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State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

August 8, 2014

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action

Pursuant to RSA 21-P:43, the Department of Safety, Division of Homeland Security and Emergency Management, requests authorization to enter into a grant agreement with the Lakes Region Planning Commission (VC#154653-B001), for a total amount of \$6,000.00 to provide technical assistance to the Town of Bristol for updating their local hazard mitigation plan. Effective upon Governor and Council approval through January 9, 2016. Funding source: 100% Federal Funds.

Funding is available in the SFY 2015 operating budget as follows:

02-23-23-236010-43930000	Dept. of Safety – HSEM – Pre-Disaster Mitigation	
072-500574	Grants-Federal – Grants to Local Gov't.-Federal	\$6,000.00
Activity Code: 23PDM13 4393		

Explanation

The grant listed above is funded from the FFY 2013 Pre-Disaster Mitigation Competitive (PDMC) Grant Program, which was awarded to the Department of Safety, Division of Homeland Security and Emergency Management (HSEM) from the Federal Emergency Management Agency (FEMA). The PDMC Grant Program provides funding to sub-grantees for cost-effective hazard mitigation activities that complement a comprehensive mitigation program. FEMA provides PDMC funds to states that, in turn, provide sub-grants or contracts for a variety of mitigation activities, such as planning and the implementation of projects identified through the evaluation of natural hazards. Notification of this program is made to every community by email and by letter sent to the chief elected official of each community.

The PDMC Grant Program is 75% federally funded by the Federal Emergency Management Agency with a 25% match requirement supplied by the sub-grantee. The sub-grantee acknowledges its match obligation as part of Exhibit A to the grant agreement.

In the event that Federal Funds are no longer available, General Funds and/or Highway Funds will not be requested to support this program.

Respectfully submitted,

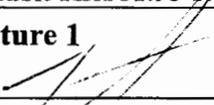
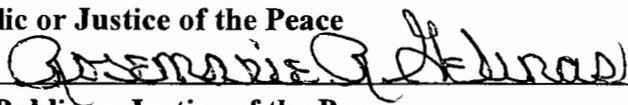
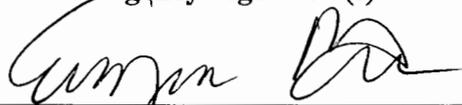
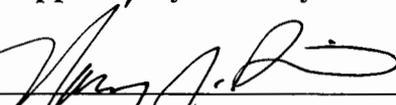
John J. Barthelmes
John J. Barthelmes
Commissioner of Safety

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby mutually agree as follows:

GENERAL PROVISIONS

1. Identification and Definitions.

1.1. State Agency Name NH Department of Safety, Homeland Security and Emergency Management		1.2. State Agency Address 33 Hazen Drive Concord, NH 03305	
1.3. Grantee Name Lakes Region Planning Commission		1.4. Grantee Address 103 Main Street Suite #3; Meredith, NH 03253	
1.5. Effective Date G&C Approval	1.6. Completion Date January 9, 2016	1.7. Audit Date N/A	1.8. Grant Limitation \$6,000.00
1.9. Grant Officer for State Agency Elizabeth Peck		1.10. State Agency Telephone Number (603) 223-3655	
"By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Grantee Signature 1 		1.12. Name & Title of Grantee Signor 1 Jeffrey Hayes, Executive Director	
1.13. Acknowledgment: State of New Hampshire, County of Belknap, on 6/18/14, before the undersigned officer, personally appeared the person identified in block 1.12., known to me (or satisfactorily proven) to be the person whose name is signed in block 1.11., and acknowledged that he/she executed this document in the capacity indicated in block 1.12.			
1.13.1. Signature of Notary Public or Justice of the Peace (Seal) 			
1.13.2. Name & Title of Notary Public or Justice of the Peace Rosemarie R. Gelinias, Notary Public			
1.14. State Agency Signature(s) 		1.15. Name & Title of State Agency Signor(s) Elizabeth Bielecki, Director of Administration	
1.16. Approval by Attorney General (Form, Substance and Execution) By:  Assistant Attorney General, On: 8/12/2014			
1.17. Approval by Governor and Council By: _____ On: / /			

2. SCOPE OF WORK: In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-P:36, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being hereinafter referred to as "the Project").

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.
4. EFFECTIVE DATE: COMPLETION OF PROJECT.
 - 4.1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the effective date").
 - 4.2. Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").
5. GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.
 - 5.1. The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.
 - 5.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT B.
 - 5.3. In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.
 - 5.4. The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.
 - 5.5. Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.
6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.
7. RECORDS and ACCOUNTS.
 - 7.1. Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.
 - 7.2. Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.
8. PERSONNEL.
 - 8.1. The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.
 - 8.2. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
 - 8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
9. DATA: RETENTION OF DATA: ACCESS.
 - 9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations,
- 9.2. computer programs, computer printouts, notes, letters, memoranda, paper, and documents, all whether finished or unfinished.
- 9.3. Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.
- 9.4. No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 9.5. On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.
- 9.6. The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.
10. CONDITIONAL NATURE OR AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.
11. EVENT OF DEFAULT: REMEDIES.
 - 11.1. Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):
 - 11.1.1 Failure to perform the Project satisfactorily or on schedule; or
 - 11.1.2 Failure to submit any report required hereunder; or
 - 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
 - 11.1.4 Failure to perform any of the other covenants and conditions of this Agreement.
 - 11.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
 - 11.2.1 Give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and
 - 11.2.2 Give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and
 - 11.2.3 Set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and
 - 11.2.4 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
12. TERMINATION.
 - 12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.
 - 12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.
 - 12.3. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.
 - 12.4. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.
13. CONFLICT OF INTEREST. No officer, member of employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or

- approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.
14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
 15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.
 16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.
 17. INSURANCE AND BOND.
 - 17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
 - 17.1.1 Statutory workmen's compensation and employees liability insurance for all employees engaged in the performance of the Project, and
 - 17.1.2 Comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
 - 17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State.
 18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.
 19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.
 20. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.
 21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intend of the parties hereto.
 22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
 23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.
 24. SPECIAL PROVISIONS. The additional provisions set forth in Exhibit C hereto are incorporated as part of this agreement.

EXHIBIT A

SCOPE OF WORK

1. The Department of Safety, Division of Homeland Security and Emergency Management (HSEM) is awarding the Lakes Region Planning Commission (LRPC) \$6,000.00 to provide planning assistance to the Town of Bristol to update their Local Hazard Mitigation Plan.
2. Products will include quarterly project progress reports, a draft, and final local updated hazard mitigation plan. The draft plan will be submitted to HSEM electronically for review and comment. HSEM will then submit the plan to the Federal Emergency Management Agency (FEMA), Region 1, for review and approval.

Comments resulting from the HSEM and FEMA Region 1 review shall be addressed by the LRPC and resubmitted to HSEM for FEMA conditional approval prior to local adoption of the final plan. The LRPC agrees to provide each formal approved plan to HSEM in the following format: 1 electronic copy, via compact disk, upon receipt of FEMA formal approval letter.

3. The LRPC agrees that the project grant period ends January 9, 2016.
4. The LRPC agrees to comply with all applicable federal and state laws, rules, regulations, and requirements.
5. The LRPC shall maintain financial records, supporting documents, and all other pertinent records for a period of seven (7) years from the grant period end date. In these records, the LRPC shall maintain documentation of the 25% cost share required by this grant and agreed upon by LRPC.



6/18/14

EXHIBIT B

GRANT AMOUNT AND METHOD OF PAYMENT

I. GRANT AMOUNT

CFDA # 97.047 Pre-Disaster Mitigation Grant FFY 2013

	Applicant Share	Grant (Federal Funds)	Cost Totals
Project Cost	\$2,000.00	\$6,000.00	\$8,000.00
The Project Cost is 75% Federal Funds, 25% Applicant Share			

II. FEE SCHEDULE

- a. The LRPC agrees the total payment by HSEM under this grant agreement shall be \$6,000.00.
- b. HSEM may advance funds to the LRPC in accordance with the procedures outlined in the Grant Administration Plan and pursuant to 44 CFR § 13.21 section (C). A request for an advance of funds must be submitted in writing to the State Hazard Mitigation Officer. The request must be made using the request for funds form. Request for funds should be made at least 4 – 6 weeks prior to the identified need, and should be expended within thirty (30) days of receipt.
- c. HSEM shall reimburse \$6,000.00 to the LRPC upon HSEM receiving appropriate documentation of expended funds from LRPC.

Grantee Initials

Date


Handwritten signature and date.

EXHIBIT C

SPECIAL PROVISIONS

I. Termination Clause

This grant agreement may be terminated upon thirty (30) days written notice by either party.

Any funds advanced to the grantee must be returned to the Department of Safety, Division of Homeland Security and Emergency Management if the grant agreement is terminated for any reason other than completion of the project.

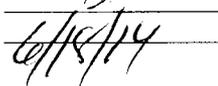
II. Waiver of Required Liability Insurance Limitation

Both parties agree to amending section 17.1.2 of the Grant Agreement amount of insurance to agree with the vendor's coverage currently in force of comprehensive general liability in the amount of 1,000,000.00 each occurrence. This is deemed to be sufficient given the nature of the contract.

III. Acceptance of Audit Requirements

LRPC agrees to have an audit conducted in compliance with OMB Circular A-133, if applicable. If a compliance audit is not required, at the end of each audit period LRPC will certify in writing that they have not expended the amount of federal funds that would require a compliance audit (\$500,000). If required, they will forward for review and clearance a copy of the completed audit(s) to the Department of Safety, Division of Homeland Security and Emergency Management.

Additionally, LRPC has or will notify their auditor of the above requirements prior to performance of the audit. LRPC will also ensure that, if required, the entire grant period will be covered by a compliance audit, which in some cases will mean more than one audit must be submitted. LRPC will advise the auditor to cite specifically that the audit was done in accordance with OMB Circular A-133. They will also ensure that all records concerning this grant will be kept on file for a minimum of 7 years from the end of this audit period.

Certificate of Authority

I, Patricia Farley, do hereby certify that 1) I am the duly elected Secretary of Lakes Region Planning Commission, a regional planning agency established pursuant to the laws of the State of New Hampshire (RSA 36:45-53); 2) I sign and maintain or cause to be maintained and am familiar with the minutes of the commission; 3) I am duly authorized to issue certificates with respect to the contents of such minutes; 4) at the regular board meeting held on May 14, 2014 the commission voted to allow Jeffrey Hayes, Executive Director, to accept monies and execute any documents which may be necessary to effectuate contracts; 5) this authorization remains in full force and effect until revoked, and 6) the following person has been appointed to and now occupies the office indicated in (4) above:

Jeffrey Hayes, Executive Director

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Lakes Region Planning Commission, this 18 day of June, 2014.

Patricia Farley
Patricia Farley, Secretary

State of New Hampshire
County of Belknap

On this the 18 day of June, 2014, before me Rosemarie R. Gelinias the undersigned officer, personally appeared Patricia Farley who acknowledged him/herself to be the Secretary of the Lakes Region Planning Commission being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal.

Rosemarie R. Gelinias
Rosemarie R. Gelinias, Notary Public

Commission Expiration Date:





FEMA

June 12, 2014

Mr. Perry E. Plummer
Director
New Hampshire Department of Safety
Homeland Security and Emergency Management
33 Hazen Drive,
Concord, NH 03305

Subject: FY 2013 Pre-Disaster Mitigation – Competitive Grant Award
Agreement #EMB-2014-PC-0003

Dear Director Plummer:

We are pleased to inform you that your Application for Federal Assistance under the Pre-Disaster Mitigation Competitive Grant Program for fiscal year 2013 has been amended. Your corrected award amount is \$335,458.00 (\$251,593.50 Federal Share and \$83,864.50 grantee share). Your agreement number is EMB-2013-PC-0003.

The funds awarded by this FEMA Form (FF) 76-10A are available for obligation by the recipient only during the period from July 19, 2013 through January 9, 2016. The recipient is not authorized to incur new obligations after the expiration date shown unless a new expiration date is established by FEMA in a letter signed by the Regional Administrator or through issuance of a new FF 76-10A.

Please note that by accepting this award you assume certain administrative and financial responsibilities including the timely submission of financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash on hand. All quarterly programmatic reports are to be submitted through the eGrants system. All quarterly financial reports are to be submitted through the PARS System.

Perry E. Plummer
June 12, 2014
Page 2

If you have questions pertaining to this award, please feel free to contact me or Patrick Mooney, Grants Management Specialist, at 617-832-4798.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Ford", with a stylized flourish at the end.

Paul F. Ford
Acting Regional Administrator

PFF/pwm

cc: Elizabeth Peck, New Hampshire Homeland Security and Emergency Management
Donna Nelson, Hazard Mitigation Specialist, FEMA

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 21-P

DEPARTMENT OF SAFETY

Homeland Security and Emergency Management

Section 21-P:43

21-P:43 Appropriations and Authority to Accept Services, Gifts, Grants, and Loans. – Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency management. Whenever the federal government or any federal agency or officer offers to the state, or through the state to any of its political subdivisions, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, commissioner, or such political subdivision, acting with the consent of the governor and through its executive officer, city council, or board of selectmen, may accept such offer, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. Whenever any person, firm or corporation offers to the state or to any of its political subdivisions services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, or such political subdivision, acting through its executive officer, city council, or board of selectmen, may accept such offer, subject to its terms.

Source. 2002, 257:7, eff. July 1, 2002.