

## AGREEMENT TO MODIFY CONSENT DECREE

**WHEREAS**, on July 23, 2013, a Consent Decree between the San Antonio Water System (“SAWS”), the United States of America, and the State of Texas (collectively referred to as the “Parties” or individually as a “Party”) was lodged in Civil Action No. 5:13-cv-00666-DAE: United States of America and State of Texas v. San Antonio Water System, in the United States District Court for the Western District of Texas, San Antonio Division (the “Consent Decree”);

**WHEREAS**, on October 15, 2013, the United States District Court for the Western District of Texas signed and entered the Consent Decree;

**WHEREAS**, Paragraph 110 of the Consent Decree provides that the terms of the Consent Decree may be modified only by a subsequent written agreement signed by all the Parties;

**WHEREAS**, SAWS has determined that 2.2 miles of the project entitled “Donaldson Terrace” that is included in the “Remediation Project List for EAP Phase I” of Appendix F of the Consent Decree and that is included in the Phase I Early Action Program described in Paragraph 21 of the Consent Decree, requires neither capacity remediation nor condition remediation at this time as excess peak flows will now be diverted into another pipeline in good condition;

**WHEREAS**, SAWS has determined that 1.9 miles of sewer line needs to be added to the project entitled “Broadway Corridor – Josephine to South Alamo Street” that is included in the “Remediation Project List for EAP Phase I” of Appendix F of the Consent Decree and that is included in the Phase I Early Action Program described in Paragraph 21 of the Consent Decree;

**WHEREAS**, SAWS has determined that 5.6 miles of the project entitled “Broadway Corridor – Carnahan to Mulberry Street” that is included in the “Remediation Project List for EAP Phase I” of Appendix F of the Consent Decree and that is included in the Phase I Early Action Program described in Paragraph 21 of the Consent Decree, requires neither capacity remediation nor condition remediation at this time as excess peak flows will now be diverted into another pipeline in good condition;

**WHEREAS**, SAWS has determined that 3.9 miles of sewer line, designated “Leon Creek – Highway 90 to New Laredo Highway, Northern Portion”, needs to be removed from the project entitled “Leon Creek – Highway 90 to New Laredo Highway” that is included in the “Remediation Project List for EAP Phase I” of Appendix F of the Consent Decree and that is included in the Phase I Early Action Program described in Paragraph 21 of the Consent Decree, due to United States Air Force National Environmental Policy Act compliance and easement acquisition issues concerning the sewer line that traverses Lackland Air Force Base, this

removal being partially offset by the addition of 1.6 miles of connecting pipeline added to other segments of this project for a net reduction of 1.9 miles;

**WHEREAS**, SAWS states that the project entitled “C-5/C-28” on the “Remediation Project List for EAP Phase I” of Appendix F of the Consent Decree is Phase 1A of a larger project entitled “C-5/C-28 S Laredo/W Houston” that has been divided into four construction packages;

**WHEREAS**, SAWS agrees to add Phases 1B and 2 of Project C-5/C-28 S Laredo/W Houston to the “Remediation Project List for EAP Phase I” of Appendix F of the Consent Decree to offset a portion of the mileage reductions identified in previous paragraphs;

**WHEREAS**, SAWS agrees to add another project entitled “W-31 IH 10 Western Extension B” to Appendix F of the Consent Decree to offset a portion of the mileage reductions identified in previous paragraphs;

**WHEREAS**, SAWS agrees to add another project entitled “W-1 Leon Creek Emergency” to Appendix F of the Consent Decree to offset a portion of the mileage reductions identified in previous paragraphs, Project W-1 Leon Creek Emergency having previously been reported in the 2013 Annual Report as a completed capacity remediation project not part of EAP Phase 1;

**WHEREAS**, SAWS has provided a brief explanation of each of the modifications listed above in Attachment A which includes a map illustrating the scope of the Phase I EAP projects accompanying this Agreement;

**WHEREAS**, SAWS requested that Appendix F of the Consent Decree be modified regarding projects listed in the “Remediation Project List for EAP Phase I”;

**NOW, THEREFORE, THE PARTIES TO THE CONSENT DECREE AGREE AS FOLLOWS:**

1. The Parties agree that Section 3 of the Table entitled Remediation Project List for EAP Phase I that is Appendix F to the consent Decree is modified to provide as follows:

3. LD Capacity Remediation		
Project Name	Miles	Target Project Completion Schedule
Donaldson Terrace	2.4	6 Years from Date of Lodging
Broadway Corridor – Josephine to S. Alamo	5.9	6 Years from Date of Lodging
Broadway Corridor – Carnahan to Mulberry	3.6	6 Years from Date of Lodging
Leon Creek – Hwy 90 to New Laredo Hwy (Southern Portion)	4.5	6 Years from Date of Lodging
S. Laredo / W. Houston (Phases 1A, 1B, and 2)	4.8	6 Years from Date of Lodging
W-31 IH 10 Western Extension B	3.6	6 Years from Date of Lodging
W-1 Leon Creek Emergency	0.6	6 Years from Date of Lodging
<i>Total</i>	25.4	

2. The Parties agree that the modifications to the Consent Decree made in this Agreement to Modify Consent Decree are non-material changes.
3. The undersigned agree to the terms of this Agreement to Modify Consent Decree on behalf of the respective Party for whom each of the undersigned executes this Agreement.

SAN ANTONIO WATER SYSTEM

By: Jeffrey J. Haby  
Jeffrey J. Haby, P.E.  
Vice President, Production & Treatment

Date: 2-3-2016

UNITED STATES

By: John Blevins  
John Blevins,  
Director, Compliance Assurance and  
Enforcement Division  
U.S. Environmental Protection Agency

Date: 5.2.2016

By: Mark Pollins  
Mark Pollins  
Director, Water Enforcement Division  
Office of Enforcement and Compliance and  
Compliance Assurance (OECA)  
U.S. Environmental Protection Agency

Date: 4-6-2016

STATE OF TEXAS

By: Ramiro Garcia, Jr.  
Ramiro Garcia, Jr.  
Deputy Director, Office of Compliance and  
Enforcement  
Texas Commission of Environmental Quality

Date: 3/14/2016

**ATTACHMENT A**  
**PROPOSED PHASE I EAP LD CAPACITY REMEDIATION MODIFICATION SUMMARY**

**Summary of Alterations to Phase I EAP Capacity Remediation Projects:**

**1. Donaldson Terrace:**

During design of the project it was determined that it would be feasible to divert excess peak flow from one pipeline to a second pipeline with surplus capacity. The pipe segments from which excess flows were diverted were in good condition and required no additional improvements under the Phase I EAP.

The exercise of best engineering judgment resulted in alternative design solutions that reduced the project mileage. The net result was a 2.2 mile reduction in the Donaldson Terrace project.

**2. Broadway Corridor – Josephine to South Alamo Street:**

During design of the project, SAWS decided to build a parallel sewer main while rehabilitating the existing main instead of replacing the existing pipeline, as originally planned. In addition, the rehabilitation of several parallel sewer lines was included in the project to upgrade the entire flow corridor. The net result was a 1.9 mile expansion of this project.

**3. Broadway Corridor – Carnahan to Mulberry Street:**

During design of the project, it was determined that it would be feasible to divert excess peak flow from one pipeline to a second pipeline with surplus capacity. The pipe segments from which excess flows were diverted were in good condition and required no additional improvements.

The exercise of best engineering judgment resulted in alternative design solutions that reduced project mileage. The net result is a 5.6 mile reduction in the Broadway Corridor – Carnahan to Mulberry Street project.

**4. Leon Creek – Highway 90 to New Laredo Highway:**

- **Southern Portion.** This project is achieving increased capacity by replacing an existing pipeline with a new pipeline of larger diameter. A portion of the increased capacity is being achieved through new parallel pipes rather than a single, larger pipeline as originally planned. SAWS also is extending the new pipeline downstream. The result is a 2.0 mile expansion to this portion of the project.
- **Northern Portion.** This portion of the project is 3.9 miles long and traverses Lackland Air Force Base. Securing National Environmental Policy Act (NEPA) compliance through the United States Air Force has taken far longer than originally anticipated. This unanticipated delay will prevent completion of this portion of the project within the time required by the CD for Phase I EAP completion. The United States Air Force has also indicated a reluctance to grant SAWS the easement that is necessary to construct this portion of the project through Lackland Air Force Base. SAWS may be required to secure an entirely new alignment for the proposed sewer main, which will require re-engineering the entirety of this portion of the project. It will not be possible to

identify, design and construct an alternate route within the timeframe for completion of the Phase I EAP. Therefore, completion of the northern portion of the Leon Creek – Highway 90 to New Laredo Highway project will need to be postponed and should be removed from the Phase I EAP. The net impact to the Leon Creek – Highway 90 to New Laredo Highway project is a reduction of 1.9 miles.

In total, the net reduction in Phase I EAP LD Capacity Remediation mileage due to the proposed alterations to these four (4) projects is 7.8 miles.

To offset the 7.8 miles, SAWS proposes to expand one of the existing Phase I EAP LD Capacity Remediation projects and to add two (2) new LD Capacity Remediation projects in the Phase I Early Action Program. These additions are described below.

#### **1. S Laredo/W Houston:**

S Laredo/W Houston is a capacity remediation project planned for construction in four construction packages. Phase 1A was included in Phase I EAP and in the Modification approved on March 15, 2015. Two of the remaining phases (1B and 2) are proposed for addition to the Phase I EAP. This will add 3.6 miles of remediation to Phase I EAP Capacity Remediation.

The remaining phase (Phase 3) of this project has been incorporated into the Phase II EAP LD Capacity Remediation project list.

**IH 10 Western Extension B.** W-31 IH 10 Western Extension B is a major capacity remediation project along the IH 10 corridor in the northwest portion of the SAWS service area that will replace the Falcon Center Lift Station (which is reaching its capacity) with a gravity sewer main. This project will add 3.6 miles to the Phase I EAP LD Capacity Remediation.

**Leon Creek Emergency.** W-1 Leon Creek U.S. 90 to SH 151 is a capacity remediation project planned for completion after 2020. A portion of the line was found to be in such poor condition in 2013 that emergency repairs were required. The emergency repairs consisted of 0.6 miles of new larger diameter gravity sewer. The replacement was completed in 2013 and reported in the 2013 Annual Report. This project adds 0.6 miles to the Phase I EAP Capacity Remediation.

The table presented below summarizes the original mileage, the modification made March 15, 2015, the proposed change in mileage and miles after the proposed non-material modification presented herein. The total length of Phase I EAP LD Capacity Remediation will remain 25.4 miles.

Phase I EAP LD Capacity Remediation				
Project Name	Miles - Original Appendix F	Miles – Modified March 15, 2015	Proposed Change in Miles	Miles – After Proposed Modification
Donaldson Terrace	4.6	4.6	-2.2	2.4
Broadway Corridor – Josephine to S Alamo	4.0	4.0	+1.9	5.9
Broadway Corridor – Carnahan to Mulberry	10.0	9.2	-5.6	3.6
Leon Creek – Hwy 90 to New Laredo Hwy	6.4	6.4	-1.9	4.5
S. Laredo / W. Houston	N/A	1.2	+3.6	4.8
IH 10 Western Extension B	N/A	N/A	+3.6	3.6
Leon Creek Emergency	N/A	N/A	+0.6	0.6
<b>Totals</b>	<b>25</b>	<b>25.4</b>	<b>0</b>	<b>25.4</b>

\*Note: See attached map, Modified Phase I EAP Capacity Remediation Projects.