to ensure compliance with program requirements, to identify any deficiencies in the administration and performance of the award and to facilitate the same. At the discretion of the State, monitoring may include but is not limited to the following: On-site visits, follow-up, document and/or desk reviews, third-party evaluations, virtual monitoring, technical assistance and informal monitoring such as email and telephone interviews. As appropriate, the cooperative audit resolution process may be applied.

Sub-Recipient agrees to comply with ongoing risk assessments, to facilitate the monitoring process, and further, Sub-Recipient understands and agrees that the requirements and conditions under the grant award may change as a result of the risk assessment/monitoring process.

In the event of noncompliance or failure to perform under the grant award, the State has the authority to apply remedies, including but not limited to: temporary withholding payments, disallowances, suspension or

termination of the federal award, suspension of other federal awards received by Sub-Recipient, debarment, or other remedies including civil and/or criminal penalties as appropriate.

#### 6. RETENTION AND INSPECTION OF RECORDS:

The Sub-Recipient agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, and statistical, fiscal, and other information records necessary for reporting and accountability required by the State. The Sub-Recipient shall retain such records for a period of three years after the date of the submission of the final expenditure report. Records for real property and equipment must be retained for 3 years after final disposition.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. The three-year retention period may be extended upon written notice by the State. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition. When records are transferred to or maintained by the Federal awarding agency or the State, the three-year retention requirement is not applicable to the Sub-Recipient. In the event Sub-Recipient must report program income after the period of performance, the retention period for the records pertaining to the earning of the program income starts from the end of Sub-Recipient's fiscal year in which the program income is earned. In the event the documents and their supporting records consist of indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, the following applies: (1) If submitted for negotiation - If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the State) to form the basis for negotiation of the rate, then the three -year retention period for its supporting records starts from the date of such submission. (2) If not submitted for negotiation - If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the State) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the Sub-Recipient's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

The State, through any authorized representative, shall have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement and shall have access to personnel of the Sub-Recipient for purposes of interview and discussion related to the records, books, papers and documents. State Proprietary Information, which shall include all information disclosed to the Sub-Recipient by the State, shall be retained in Sub-Recipient's secondary and backup systems and shall remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Sub-Recipient's established record retention policies.

All payments to the Sub-Recipient by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment under this Agreement shall be returned to the State within thirty days after written notification to the Sub-Recipient.

#### 7. AUDIT REQUIREMENTS:

If Sub-Recipient expends \$750,000 or more in federal awards during the Sub-Recipient's fiscal year, the Sub-Recipient must have an audit conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General's approval should be obtained annually. Approval of an auditor must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit  
A-133 Coordinator  
427 South Chapelle  
% 500 East Capitol  
Pierre, SD 57501-5070

If the Sub-Recipient expends less than \$750,000 during any Sub-Recipient fiscal year, the State may perform a more limited program or performance audit related to the completion of the Agreement objects, the eligibility of services or costs, and adherence to Agreement provisions.

Audits shall be completed and filed with the Department of Legislative Audit by the end of the 9<sup>th</sup> month following end of the fiscal year being audited.

For either an entity-wide, independent financial audit or an audit under 2 CFR Part 200 Subpart F, the Sub-Recipient shall resolve all interim audit findings to the satisfaction of the auditor. The Sub-Recipient shall facilitate and aid any such reviews, examinations, agreed upon procedures etc., the State or its contractor(s) may perform.

Failure to complete audit(s) as required, including resolving interim audit findings, will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completely resolved.

The Sub-Recipient shall be responsible for payment of any and all audit exceptions which are identified by the State. The State may conduct an agreed upon procedures engagement as an audit strategy. The Sub-Recipient may be responsible for payment of any and all questioned costs, as defined in 2 C.F.R. 200.84, at the discretion of the State.

Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of the Sub-Recipient must be made available if needed and upon request at the Sub-Recipient's regular place of business for audit by personnel authorized by the State. The State and/or federal agency has the right to return to audit the program during performance under the grant or after close-out, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.

If applicable, Sub-Recipient agrees to comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2CFR Part 200 (Uniform Administrative Requirements).

#### 8. SUB-RECIPIENT ATTESTATION:

By signing this Agreement, Sub-Recipient attests to the following requirements as set forth in SDCL § 1-56-10:

- (A) A conflict of interest policy is enforced within the recipient's or sub-recipient's organization;
- (B) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or sub-recipient's website;
- (C) An effective internal control system is employed by the recipient's or sub-recipient's organization; and
- (D) If applicable, the recipient or sub-recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or sub-recipient's website.

Sub-Recipient further represents that any and all concerns or issues it had in complying with the foregoing attestations were provided to the State and resolved to their satisfaction prior to signing this Agreement.

If Sub-recipient is a non-state agency they agree to disclose to the State, in writing, any conflict of interest that exist under the Sub-recipient's conflict of interest policy. The State will publicly post any disclosed conflicts of interest along with the corresponding grant agreement on the OpenSD website.

In the event of a significant change in the conflict of interest policy, sub-recipient agrees to provide immediate notice of such change to the State, and provide a copy of the new conflict of interest policy. Sub-recipient understands that any change in the conflict of interest policy may result in a change in their monitoring or other performance requirements under the grant and expressly agrees to comply with those changes and to facilitate any additional monitoring as required by the State.

#### 9. CLOSEOUT:

Sub-grant closeout will be completed upon verification of final reimbursement between the State and sub-recipient. The State will prepare the closeout documents consisting of: 1-Request to close the grant, 2-Final

Mitigation Project Work Schedule and Performance Report, 3-Written justification all environmental Conditions were met. The State will provide the completed documents to the sub-recipient for review for accuracy or corrections and upon verification of accuracy documents, sub-recipient will sign and return to the State. This will complete the sub-recipient closeout requirements.

## B. STANDARD CLAUSES

### 10. ASSURANCE REQUIREMENTS:

The Sub-Recipient agrees to abide by all applicable provisions of the following: Byrd Anti Lobbying Amendment (31 USC 1352), Debarment and Suspension (Executive Orders 12549 and 12689 and 2 C.F.R. 180), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity as amended by Executive Order 11375 and implementing regulations at 41 C.F.R. part 60, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009, as applicable; and any other nondiscrimination provision in the specific statute(s) under which application for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply to the award; and any additional provision found in Exhibit C.

### 11. SUB-RECIPIENT IDENTIFICATION:

Upon execution of this Agreement, Sub-Recipient will provide the State with Sub-Recipient's Employer Identification Number, Federal Tax Identification Number or Social Security Number.

### 12. USE OF EQUIPMENT, SUPPLIES AND FACILITIES:

Sub-Recipient will not use State equipment, supplies or facilities.

### 13. THIRD PARTY BENEFICIARIES:

This Agreement is intended to govern only the rights and interests of the parties named herein. It is not intended to create, does not and may not be relied upon to create, any rights, substantive or procedural, enforceable at law by any third party in any matters, civil or criminal.

### 14. COST PRINCIPLES:

Sub-Recipient agrees to comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2CFR Part 200 (Uniform Administrative Requirements).

### 15. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Sub-Recipient breaches any of the terms or conditions hereof, this agreement may be terminated by the State for cause at any time, with or without notice. Sub-Recipient may only terminate this Agreement if no grant funds under this Agreement have been expended. If this Agreement is terminated for any reason and the project is only partially complete, the Sub-Recipient may be required to repay all grant funds paid under this Agreement to the State.

### 16. FUNDING:

This Sub-Recipient Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

17. ASSIGNMENT AND AMENDMENT:

This Agreement may not be assigned, nor the funds given to a new or additional subrecipient, without the express written consent of the State. This agreement may not be amended except in writing, which writing shall be expressly identified as part hereof, and be signed by an authorized representative of each of the parties hereto. Any assignees, subrecipients, or successors in interest must agree to be bound by all terms contained within this agreement and shall be bound hereby to all these terms.

18. CONTROLLING LAW:

This Sub-Recipient Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, exclusive of its choice of law principals. Federal law, administrative rules, and grant guidelines control the use and administration of federal grants. Venue for any lawsuit pertaining to or affecting this Agreement shall be in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

19. SUPERCESSION:

All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

20. SEVERABILITY:

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, which shall remain in full force and effect.

21. NOTICE:

Any notice or other communication required under this Agreement shall be in writing.

22. SUBCONTRACTORS/SUB-SUB-RECIPIENTS:

The Sub-Recipient may use contractors to perform work under this Agreement as set forth in Section C. The Sub-Recipient may not sub-grant funds under this Agreement without the previous written approval of the State.

The Sub-Recipient will include provisions in its contracts for this project (or sub-grants if approved) requiring its contractors and sub-recipients to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Sub-Recipient will cause its contractors, sub-recipients, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any contractors and/or sub-recipients. The Sub-Recipient is required to assist in this process as needed.

18. CONFLICT OF INTEREST:

Sub-Recipient agrees to establish safeguards to prohibit any employee or other person from using their position for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain as contemplated by SDCL 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing and approved, in writing, by the State. In the event of a conflict of interest, the Sub-Recipient expressly agrees to be bound by the conflict of interest resolution process set forth in SDCL § 5-18A-17 through 5-18A-17.6.

19. TERMS:

By accepting this Agreement, the Sub-Recipient assumes certain administrative and financial responsibilities. Failure to adhere to these responsibilities without prior written approval by the State shall be a violation of the terms of this Agreement, and the Agreement shall be subject to termination. Termination of this Agreement for any reason by either party does not relieve the Sub-Recipient of its responsibilities under this Agreement as to funds already paid.

The indemnification provision of this Agreement survives termination. If the Sub-Recipient fails to complete the project within the timelines of this Agreement, the Sub-Recipient may submit a written request for an extension. If no request for an extension is received, and the term of this Agreement expires, the funds awarded under this Agreement will automatically de-obligate and be available to other sub-recipients. The term of this Agreement does not include processing time allowed for final bills, but all work must be completed within the term unless an extension is requested and approved in writing.

20. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Sub-Recipient certifies, by signing this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or any state or local government department or agency. Sub-Recipient further agrees that it will immediately notify the State if during the term of this Agreement it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

C. AGENCY OR GRANT SPECIFIC CLAUSES

21. COMPLIANCE WITH EXECUTIVE ORDER 2020-01

By entering into this Agreement, Sub-Recipient certifies and agrees that it has not refused to transact business activities, it has not terminated business activities, and it has not taken other similar actions intended to limit its commercial relations, related to the subject matter of this Agreement, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Sub-Recipient further agrees to provide immediate written notice to the State if during the term of this Agreement it no longer complies with this certification, and agrees such noncompliance may be grounds for termination of this Agreement.

22. COMPLIANCE WITH EXECUTIVE ORDER 2023-02:

Sub-Recipient certifies and agrees that the following information is correct:

In preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, Sub-Recipient is not an entity, regardless of its principal place of business, that is ultimately owned or controlled, directly or indirectly, by a foreign national, a foreign parent entity, or foreign government from China, Iran, North Korea, Russia, Cuba, or Venezuela, as defined by South Dakota Executive Order 2023-02.

Sub-Recipient further agrees that, if this certification is false, such false certification will constitute grounds for the State to terminate this Agreement. Sub-Recipient further agrees to provide immediate written notice to the State if during the term of this Agreement it no longer complies with this certification and agrees such noncompliance may be grounds for termination of this Agreement.

23. CHANGES IN SCOPE OF WORK:

All conditions stated in the project's environmental document must be followed. This project cannot be changed or altered in any way without written authorization from the state and FEMA. A change in scope is any change from the description of the project as approved. Examples include increasing the number of structures, adding new structures in an acquisition, and changes to engineering design. Proposed changes must be formally submitted to the state for review. The applicant must obtain approval from the State and FEMA before proceeding with any changes to the project or federal funding will be jeopardized. Changes may require additional environmental review.

24. REIMBURSEMENTS:

The federal share will not exceed \$1,096,200.00. Should the total eligible project cost be less than \$1,218,000.00, the respective federal and sub-applicant share will be reduced accordingly. All reimbursements will be made to maintain the original grant cost share.

25. REPORTING REQUIREMENTS:

The Sub-Recipient shall submit quarterly reports that include a comparison of actual accomplishments to the approved activity objectives, percentage completed to date, and summary of the financial activity for the reporting quarter and include planned activity for the next quarter. The reports shall be submitted within 15 days of the end of the quarter. The quarters will end on December 30, March 30, June 30, and September 30. Failure to submit quarterly reports may result in termination of this grant agreement.

26. FEDERAL REGULATIONS:

The Sub-Recipient shall comply with Unified Hazard Mitigation Assistance Grant Program Guidance, 2 CFR Part 225, The Robert T. Stafford Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121-5206 (Stafford Act), Title 44 of the Code of Federal Regulations (CFR), and 31 CFR 205.6.

27. DOMESTIC PREFERENCES FOR PROCUREMENT:

In accordance with 2 CFR 200.322, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or material produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

28. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

2 CFR 200.216 prohibits state and non-state entities from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system as identified in Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200.

29. RECORD OF ENVIRONMENT CONSIDERATION:

Sub-Recipient will read and comply with the Record of Environmental Consideration (REC), which is attached as Exhibit B.



D. AUTHORIZED SIGNATURES

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

\_\_\_\_\_  
Sub-Recipient Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
State - SD Office of Emergency Management Hazard Mitigation Grant Program  
Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
State – Director of SD Office of Emergency Management

\_\_\_\_\_  
Date

## Exhibit A

### FEDERAL AWARD IDENTIFICATION

- a. Sub-recipient's name (which must match the name associated with its Unique Entity Identifier (SAM)) number:  
City of Milbank
- b. Sub-Recipient's unique entity identifier Unique Entity Identifier (SAM) number: CECNWZ3NEPG5
- c. Federal Award Identification Number (FAIN): DR-4527-HMGP-13R
- d. Federal Award Date: 03/14/2024
- e. Sub-award Period of Performance: 5/02/2023-01/02/2027
- f. Amount provided by State/Grantor: \$1,218,000.00 (Project \$1,218,000.00 & SRMC \$-)
- g. Amount matched by Sub-Recipient: \$0.00
- h. Total Grant Amount: \$1,218,000.00 (Project \$1,218,000.00 & SRMC \$-)
- i. Amount of federal funds obligated to the Sub-Recipient by this agreement: \$1,218,000.00 (Fed \$1,096,200.00 & SRMC \$-)
- j. Total amount of federal funds obligated to the Sub-Recipient: \$1,218,000.00 (Fed \$1,096,200.00 & SRMC \$-)
- k. Total amount of the federal award committed to the Sub-Recipient: \$1,218,000.00 (Fed \$1,096,200.00 & SRMC \$-)
- l. The federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA), is as follows: to construct a 1,445 square foot safe room with a capacity of 164 individuals.
- m. Name of Federal awarding agency: Federal Emergency Management Agency (FEMA)  
Pass-through entity: South Dakota Office of Emergency Management  
Contact information for awarding official of the Pass-through entity: 118 W. Capitol Ave., Pierre, SD 57501-2479  
ATTN: SHMO 605-773-3231
- n. CFDA No(s) and Name(s): 97-039 - Hazard Mitigation Grant Program
- o. Is the grant award for research and development (R&D)? YES \_\_\_ NO XX
- p. Indirect Cost Rate for federal award: N/A

**EXHIBIT B  
FEDERAL EMERGENCY MANAGEMENT AGENCY**

23:15:09

**RECORD OF ENVIRONMENTAL CONSIDERATION (REC)**

**Project** HMGP-4527-0013-SD (R) (1)

**Title:** City of Milbank Lake Farley Safe Room, Grant County, SD

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**NEPA DETERMINATION**

|                               |                                  |                                  |
|-------------------------------|----------------------------------|----------------------------------|
| <b>Non Compliant Flag:</b> No | <b>EA Draft Date:</b> 06/01/2011 | <b>EA Final Date:</b> 06/01/2011 |
| <b>EA Public Notice Date:</b> | <b>EA Fonsi</b>                  | <b>Level:</b> EA                 |
| <b>EIS Notice of Intent</b>   | <b>EIS ROD Date:</b>             |                                  |

**Comment** The proposed project will construct a new 2,016 square foot tornado safe room/multi-use facility with associated utility connections in the town of Milbank at Lake Farley Park. The project location has been previously disturbed. Project fits alternatives evaluated in the final Programmatic Environmental Assessment for Hazard Mitigation Safe Room Construction, FONSI signed June 2011. - mhansen6 - 08/30/2023 18:03:51 GMT

**EXTRAORDINARY**

| Extraordinary Circumstance Code | Description                                  | Selected ? |
|---------------------------------|--|------------|
|                                 | No Extraordinary Circumstances were selected |            |

**ENVIRONMENTAL LAW / EXECUTIVE ORDER**

| Environmental Law/<br>Executive Order   | Status    | Description  | Comment  |
|---|-----------|--|--|
| Clean Air Act (CAA)   | Completed | Project will not result in permanent air emissions - Review concluded                                    |  |
| Coastal Barrier Resources Act (CBRA)  | Completed | Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded               |  |
| Clean Water Act (CWA)   | Completed | Project would not affect any water of the U.S. - Review concluded  | Project would have no impact on wetlands or Waters of the US and no permit is required. - mhansen6 - 08/30/2023 17:55:11 GMT   |
| Coastal Zone Management Act (CZMA)  | Completed | Project is not located in a coastal zone area and does not affect a coastal zone area - Review concluded |  |
| Executive Order 11988 - Floodplains   | Completed | No effect on floodplain/flood levels and project outside floodplain - Review concluded                   | Project site is located in Zone X, per FIRM panel number 46051C0285C - mhansen6 - 08/30/2023 18:00:40 GMT  |
| Executive Order 11990 - Wetlands  | Completed | No effects on wetlands and project outside wetlands - Review concluded                                   | Construction activities will not result in permanent adverse impacts to wetlands. - mhansen6 - 08/30/2023 18:00:58 GMT   |
| Executive Order 12898 - Environmental Justice for Low Income and Minority Populations | Completed | Low income or minority population in or near project area  | FEMA has determined that these types of activities have limited or no potential to affect minority or low-income populations and FEMA has no further EO 12898 responsibilities with regards to them - mhansen6 - 08/30/2023 18:01:27 GMT |
|   | Completed | No disproportionately high and adverse impact on low income or minority population - Review concluded    |  |

## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

**Project** HMGP-4527-0013-SD (R) (1)

**Title:** City of Milbank Lake Farley Safe Room, Grant County, SD

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| <b>Environmental Law/<br/>Executive Order</b>                  | <b>Status</b> | <b>Description</b>  | <b>Comment</b>  |
|--|---------------|---|---|
| Endangered Species Act (ESA)                                   | Completed     | Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action            | Based on the project location and individual scope of work, and coordination with USFWS dated 4/27/2022, FEMA has determined that the proposed projects will have no effect on listed threatened, endangered, and candidate species.<br>- mhansen6 - 08/30/2023 17:54:39 GMT  |
|  | Completed     | No effect to species or designated critical habitat (See comments for justification) - Review concluded                             |   |
| Farmland Protection Policy Act (FPPA)                          | Completed     | Project does not affect designated prime or unique farmland - Review concluded  |   |
| Fish and Wildlife Coordination Act (FWCA)                      | Completed     | Project does not affect, control, or modify a waterway/body of water - Review concluded   |   |
| Migratory Bird Treaty Act (MBTA)                               | Completed     | Project located within a flyway zone  |   |
|  | Completed     | Project does not have potential to take migratory birds - Review concluded  |   |
| Magnuson-Stevens Fishery Conservation and Management Act (MSA) | Completed     | Project not located in or near Essential Fish Habitat - Review concluded  |   |
| National Historic Preservation Act (NHPA)                      | Completed     | Applicable executed Programmatic Agreement. Activity meets Programmatic Allowance (enter date and # in comments) - Review concluded | SHPO issued a preliminary recommendation of no historic properties affected on 4/22/22 (SHPO ref # 220411012F) based on information submitted by Applicant. FEMA EHP (based on an independent review of supporting application data), determines that no historic properties will be affected as a result of the proposed Undertaking, concurring with the preliminary SHPO review and assessment. The proposed work will be confined to the previously disturbed soils and therefore meets the criteria of the July 29, 2021 signed Programmatic Agreement agreed to by FEMA and the SD SHPO, Appendix B: Programmatic Allowances. Project fits into allowances Tier II.D.1.b (Installation of new utilities and associated features in previously disturbed soils) and II.D.2.a. (installation of generators in previously disturbed soils), as well as II.B.10.a (installation of individual safe rooms in previously disturbed soils). See project conditions. - mhansen6 - 08/30/2023 17:50:16 GMT |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4527-0013-SD (R) (1)

Title: City of Milbank Lake Farley Safe Room, Grant County, SD

| Environmental Law/ Executive Order             | Status    | Description   | Comment  |
|--|-----------|---|--|
| State Hazardous Materials and Solid Waste Laws | Completed | Review concluded  | See Project Conditions. - mhansen6 - 08/30/2023 17:59:04 GMT |
| State Water and Soil Laws                      | Completed | Review concluded  | See Project Conditions. - mhansen6 - 08/30/2023 18:00:00 GMT |
| Wild and Scenic Rivers Act (WSR)               | Completed | Project is not along and does not affect Wild and Scenic River - Review concluded |  |

CONDITIONS

Special Conditions required on implementation of Projects:

1. If cultural materials are inadvertently discovered during construction, the applicant must cease activity and contact FEMA and the SD SHPO immediately.
2. Fill materials (soil, boulders, and/or riprap, etc.) must be obtained on-site from within the project APE or from previously approved sources (SD State Licensed Pits, existing commercial sources, existing contractor or County Stockpiles); otherwise additional coordination with FEMA and the South Dakota SHPO will be required to obtain necessary approvals

Source of condition: National Historic Preservation Act (NHPA)

Monitoring Required: No

If contamination is encountered or created during construction activities, The Town of Millbank, or its designated representative, must abide by all applicable hazardous waste regulations. Questions can be directed to SD DANR at 605.773.3153.

Source of condition: State Hazardous Materials and Solid Waste Laws

Monitoring Required: No

- 1 Any construction activity that disturbs one or more acre(s) of soil will require a storm water permit. For more information or to obtain a storm water permit, please contact SD DANR at 1-800-SD-Storm.
2. Best Management Practices (BMPs) for sediment and erosion control must be incorporated into the planning, design, and construction of the project.
3. A Surface Water Discharge Permit may be required if any construction dewatering should occur as a result of this project.
4. The sub-applicant is responsible for following the Surface Water Quality Program guidelines outlined by the SD Department of Agricultural and Natural Resources response letter dated 5/6/2022

Source of condition: State Water and Soil Laws

Monitoring Required: No

The project sponsor must obtain and comply with all applicable permit and approvals required by federal, state, tribal and local regulatory agencies.

Standard best management practices for equipment maintenance, noise and dust abatement, worker protection, traffic control, fire safety, transportation of hazardous and contaminated materials, etc. must be implemented during project activities in accordance with the requirements of local, state, and federal regulations and guidelines.

Source of condition: NEPA Determination

Monitoring Required: No

Standard Conditions:

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

**Project** HMGP-4527-0013-SD (R) (1)

**Title:** City of Milbank Lake Farley Safe Room, Grant County, SD

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Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

I have read and understand the environmental conditions of this project. If any questions arise from this project, we will contact the Office of Emergency Management.

\_\_\_\_\_  
Applicant Agent

\_\_\_\_\_  
Date