

**Shawna Senko**

---

**From:** Joseph Gabay <jgabay@uswatercorp.net>  
**Sent:** Wednesday, April 02, 2014 12:29 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Vickie Penick  
**Attachments:** Country Walk Utilities Inc DR4 (Pg 1-16) & cover letter-signed 040214.pdf

The person responsible for this filing:

Joseph G. Gabay

U.S. Water Services Corporation



4939 Cross Bayou Boulevard  
New Port Richey, FL 34652  
(Office) 727-848-8292 x239  
(Mobile) 727-412-4466  
(Accounting Fax) 727-849-7809  
(E-Mail) [jgabay@uswatercorp.net](mailto:jgabay@uswatercorp.net)

The docket number is: 130294

The document is being filed on behalf of Mr. Gary Deremer.

There are 16 pages.

This is a response to data request # 4.

Country Walk Utilities  
5320 Captains Court  
New Port Richey, FL 34652

April 2, 2014

Re: Data Requests from FPSC.

Please find the responses to data request #4 in this transmittal.

Thank you for your assistance.

Sincerely,

*S/ Joseph G. Gabay*

Joseph G. Gabay

FLORIDA PUBLIC SERVICE COMMISSION  
AUDIT DOCUMENT AND RECORD REQUEST/NOTICE OF INTENT

TO: Ms.Lisa Holmes; Mr. Ron Derossett UTILITY: Holmes Utilities, Inc.  
AUDIT MANAGER: Linda Hill-Slaughter PREPARED BY: LH-Slaughter  
REQUEST NUMBER: DR 3 DATE OF REQUEST: 3/27/2014  
AUDIT PURPOSE: Certificate Transfer

REQUEST THE FOLLOWING ITEM(S) BE PROVIDED BY: 4/7/2014  
REFERENCE RULE 25-22.006, F.A.C., THIS REQUEST IS MADE:  INCIDENT TO AN INQUIRY  
 OUTSIDE OF AN INQUIRY

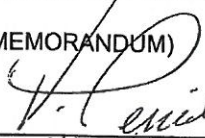
ITEM DESCRIPTION:  
Please provide:

- 1) A copy of the executed sales agreement. **Answer: Please see Attached**
- 2) A schedule of assets transferred to the Buyer. **Answer: Please see Attached**

TO: AUDIT MANAGER: \_\_\_\_\_ DATE: 032814

THE REQUESTED RECORD OR DOCUMENTATION:

- (1)  HAS BEEN PROVIDED TODAY
- (2)  CANNOT BE PROVIDED BY THE REQUESTED DATE BUT WILL BE MADE AVAILABLE BY: \_\_\_\_\_
- (3)  AND IN MY OPINION, ITEM(S) \_\_\_\_\_ IS (ARE) PROPRIETARY AND CONFIDENTIAL BUSINESS INFORMATION AS DEFINED IN 364.183, 366.093, OR 367.156, F.S. TO MAINTAIN CONTINUED CONFIDENTIAL HANDLING OF THIS MATERIAL. THE UTILITY OR OTHER PERSON MUST, WITHIN 21 DAYS AFTER THE AUDIT EXIT CONFERENCE, FILE A REQUEST FOR CONFIDENTIAL CLASSIFICATION WITH THE OFFICE OF COMMISSION CLERK. REFER TO RULE 25-22.006, F.A.C.
- (4)  THE ITEM WILL NOT BE PROVIDED. (SEE ATTACHED MEMORANDUM)

  
Victoria Penick, V. President, US Water Services  
(SIGNATURE AND TITLE OF RESPONDENT)  
Filed on behalf of Gary Deremer, President, Country Walk Utilities, Inc.

Distribution: Original: Utility (for completion and return to Auditor)  
Copy: Audit File

THIS ASSET PURCHASE AGREEMENT, dated as of the 9<sup>th</sup> day of September, 2013, by and between **Holmes Utilities, Inc.**, ("Seller") a Florida corporation with an address of 760 Henscratch Road, Lake Placid, FL 33852, and **Country Walk Utilities, Inc.**, ("Buyer") a Florida corporation with an address of 5320 Captains Court, New Port Richey, FL 34652, with reference to the following RECITALS:

### RECITALS

A. Seller owns, maintains and operates: (i) water production and distribution systems (the "Water Systems") ("Systems") that provide water services to the **Country Walk of Leisure Lakes Subdivision** residents and related assigned service area within Highlands County, Florida (the "Service Area") and as designated by the Florida Public Service Commission.

B. Buyer is a Private utility that furnishes water services to the public in various portions of the State of Florida.

C. Seller desires to sell, and Buyer desires to purchase the properties and rights of Seller owned and used in connection with its Systems, all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the recitals and the covenants, representations, warranties and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

#### 1. SALE AND PURCHASE OF THE ASSETS OF SELLER'S WATER SYSTEMS

Subject to the terms and conditions hereinafter set forth, Buyer shall purchase from Seller, and Seller shall sell, assign, transfer, grant, convey and deliver to Buyer at Closing (hereinafter defined), all of the Systems' assets, properties and rights of Seller (whether tangible or intangible, real, personal or mixed) which are held, used or useful in connection with the production, treatment, distribution or collection of water within the Service Area (collectively, the "Assets"), other than the Excluded Assets.

Except as otherwise provided herein or any schedules hereto, the Assets are being sold in "As Is" condition and Seller makes no representations, covenants or warranties with respect to the condition of the Assets, except that the Assets are being sold free and clear of all mortgages, liens, pledges, security interest, charges, taxes, claims, restrictions and encumbrances of any nature whatsoever.

##### 1.1 Assets Further Defined

The Assets shall, without limitation to the definition stated above, include the specific assets, properties and rights of Seller set forth on Schedule 1.1, and the following:

- (a) all of the land, buildings, pipes, pipelines, wells, treatment equipment and facilities, pumping stations, storage tanks and facilities, standpipes, fire hydrants, , improvements, fixtures, rights-of-way, rights, uses, licenses and easements owned by Seller, or in which Seller has an interest, and all hereditaments, tenements and appurtenances belonging or appertaining thereto;
- (b) all rights of Seller under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit, certificate or other authorization or approval of any

nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating to the Assets and listed on Schedule 1.1(b) hereto; and

- (c) all information, files, records, data, plans, contracts and recorded knowledge, including customer and supplier lists and property records, related to the utility services provided by Seller in the Service Area.

## 1.2 Excluded Assets

Notwithstanding the foregoing, the Assets shall not include any of the following (collectively, the "Excluded Assets"):

- (a) any and all customer service lines that run from outside the meter box or from the curb stop to each individual residence, commercial or industrial structure served by the Assets;
- (b) all piping and fixtures internal to each individual customer's structure;
- (c) all cash, cash equivalents and short-term investments of Seller, including all bank accounts, demand accounts, certificates of deposit, time deposits, marketable securities, negotiable instruments and the proceeds of accounts receivable paid prior to the Closing Date, other than deposits and funds included in the Assets;
- (d) all accounts receivable of Seller accrued and payable prior to the Effective Time, including all intercompany accounts receivable of Seller and notes for those accounts receivable;
- (e) all rights of Seller under any written or oral contract, easement, license, agreement, lease, plan, instrument, registration, permit, certificate or other authorization or approval of any nature, or other document, commitment, arrangement, undertaking, practice or authorization, relating to the Assets which are listed on Schedule 1.2(f);
- (f) all shares of capital stock of Seller and equity interests in any affiliate of Seller which are owned by Seller;
- (g) all insurance policies of Seller and rights thereunder;
- (h) all causes of action, judgments, claims, reimbursements and demands of whatever nature (including rights under and pursuant to all warranties, representations and guarantees made by suppliers of products, materials or equipment, or components thereof) in favor of Seller to the extent related to any Excluded Asset or Excluded Liability;
- (i) all corporate minute books, stock records and corporate seals of Seller, and personnel records and other records that Seller is required by law to retain in its possession;
- (j) all rights and obligations in connection with and assets of any employee benefit plans of Seller and/or any of its affiliates;
- (k) all rights, properties and assets set forth on Schedule 1.2(l);

- (l) all claims for and rights to receive refunds, rebates, other governmental charges of whatever nature, or similar payments of taxes to the extent such taxes were paid by or on behalf of Seller or any affiliate of Seller; and
- (m) customer deposits (none on file at sale date)
- (n) all rights of Seller under this Agreement and any transaction documents related hereto.

### 1.3 Consideration

The total purchase price ("Purchase Price") for the Assets will be **Five Thousand Five Hundred Dollars (\$5,500.00)** payable by Buyer to Seller at Closing by wire transfer of immediately available funds, to the account designated by Seller at least two (2) business days prior to the Closing Date.

### 1.4 Contractual Obligations

Except for those contracts, agreements, commitments, leases, certificates, orders, notices, permits or other instruments set forth on Schedule 1.1(d) hereto, Buyer shall not assume any obligations of Seller under any contract, agreement, commitment, lease, certificate, order, notice, permit or other instrument, whether oral, written, express or implied.

### 1.5 Assumption of Liabilities; Excluded Liabilities

- (a) Upon the terms and subject to the satisfaction or, if permissible, waiver, of the conditions of this Agreement, at the Closing on the Closing Date and as of the Effective Time, Buyer shall assume and discharge, when and as due, only the following Liabilities of Seller, whether known or unknown, in each case, to the extent related to the Systems (collectively, the "Assumed Liabilities"):
  - (i) all Liabilities arising out of, resulting from or relating to the contracts being assumed by Buyer and listed on Schedule 1.1(b), but only to the extent such Liabilities (A) are to be performed after the Effective Time, (B) do not arise as a consequence of any breach or default prior to the Effective Time, and (C) are accompanied by a correlated duty of performance or payment on the part of the other party(s) thereto; and
  - (ii) all Liabilities arising out of, resulting from or relating to the matters set forth on Schedule 1.5(a)(ii).
- (b) Notwithstanding anything in this Agreement to the contrary, except for the Assumed Liabilities, any and all Liabilities of Seller (or any of any affiliates of Seller) (other than the Assumed Liabilities, the "Excluded Liabilities"), whether or not incurred in connection with the operation of the Systems, and including any and all Liabilities under any employee benefit plan, practice or arrangement or pension, retirement or savings plan, shall remain the sole responsibility of and shall be retained, paid, performed and discharged solely by Seller.

## 2. CLOSING

Subject to the provisions of Sections 4 and 5, Closing hereunder (the "Closing") shall take place at the offices of Buyer located at 5320 Captains Court., New Port Richey, FL, commencing at 10:00 a.m. local time, on or before \_\_\_\_\_ 2013, or at such other place or at such other time or by such other means as is agreed to by Buyer and Seller. The date of the Closing is referred to herein as the "Closing Date". The effective time of the legal transfer hereunder shall be 12:01 a.m. on \_\_\_\_\_.

### 2.1 Items to be delivered at Closing

At the Closing and subject to the terms and conditions herein contained:

- (a) Seller shall deliver to Buyer the Assets, including, without limitation, the following:
  - (i) instruments and documents of conveyance and transfer, all in form reasonably satisfactory to Buyer and its counsel, as shall be necessary and effective to transfer and assign to, and vest in, Buyer good and marketable title to the Assets and all rights to operate the Systems as such are now being operated, including, but not limited to the following documents: a Deed for each parcel to be conveyed and a Bill of Sale and Assignments.
  - (ii) a complete and accurate list of the names and addresses of all customers of Seller, both in paper form and in electronic form on a diskette that can be downloaded to a computer, along with a billing history for each customer;
  - (iii) keys to any and all buildings and gates; and simultaneously with such delivery, all such steps shall be taken as may be required to put Buyer in actual possession and operating control of the Assets.
- (b) Seller shall deliver to Buyer the agreements, opinions, certificates and other documents and instruments referred to in Section 5 hereof.
- (c) Buyer and Seller agree that final meter readings shall be conducted within seven (7) days immediately prior to Closing. These readings shall be utilized by Seller for the purpose of issuing final bills, and shall constitute the opening readings for Buyer. Buyer shall use these readings to begin the billing cycle for its new customers following Closing, and shall not be responsible for the collection of any amounts due Seller for bills issued by Seller as a result Seller's final meter reading.

In the event that Buyer determines that payments that it has received are payments for the period of time that Seller owned the Assets, Buyer will forward these payments to Seller within a reasonable period of time. In making such determinations, among other ways to determine whether the payment received is for payments due prior to Closing, Buyer will consult with Seller on the amount of the amounts due to Seller prior to Closing and will compare these amounts due with the amount received.

### 2.2 Transfer of Utilities

Seller and Buyer will cooperate to transfer utility service, including telephone, electric, chlorine, and gas service providing such service to any of the Assets as of the Closing Date.

### 2.3 Further Assurances

Seller, from time to time after the Closing, at Buyer's request, and without compensation, will execute, acknowledge and deliver to Buyer such other instruments of sale, conveyance, assignment and transfer and will take such other actions and execute and deliver such other documents, certifications and further assurances as Buyer may reasonably require in order to vest in Buyer, and/or to place Buyer fully in possession of, all of the Assets.

### 3. CONDUCT OF PARTIES PENDING CLOSING

3.1 Seller agrees that, with respect to the Assets, pending the Closing and except as otherwise agreed to in writing by Buyer:

- (a) The business of Seller shall be conducted solely in the ordinary course consistent with past practice and shall maintain and service the tangible Assets in good working order.
- (b) Seller will use its commercially reasonable efforts to maintain its relations and goodwill with its suppliers, customers and any others having business relations with it.
- (c) Seller shall comply with all laws, ordinances, rules, regulations and orders applicable to it and to the conduct of its business.
- (d) Seller will promptly advise Buyer in writing of all events between the date hereof and Closing which could render any representation or warranty under the Agreement, if restated and republished as of Closing, untrue or incorrect in any material respect.
- (e) Seller will advise Buyer in writing promptly after Seller receives knowledge of the threat or commencement of any dispute, claim, action, suit, proceeding, arbitration or investigation against or involving the Assets or the sale and transfer thereof to Buyer, or of the occurrence of any event (exclusive of general economic factors affecting business in general) of a nature that is or may be materially adverse to the business, operations, properties, assets, prospects or condition (financial or otherwise) of Seller.
- (f) Seller will conduct its business in such a manner that at the Closing the representations and warranties of Seller contained in this Agreement shall be true as though such representations and warranties were made on and as of such date. Furthermore, Seller will use its commercially reasonable efforts to cause all of the conditions to this Agreement to be satisfied on or prior to the Closing Date.
- (g) Seller will give to Buyer free and full access to and the right to inspect, during normal business hours, all of the premises, properties, assets, records, contracts and other documents relating to its business and operations, and shall permit them to consult with the officers, employees, accountants, counsel and agents of Seller.

### 4. CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

All obligations of Seller under this Agreement are subject to the fulfillment or satisfaction, or waiver by Seller, prior to or at the Closing, of each of the following conditions precedent:



#### 4.1 Closing Certificate; Performance by Buyer

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing; and Seller shall have been furnished with a certificate or certificates of Buyer dated the Closing Date, signed by an officer of Buyer, certifying, in such detail as Seller may reasonably request, to the fulfillment of the foregoing conditions and that all representations and warranties made by Buyer in this Agreement are true and correct as of Closing, except such as have been rendered incorrect because of events which occurred after the date hereof, as disclosed in writing by Buyer to Seller within a reasonable time after the event occurred.

#### 4.2 Litigation Affecting Closing

On the Closing Date, no proceeding shall be pending or threatened before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or in the consummation of the transactions contemplated hereby, and no investigation that might eventuate in any such suit, action or proceeding shall be pending or threatened.

### 5. CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS

All obligations of Buyer under this Agreement are conditioned upon the fulfillment or satisfaction, or waiver by Buyer, prior to or at the Closing, of each of the following conditions precedent:

#### 5.1 Closing Certificate; Performance by Seller

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing; and Buyer shall have been furnished with a certificate or certificates of Seller dated the Closing Date, signed by the appropriate officials of Seller, certifying, in such detail as Buyer may reasonably request, to the fulfillment of the foregoing conditions and that all representations and warranties made by Seller in this Agreement are true and correct as of Closing.

#### 5.2 Litigation Affecting Closing

On the Closing Date, no proceeding shall be pending or threatened before any court or governmental agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with this Agreement or the consummation of the transactions contemplated hereby, and no investigation that might eventuate in any such suit, action or proceeding shall be pending or threatened.

#### 5.3 Seller Authorizations

Seller shall have furnished Buyer with copies of all corporate authorizations of Seller, including a signed copy of the appropriate document(s) authorizing the transactions hereby contemplated.

#### 5.4 Governmental Approvals

Buyer shall have received within three hundred and sixty five (365) days from the date of this Agreement, all governmental approvals and authorizations needed for the transfer of the Assets, including, but not limited to, the FPSC, FDEP, and the Water Management District, upon terms and

conditions acceptable to Buyer, to enable Buyer to assume ownership and operation of the Systems' Assets and to provide water services to the public in the Service Area. Buyer and Seller will use reasonable efforts to finalize any necessary approvals within one hundred and fifty (150) days from the date of this Agreement.

#### 5.5 Regulatory Approval Contingency

The sale of the Assets contemplated by this Agreement is subject to and contingent upon the receipt of a favorable Florida Public Service Commission ("FPSC") staff recommendation and FPSC approval upon terms and conditions reasonably acceptable to Buyer as to such recommendation and approval. As provided in Section 367.071, Florida Statutes, the parties desire to close the transaction in advance of the FPSC Staff's recommendation and the FPSC's approval. In the event that the FPSC staff and/or the FPSC determines that the sale and transfer of the Assets are not in the public interest and that Buyer will not fulfill the commitments, obligations, and representations of the utility, and, therefore, the FPSC denies such transfer, or in the event that the FPSC staff recommends and/or the FPSC approves the sale and transfer of the Assets upon terms and conditions not reasonably acceptable to Buyer then the Assets shall remain with Seller and any and all agreements or understandings will be null and void between Seller and Buyer.

#### 5.6 Material Damage

The Assets shall not be, or be threatened to be, materially adversely affected by fire, explosion, earthquake, disaster, accident, cessation or interruption of utility or other services, flood, drought, lack of water supply, contamination of water supply, embargo, riot, civil disturbance, uprising, activity of armed forces or act of God or public enemy, or any other event or occurrence.

#### 5.7 Publicity; Announcements

No press release or other public statement concerning the negotiation, execution and delivery of this Agreement or the transactions contemplated hereby shall be issued or made without the prior approval of the Parties hereto, except as required by applicable Law or to the extent necessary to obtain requisite regulatory approval.

### 6. REPRESENTATIONS AND WARRANTIES OF SELLER

6.1 Seller hereby represents and warrants to Buyer as follows:

- (a) Organization. Seller is a duly organized, validly existing corporation in good standing under the laws of the State of Florida.
- (b) System Ownership. Seller holds the exclusive right, title, interest and power to sell the Assets.
- (c) Current Operations. Seller has all requisite power and authority and all material agreements, contracts, commitments, leases, certificates, licenses, permits, regulatory authorizations and other instruments required to conduct the businesses of the Systems as they have been and are now being conducted and to own and operate the Systems.
- (d) Legal Authority. Seller has the full power and lawful authority to transfer to Buyer the rights, title and interest in and to the Systems.

- (e) Due Authorization; Valid and Binding. Seller has the full power and lawful authority to execute and deliver this Agreement and all related agreements and to consummate and perform the transactions contemplated hereby and has duly and validly authorized the execution of this Agreement and all related documents and agreements by all necessary proceedings. This Agreement and all related agreements constitute the valid and binding obligations of Seller.
- (f) No Approvals or Violations. This Agreement does not require any further approvals of any other party, does not violate any law, ordinance or regulation, does not conflict with any order or decree, and does not conflict with or result in a breach of any contract, lease or permit to which Seller is a party.
- (g) Party to Decree. Seller is not a party to, or subject to the provision of, any judgment, order, writ, injunction or decree of any court or of any governmental official, agency or instrumentality relating to the Systems or the Assets.
- (h) List of Assets. Schedule 1.1 contains a true and complete list of the Assets.
- (i) Customer Records. The data contained in the customer records provided to Buyer is true and accurate in all material respects.

6.2 Except as set forth on Schedule 6.2, Seller hereby represents and warrants to Buyer as follows:

- (a) Undisclosed Liabilities. There are no Liabilities of Seller.
- (b) No Other Parties. No person other than Seller owns or has any interest in any equipment or other tangible assets or properties currently utilized or necessary to the operations or business of the Assets.
- (c) Rights to Facilities. Seller has good and valid rights to occupy and to obtain access to the areas where the distribution lines and other facilities of the Assets are located.
- (d) Compliance with Law. Seller is not in any material violation of any law, ordinance or governmental rule or regulation to which it or its business, operations, assets or properties is subject and has not failed to obtain, or to adhere to the requirements of, any certificate, license, permit or other governmental authorization necessary to the ownership of its assets and properties or to the conduct of its business.

6.3 Except as set forth in Schedule 6.3, Seller hereby represents and warrants to and with Buyer as follows with respect to compliance with Environmental Laws (as hereinafter defined):

- (a) Compliance with Law. To the best of Seller's actual knowledge, Seller has been and is in compliance with all applicable Environmental Laws.
- (b) Adequacy of Permits. To the best of Seller's actual knowledge, after diligent inquiry and investigation, Seller has obtained and continues to possess all permits, licenses, approvals or other authorizations which are required under applicable Environmental Laws, has filed such timely and complete renewal applications as may be required prior

to the Closing Date, and also has complied with all reporting and record keeping requirements under applicable Environmental Laws.

7. **REPRESENTATIONS AND WARRANTIES OF BUYER**

7.1 Buyer hereby represents and warrants to Seller as follows:

- (a) **Organization.** Buyer is a corporation duly organized and validly existing and in good standing under the laws of the State of Florida.
- (b) **Due Authorization; Valid and Binding.** Buyer has the full power and lawful authority to execute and deliver this Agreement and all related agreements and to consummate and perform the transactions contemplated hereby, and has duly and validly authorized the execution of this Agreement and all related documents and agreements by all necessary proceedings. This Agreement and all related documents and agreements constitute the valid and binding obligations of Buyer.
- (c) **Financial Wherewithal.** Buyer has the financial wherewithal to complete the purchase of the Assets as contemplated hereunder and upon completion of Closing, to operate and manage the Assets at, or exceeding, the level of service provided by Seller prior to Closing.

8. **INDEMNIFICATION**

8.1 **Indemnification of Seller**

For a period of one (1) year from and after the Closing, Buyer will reimburse, indemnify and hold Seller and its officials and employees harmless from and against any and all Liabilities, obligations, damages, losses, actions, audits, deficiencies, claims, fines, costs and expenses, including reasonable attorney's fees and costs resulting from, relating to, or arising out of:

- (a) the provision of water service by Buyer for the period following Closing;
- (b) issues of regulatory compliance and claims by third parties for events that occur following the date of Closing that are not attributable to events that occurred prior to Closing;
- (c) the failure of Buyer to perform any of its covenants following Closing; and
- (d) the enforcement of this **Section 8**.

8.2 **Indemnification of Buyer**

For a period of one (1) year from and after the Closing, Seller will reimburse, indemnify and hold Buyer and its officials and employees harmless from and against any and all Liabilities, obligations, damages, losses, actions, audits, deficiencies, claims, fines, costs and expenses, including reasonable attorney's fees and costs resulting from, relating to, or arising out of:

- (a) any Liabilities or obligations of Seller of any nature whatsoever except for the Assumed Liabilities which Buyer specifically assumes pursuant to this Agreement;

- (b) any misrepresentation, breach of warranty or non-fulfillment of any agreement or covenant on the part of Seller under this Agreement, or from any misrepresentation in, or omission from, any Schedule furnished to Buyer pursuant to this Agreement or in connection with the negotiation, execution or performance of this Agreement;
- (c) the provision of water service by Seller for the period prior to the date of Closing;
- (d) issues of regulatory compliance and claims by third parties for events that are attributable to events that occurred prior to Closing; and
- (e) the enforcement of this Section 8.

### 8.3 General

Each party shall provide the other party with reasonable notice of any claims arising under this Section 8. The indemnification rights of the parties under this Section 8 are independent of and in addition to such rights and remedies as the parties may have at law or in equity or otherwise for any misrepresentation, breach of warranty, or failure to fulfill any agreement or covenant hereunder.

## 9. SURVIVAL OF REPRESENTATIONS AND WARRANTIES

All representations, warranties and agreements made by the parties in this Agreement or in any written agreement, document, or certificate furnished hereunder or in connection with the negotiation, execution and performance of this Agreement shall survive the Closing for a period of one (1) year following the Closing Date. Seller shall not be liable to Buyer for any Liabilities, obligations, damages, losses, actions, audits, deficiencies, claims, fines, costs and expenses resulting from, relating to or arising out of any misrepresentation, breach of warranty or non-fulfillment of any agreement or covenant on the part of Seller under this Agreement, unless and until Buyer shall have sustained cumulative losses as a result of one or more claims of [twenty-Five Thousand Dollars (\$25,000.00)] (the "Deductible") in which event Seller shall be responsible only for losses exceeding the Deductible. Once the aggregate of losses exceeds the Deductible, the maximum liability for which Seller shall reimburse Buyer shall not exceed the amount of [One Hundred-Fifty Thousand Dollars (\$150,000.00)].

## 10. TERMINATION

### 10.1 Termination and Abandonment.

This Agreement may be terminated and the transactions contemplated abandoned at any time prior to the Closing:

- (a) by mutual written consent of Buyer and Seller;
- (b) (c) by either Buyer or Seller in the event that the approvals described in Sections 5.5 shall not have been obtained and be effective within three hundred sixty-five (365) days of the date hereof;
- (d) by Seller, if Seller is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the

part of Buyer and Buyer has not cured such breach within twenty (20) business days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured);

- (e) by Buyer, if Buyer is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and Seller has not cured such breach within twenty (20) business days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured); or
- (f) by either Buyer or Seller, upon written notice to the other, if any court of competent jurisdiction or other competent governmental authority shall have issued a statute, rule, regulation, final order, decree or injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated hereby, and such statute, rule, regulation, final order, decree or injunction or other action shall have become final and non-appealable.

## 10.2 Effect of Termination

The right of each party to terminate this Agreement under Section 10.1 is in addition to any other rights such party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 10.1, all further obligations of the parties under this Agreement will terminate, except that the obligations set forth in the [Confidentiality Agreement], Section 5.7 (Publicity; Announcements), this Section 10.2 (Effect of Termination) or Article 11 (Miscellaneous) will survive; provided, however, that if this Agreement is terminated by a party because of a breach of this Agreement by the other party or because one (1) or more of the conditions to the terminating Party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

## 11. MISCELLANEOUS

### 11.1 Contents of Agreement; Parties in Interest; etc.

This Agreement sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. It shall not be amended or modified except by written instrument duly executed by each of the parties hereto.

### 11.2 Binding Effect

All of the terms and provisions of this Agreement shall be binding upon, inure to the benefit of and be enforceable by the legal representatives, successors and assigns of Seller or Buyer.

### 11.3 Notices

Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally or sent by electronic email or by registered or certified mail, postage prepaid, return receipt requested, as follows:

**If to Buyer:**

Gary Deremer, President  
Country Walk Utilities, Inc,  
5320 Captains Court  
New Port Richey, FL 34652

Email: gderemer@uswatercorp.net

**If to Seller:**

Lisa and Daniel Holmes  
9818 Payne Road  
Sebring, FL 33875

or to such other address as the addressee may have specified in a written notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered, electronically emailed or mailed.

11.4 Florida Law to Govern

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Florida, without giving effect to any conflicts of laws provisions.

11.5 No Benefit to Others

The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto, and their legal representatives, successors and assigns, and they shall not be construed as conferring any rights on any other persons.

11.6 Headings, Gender, etc.

All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

11.7 Schedules

All Schedules referred to herein are intended to be and hereby are specifically made a part of this Agreement.

11.8 Severability

Any provision of this Agreement that is invalid or unenforceable in any jurisdiction or under any circumstance shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction or under any circumstance shall not invalidate or render unenforceable such provision in any other jurisdiction or under any other circumstance, unless, in either event, the involved or unenforceable provision causes this Agreement to fail of its essential purpose.

#### 11.9 Counterparts

This Agreement may be executed in any number of counterparts and any signatory hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by all signatories. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

#### 11.10 Continuance of Cooperation

Seller agrees to work with Buyer without compensation in the pursuit of resolving any System issues as they are presented through the FPSC Transfer process, any FDEP issues that may arise, and easement attainment issues as they are presented. This Cooperation shall survive the Closing for a period of one (1) year from the date of Closing.

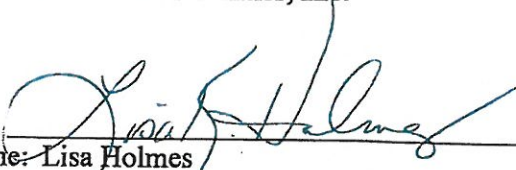
#### 11.11 Definitions

- (a) "Affiliate" means, with respect to any person, any other person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through ownership of voting securities, by contract, or otherwise.
- (b) "Environmental Law" includes all federal, state and local environmental laws and regulations, including, without limitation: (1) the United States Clean Water Act (also known as the United States Federal Water Pollution Control Act), 33 U.S.C. §§ 1251 et seq.; (2) the United States Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; (3) the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.; (4) the United States Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; (5) the United States Safe Drinking Water Act, 42 U.S.C. § 300j-8; (6) Chapter 403 Florida Statutes; and (7) regulations related thereto. Any reference to legislative act or regulation shall be deemed to include all amendments thereto and all regulations, orders, decrees, judgments or notices issued thereunder.
- (c) "Liability" or "Liabilities" means any liability, indebtedness or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of a person.

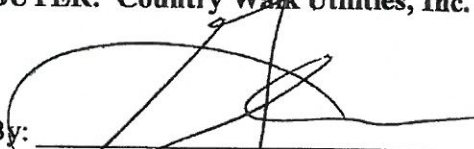


Agreement on the date first written.

**SELLER: Holmes Utilities, Inc.**

By:   
Name: Lisa Holmes  
Title: President

**BUYER: Country Walk Utilities, Inc.**

By:   
Name: Gay Deener  
Title: President