

**AMENDMENT #4
TO THE
STATE OF MAINE – IN LIEU FEE PROGRAM INSTRUMENT**

WHEREAS, the approved State of Maine – In Lieu Fee Program Instrument (Instrument) was signed by the Maine Department of Environmental Protection (MDEP) on September 21, 2011 and the New England District Corps of Engineers (“Corps”) on September 15, 2011. Amendment #1, which made changes to reflect actual procedures, adjusted the “Prioritization Strategy for Selecting and Implementing Projects,” and address long-term stewardship funding, was signed by MDEP on February 23, 2016 and the Corps on February 17, 2016. Amendment #2, which added wording from the federal Mitigation Rule related to requirements for preservation-only projects, was signed by MDEP on July 21, 2016 and the Corps on July 19, 2016. Amendment #3, which modified the membership of the Interagency Review Team, was signed by MDEP on January 26, 2017 and the Corps on January 19, 2017.

NOW THEREFORE, the following change shall be made to the Instrument:

Section 6.1 “Provision of Legal Responsibility” shall be modified to meet Corps headquarters requirements so that the third sentence reads as follows, with deleted text lined out and new text in bold:

6.1 Provision of Legal Responsibility

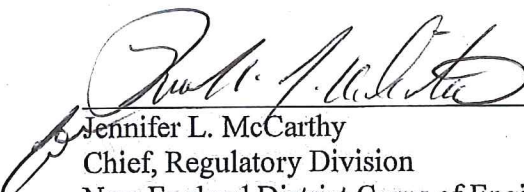
Corps approval of this Instrument constitutes the regulatory approval required for the State of Maine – In Lieu Fee Program to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 C.F.R. 332.8(a)(1). This Instrument is not a contract between the Sponsor and the Corps or any other agency of the federal government. Any dispute arising under this Instrument will not give rise to any claim ~~for monetary damages by the Corps or the State against the other~~ **for monetary damages**. This provision is controlling notwithstanding any other provision or statement in the Instrument to the contrary.

IN WITNESS WHEREOF, the undersigned have caused this amendment to be duly executed.



Gerald D. Reid, Commissioner
Maine Department of Environmental Protection

Date: 2/14/19



Jennifer L. McCarthy
Chief, Regulatory Division
New England District Corps of Engineers

Date: 2/14/19