



FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis
Governor

Alexis A. Lambert
Secretary

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

April 25, 2025

Richard Moulton, Director of Public Works
City of Fort Myers
2200 Second Street
Fort Myers, Florida 33901
Email: rmoulton@fortmyers.gov

Re: Long Form Consent Order
OGC Case No. 20-0851
Fort Myers Central AWWTF (FL0021261)
Fort Myers South AWWTF (FL0021270)
Lee County – DW

Dear Mr. Moulton:

Enclosed is the signed and entered Consent Order to resolve the above referenced case. This copy is for your records. Please note that all compliance dates begin from the date of entry of this Order, which is April 25, 2025.

Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

If you have any questions, please contact Alex McSurley at 239-344-5679 or Alexandria.McSurley@FloridaDEP.gov.

Your cooperation in resolving this case is appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Sweigert".

Elizabeth Sweigert
Director of District Management
South District Office
Florida Department of Environmental Protection

Enclosure: Executed Consent Order

cc: Jason Sciandra, jsciandra@fortmyers.gov
Justin Mahon, jmahon@fortmyers.gov
David Childs, david@vogelgroupdc.com
Marty Lawing, MLawing@fortmyers.gov

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTH DISTRICT
)	
v.)	OGC FILE NO. 20-0851
)	
CITY OF FORT MYERS)	
_____)	

AMENDED CONSENT ORDER

This Amended Consent Order ("Amended Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and City of Fort Myers ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent. **This Amended Order completely replaces and supersedes the original Consent Order ("Order") executed and filed on February 23, 2021.**

1. The Department and Respondent previously entered the Order to address unauthorized discharges to ground and surface waters, violation to water quality standards, groundwater exceedances, effluent exceedances, chronic levels of elevated bacteria in waters of the state, and MS4 permit violations. The Order, with the same caption and OGC File Number 20-0851 as is set forth above, was filed with the Clerk of the Department on February 23, 2021. Paragraph 5 of the Order included 11 corrective actions (5.A – 5.K), of which 8 were completed on schedule. The outstanding 3 corrective actions relate to status reporting (5.J and 5.K) and reduction/elimination of the surface water discharges of treated effluent to the Caloosahatchee River (5.I).

2. The Respondent is requesting a modification to the Order to extend the deadlines for the remaining compliance milestones detailed in paragraph 5(I) due to delays caused in part by supply chain issues, severe weather events, and unanticipated population growth rates.

a. Respondent submitted evidence supporting Respondent's conclusions that the relief requested would facilitate the sequenced design and construction of capital projects at the City of Fort Myers Central Facility and the South Facility, lessen the potential for missing the Order's milestones due to supply chain

disruptions or other external factors, facilitate less disruptive onsite construction at the active facilities, facilitate the effective management of the Order's required projects along with unrelated utility asset management activities, and reduce the economic burden on Respondent ratepayers.

b. The modification also requires Respondent to incorporate equipment upgrade projects at the Central and South Facilities that Respondent asserts will correct intermittent nutrient discharge exceedances at those Facilities as well as a directive for the Respondent to investigate and address groundwater exceedances at the Central Facility.

c. The identified project completion dates are based on Respondent's planned fund allocations for these projects as included in their (current) adopted 5-year Capital Improvement Program (CIP) FY2025 through FY2029 and planned 10-year CIP, as detailed in Exhibit E attached and incorporated to this Amended Order. The CIP is the Respondent's process for planning, budgeting and implementing capital projects in a fiscally responsible manner. The current 5-year CIP allocates over \$550 million for Respondent Utilities' projects and long term (10-year) CIP planning includes nearly \$400 million for Respondent Utilities' projects beyond FY2029.

d. Respondent asserts the following: 1) Over the past several years, the Respondent has made significant investment in projects that have improved the quality of the final treated effluent at South Facility which has allowed them to transfer up to 12 million gallons per day of discharge away from the Caloosahatchee River and to the City of Cape Coral for beneficial reuse; 2) a significant project that will improve the quality of final effluent at the Central facility is 30% complete in design, at this time, and a deep injection well that will allow significant reduction in surface water discharge (at Central facility) is under construction; and 3) together these projects represent approximately \$250 million in Respondent's investment demonstrating their continued commitment towards meeting the Consent Order requirements and reducing the surface water discharge to Caloosahatchee River Estuary.

3. The Order addressed multiple groundwater exceedances for Total Dissolved

Solids (TDS) and Total Recoverable Arsenic from June 2018 – September 2020 at the Central Facility. The Order also addressed multiple effluent exceedances from February 2019 – September 2020 at the Central Facility and multiple effluent exceedances from March 2019 – September 2020 at the South Facility. Since then, the Respondent has successfully addressed the groundwater exceedances for Total Recoverable Arsenic, having no exceedances since December 2022, and the South Facility effluent exceedances for Total Nitrogen, having no exceedances since March 2020. The Respondent has also permitted and begun construction of primary treatment and blower improvement projects at the Central and South Facilities to address effluent exceedances. The groundwater exceedances at the monitoring well locations and effluent exceedances summarized below have been reported by the Respondent since October 1, 2020, and will be addressed by the Amended Order:

- a. Additional multiple groundwater exceedances at monitoring wells from December 2020 – September 2024 at the Central Facility;
- b. Additional multiple effluent exceedances from September 2022 – September 2024 at the Central Facility; and
- c. Additional multiple effluent exceedances from July 2021 – September 2024 at the South Facility.

In the Order, the Department previously found, and the Respondent previously admitted to paragraphs 4 through 7 below¹:

4. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Amended Order.

5. Respondent is a person within the meaning of Section 403.031(5), F.S.

6. Respondent is the owner and operator of the following wastewater treatment facilities (“Facilities”) and associated wastewater collection/transmission systems, as well as an operator/co-permittee of the municipal separate storm sewer systems (“MS4”) operated under State of Florida Municipal Separate Storm Sewer System National Pollutant

¹ For jurisdictional and clarification purposes, the Department again finds and the Respondent again admits to paragraphs 4 through 7 of this Amended Order.

Discharge Elimination System (“NPDES”) Permit No. FLS000035 (“MS4 Permit”), serving the City of Fort Myers:

a. Fort Myers Central Advanced Wastewater Treatment Facility (“Central Facility”) is an 11.0 million gallons per day (“MGD”) annual average daily flow, 5-stage BARDENPHO™ process domestic wastewater treatment facility with high level disinfected effluent discharging to a slow-rate public access reuse system or a surface water outfall to the Caloosahatchee River Estuary, Class III Marine waters, (WBID# 3240B). The Central Facility is operated under Wastewater Permit No. FL0021261 (“Central Facility Permit”), which was issued on July 12, 2022, and will expire on July 11, 2027. The Central Facility is located at 1501 Raleigh Street, Fort Myers, Florida 33916, Lee County, Florida (“Central Property”). Respondent owns the Central Property on which the Central Facility is located.

b. Fort Myers South Advanced Wastewater Treatment Facility (“South Facility”) is a 12.0 MGD annual average daily flow, BARDENPHO™ process domestic wastewater treatment facility with treated effluent discharging to the Caloosahatchee River Estuary, Class III Marine waters, (WBID# 3240A). The South Facility is operated under Wastewater Permit No. FL0021270 (“South Facility Permit”), which was issued on December 1, 2022, and will expire on November 30, 2027. The South Facility is located at 1618 Matthew Drive, Fort Myers, Florida 33907, in Lee County, Florida (“South Property”). Respondent owns the South Property on which the South Facility is located.

7. The Department finds that the following violation(s) occurred:

a. Respondent reported 44 spills of untreated wastewater associated with the Central Facility. Spill details are in Exhibit A attached and incorporated to this Amended Order. The Department finds that the discharges violated Rule 62-604.130(1), F.A.C., and Section 403.161(1)(a), F.S.

b. Respondent reported 26 spills of untreated wastewater associated with the South Facility. One of the spills resulted in a multi-day violation of surface water quality standards caused by untreated effluent from the overflow of a malfunctioning lift station that led to surface waters. Spill details are below and in Exhibit A attached and incorporated to this Amended Order. The Department finds that the discharges

violated Rule 62-604.130(1), F.A.C., and Section 403.161(1)(a), F.S.

(1) The March 16, 2020, discharge of untreated wastewater from a malfunctioning lift station, Lift Station #5, at the South Facility was reported to have totaled 183,000 gallons with no recovery, which entered Manuel's Branch, a tributary leading to the Caloosahatchee River.

c. Respondent did not meet water quality standards, which violates Rule 62-302, F.A.C. The Department finds that surface water standards were violated in the following manner:

(1) Sampling data associated with the spill into Manuel's Branch reported on March 16, 2020, documented levels of bacteria exceeding surface water standards through March 22, 2020, as a result of the spill, violating Rules 62-302.530(6)a, and 62-302.530(6)b, F.A.C.

(2) Respondent had a total of 8 additional spills that violated water quality standards, specifically Rule 62-302.530(6)b, F.A.C.

d. Respondent did not properly plug an abandoned section of ductile iron pipe, which resulted in the Manuel's Branch spill, in which 183,000 gallons of untreated wastewater entered the tributary, leading to the Caloosahatchee River. This is a violation of Rule 62-620.300(5), F.A.C.

e. Respondent reported multiple groundwater exceedances for Total Dissolved Solids ("TDS") and Arsenic from June 2018 to September 2020. Each exceedance is a violation of Rules 62-620.300(5), 62-520.310(7), and 62-520.420(1), F.A.C.

(1) Central Facility had exceedances for TDS in December 2019, March 2020, and June 2020. Details are in Exhibit B.1 attached and incorporated to this Amended Order.

(2) Central Facility had Arsenic exceedances in June 2018, September 2018, December 2018, March 2019, June 2019, September 2019, March 2020, June 2020, and September 2020. Details are in Exhibit B.1 attached and incorporated to this Amended Order.

f. Respondent did not meet the Central Facility's and South Facility's permit imposed effluent limitations on several occasions. Excessive nutrients (Total

Nitrogen) are the primary pollutants contributing to the impairment of the Caloosahatchee River. In 2009, a nutrient Total Maximum Daily Load (“TMDL”) was established for the Caloosahatchee River and Estuary and in 2012 (subsequently updated in January 2020), a Basin Management Action Plan (“BMAP”) was adopted to address the nutrient TMDL for the Caloosahatchee River and Estuary. This portion of the Caloosahatchee River and Estuary is designated as a Class III water which is meant to be suitable for recreational use and for the propagation and maintenance of a healthy, well-balanced population of fish and wildlife. Each exceedance is a violation of Rules 62-620.300(5) and 62-600.410(1), F.A.C.

(1) The Central Facility had Total Nitrogen exceedances in February 2019, March 2019, and September 2020. Details are in Exhibit B.2 attached and incorporated to this Amended Order. The Central Facility is a surface water discharger to WBID# 3240B in the Caloosahatchee River, a Class III water, which is impaired for nutrients.

(2) The South Facility had Total Nitrogen exceedances in March 2019, September 2019 and March 2020. Details are in Exhibit B.2 attached and incorporated to this Amended Order. The South Facility is a surface water discharger to WBID# 3240A in the Caloosahatchee River, a Class III water, which is impaired for nutrients.

(3) The Central Facility had Total Phosphorus exceedances in September 2020. Details are in Exhibit B.2 attached and incorporated to this Amended Order. The Central Facility is a surface water discharger to WBID# 3240B in the Caloosahatchee River, a Class III water, which is impaired for nutrients.

(4) The South Facility had Total Suspended Solids exceedances in September 2020. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

(5) The South Facility had Total Recoverable Copper exceedances in June 2020 and September 2020. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

(6) The South Facility had a Flow exceedance in September 2020.

Details are in Exhibit B.2 attached and incorporated to this Amended Order.

g. Respondent did not address long term elevated levels of bacteria in Manuel's Branch, a tributary to the Caloosahatchee River. A review of water quality data for the creek in WBID# 3240V indicates evidence of bacteria impairment is likely due to anthropogenic causes. Respondent has not addressed or eliminated loading to waterbodies of untreated human waste, which poses a risk to human health. The Department finds that the discharges violated Section 403.161(1)(a), F.S., and Rules 62-604.130(1), 62-620.610(5), and 62-302.300(15), F.A.C.

h. Respondent did not take reasonable steps to control or prohibit discharges to their MS4 from the Lindell Investments construction site (aka City Walk) located at 2250 McGregor Blvd. in Fort Myers, FL. The Department finds that the discharges violated MS4 Permit FLS000035 Part I.D. which includes a requirement to effectively prohibit non-stormwater discharges into the storm sewers within each permittee's MS4.

i. Respondent did not effectively implement a program to reduce or eliminate Sanitary Sewer Overflows (SSOs) from entering the MS4. The Department finds that the discharges violated MS4 Permit FLS000035 Part I.D. which includes a requirement to effectively prohibit non-stormwater discharges into the storm sewers within each permittee's MS4.

j. Respondent did not effectively implement a program to reduce or eliminate unauthorized discharges from the MS4, leading to surface waters. The Department finds that the discharges violated MS4 Permit FLS000035 Part I.D. which includes a requirement to effectively prohibit non-stormwater discharges into the storm sewers within each permittee's MS4.

The Department further finds, and the Respondent admits to paragraphs 8 through 10:

8. Respondent reported multiple groundwater exceedances for TDS, chloride, and Arsenic from December 2020 to December 2024. Each exceedance is a violation of Rules 62-520.310(7) and 62-520.420(1), F.A.C.

a. Central Facility had exceedances for TDS in December 2020, June 2021, September 2021, December 2021, March 2022, June 2022, September 2022,

December 2022, March 2023, June 2023, September 2023, December 2023, March 2024, June 2024, September 2024, and December 2024. Details are in Exhibit B.1 attached and incorporated into this Amended Order.

b. Central Facility had exceedances for chloride in December 2022, March 2023, June 2023, September 2023, December 2023, March 2024, June 2024, September 2024, and December 2024. Details are in Exhibit B.1 attached and incorporated to this Amended Order.

c. Central Facility had exceedances for Arsenic in December 2020, March 2021, June 2021, December 2021, March 2022, June 2022, December 2022, and December 2024. Details are in Exhibit B.1 attached and incorporated to this Amended Order.

9. The Respondent has complied with its wasteload allocation limits adopted in the Department's nutrient Total Maximum Daily Load (TMDL) for the Caloosahatchee River Estuary (adopted in 2009) and that was incorporated into the Estuary's Basin Management Action Plan (BMAP) in 2012 (subsequently updated in January 2020). Despite this continued compliance with the TMDL, the Central and South Facilities' permit imposed effluent exceedances constitute violations of Rules 62-600.410(1) and 62-620.300(5), F.A.C.

a. The Central Facility had Total Nitrogen exceedances in September 2022, February 2023, March 2023, October 2023, November 2023, February 2024, March 2024, April 2024, June 2024, and November 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order. The Central Facility is a surface water discharger to WBID# 3240B in the Caloosahatchee River, a Class III water, which is impaired for nutrients.

b. The Central Facility had Total Phosphorus exceedances in September 2022, February 2024, June 2024, August 2024, September 2024, and November 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order. The Central Facility is a surface water discharger to WBID# 3240B in the Caloosahatchee River, a Class III water, which is impaired for nutrients.

c. The Central Facility had Fecal Coliform exceedances in August 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

d. The South Facility had Total Phosphorus exceedances in December

2022, and October 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order. The South Facility is a surface water discharger to WBID# 3240A in the Caloosahatchee River, a Class III water, which is impaired for nutrients.

e. The Central Facility had a Chlorodibromomethane exceedance in June 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

f. The South Facility had Total Residual Chlorine exceedances in September 2022, February 2023, and October 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

g. The South Facility had Fecal Coliform, Percent Less than Detection exceedances in July 2024 and August 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

h. The South Facility had Flow exceedances for Monitoring Group D-001 in July 2021, August 2021, September 2021, June 2022, July 2022, September 2022, and August 2023. South Facility also had Flow exceedances for Monitoring Group R-001 in April 2024, May 2024, June 2024, July 2024, August 2024, September 2024, October 2024, November 2024, and December 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

i. The South Facility had pH exceedances in October 2024 and November 2024. Details are in Exhibit B.2 attached and incorporated to this Amended Order.

10. Respondent implemented a Pollutant Reduction Plan (“PRP”) on July 12, 2021, to address long term elevated levels of bacteria in Manuel’s Branch and Billy Creek, tributaries to the Caloosahatchee River. Based on the results of the sampling conducted for Year 4, Quarter 1 and Year 4, Quarter 2, Respondent has satisfied the requirement described in paragraph 5. (G) of the Order for quarterly sampling of untreated human waste indicators by achieving two consecutive quarters with no indicators detected. Monitoring of bacteria levels in Manuel’s Branch and Billy Creek will continue as part of Respondent’s ongoing PRP to ensure elevated levels of bacteria are addressed to the Maximum Extent Practicable (“MEP”) through MS4 Permit FLS000035.

Having reached a resolution of the matter Respondent and the Department mutually agree, and it is

ORDERED:

11. Respondent shall comply with the following corrective actions within the stated time periods:

<p>a. Investigate the groundwater exceedances at the Central Facility and provide an updated Groundwater Monitoring Plan (GWMP). The updated GWMP shall address the Respondent's findings from their Plan of Study, approved by the Department on February 2, 2024, which investigated the effects of the representative site surroundings, groundwater flow direction and reclaimed water effluent quality as they relate to the groundwater exceedances at the Central Facility. Details regarding the Respondent's approved Plan of Study are in Exhibit D attached and incorporated to this Amended Order.</p>	<p>May 31, 2025</p>
<p>b. Complete the construction of the Central Facility Deep Injection Well in accordance with Department-issued permit number 0438025-001-002-UC/1M. Respondent asserts that completion of this project will provide for a reduction of at least 55% of actual combined surface water discharges based upon the agreed upon baseline of 13.892 MGD that was calculated as the arithmetic average of the combined annual average daily flows ("AADF") for the last four Novembers [2020-2024; $12.94+13.85+14.95+13.83$]/4 = 13.89]. Successful achievement of this item means that after December 31, 2026, the combined AADF of surface water discharges of treated effluent to the Caloosahatchee River from the City of Fort Myers Central Facility and South Facility shall not exceed 6.25 MGD.</p> <p>Complete the conversion of the Central Facility reclaimed water to high level disinfection, allowing it to be used through reclaimed water distribution or deep well injection. This</p>	<p>December 31, 2025</p>

<p>project shall be completed in accordance with Respondent's description of such activities submitted to the Department on May 31, 2024, which is hereby incorporated by reference. Respondent asserts that conversion will provide for a reduction of at least 85% of actual combined surface water discharges based upon the above agreed upon baseline. Successful achievement of this item means that after December 31, 2029, the combined AADF of surface water discharges of treated effluent to the Caloosahatchee River from the City of Fort Myers Central Facility and South Facility shall not exceed 2.1 MGD.</p> <p>Complete construction of the South Facility Deep Injection Well and complete conversion of South Facility reclaimed water to high level disinfection, allowing it to be used through reclaimed water distribution or deep well injection. These projects shall be completed in accordance with Department-issued permit number 0438129-001-002-UC/1M and Respondent's description of such activities submitted to the Department on May 31, 2024, respectively. Respondent asserts that completion of these projects will provide for a reduction of 99% of actual combined surface water discharges based upon the above agreed upon baseline. Successful achievement of this item means that after December 31, 2032, combined emergency surface water discharges of treated effluent to the Caloosahatchee River from the City of Fort Myers Central Facility and South Facility shall not exceed 0.14 MGD AADF.</p>	<p>December 31, 2028</p> <p>December 31, 2031</p>
<p>c. Complete the Central Facility Primary Treatment and Blower Improvements Project which will upgrade equipment in accordance with permit modification number FL0021261-042.</p>	<p>November 30, 2025</p>

<p>d. Complete the South Facilities Primary Treatment and Blower Improvements Project which will upgrade equipment in accordance with permit modification number FL0021270-028.</p>	<p>December 31, 2026</p>
<p>e. Submit in writing to the Department, every 6 months, a report containing information concerning the status and progress of projects completed under this Amended Order. The report shall include projection of the work to be performed pursuant to this Amended Order. The report shall include status update of any In-Kind projects.</p>	<p>July 30, 2025 January 30, 2026 July 30, 2026 And so on until the Amended Order is closed.</p>
<p>f. Submit to the Department a Final Report demonstrating that all conditions and corrective actions required in this Amended Order have been completed. Upon the Respondent’s submittal of the Final Report demonstrating that the above-described projects are complete and written concurrence from the Department of same, this Amended Order shall be closed.</p>	<p>June 30, 2032</p>

12. The time periods and corrective actions described in this Order shall not be interpreted as waiving or providing any relief from any applicable Department rule or Florida Statute administered by the Department.

13. The Department calculated a \$85,000.00 penalty against Respondent in settlement of the regulatory matters addressed in this Amended Order. This amount includes \$84,000.00 for civil penalties, and \$1,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Amended Order.

14. In lieu of making cash payment of \$84,000.00 in civil penalties as set forth in paragraph 13 above, Respondent and the Department agree that the Respondent will implement the approved in-kind penalty project, as described in paragraph 15. Respondent and the Department agree that the approved in-kind penalty project described in paragraph 15 will also address the stipulated penalty amount of \$17,000.00 which was assessed for Fiscal Year 2023-2024 for unauthorized discharges or unpermitted sanitary sewer overflows (“SSO”). The value of

this approved in-kind penalty project is one and a half times the sum of the assessed stipulated penalty amount and the civil penalty off-set amount, which in this case is the equivalent of at least \$151,500.00. Notwithstanding the election to implement the approved in-kind project, payment of \$1,000.00 in costs must be paid within 30 days of the effective date of the Amended Order.

15. Respondent elected to implement gravity sewer monitoring as the approved in-kind penalty project, which is described in more detail in Exhibit F. Respondent shall complete the entire approved in-kind project before October 18, 2025, comply with all of the requirements and time frames in Paragraphs h-j of Exhibit C entitled In-Kind Projects attached and incorporated to this Amended Order in implementing the project, and comply with the annual certification requirement described in Paragraph 18 (using the Annual Certification Form located within Exhibit C).

16. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 11 of this Amended Order. Additionally, Respondent shall pay the Department stipulated penalties for any discharges of wastewater from the Facilities and/or collection/transmission system. Respondent shall pay penalties as follows:

<u>Amount per/day per/discharge</u>	<u>Discharge Volume</u>
\$1,000.00	up to 5,000 gallons
\$2,000.00	5,001 to 10,000 gallons
\$5,000.00	10,001 to 25,000 gallons
\$10,000	25,001 to 100,000 gallons
\$15,000	in excess of 100,000 gallons

The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraph 17, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Amended Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 13 of this Amended Order.

17. In lieu of making cash payment of the amount required under paragraph 16

(stipulated penalties) above, the Department, at its discretion, may allow Respondent to off-set this amount by implementing an in-kind project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project and may not be a corrective action requirement of this Amended Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the portion of the stipulated penalty amount for which the approved project off-sets. The Respondent shall request consideration of applying stipulated penalties toward an in-kind project within 15 days of notification by the Department that stipulated penalties are being assessed under paragraph 16. If acceptable, the Respondent shall comply with all the requirements and timeframes in Amended Order Exhibit C, entitled In-Kind Projects. If not acceptable, the Respondent will pay the stipulated penalties within 30 days of receipt of the Department's notification that applying the stipulated penalties to an in-kind project is not acceptable.

18. In the event that Respondent elects to off-set civil penalties, including stipulated penalties, by implementing an in-kind penalty project which is approved by the Department, during the period that this Amended Order remains in effect or during the effective date of any Department issued Permit to Respondent whichever is longer (Prohibited Transfer Duration), Respondent shall not transfer or use funds obtained by the Respondent from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System (hereinafter, Prohibited Transfer). Respondent shall annually certify to the Department using the Annual Certification Form located within Exhibit C to this Amended Order that no Prohibited Transfer has occurred. In the event of any Prohibited Transfer, the In-Kind project option shall be forfeited, and entire civil penalty shall immediately become due and owing to the Department irrespective of any expenditures by the Respondent in furtherance of the In-Kind project.

19. Respondent shall make all payments required by this Amended Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Amended Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at:

<http://www.fldepportal.com/go/pay/>. It will take a number of days after this Amended Order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

20. Except as otherwise provided, all submittals and payments required by this Amended Order shall be sent to Alexandria McSurley, Environmental Specialist III, Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, Florida, 33902-2549. Electronic submissions of documentation related to this Amended Order shall also be furnished to the following Departmental email inbox: sd-wwinspect@floridadep.gov.

21. Respondent shall allow all authorized representatives of the Department access to the Facilities and the Properties at reasonable times for the purpose of determining compliance with the terms of this Amended Order and the rules and statutes administered by the Department.

22. In the event of a sale or conveyance of the Facilities or of the Properties upon which the Facilities are located, if all of the requirements of this Amended Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facilities or Properties, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facilities, and (c) provide a copy of this Amended Order with all attachments to the purchaser, operator, or person(s) in control of the Facilities. The sale or conveyance of the Facilities or the Properties does not relieve Respondent of the obligations imposed in this Amended Order.

23. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Amended Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a

potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

24. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Amended Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Amended Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Amended Order.

25. This Amended Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Amended Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Amended Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

26. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Amended Order.

27. Respondent is fully aware that a violation of the terms of this Amended Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 per day per violation, and criminal penalties.

28. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Amended Order. Respondent

also acknowledges and waives its right to appeal the terms of this Amended Order pursuant to section 120.68, F.S.

29. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Amended Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

30. The terms and conditions set forth in this Amended Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Amended Order constitutes a violation of section 403.161(1)(b), F.S.

31. This Amended Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Amended Order will not be effective until further order of the Department.

32. Respondent shall publish the following notice in a newspaper of daily circulation in Lee County, Florida. The notice shall be published one time only within 14 days of the effective date of the Amended Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF AMENDED CONSENT ORDER

The Department of Environmental Protection ("Department") gives notice of agency action of entering into an Amended Consent Order ("Amended Order") with the City of Fort Myers ("Respondent") pursuant to section 120.57(4), Florida Statutes. This Amended Order completely replaces and supersedes the original Consent Order ("Order") executed and filed on February 23, 2021, with the same caption and OGC File Number 20-0851, as is set forth above. The Department and Respondent previously entered an Order to address unauthorized discharges to ground and surface waters, violation to water quality standards, groundwater exceedances, effluent exceedances, chronic levels of elevated bacteria in waters of the state, and MS4 permit violations.

The Amended Order addresses the Respondent's request for a modification to the Order to extend deadlines for the remaining compliance milestones related to elimination of its non-beneficial surface water discharge due to delays caused in part by supply chain issues, severe weather events, and unanticipated population growth rates. The Amended Order also addresses new effluent and groundwater quality exceedances that the Respondent has reported since execution of the Order.

The Amended Order is available electronically at the following Information Portal link: <https://prodenv.dep.state.fl.us/DepNexus/public/electronic-documents/FL0021261/facility!search>. The Amended Order is also available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 2295 Victoria Ave., Suite 364, Fort Myers, FL 33901, phone (239) 344-5600.

Persons who are not parties to this Amended Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Amended Order means that the Department's final action may be different from the position it has taken in the Amended Order.

The petition for administrative hearing must contain all of the following information:

- a. The OGC Number assigned to this Amended Order;
- b. The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c. An explanation of how the petitioner's substantial interests will be affected by the Amended Order;
- d. A statement of when and how the petitioner received notice of the Amended Order;
- e. Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;

f. A statement of the specific facts the petitioner contends warrant reversal or modification of the Amended Order;

g. A statement of the rules or statutes the petitioner contends require reversal or modification of the Amended Order; and

h. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Amended Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the South District Office, Department of Environmental Protection, P.O. Box 2549, Fort Myers, Florida, 33902- 2549. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Amended Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

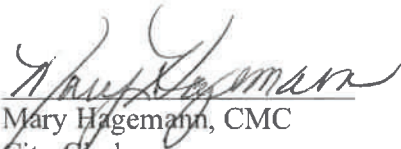
33. Rules referenced in this Amended Order are available at


<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

FOR THE RESPONDENT CITY OF FORT MYERS:

ATTEST:

By: 
Kevin B. Anderson, Mayor

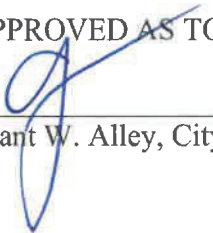

Mary Hagemann, CMC
City Clerk

Date: 4-22-25
By: 
Marty K. Lawing, City Manager

Date: 4-22-25



APPROVED AS TO FORM:


Grant W. Alley, City Attorney

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DONE AND ORDERED this 25th day of April, 2025, in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Elizabeth Sweigert
Director of District Management
South District Office
Florida Department of Environmental Protection
P.O. Box 2549
Fort Myers, FL 33902-2549
Telephone: (239) 344-5600

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.



Clerk

April 25, 2025
DATE

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

**EXHIBIT A - SANITARY SEWER OVERFLOWS/UNAUTHORIZED DISCHARGES
 CENTRAL FACILITY**

Location	Date Discharge Occurred	Spill Volume (Gal.)	Spill Characteristic	Area Affected
3970 E River Drive	12/8/2020	200	Raw Wastewater	Ground
1546 Live Oak Drive	11/30/2020	150	Raw Wastewater	Stormwater; Ground
4600 Bruce Herd Lane	11/18/2020	150	Raw Wastewater	Ground
3915 Pearl Street	11/12/2020	1,500	Raw Wastewater	Billy's Creek
1298 Polk Street	11/11/2020	2,500	Raw Wastewater	Billy's Creek
Franklin Street & Highlands Avenue	10/15/2020	500	Raw Wastewater	Ground
Jacksonville Street & MLK	10/8/2020	150	Raw Wastewater	Stormwater; Ground
1205 Alhambra Drive	9/20/2020	500	Raw Wastewater	Caloosahatchee River
3614 Clermont Street	9/8/2020	79,700	Raw Wastewater	Habitat Canal
Priscilla Lane	8/25/2020	300	Raw Wastewater	Billy's Creek
1011 Windsor Avenue	8/7/2020	500	Raw Wastewater	Billy's Creek
2208 Cranford	7/23/2020	10	Raw Wastewater	Ground
Jacksonville Street & Edison	6/22/2020	80	Raw Wastewater	Ground
2951 Blount Street	6/1/2020	15	Raw Wastewater	Ground
1642 Hill Street	4/1/2020	60	Raw Wastewater	Ground
3764 Central Avenue	3/30/2020	300	Raw Wastewater	Ground
2635 Rockfill Road	3/25/2020	100	Raw Wastewater	Ground
2976 Cleveland Avenue	3/10/2020	60	Raw Wastewater	Ground
Manhole 4484	2/17/2020	400	Raw Wastewater	Ground
850 Oleander Avenue	2/11/2020	20	Raw Wastewater	Ground
Bernwood Place Drive	1/15/2020	100	Raw Wastewater	Ground
134 Riverview Road	1/13/2020	10	Raw Wastewater	Ground
11064 Yellow Poplar	1/10/2020	50	Raw Wastewater	Ground
3051 Lafayette Street	1/2/2020	5	Raw Wastewater	Ground
1700 Monroe Street	12/13/2019	500	Raw Wastewater	Stormwater; Ground
851 Dellena Lane	12/11/2019	5	Raw Wastewater	Ground
3573 Patrick Avenue	10/18/2019	15	Raw Wastewater	Ground
10500 Darlington Drive	8/30/2019	100	Raw Wastewater	Ground
2650 Edison Avenue	8/19/2019	10	Raw Wastewater	Ground
1202 Alhambra Drive	8/16/2019	200	Raw Wastewater	Caloosahatchee River
Silver Ridge Boulevard	8/14/2019	1,500	Raw Wastewater	Stormwater; Ground
1205 Alhambra Drive	8/5/2019	500	Raw Wastewater	Caloosahatchee River
Central Avenue	7/25/2019	10	Raw Wastewater	Stormwater; Ground
Warrior Way	4/24/2019	1,000	Raw Wastewater	Ground
3599 Palm Avenue	3/12/2019	50	Raw Wastewater	Ground
1536 Live Oak Drive	2/14/2019	200	Raw Wastewater	Ground
Warrior Way	2/8/2019	500	Raw Wastewater	Ground
Golfview Avenue	1/8/2019	900	Raw Wastewater	Stormwater; Ground
10541 Bellagio Drive	10/3/2018	500	Raw Wastewater	Ground
920 Zana Drive	8/21/2018	700	Raw Wastewater	Billy's Creek
3701 Nelson Tills	8/1/2018	200	Raw Wastewater	Ground
Kingsbridge Boulevard	6/26/2018	250	Raw Wastewater	Ground
1205 Alhambra Drive	6/13/2018	800	Raw Wastewater	Stormwater; Ground
3800 Michigan Avenue	4/30/2018	300	Raw Wastewater	Ground

SOUTH FACILITY

Location	Date Discharge Occurred	Spill Volume (Gal.)	Spill Characteristic	Area Affected
Chrasfield Chase & Plantation Gardens	11/18/2020	200	Raw Wastewater	Stormwater; Ground
1206 Plumosa Drive	9/21/2020	600	Raw Wastewater	Caloosahatchee River
11055 Sparkleberry Drive	8/18/2020	500	Raw Wastewater	Ground
10300 Treeline Avenue	8/5/2020	20	Raw Wastewater	Ground
2130 Ford Street	7/22/2020	20	Raw Wastewater	Ground
3704 Broadway Street	7/16/2020	100	Raw Wastewater	Stormwater; Ground
3593 Cleveland Avenue	7/2/2020	600	Raw Wastewater	Carrell Canal
3745 Broadway Street	6/1/2020	80	Raw Wastewater	Ground
10300 Queen Palm Lane	5/25/2020	19,000	Raw Wastewater	Ground
Colonial Boulevard	5/19/2020	1,000	Raw Wastewater	Ground
Canal Street & US 41	3/16/2020	183,000	Raw Wastewater	Manuel's Branch
3745 Broadway Street	3/5/2020	80	Raw Wastewater	Ground
11033 Grand Belvedere	3/2/2020	500	Raw Wastewater	Stormwater; Ground
Jackson Street & Canal Street	2/15/2020	500	Raw Wastewater	Ground
1791 Boy Scout Drive	2/12/2020	30	Raw Wastewater	Ground
1849 Maravilla Avenue	2/11/2020	800	Raw Wastewater	Stormwater; Ground
2366 East Mall Drive	12/11/2019	30	Raw Wastewater	Ground
1255 Osceola Drive	12/5/2019	20	Raw Wastewater	Ground
Chrasfield Chase	10/2/2019	5	Raw Wastewater	Ground
1700 Matthew Drive	9/5/2019	300	Raw Wastewater	Stormwater; Ground
10453 Treeline Avenue	6/5/2019	200	Raw Wastewater	Ground
1601 Red Cedar Drive	5/21/2019	1,000	Raw Wastewater	Ground
252 Poinsettia	2/2/2019	100	Raw Wastewater	Ground
3250 Winkler Avenue	9/27/2018	5,000	Raw Wastewater	Ground
10500 Silver Ridge Boulevard	7/10/2018	300	Raw Wastewater	Ground
2310 Airport Road	7/2/2018	100	Raw Wastewater	Ground

EXHIBIT B - EXCEEDANCES

B. 1 Groundwater Exceedances – Central Facility							
Date	Description	MWC-35142	MWC-2022	MWB-2022	MWB-35143	MWB-35140	Limit
Dec-24	TDS		904	496			500 mg/L
	Total Recoverable Arsenic		10.6	1.4			10 ug/L
	Chloride		303	57.3			250 mg/L
Sep-24	TDS		776	372			500 mg/L
	Chloride		272	66.2			250 mg/L
Jun-24	TDS		660	352			500 mg/L
	Chloride		285	53.4			250 mg/L
Mar-24	TDS		756	688			500 mg/L
	Chloride		277	137			250 mg/L
Dec-23	TDS		776	568			500 mg/L
	Chloride		289	125			250 mg/L
Sep-23	TDS		732	432			500 mg/L
	Chloride		268	71.1			250 mg/L
Jun-23	TDS		760	416			500 mg/L
	Chloride		252	61.3			250 mg/L
Mar-23	TDS		808	368			500 mg/L
	Chloride		257	52.7			250 mg/L
Dec-22	TDS	888			484		500 mg/L
	Total Recoverable Arsenic	29.3			4.3		10 ug/L
	Chloride	272			88.4		250 mg/L
Sep-22	TDS	590			500		500 mg/L
Jun-22	TDS	950			660		500 mg/L
	Total Recoverable Arsenic	27			8.9		10 ug/L
Mar-22	TDS	598			578		500 mg/L
	Total Recoverable Arsenic	36.4			15.29		10 ug/L
Dec-21	TDS	598			573		500 mg/L
	Total Recoverable Arsenic	36.4			15.3		10 ug/L
Sep-21	TDS	894			674		500 mg/L
Jun-21	TDS	762			652		500 mg/L
	Total Recoverable Arsenic	27.9			9.6		10 ug/L
Mar-21	Total Recoverable Arsenic	23.9			6.9		10 ug/L

Date	Description	MWC-35142	MWC-2022	MWB-2022	MWB-35143	MWB-35140	Limit
Dec-20	TDS	666			616		500 mg/L
	Total Recoverable Arsenic	30.2			8.4		10 ug/L
Sep-20	Total Recoverable Arsenic	28.8			7.7		10 ug/L
Jun-20	TDS	676			608		500 mg/L
	Total Recoverable Arsenic	34.3			7.7		10 ug/L
Mar-20	TDS	628			588		500 mg/L
	Total Recoverable Arsenic	22			5.4		10 ug/L
Dec-19	TDS	690			548		500 mg/L
Sep-19	Total Recoverable Arsenic	16.8			1		10 ug/L
Jun-19	Total Recoverable Arsenic	22.2			17.6		10 ug/L
Mar-19	Total Recoverable Arsenic	15.1				1	10 ug/L
Dec-18	Total Recoverable Arsenic	23.2				1	10 ug/L
Sep-18	Total Recoverable Arsenic	29.9				1	10 ug/L
Jun-18	Total Recoverable Arsenic	24.1				3.7	10 ug/L

B. 2 Effluent Exceedances							
Facility	Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
Central Facility	D-001	11/30/2024	Nitrogen, Total	6.97	6.0	mg/L	MB - Maximum
Central Facility	D-001	11/30/2024	Phosphorus, Total (as P)	1.61	1	mg/L	MB - Maximum
Central Facility	D-001	9/30/2024	Phosphorus, Total (as P)	1.25	1	mg/L	MB - Maximum
Central Facility	D-001	8/31/2024	Phosphorus, Total (as P)	1.12	1	mg/L	MB - Maximum
Central Facility	R-001	8/31/2024	Coliform. Fecal	200	25	#/100mL	MB - Maximum
Central Facility	D-001	6/30/2024	Nitrogen, Total	8.83	6.0	mg/L	MB - Maximum
Central Facility	D-001	6/30/2024	Phosphorus, Total (as P)	1.79	1.0	mg/L	MB - Maximum
Central Facility	D-001	6/30/2024	Chlorodibromo-methane	97.7	93.9	ug/L	MB - Maximum
Central Facility	D-001	4/30/2024	Nitrogen, Total	3.06	3.0	mg/L	MK - Monthly Average
Central Facility	D-001	4/30/2024	Nitrogen, Total	6.58	6.0	mg/L	MB - Maximum

Facility	Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
Central Facility	R-001	4/30/2024	Coliform, Fecal	36	25.0	#/100mL	MB - Maximum
Central Facility	D-001	3/31/2024	Nitrogen, Total	5	4.5	mg/L	WA - Weekly Average
Central Facility	D-001	3/31/2024	Nitrogen, Total	9.81	6.0	mg/L	MB - Maximum
Central Facility	D-001	3/31/2024	Nitrogen, Total	3.86	3.0	mg/L	MK - Monthly Average
Central Facility	D-001	2/29/2024	Nitrogen, Total	3.52	3.0	mg/L	MK - Monthly Average
Central Facility	D-001	2/29/2024	Nitrogen, Total	9.41	6.0	mg/L	MB - Maximum
Central Facility	D-001	2/29/2024	Nitrogen, Total	6.006	4.5	mg/L	WA - Weekly Average
Central Facility	D-001	2/29/2024	Phosphorus, Total (as P)	2.15	1.0	mg/L	MB - Maximum
Central Facility	D-001	11/30/2023	Nitrogen, Total	4.906	4.5	mg/L	WA - Weekly Average
Central Facility	D-001	11/30/2023	Nitrogen, Total	9.02	6.0	mg/L	MB - Maximum
Central Facility	D-001	10/31/2023	Nitrogen, Total	6.29	6.0	mg/L	MB - Maximum
Central Facility	D-001	3/31/2023	Nitrogen, Total	4.43	3.0	mg/L	MK - Monthly Average
Central Facility	D-001	3/31/2023	Nitrogen, Total	24.2	6.0	mg/L	MB - Maximum
Central Facility	D-001	3/31/2023	Nitrogen, Total	13.176	4.5	mg/L	WA - Weekly Average
Central Facility	D-001	2/28/2023	Nitrogen, Total	6.21	6.0	mg/L	MB - Maximum
Central Facility	D-001	9/30/2022	Nitrogen, Total	8.13	6.0	mg/L	MB - Maximum
Central Facility	D-001	9/30/2022	Phosphorus, Total (as P)	1.81	1.0	mg/L	MB - Maximum
South Facility	R-001	12/31/2024	Flow	17.4	12.0	MGD	MR - Maximum Hourly Rate
South Facility	D-001	11/30/2024	pH	5.7	6.5	s.u.	ME - Minimum
South Facility	R-001	11/30/2024	Flow	21.1	12.0	MGD	MR - Maximum Hourly Rate
South Facility	D-001	10/31/2024	pH	4	6.5	s.u.	ME - Minimum
South Facility	D-001	10/31/2024	Chlorine, Total Residual	0.5	0.01	mg/L	MB - Maximum
South Facility	D-001	10/31/2024	Phosphorus, Total (as P)	1.8	1.0	mg/L	MB - Maximum
South Facility	R-001	10/31/2024	Flow	17.5	12.0	MGD	MR - Maximum Hourly Rate

Facility	Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
South Facility	R-001	9/30/2024	Coliform, Fecal, % less than detection	53.3	75	percent	TM - Minimum Total Monthly
South Facility	R-001	9/30/2024	Flow	13.8	12.0	MGD	MR - Maximum Hourly Rate
South Facility	R-001	8/31/2024	Flow	13.6	12	MGD	MR - Maximum Hourly Rate
South Facility	R-001	8/31/2024	Coliform, Fecal, % less than detection	70.6	75	percent	TM - Minimum Total Monthly
South Facility	R-001	7/31/2024	Flow	12.99	12.0	MGD	MR - Maximum Hourly Rate
South Facility	R-001	7/31/2024	Coliform, Fecal, % less than detection	63.2	75.0	percent	TM - Minimum Total Monthly
South Facility	R-001	6/30/2024	Flow	16.3	12.0	MGD	MR - Maximum Hourly Rate
South Facility	R-001	5/31/2024	Flow	18.22	12.0	MGD	MR - Maximum Hourly Rate
South Facility	R-001	4/30/2024	Flow	17.84	12.0	MGD	MR - Maximum Hourly Rate
South Facility	D-001	8/31/2023	Flow	12.03	12.0	MGD	MK - Monthly Average
South Facility	D-001	2/28/2023	Chlorine, Total Residual	0	0.5	mg/L	ME - Minimum
South Facility	D-001	12/31/2022	Phosphorus, Total (as P)	1.2	1.0	mg/L	MB - Maximum
South Facility	D-001	9/30/2022	Flow	13.28	12.0	MGD	MK - Monthly Average
South Facility	D-001	9/30/2022	Chlorine, Total Residual	0	0.5	mg/L	ME - Minimum
South Facility	D-001	7/31/2022	Flow	12.4	12.0	MGD	MK - Monthly Average
South Facility	D-001	6/30/2022	Flow	13.03	12.0	MGD	MK - Monthly Average
South Facility	D-001	9/30/2021	Flow	12.59	12.0	MGD	MK - Monthly Average
South Facility	D-001	8/31/2021	Flow	12.86	12.0	MGD	MK - Monthly Average
South Facility	D-001	7/31/2021	Flow	12.16	12.0	MGD	MK - Monthly Average
Central Facility	D-001	9/30/2020	Nitrogen, Total	7.16	6.0	mg/L	MB - Maximum
Central Facility	D-001	9/30/2020	Phosphorous, Total	2.74	1.0	mg/L	MB - Maximum
Central Facility	D-001	9/30/2020	Solids, Total Suspended	74.4	60.0	mg/L	MB - Maximum
Central Facility	D-001	3/31/2019	Nitrogen, Total	12.7	6.0	mg/L	MB - Maximum
Central Facility	D-001	3/31/2019	Nitrogen, Total	3.87	3.0	mg/L	MK - Monthly Average

Facility	Monitoring Group	Date	Description	Result	Limit	Units	Statistical Base
Central Facility	D-001	2/28/2019	Nitrogen, Total	3.3	3.0	mg/L	MK - Monthly Average
Central Facility	D-001	2/28/2019	Nitrogen, Total	7.89	6.0	mg/L	MB - Maximum
South Facility	D-001	9/30/2020	Copper, Total Recoverable	4.1	3.7	ug/L	MB - Maximum
South Facility	D-001	9/30/2020	Flow	13.3	12.0	MGD	MK - Monthly Average
South Facility	D-001	6/30/2020	Copper, Total Recoverable	4.2	3.7	ug/L	MB - Maximum
South Facility	D-001	3/31/2020	Nitrogen, Total	6.28	6.0	mg/L	MB - Maximum
South Facility	D-001	9/30/2019	Nitrogen, Total	3.2	3.0	mg/L	MK - Monthly Average
South Facility	D-001	3/31/2019	Nitrogen, Total	4.85	4.5	mg/L	WA - Weekly Average
South Facility	D-001	3/31/2019	Nitrogen, Total	3.47	3.0	mg/L	MK - Monthly Average

EXHIBIT C – IN-KIND PROJECTS

Proposal

a. Within 60 days of the effective date of this Amended Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable, Respondent shall submit a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

Proposal Certification Form

b. The proposal shall also include a Certification by notarized affidavit from a senior management official for the City of Fort Myers who shall testify as follows:

My name is Christine Tenney (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for the City of Fort Myers budget and finances. During the eighteen month period prior to the effective date of Amended Order OGC Case No.: 20-0851 there has not been any transfer or use of funds obtained by the City of Fort Myers from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ___ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

Annual Certification Form

My name is _____ (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities the City of Fort Myers budget and finances. During the twelve month period immediately preceding the notary date on this Certification, there has not been any transfer or use of funds obtained by the City of Fort Myers from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

c. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit all requested additional information, clarification, and modifications within 15 days of receipt of written notice.

d. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the stipulated penalties as set forth in paragraph 16 of this Amended Order, within 30 days of Department notice.

e. Within 120 days of the effective date of this Amended Order, or, of the Department's

notification that applying stipulated penalties to an in-kind project is acceptable Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Amended Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable then Respondent shall make cash payment of the stipulated penalties as set forth in paragraph 16 above, within 30 days of Department notice.

f. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph a. above, Respondent shall complete the entire in-kind project.

g. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

h. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties or stipulated penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the entire amount of civil penalties and stipulated penalties due, no additional penalties shall be assessed under paragraph 16 for failure to complete the requirement of this paragraph.

i. Within 15 days of completing the in-kind project, Respondent shall notify the Department of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

j. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty or stipulated penalty shall be due from the

Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the entire amount of civil penalties and stipulated penalties, no additional penalties shall be assessed under paragraph 16 for failure to complete the requirements of this paragraph.

EXHIBIT D – GROUNDWATER MONITORING PLAN: PLAN OF STUDY



To: Alex McSurley, Environmental Specialist II, FDEP-South District

From: Samantha Nehme, PE

*CC: Richard Moulton, Public Utilities Director, City of Fort Myers Jason Sciandra, Utilities Engineer, City of Fort Myers
Justin Mahon, Environmental Compliance Manager, City of Fort Myers*

Date: November 1, 2023

*Subject: FL0021261 Central Advanced Wastewater Treatment Facility Reuse Site
Groundwater Monitoring Plan – Plan of Study*

The City of Fort Myers (City) owns and operates the Central Advanced Wastewater Treatment Facility (AWWTF) permitted by the Florida Department of Environmental Protection (FDEP) under facility identification number FL0021261. In response to a Consent Order (OGC No. 20-0851) - Corrective Action H, the City developed an updated Groundwater Monitoring Plan due to exceedances of the permit limits in groundwater samples collected from the compliances well for Arsenic and Total Dissolved Solids (TDS). The City submitted an updated Groundwater Monitoring Plan on January 12, 2023 following installation of two new monitor wells (March and April 2022) and subsequent sampling (April 2022-September 2022) of the new wells. The FDEP approved the updated Groundwater Monitoring Plan and issued a permit revision on January 25, 2023 incorporating the updated Groundwater Monitoring Plan.

The approach of the updated Groundwater Monitoring Plan was to identify a single background, intermediate, and compliance well that would have shallow groundwater quality representative of ambient (unaffected background) conditions and conditions within the zone of discharge (within 100 feet of the edge of the point of reuse application) defined by FDEP. Additionally, groundwater levels measured in the monitor wells would be used to evaluate the shallow groundwater flow direction at the water treatment plant site. The site is the representative site for the City's groundwater monitoring plan for the Central AWWTF and is owned and irrigated with reuse water by the City.

Since the FDEP approval and issuance of the revised permit, the City has conducted three quarterly sampling events to comply with the permit sampling requirements. The results of

these sampling events included exceedances of the drinking water maximum contaminant levels for TDS (500 mg/L) and Chloride (250 mg/L).

The City has engaged CDM Smith to investigate the representative site to further characterize the site as it relates to the groundwater monitoring for the Central AWWTF operating permit. The following areas of investigation are proposed:

- **Site Surroundings:** There are multiple industries in the area of the representative site, specifically a plant that processes ready mix concrete. There is potential impact to the compliance well due to the proximity of the monitor well to a stormwater swale that may be influenced by an MS4 discharge from the plant to the southeast of the compliance well.
- **Groundwater Flow Direction:** There are conflicting data to establish the groundwater flow direction, which is critical to identifying unaffected background (upgradient of the site) and downgradient (of the reuse application) compliance for groundwater monitoring plan.
- **Reclaimed Water Effluent Sampling:** The Central AWWTF reclaimed water has historically high TDS concentrations with limited data on Chloride and Arsenic concentrations since these parameters are not typical domestic wastewater parameters monitored in effluent. There are also industrial users that may be contributing to higher concentrations of one or more of these parameters.

The sections below describe how data will be collected and analyzed for each of the areas of investigation. Overall, the approach is to analyze one year of data from January 2024 through December 2024 (period of study) to include all seasons and to capture a significant amount of data. A summary memorandum of the historical data and data collected over the period of study will be summarized in a memorandum, which will also include a summary of findings and conclusions.

Site Surroundings

As stated previously, to the south of the representative site there is a plant that processes ready mix concrete. There is potential impact to MWC-2022 sampling results due to proximity of the compliance monitor well to a stormwater swale that may be influenced by an MS4 discharge from the plant to the southeast of the well. To identify if there is an impact to MWC-2022, the swale will be sampled when there is stormwater in the swale. The swale should be sampled nearest the point where stormwater from the south side of Canal Street enters the stormwater swale on the north side of Canal Street. If stormwater remains in the swale for longer than 7 days, another sample will be taken every 7 days thereafter. **Figure 1** shows the location of MWC-2022, the stormwater swale, and the sampling location.

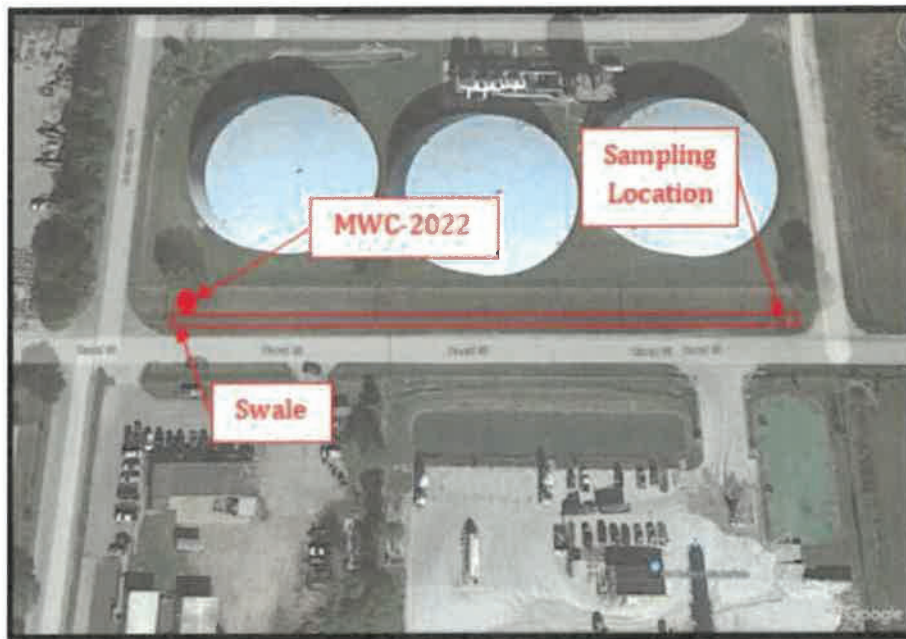


Figure 1 Southern Area of Representative Site showing the MWC-2022 Location

Table 1 is a summary of the sampling plan for characterizing the stormwater in the stormwater swale to the south of the representative site and MWC-2022 during the period of study.

Table 1 Site Surroundings Sampling Summary

Parameter	Sampling Location	Sampling Frequency
TDS	Swale	Weekly when wet
Chloride	Swale	Weekly when wet
Arsenic	Swale	Weekly when wet

Groundwater Flow Direction

Building on historical data from the groundwater monitoring of the representative site, including the groundwater monitor wells that were plugged and abandoned in 2023, additional groundwater level data will be collected at each existing monitor well on a monthly basis along with daily rainfall data.

Historical water level, TDS, Chloride, and Arsenic concentration data from the following monitor wells that were plugged and abandoned will be tabulated:

- MWB-35140
- Relocated MWB-35140
- MWC-35142

The following existing monitor wells will be measured for groundwater level and sampled for TDS, Chloride, and Arsenic monthly:

- MWB-2022
- MWI-35141
- MWC-2022

Rainfall data will be collected from the Lee County Department of Natural Resources Page Field/Lee Tran rain gauge. These data are provided at <https://naturalresources.leegov.com/>

Table 2 is a summary of the sampling plan for better characterizing the groundwater quality and groundwater flow direction for the representative site during the period of study.

Table 2 Groundwater Quality and Flow Direction Sampling Summary

Parameter	Sampling Location	Sampling Frequency
Water Level	MWB-2022, MWI-35141, MWC-2022	Monthly
TDS	MWB-2022, MWI-35141, MWC-2022	Monthly
Chloride	MWB-2022, MWI-35141, MWC-2022	Monthly
Arsenic	MWB-2022, MWI-35141, MWC-2022	Monthly
Rainfall	Page Field/Lee Tran Rain Gauge	Daily

Reclaimed Water Quality

The historical reclaimed water quality data is limited in Chloride and Arsenic concentration data, while TDS data is readily available from annual and other sampling events. To better characterize the reclaimed water quality for these parameters, the City will sample the reclaimed water at a minimum, monthly. Sampling monthly starting in January will capture changes to the industrial pretreatment program and new permits issued to industrial users that has lower allowable TDS concentrations in the industrial users' discharge. These changes and the update to the City's ordinance will be complete and enacted by the end of 2023. Additionally, industrial users must submit discharge quality data, which will be tabulated and included in the summary of findings memorandum if their permit requires sampling for TDS, Chloride, and/or Arsenic.

A review of historical quality data of the seven permitted industrial users showed that one industrial user regularly discharges high concentrations of Chloride to the collection system. This industrial user, Gulf Coast Sanitary Landfill (Landfill), is permitted to discharge leachate and must sample the discharge for TDS, Chloride, and Arsenic as follows:

- Arsenic annually in July
- Chloride quarterly (January, April, July, October)
- TDS biweekly

In addition to this data, the City will sample the discharge monthly for TDS, Chloride, and Arsenic during the period of study. Under the existing permit, the City is authorized to perform additional sampling of the discharge (Section 2 Monitoring Requirements A).

Table 3 is a summary of the sampling plan for characterizing the reclaimed water quality for the identified parameters.

Table 3 Reclaimed Water Quality Sampling Summary

Parameter	Sampling Location	Sampling Frequency
TDS	EFA-02, Landfill	Monthly
Chloride	EFA-02, Landfill	Monthly
Arsenic	EFA-02, Landfill	Monthly

Summary

The City requests that the investigation described herein be performed between January 2024 through December 2024 to include all seasons and to capture a significant amount of data with the purpose of clarifying the site groundwater conditions as they relate to the existing groundwater monitoring plan. The data will inform an update to the groundwater monitoring plan that will be based on conclusions from historical data and data gathered during the period of study. A summary memo of the findings and conclusions will be provided to FDEP by April 1, 2025.

EXHIBIT E – CITY OF FORT MYERS CAPITAL IMPROVEMENT PLAN (CIP)



**City Of Fort Myers, Florida
 5 Year Capital Improvement Program
 2024-2025 through FY2028-2029**

Category	FY	FY	FY	FY	FY	FIVE YEAR TOTAL	BEYOND 2029
	2025	2026	2027	2028	2029		
City Structures	\$3,015,000	\$7,136,000	\$42,036,000	\$28,786,000	\$286,000	\$81,259,000	\$2,669,000
Infrastructure	\$25,523,938	\$32,700,000	\$32,286,000	\$9,750,000	\$0	\$100,259,938	\$11,904,728
Parks & Recreation	\$20,700,000	\$19,040,000	\$9,880,000	\$500,000	\$0	\$50,120,000	\$8,800,000
Public Safety	\$14,335,000	\$57,870,200	\$24,800,000	\$7,180,000	\$1,500,000	\$105,685,200	\$18,925,000
Stormwater	\$3,890,000	\$9,630,000	\$4,000,000	\$4,000,000	\$4,000,000	\$25,520,000	\$0
Technology	\$2,500,000	\$4,100,000	\$1,050,000	\$250,000	\$250,000	\$8,150,000	\$17,951,200
Utilities	\$103,797,300	\$173,170,293	\$94,600,000	\$97,875,000	\$87,850,000	\$557,292,593	\$390,620,562
Total	\$173,761,238	\$303,646,493	\$208,652,000	\$148,341,000	\$93,886,000	\$928,286,734	\$450,870,570

Funding Sources Summary	FY	FY	FY	FY	FY	FIVE YEAR TOTAL
	2025	2026	2027	2028	2029	
Governmental Debt	\$27,705,600	\$100,863,493	\$62,752,000	\$68,286,000	\$30,036,000	\$309,643,093
Utility Debt	\$89,113,200	\$113,665,800	\$58,250,000	\$32,700,000	\$37,800,000	\$331,529,000
Cash from Operations	\$18,289,400	\$33,915,200	\$34,100,000	\$19,955,000	\$19,550,000	\$126,809,600
Impact Fees	\$7,945,000	\$32,750,000	\$20,350,000	\$12,500,000	\$6,500,000	\$80,045,000
CRA with funds on deposit within the Community Redevelopment Trust fund	\$1,900,000	\$600,000	\$5,000,000	\$0	\$0	\$7,500,000
Grants/FDOT/Other	\$28,808,038	\$21,852,000	\$8,200,000	\$14,900,000	\$0	\$73,760,038
Total	\$173,761,238	\$303,646,493	\$208,652,000	\$148,341,000	\$93,886,000	\$928,286,734

The next few pages detail each project with their funding source and amounts for each Fiscal Year.
 Please note: The pink highlighted projects are listed more than once due to them having more than one funding source.

UTILITIES CIP FY2025-2029 (and Beyond FY2029 through FY 2034)

Item	Category	Department	Dept.	Comprehensibility Plan Element	Comprehensive Plan Year	Project Name	Project Description	Funding Source	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	Five Year Total	Beyond FY2029	FY 2030	FY 2031	FY 2032	FY 2033	FY 2034	Five Year Total	Fee Year Total			
2	Utilities	Water Plant	Water	Element 4	M	31100028	311-7045-515-6000	1	Water Treatment Plant Expansion	Design, permitting and construction of a plant expansion to 12 MGD of final water production capacity.	Grant	1,750,000	-	-	-	-	-	-	-	-	-	-	1,750,000		
2	Utilities	Water Plant	Water	Element 4	M	31100028	311-7045-515-6009	1	Water Treatment Plant Expansion	Final construction of plant expansion to 12 MGD of final water production capacity.	SEF Loan	-	34,900,000	29,200,000	-	-	-	-	-	-	-	-	-	74,800,000	
1	Utilities	CWWT	Water	Element 4	M	31100097	311-6113-515-6400	2	Northwest Water Treatment Plant Expansion	Distribution of Dewatering Systems to meet permit requirements of current state. Two systems each.	Grant	1,750,000	-	-	-	-	-	-	-	-	-	-	-	1,750,000	
1	Utilities	CWWT	Water	Element 4	M	31100097	311-6113-515-6400	2	Northwest Water Treatment Plant Expansion	Installation of Dewatering Systems to meet permit requirements of current state. Two systems each.	SEF Loan	-	34,900,000	29,200,000	-	-	-	-	-	-	-	-	-	74,800,000	
1	Utilities	CWWT	Water	Element 4	M	31100025	311-6113-515-6400	3	Clarifier Baffle (C) Replacement (C) and Trickle Covers (C) CWWT	Replacement of Clarifier Baffle (C) and Trickle Covers (C) to meet permit requirements of current state. Two systems each.	Grant	3,147,400	1,715,900	-	-	-	-	-	-	-	-	-	-	-	4,863,300
5	Utilities	SWWTP	Water	Element 4	M	31100026	311-4146-515-6400	4	Clarifier Baffle (C) Replacement (C) and Trickle Covers (C) SWWTP	Replacement of Clarifier Baffle (C) and Trickle Covers (C) to meet permit requirements of current state. Two systems each.	Grant	1,392,350	-	-	-	-	-	-	-	-	-	-	-	-	1,392,350
5	Utilities	SWWTP	Water	Element 4	M	31100026	311-4146-515-6400	4	Clarifier Baffle (C) Replacement (C) and Trickle Covers (C) SWWTP	Replacement of Clarifier Baffle (C) and Trickle Covers (C) to meet permit requirements of current state. Two systems each.	SEF Loan	-	4,177,400	-	-	-	-	-	-	-	-	-	-	-	4,177,400
1	Utilities	CWWT	Water	Element 4	M	31100025	311-7028-515-6400	5	Primary Treatment and Digestion - Hammer	Replacement of Hammer Primary Treatment and Digestion to meet permit requirements of current state. Two systems each.	Grant	11,500,000	-	-	-	-	-	-	-	-	-	-	-	-	11,500,000
3	Utilities	SWWTP	Water	Element 4	M	31100027	311-7028-515-6400	6	Primary Treatment and Digestion - Blower	Replacement of Blower Primary Treatment and Digestion to meet permit requirements of current state. Two systems each.	Grant	11,500,000	-	-	-	-	-	-	-	-	-	-	-	-	11,500,000
1	Utilities	CWWT	Water	Element 4	M	31100030	311-7123-515-6000	7	Reclaimed Water Production 100% CWWT	Design and construction of 100% reclaimed facility at CWWT.	SEF Loan	19,824,500	11,200,000	25,200,000	28,700,000	38,800,000	118,624,500	-	-	-	-	-	-	-	118,624,500
5	Utilities	SWWTP	Water	Element 4	M	31100015	311-4236-515-6000	8	Reclaimed Water Production 100% SWWTP	Design and construction of 100% reclaimed facility at SWWTP.	SEF Loan	1,500,000	1,500,000	4,000,000	1,500,000	1,500,000	10,000,000	-	-	-	-	-	-	-	18,000,000
5	Utilities	SWWTP	Water	Element 4	M	31100015	311-4236-515-6000	8	Reclaimed Water Production 100% SWWTP	Design and construction of 100% reclaimed facility at SWWTP.	SEF Loan	1,000,000	1,000,000	2,000,000	1,000,000	1,000,000	6,000,000	-	-	-	-	-	-	-	12,000,000
2,3,4,6	Utilities	Water Plant	Water	Element 4	M	31100026	311-6113-515-6000	9	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Water Impact Plan	1,200,000	1,200,000	1,000,000	1,000,000	1,000,000	5,600,000	-	-	-	-	-	-	-	10,000,000
2	Utilities	Water Plant	Water	Element 4	M	31100011	311-6462-515-6000	10	Water Treatment Plant Capacity Substations	Design and construction of 100% reclaimed facility at SWWTP.	SEF Loan	5,000,000	28,000,000	-	-	-	-	-	-	-	-	-	-	-	33,000,000
2,3,4,6	Utilities	Water Plant	Water	Element 4	M	31100011	311-6462-515-6000	11	Water Treatment Plant Capacity Substations	Design and construction of 100% reclaimed facility at SWWTP.	Water Impact Plan	-	2,800,000	-	-	-	-	-	-	-	-	-	-	-	2,800,000
2,3,4,6	Utilities	Water Plant	Water	Element 4	M	31100011	311-6462-515-6000	11	Water Treatment Plant Capacity Substations	Design and construction of 100% reclaimed facility at SWWTP.	Grant	8,800,000	41,900,000	-	-	-	-	-	-	-	-	-	-	-	50,700,000
All	Utilities	Utility Construction	Water	Element 4	M	31100021	311-6462-515-6000	12	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Utility Fund	4,700,000	5,700,000	5,700,000	5,700,000	6,000,000	23,300,000	36,400,000	6,112,500	6,541,000	7,004,900	10,641,300	177,996,800		
All	Utilities	Utility Construction	Water	Element 4	M	31100021	311-6462-515-6000	12	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Utility Fund	300,000	200,000	1,800,000	1,000,000	4,000,000	7,000,000	-	-	-	-	-	-	15,000,000	
All	Utilities	Utility Construction	Water	Element 4	M	31100021	311-6462-515-6000	13	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Grant	-	6,500,000	-	-	-	-	-	-	-	-	-	-	-	6,500,000
All	Utilities	Utility Construction	Water	Element 4	M	31100021	311-6462-515-6000	14	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Grant	1,025,000	1,200,000	1,200,000	1,200,000	1,300,000	6,000,000	8,000,000	1,000,000	1,000,000	1,000,000	1,000,000	30,000,000		
All	Utilities	Utility Construction	Water	Element 4	M	31100021	311-6462-515-6000	15	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Grant	8,000,000	7,500,000	7,500,000	7,500,000	8,000,000	31,000,000	31,000,000	4,200,000	3,000,000	3,000,000	3,000,000	142,000,000		
3,4	Utilities	Utility Construction	Water	Element 4	M	31100029	311-7123-515-6000	16	Water Treatment Plant Capacity Substations	Design, permitting and construction of various capacity substations on the existing process equipment to meet total 11k.	Grant	8,000,000	-	-	-	-	-	-	-	-	-	-	-	-	8,000,000

EXHIBIT F – APPROVED IN-KIND PROJECT FOR CIVIL PENALTIES

**Consent Order OGC File No. 20-0851
City of Fort Myers – Public Utilities
In-Kind Penalty Project Proposal
Deployment of Real-Time Flow and Level Sensors in the Gravity Sewer System Project**

Purpose

Sanitary sewer evaluation surveys (SSES) are critical for detecting and preventing sanitary sewer overflows (SSOs), which can release untreated wastewater into the environment, contaminating water sources and harming ecosystems. By identifying leaks, blockages, and other system deficiencies, these surveys help reduce the risk of waterborne diseases and protect public health. Regular surveys ensure that wastewater systems are properly maintained, minimizing the impact of sewage on both the natural environment and the communities that depend on clean water resources. While not a requirement for an SSES program, real-time wastewater collection system monitoring can play a crucial role in enhancing the management, operation, and maintenance of wastewater infrastructure. By using advanced technologies such as sensors, telemetry, and data analytics, utilities can monitor key parameters like flow rates, pressure, water levels, and contamination in real-time. This continuous data allows for the immediate detection of issues such as blockages, leaks, or system failures, enabling a proactive approach to maintenance and reducing the risk of sanitary sewer overflows (SSOs) and other operational disruptions. Real-time monitoring systems also support efficient decision-making and resource management, helping utilities maintain optimal system performance while ensuring regulatory compliance.

In light of current legislation, specifically Florida Administrative Code (F.A.C.) rule 62-600.705(2), real-time monitoring becomes even more beneficial. Effective June 28, 2023, the Florida Department of Environmental Protection (FDEP) requires domestic wastewater facility applicants to submit a Collection System Action Plan (CSAP) that outlines a strategy for preventing SSOs and leakages. This rule mandates the regular evaluation of wastewater infrastructure, including pipes, manholes, and pump stations, and the submission of detailed action plans that incorporate proactive maintenance strategies. The CSAP must include goals for annual system evaluations, studies on inflow and infiltration (I&I), and resilience planning for challenges like sea-level rise, making real-time monitoring an integral component of compliance and operational efficiency.

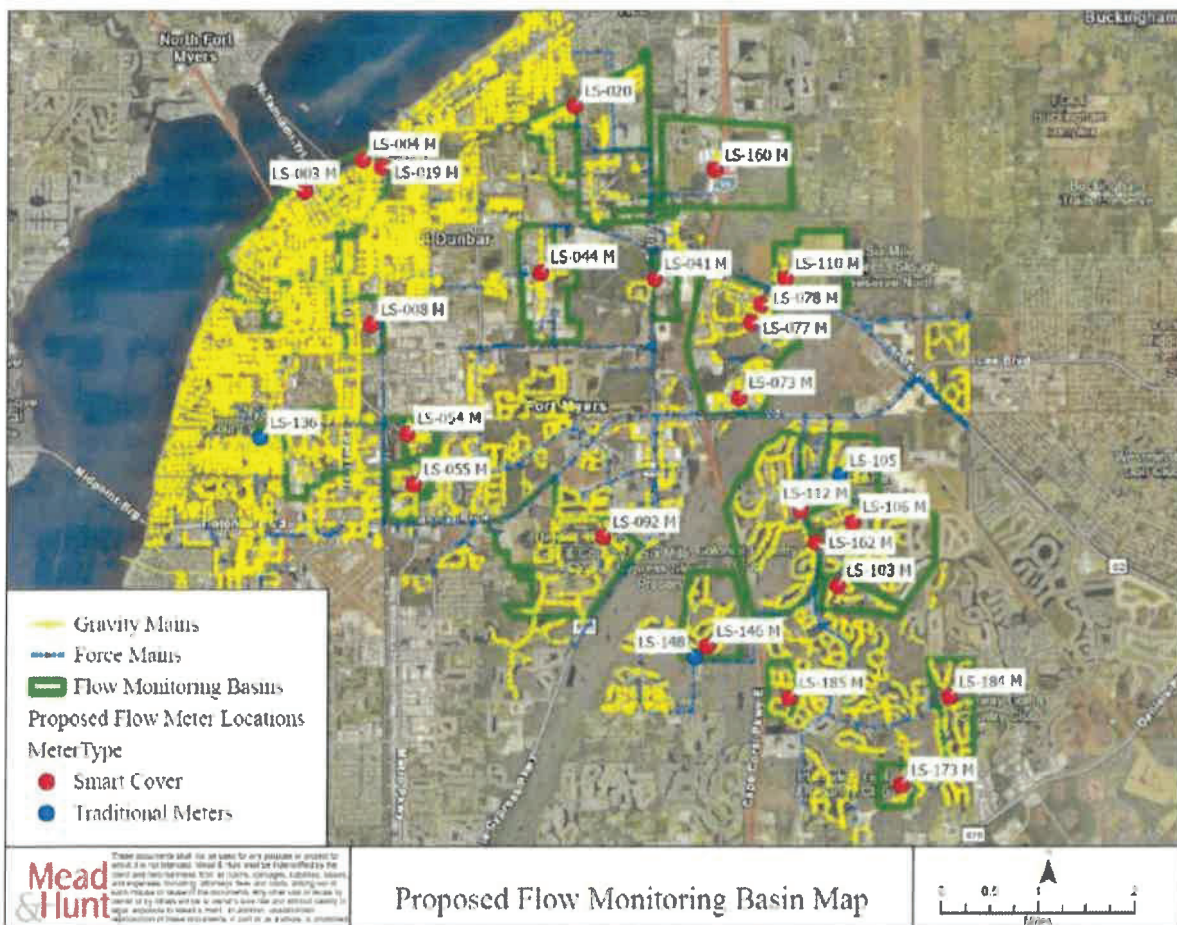
By integrating real-time monitoring with the CSAP requirements, wastewater utilities can better manage and maintain their systems. Real-time data allows for quick identification of areas in need of repair or improvement, supporting the goals of the CSAP to assess system conditions, plan maintenance activities, and address I&I issues. Additionally, the ability to monitor and manage critical infrastructure in real time helps utilities comply with legislation that demands adaptive, data-driven approaches for maintaining system resilience and reducing environmental and health risks. As part of a comprehensive strategy, real-time monitoring ensures that utilities can address immediate issues and plan for long-term system sustainability, thus safeguarding public health and protecting the environment.

Project Description

The City will deploy 23 real-time flow/level sensors (SmartLevel systems) in key manholes across the gravity sewer system. The sensors will be connected via satellite to the City’s SCADA system and will monitor continually sending alarms when flow levels increase beyond a defined setpoint. The alarms will allow the City’s operations team to deploy resources to investigate the high-level warnings and prevent spills from occurring. The sensors will also provide data critical for evaluating I&I flows within the collection system and will accelerate data collection for the City’s existing 10-year, \$60M, Sanitary Sewer Evaluation Survey (SSES) program.

Project Map

The project map below depicts the preliminary locations for installation of the 23 sensors.



Summary of Benefits

- The SmartLevel system offers cost effective satellite manhole monitoring to aid in the elimination of sewer overflows, optimize collection system cleaning, and accurately identify inflow and infiltration (I&I).
- The comprehensive data management and analytics software platform allows for efficient manage real-time data to enhance performance, reduce costs, and optimize resources.
- Continuous system visibility through Iridium satellite communication with no disruptions during extreme weather events or poor coverage associated with cellular networks.
- No confined space entry and simple manhole retrofit minimizes field resources and safety hazards.
- Full data available within an hour of installation.

Project Implementation Schedule

The projected schedule for the deployment of 23 flow/level sensors is shown below.

Milestones	Completion Date
Submit In-kind Penalty Project Proposal for Penalties	January 2025
Approve purchase of 23 flow/level sensors	April 21, 2025
Delivery of 23 flow/level sensors	July 31, 2025
Installation of 23 flow/level sensors	August 31, 2025
Substantial/Final Project Completion	September 30, 2025
1) Notify FDEP of Project Completion 2) Request a Verification Letter from FDEP 3) Submit Supporting Documents Verifying the Project was Completed in Accordance with the Approved Proposal.	October 18, 2025

Cost Estimate

The estimated costs for the project are shown below. The breakdown provides total cost for construction services only. The cost to design and permit this project is not included in the proposal. Actual costs for the project will be submitted to the FDEP as part of the supporting documents required at project completion.

Total Project Components	Cost
Procurement of 23 flow/level sensors	\$ 140,223.00
Installation of 23 flow/level sensors	\$11,500.00
Shipping	\$631.00
Total Estimated Project Costs:	\$152,354.00

EXHIBIT C – IN-KIND PROJECTS

Proposal

a. Within 60 days of the effective date of this Amended Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable, Respondent shall submit a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

Proposal Certification Form

b. The proposal shall also include a Certification by notarized affidavit from a senior management official for the City of Fort Myers who shall testify as follows:

My name is Christine Tenney (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for the City of Fort Myers budget and finances. During the eighteen month period prior to the effective date of Amended Order OGC Case No.: 20-0851 there has not been any transfer or use of funds obtained by the City of Fort Myers from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this 13 day of March, 2025 by

Christine Tenney
Blair

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: 05/16/2025

Commission/Serial No.: HH 083890



RESOLUTION NO. 2025-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, AMENDING THE CONSENT ORDER BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CITY OF FORT MYERS FOR OGC FILE NO.20-0851; RESCINDING RESOLUTION NO. 2021-09 AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: The City is the owner and operator of the following wastewater treatment facilities (Facilities) and associated wastewater collection/transmission systems, as well as an operator/co-permittee of the municipal separate storm sewer systems (MS4) operated under State of Florida Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000035 (MS4 Permit), serving the City of Fort Myers: and

WHEREAS: The City of Fort Myers Central Advanced Wastewater Treatment Facility (“Central Facility”), is an 11.0 million gallons per day (MGD) annual average daily flow, 5-stage BARDENPHO™ process domestic wastewater treatment facility with high level disinfected effluent discharging to a slow-rate public access reuse system or a surface water outfall to the Caloosahatchee River Estuary, Class III Marine waters, (WBID# 3240B). The Central Facility is operated under Wastewater Permit No. FL0021261 (“Central Facility Permit”), which was issued on June 12, 2022, and will expire on June 11, 2027.; and

WHEREAS: The City Fort Myers South Advanced Wastewater Treatment Facility (“South Facility”), is a 12.0 MGD annual average daily flow, BARDENPHO™ process domestic wastewater treatment facility with treated effluent discharging to the Caloosahatchee River Estuary, Class III Marine waters, (WBID# 3240A). The South Facility is operated under Wastewater Permit No. FL0021270 (“South Facility Permit”), which was issued on June 12, 2022, and will expire on June 11, 2027

WHEREAS: The City shall comply with corrective actions stated in the New Consent Order OGC File No. 20-0851 attached as Exhibit “A”; and

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WHEREAS: The City shall pay the Department \$84,000 in civil penalties, and \$1,000.00 for cost and expenses incurred by the Department during the investigation, in settlement of the regulatory matters addressed in the order or in lieu of making a cash payment, City may elect to off-set this amount by implementing in-kind penalty project(s), which must be approved by the Department.

WHEREAS: The City Council of the City of Fort Myers wishes to enter into the New Consent Order between the Department and City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, that:

1. The foregoing recitals are hereby fully incorporated by this reference and are deemed a material part of this New Resolution.
2. The City Council hereby approves the New Consent Order between the Department and City.
3. This Resolution shall become effective immediately upon adoption.

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PASSED IN PUBLIC SESSION of the City Council of the City of Fort Myers, Florida, on April 21, 2025.

AW *Teresa Watkins Brown*
Teresa Watkins Brown

AG *[Signature]*
Diana Giraldo

AW *Terolyn P. Watson*
Terolyn P. Watson

AW *[Signature]*
Liston D. Bochette, III

AW *[Signature]*
Fred Burson

AW *[Signature]*
Darla Bonk
Council Members

APPROVED on April 21, 2025.

Dye *[Signature]*
Kevin B. Anderson
Mayor

FILED in the Office of the City Clerk on April 21, 2025.



Mary Hagemann
Mary Hagemann, CMC
City Clerk