

Redline of Changes Proposed by Contractors¹

Article	Language changes
1(o)	“Municipal and Industrial (M&I) Water” shall mean water made available from the Project Water , other than Irrigation Water, made available to the Contractor. . . .
1(p)	“M&I Full Cost Water Rate” shall mean the annual rate, which, as determined by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I facilities in service, including, O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation law with interest accruing from the dates such costs were first incurred plus the applicable rate for the O&M of such Project facilities . Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended. <u>Any O&M rate required under Federal Reclamation law shall be collected in addition to the M&I Full Cost Water Rate;</u>
3(d)	The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs (<u>direct, indirect or in lieu</u>), groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor’s Service Area which are consistent with applicable State law and result in use consistent with Reclamation law will be allowed; <u>Provided</u> , That any direct <u>direct</u> recharge program(s) is (are) described in the Contractor’s Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor’s Service Area so that using a long term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation Law. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor’s Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.
4(a)	On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer’s expected declaration of the Water Made Available. The declaration will be updated monthly, and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently

¹ Except as noted **by italics**, these changes were presented by American River Division Contractors and accepted by Reclamation negotiators. Italics indicate newly proposed clarifications.

	with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Recent Historic Average.
17(b)	Water or water rights now owned or hereafter acquired by the Contractor, other than from the United States or adverse to the Project or its contractors (i.e. non-Project Water), may be stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate environmental documentation, with the approval of the Contracting Officer and the execution of any contract determined by the Contracting Officer to be necessary, consistent with the following provisions
17(b)(3)	Neither the United States nor the Operating Non-Federal Entity shall be responsible for control, care or distribution of the non-project water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and their respective officers, agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any source <u>except for claims for damage to persons or property arising out of (i) acts or omissions of the Contracting Officer or its officers, employees, agents, or assigns with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns; or (iii) sole negligence of the Contracting Officer or any of its officers, employees, agents, or assigns.</u>
17(b)(4)	Diversion of such non-project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any groundwater management plan <u>applicable to the Contractor</u> for the area from which it was extracted.
17(b)(5)	After Project purposes are met, as determined by the Contracting Officer, the United States and the <u>all</u> Project Contractors shall <u>have</u> equal share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and transportation of non-project water prior to any such remaining capacity being made available to non-project contractors.
19(d)	Without limiting the contractual obligations of the Contracting Officer hereunder, n Nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, <u>or</u> physical integrity of structures or facilities. <u>Nothing in this Article shall be construed to limit</u> , or the Contracting Officer's ability to comply with applicable laws.
26(e)	If the Contractor is engaged in direct <u>direct</u> groundwater recharge, such activity shall be described in the Contractor's water conservation plan. <u>Such Water Conservation Plan shall demonstrate sufficient lawful uses exist in the Contractor's Service Area so that using a long term avx 1ye, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation law.</u>

