# City of Valdez

212 Chenega Ave.
Valdez, AK 99686

## Meeting Agenda

## Ports and Harbor Commission

**Friday, November 9, 2018** | **7:00 PM** | **Council Chambers**

**Regular Meeting (Moved from 11/5/18)**

**REGULAR AGENDA - 7:00 PM**

I. CALL TO ORDER

II. ROLL CALL

III. PUBLIC BUSINESS FROM THE FLOOR

IV. NEW BUSINESS

1. Approval of Recommendation to City Council to Approve a Lease with Harris Sand & Gravel for a 45,000 Square Foot Portion of Blocks 7 & 8, Valdez Townsite

   ***Attachments:*** Old Town Lease Application
   Exhibit A
   Harris 2003 LUP
   Harris 2009 LUP

2. Approval of Recommendation to City Council to Approve a Lease with Silver Bay Seafoods, LLC for Tract E, Harbor Subdivision

   ***Attachments:*** New Silver Bay Council Resolution
   Exhibit A
   GIS Aerial Map
   Silver Bay Lease Draft 2015 Redlines

V. REPORTS

1. November 2018 Staff Report

   ***Attachments:*** November Report Final
   FWP_migration_secfilings_0001193125-17-357376_pdf
   LandmarkInfrastructurePartnersLP_424B2_S-4_prospectus
   UEP LOI Agreement_UEP_180 City of Valdez -2
   UEP LOI Agreement_UEP_420 City of Valdez

VI. COMMISSION BUSINESS FROM THE FLOOR

VII. ADJOURNMENT

**File #:** 18-0394, **Version:** 1

**ITEM TITLE:**
Approval of Recommendation to City Council to Approve a Lease with Harris Sand & Gravel for a 45,000 Square Foot Portion of Blocks 7 & 8, Valdez Townsite
**SUBMITTED BY:** Nicole LeRoy, Community Development Planning Technician

## FISCAL NOTES:

Expenditure Required: N/A
Unencumbered Balance: N/A
Funding Source: N/A

## RECOMMENDATION:

Approval of Recommendation to City Council to Approve a Lease with Harris Sand & Gravel for a 45,000 Square Foot Portion of Blocks 7 & 8, Valdez Townsite

## SUMMARY STATEMENT:

On June 17, 2003 the City of Valdez approved a Land Use Permit with Harris Sand & Gravel for a 45,000 square foot portion of Blocks 7 & 8 Valdez Townsite. The purpose of the permit was to authorize use of City land for Harris to complete the refurbishing of the Harris tugboat and to do maintenance work on his barge. The original term of the agreement was two years. Council approved amendments to extend the lease for one year periods in 2005, 2006, and 2007. A new Land Use Permit for the site was approved in 2009 for a one year period and was extended in 2010, 2011, 2012, 2013 and finally in 2014 for a two year period terminating on June 30, 2016. The permit has been expired since June 30, 2016 and there is no holdover provision in the agreement. However, Harris has been continually using the land for marine repair. In light of this, Staff feels it is prudent to retroactively execute a new agreement commencing July 1, 2016 through the last day of June 2020 to bring Harris's land use into compliance. Staff contacted Mr. Bill Harris with regard to this expired permit and Mr. Harris submitted an application to lease City property which is attached.

It should be noted that the original agreement between the City and Harris was a "Land Use Permit." Land Use Permits were used by former Staff in place of leases for some parcels. However, they are not a legal mechanism within Valdez Municipal Code to authorize use of City land. Council approval of this lease will remedy this violation and allow Staff to execute a new lease agreement with Harris Sand & Gravel.

The original 2003 Land Use Permit required soil testing to be completed at the commencement and termination of each term. The second 2009 Land Use Permit agreement, contained a section stating "Permittee shall have the soil in the Permit area tested prior to locating any personal property on the

property and the soil will be tested at the expiration of the Permit. A Phase I ESA will be conducted as soon as the snow is gone this spring and at the termination of the Permit. The ground will be covered with any approved environmentally safe cover when sand blasting to prevent any contamination of the soil." In addition, the lease required proof of environmental bonding to be maintained for the length of the Land Use Permit. Staff has record of diesel range organics (DRO), residual range organics (RRO), and lead testing completed in 2007, 2014 and 2016, however, we do not have record of a Phase I Environmental Site Assessment being done.

Staff recommends keeping these conditions in place for the new agreement due to the relatively high risk of contamination at the site. Pending Council approval of this lease, Staff will work with the City Attorney and Harris Sand & Gravel to execute a new lease agreement.

# CITY OF VALDEZ
## APPLICATION FOR LEASE OF CITY OWNED LAND

**Application Fee: $50.00 (Non-refundable)** FEE WAIVED FOR 2017 PER RES# 12-72

**This form is to be completed by an individual or an organization proposing to lease City-owned land. Complete in full and to the best of your knowledge. Please explain any omissions and use additional pages where appropriate. If requested, proprietary and financial information of applicants that is so marked will be kept confidential.**

The completed application shall be returned to the Valdez Community & Economic Development Department located in City Hall along with the Application fee.

A deposit of $3,000 will be required prior to the City initiating any required appraisal or land survey. The deposit will be used to offset the cost of the appraisal and land survey. If additional funds are necessary, the applicant will be billed as part of the lease. If there is a balance, it will be applied to the first year's lease payment. This deposit will be the cumulative amount of any required appraisal, land survey or Phase I environmental analysis according to the following schedule:

| | |
|---|---|
| * If a survey and/or appraisal are required: | $3,000 |
| * If a Phase I Environmental Analysis only is required: | $3,000 |
| * If a survey or appraisal and Environmental Analysis are required: (Required on all industrial land) | $5,000 |

1. Name of Individual Completing Application Form:

Name: Bill Harris Phone: 835-4756
Daytime/ Message

Mailing Address: P.O. Box 6

2. If other individual(s) or an organization(s) will be a party to this application, indicate below. Attach additional pages as needed:

a) Name Harris Sand and Gravel Phone: 835-4756

Mailing Address P.O. Box 6
Valdez, AK 99686

Relationship to other applicant(s) _____

b) Organization's name Harris Sand and Gravel

Address 260 Airport Rd.

Primary Contact: Bill Harris

Title: President

Daytime Phone #: 835-4756

3. TYPE OF ORGANIZATION: (Check one)

| | |
|---|---|
| Individuals_____ | Business Corporation V |
| General Partnership_____ | Non-Profit Corporation_____ |
| Limited Partnership_____ | Non-Profit Association_____ |
| Other_____ | |

If non-profit, has IRS Tax Exempt Status been obtained? Yes_____ No___
If yes, attach letter of determination.

Note: Please submit, as appropriate, the following items with this application:

1. Current Alaska business license;
2. Designation of signatory authority to act for organization of other individuals;
3. Certificate and articles of incorporation;
4. Partnership agreement and amendments;
5. Charter/by-laws for non-profits;
6. Most recent annual financial statement;

4. Legal Description AFFECTED BY APPLICATION:

Located in Township_____Range_____Section_____Meridian

Lot/ Block/ Tract/ Subd. Block 7 and 8 Plat #_____

Other Description Old Valdez Townsite

Tax # _____No. of Acres_____

5. DESCRIBE PROPOSAL. ATTACH NARRATIVE FOR FURTHER DESCRIPTION AND A SITE PLAN (the description should include the use; value and nature of improvements to be constructed; the type of construction; and, the estimated dates for construction to commence and be completed).

Boat Repair Yard

6. WHAT IS THE TERM OF THE LEASE DESIRED?

Max imum

7. IF THE REQUEST FOR A LEASE AT LESS THAN FAIR MARKET VALUE, PROVIDE JUSTIFICATION.

8. PLEASE STATE WHY YOU BELIEVE IT WOULD BE IN THE "BEST INTEREST OF THE CITY" TO APPROVE YOUR PROPOSAL AND PROCESS YOUR APPLICATION.

Further economic development

9. CURRENT STATUS OF LAND. DESCRIBE ANY EXISTING IMPROVEMENTS, PROVIDE PHOTOGRAPHS IF POSSIBLE.

Boat / Storage Yard

10. HAS APPLICANT PREVIOUSLY PURCHASED OR LEASED CITY LAND OR RESOURCES? ✓ YES _____ NO. IF YES, PROVIDE LEGAL DESCRIPTION, TYPE OR PURCHASE OR LEASE, AND STATUS.

Boat Yard and Several other Leases

11. IF APPLICANT IS A BUSINESS OPERATION, LIST PRESENT BUSINESS ACTIVITIES.

Construction, Marine/Civil etc.

12. IF REQUIRED, ARE YOU PREPARED TO SPEND FUNDS FOR THE FOLLOWING:

| YES | NO | |
|---|---|---|
| | ✓ | a) Performance bond |
| ✓ | | b) Damage deposit |
| ✓ | | c) General liability insurance |
| ✓ | | d) Worker's compensation insurance |
| | ✓ | e) Survey and platting |
| | ✓ | f) Appraisal fee |
| | ✓ | g) Closing fees, which may include title insurance, document preparation, escrow closing, and recording |
| ✓ | | h) Any federal, state and local permits required |
| ✓ | | I) Maintenance costs (present or future) |

13. LIST THREE (3) CREDIT OR BUSINESS REFERENCES:

| Name | Address | Phone # |
|---|---|---|
| First National Bank Anc – Valdez Branch | | |
| See Attached | | |

14. HAS APPLICANT, OR AFFILIATED ENTITY, EVER FILED A PETITION FOR BANKRUPTCY, BEEN ADJUDGED BANKRUPT OR MADE AN ASSIGMENT FOR THE BENEFIT OF CREDITORS?

No

15. IS APPLICANT, OR AFFILIATED ENTITY, NOW IN DEFAULT ON ANY OBLIGATION TO, OR SUBJECT TO ANY UNSATISFIED JUDGEMENT OF LIEN? _____ YES ✓ NO IF YES, EXPLAIN:

COMPLETE THE FOLLOWING APPLICANT QUALIFICATION STATEMENT
FOR EACH INDIVIDUAL APPLICANT OR ORGANIZATION.
ATTACH ADDITIONAL STATEMENTS IF NEEDED.

## APPLICANT QUALIFICATION STATEMENT

I, _____
(Individual Name)

I, _____
(Individual Name)

I, Bill Harris On Behalf of Harris Sand and Gravel
(Representative's Name) (Organization's Name)

P. O. Box 6 260 Airport Rd.
(Address)

Valdez, AK 99686
(City, State) (Zip)

do hereby swear and affirm for myself as applicant or as representative for the organization noted above that:

The Applicant is a citizen of the United States, over the age of nineteen; and

If a group, association or corporation, is authorized to conduct business Under the laws of the State of Alaska; and

Has not failed to pay a deposit or payment due the City in relation to City-owned real property in the previous five (5) years; and

Is not currently in breach or default on any contract or lease for real Property transactions in which the City has an interest; and

Has not failed to perform under or is not in default of a contract with the City; and

Is not delinquent in any tax payment to the City.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE TO MY KNOWLEDGE.

Bill Harris 8/20/18
Applicant Signature Date

_____
Applicant Signature Date

Bill Harris
Print Name

_____
Print Name

Comdev/data/forms/LandLease&SalesForms/AppforLeaseofCityLand

# CREDIT APPLICATION

**To Company:**
**Attention of: Credit Department**
**Credit Dept. Email**

**Date:** 07/30/18

| | | | |
|---|---|---|---|
| **Name:** | Harris Sand and Gravel, Inc.<br>P.O. Box 6 / 260 Airport Rd.<br>Valdez, AK 99686-006 | **Years in Business:**<br><br>**EIN:** | 40 plus<br><br>92-0056819 |
| **Business License:** | 60497 (State of Alaska) | **Phone:** | (907) 835-4756 |
| **General Contractor License:** | 5976 (State of Alaska) | **Fax:** | (907) 835-2049 |

**Business Form:** Harris Sand and Gravel, Inc. is incorporated in the State of Alaska, 1976.

**Nature of Business:** Hardware and building products, Redi-Mix Concrete, Asphalt Concrete, Metal - Fabrication, Heavy Equipment repair, and general contractor.

| **Officer** | **Address** | **Phone No.:** |
|---|---|---|
| Bill Harris<br>President | P.O. Box 1127<br>Valdez, AK 99686 | (907) 835-4327 |

| | | | |
|---|---|---|---|
| **Bank Name:** | First National Bank of Alaska<br>Valdez Branch<br>P.O. Box 37<br>Valdez, AK 99686 | Phone:<br>Fax : | (907) 834-4800<br>(907) 834-4825 |
| **Bonding Co.:** | Ohio Casualty Insurance Company<br>62 Maple Avenue<br>Keene, NH 03431 | Attn: Kelly Laymen<br>(907) 947-4557 | |
| **Insurance Agent:** | Marsh & McLennan Agency, LLC<br>1031 West 4th Avenue, Suite 400<br>Anchorage, AK99510 | Attn: Susan Spindler<br>(907) 257-6340 | |

| **Trade References** | **Address** | **Fax No.:** | **Phone No.:** |
|---|---|---|---|
| General Hardware Distributors | 2192 Viking Drive<br>Anchorage, AK 99502 | (907) 279-1543 | (907) 279-6691 |
| Air Liquide America Corporation | 6415 Arctic Blvd.<br>Anchorage, AK 99518 | (907) 564-9752 | (907) 564-9722<br>Attn: Karen M. Boyd |
| Alaska Steel Co. | 1200 West Dowling Road<br>Anchorage, AK 99518-1517 | (907) 561-2935 | (907) 561-1188 |
| FEI/Ferguson Enterprises | 151 E 95th Avenue<br>Anchorage, AK 99518-1803 | (907) 273-2100 | (907) 273-2110 |

This information is confidential and proprietary information of Harris Sand and Gravel, Inc. and is submitted soley for the consideration of Harris Sand and Gravel's credit application, and acceptance of this application form is agreement that this information will not be used for any other purpose or disclosed to any other party.

Alaska Business License # 60497

**Alaska Department of Commerce, Community, and Economic Development**
Division of Corporations, Business and Professional Licensing
P.O. Box 110806, Juneau, Alaska 99811-0806

This is to certify that

# HARRIS SAND & GRAVEL INC

**EIN: 920056819**

P O BOX 6 VALDEZ AK 99686

owned by

HARRIS SAND & GRAVEL INC

State of Alaska
Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
Regulation of Construction Contractors and Home Inspectors
HARRIS SAND & GRAVEL INC
DBA: HARRIS SAND & GRAVEL INC
As
General Contractor Without Residential Contractor Endorsement

| License | Effective | Expires |
|---|---|---|
| CONE5976 | 01/06/2017 | 12/31/2018 |

is licensed by the department to conduct business for the period

November 10, 2016 through December 31, 2018
for the following line of business:

23 - Construction

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Chris Hladick

FILED FOR RECORD
STATE OF ALASKA

FEB 11 1976

DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT

# ARTICLES OF INCORPORATION

# OF

# HARRIS SAND & GRAVEL, INCORPORATED

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned natural persons of the age of nineteen (19) years or more, acting as incorporators of a corporation under the Alaska Business Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

## ARTICLE I.

The name of the corporation is:

HARRIS SAND & GRAVEL, INCORPORATED

## ARTICLE II.

The period of its duration is perpetual.

## ARTICLE III.

The purpose or purposes for which the Corporation is organized are:

To carry on all and any of the businesses of manufacturing of and dealers and workers in cement, lime, plasters, whiting, clay, gravel, sand, minerals, earth, fuel, artificial stone, and builders' requisites, conveniences, and supplies of all kinds.

To carry on and conduct a general contracting business, including the designing, constructing, enlarging, repairing, remodeling or otherwise engaging in any work upon buildings,

roads, sidewalks, highways, bridges, or manufacturing plants; to engage in iron, steel, wood, brick, concrete, stone, cement, masonary and earth construction; to execute contracts or to receive assignment of contracts therefore, or relating thereto; also, to manufacture and furnish the building materials and supplies connected therewith. To conduct and engage in any and all legal business activities.

To acquire or purchase the goodwill, property rights, franchises and assets of businesses of every kind and, in connection with such acquisition, to assume liability of any persons, firms, associations or corporations, either in whole or in part, and pay for the same in cash, bonds, stock of the Corporation, or otherwise.

To incur debts in the purchase and acquisition of property, business rights or franchises, or for any other object in or about any business affair, and to have authority to raise, borrow and secure the payment of money in any lawful manner, including the issue and sale or other disposition of bonds, warrants, debentures, obligations, negotiable and transferable instruments, and evidences of indebtedness of all kinds, whether secured by mortgage, pledge, deed of trust, or otherwise.

To do any and all things herein set forth, and, in addition, such other acts and things as are necessary or convenient to the attainment of the purposes of this Corporation, or any of them, to the same extent as natural persons

lawfully might or could do, in any part of the world, insofar as such acts are permitted to be done by a corporation organized under the Alaska Business Corporation Act.

In addition to the foregoing, the Corporation shall have and exercise all the general powers enumerated in AS 10.05.009 as heretofore or hereafter amended.

ARTICLE IV.

The aggregate number of shares which this Corporation shall have authority to issue shall be 100,000 of no par value.

ARTICLE V.

The registered office of this Corporation is at:

Box 72, Valdez, AK 99686

and the Registered Agent at that address is:

FRANCES G. HARRIS

ARTICLE VI.

The number of Directors of this Corporation shall be not less than three (3) nor more than nine (9). The names and addresses of the initial Directors, who shall serve as Directors until the first annual meeting of shareholders or until their successors are elected and qualified are as follows:

Leo P. Harris
Box 72
Valdez, AK 99686

Frances G. Harris
Box 72
Valdez, AK 99686

William P. Harris
Box 72
Valdez, AK 99686

The names and addresses of the incorporators are as follows:

Beatrice E. Watts
717 K Street
Anchorage, AK 99501

Nadya Rodlessny
717 K Street
Anchorage, AK 99501

Darice Roesner
717 K Street
Anchorage, AK 99501

ARTICLE VII.

No holder of any stock of the Corporation shall be entitled to purchase, subscribe for or otherwise acquire, as a matter of right, any of the following:

1. new or additional shares of stock, of any class, in the Corporation; or

2. options or warrants to purchase, subscribe for or otherwise acquire any new or additional shares in the Corporation; or

3. shares, bonds, notes, debentures, or other securities convertible into or carrying options or warrants to purchase, subscribe for or otherwise acquire any such new or additional shares in the Corporation.

ARTICLE VIII.

The name and address of each affiliate (as defined in AS 10.05.825), which is a nonresident alien or a corpo-

ration whose place of incorporation is outside the United States is as follows:

NONE

IN WITNESS WHEREOF, we have hereunto set our hands this 6th day of February, 1976.

Nadya A Rodlessney

Beatrice E. Watts

Darice Koesker

STATE OF ALASKA )
: ss.:
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that before me, the undersigned Notary Public in and for the State of Alaska, duly sworn and commissioned as such, personally appeared BEATRICE E. WATTS, being by me first duly sworn, and declared that she is the person who signed the foregoing ARTICLES OF INCORPORATION as an incorporator, and acknowledged that the statements therein contained are true.

WITNESS MY HAND AND NOTARIAL SEAL at Anchorage, Alaska, the day and year last above written.

Kay Brunwart
Notary Public in and for Alaska
My Commission Expires: 2/23/78

STATE OF ALASKA )
: ss.:
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that before me, the undersigned Notary Public in and for the State of Alaska, duly sworn and commissioned as such, personally appeared NADYA RODLESSNEY, being by me first duly sworn, and declared that she is the

person who signed the foregoing ARTICLES OF INCORPORATION as an incorporator, and acknowledged that the statements therein contained are true.

WITNESS MY HAND AND NOTARIAL SEAL at Anchorage, Alaska, the day and year last above written.

Kay Gunnvaet
Notary Public in and for Alaska
My Commission Expires: 2/23/78

STATE OF ALASKA )
: ss.:
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that before me, the undersigned Notary Public in and for the State of Alaska, duly sworn and commissioned as such, personally appeared DARICE ROESNER, being by me first duly sworn, and declared that she is the person who signed the foregoing ARTICLES OF INCORPORATION as an incorporator, and acknowledged that the statements therein contained are true.

WITNESS MY HAND AND NOTARIAL SEAL at Anchorage, Alaska, the day and year last above written.

Kay Gunnvaet
Notary Public in and for Alaska
My Commission Expires: 2/23/78

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

# Certificate of Incorporation

The undersigned, as Commissioner of Commerce & Economic Development of the State of Alaska, hereby certifies that duplicate originals of the Articles of Incorporation of HARRIS SAND & GRAVEL, INCORPORATED

duly signed and verified pursuant to the provisions of the Alaska Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Commissioner of Commerce & Economic Development, and by virtue of the authority vested in him by law hereby issues this Certificate of Incorporation of

HARRIS SAND & GRAVEL, INCORPORATED

and attaches hereto a duplicate original of the Articles of Incorporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at Juneau, the Capital, this 11th day of February A.D. 19 76

LANGHORNE A. MOTLEY
COMMISSIONER OF COMMERCE
& ECONOMIC DEVELOPMENT

# Exhibit A: Harris Sa..d & Gravel Land Us. Permit

# LAND USE PERMIT

This LAND USE PERMIT (hereinafter referred to as Permit) and entered into this 17th day of June, 2003 by and between the **CITY OF VALDEZ,** an Alaska municipal corporation (hereinafter referred to as "Valdez") whose address is P.O. Box 307, Valdez, Alaska, 99686, and **HARRIS SAND & GRAVEL, INC.**, (hereinafter referred to as "Permittee") whose address is P.O. Box 6, Valdez, Alaska 99686.

WITNESSETH:

1. Permit. Valdez hereby grants to Permittee the right and privilege to be present upon the following described real property belonging to Valdez pursuant to the terms of this Permit agreement:

Approximately 45,000 square feet of Block 7 & 8, Valdez Townsite (Pipeyard)

SEE EXHIBIT "A"

2. Term. Permittee may use the Property for the purposes herein set forth for twentyfour months, beginning on the 1st day of June, 2003 and ending on May 31, 2005 unless this permit is terminated pursuant to the terms hereof. This permit can be terminated by Valdez at any time for any reason with a maximum of thirty days' (30) written notice to Permittee.

3. Use. Permittee shall use the Property to refurbishing of a tugboat and for no other purpose whatsoever without prior written consent of the City of Valdez.

4. Permittee Not a Lessee. No legal title or leasehold interest in the Property shall be deemed or construed to have been created or vested in Permittee by anything contained herein. The purpose of this permit is to convey a non-possession interest by Valdez to Permittee in that certain property described in Exhibit "A", which can be terminated by Valdez at any time for any reason. Valdez shall maintain all right, title and interest in that Property as fee simple owner thereof, and Permittee by virtue of this Permit has only the right and privilege to be present upon the Property and to make use of it for the purpose set forth in paragraph 3 above.

5. Royalty. In consideration for use of land owned by Valdez, Permittee agrees to pay a royalty of one hundred twenty-eight dollars and seventy-five cents ($128.75) per month or $1,545.00 annually.

6. Insurance Requirement. The Permittee during the term of this Permit, shall carry at its expense comprehensive general liability insurance covering the Property in an amount of not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit to protect against liability for personal injury, death or property damage which might arise from the use of the Property and the operations conducted on it. The Permittee shall deposit with Valdez a copy or copies of such insurance coverage together

with appropriate evidence that the premiums thereupon have been paid. All such insurance of the Permittee shall name Valdez as an additional insured party and contain a waiver of subrogation endorsement and provide that Valdez shall be notified at least thirty days (30) prior to any termination, cancellation or material change in such insurance coverage. Such requirement for insurance coverage shall not relieve that Permittee of any of its other obligations under this Permit.

7. Maintenance. Permittee agrees to maintain the property in a neat and orderly fashion. Upon termination of this Permit, Permittee agrees to leave the premises in a neat and clean condition.

8. Structures. Permittee shall not construct or locate any structure of any kind on the Property pursuant to this Permit.

9. Soils Testing. Permittee shall have the soil in the Permit area tested prior to locating the boat on the property and the soil will be tested at the expiration of the Permit.

10. Environmental Remediation. Permittee shall report any hazardous substance spills to Valdez and appropriate regulatory authorities. Permittee shall clean up any such spills to the satisfaction of Valdez and other regulatory agencies and will be solely responsible for any associated fines that may be levied by any regulatory authority.

11. Exculpation of Valdez. Valdez shall not be liable to Permittee for any damage to Permittee or Permittee's property from any cause. Permittee waives all claims against Valdez for damage to persons or property arising from any reason.

12. Indemnity. Permittee shall hold Valdez harmless from and against any and all damages arising out of any damage to any persons or property occurring in, on or about the Property.

13. Condemnation. If during the term of this Permit there is any taking by condemnation of the Property or any interest in this Permit, this Permit shall terminate on the date of taking.

14. Default. The occurrence of any of the following shall constitute a default under this Permit by Permittee:

(a) Failure to pay rent when due, if the failure continues for 15 (15) days after written notice to do so;
(b) Any default in or failure to perform any term, covenant or condition of this Permit;
(c) The cancellation of Permittee's insurance coverage;
(d) The making of any assignments for the benefit of creditors of Permittee, the appointment of a receiver for Permittee's business, the entry of an Order for Relief as to Permittee under the United States

Bankruptcy Code as now in effect or hereinafter amended, the insolvency of Permittee, or similar situation.

15. Remedies. In the event of any default by Permittee under the provisions of paragraph 12 of this Permit all of Permittee's rights hereunder shall immediately terminate and Valdez any, in addition to any rights and remedies that it may be given by statue, common law, express agreement, or otherwise, enter and take sole possession and control of the Property.

16. Valdez' Entry on Premises. Valdez shall have right to enter the Property at any time and, in view of the fact this Permit constitutes a license on real property rather than a lease, shall at all times remain in possession of the property.

17. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requests, and shall be addressed to the other party at the address set forth in the introductory paragraph of this Permit. Either party may change this address by notifying the other party of the change of address. Such notices shall be deemed given when mailed irrespective of whether or not they are received.

18. Waiver. No delay or omission in the exercise of any right or remedy of Valdez on any default by Permittee shall impair such a right or remedy or be construed as a waiver. Any waiver by Valdez of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Permit.

19. Miscellaneous. Time is of the essence with respect to each provision of the Permit, and it shall be binding upon and inure to the benefit of the parties, their heirs, assigns and successors in interest. This Permit contains all of the agreements signed by both parties. This Permit shall be construed and interpreted in accordance with the laws of the State of Alaska. The enforceability, invalidity or illegality of any provisions of this Permit shall not render the other provisions of this Permit unenforceable, invalid or illegal.

IN WITNESS WHEREOF, the parties have duly executed this Agreement this 13th day of June, 2003.

CITY OF VALDEZ

Bert L. Cottle, Mayor

Date 6/13/03

HARRIS SAND & GRAVEL, INC.

Bill Harris, President

Date 6/11/03

JOB

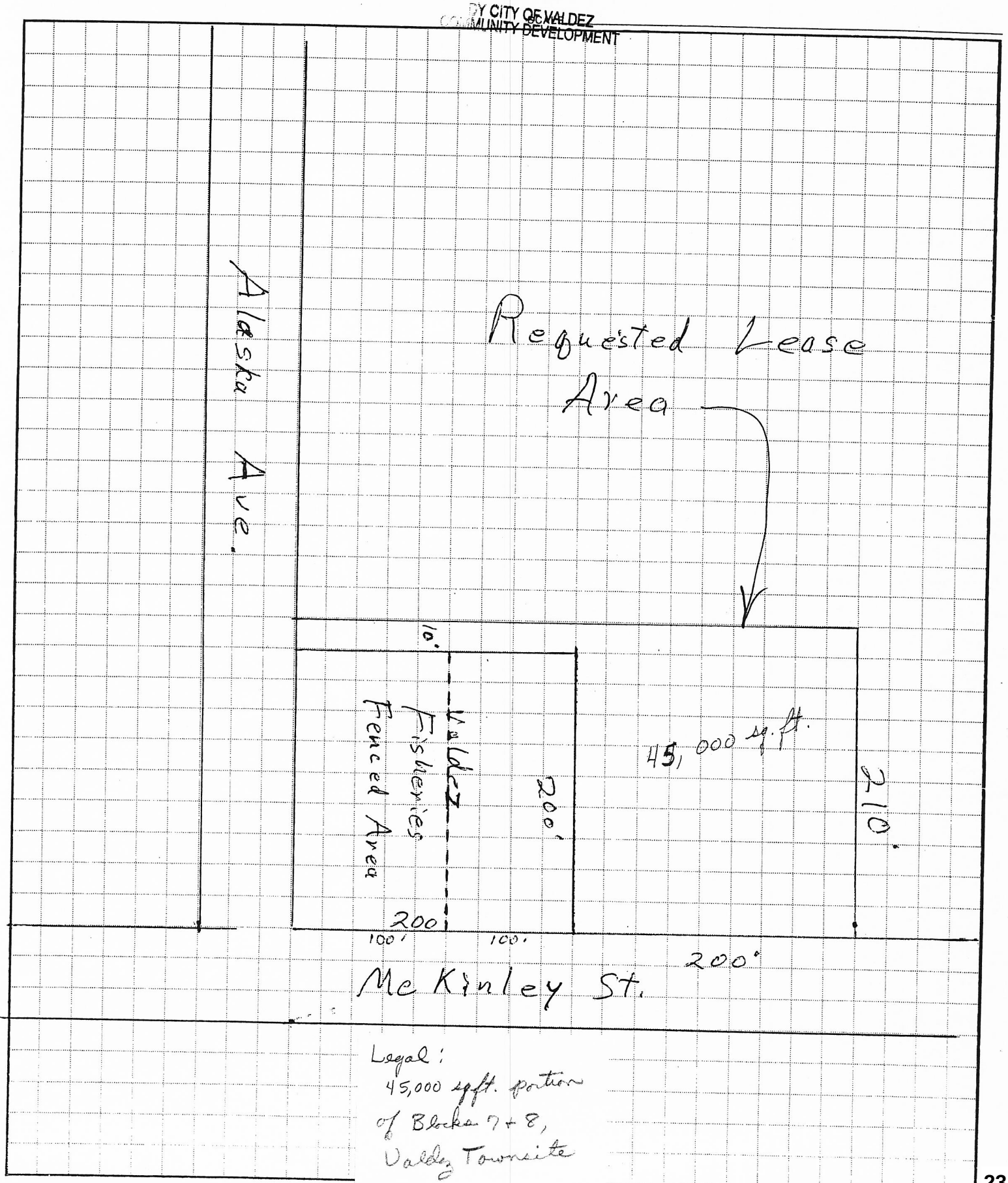
SHEET NO.

CALCULATED BY.

CHECKED BY



"EXHIBIT A"




Legal:
45,000 sqft. portion of Blocks 7+8, Valdez Townsite

# LAND USE PERMIT

This LAND USE PERMIT (hereinafter referred to as Permit) and entered into this 28th day of April, 2009 by and between the **CITY OF VALDEZ,** an Alaska municipal corporation (hereinafter referred to as "Valdez") whose address is P.O. Box 307, Valdez, Alaska, 99686, and **HARRIS SAND & GRAVEL, INC.**, (hereinafter referred to as "Permittee") whose address is P.O. Box 6, Valdez, Alaska 99686.

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1. Permit. Valdez hereby grants to Permittee the right and privilege to be present upon the following described real property belonging to Valdez pursuant to the terms of this Permit agreement:

Approximately 45,000 square feet of Block 7 & 8, Valdez Townsite (Pipeyard)

SEE EXHIBIT "A"

2. Term. Permittee may use the Property for the purposes herein set forth for one year, beginning on the 1st day of March, 2009 and ending on February 28, 2010 unless this permit is terminated pursuant to the terms hereof. This permit can be terminated by Valdez at any time for any reason with a maximum of thirty days' (30) written notice to Permittee.

3. Use. Permittee shall use the Property for marine repair work and for no other purpose whatsoever without prior written consent of the City of Valdez.

4. Permittee Not a Lessee. No legal title or leasehold interest in the Property shall be deemed or construed to have been created or vested in Permittee by anything contained herein. The purpose of this permit is to convey a non-possession interest by Valdez to Permittee in that certain property described in Exhibit "A", which can be terminated by Valdez at any time for any reason. Valdez shall maintain all right, title and interest in that Property as fee simple owner thereof, and Permittee by virtue of this Permit has only the right and privilege to be present upon the Property and to make use of it for the purpose set forth in paragraph 3 above.

5. Royalty. In consideration for use of land owned by Valdez, Permittee agrees to pay a royalty of one thousand five hundred forty-five dollars and no cents ($1,545.00) annually.

6. Insurance Requirement. The Permittee during the term of this Permit, shall carry at its expense comprehensive general liability insurance covering the Property in an amount of not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit to protect against liability for personal injury, death or property damage which might arise from the use of the Property and the operations conducted on it. The Permittee shall deposit with Valdez a copy or copies of such insurance coverage together

with appropriate evidence that the premiums thereupon have been paid. All such insurance of the Permittee shall name Valdez as an additional insured party and contain a waiver of subrogation endorsement and provide that Valdez shall be notified at least thirty days (30) prior to any termination, cancellation or material change in such insurance coverage. Such requirement for insurance coverage shall not relieve that Permittee of any of its other obligations under this Permit.

Proof of environmental bonding must also be provided to the City and maintained for the length of the Land Use Permit.

7. Maintenance. Permittee agrees to maintain the property in a neat and orderly fashion. Upon termination of this Permit, Permittee agrees to leave the premises in a neat and clean condition.

8. Structures. Permittee shall not construct or locate any structure of any kind on the Property pursuant to this Permit.

9. Soils Testing/Phase I Environmental Site Assessment. Permittee shall have the soil in the Permit area tested prior to locating any personal property on the property and the soil will be tested at the expiration of the Permit. A Phase I Environmental Site Assessment will be conducted as soon as the snow is gone this spring and at the termination of the Permit. The ground will be covered with an approved environmentally safe cover when sand blasting to prevent any contamination of the soil.

10. Environmental Remediation. Permittee shall report any hazardous substance spills to Valdez and appropriate regulatory authorities. Permittee shall clean up any such spills to the satisfaction of Valdez and other regulatory agencies and will be solely responsible for any associated fines that may be levied by any regulatory authority.

11. Exculpation of Valdez. Valdez shall not be liable to Permittee for any damage to Permittee or Permittee's property from any cause. Permittee waives all claims against Valdez for damage to persons or property arising from any reason.

12. Indemnity. Permittee shall hold Valdez harmless from and against any and all damages arising out of any damage to any persons or property occurring in, on or about the Property.

13. Condemnation. If during the term of this Permit there is any taking by condemnation of the Property or any interest in this Permit, this Permit shall terminate on the date of taking.

14. Default. The occurrence of any of the following shall constitute a default under this Permit by Permittee:

(a) Failure to pay rent when due, if the failure continues for 15 (15) days after written notice to do so;

(b) Any default in or failure to perform any term, covenant or condition of this Permit;
(c) The cancellation of Permittee's insurance coverage;
(d) The making of any assignments for the benefit of creditors of Permittee, the appointment of a receiver for Permittee's business, the entry of an Order for Relief as to Permittee under the United States Bankruptcy Code as now in effect or hereinafter amended, the insolvency of Permittee, or similar situation.

15. Remedies. In the event of any default by Permittee under the provisions of paragraph 12 of this Permit all of Permittee's rights hereunder shall immediately terminate and Valdez any, in addition to any rights and remedies that it may be given by statue, common law, express agreement, or otherwise, enter and take sole possession and control of the Property.

16. Valdez' Entry on Premises. Valdez shall have right to enter the Property at any time and, in view of the fact this Permit constitutes a license on real property rather than a lease, shall at all times remain in possession of the property.

17. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requests, and shall be addressed to the other party at the address set forth in the introductory paragraph of this Permit. Either party may change this address by notifying the other party of the change of address. Such notices shall be deemed given when mailed irrespective of whether or not they are received.

18. Waiver. No delay or omission in the exercise of any right or remedy of Valdez on any default by Permittee shall impair such a right or remedy or be construed as a waiver. Any waiver by Valdez of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Permit.

19. Miscellaneous. Time is of the essence with respect to each provision of the Permit, and it shall be binding upon and inure to the benefit of the parties, their heirs, assigns and successors in interest. This Permit contains all of the agreements signed by both parties. This Permit shall be construed and interpreted in accordance with the laws of the State of Alaska. The enforceability, invalidity or illegality of any provisions of this Permit shall not render the other provisions of this Permit unenforceable, invalid or illegal.

IN WITNESS WHEREOF, the parties have duly executed this Agreement this 20th day of April, 2009.

"CITY":

CITY OF VALDEZ

Bert L. Cottle, Mayor

Date 4/28/09

"PERMITTEE":

HARRIS SAND & GRAVEL, INC.

Bill Harris, President

Date 4/20/09

ATTEST:

Sheri L. Pierce,
CMC, City Clerk

SEAL OF THE CITY OF VALDEZ, ALASKA INC. 1901

Approved as to Form:
Walker & Levesque, LLC

William M. Walker

STATE OF ALASKA )
) ss.
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 20th day of April 2009, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Bill Harris, known to me and to me know to be the President of Harris Sand & Gravel, Inc., and the individual named in and who executed the foregoing instrument, and he acknowledged to me that he did sign and seal the same as his voluntary act and deed and was authorized to do so by Harris Sand & Gravel, Inc. for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal the day and year first hereinabove written.

Kimberlee Varnes
Notary Public in and for Alaska
My Commission expires: June 21, 2011

KIMBERLEE VARNES
My Commission Expires
NOTARY PUBLIC
June 21, 2011
STATE OF ALASKA

# Exhibit A: Harris Sa..d & Gravel Land Us. Permit

**File #:** 18-0395, **Version:** 1

**ITEM TITLE:**
Approval of Recommendation to City Council to Approve a Lease with Silver Bay Seafoods, LLC for Tract E, Harbor Subdivision

**SUBMITTED BY:** Nicole LeRoy, Planning Technician

**FISCAL NOTES:**

Expenditure Required: N/A
Unencumbered Balance: N/A
Funding Source: N/A

**RECOMMENDATION:**

Approve recommendation to City Council to approve a lease with Silver Bay Seafoods, LLC for Tract E, Harbor Subdivision

**SUMMARY STATEMENT:**

On September 2, 1969 the City of Valdez entered into a lease for Tract E Harbor Subdivision with Financial Land Investment Corporation, which became Sea Hawk Seafoods. The term of the original lease was for 21 years commencing July 1, 1969 and terminating June 30, 1990 with six additional five-year options to renew. Sea Hawk Seafoods sold adjacent parcels to PS, Acquisitions, LLC in 2009 and wished to assign leasehold interest for Tract E to PS Acquisitions. On August 17, 2009, City Council approved the assignment of lease from Sea Hawk Seafoods to PS Acquisitions, LLC. PS Acquisitions, LLC wished to assign leasehold interest to Silver Bay Seafoods and City Council approved assignment of leasehold interest from PS Acquisitions to Silver Bay Seafoods on February 1, 2010.

Renewal options one through four of the original lease were exercised, with the fifth option expiring on June 30, 2010. City Council approved the fifth renewal period from July 1, 2010 through June 30, 2015. While the original lease contained six, five-year options to renew the lease was amended at this time to add an additional five, five-year options to renew. The sixth five-year renewal option was not utilized and the lease is expired as of June 30, 2015 and has been in holdover subject to all terms of conditions on a month to month basis.

Silver Bay Seafoods, LLC approached former Community Development staff with request to execute a new lease agreement with an initial term of twenty-five years, commencing July 1, 2015 and ending

on June 30, 2040 with five, five- year options to renew *plus* the remaining five successive five year options to renew under the prior lease as amended in 2014. Silver Bay Seafoods is interested in securing the lease long term for the purposes of operating their fish processing plant including temporary housing in conjunction with the plant. This request has been in process since the lease expired in 2015 and is now being moved forward by current Community Development staff.

Pursuant to Valdez Municipal Code 4.08.010, the annual rental rate of the lease will be calculated as ten percent of the fair market appraised value of the Property. The Property will be reappraised for the purposes of determining fair rental value every five years (VMC 4.08.150) The Lease was appraised for the purposes of determining fair rental value in 2015 at $585,000.00 and is due to be reappraised in 2020. Staff will reorder an appraisal at that time and the rent will be adjusted accordingly. Pending Council approval of this lease, Community Development Staff will work with the City Attorney to execute a new lease agreement.

CITY OF VALDEZ, ALASKA

RESOLUTION # 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AUTHORIZING A LEASE WITH SILVER BAY SEAFOODS, LLC FOR TRACT E, HARBOR SUBDIVISION

WHEREAS, on September 2, 1969 the City of Valdez entered into a lease for Tract E Harbor Subdivision with Financial Land Investment Corporation, which became Sea Hawk Seafoods; and

WHEREAS, the term of the original lease was for 21 years commencing July 1, 1969 terminating June 30, 1990 with six additional five-year options to renew; and

WHEREAS, Sea Hawk Seafoods sold adjacent parcels to PS, Acquisitions, LLC in 2009 and wished to assign leasehold interest for Tract E to PS Acquisitions; and

WHEREAS, on August 17, 2009, City Council approved the assignment of lease from Sea Hawk Seafoods to PS Acquisitions, LLC; and

WHEREAS, PS Acquisitions, LLC wished to assign leasehold interest to Silver Bay Seafoods, LLC and City Council approved assignment of leasehold interest from PS Acquisitions, LLC to Silver Bay Seafoods, LLC on February 1, 2010; and

WHEREAS, renewal options one through four of the original lease were exercised, with the fifth option expiring on June 30, 2010; and

WHEREAS, in 2014 City Council approved the fifth renewal period from July 1, 2010 through June 30, 2015 and amended the original lease to add five additional five-year renewal options; and

WHEREAS, the sixth renewal option was not utilized and the lease is expired and has been in holdover since June 30, 2015 subject to all terms and conditions on a month to month basis; and

WHEREAS, Silver Bay Seafoods, LLC approached former Community Development staff with request to execute a new lease agreement extending the initial term of the lease for twenty-five years, commencing July 1, 2015 and ending on June 30, 2040 with five, five-year options to renew plus the additional five, five-year options to renew as amended in 2014; and

WHEREAS, Silver Bay Seafoods, LLC agrees to pay an annual rent of ten percent (10%) of the fair market appraised value of the property, in quarterly installments to be made not later than January 1st, April 1st, July 1st, and October 1st, respectively, during each year of the term of this Lease, including any extension period; and

WHEREAS, Silver Bay Seafoods, LLC shall use the property for the purpose of operating a seafood processing plant, including housing used in conjunction therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that:

Section 1. The City Manager or her designee is authorized to negotiate a lease with Silver Bay Seafoods, LLC for Tract E Harbor Subdivision

Section 2. The initial term of the lease will be from commencing July 1, 2015 and terminating June 30, 2040 with ten additional, five-year options to renew.

Section 3. The rental rate will be based on 10% of the fair market appraised value. Upon approval of the lease, the property will be appraised. The rental rate for the first five years will be 10% of the appraised value. The property will be re-appraised every five years and the rental rate adjusted accordingly. The prior lease was appraised in 2015 and is not due for reappraisal until 2020. Silver Bay Seafoods, LLC is responsible for the cost of appraisal for the purposes of determining fair rental value.

Section 4. The use of the property will be for the operation of the purpose of operating a seafood processing plant, including house used in conjunction therewith. Lessee shall not conduct any illegal activities on the property or maintain any nuisances on the property.

Section 5. In conformance with Valdez Municipal Code Section 4.08.160 this lease shall not become effective until public notice has been given for at least thirty days. This resolution shall be posed twice in a newspaper in the city and shall be posted on the official city bulletin board and two other public places in the city for thirty days prior to the effective date of the lease.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this __ day of December, 2018

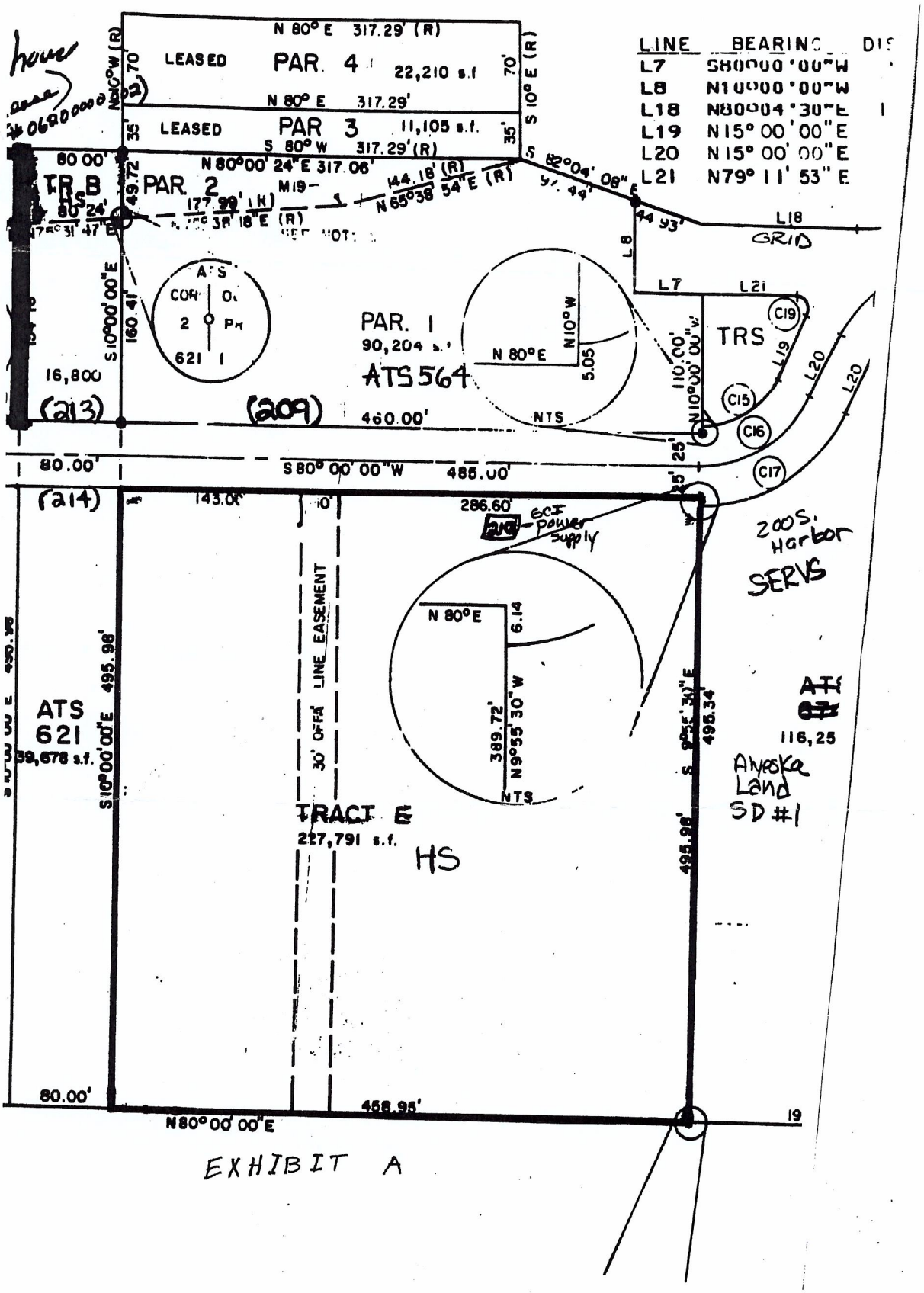
CITY OF VALDEZ, ALASKA

_____

Jeremy O’Neil, Mayor

ATTEST:

_____
Sheri L. Pierce, MMC, City Clerk

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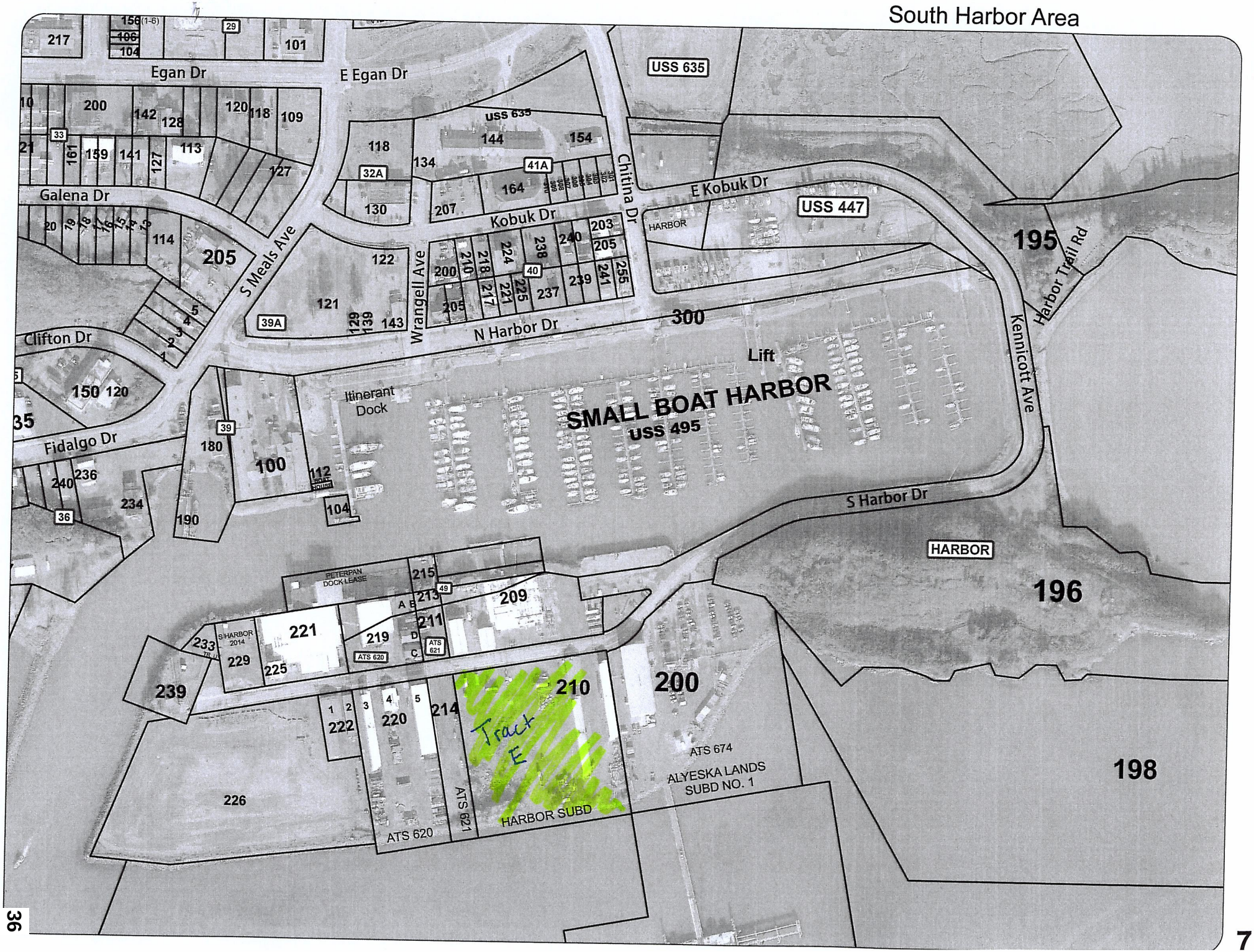
| L21 | N79° 11' 53" E | |

EXHIBIT A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USS 635
Galena Dr
Kobuk Dr
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USS 447
HARBOR
Chitina Dr
S Meals Ave
Wrangell Ave
N Harbor Dr
Clifton Dr
Fidalgo Dr
Itinerant Dock
SMALL BOAT HARBOR
USS 495
Lift
Kennicott Ave
Harbor Trail Rd
S Harbor Dr
PETERPAN DOCK LEASE
S HARBOR 2014
ATS 620
ATS 621
ATS 674
ALYESKA LANDS SUBD NO. 1
HARBOR SUBD
Tract E
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BOAT HOUSE
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# LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made effective as of the 1st day of July, 2015, between the CITY OF VALDEZ, a municipal corporation organized under the laws of the State of Alaska ("LESSOR"), and SILVER BAY SEAFOODS, LLC, a Alaska limited liability company ("LESSEE").

## I. RECITALS

A. LESSOR is the owner of certain real property having the following legal description ("Property"):

> From Corner No.2 of Alaska Tideland Survey 621, South 10° 00' 00" East, a distance of 210.28 feet to the true point of beginning; thence North 80° 00' 00" East, a distance of 460 feet; thence South 10° 00' 00" East, a distance of 389.72 feet; thence South of 80° 00' 00" West, a distance of 460 feet; thence North 10° 00' 00" West, a distance of 389.72 feet to true point of beginning, containing 3.668 acres more or less, the legal description of the foregoing having been designated as Tract E, Harbor Subdivision pursuant to Plat No. 86-4, located in the Valdez Recording District, Third Judicial District, State of Alaska.

B. LESSOR and LESSEE (including LESSEE's predecessors in interest in the Property, by way of an assignment) entered into a lease of the Property dated September 2, 1969, which was recorded in Book 63, Page 85, of the official records of the Valdez Recording District, Third Judicial District, State of Alaska; and subsequently, LESSOR and LESSEE, executed seven (7) amendments to such lease (said lease and all amendment thereto are hereinafter collectively referred to as the "Prior Lease").

C. Pursuant to the terms of the Prior Lease, LESSEE had previously exercised five (5) of the ten (10) options to renew the Prior Lease (each option covering a five (5) year additional term), leaving an additional five (5) unexercised five (5) year options to extend.

D. LESSEE has requested that LESSOR grant LESSEE an additional five (5) successive five (5) year options to extend the term of the Lease, exercisable following the exercise of the five (5) successive five (5) year options which existed under the Prior Lease. LESSOR has agreed to LESSEE's request, to the extent provided herein, subject to the execution of this Lease which is intended to replace and supersede the Prior Lease.

## II. AGREEMENT

Based upon the foregoing Recitals which are incorporated herein by reference, and for good and valuable consideration the amount and sufficiency of which is hereby acknowledged, LESSOR and LESSEE agree as follows, and that the Prior Lease is hereby terminated and superseded by this Lease.

## 1. PROPERTY

1.1. Subject to Survey. No survey is required under this Lease.

1.2. Property. LESSOR leases to LESSEE and LESSEE leases from LESSOR the Property for the term, the rent, and subject to the terms, covenants and conditions hereinafter provided.

1.3. Quiet Enjoyment, Restrictions, Easements, Etc. LESSOR covenants and agrees that LESSEE, upon paying the rent and other charges herein provided for and observing and keeping the covenants, conditions and terms of this Lease on LESSEE's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the Property during the term of this Lease without hindrance or molestation, subject, however, to the rights and reservations expressed in the U.S. Patent to the Property, the State of Alaska Patent to the Property, existing easements for roads, gas, electric, water, sewer and other utility lines, restrictions of record and to encroachments ascertained by physical inspection of the Property.

1.4. Property Accepted "As Is." LESSEE acknowledges that prior to the execution of this Lease LESSEE has been in possession of the Property under the Prior Lease, has inspected the Property and accepts the same "as is" and without reliance on any representations or warranties of LESSOR, its agents, servants, or employees, as to the physical condition of the Property, including, but not limited to, subsurface and soil conditions, or as to its fitness, habitability or use for any particular purpose, or otherwise.

1.5. No Subsurface Rights. This Lease confers no mineral rights or rights with regard to the subsurface of the land below the level necessary for the use of the Property as stated in this Lease. LESSOR makes no warranty or representation as to whether the Property is subject to, open or closed to mineral claims or leases under state or federal law.

1.6. Appraisal Fee. There is no appraisal fee required to be paid by LESSEE under this Lease.

## 2. TERM

2.1. Lease Term. The initial term of this Lease shall be twenty-five (25) years, commencing on July 1, 2015 and ending on June 30, 2040.

2.2. Option to Renew. Provided that LESSEE is not in default of LESSEE's obligations under this Lease or the Lease has not be otherwise terminated at the time of exercise,

LESSEE shall have rights to extend the initial term of this Lease for five (5) consecutive additional periods (each an "Option") of five (5) years (each an "Extension Period"). To exercise an Option, Tenant must give Landlord notice in writing of Tenant's exercise of an Option not less than ninety (90) days nor more than one hundred and eighty (180) days prior to the end of the upcoming expiring initial Lease term or Extension Period. Rent for an Extension Period shall be the rent set forth in Article 3 of this Lease.

2.3. Preference Rights to Re-Lease. LESSEE shall upon expiration of this Lease, and pursuant to Section 14.04.210 of the Valdez Municipal Code, as may be amended from time-to-time, be allowed a preference right to re-lease the Property, provided the LESSEE is not in breach or default of any of the terms or conditions of the Lease at the time of Lease expiration, unless it shall be determined by LESSOR that the renewal of this Lease is not in the best interests of LESSOR.

2.4. Application to Re-Lease. If, at the expiration of this Lease, the LESSEE desires to re-lease the Property, LESSEE shall, not sooner than ninety calendar days and not later than sixty calendar days prior to the expiration, make application to re-lease the Property. The re-lease application shall certify the character and value of all improvements placed by LESSEE on the Property, the purpose and lengths for which the re-lease is desired, and any other information that LESSOR may require. Applications to re-lease shall be submitted to the same application review as new applications for lease, pursuant to Sec. 14.04 of the Valdez Municipal Code as may be amended from time-to-time.

2.5. Hold-over. If LESSEE shall hold-over after the expiration of the term of this Lease such tenancy shall be from month to month, subject to all the terms, covenants and conditions of this Lease.

2.6. Surrender of Possession. Upon expiration of the term of this Lease, whether by lapse of time or otherwise, LESSEE shall promptly and peaceably surrender the Property, and all buildings and improvements thereon, except as provided in Article 17 of this Lease, and LESSEE agrees to execute, acknowledge and deliver to LESSOR a proper instrument in writing, releasing and quitclaiming to LESSOR all right, title and interest of LESSEE in and to the Property and all such buildings and improvements thereon.

## 3. RENT, TAXES, ASSESSMENTS AND UTILITIES

3.1. Rent. The LESSEE agrees to pay to LESSOR an annual rent of ten percent (10%) of the fair market appraised value of the Property, in quarterly installments to be made not later than January 1st, April 1st, July 1st, and October 1st, respectively, during each year of the term of this Lease, including any Extension Period. Rent for the portion of the quarter coinciding with the commencement of the Lease term shall be on the day the term commences. Rent for any partial quarter shall be prorated at the rate of 1/12th of the annual rent per month or portion thereof. For the first five (5) years of the Lease term, the appraised value of the Property is agreed to be FIVE HUNDRED EIGHTY-FIVE

THOUSAND DOLLARS ($585,000) resulting in an annual rent of FIFTY-EIGHT THOUSAND FIVE HUNDRED DOLLARS ($58,500) per year, to be paid in quarterly installments of FOURTEEN THOUSAND SIX HUNDRED TWENTY-FIVE ($14,625.00). Rent shall be payable at the office of the City Manager, P.O. Box 307, Valdez, Alaska 99686, or at such other place as LESSOR may designate in writing. Delinquent rent shall bear interest at the rate of twelve percent (12%) per annum.

3.2. Adjustment of Rent. The Property will be reappraised and the annual rent accordingly adjusted every five (5) years during the term of this Lease, including any Extension Period. Such appraisal will be based on the value of the Property and shall not include the value of buildings or improvements placed on the Property by LESSEE. The appraised value of the Property for the purposes of determining the annual rental shall be an appraisal done by a State of Alaska licensed appraiser of LESSOR~~S~~'s selection. Notwithstanding the foregoing, if prior to the completion of such appraisal, LESSEE notifies LESSOR in writing that LESSEE objects to the appraiser selected by LESSOR, LESSOR and LESSEE shall mutually agree upon an appraiser to conducted the appraisal, and LESSEE shall bear the cost of such appraisal. In no event, however, shall the annual rent be less than the original annual rent set forth in paragraph 3.1. Nothing in this paragraph shall prevent the annual reassessment of the Property and its improvements for tax purposes to determine its true value as provided by law.

3.3. LESSEE to Pay Taxes. LESSEE shall pay prior to delinquency and directly to the taxing authorities in which the Property is located all real property taxes levied or assessed upon or against the Property and improvements thereon during the term of this Lease. LESSEE shall also pay prior to delinquency and directly to the taxing authorities in which the Property is located all personal property taxes levied on personal property situated on the Property and placed thereon by LESSEE, its agents, authorized representatives, or employees. LESSEE shall further pay prior to delinquency any other taxes for which it may be liable. LESSEE shall, within thirty (30) days after any such tax, assessment or other charge, whether or not constituting a lien on the Property, shall become due and payable, produce and exhibit to LESSOR satisfactory evidence or payment thereof.

3.4. LESSEE to Pay Assessments. LESSEE shall pay directly to the public authorities charged with collection thereof any and all assessments levied on the Property for any part or all of the costs of any public work or improvement assessed according to benefit found by the levying authority to accrue therefrom to the Property, provided, however, that if an option is given to pay such assessment(s) in installments, LESSEE may elect to pay the same in installments, and in such case LESSEE shall be liable only for such installments as shall accrue during the term of this Lease. LESSOR makes no warranty or representations regarding any outstanding assessments levied on the Property for any part or all of the cost of any public work or improvement constructed by LESSOR or any public utility company. It is LESSEE's responsibility to verify if there are any assessments against the subject property by any utility provider.

**Commented [A1]:** LESSOR's proposal in response to LESSEE's desire to play a part in the appraiser selection process.

**Commented [A2]:** LESSOR not willing to exclude improvements from real property valuation and tax assessments to be paid by LESSEE.

**Commented [A3]:** See comment above.

3.5. Proration of Taxes and Assessments. If LESSEE's obligation to pay taxes or assessments commences or ends during a tax year (rather than at the beginning or end of a tax year), such obligation shall be prorated between LESSOR and LESSEE.

3.6. Contest. LESSEE shall have the right to contest any taxes or assessments which LESSEE is obligated to pay under paragraphs 3.3 or 3.4 of this Lease. Such proceedings shall, if instituted, be conducted promptly at LESSEE's own expense and free from all expense to LESSOR. Before instituting any such proceedings, LESSEE shall pay under protest any such taxes or assessments, or shall furnish to LESSOR a surety bond written by a company acceptable to LESSOR or other security acceptable to LESSOR, sufficient to cover the amount of such taxes or assessments, with interest for the period which such proceedings may reasonably be expected to take, and costs, securing the payment of such taxes or assessments, interest and costs in connection therewith when finally determined. Notwithstanding the furnishing of any such bond or security, LESSEE shall pay any such taxes or assessments at least thirty (30) days before the time when the Property or any part thereof, might be forfeited. The proceedings referred to in this paragraph 3.6 shall include appropriate appeals from any order or judgments therein, but all such proceedings shall be begun as soon as reasonably possible after the imposition or assessment of any such taxes or assessments and shall be prosecuted to final adjudication promptly. In the event of any reduction, cancellation or discharge, LESSEE shall pay the amount that shall be finally levied or assessed against the Property or adjudicated to be due and payable, and, if there shall be any refund payable by the governmental authority with respect thereto, LESSEE shall be entitled to receive and retain the same, subject, however, to apportionment proration provided in paragraph 3.5 of this Lease. LESSOR, at LESSOR's option, may, but shall not be obligated to, at LESSOR's own expense contest any such taxes or assessments, which shall not be contested as set forth above, and, unless LESSEE shall promptly join with LESSOR in such contest and pay all costs and attorneys' fees of LESSOR therein, LESSOR shall be entitled to receive and retain any refund payable by any governmental authority with respect thereof.

**Commented [A4]:** LESSOR rejects LESSEE's proposal to contest appraisal/adjustment under paragraph 3.2.

3.7. LESSEE to Pay Utility Charges. LESSEE shall pay or cause to be paid all charges for gas, oil, electricity, water, sewer, heat, snow removal, refuse removal and any and all other utilities or services used upon the Property throughout the term of this Lease, including any connection fees.

3.8. Additional Rent and LESSOR's Right to cure LESSEE's Default. All costs and expenses which LESSEE assumes or agrees to pay pursuant to this Lease shall, at LESSOR's election, be treated as additional rent, and, in the event of nonpayment, LESSOR shall have all rights and remedies provided in this Lease in the case of nonpayment of rent or of a breach of condition, at LESSOR's election. If LESSEE shall default in making any payment required to be made by LESSEE or shall default in performance of any term, covenant or condition of this Lease on the part of LESSEE to be kept, performed or observed which shall involve the expenditure of money by LESSEE,

LESSOR at LESSOR's option may, but shall not be obligated to, make such payment, or, on behalf of LESSEE, expend such sum as may be necessary to keep, perform or observe such term, covenant or condition, and any and all sums so expended by LESSOR, with interest thereon at the rate of twelve percent (12%) per year from the date of such expenditure until repaid, shall be, and shall be deemed to be, additional rent and shall be repaid by LESSEE to LESSOR, on demand, provided, however, that no such payment or expenditure by LESSOR shall be deemed a waiver of LESSEE's default, nor shall it affect any remedy of LESSOR by reason of such default.

## 4. USE

4.1. Use. LESSEE shall use the Property for the purpose of operating a seafood processing plant, including housing used in conjunction therewith. LESSEE shall not conduct any illegal activities on the Property or maintain any nuisances on the Property.

4.2. Radio Interference. At the LESSOR's request, the LESSEE shall discontinue the use of any machine or device which interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated provided that such a request is based upon a reasonable belief that LESSEE's machine or device is the source of the interference.

## 5. IMPROVEMENTS

5.1. Alterations and Additions. LESSEE may not make alterations, improvements, additions, or changes to the Property, or any part thereof, without the prior written consent of LESSOR, which consent may be withheld for any reason. To the extent LESSOR obtains such consent, and undertakes any such alteration, improvement, addition, or change to the Property, LESSEE shall ensure that the same complies with all applicable local, state, and federal laws and shall indemnify LESSOR, and hold LESSOR harmless, from any and all liability that may arise from the same. All costs of any such alteration, improvement, addition and/or change shall be at LESSEE's sole cost and expense, unless otherwise agreed in writing. LESSOR shall keep the Property free from liens or encumbrances of any nature. Upon the termination of this Lease, all such alterations, improvements, additions, and changes with the exception of trade fixtures as set forth in Section 6.1 shall belong to Landlord, unless LESSOR elects to have LESSEE remove the same and reinstate the PROPERTY to its condition prior to such alteration, improvement, addition or change, all at LESSOR's sole expense. LESSOR may post the Property with notices of non-responsibility for labor and materials supplied thereto.

5.2. Notice of Construction. LESSEE shall give LESSOR no less than ten days written notice prior to the commencement of any LESSOR approved construction, alteration or repair of any improvements constructed or made by LESSEE on the Property so that LESSOR may, if it so elects, give notice of nonresponsibility pursuant to AS 34.35, as now enacted or hereafter amended.

5.3. Landscaping. LESSEE shall landscape the areas surrounding any buildings or improvements constructed or maintained on the Property in a pleasing and aesthetic manner consistent with the scenic nature and natural vegetation of the Property and the surrounding land, and shall maintain such landscaping in good condition.

5.4. Workers Compensation Insurance. No construction shall commence or continue without satisfactory proof that workers compensation insurance has been procured to cover all persons employed in connection with the construction. Upon request by LESSOR, LESSEE shall make such proof available to LESSOR for inspection. Any deficiency with regard to such insurance requirement shall be cured immediately by LESSEE and no work will be performed on any such construction project until the LESSOR has satisfactory proof that required workers compensation insurance is in place.

## 6. TRADE FIXTURES

6.1. LESSEE's Ownership of Trade Fixtures, Machinery and Equipment. Any and all trade fixtures (including electrical fixtures), machinery, equipment of any nature whatsoever and other personal property of LESSEE at any time placed or maintained upon the Property by LESSEE shall be and remain ~~P~~property of the LESSEE and may be removed or replaced at any time during the term or at the termination of this Lease.

## 7. ASSIGNMENT AND SUBLETTING

7.1. Assignment Without Consent Generally Prohibited. LESSEE shall not voluntarily assign or encumber its interest in this Lease or in the Property, or sublet all or any part of the Property, or allow any other person or entity (except LESSEE's authorized representatives) to occupy or use all or any part of the Property without first obtaining LESSOR's written consent. Any assignment, encumbrance or sublease without LESSOR's consent shall be voidable and, at LESSOR's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph. If LESSEE is a partnership, a withdrawal or change, voluntary, involuntary or by operation of law, of any partner or partners owning fifty percent (50%) or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment. If LESSEE is a corporation, any dissolution, merger, consolidation or other reorganization of LESSEE, or the sale or other transfer of a controlling percentage of the capital stock of LESSEE or the sale of fifty-one percent (51%) of the value of. the assets of LESSEE, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of LESSEE's capital stock issued, outstanding and entitled to vote for the election of directors. As to a corporation the stock of which is traded through an exchange or over the counter, a sale or other transfer of a controlling percentage of the capital stock of such a LESSEE corporation will not be deemed to be a voluntary assignment. Any assignment affected pursuant to this paragraph 7.2 shall require the assignee to assume the LESSEE's

obligations hereunder. LESSEE shall promptly deliver to LESSOR a copy of any assignment instrument. Any assignment shall not release the LESSEE from liability hereunder.

7.2. Assignment of Rents to LESSOR. LESSEE immediately and irrevocably assigns to LESSOR, as security for LESSEE's obligations under this Lease, all rent from any approved subletting of all or a part of the Property as permitted by this Lease, and LESSOR, as assignee and attorney-in-fact for LESSEE or a receiver for LESSEE appointed on LESSOR's application, may collect such rent and apply it toward LESSEE's obligations under this Lease, except that, until the occurrence of an act of default by LESSEE, LESSEE shall have the right to collect such rent.

7.3. Costs of LESSOR's Consent to Be Borne by LESSEE. LESSEE shall pay to LESSOR, on demand, reasonable costs, including attorney's fees, incurred by LESSOR in connection with any request by LESSEE for LESSOR's consent to any assignment or subletting by LESSEE.

## 8. LIENS

8.1. Prohibition of Liens. LESSEE shall not suffer or permit any liens, including without limitation, mechanic's or materialman's liens, to be recorded against the Property. If any such liens shall be recorded against the Property, LESSEE shall cause the same to be removed, or, in the alternative, if LESSEE in good faith desires to contest the same, LESSEE shall be privileged to do so, but in such case LESSEE hereby agrees to indemnify and save LESSOR harmless from all liability for damages occasioned thereby and shall, in the event of a judgment or foreclosure of such liens, cause the same to be discharged and removed prior to any attempt at execution of such judgment. Nothing contained in this Lease shall be construed to be a waiver of the provisions of AS 09.38.015(c), as may be amended from time to time.

## 9. INDEMNITY

9.1. Indemnity. Except for claims arising solely out of acts or omissions of LESSOR, its agents, servants, employees or contractors, LESSEE agrees to protect, defend, indemnify and hold LESSOR harmless from and against any and all liability arising from acts or omissions of LESSEE, its agents, servants, employees or contractors occurring on or relating to the Property or relating to the operation of LESSEE's business, causing injury to, or death of persons, or loss of, or damage to, property, and from any expense, including reasonable attorneys' fees, incident to the defense of and by LESSOR therefrom. If any action or proceeding is brought against LESSOR by reason of any such occurrences, LESSOR shall promptly notify LESSEE in writing of such action or proceeding.

## 10. INSURANCE

10.1. Liability Insurance. LESSEE, during the term of this Lease, shall carry at its expense commercial general liability insurance covering the Property in an amount of not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit to protect against liability for personal injury, death or property damage, including without limitation damage caused by the release or threatened release of hazardous material or substance (as defined in paragraph 18.5 below), which might arise from the construction on, occupancy of, or use of the Property and the operations conducted on it. Said insurance shall insure performance by LESSEE of the indemnity provisions of paragraph 9.1. At LESSOR's sole and reasonable discretion, LESSOR may increase the amount of insurance required at five (5) year intervals.

10.2. Named Insured, Notice to LESSOR, and Waiver of Subrogation. All insurance policies required to be maintained by LESSEE under paragraph 10.1 shall name LESSOR, and its officers, employees and agents, as additional insureds. All policies issued under paragraph 10.1 shall contain an agreement by the insurers that such policies shall not be canceled without at least twenty (20) days prior written notice to LESSOR, and certificates or copies of all such insurance policies shall be furnished to LESSOR promptly after the issuance thereof. All policies issued under paragraph 10.1 shall contain a waiver of any subrogation rights any insurer might have against LESSOR.

10.3. Fire and Extended Coverage Insurance. LESSEE shall at its own expense and in its own name obtain insurance against loss or damage by fire and such other risks as it determines to cover buildings, equipment, inventory, fixtures, personal property and improvements made to the Property by LESSEE subsequent to LESSEE's taking possession of the Property under this Lease.

## 11. CARE OF PROPERTY

11.1. LESSEES's Maintenance and Repair Obligations. LESSEE shall at its own cost and expense keep the Property, and every part thereof including without limitations all improvements situated on the Property and all structural, mechanical, plumbing and electrical improvements to the Property, in good condition and repair. LESSEE shall upon the expiration or sooner termination of this Lease, quit and peacefully surrender the Premises to Landlord in good condition, broom clean, ordinary wear and tear excepted. The Property shall always be kept by LESSEE neat, clean and free of litter.

11.2. Restoration or Removal of Damaged Buildings and Improvements. In the event any buildings or improvements situated on the Property by LESSEE are damaged or destroyed by fire or other casualty, LESSEE shall at LESSEE's expense restore the same to good and tenantable condition or shall remove the same as soon as is reasonably possible,

but in no event shall the period of restoration exceed twenty-four (24) months nor shall the period of removal exceed one hundred eighty days (180) days.

11.3. Access Rights of LESSOR. LESSOR, its agents, servants or employees, shall have the right to enter into and upon the Property and all buildings or improvements situated thereon upon reasonable notice to LESSEE and during normal business hours (defined as 9:00 a.m. to 5:00 p.m. Monday through Friday except for holidays as defined in paragraph 15.5 of this Lease) for the purpose of inspecting the Property and all buildings and improvements situated thereon for compliance with the terms of this Lease.

11.4. Nuisances Prohibited. LESSEE shall immediately remove from the Property any abandoned or junk vehicles, buildings, improvements, equipment, machinery or fixtures. LESSEE shall not permit any nuisance or public nuisance to exist or to be created or maintained on the Property. LESSEE agrees that any nuisance or public nuisance as defined by the Valdez City Code, or any other code or regulations incorporated therein or otherwise adopted by ordinance or resolution of the City of Valdez, may, after five days written notice to LESSEE, be removed by LESSOR without LESSEE's further permission, with use of force if necessary, and without incurring any civil or criminal liability therefor, all the costs of such removal to be paid by LESSEE to LESSOR as additional rent under the terms of this Lease. This paragraph shall not be construed as any limitation on any other legal rights or remedies available to the City of Valdez to abate any nuisance or to prosecute any violation of the Valdez City Code.

## 12. LAWS

12.1. Compliance with Laws. LESSEE shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting LESSEE's activities on the Property or any buildings or other improvements which may be situated thereon, whether or not any such laws, ordinances or regulations which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same. In the event of a conflict between the provisions of this Lease and the City of Valdez Municipal Code, the latter shall control.

## 13. CONDEMNATION

13.1. Condemnation. In the event the Property, or any part thereof or interest therein, shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of LESSOR and LESSEE in the award or consideration for such transfer and the effect of the taking or transfer upon this Lease shall be as provided in this Article 13.

13.2. Total Taking. If all of the Property is taken or so transferred, this Lease and all the right, title and interest thereunder of LESSEE shall cease on the date title to the Property vests in the condemning authority.

13.3. Partial Taking - Termination of Lease. In the event the taking or transfer of part of the Property leaves the remainder of the Property in such location, or in such form, shape or reduced size, or so inaccessible as to be not effectively and practicably usable in the reasonable opinion of LESSEE for the purpose of operation thereon of LESSEE's business, then this Lease and all of the right, title and interest thereunder of LESSEE shall cease on the date title to the Property vests in the condemning authority, and the condemning authority enters into possession.

13.4. Partial Taking - Continuation of Lease. In the event the taking or transfer of a part of the Property leaves the remainder of the Property in such location and in such form, shape or size, or so accessible as to be effectively and practicably usable in the reasonable opinion of LESSEE for the purpose of operation thereon of LESSEE's business, this Lease shall terminate and end as to the portion of the Property so taken or transferred as of the date title to such portion vests in the condemning authority and the condemning authority enters into possession, but shall continue in full force and effect as to the portion of the Property not so taken or transferred. If there is a partial taking and this Lease is not terminated, then the annual rent payable under this Lease shall abate for the portion of the Property taken in the proportion that such portion bears to all of the Property.

13.5. Compensation. Any compensation received or payable as a result of eminent domain proceedings or a transfer in lieu thereof shall be apportioned to LESSOR and LESSEE as follows: (a) LESSOR shall be entitled to such portion of the compensation attributable to LESSOR's interest in this Lease, LESSOR's ownership interest in the Property, and LESSOR's interest in any improvements to the Property; and (b) LESSEE shall be entitled to such portion of the compensation attributable to LESSEE's interest in this Lease, and LESSEE's interest in an improvements to the Property. LESSEE shall have the right to claim and recover from the condemning authority compensation for any loss to which LESSEE may be entitled for LESSEE's moving expenses, interference with LESSEE's business, and damages relating to any trade fixtures, machinery or equipment owned by LESSEE, provided, however, that such compensation can be claimed only if separately awarded in the eminent domain proceeding or transfer in lieu thereof agreed t by LESSOR, and not as a part of the compensation recoverable by LESSOR.

## 14. DEFAULT

14.1. Default. Each of the following events shall be deemed an event of default by the LESSEE under this Lease and a breach of the terms, covenants and conditions of this Lease:

14.1.1. A default in the payment of the rent and additional sums due under this Lease, or any part thereof, for a period of fifteen (15) days from the due date for the payment of such rent or additional sums.

14.1.2. A default in the performance of any other term, covenant or condition on the part of the LESSEE to be kept, performed or observed for a period of thirty (30) days after LESSOR gives to LESSEE a written notice specifying the particular default or defaults; provided, however, that any default on the part of LESSEE in the performance of work or acts required by him to be done, or conditions to be modified, shall be deemed to be cured if steps shall have been taken promptly by LESSEE to rectify the same and shall be prosecuted to completion with diligence and continuity.

14.1.3. The filing of a petition by or against LESSEE for adjudication as a bankrupt under the Federal Bankruptcy Code, as now enacted or hereafter amended, or for arrangement pursuant to Chapter XI of the Bankruptcy Code.

14.1.4. The making by LESSEE of an assignment of this Lease or the Property as set forth in Section 7.1 for the benefit of creditors.

14.1.5. The appointment of a receiver by a court of competent jurisdiction for LESSEE's business.

14.1.6. The levy upon execution or attachment by process of law of the leasehold interest of LESSEE in the Property.

14.1.7. The use of the Property or buildings and improvements thereon for purposes other than those enumerated herein, to which LESSOR has not given its written consent.

14.1.8. The abandonment of the Property by LESSEE.

14.2. LESSOR's Remedies. In the event of any default by LESSEE as recited in paragraph 14.1 of this Lease, LESSOR shall have all of the below enumerated rights and remedies, all in addition to any rights and remedies that LESSOR may be given by statute, common law or otherwise. All rights of LESSOR shall be cumulative, and none shall exclude any other right or remedy. LESSOR's rights and remedies include the following:

14.2.1. LESSOR may declare the term of this Lease ended by written notice to LESSEE. Upon termination of this Lease, LESSEE shall surrender possession and vacate the Property immediately and deliver possession thereof to LESSOR, and LESSEE hereby grants to LESSOR full and free license to enter into and upon the Property in such event with or without process of law and to repossess LESSOR of the Property and to expel or remove LESSEE and any others who may be occupying or within the Property and to remove any and all property therefrom, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and

without relinquishing LESSOR's right to rent or any other right given to LESSOR hereunder or by operation of law.

14.2.2. LESSOR may by written notice declare LESSEE's right to possession of the Property terminated without terminating this Lease. Upon such termination of LESSEE's right to possession, LESSOR shall have all the rights to repossess the Property and remove LESSEE and LESSEE's property that are enumerated in paragraph 14.2.1..

14.2.3. LESSOR may relet the Property in whole or in part for any period equal to or greater or less than the remainder of the term of this Lease, for any sum which LESSOR may deem reasonable, except as provided in paragraph 14.2.5.2.

14.2.4. LESSOR may collect any and all rents due or to become due from subtenants or other occupants of the Property.

14.2.5. LESSOR may recover, whether this Lease be terminated or not, from LESSEE, damages provided for below consisting of that referenced in subparagraphs 14.2.5.1.1, and 14.2.5.1.2, or, in lieu of that referenced in subparagraph 14.2.5.1.2, those referenced in subparagraph 14.2.5.1.3:

14.2.5.1.1. reasonable attorney's fees and other expenses incurred by LESSOR by reason of the breach or default by LESSEE; and

14.2.5.1.2. an amount equal to the amount of all rent and additional sums reserved under this Lease, less the net rent, if any, collected by LESSOR on reletting the Property, which shall be due and payable by LESSEE to LESSOR on the several days on which the rent and additional sums reserved in this Lease would have become due and payable; that is to say, upon each of such days LESSEE shall pay to LESSOR the amount of deficiency then existing such net rent collected on reletting by LESSOR shall be computed by deducting from the gross rent collected all expenses incurred by LESSOR in connection with the reletting of the Property, or any part thereof, including broker's commission and the cost of renovating or remodeling the Property or the buildings or improvements thereon, provided, however, LESSOR must take diligent effort in reletting the Property to obtain a rental rate as close to or above that required of LESSEE under this Lease or else LESSOR will not have access to the remedy set out in this subparagraph 14.2.5.1.2, or

14.2.5.1.3. an amount to be due immediately on breach, equal to the difference between the rent and the fair and reasonable rental value of the Property for the same period. In the computation of such damages the difference between any installment of rent thereafter becoming due and the fair and reasonable value of the Property for the period for which such installment was payable shall be discounted to the date of such breach at the rate of eight percent (8%) per year.

14.2.6. Reentry or reletting of the Property, or any part thereof, shall not be deemed a termination of this Lease, unless expressly declared to be so by LESSOR.

14.2.7. If this Lease shall be deemed terminated, LESSEE's liabilities shall survive and LESSEE shall be liable for damages as provided in paragraph 14.2 and its sub-parts.

## 15. GENERAL PROVISIONS

15.1. Estoppel Certificates. Either party shall at any time and from time to time upon not less than thirty (30) days prior written request by the other party, execute, acknowledge and deliver to such party, or to its designee, a statement in writing certifying that this Lease is unamended and in full force and effect (or, if there has been any amendment thereof, that the same is in full force and effect as amended and stating the amendment or amendments), that there are no defaults existing, (or, if there is any claimed default, stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance.

15.2. Conditions and Covenants. All the provisions of this Lease shall be deemed as running with the land, and shall be construed to be "conditions" as well as "covenants," as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

15.3. No Waiver of Breach. No failure by either LESSOR or LESSEE to insist upon the strict performance by the other of any term, covenant or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such terms, covenants or conditions. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

15.4. Time of Essence. Time is of the essence of this Lease and of each provision.

15.5. Computation of Time. The time in which any act provided by this Lease is to be done is computed by excluding the first (1st) day and including the last, unless the last day is a Saturday, Sunday or a holiday, and then it is also excluded. The term "holiday" shall mean all holidays as defined by the statutes of Alaska.

15.6. Successors in Interest. Each and all of the terms, covenants and conditions in this Lease shall inure to the benefit of and shall be binding upon the successors in interest of LESSOR and LESSEE.

15.7. Entire Agreement. This Lease contains the entire agreement of the parties with respect to the matters covered by this Lease, and no other agreement, statement or promise made by any party which is not contained in this Lease shall be binding or valid.

15.8. Governing Law/Jurisdiction/Venue. This Lease shall be governed by, construed and enforced in accordance with the laws of the state of Alaska. Any litigation arising out of the enforcement of rights or performance of the parties under this Lease, or its interpretation, shall be brought in the courts of the State of Alaska, Third Judicial District at Valdez.

15.9. Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such provisions are considered by LESSEE to be integral to LESSEE's use of the Property for the purposes stated herein in which case LESSEE will have the authority to terminate this Lease upon thirty (30) days' written notice to LESSOR.

15.10. Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between LESSOR and LESSEE; and neither the method of computation of rent, nor any other provision contained in this Lease nor any acts of the parties, shall be deemed to create any relationship between LESSOR and LESSEE other than the relationship of LESSOR and LESSEE.

15.11. Interpretation. The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not for or against LESSOR or LESSEE as both LESSOR and LESSEE have had opportunity for the assistance of attorneys in drafting and reviewing this Lease.

15.12. Number and Gender. In this Lease, the neuter gender includes the masculine and the feminine, and the singular number includes the plural; the word "person" includes corporation, partnership, firm or association wherever the context so requires.

15.13. Mandatory and Permissive. "Shall," "will," and "agrees" are mandatory; "may" is permissive.

15.14. Captions. Captions of the paragraphs of this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

15.15. Amendment. This Lease is not subject to amendment except in writing executed by all parties hereto.

15.16. Delivery of Notices - Method and Time. All notices, demands or requests from one party to another shall be delivered in person or be sent by mail, certified or registered, postage prepaid, to the addresses stated in paragraph 15.17 and shall be deemed to have been given at the time of delivery or, if mailed, three (3) days after the date of mailing.

15.17. Notices. All notices, demands and requests from LESSEE to LESSOR shall be given to LESSOR at the following address:

City Manager
City of Valdez
P.O. Box 307
Valdez, Alaska 99686

All notices, demands or requests from LESSOR to LESSEE shall be given to LESSEE at the following address:

General Counsel
SILVER BAY SEAFOODS, LLC
208 Lake Street, Suite 2E
Sitka, AK 99835

15.18. Change of Address or Agent. Each party shall have the right, from time to time, to designate a different address or different agent for service of process by notice given in conformity with paragraph 15.16.

15.19. Furnishing of Information. Upon LESSOR's written request, LESSEE shall provide LESSOR with copies of articles of incorporation and bylaws, partnership agreements, joint venture agreements or other reasonably related documents which shall define the manner of organization and the ownership of any business or activities to be conducted upon the Property, together with all future amendments thereto. LESSOR shall treat such information as confidential and not release it to a third party unless legally compelled to do so. LESSEE and LESSEE's assignee or sublessee shall also provide the same information regarding any assignee or sublessee of LESSEE.

**Commented [A5]:** LESSOR rejects the proposed deletion of "LESSEE and" because LESSOR cannot presently to bind LESSEE's assignee of sublessee to this obligation.

15.20. Recordation. This Lease or a memorandum thereof may be recorded by LESSOR, or by LESSEE at LESSEE's expense with the State of Alaska designated Recorder's Office for the recording of documents related to the Property.

15.20.1. LESSOR's Liens. Based upon LESSEE's representation that under a presently effective agreement with its secured lender, LESSEE is prohibited from granting LESSOR a security interest in buildings, property or fixtures, LESSOR has agreed to delete its customary lease provision which would otherwise require LESSEE to grant LESSOR a security interest in such assets placed upon the Property.

## 16. OWNERSHIP OF IMPROVEMENTS AND FIXTURES ON TERMINATION

16.1. Permanent Improvements. Upon the termination of this Lease, except as provided in paragraph 17.2 below, all buildings and structures, alterations, improvements, additions,

and changes to the Property shall be owned by and be property of LESSOR, unless LESSOR elects to have LESSEE remove the same or any part thereof and reinstate the Property to its condition prior to such the construction of such building, structure, alteration, improvement, addition or change, all at LESSEE's sole expense.

16.2. LESSEE May Remove Trade Fixtures, Machinery and Equipment. Subject to other provisions of this Lease, trade fixtures, machinery and equipment owned by LESSEE may be removed by LESSEE from the Property within sixty (60) days after the expiration or termination of this Lease; provided that such removal will not cause injury or damage to the Property, or if it does, LESSEE shall indemnify LESSOR for the full amount of such damage; and further provided that any buildings, improvements, fixtures, machinery or equipment left on the Property by LESSEE shall be in good, safe and tenantable or operable condition; and further provided that LESSEE shall not commit, create, leave or allow to exist on the Property any nuisance or public nuisance. LESSOR may extend the time for such removal in case hardship is shown to LESSOR's satisfaction, provided application for extension has been made in writing and received by LESSOR within said sixty (60) day period.

16.3. Property Not Removed. Any trade fixtures, machinery, equipment or other items of property, which are not removed from the Property within the time allowed in paragraph 17.2 of this Lease, shall immediately become the property of LESSOR and title thereto shall vest in LESSOR without further action on the part of LESSEE or LESSOR. LESSOR may use, sell, destroy, or otherwise dispose of any such property in any matter which it sees fit, without further obligation to LESSEE and subject to LESSEE's indemnification obligations under paragraph 17.2.

## 17. NONDISCRIMINATION

17.1. LESSEE Will Not Discriminate. LESSEE agrees that in its use and occupancy of the Property it will not, on the grounds of race, color, religion, national origin, ancestry, age, or sex, discriminate or permit discrimination against any prospective occupant, patron, customer, employee, applicant for employment or other person or group of persons in any manner prohibited by federal, state or local law or regulations promulgated thereunder.

## 18. HAZARQOUS MATERIALS

18.1. Condition of Property. LESSEE has had full opportunity to examine the Property for the presence of any Hazardous Material and accepts the Property in "as is" condition. LESSEE acknowledges that LESSOR, its agents, authorized representatives or employees have made no representations as to the physical conditions of the Property, including but not limited to the subsurface and soil conditions. LESSEE accepts the Property in an "as is" condition. LESSEE does not accept or assume responsibility or liability for pre-existing

subsurface and/or soil conditions, including, but not limited to Hazardous Materials and/or Environmental contamination that is unknown and/or undisclosed to LESSEE at the time of execution of this Lease.

18.2. Release of LESSOR. Any other provision of this Lease to the contrary notwithstanding, LESSEE releases LESSOR from any and all claims, demands, penalties, fines, judgments, liabilities, settlements, damages, costs or expenses (including, without limitation, a decrease in the value of the Property, damages due to loss or restriction of usable space, and attorneys' fees, court costs, litigation expenses, and consultant and expert fees) arising before, during or after the term of this Lease, and resulting from the use, keeping, storage or disposal of Hazardous Material on the Property provided that such Hazardous Material did not arise solely out of acts or omissions of LESSOR. This release includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by a federal, state or local agency or political subdivision or by law.

18.3. Use of Hazardous Materials on the Property.

18.3.1. LESSEE shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Property by LESSEE or its authorized representatives or invitees, except for such Hazardous Material as is necessary or useful to LESSEE's permitted use of the Property.

18.3.2. Any Hazardous Material permitted on the Property as provided in this paragraph, and all containers therefor, shall be used, kept, stored and disposed of in a manner that complies with all laws or regulations applicable to any such Hazardous Material.

18.3.3. LESSEE shall not discharge, leak or emit, or permit to be discharged, leaked or emitted, any material into the atmosphere, ground, sewer system or any body of water, if such material (as reasonably determined by the LESSOR, or any governmental authority) does or may, pollute or contaminate the same, or may adversely affect (a) the health, welfare or safety of persons, whether located on the Property or elsewhere, or (b) the condition, use or enjoyment of the Property or any other real or personal property.

18.3.4. LESSEE hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage and disposal of Hazardous Material kept on the Property by the LESSEE, its authorized representatives and invitees, and the LESSEE shall give immediate notice to the LESSOR of any violation or potential violation of the provisions of subparagraphs 19.3 and its subparagraphs.

18.4. Indemnification of LESSOR by LESSEE for Environmental Contamination. Lessee agrees to forever protect, defend, indemnify and hold harmless LESSOR from and against any and all losses, claims, investigations, assertions, liens, demands and causes of

action of every kind and character (including without limitation any assertions or claims made against LESSOR, LESSEE or third parties, by government agencies or third parties, alleging the release or threatened release of hazardous substances or environmental contamination of any kind on or in connection with the Property) and all costs thereof (including without limitation costs of removal action, remedial action, other "response costs" as that term is defined under applicable federal and state law, attorney's fees, penalties, damages, interest and administrative/court costs incurred by Lessor in response to and defense of same) arising in favor of any party, including LESSOR, and arising from or connected with LESSEE's activities under this Lease or LESSEE's use of or presence on the Property, whether such activities, use or presence are those of LESSEE or LESSEE's agents, subcontractors or other representatives. LESSEE acknowledges that this indemnification clause shall survive termination of this Lease, and that it applies regardless of the basis of liability alleged by or against any party, including strict liability under AS 46.03.822 or federal law. LESSEE's obligations under this section may be discharged, however, by performance of whatever degree of site investigation for environmental contamination (in LESSOR's sole discretion) is necessary to render the Property suitable for LESSOR to release LESSEE from these obligations, which release must be granted in writing by LESSOR.

18.5. Hazardous Material Defined. Hazardous Material/Substance is any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the state of Alaska, or the United States government. Hazardous Material includes any and all material or substances which are defined as "hazardous waste," "extremely hazardous waste" or a "hazardous substance" pursuant to local, state or federal law, including without limitation, the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder. "Hazardous Material" includes but is not restricted to asbestos, polychlorobiphenyls ("PCB's") and petroleum and petroleum products.

18.6. Liability of Releases/Threatened Releases of Hazardous Materials. LESSEE agrees that at all times while this Lease is in effect, for purposes of potential liability under AS 46.03.822 or any similar law:

18.6.1. LESSEE, not LESSOR, shall be deemed the owner of and person having control over any hazardous substances used by LESSEE or on the property for business reasons of LESSEE; and

18.6.2. LESSEE, not LESSOR, shall be deemed the owner of the possessory interest under this Lease, and the operator of the property as a facility under AS 46.03.822(a)(2); and

18.6.3. LESSEE, not LESSOR, shall be deemed the generator, transporter, or both, of any hazardous substances generated or transported by LESSEE in connection with the enjoyment of its rights under this Lease.

For purposes of this section, "LESSEE'' shall include LESSEE's agents, employees, subcontractors, subsidiaries, affiliates and representatives of any kind.

Compliance with Environmental Laws. Lessee covenants full compliance with any applicable federal, state or local environmental statute, regulation, or ordinance presently in effect or that may be amended or effective in the future~~, including, without limitation:~~

19.8 Due Diligence. At LESSOR's recommendation, LESSEE has investigated the Property for potential environmental contamination which may have occurred before the date of the Prior Lease or this Lease; LESSEE accepts the Property in its current environmental condition. After such investigation, LESSEE, based upon its current knowledge, agrees that the Property has not been subject to the use, generation, manufacture, storage, treatment, disposal, release or threatened release of hazardous substances; and has not been subject to any actual or threatened assertions, claims or litigation of any kind by government agencies or other persons relating to such matters.

19.9 Access to Property. LESSEE authorizes LESSOR to enter upon the Property to make such reasonable inspections and tests as LESSOR may deem appropriate to determine compliance with this Lease; any such investigations or tests shall be for LESSOR's purposes only, and shall not be construed to create any responsibility or liability on LESSOR's part to LESSEE or any person.

19.10 Release from Future Claims. LESSEE hereby releases and freely waives any future claims against LESSOR for contribution or indemnity (whether under AS 46.03.822, other state law, or federal law) in the event LESSEE incurs or becomes liable for response costs, damages or costs of any kind because of the release, threatened release or presence of hazardous substances on or about the Property except to the extent that such presence predated this Lease or LESSEE's use of the Property under the Prior Lease.

19.11 Report of Events. LESSEE specifically agrees to report all releases, threatened releases, discharges, spills or disposal of hazardous substances, in whatever quantity, immediately to the appropriate regulatory authorities and simultaneously to LESSOR, and to keep LESSOR fully informed of any communication between LESSEE and any person or agency concerning potential environmental contamination and hazardous substances.

## 19. PORT OF VALDEZ

19.1. LESSEE to Use the Port of Valdez. LESSEE agrees that LESSEE will use all reasonable efforts to have all materials and equipment which LESSEE or LESSEE's contractors ship by water from points of origin outside of the State of Alaska, and which

are incorporated into or used in the construction or operations on the Property, shipped by water directly to Valdez and unloaded in the Port of Valdez.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the dates herein below set forth, with the effective date of this Lease as set forth in the initial paragraph hereof.

LESSOR:

CITY OF VALDEZ

Date: _____ By: _____
Larry Weaver, Mayor

Attest: _____
Sheri L. Pierce, MMC, City Clerk

LESSEE:

SILVER BAY SEAFOODS, LLC

Date: _____ By: _____

_____
Print name and representative capacity

APPROVED AS TO FORM:

BRENA, BELL & CLARKSON, P.C.
Attorneys for City of Valdez

By: _____
Anthony S. Guerriero

STATE OF ALASKA )
) ss.
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this _____, day of _____, 2015, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared _____, known to me and to me known to be the _____ of Silver Bay Seafoods, LLC, on the behalf of which he/she executed the foregoing document, and he/she acknowledged to me that he/she signed the same as his/her free and voluntary act for the uses and purposes therein set forth.

WITNESS my hand and notarial seal the day and year first hereinabove written.

_____
Notary Public in and for Alaska
My Commission Expires: _____

**File #:** 18-0396, **Version:** 1

**ITEM TITLE:**
November 2018 Staff Report

**SUBMITTED BY:** Jeremy Talbott- Ports & Harbors Director

**FISCAL NOTES:**

Expenditure Required: N/A
Unencumbered Balance: N/A
Funding Source: N/A

**RECOMMENDATION:**

Receive and file

**SUMMARY STATEMENT:**

See attached report.

# Directors Report

NOVEMBER 7

**VALDEZ Ports & Harbors**
**Jeremy Talbott**

VALDEZ PORTS & HARBORS

# General

## Comprehensive Waterfront Master Plan RFQ

- **Posted Sept. 19th**
- **Closed Oct. 15th**
- **PND Engineering Selected on November 5th**
- **Initial contract meeting will take place Tuesday November 13th**

## Ports & Harbors Budget

- **Submitted to City Finance Department for review. Sept. 14th**
- **Reviewed by City Manager Sept. 25th**
- **City Council reviewed October 31st**
- **Public comment November 20th**
- **Final Council Approval December 4th**

# Operations

- **Jeremy & Jenessa attended the Alaska Travel Industry Association in Fairbanks October 8th-11th.**
- **Two additional cruise lines are working with Port staff to establish runs in 2020 or 2021.**
- **The Port completed a clean audit of the Homeland Security required operations plan on October 26th.**
- **Jeremy will be attending the Pacific Marine Expo in Seattle later this month November 18-20th.**

- **AJ. Keeton went above and beyond to work with a local service provider to raise a sailboat that had gone down in the Harbor from a rain storm. Saving the owner and eventually the City over $5,000 in salvage fees. Shout out to Tommy Kimberland and AJ Keeton on a job well done.**

- An additional shout out to the Ports and Harbors Maintenance team they have been working diligently to capture labor and costs with the new City Maintenance Software.
- Harbor water has been turned off for the season, crews will be conducting one last walkthrough of the facility on Wednesday to ensure that we have not missed anything as we prepare to go into the severe weather season.
- Annual Security Inspection for the Kelsey Dock second week of November.
- Kelsey Dock Certificates of Adequacy are ongoing with the Coast Guard.
- Five Year Security Plan renewal is also currently under review by the Coast Guard.
- The Port Team has been working very hard with Viking Cruise Line and Holland America representatives to coordinate all the details of the up and coming cruise season.
- Expect to see a Port Tariff updated at the next Ports & Harbors meeting.
- There will be several moves both private and City at the Airport, both office and retail spaces. (Two new companies have been inquiring about space as well and once the existing moves happen we will be offing them space)

# Projects

•The New Boat Harbor Arrival of the 2nd and last barge with the floats arrive and is currently been off loading in the uplands.

•Phase 1 Kelsey Dock Nearing completion, there will be some installation of the signage and maps early next Spring.

Kelsey Dock Water Repair Maintenance staff repaired the existing waterline and will be rebuilding the damaged backflow preventers this winter.

# Ransomware 2018

- VCT TWIC registration is still out of commission.
- New marina management software will be going to council for approval on Wednesday November 11th.
- IT delivered the annual airport lease files to the Port and Jenessa is working to get them updated, and reviewed by legal prior to processing them.
- We still does not have any access to several critical files, operating agreements, historical drawings, or other reference materials.
- Ports & Harbor staff will be working with the IT team continuously through this painful process. Please be patient.

# Communications

Representatives from Landmark Infrastructure Partners LP have sent a proposal for a potential stock option buy out of two cell towers leases at the Container Terminal. (Attached)

Explanatory Note: This Free Writing Prospectus supersedes in its entirety the Landmark Infrastructure Partners LP Unit Exchange Program Free Writing Prospectus originally filed by Landmark Infrastructure Partners LP on March 11, 2016.

+++

**LANDMARK INFRASTRUCTURE PARTNERS LP UNIT EXCHANGE PROGRAM (UEP™)**

Issuer: Landmark Infrastructure (Nasdaq: LMRK)

**1. Background**

**Landmark Dividend** ("Landmark" or the "Company") is a national industry leader in acquiring the real property interests underlying essential infrastructure assets. Landmark's management team pioneered the ground lease acquisition industry in 2002 and has successfully closed over 5,000 transactions. In November 2014, our affiliate, Landmark Infrastructure Partners LP (Nasdaq: LMRK), a growth-oriented master limited partnership ("MLP") formed to acquire, own and manage a portfolio of real property interests leased to companies in the wireless communication, outdoor advertising and renewable power generation industries, became a publicly traded company. As of September 30, 2017, the Company managed a portfolio of over 3,000 assets held at Landmark, its multiple private funds and LMRK. Landmark currently operates in the United States, Australia, United Kingdom and Canada and is actively seeking acquisition opportunities. LMRK will be the issuer of the UEP units. For more information, please refer to www.landmarkdividend.com and www.landmarkmlp.com.(1)

**2. Unit Exchange Program Overview**

Many property owners don't sell their assets because they don't want to incur taxes on the sale or they don't know what to do with the cash proceeds. The Landmark Unit Exchange Program or UEP™ directly addresses these two issues.

With our UEP, the property owner contributes the asset in exchange for units in LMRK, the public MLP, rather than receiving cash. Gain on the contributed assets may potentially be tax-deferred and the proceeds of the sale are now efficiently invested in a large, diversified, growing pool of assets similar to the one just sold. It is possible, however, that the exchange will be taxable to you even if you receive no cash in the exchange. We recommend you consult your tax advisor regarding the tax consequences to you of the proposed transaction.

The UEP provides the seller with a number of significant advantages:

- **Attractive Pricing** for the assets;
- **Potential Tax Deferral** of gain or loss on the assets;
- **Significant Diversification** given that the seller would now own an undivided, percentage of a large diversified growing pool of similar assets instead of 100% of a single asset with all of the attendant risks;
- **Continued Current** Cash Flow through the quarterly LMRK distributions (to the extent the board of directors of LMRK's general partner determines that LMRK has available cash (as defined in its partnership agreement));
- **Liquidity** (the holder of the units may sell at a later date of their choosing);
- **Attractive Investment Alternative** as the seller rolls into units in a publicly-traded company;
- **First-Loss Protection:** LMRK has a class of units which is subordinated to the common unitholders which may, for a period of time, provide a cushion against future losses and unforeseen decreases in the distribution; and
- **Streamlined Documentation** for the transaction. As a securities offering, documents are set, eliminating the time and expense of negotiating provisions.

(1) Information on the websites is not incorporated herein by reference.

### 3. Landmark's Asset Acquisitions

Landmark purchases with its own capital long-term (30-60 year and perpetual) ground lease property rights underlying billboards, cell towers and renewable energy assets. Landmark pools these assets into diversified portfolios and then transfers these assets to LMRK, providing investors with attractive risk-adjusted returns and significant additional benefits.

- **Mission-Critical Infrastructure** - These assets are essential to the tenants' business operations resulting in very stable historical performance and minimal net default rates;
- **Triple Net Leases** - Tenant pays real estate taxes, insurance, maintenance and utility expenses;
- **High-Quality Tenants** - Tenants are primarily large, publicly-traded companies or their affiliates;
- **Vast, Growing Industries** - Estimated $100 billion market, growing ~ $10 billion per year;
- **Comprehensive Asset Underwriting** - Landmark performs rigorous site-by-site underwriting including credit, location, tenancy, competition, market demographics and physical site review.

### 4. Example of Pre-Tax and After-Tax Cash Flow With a Tax Shield

The examples below show pre-tax and after-tax returns using an asset with a capital gain of $1,000,000. Scenarios A and B illustrate how the Capital Gain Tax reduces investment proceeds and the After-Tax Return % after the asset is sold and a Capital Gain Tax is paid. For Scenario C, the After-Tax Tax Cash Flow and After-Tax Return % are shown after the effect of $40,000 of non-cash deductible expenses (depreciation) and is applied to the Pre-tax Return.

| | A | B | C | | | |
|---|---|---|---|---|---|---|
| **Scenario:** | **Hold Asset** | **Sell Asset & Reinvest** | **Alternative Investment (with Tax Shield)** | | | |
| Principal Investment or Asset Value | $1,000,000 | $ 1,000,000 | $1,000,000 | $1,000,000 | $1,000,000 | $1,000,000 |
| Capital Gain Tax on Sale (30%) | $ 0 | $ (300,000) | $ 0 | $ 0 | $ 0 | $ 0 |
| After-Tax Investment Proceeds | $1,000,000 | $ 700,000 | $1,000,000 | $1,000,000 | $1,000,000 | $1,000,000 |
| % Return on Principle (example) | 8.0% | 8.0% | 8.0% | 7.0% | 6.0% | 5.0% |
| Pre-tax Return | $ 80,000 | $ 56,000 | $ 80,000 | $ 70,000 | $ 60,000 | $ 50,000 |
| Non-Cash Deductible Expenses **(Tax Shield)** | $ 0 | $ 0 | $ (40,000) | $ (40,000) | $ (40,000) | $ (40,000) |
| Pre-tax Income | $ 80,000 | $ 56,000 | $ 40,000 | $ 30,000 | $ 20,000 | $ 10,000 |
| Ordinary Income Tax % | 40.0% | 40.0% | 40.0% | 40.0% | 40.0% | 40.0% |
| Ordinary Income Tax $ | $ (32,000) | $ (22,400) | $ (16,000) | $ (12,000) | $ (8,000) | $ (4,000) |
| Income After Taxes | $ 48,600 | $ 33,600 | $ 24,000 | $ 18,000 | $ 12,000 | $ 6,600 |
| After-Tax Cash Flow | $ 48,600 | $ 33,600 | $ 64,000 | $ 58,000 | $ 52,000 | $ 46,600 |
| After-Tax Return % | 4.80% | 3.60% | 6.40% | 5.80% | 5.20% | 4.60% |

**Disclaimer:** Landmark does not provide tax advice. It is important that you consult a professional tax advisor regarding your individual tax situation. Examples are illustrative only to show how capital gain tax and a tax shield can affect a hypothetical investment. The information on our websites is not offering information and should not be relied upon by any investor.

**5. UEP™ Addresses Key Asset Sale Concerns**

**Reasons to Sell Your Asset**

- Get Liquidity & Cash
- Reduce Risk through Diversification

**Reasons Not to Sell Your Asset**

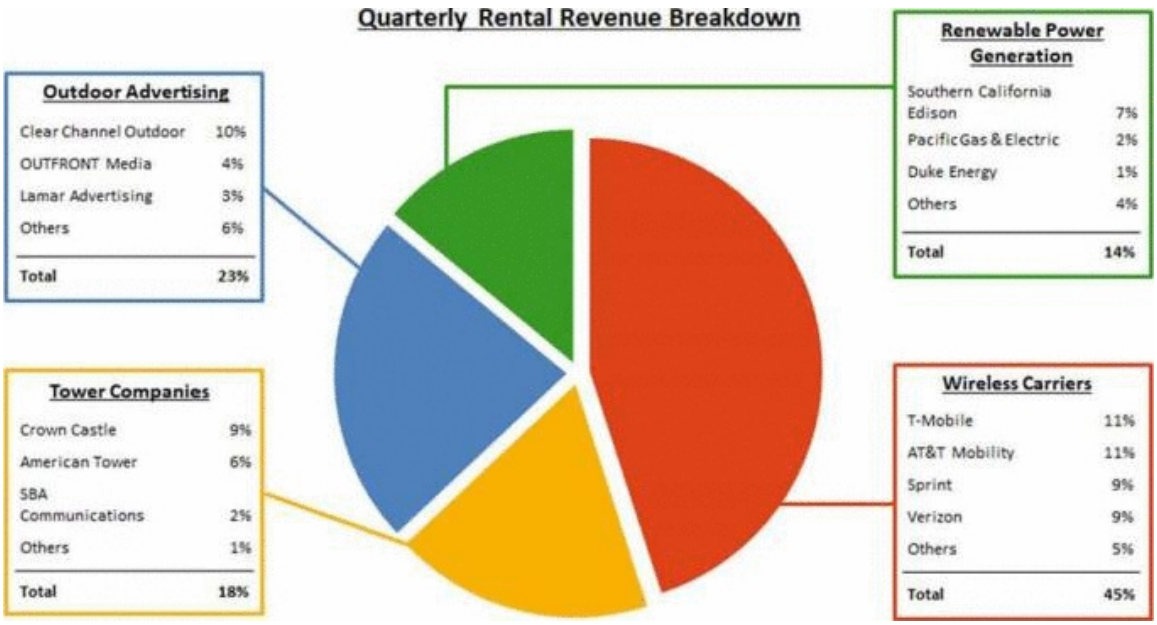
- Taxes on the Sale
- What to do with the sale proceeds

**UEP Addresses All Concerns Above**

**6. About Master Limited Partnerships (MLPs)**

- An MLP is a publicly-traded partnership that must derive 90% of its income from real estate, natural resources or commodities.
- MLPs were first created in 1981 to provide capital to the oil and gas industries.
- As of October 31, 2017, there were more than 100 MLPs in the U.S. with an estimated aggregate market capitalization of approximately $370 billion.
- MLPs typically possess a significant "first loss" investment made by the sponsor which serves to protect the common unitholders from unforeseen losses.
- As partnerships, MLPs generally don't pay corporate-level federal income taxes so MLP investors don't suffer double taxation on quarterly distributions they receive (which often are not immediately taxable, in whole or in part, due to tax deferrals).

**7. Landmark Infrastructure Partners LP as of 9/30/2017 | Number of Leased Tenant Sites: 2,099**



**8. The Closing Process**

- The UEP™ transaction typically takes 45-75 days to close.
- In order to complete the transaction, a Letter of Intent is executed by all parties.
- The asset purchase transaction is managed the same way it would in a cash sale.
- Information about LMRK is provided to the property owner.
- Before closing, the price per unit is calculated using a volume-weighted average price over a specified period of time. At closing, a UEP document package will be delivered to you and executed.
- At the time of closing units in LMRK will be distributed.

**Contact Info**

Jeffrey Knyal - Vice Chairman
O: 310.294.8190
jknyal@landmarkdividend.com

www.landmarkdividend.com

2141 Rosecrans Avenue | Suite 2100
El Segundo, CA 90245

**Disclaimer:** Before deciding to participate in the UEP, you should carefully read LMRK's most recent Annual Report on Form 10-K, including the risk factors set forth therein, and subsequent quarterly and current reports filed with the Securities and Exchange Commission. If any of the risks discussed in such reports were to materialize, LMRK's business, financial condition, results of operations and cash flows could be materially adversely affected and you could lose all or part of your investment.

LMRK has filed a registration statement (including a prospectus) on Form S-4 (File No. 333-209533) with the Securities and Exchange Commission for the offering to which this communication relates. Before you invest, you should read the prospectus in that registration statement and other documents LMRK has filed with the Securities and Exchange Commission for more complete information about LMRK and this offering. You may get these documents for free by visiting EDGAR on the Securities and Exchange Commission website at www.sec.gov. Alternatively, LMRK will arrange to send you the prospectus if you request it by calling toll-free 1-800-843-2024.

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**Filed pursuant to Rule 424(b)(2)**
**Reg. Statement No. 333-209533**

**PROSPECTUS**


# Landmark Infrastructure Partners LP

## 5,000,000 Common Units

## Representing Limited Partner Interests

This prospectus relates to 5,000,000 common units representing limited partner interests in Landmark Infrastructure Partners LP (the "Partnership," "we," "our" or "us") that we may offer and issue from time to time in connection with acquisitions by us or our subsidiaries of the assets, including real property interests, businesses or securities of other entities or parties, including acquisitions of assets from our sponsor, Landmark Dividend LLC, and its affiliates.

The amount and type of consideration that we will offer and the other specific terms of each acquisition will be determined by negotiations with the owners or the persons who control the businesses, assets or securities that we may acquire. We may structure business acquisitions in a variety of ways, including acquiring real property interests, stock, other equity interests or assets of the acquired business or merging the acquired business with us or one of our subsidiaries. We expect that the price of any common units we issue pursuant to this prospectus will be related to their market price, either when we agree to the particular acquisition, when we issue the common units or during some other negotiated period. We may issue common units at fixed offering prices, which may be changed, or at other negotiated prices.

We will pay all expenses of any offerings made pursuant to this prospectus. We do not expect to pay any underwriting discounts or commissions in connection with issuing these common units, although we may pay finder's fees in specific acquisitions. Any person receiving a finder's fee may be deemed an underwriter within the meaning of the Securities Act of 1933, as amended (the "Securities Act").

We may also permit individuals or entities who have received or will receive common units in connection with the acquisitions described above to use this prospectus to cover resales of those common units. If this happens, we will not receive any proceeds from the sale of those common units. See "Selling Unitholders" for information relating to resales of our common units pursuant to this prospectus.

Our common units are traded on the NASDAQ Global Market ("NASDAQ") under the symbol "LMRK." On March 9, 2016, the last reported sales price for our common units as reported on NASDAQ was $14.95 per common unit.

**Investing in our securities involves a high degree of risk. Limited partnerships are inherently different from corporations. You should review carefully the risk factors identified on page 2 of this prospectus and in the documents incorporated by reference herein for a discussion of important risks you should consider before you make an investment in our securities.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is March 10, 2016.**

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## ABOUT THIS PROSPECTUS

This prospectus is part of a "shelf" registration statement that we have filed with the Securities and Exchange Commission (the "SEC"). Under the shelf registration process, we may from time to time, offer and issue an aggregate of up to 5,000,000 common units in connection with the acquisition by us or our subsidiaries of other businesses, assets or securities. All of the common units offered by this prospectus may, subject to certain conditions, also be subsequently offered and resold from time to time pursuant to this prospectus by unitholders who receive our common units in those acquisitions.

This prospectus gives you a general description of the common units that we may offer. Once we know the actual information concerning a specific acquisition, we may provide further information either by means of a post-effective amendment to the registration statement of which this prospectus is a part, or by means of a prospectus supplement. Additional information, including our financial statements and the notes thereto, is incorporated in this prospectus by reference to our reports filed with the SEC. Before you invest in our securities, you should carefully read this prospectus, including the information provided under the heading "Risk Factors," any prospectus supplement, the information incorporated by reference in this prospectus and any prospectus supplement (including the documents described under the heading "Where You Can Find More Information; Incorporation of Documents by Reference" in both this prospectus and any prospectus supplement), and any additional information you may need to make your investment decision.

This prospectus incorporates important business and financial information about us that is not included in or delivered with this prospectus. We will provide, without charge, a copy of any or all of the documents incorporated by reference in this prospectus. Please direct your request for copies to:

Landmark Infrastructure Partners LP
2141 Rosecrans Avenue, Suite 2100
El Segundo, CA 90245
Attention: George P. Doyle
Chief Financial Officer and Treasurer
Telephone: (310) 598-3173

**To obtain timely delivery, you must request the information no later than five business days before the date that you must make your investment decision.**

You should rely only on information contained or incorporated by reference in this prospectus and any prospectus supplement. We have not authorized any person to provide information or make any representation about this offering that is not in this prospectus. This prospectus is not an offer to sell nor is it seeking an offer to buy these securities in any jurisdiction where the offer or sale is prohibited.

You should not assume that the information contained in this prospectus or any prospectus supplement, as well as the information we previously filed with the SEC that is incorporated by reference herein or therein, is accurate as of any date other than its respective date.

## FORWARD-LOOKING STATEMENTS

Investors are cautioned that certain statements contained in this prospectus are "forward-looking" statements. Forward-looking statements include, without limitation, any statement that may project, indicate or imply future results, events, performance or achievements, and may contain the words "expect," "intend," "plan," "anticipate," "estimate," "believe," "will be," "will continue," "will likely result," and similar expressions, or future conditional verbs such as "may," "will," "should," "would," and "could." In addition, any statement concerning future financial performance (including future revenues, earnings or growth rates), ongoing business strategies or prospects, and possible actions taken by us or our subsidiaries, are also forward-looking statements. These forward-looking statements involve external risks and uncertainties, including, but not limited to, those described under the section entitled "Risk Factors" included herein.

Forward-looking statements are based on current expectations and projections about future events and are inherently subject to a variety of risks and uncertainties, many of which are beyond the control of our management team. All forward-looking statements in this prospectus and subsequent written and oral forward-looking statements attributable to us, or to persons acting on our behalf, are expressly qualified in their entirety by the cautionary statements in this paragraph. These risks and uncertainties include, among others:

- the number of real property interests that we are able to acquire, and whether we are able to complete such acquisitions on favorable terms, which could be adversely affected by, among other things, general economic conditions, operating difficulties, and competition;
- the prices we pay for our acquisitions of real property;
- our management's and our general partner's conflicts of interest with our own;
- the rent increases we are able to negotiate with our tenants, and the possibility of further consolidation among a relatively small number of significant tenants in the wireless communication and outdoor advertising industries;

- our relative lack of experience with real property interest acquisition in the renewable power segment and abroad;
- changes in the price and availability of real property interests;
- changes in prevailing economic conditions;
- unanticipated cancellations of tenant leases;
- a decrease in our tenants' demand for real property interest due to, among other things, technological advances or industry consolidation;
- inclement or hazardous weather conditions, including flooding, and the physical impacts of climate change, unanticipated ground, grade or water conditions, and other environmental hazards;
- inability to acquire or maintain necessary permits;
- changes in laws and regulations (or the interpretation thereof), including zoning regulations;
- difficulty collecting receivables and the potential for tenant bankruptcy;
- additional difficulties and expenses associated with being a publicly traded partnership;
- our ability to borrow funds and access capital markets, and the effects of the fluctuating interest rate on our existing and future borrowings;
- restrictions in our revolving credit facility on our ability to issue additional debt or equity or pay distributions; and
- certain factors discussed elsewhere in this prospectus.

Developments in any of these areas could cause actual results to differ materially from those anticipated or projected.

The foregoing list of risks and uncertainties may not contain all of the risks and uncertainties that could affect us. In addition, in light of these risks and uncertainties, the matters referred to in the forward-looking statements contained in this prospectus may not in fact occur. Accordingly, undue reliance should not be placed on these statements. We undertake no obligation to publicly update or revise any forward-looking statements as a result of new information, future events or otherwise, except as otherwise required by law.

**LANDMARK INFRASTRUCTURE PARTNERS LP**

*This summary may not contain all of the information that may be important to you. You should carefully read this entire prospectus and the other information incorporated by reference to understand fully the terms of our common units being offered hereunder, as well as the material tax and other considerations that may be important to you in making your investment decision. You should pay special attention to the section entitled "Risk Factors" beginning on page 2 of this prospectus and in the documents we incorporate by reference herein for a discussion of important risks you should consider before you make an investment in our common units. See "Where You Can Find More Information; Incorporation of Documents by Reference" on page 56 of this prospectus.*

*Unless the context otherwise requires, references in this prospectus to the "Partnership," "we," "our," "us" or like terms, refer to Landmark Infrastructure Partners LP and its subsidiaries. Our "general partner" refers to Landmark Infrastructure Partners GP LLC. References to "Landmark" refer collectively to Landmark Dividend LLC and its subsidiaries, other than us, our subsidiaries and our general partner.*

We are a growth-oriented master limited partnership formed by Landmark to acquire, own and manage a portfolio of real property interests that we lease to companies in the wireless communication, outdoor advertising and renewable power generation industries. Our real property interests underlie our tenants' infrastructure assets, which include cellular towers, rooftop wireless sites, billboards and wind turbines. These assets are essential to the operations and profitability of our tenants. We seek to acquire real property interests subject to tenant lease arrangements that are effectively triple net, containing contractual rent increase clauses, or "rent escalators," which we believe provide us with stable, predictable and growing cash flow.

The Partnership is organized under Delaware law. Our executive offices are located at 2141 Rosecrans Avenue, Suite 2100, El Segundo, CA 90245 and our telephone number at this address is (310) 598-3173.

## RISK FACTORS

*Limited partner interests are inherently different from capital stock of a corporation, although many of the business risks to which we are subject are similar to those that would be faced by a corporation engaged in similar businesses. We urge you to carefully consider the risk factors included in our most recent Annual Report on Form 10-K and Quarterly Reports on Form 10-Q, which are incorporated by reference into this prospectus and any applicable prospectus supplement, together with all of the other information included in this prospectus, any applicable prospectus supplement and the documents we incorporate by reference, in evaluating an investment in our common units. If any of the risks discussed in the foregoing documents were to materialize, our business, financial condition, results of operations and cash flows could be materially adversely affected and you could lose all or part of your investment. Please also read the information in the section of this prospectus entitled "Forward-Looking Statements."*

## ACQUISITION PROGRAM; PLAN OF DISTRIBUTION

This prospectus relates to 5,000,000 of our common units that we may offer and issue from time to time in connection with acquisitions by us or our subsidiaries of assets, including real property interests, businesses or securities of other entities or parties, including acquisitions of assets from our sponsor, Landmark, and its affiliates.

The amount and type of consideration that we will offer and the other specific terms of each acquisition will be determined by negotiations with the owners or the persons who control the businesses, assets or securities that we may acquire. We may structure business acquisitions in a variety of ways, including acquiring real property interests, stock, other equity interests or assets of the acquired business or merging the acquired business with us or one of our subsidiaries.

We expect that the price of any common units we issue pursuant to this prospectus will be related to their market price, either when we agree to the particular acquisition, when we issue the common units or during some other negotiated period. We may issue common units at fixed offering prices, which may be changed, or at other negotiated prices. This prospectus may be supplemented to furnish the information necessary for a particular negotiated transaction, and the registration statement of which this prospectus is a part will be amended or supplemented, as required, to supply information concerning an acquisition.

We will pay all expenses of any offerings made pursuant to this prospectus. We do not expect to pay any underwriting discounts or commissions in connection with issuing these common units, although we may pay finder's fees in specific acquisitions. Any person receiving a finder's fee may be deemed an underwriter within the meaning of the Securities Act.

## DESCRIPTION OF OUR COMMON UNITS

### The Common Units

The common units represent limited partner interests in us. The holders of common units, along with the holders of our subordinated units, are entitled to participate in partnership distributions and are entitled to exercise the rights and privileges available to limited partners under our partnership agreement. For a description of the relative rights and preferences of holders of common units and subordinated units in and to partnership distributions, please read this section and "Provisions of Our Partnership Agreement Relating to Cash Distributions." For a description of the rights and privileges of limited partners under our partnership agreement, including voting rights, please read "Our Partnership Agreement."

Our outstanding common units are listed on the NASDAQ Global Market under the symbol "LMRK," and any additional common units we issue will also be listed on the NASDAQ Global Market. As of March 9, 2016, there were 11,829,984 common units and 3,135,109 subordinated units outstanding. On March 9, 2016, the last reported sales price of our common units on the NASDAQ Global Market was $14.95 per common unit.

### Transfer Agent and Registrar

***Duties.*** Computershare Trust Company, N.A. ("Computershare") serves as the transfer agent and registrar for the common units. We will pay all fees charged by the transfer agent for transfers of common units except the following that must be paid by unitholders:

- surety bond premiums to replace lost or stolen certificates, taxes and other governmental charges in connection therewith;
- special charges for services requested by a common unitholder; and
- other similar fees or charges.

Unless our general partner determines otherwise in respect of some or all of any classes of our partner interests, our partner interests will be evidenced by book entry notation on our partnership register and not by physical certificates.

There will be no charge to unitholders for disbursements of our cash distributions. We will indemnify Computershare, its agents and each of their respective stockholders, directors, officers and employees against all claims and losses that may arise out of acts performed or omitted for its activities in that capacity, except for any liability due to any gross negligence or intentional misconduct of the indemnified person or entity.

***Resignation or Removal.*** The transfer agent may resign, by notice to us, or be removed by us. The resignation or removal of the transfer agent will become effective upon our appointment of a successor transfer agent and registrar and its acceptance of the appointment. If no successor has been appointed and has accepted the appointment within 30 days after notice of the resignation or removal, our general partner may act as the transfer agent and registrar until a successor is appointed.

### Transfer of Common Units

By transfer of common units in accordance with our partnership agreement, each transferee of common units shall be admitted as a limited partner with respect to the common units transferred when such transfer and admission are reflected in our books and records. Each transferee:

- automatically agrees to be bound by the terms and conditions of, and is deemed to have executed, our partnership agreement;

- represents and warrants that the transferee has the right, power, authority and capacity to enter into our partnership agreement; and
- gives the consents, waivers and approvals contained in our partnership agreement.

Our general partner will cause any transfers to be recorded on our books and records no less frequently than quarterly.

We may, at our discretion, treat the nominee holder of a common unit as the absolute owner. In that case, the beneficial holder's rights are limited solely to those that it has against the nominee holder as a result of any agreement between the beneficial owner and the nominee holder.

Common units are securities and any transfers are subject to the laws governing the transfer of securities. In addition to other rights acquired upon transfer, the transferor gives the transferee the right to become a substituted limited partner in our partnership for the transferred common units.

Until a common unit has been transferred on our books, we and the transfer agent may treat the record holder of the common unit as the absolute owner for all purposes, except as otherwise required by law or stock exchange regulations.

## PROVISIONS OF OUR PARTNERSHIP AGREEMENT RELATING TO CASH DISTRIBUTIONS

Set forth below is a summary of the significant provisions of our partnership agreement that relate to cash distributions.

**Distributions of Available Cash**

***General***

Our partnership agreement requires that, within 45 days after the end of each quarter, we distribute all of our available cash to unitholders of record on the applicable record date.

***Definition of Available Cash***

Available cash generally means, for any quarter, all cash and cash equivalents on hand at the end of that quarter:

- *less*, the amount of cash reserves established by our general partner to:
  - provide for the proper conduct of our business (including reserves for our future capital expenditures and anticipated future debt service requirements);
  - comply with applicable law, any of our or our subsidiaries' debt instruments or other agreements; or
  - provide funds for distributions to our unitholders and to our general partner for any one or more of the next four quarters (provided that our general partner may not establish cash reserves for distributions if the effect of the establishment of such reserves will prevent us from distributing the minimum quarterly distribution on all common units and any cumulative arrearages on such common units for the current quarter);
- *plus*, if our general partner so determines, all or any portion of the cash on hand on the date of determination of available cash for the quarter resulting from working capital borrowings made subsequent to the end of such quarter.

The purpose and effect of the last bullet point above is to allow our general partner, if it so decides, to use cash from working capital borrowings made after the end of the quarter but on or before the date of determination of available cash for that quarter to pay distributions to unitholders. Under our partnership agreement, working capital borrowings are generally borrowings that are made under a credit facility, commercial paper facility or similar financing arrangement, and in all cases are used solely for working capital purposes or to pay distributions to partners and with the intent of the borrower to repay such borrowings within twelve months with funds other than from additional working capital borrowings.

***Intent to Distribute the Minimum Quarterly Distribution***

Under our current cash distribution policy, we intend to pay a minimum quarterly distribution to the holders of our common units and subordinated units of $0.287500 per unit, or $1.15 per unit on an annualized basis, to the extent we have sufficient available cash after the establishment of cash reserves and the payment of costs and expenses, including reimbursements of expenses to our general partner. Our most recent quarterly distribution was $0.3250 per unit, or $1.30 annualized. However, there is no guarantee that we will pay the minimum quarterly distribution on our units in any quarter. The amount of distributions paid under our cash distribution policy and the decision to pay any distribution will be determined by our general partner, taking into consideration the terms of our partnership agreement.

***General Partner Interest and Incentive Distribution Rights***

Our general partner owns a non-economic general partner interest in us, which does not entitle it to receive cash distributions. However, our general partner may in the future own common units or other equity interests in us and will be entitled to receive distributions on any such interests.

Our general partner also holds incentive distribution rights that will entitle it to receive increasing percentages, up to a maximum of 50%, of the available cash we distribute from operating surplus (as defined below) in excess of $0.330625 per unit per quarter. The maximum distribution of 50% does not include any distributions that our general partner or its affiliates may receive on common or subordinated units that they own. Please read "Our Partnership Agreement" for additional information.

**Operating Surplus and Capital Surplus**

***General***

All cash distributed to unitholders will be characterized as either being paid from "operating surplus" or "capital surplus." We treat distributions of available cash from operating surplus differently than distributions of available cash from capital surplus.

***Operating Surplus***

We define operating surplus as:

- $10.0 million (as described below); *plus*
- all of our cash receipts after the closing of our initial public offering, excluding cash from interim capital transactions (as defined below), provided that cash receipts from the termination of an interest rate hedge prior to its specified termination date shall be included in operating surplus in equal quarterly installments over the remaining scheduled life of such interest rate hedge; *plus*
- working capital borrowings made after the end of a quarter but on or before the date of determination of operating surplus for that quarter; *plus*
- cash distributions (including incremental distributions on incentive distribution rights) paid in respect of equity issued to finance all or a portion of expansion capital expenditures in respect of the period from such financing until the earlier to occur of the date the capital asset commences commercial service and the date that it is abandoned or disposed of; *less*
- all of our operating expenditures (as defined below) after the closing of our initial public offering; *less*
- the amount of cash reserves established by our general partner to provide funds for future operating expenditures; *less*
- all working capital borrowings not repaid within twelve months after having been incurred, or repaid within such 12-month period with the proceeds of additional working capital borrowings.

As described above, operating surplus does not reflect actual cash on hand that is available for distribution to our unitholders and is not limited to cash generated by operations. For example, it includes a provision that will enable us, if we choose, to distribute as operating surplus up to $10.0 million of cash we receive in the future from non-operating sources such as asset sales, issuances of securities and long-term borrowings that would otherwise be distributed as capital surplus. In addition, the effect of including, as described above, certain cash distributions on equity interests in operating surplus will be to increase operating surplus by the amount of any such cash distributions. As

a result, we may also distribute as operating surplus up to the amount of any such cash that we receive from non-operating sources.

The proceeds of working capital borrowings increase operating surplus and repayments of working capital borrowings are generally operating expenditures (as described below) and thus reduce operating surplus when repayments are made. However, if working capital borrowings, which increase operating surplus, are not repaid during the twelve-month period following the borrowing, they will be deemed repaid at the end of such period, thus decreasing operating surplus at such time. When such working capital borrowings are in fact repaid, they will not be treated as a further reduction in operating surplus because operating surplus will have been previously reduced by the deemed repayment.

We define interim capital transactions as (1) borrowings, refinancings or refundings of indebtedness (other than working capital borrowings and items purchased on open account or for a deferred purchase price in the ordinary course of business) and sales of debt securities, (2) sales of equity securities, (3) sales or other dispositions of assets, other than sales or other dispositions of inventory, accounts receivable and other assets in the ordinary course of business and sales or other dispositions of assets as part of normal asset retirements or replacements and (4) capital contributions received by us.

We define operating expenditures as all of our cash expenditures, including taxes, reimbursements of expenses of our general partner and its affiliates, officer, director and employee compensation, cash interest expense, payments made in the ordinary course of business under interest rate hedge contracts (provided that payments made in connection with the termination of any interest rate hedge contract prior to the expiration of its settlement or termination date specified therein will be included in operating expenditures in equal quarterly installments over the remaining scheduled life of such interest rate hedge contract and amounts paid in connection with the initial purchase of an interest rate hedge contract will be amortized over the life of such interest rate hedge contract), maintenance capital expenditures (as discussed in further detail below), and repayment of working capital borrowings; provided, however, that operating expenditures will not include:

- repayments of working capital borrowings where such borrowings have previously been deemed to have been repaid (as described above);
- payments (including prepayments and prepayment penalties) of principal of and premium on indebtedness other than working capital borrowings;
- expansion capital expenditures;
- payment of transaction expenses (including taxes) relating to interim capital transactions;
- distributions to our partners; or
- repurchases of partner interests (excluding repurchases we make to satisfy obligations under employee benefit plans).

***Capital Surplus***

Capital surplus is defined in our partnership agreement as any distribution of available cash in excess of our cumulative operating surplus. Accordingly, except as described above, capital surplus would generally be generated by:

- borrowings other than working capital borrowings;
- sales of our equity and debt securities;

- sales or other dispositions of assets, other than inventory, accounts receivable and other assets sold in the ordinary course of business or as part of ordinary course retirement or replacement of assets; and

- capital contributions received.

***Characterization of Cash Distributions***

All available cash distributed by us on any date from any source will be treated as distributed from operating surplus until the sum of all available cash distributed by us since the closing of our initial public offering equals the operating surplus from the closing of our initial public offering through the end of the quarter immediately preceding that distribution. We anticipate that distributions from operating surplus will generally not represent a return of capital. However, operating surplus, as defined in our partnership agreement, includes certain components, including a $10.0 million cash basket, that represent non-operating sources of cash. Consequently, it is possible that all or a portion of specific distributions from operating surplus may represent a return of capital. Any available cash distributed by us in excess of our cumulative operating surplus will be deemed to be capital surplus under our partnership agreement. Our partnership agreement treats a distribution of capital surplus as the repayment of the unit price from our initial public offering and as a return of capital. We do not anticipate that we will pay any distributions from capital surplus.

**Capital Expenditures**

Maintenance capital expenditures are cash expenditures (including expenditures for the construction or development of new capital assets or the replacement, improvement or expansion of existing capital assets) made to maintain, over the long term, our operating capacity or operating income.

Unlike a number of other master limited partnerships, we currently do not expect to retain cash from our operations for maintenance capital expenditures, primarily due to the long-lived nature of our real property interests and the effectively triple net nature of our tenant lease arrangements. For the year ended December 31, 2015, we incurred no maintenance capital expenditures. In addition to not bearing responsibility for maintenance capital expenditures, we expect our revenue from existing assets to increase over time through contractual rent escalators, tenant revenue sharing arrangements and lease amendments, none of which require capital investment to achieve. In the future, the board of directors of our general partner may decide to retain cash for maintenance capital expenditures, which may have an adverse impact on our distributable cash flow.

Expansion capital expenditures are cash expenditures incurred for acquisitions or capital improvements that we expect will increase our operating capacity or operating income over the long term. Examples of expansion capital expenditures include the acquisition of additional real property interests to the extent such acquisitions are expected to expand our long-term operating capacity or operating income. Expansion capital expenditures include interest payments (and related fees) on debt incurred to finance all or a portion of expansion capital expenditures in respect of the period from the date that we enter into a binding obligation to commence the construction, development, replacement, improvement or expansion of a capital asset and ending on the earlier to occur of the date that such capital improvement commences commercial service and the date that such capital improvement is abandoned or disposed of.

Capital expenditures that are made in part for maintenance capital purposes and in part for expansion capital purposes will be allocated as maintenance capital expenditures or expansion capital expenditures by our general partner.

**Subordinated Units and Subordination Period**

***General***

Our partnership agreement provides that, during the subordination period (as defined below), the common units have the right to receive distributions of available cash from operating surplus each quarter in an amount equal to $0.287500 per common unit, which amount is defined in our partnership agreement as the minimum quarterly distribution, plus any arrearages in the payment of the minimum quarterly distribution on the common units from prior quarters, before any distributions of available cash from operating surplus may be made on the subordinated units. These units are deemed "subordinated" because for a period of time, referred to as the subordination period, the subordinated units are not entitled to receive any distributions until the common units have received the minimum quarterly distribution plus any arrearages in the payment of the minimum quarterly distribution on the common units from prior quarters. Furthermore, no arrearages will accrue or be payable on the subordinated units. The practical effect of the subordinated units is to increase the likelihood that, during the subordination period, there will be available cash to be distributed on the common units.

***Subordination Period***

Except as described below, the subordination period will extend until the first business day following the distribution of available cash in respect of any quarter, beginning with the quarter ending December 31, 2017, that each of the following tests are met:

- distributions of available cash from operating surplus on each of the outstanding common units and subordinated units equaled or exceeded $1.15 (the annualized minimum quarterly distribution), for each of the three consecutive, non-overlapping four-quarter periods immediately preceding that date;

- the adjusted operating surplus (as defined below) generated during each of the three consecutive, non-overlapping four-quarter periods immediately preceding that date equaled or exceeded the sum of $1.15 (the annualized minimum quarterly distribution) on all of the outstanding common units and subordinated units during those periods on a fully diluted basis; and

- there are no arrearages in payment of the minimum quarterly distribution on the common units.

***Early Termination of the Subordination Period***

Notwithstanding the foregoing, the subordination period will automatically terminate on the first business day following the distribution of available cash in respect of any quarter, beginning with the quarter ending December 31, 2015, that each of the following tests are met:

- distributions of available cash from operating surplus on each of the outstanding common units and subordinated units equaled or exceeded $1.725 (150% of the annualized minimum quarterly distribution), plus the related distributions on our incentive distribution rights, for the four-quarter period immediately preceding that date;

- the adjusted operating surplus (as defined below) generated during the four-quarter period immediately preceding that date equaled or exceeded the sum of (1) $1.725 (150% of the annualized minimum quarterly distribution) on all of the outstanding common units and subordinated units during that period on a fully diluted basis and (2) the corresponding distributions on our incentive distribution rights; and

- there are no arrearages in payment of the minimum quarterly distributions on the common units.

***Expiration Upon Removal of the General Partner***

In addition, if the unitholders remove our general partner other than for cause:

- the subordinated units held by any person will immediately and automatically convert into common units on a one-for-one basis, provided (1) neither such person nor any of its affiliates voted any of its units in favor of the removal and (2) such person is not an affiliate of the successor general partner;
- if all of the subordinated units convert pursuant to the foregoing, all cumulative common unit arrearages on the common units will be extinguished and the subordination period will end; and
- our general partner will have the right to convert its incentive distribution rights into common units or to receive cash in exchange for those interests.

***Expiration of the Subordination Period***

When the subordination period ends, each outstanding subordinated unit will convert into one common unit and will thereafter participate pro rata with the other common units in distributions of available cash.

***Adjusted Operating Surplus***

Adjusted operating surplus is intended to reflect the cash generated from operations during a particular period and therefore excludes net drawdowns of reserves of cash established in prior periods. Adjusted operating surplus for a period consists of:

- operating surplus generated with respect to that period (excluding any amounts attributable to the item described in the first bullet under the caption "—Operating Surplus and Capital Surplus—Operating Surplus" above); *less*
- any net increase in working capital borrowings with respect to that period; *less*
- any net decrease in cash reserves for operating expenditures with respect to that period not relating to an operating expenditure made with respect to that period; *plus*
- any net decrease in working capital borrowings with respect to that period; *plus*
- any net decrease made in subsequent periods to cash reserves for operating expenditures initially established with respect to that period to the extent such decrease results in a reduction in adjusted operating surplus in subsequent periods; *plus*
- any net increase in cash reserves for operating expenditures with respect to that period required by any debt instrument for the repayment of principal, interest or premium.

**Distributions of Available Cash From Operating Surplus During the Subordination Period**

We will pay distributions of available cash from operating surplus for any quarter during the subordination period in the following manner:

- *first*, to the common unitholders, pro rata, until we distribute for each outstanding common unit an amount equal to the minimum quarterly distribution for that quarter;
- *second*, to the common unitholders, pro rata, until we distribute for each outstanding common unit an amount equal to any arrearages in payment of the minimum quarterly distribution on the common units for any prior quarters during the subordination period;
- *third*, to the subordinated unitholders, pro rata, until we distribute for each outstanding subordinated unit an amount equal to the minimum quarterly distribution for that quarter; and

- *thereafter*, in the manner described in "—General Partner Interest and Incentive Distribution Rights" below.

**Distributions of Available Cash From Operating Surplus After the Subordination Period**

We will pay distributions of available cash from operating surplus for any quarter after the subordination period in the following manner:

- *first*, to all unitholders, pro rata, until we distribute for each outstanding unit an amount equal to the minimum quarterly distribution for that quarter; and

- *thereafter*, in the manner described in "—General Partner Interest and Incentive Distribution Rights" below.

The preceding discussion is based on the assumption that we do not issue additional classes of equity securities.

**General Partner Interest and Incentive Distribution Rights**

Our partnership agreement provides that our general partner owns a non-economic general partner interest and therefore is not entitled to distributions that we make prior to our liquidation, other than through common interests that it subsequently acquires or through our incentive distribution rights.

Incentive distribution rights represent the right to receive an increasing percentage (15%, 25% and 50%) of quarterly distributions of available cash from operating surplus after the minimum quarterly distribution and the target distribution levels have been achieved for certain specified time periods. Our general partner currently holds our incentive distribution rights, but may transfer these rights separately from its general partner interest.

The following discussion assumes that our general partner continues to own our incentive distribution rights.

If for any quarter:

- we have distributed available cash from operating surplus to the common unitholders and subordinated unitholders in an amount equal to the minimum quarterly distribution; and

- we have distributed available cash from operating surplus on outstanding common units in an amount necessary to eliminate any cumulative arrearages in payment of the minimum quarterly distribution;

then, we will distribute any additional available cash from operating surplus for that quarter among the unitholders and our general partner in the following manner:

- *first*, to all unitholders, pro rata, until each unitholder receives a total of $0.330625 per unit for that quarter (the "first target distribution");

- *second*, 85% to all unitholders, pro rata, and 15% to our general partner, until each unitholder receives a total of $0.359375 per unit for that quarter (the "second target distribution");

- *third*, 75% to all unitholders, pro rata, and 25% to our general partner, until each unitholder receives a total of $0.431250 per unit for that quarter (the "third target distribution"); and

- *thereafter*, 50% to all unitholders, pro rata, and 50% to our general partner.

**Percentage Allocations of Available Cash from Operating Surplus**

The following table illustrates the percentage allocations of available cash from operating surplus between the unitholders and our general partner based on the specified target distribution levels. The amounts set forth under "Marginal percentage interest in distributions" are the percentage interests of our general partner and the unitholders in any available cash from operating surplus we distribute up to and including the corresponding amount in the column "Total quarterly distribution per unit target amount." The percentage interests shown for our unitholders and our general partner for the minimum quarterly distribution are also applicable to quarterly distribution amounts that are less than the minimum quarterly distribution. The percentage interests set forth below for our general partner assume that our general partner has not transferred its incentive distribution rights and that there are no arrearages on common units.

| | Total quarterly distribution per unit target amount | | Marginal percentage interest in distributions | |
|---|---|---|---|---|
| | | | Unitholders | General Partner |
| Minimum Quarterly Distribution | $0.287500 | | 100% | 0% |
| First Target Distribution | above $0.287500 | up to $0.330625 | 100% | 0% |
| Second Target Distribution | above $0.330625 | up to $0.359375 | 85% | 15% |
| Third Target Distribution | above $0.359375 | up to $0.431250 | 75% | 25% |
| Thereafter | above $0.431250 | | 50% | 50% |

**Right to Reset Incentive Distribution Levels**

Our general partner, as the holder of our incentive distribution rights, has the right under our partnership agreement, subject to certain conditions, to elect to relinquish the right to receive incentive distribution payments based on the target distribution levels and to reset, at higher levels, the minimum quarterly distribution amount and target distribution levels upon which the incentive distribution payments to our general partner would be set. If our general partner transfers all or a portion of our incentive distribution rights in the future, then the holder or holders of a majority of our incentive distribution rights will be entitled to exercise this right. The following discussion assumes that our general partner holds all of our incentive distribution rights at the time that a reset election is made. The right of the holder of our incentive distribution rights to reset the minimum quarterly distribution amount and the target distribution levels upon which the incentive distributions payable to the holder of our incentive distribution rights are based may be exercised, without approval of our unitholders or the conflicts committee, at any time when there are no subordinated units outstanding, we have made cash distributions to the holders of our incentive distribution rights at the highest level of incentive distributions for each of the four consecutive fiscal quarters immediately preceding such time and the amount of each such distribution did not exceed adjusted operating surplus for such quarter. If our general partner and its affiliates are not the holders of a majority of our incentive distribution rights at the time an election is made to reset the minimum quarterly distribution amount and the target distribution levels, then the proposed reset will be subject to the prior written concurrence of the general partner that the conditions described above have been satisfied. The reset minimum quarterly distribution amount and target distribution levels will be higher than the minimum quarterly distribution amount and the target distribution levels prior to the reset such that the holder of our incentive distribution rights will not receive any incentive distributions under the reset target distribution levels until cash distributions per unit following this event increase as described below. We anticipate that our general partner would exercise this reset right in order to facilitate acquisitions or internal growth projects that would otherwise not be sufficiently accretive to cash distributions per common unit, taking into account the existing levels of incentive distribution payments being made to our general partner.

In connection with the resetting of the minimum quarterly distribution amount and the target distribution levels and the corresponding relinquishment by our general partner of incentive distribution payments based on the target distributions prior to the reset, our general partner will be entitled to receive a number of newly issued common units based on a predetermined formula described below that takes into account the "cash parity" value of the average cash distributions related to our incentive distribution rights received by our general partner for the two quarters immediately preceding the reset event as compared to the average cash distributions per common unit during that two-quarter period.

The number of common units that our general partner (or the then-holder of our incentive distribution rights, if other than our general partner) would be entitled to receive from us in connection with a resetting of the minimum quarterly distribution amount and the target distribution levels then in effect would be equal to the quotient determined by dividing (x) the average aggregate amount of cash distributions received by our general partner in respect of its incentive distribution rights during the two consecutive fiscal quarters ended immediately prior to the date of such reset election by (y) the average of the aggregate amount of cash distributed per common unit during each of these two quarters.

Following a reset election, the minimum quarterly distribution amount will be reset to an amount equal to the average cash distribution amount per common unit for the two fiscal quarters immediately preceding the reset election (which amount we refer to as the "reset minimum quarterly distribution") and the target distribution levels will be reset to be correspondingly higher such that we would distribute all of our available cash from operating surplus for each quarter thereafter as follows:

- *first*, to all unitholders, pro rata, until each unitholder receives an amount equal to 115% of the reset minimum quarterly distribution for that quarter;
- *second*, 85% to all unitholders, pro rata, and 15% to our general partner, until each unitholder receives an amount per unit equal to 125% of the reset minimum quarterly distribution for the quarter;
- *third*, 75% to all unitholders, pro rata, and 25% to our general partner, until each unitholder receives an amount per unit equal to 150% of the reset minimum quarterly distribution for the quarter; and
- *thereafter*, 50% to all unitholders, pro rata, and 50% to our general partner.

**Distributions from Capital Surplus**

***How Distributions from Capital Surplus will be made***

We will pay distributions of available cash from capital surplus, if any, in the following manner:

- *first*, to all common unitholders and subordinated unitholders, pro rata, until the minimum quarterly distribution is reduced to zero, as described below;
- *second*, to all unitholders, pro rata, until we distribute for each common unit, an amount of available cash from capital surplus equal to any unpaid arrearages in payment of the minimum quarterly distribution on the outstanding common units; and
- *thereafter*, as if they were from operating surplus.

The preceding discussion is based on the assumption that we do not issue additional classes of equity securities.

***Effect of a Distribution from Capital Surplus***

Our partnership agreement treats a distribution of capital surplus as the repayment of the unit price from our initial public offering, which is a return of capital. Each time a distribution of capital surplus is made, the minimum quarterly distribution and the target distribution levels will be reduced in the same proportion as the corresponding reduction in the unrecovered initial unit price. Because distributions of capital surplus will reduce the minimum quarterly distribution after any of these distributions are made, the effects of distributions of capital surplus may make it easier for our general partner to receive incentive distributions and for the subordinated units to convert into common units. However, any distribution of capital surplus before the unrecovered initial unit price is reduced to zero cannot be applied to the payment of the minimum quarterly distribution or any arrearages.

If we reduce the minimum quarterly distribution to zero, our partnership agreement specifies that we then make all future distributions from operating surplus, with 50.0% being paid to the holders of units and 50.0% to our general partner. The percentage interests shown for our general partner include its non-economic general partner interest and assume our general partner has not transferred our incentive distribution rights.

**Adjustment of the Minimum Quarterly Distribution and Target Distribution Levels**

In addition to adjusting the minimum quarterly distribution and target distribution levels to reflect a distribution of capital surplus, if we combine our units into fewer units (commonly referred to as a "reverse split") or subdivide our units into a greater number of units (commonly referred to as a "split"), we will proportionately adjust:

- the minimum quarterly distribution;
- the target distribution levels;
- the unrecovered initial unit price; and
- the arrearages per common unit in payment of the minimum quarterly distribution on the common units.

For example, if a two-for-one split of the common units should occur, the minimum quarterly distribution, the target distribution levels and the unrecovered initial unit price would each be reduced to 50% of its initial level, and each subordinated unit would be split into two units. We will not make any adjustment by reason of the issuance of additional units for cash or property (including additional common units issued under any compensation or benefit plans).

In addition, if legislation is enacted or if the official interpretation of existing law is modified by a governmental authority, so that we become taxable as a corporation or otherwise subject to taxation as an entity for federal, state or local income tax purposes, our partnership agreement specifies that the minimum quarterly distribution and the target distribution levels for each quarter may be reduced by multiplying each distribution level by a fraction, the numerator of which is available cash for that quarter (reduced by the amount of the estimated tax liability for such quarter payable by reason of such legislation or interpretation) and the denominator of which is the sum of available cash for that quarter (reduced by the amount of the estimated tax liability for such quarter payable by reason of such legislation or interpretation) plus our general partner's estimate of our aggregate liability for the quarter for such income taxes payable by reason of such legislation or interpretation. To the extent that the actual tax liability differs from the estimated tax liability for any quarter, the difference may be accounted for in subsequent quarters.

**Distributions of Cash Upon Liquidation**

***General***

If we dissolve in accordance with our partnership agreement, we will sell or otherwise dispose of our assets in a process called liquidation. We will first apply the proceeds of liquidation to the payment of our creditors. We will distribute any remaining proceeds to the unitholders and our general partner, in accordance with their capital account balances, as adjusted to reflect any gain or loss upon the sale or other disposition of our assets in liquidation (as described below).

The allocations of gain and loss upon our liquidation are intended, to the extent possible, to entitle the holders of outstanding common units to a liquidation preference over the holders of outstanding subordinated units, to the extent required to permit common unitholders to receive their unrecovered initial unit price plus the minimum quarterly distribution for the quarter during which liquidation occurs plus any unpaid arrearages in payment of the minimum quarterly distribution on the common units plus, along with the subordinated units, a portion of any remaining funds, as described below. However, there may not be sufficient gain upon our liquidation to enable the holders of common units to fully recover all of these amounts, even though there may be cash available for distribution to the holders of subordinated units. Any further net gain recognized upon liquidation will be allocated in a manner that takes into account our incentive distribution rights of our general partner.

***Manner of Adjustments for Gain***

The manner of the adjustment for gain is set forth in our partnership agreement. If our liquidation occurs before the end of the subordination period, we will allocate any gain to our partners in the following manner:

- *first*, to our general partner to the extent of any negative balance in its capital account;
- *second*, to the common unitholders, pro rata, until the capital account for each common unit is equal to the sum of:
  - (1) the unrecovered initial unit price;
  - (2) the amount of the minimum quarterly distribution for the quarter during which our liquidation occurs; and
  - (3) any unpaid arrearages in payment of the minimum quarterly distribution;
- *third*, to the subordinated unitholders, pro rata, until the capital account for each subordinated unit is equal to the sum of:
  - (1) the unrecovered initial unit price; and
  - (2) the amount of the minimum quarterly distribution for the quarter during which our liquidation occurs;
- *fourth*, to all unitholders, pro rata, until we allocate under this paragraph an amount per unit equal to:
  - (1) the sum of the excess of the first target distribution per unit over the minimum quarterly distribution per unit for each quarter of our existence; *less*
  - (2) the cumulative amount per unit of any distributions of available cash from operating surplus in excess of the minimum quarterly distribution per unit that we distributed to the unitholders, pro rata, for each quarter of our existence;

- *fifth*, 85% to all unitholders, pro rata, and 15% to our general partner, until we allocate under this paragraph an amount per unit equal to:

  (1) the sum of the excess of the second target distribution per unit over the first target distribution per unit for each quarter of our existence; *less*

  (2) the cumulative amount per unit of any distributions of available cash from operating surplus in excess of the first target distribution per unit that we distributed 85% to the unitholders, pro rata, and 15% to our general partner for each quarter of our existence;

- *sixth*, 75% to all unitholders, pro rata, and 25% to our general partner, until we allocate under this paragraph an amount per unit equal to:

  (1) the sum of the excess of the third target distribution per unit over the second target distribution per unit for each quarter of our existence; *less*

  (2) the cumulative amount per unit of any distributions of available cash from operating surplus in excess of the second target distribution per unit that we distributed 75% to the unitholders, pro rata, and 25% to our general partner for each quarter of our existence; and

- *thereafter*, 50% to all unitholders, pro rata, and 50% to our general partner.

The percentages set forth above are based on the assumptions that our general partner has not transferred its incentive distribution rights and that we do not issue additional classes of equity securities.

If the liquidation occurs after the end of the subordination period, the distinction between common units and subordinated units will disappear, so that clause (3) of the second bullet point above and all of the third bullet point above will no longer be applicable.

***Manner of Adjustments for Losses***

If the liquidation occurs before the end of the subordination period, after making allocations of loss to the unitholders in a manner intended to offset in reverse order the allocations of gains that have previously been allocated, we will generally allocate any loss to our unitholders in the following manner:

- *first*, to the holders of subordinated units in proportion to the positive balances in their capital accounts, until the capital accounts of the subordinated unitholders have been reduced to zero; and

- *thereafter*, 100% to the holders of common units in accordance with their percentage interest in us.

If the liquidation occurs after the end of the subordination period, the distinction between common units and subordinated units will disappear, so that all of the first bullet point above will no longer be applicable.

***Adjustments to Capital Accounts***

Our partnership agreement requires that we make adjustments to capital accounts upon the issuance of additional units. In this regard, our partnership agreement specifies that we allocate any unrealized and, for tax purposes, unrecognized gain resulting from the adjustments to the unitholders and the general partner in the same manner as we allocate gain upon liquidation. In the event that we make positive adjustments to the capital accounts upon the issuance of additional units, our partnership agreement requires that we generally allocate any later negative adjustments to the capital accounts resulting from the issuance of additional units or upon our liquidation in a manner that results, to the

extent possible, in the partners' capital account balances equaling the amount that they would have been if no earlier positive adjustments to the capital accounts had been made. In contrast to the allocations of gain, and except as provided above, we generally will allocate any unrealized and unrecognized loss resulting from the adjustments to capital accounts upon the issuance of additional units to the unitholders based on their percentage ownership of us. In this manner, prior to the end of the subordination period, we generally will allocate any such loss equally with respect to our common and subordinated units. If we make negative adjustments to the capital accounts as a result of such loss, future positive adjustments resulting from the issuance of additional units will be allocated in a manner designed to reverse the prior negative adjustments, and special allocations will be made upon liquidation in a manner that results, to the extent possible, in our unitholders' capital account balances equaling the amounts they would have been if no earlier adjustments for loss had been made.

## OUR PARTNERSHIP AGREEMENT

The following is a summary of the material provisions of our partnership agreement. We will provide prospective investors with a copy of our partnership agreement upon request at no charge.

We summarize the following provisions of our partnership agreement elsewhere in this prospectus:

- with regard to distributions of available cash, please read "Provisions of Our Partnership Agreement Relating to Cash Distributions;"
- with regard to the transfer of common units, please read "Description of the Common Units—Transfer of Common Units;" and
- with regard to allocations of taxable income and taxable loss, please read "Material U.S. Federal Income Tax Consequences of Common Unit Ownership."

**Organization and Duration**

Our partnership was organized on July 28, 2014, and will have a perpetual existence unless terminated pursuant to the terms of our partnership agreement.

**Purpose**

Our purpose under the partnership agreement is limited to any business activity that is approved by our general partner and that lawfully may be conducted by a limited partnership organized under Delaware law; provided that our general partner shall not cause us to engage, directly or indirectly, in any business activity that our general partner determines would be reasonably likely to cause us to be treated as an association taxable as a corporation or otherwise taxable as an entity for federal income tax purposes.

Although our general partner has the ability to cause us and our subsidiaries to engage in activities other than the business of acquiring real property interests, our general partner has no current plans to do so and may decline to do so free of any duty or obligation whatsoever to us or the limited partners, including any duty to act in the best interests of our partnership or our limited partners. Our general partner is authorized in general to perform all acts it determines to be necessary or appropriate to carry out our purposes and to conduct our business.

**Cash Distributions**

Our partnership agreement specifies the manner in which we will make cash distributions to holders of our common units and other partnership interests as well as to our general partner in respect of its general partner interest and its incentive distribution rights. For a description of these cash distribution provisions, please read "Provisions of Our Partnership Agreement Relating to Cash Distributions."

**Capital Contributions**

Unitholders are not obligated to make additional capital contributions, except as described below under "—Limited Liability."

**Voting Rights**

The following is a summary of the unitholder vote required for the matters specified below. Matters that require the approval of a "unit majority" require:

- during the subordination period, the approval of a majority of the outstanding common units, excluding those common units held by our general partner and its affiliates, and a majority of the outstanding subordinated units, voting as separate classes; and
- after the subordination period, the approval of a majority of the outstanding common units.

In voting their common units and subordinated units, our general partner and its affiliates will have no duty or obligation whatsoever to us or the limited partners, including any duty to act in the best interests of us or the limited partners.

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|---|---|
| Issuance of additional units | No approval rights. |
| Amendment of our partnership agreement | Certain amendments may be made by the general partner without the approval of the unitholders. Other amendments generally require the approval of a unit majority. Please read "—Amendment of Our Partnership Agreement." |
| Merger of our partnership or the sale of all or substantially all of our assets | Unit majority. Please read "—Merger, Consolidation, Conversion, Sale or Other Disposition of Assets." |
| Dissolution of our partnership | Unit majority. Please read "—Termination and Dissolution." |
| Continuation of our business upon dissolution | Unit majority. Please read "—Termination and Dissolution." |
| Withdrawal of the general partner | Under most circumstances, the approval of unitholders holding at least a majority of the outstanding common units, excluding common units held by our general partner and its affiliates, is required for the withdrawal of the general partner prior to December 31, 2024, in a manner which would cause a dissolution of our partnership. Please read "—Withdrawal or Removal of Our General Partner." |
| Removal of the general partner | Not less than $66^{2}/_{3}\%$ of the outstanding units, voting as a single class, including units held by our general partner and its affiliates. Please read "—Withdrawal or Removal of Our General Partner." |

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|---|---|
| Transfer of the general partner interest | Our general partner may transfer all, but not less than all, of its non-economic general partner interest in us without a vote of our unitholders to an affiliate or another person in connection with its merger or consolidation with or into, or sale of all or substantially all of its assets to, such person. The approval of a majority of the outstanding common units, excluding common units held by our general partner and its affiliates, is required in other circumstances for a transfer of the general partner interest to a third party prior to December 31, 2024. Please read "—Transfer of General Partner Interest." |
| Transfer of incentive distribution rights | Our general partner may transfer any or all of our incentive distribution rights to an affiliate or another person without a vote of our unitholders. Please read "—Transfer of Incentive Distribution Rights." |
| Reset of incentive distribution levels | No approval right. |
| Transfer of ownership interests in our general partner | No approval right. Please read "—Transfer of Ownership Interests in Our General Partner." |

**Limited Liability**

Assuming that a limited partner does not participate in the control of our business within the meaning of the Delaware Act and that it otherwise acts in conformity with the provisions of our partnership agreement, its liability under the Delaware Act will be limited, subject to possible exceptions, to the amount of capital it is obligated to contribute to us for its common units plus its share of any undistributed profits and assets. If it were determined, however, that the right, or exercise of the right of, by the limited partners as a group:

- to remove or replace our general partner;
- to approve some amendments to our partnership agreement; or
- to take other action under our partnership agreement;

constituted "participation in the control" of our business for the purposes of the Delaware Act, then the limited partners could be held personally liable for our obligations under the laws of Delaware, to the same extent as our general partner. This liability would extend to persons who transact business with us who reasonably believe that a limited partner is a general partner. Neither our partnership agreement nor the Delaware Act specifically provides for legal recourse against our general partner if a limited partner were to lose limited liability through any fault of our general partner. While this does not mean that a limited partner could not seek legal recourse, we know of no precedent for this type of a claim in Delaware case law.

Under the Delaware Act, a limited partnership may not pay a distribution to a partner if, after the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their limited partner interests and liabilities for which the recourse of creditors is limited to specific property of the partnership, would exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited is included in the assets of the limited partnership only to the extent that the fair value of that property

exceeds that liability. For the purpose of determining the fair value of the assets of a limited partnership, the Delaware Act provides that the fair value of property subject to liability for which recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds the nonrecourse liability. The Delaware Act provides that a limited partner who receives a distribution and knew at the time of the distribution that the distribution was in violation of the Delaware Act shall be liable to the limited partnership for the amount of the distribution for three years. Under the Delaware Act, a substituted limited partner of a limited partnership is liable for the obligations of its assignor to make contributions to the partnership, except that such person is not obligated for liabilities unknown to it at the time it became a limited partner and that could not be ascertained from the partnership agreement.

Our subsidiaries conduct business in 49 states and the District of Columbia, and we may have subsidiaries that conduct business in other states in the future. Maintenance of our limited liability as a member of our operating company may require compliance with legal requirements in the jurisdictions in which our operating company conducts business, including qualifying our subsidiaries to do business there.

Limitations on the liability of members or limited partners for the obligations of a limited liability company or limited partnership have not been clearly established in many jurisdictions. If, by virtue of our ownership interests in our operating subsidiaries or otherwise, it were determined that we were conducting business in any state without compliance with the applicable limited partnership or limited liability company statute, or that the right or exercise of the right by the limited partners as a group to remove or replace our general partner, to approve some amendments to our partnership agreement, or to take other action under our partnership agreement constituted "participation in the control" of our business for purposes of the statutes of any relevant jurisdiction, then the limited partners could be held personally liable for our obligations under the law of that jurisdiction to the same extent as our general partner under the circumstances. We operate in a manner that our general partner considers reasonable and necessary or appropriate to preserve the limited liability of the limited partners.

**Issuance of Additional Securities**

Our partnership agreement authorizes us to issue an unlimited number of additional partner interests for the consideration and on the terms and conditions determined by our general partner without the approval of the unitholders.

It is possible that we will fund acquisitions through the issuance of additional common units, subordinated units or other partner interests. Holders of any additional common units we issue will be entitled to share equally with the then-existing holders of common units in our distributions of available cash. In addition, the issuance of additional common units or other partner interests may dilute the value of the interests of the then-existing holders of common units in our net assets.

In accordance with Delaware law and the provisions of our partnership agreement, we may also issue additional partner interests that, as determined by our general partner, may have special voting rights to which the common units are not entitled. In addition, our partnership agreement does not prohibit the issuance by our subsidiaries of equity interests, which may effectively rank senior to the common units.

**Amendment of Our Partnership Agreement**

***General***

Amendments to our partnership agreement may be proposed only by our general partner. However, our general partner will have no duty or obligation to propose any amendment and may decline to do so free of any duty or obligation whatsoever to us or our limited partners, including any

duty to act in the best interests of us or the limited partners. In order to adopt a proposed amendment, other than the amendments discussed below, our general partner is required to seek written approval of the holders of the number of units required to approve the amendment or call a meeting of the limited partners to consider and vote upon the proposed amendment. Except as described below, an amendment must be approved by a unit majority.

***Prohibited Amendments***

No amendment may be made that would, among other actions:

- enlarge the obligations of any limited partner without its consent, unless such is deemed to have occurred as a result of an amendment approved by at least a majority of the type or class of limited partner interests so affected; or

- enlarge the obligations of, restrict in any way any action by or rights of, or reduce in any way the amounts distributable, reimbursable or otherwise payable by us to our general partner or any of its affiliates without its consent, which consent may be given or withheld at its option.

The provisions of our partnership agreement preventing the amendments having the effects described in any of the clauses above can be amended upon the approval of the holders of at least 90% of the outstanding units voting together as a single class (including units owned by our general partner and its affiliates).

***No Unitholder Approval***

Our general partner may generally make amendments to our partnership agreement without the approval of any limited partner to reflect:

- a change in our name, the location of our principal office, our registered agent or our registered office;

- the admission, substitution, withdrawal or removal of partners in accordance with our partnership agreement;

- a change that our general partner determines to be necessary or appropriate to qualify or continue our qualification as a limited partnership or a partnership in which the limited partners have limited liability under the laws of any state or to ensure that neither we nor any of our subsidiaries will be treated as an association taxable as a corporation or otherwise taxed as an entity for federal income tax purposes;

- an amendment that is necessary, in the opinion of our counsel, to prevent us or our general partner or its directors, officers, agents or trustees, from in any manner, being subjected to the provisions of the Investment Company Act of 1940, the Investment Advisors Act of 1940, or "plan asset" regulations adopted under the Employee Retirement Income Security Act of 1974 ("ERISA"), each as amended, whether or not substantially similar to plan asset regulations currently applied or proposed by the U.S. Department of Labor;

- an amendment that our general partner determines to be necessary or appropriate in connection with the authorization or issuance of additional partner interests;

- any amendment expressly permitted in our partnership agreement to be made by our general partner acting alone;

- an amendment effected, necessitated or contemplated by a merger agreement or plan of conversion that has been approved under the terms of our partnership agreement;

- any amendment that our general partner determines to be necessary or appropriate to reflect and account for the formation by us of, or our investment in, any corporation, partnership or other entity, in connection with our conduct of activities permitted by our partnership agreement;

- a change in our fiscal year or taxable year and any other changes that our general partner determines to be necessary or appropriate as a result of such change;

- mergers with, conveyances to or conversions into another limited liability entity that is newly formed and has no assets, liabilities or operations at the time of the merger, conveyance or conversion other than those it receives by way of the merger, conveyance or conversion; or

- any other amendments substantially similar to any of the matters described in the clauses above.

In addition, our general partner may make amendments to our partnership agreement without the approval of any limited partner if our general partner determines that those amendments:

- do not adversely affect in any material respect the limited partners considered as a whole or any particular class of partner interests as compared to other classes of partner interests;

- are necessary or appropriate to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any federal or state agency or judicial authority or contained in any federal or state statute;

- are necessary or appropriate to facilitate the trading of limited partner interests or to comply with any rule, regulation, guideline or requirement of any securities exchange on which the limited partner interests are or will be listed or admitted to trading;

- are necessary or appropriate for any action taken by our general partner relating to splits or combinations of units under the provisions of our partnership agreement; or

- are required to effect the intent expressed in this prospectus or the intent of the provisions of our partnership agreement or are otherwise contemplated by our partnership agreement.

***Opinion of Counsel and Unitholder Approval***

For amendments of the type not requiring unitholder approval, our general partner will not be required to obtain an opinion of counsel to the effect that an amendment will not affect the limited liability of any limited partner under Delaware law. No other amendments to our partnership agreement will become effective without the approval of holders of at least 90% of the outstanding units voting as a single class unless we first obtain such an opinion of counsel.

In addition to the above restrictions, any amendment that would have a material adverse effect on the rights or preferences of any type or class of partner interests in relation to other classes of partner interests will require the approval of at least a majority of the type or class of partner interests so affected. Any amendment that would reduce the percentage of units required to take any action, other than to remove our general partner or call a meeting of unitholders, must be approved by the affirmative vote of limited partners whose aggregate outstanding units constitute not less than the percentage sought to be reduced. Any amendment that would increase the percentage of units required to remove our general partner must be approved by the affirmative vote of limited partners whose aggregate outstanding units constitute not less than 90% of outstanding units. Any amendment that would increase the percentage of units required to call a meeting of unitholders must be approved by the affirmative vote of limited partners whose aggregate outstanding units constitute at least a majority of the outstanding units.

**Merger, Consolidation, Conversion, Sale or Other Disposition of Assets**

A merger, consolidation or conversion of our partnership requires the prior consent of our general partner. However, our general partner will have no duty or obligation to consent to any merger, consolidation or conversion and may decline to do so free of any duty or obligation whatsoever to us or the limited partners, including any duty to act in the best interest of us or the limited partners.

In addition, our partnership agreement generally prohibits our general partner, without the prior approval of the holders of a unit majority, from causing us to, among other things, sell, exchange or otherwise dispose of all or substantially all of our assets in a single transaction or a series of related transactions. Our general partner may, however, mortgage, pledge, hypothecate, or grant a security interest in all or substantially all of our assets without that approval. Our general partner may also sell any or all of our assets under a foreclosure or other realization upon those encumbrances without that approval. Finally, our general partner may consummate any merger with another limited liability entity without the prior approval of our unitholders if we are the surviving entity in the transaction, our general partner has received an opinion of counsel regarding limited liability and tax matters, the transaction would not result in an amendment to our partnership agreement requiring unitholder approval, each of our units will be an identical unit of our partnership following the transaction and the partner interests to be issued by us in such merger do not exceed 20% of our outstanding partner interests immediately prior to the transaction.

If the conditions specified in our partnership agreement are satisfied, our general partner may convert us or any of our subsidiaries into a new limited liability entity or merge us or any of our subsidiaries into, or convey all of our assets to, a newly formed entity if the sole purpose of that conversion, merger or conveyance is to effect a mere change in our legal form into another limited liability entity, our general partner has received an opinion of counsel regarding limited liability and tax matters, and our general partner determines that the governing instruments of the new entity provide the limited partners and our general partner with the same rights and obligations as contained in our partnership agreement. The unitholders are not entitled to dissenters' rights of appraisal under our partnership agreement or applicable Delaware law in the event of a conversion, merger or consolidation, a sale of substantially all of our assets or any other similar transaction or event.

**Termination and Dissolution**

We will continue as a limited partnership until dissolved and terminated under our partnership agreement. We will dissolve upon:

- the withdrawal or removal of our general partner or any other event that results in its ceasing to be our general partner other than by reason of a transfer of its general partner interest in accordance with our partnership agreement or withdrawal or removal followed by approval and admission of a successor;
- the election of our general partner to dissolve us, if approved by the holders of units representing a unit majority;
- the entry of a decree of judicial dissolution of our partnership; or
- there being no limited partners, unless we are continued without dissolution in accordance with the Delaware Act.

Upon a dissolution under the first clause above, the holders of a unit majority may also elect, within specific time limitations, to continue our business on the same terms and conditions described in our partnership agreement by appointing as a successor general partner an entity approved by the

holders of units representing a unit majority, subject to our receipt of an opinion of counsel to the effect that:

- the action would not result in the loss of limited liability of any limited partner; and
- neither our partnership nor any of our subsidiaries would be treated as an association taxable as a corporation or otherwise be taxable as an entity for federal income tax purposes upon the exercise of that right to continue.

**Liquidation and Distribution of Proceeds**

Upon our dissolution, unless we are continued as a new limited partnership, the liquidator authorized to wind up our affairs will, acting with all of the powers of our general partner that are necessary or appropriate to, liquidate our assets and apply the proceeds of the liquidation as described in "Provisions of Our Partnership Agreement Relating to Cash Distributions—Distributions of Cash Upon Liquidation." The liquidator may defer liquidation or distribution of our assets for a reasonable period of time or distribute assets to partners in kind if it determines that a sale would be impractical or would cause undue loss to our partners.

**Withdrawal or Removal of Our General Partner**

Except as described below, our general partner has agreed not to withdraw voluntarily as our general partner prior to December 31, 2024, without obtaining the approval of the holders of at least a majority of the outstanding common units, excluding common units held by our general partner and its affiliates, and furnishing an opinion of counsel regarding limited liability and tax matters. On or after December 31, 2024, our general partner may withdraw as general partner without first obtaining approval of any unitholder by giving 90 days' written notice, and that withdrawal will not constitute a violation of our partnership agreement. Notwithstanding the information above, our general partner may withdraw without unitholder approval upon 90 days' written notice to the limited partners if at least 50% of the outstanding units are held or controlled by one person and its affiliates other than our general partner and its affiliates. In addition, our partnership agreement permits our general partner in some instances to sell or otherwise transfer all of its general partner interest in us without the approval of the unitholders. Please read "—Transfer of General Partner Interest" and "—Transfer of Incentive Distribution Rights."

Upon voluntary withdrawal of our general partner by giving notice to the other partners, the holders of a unit majority may select a successor to that withdrawing general partner. If a successor is not elected, or is elected but an opinion of counsel regarding limited liability and tax matters cannot be obtained, we will be dissolved, wound up and liquidated, unless within a specified period after that withdrawal, the holders of a unit majority agree to continue our business by appointing a successor general partner. Please read "—Termination and Dissolution."

Our general partner may not be removed unless that removal is approved by the vote of the holders of not less than $66^{2}/_{3}\%$ of our outstanding units, voting together as a single class, including units held by our general partner and its affiliates, and we receive an opinion of counsel regarding limited liability and tax matters. Any removal of our general partner is also subject to the approval of a successor general partner by the vote of the holders of a majority of the outstanding common units, voting as a separate class, and subordinated units, voting as a separate class. The ownership of more than $33^{1}/_{3}\%$ of the outstanding units by our general partner and its affiliates would give them the practical ability to prevent our general partner's removal.

Our partnership agreement also provides that if our general partner is removed as our general partner under circumstances where cause does not exist and units held by our general partner and its affiliates are not voted in favor of that removal:

- the subordination period will end, and all outstanding subordinated units will immediately and automatically convert into common units on a one- for-one basis;
- any existing arrearages in payment of the minimum quarterly distribution on the common units will be extinguished; and
- our general partner will have the right to convert its general partner interest and its incentive distribution rights into common units or to receive cash in exchange for those interests based on the fair market value of those interests as of the effective date of its removal.

In the event of removal of our general partner under circumstances where cause exists or withdrawal of our general partner where that withdrawal violates our partnership agreement, a successor general partner will have the option to purchase the general partner interest and incentive distribution rights of the departing general partner for a cash payment equal to the fair market value of those interests. Under all other circumstances where our general partner withdraws or is removed by the limited partners, the departing general partner will have the option to require the successor general partner to purchase the general partner interest of the departing general partner and its incentive distribution rights for fair market value. In each case, this fair market value will be determined by agreement between the departing general partner and the successor general partner. If no agreement is reached, an independent investment banking firm or other independent expert selected by the departing general partner and the successor general partner will determine the fair market value. Or, if the departing general partner and the successor general partner cannot agree upon an expert, then an expert chosen by agreement of the experts selected by each of them will determine the fair market value.

If the option described above is not exercised by either the departing general partner or the successor general partner, the departing general partner will become a limited partner and its general partner interest and its incentive distribution rights will automatically convert into common units pursuant to a valuation of those interests as determined by an investment banking firm or other independent expert selected in the manner described in the preceding paragraph.

In addition, we will be required to reimburse the departing general partner for all amounts due the departing general partner, including, without limitation, all employee-related liabilities, including severance liabilities, incurred for the termination of any employees employed by the departing general partner or its affiliates for our benefit.

**Transfer of General Partner Interest**

Except for transfer by our general partner of all, but not less than all, of its non-economic general partner interest to (1) an affiliate of our general partner (other than an individual), or (2) another entity as part of the merger or consolidation of our general partner with or into such entity or the transfer by our general partner of all or substantially all of its assets to such entity, our general partner may not transfer all or any part of its general partner interest to another person prior to December 31, 2024, without the approval of the holders of at least a majority of the outstanding common units, excluding common units held by our general partner and its affiliates. As a condition of this transfer, the transferee must assume, among other things, the rights and duties of our general partner, agree to be bound by the provisions of our partnership agreement, and furnish an opinion of counsel regarding limited liability and tax matters.

Our general partner and its affiliates, including Landmark Dividend LLC, may at any time transfer units to one or more persons, without unitholder approval, except that they may not transfer subordinated units to us.

**Transfer of Ownership Interests in Our General Partner**

At any time, Landmark Dividend LLC and its affiliates may sell or transfer all or part of their membership interest in our general partner, to an affiliate or third party without the approval of our unitholders.

**Transfer of Incentive Distribution Rights**

At any time, our general partner may sell or transfer our incentive distribution rights to an affiliate or third party without the approval of the unitholders.

**Change of Management Provisions**

Our partnership agreement contains specific provisions that are intended to discourage a person or group from attempting to remove Landmark Infrastructure Partners GP LLC as our general partner or otherwise change our management. If any person or group other than our general partner and its affiliates acquires beneficial ownership of 20% or more of any class of units, that person or group loses voting rights on all of its units. This loss of voting rights does not apply to any person or group that acquires the units from our general partner or its affiliates and any transferees of that person or group who are notified by our general partner that they will not lose their voting rights or to any person or group who acquires the units with the prior approval of the board of directors of our general partner. Please read "—Withdrawal or Removal of Our General Partner."

**Limited Call Right**

If at any time our general partner and its affiliates own more than 80% of the then-issued and outstanding limited partner interests of any class, our general partner will have the right, which it may assign in whole or in part to any of its affiliates or to us, to acquire all, but not less than all, of the limited partner interests of such class held by unaffiliated persons as of a record date to be selected by our general partner, on at least 10, but not more than 60, days' written notice.

The purchase price in the event of this purchase is the greater of:

- the highest cash price paid by either our general partner or any of its affiliates for any limited partner interests of the class purchased within the 90 days preceding the date on which our general partner first mails notice of its election to purchase those limited partner interests; and
- the current market price calculated in accordance with our partnership agreement as of the date three business days before the date the notice is mailed.

As a result of our general partner's right to purchase outstanding limited partner interests, a holder of limited partner interests may have his limited partner interests purchased at a price that may be lower than market prices at various times prior to such purchase or lower than a unitholder may anticipate the market price to be in the future. The tax consequences to a unitholder of the exercise of this call right are the same as a sale by that unitholder of his common units in the market. Please read "Material U.S. Federal Income Tax Consequences of Common Unit Ownership—Disposition of Common Units."

**Non-Citizen Assignees; Redemption**

If our general partner, with the advice of counsel, determines we are subject to federal, state or local laws or regulations that, in the reasonable determination of our general partner, create a substantial risk of cancellation or forfeiture of any property that we have an interest in because of the nationality, citizenship or other related status of any limited partner (or its owners, to the extent relevant), then our general partner may adopt such amendments to our partnership agreement as it determines necessary or advisable to:

- obtain proof of the nationality, citizenship or other related status of our limited partners (or their owners, to the extent relevant); and
- permit us to redeem the units held by any person whose nationality, citizenship or other related status creates substantial risk of cancellation or forfeiture of any property or who fails to comply with the procedures instituted by the general partner to obtain proof of the nationality, citizenship or other related status. The redemption price in the case of such a redemption will be the average of the daily closing prices per unit for the 20 consecutive trading days immediately prior to the date set for redemption.

**Meetings; Voting**

Except as described below regarding a person or group owning 20% or more of any class of units then outstanding, record holders of units on the record date will be entitled to notice of, and to vote at, meetings of our limited partners and to act upon matters for which approvals may be solicited.

Our general partner does not anticipate that any meeting of unitholders will be called in the foreseeable future. Any action that is required or permitted to be taken by the unitholders may be taken either at a meeting of the unitholders or, if authorized by our general partner, without a meeting if consents in writing describing the action so taken are signed by holders of the number of units that would be necessary to authorize or take that action at a meeting where all limited partners were present and voted. Meetings of the unitholders may be called by our general partner or by unitholders owning at least 20% of the outstanding units of the class for which a meeting is proposed. Unitholders may vote either in person or by proxy at meetings. The holders of a majority of the outstanding units of the class or classes for which a meeting has been called, represented in person or by proxy, will constitute a quorum unless any action by the unitholders requires approval by holders of a greater percentage of the units, in which case the quorum will be the greater percentage.

Each record holder of a unit has a vote according to its percentage interest in us, although additional limited partner interests having special voting rights could be issued. Please read "—Issuance of Additional Securities." However, if at any time any person or group, other than our general partner and its affiliates, a direct transferee of our general partner and its affiliates or a transferee of such direct transferee who is notified by our general partner that it will not lose its voting rights, acquires, in the aggregate, beneficial ownership of 20% or more of any class of units then outstanding, that person or group will lose voting rights on all of its units and the units may not be voted on any matter and will not be considered to be outstanding when sending notices of a meeting of unitholders, calculating required votes, determining the presence of a quorum, or for other similar purposes. Common units held in nominee or street name account will be voted by the broker or other nominee in accordance with the instruction of the beneficial owner unless the arrangement between the beneficial owner and its nominee provides otherwise. Except as our partnership agreement otherwise provides, subordinated units will vote together with common units as a single class. Any notice, demand, request, report or proxy material required or permitted to be given or made to record holders of common units under our partnership agreement will be delivered to the record holder by us or by the transfer agent.

**Status as Limited Partner**

By transfer of common units in accordance with our partnership agreement, each transferee of common units shall be admitted as a limited partner with respect to the common units transferred when such transfer and admission is reflected in our register. Except as described under "—Limited Liability," the common units will be fully paid, and unitholders will not be required to make additional contributions.

**Indemnification**

Under our partnership agreement, in most circumstances, we will indemnify the following persons, to the fullest extent permitted by law, from and against all losses, claims, damages or similar events:

- our general partner;
- any departing general partner;
- any person who is or was an affiliate of our general partner or any departing general partner;
- any person who is or was a director, officer, managing member, manager, general partner, fiduciary or trustee of us or our subsidiaries, an affiliate of us or our subsidiaries or any entity set forth in the preceding three bullet points;
- any person who is or was serving as director, officer, managing member, manager, general partner, fiduciary or trustee of another person owing a fiduciary duty to us or any of our subsidiaries at the request of our general partner or any departing general partner or any of their affiliates, excluding any such person providing, on a fee-for-service basis, trustee, fiduciary of custodial services; and
- any person designated by our general partner because such person's status, service or relationship expose such person to potential claims or suits relating to our or our subsidiaries' business and affairs.

Any indemnification under these provisions will only be out of our assets. Unless it otherwise agrees, our general partner will not be personally liable for, or have any obligation to contribute or lend funds or assets to us to enable us to effectuate, indemnification. We will purchase insurance against liabilities asserted against and expenses incurred by persons for our activities, regardless of whether we would have the power to indemnify the person against such liabilities under our partnership agreement.

**Reimbursement of Expenses**

Our partnership agreement requires us to reimburse our general partner for all direct and indirect expenses it incurs or payments it makes on our behalf and all other expenses allocable to us or otherwise incurred by our general partner in connection with operating our business. These expenses include salary, bonus, incentive compensation and other amounts paid to persons who perform services for us or on our behalf and expenses allocated to our general partner by its affiliates. Our general partner is entitled to determine in good faith the expenses that are allocable to us. Some of the expenses for which we are required to reimburse our general partner are not subject to any caps or other limits.

**Books and Reports**

Our general partner is required to keep appropriate books of our business at our principal offices. The books are maintained for financial reporting purposes on an accrual basis. For fiscal and tax reporting purposes, our fiscal year is the calendar year.

We will mail or make available to record holders of common units, within 105 days after the close of each fiscal year, an annual report containing audited financial statements and a report on those financial statements by our independent public accountants. Except for our fourth quarter, we will also mail or make available summary financial information within 50 days after the close of each quarter.

We will furnish each record holder of a unit with information reasonably required for tax reporting purposes within 90 days after the close of each calendar year. This information is expected to be furnished in summary form so that some complex calculations normally required of partners can be avoided. Our ability to furnish this summary information to unitholders will depend on the cooperation of unitholders in supplying us with specific information. Every unitholder will receive information to assist him in determining its federal and state tax liability and filing its federal and state income tax returns, regardless of whether he supplies us with information.

**Right to Inspect Our Books and Records**

Our partnership agreement provides that a limited partner can, for a purpose reasonably related to its interest as a limited partner, upon reasonable written demand stating the purpose of such demand and at its own expense, have furnished to him:

- a current list of the name and last known address of each record holder;
- copies of our partnership agreement and our certificate of limited partnership and all amendments thereto; and
- certain information regarding the status of our business and financial condition.

Our general partner may, and intends to, keep confidential from the limited partners trade secrets or other information the disclosure of which our general partner determines is not in our best interests or that we are required by law or by agreements with third parties to keep confidential. Our partnership agreement limits the right to information that a limited partner would otherwise have under Delaware law.

**Registration Rights**

Under our partnership agreement, we have agreed to register for resale under the Securities Act and applicable state securities laws any common units, subordinated units or other partnership interests proposed to be sold by our general partner or any of its affiliates (other than individuals) or their assignees if an exemption from the registration requirements is not otherwise available. We are obligated to pay all expenses incidental to the registration, excluding underwriting discounts and commissions.

**Exclusive Forum**

Our partnership agreement provides that the Court of Chancery of the State of Delaware shall be the exclusive forum for any claims, suits, actions or proceedings (1) arising out of or relating in any way to our partnership agreement (including any claims, suits or actions to interpret, apply or enforce the provisions of our partnership agreement or the duties, obligations or liabilities among our partners, or obligations or liabilities of our partners to us, or the rights or powers of, or restrictions on, our partners or us), (2) brought in a derivative manner on our behalf, (3) asserting a claim of breach of a duty owed by any of our, or our general partner's, directors, officers, or other employees, or owed by our general partner, to us or our partners, (4) asserting a claim against us arising pursuant to any provision of the Delaware Act or (5) asserting a claim against us governed by the internal affairs doctrine. Although we believe this provision benefits us by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors and officers. The enforceability of similar choice of forum provisions in other

companies' certificates of incorporation or similar governing documents have been challenged in legal proceedings, and it is possible that, in connection with any action, a court could find the choice of forum provisions contained in our partnership agreement to be inapplicable or unenforceable in such action.

If any person brings any of the aforementioned claims, suits, actions or proceedings and such person does not obtain a judgment on the merits that substantially achieves, in substance and amount, the full remedy sought, then such person shall be obligated to reimburse us and our affiliates for all fees, costs and expenses of every kind and description, including but not limited to all reasonable attorneys' fees and other litigation expenses, that the parties may incur in connection with such claim, suit, action or proceeding.

Additionally, any person who brings any of the aforementioned claims, suits, actions or proceedings irrevocably waives a right to trial by jury.

By purchasing a common unit, a limited partner is irrevocably consenting to these limitations and provisions regarding claims, suits, actions or proceedings and submitting to the exclusive jurisdiction of the Court of Chancery of the State of Delaware (or such other court) in connection with any such claims, suits, actions or proceedings.

## MATERIAL FEDERAL INCOME TAX CONSEQUENCES OF COMMON UNIT OWNERSHIP

This section is a summary of the material tax considerations that may be relevant to individual citizens or residents of the United States owning our common units received in connection with the acquisitions described herein and, unless otherwise noted in the following discussion, is the opinion of Latham & Watkins LLP, counsel to our general partner and us, insofar as it relates to legal conclusions with respect to matters of U.S. federal income tax law. This section is based upon current provisions of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), existing and proposed Treasury regulations promulgated under the Internal Revenue Code (the "Treasury Regulations") and current administrative rulings and court decisions, all of which are subject to change. Later changes in these authorities may cause the tax consequences to vary substantially from the consequences described below. Unless the context otherwise requires, references in this section to "us" or "we" are references to Landmark Infrastructure Partners LP and our operating subsidiaries.

The following discussion does not comment on all federal income tax matters affecting us or our unitholders and does not describe the tax consequences of the acquisitions described herein, which will depend on the specific terms of each such acquisition. Prospective participants in such acquisitions are urged to consult their tax advisors with respect to the tax consequences to them of the acquisition. The following discussion also does not describe the application of the alternative minimum tax that may be applicable to certain unitholders. Moreover, the discussion focuses on unitholders who are individual citizens or residents of the United States and has only limited application to corporations, estates, entities treated as partnerships for U.S. federal income tax purposes, trusts, nonresident aliens, U.S. expatriates and former citizens or long-term residents of the United States or other unitholders subject to specialized tax treatment, such as banks, insurance companies and other financial institutions, tax-exempt institutions, foreign persons (including, without limitation, controlled foreign corporations, passive foreign investment companies and non-U.S. persons eligible for the benefits of an applicable income tax treaty with the United States), IRAs, real estate investment trusts (REITs) or mutual funds, dealers in securities or currencies, traders in securities, U.S. persons whose "functional currency" is not the U.S. dollar, persons holding their units as part of a "straddle," "hedge," "conversion transaction" or other risk reduction transaction, and persons deemed to sell their units under the constructive sale provisions of the Internal Revenue Code. In addition, the discussion only comments to a limited extent on state, local and foreign tax consequences. Accordingly, we encourage each prospective unitholder to consult his own tax advisor in analyzing the state, local and foreign tax consequences particular to him of the ownership or disposition of common units and potential changes in applicable tax laws.

No ruling has been requested from the IRS regarding our characterization as a partnership for tax purposes or the consequences of owning our common units received in connection with the acquisitions described herein. Instead, we will rely on opinions of Latham & Watkins LLP. Unlike a ruling, an opinion of counsel represents only that counsel's best legal judgment and does not bind the IRS or the courts. Accordingly, the opinions and statements made herein may not be sustained by a court if contested by the IRS. Any contest of this sort with the IRS may materially and adversely impact the market for our common units and the prices at which our common units trade. In addition, the costs of any contest with the IRS, principally legal, accounting and related fees, will result in a reduction in cash available for distribution to our unitholders and thus will be borne indirectly by our unitholders. Furthermore, the tax treatment of us, or of an investment in us, may be significantly modified by future legislative or administrative changes or court decisions. Any modifications may or may not be retroactively applied.

All statements as to matters of federal income tax law and legal conclusions with respect thereto, but not as to factual matters, contained in this section, unless otherwise noted, are the opinion of Latham & Watkins LLP and are based on the accuracy of the representations made by us.

Notwithstanding the above, and for the reasons described below, Latham & Watkins LLP has not rendered an opinion with respect to the following specific federal income tax issues: (i) the treatment of a unitholder whose common units are loaned to a short seller to cover a short sale of common units (please read "—Tax Consequences of Unit Ownership—Treatment of Short Sales"); (ii) whether all aspects of our method for allocating taxable income and losses is permitted by existing Treasury Regulations (please read "—Disposition of Common Units—Allocations Between Transferors and Transferees"); and (iii) whether our method for taking into account Section 743 adjustments is sustainable in certain cases (please read "—Tax Consequences of Unit Ownership —Section 754 Election" and "—Uniformity of Units").

**Partnership Status**

A partnership is not a taxable entity and incurs no federal income tax liability. Instead, each partner of a partnership is required to take into account his share of items of income, gain, loss and deduction of the partnership in computing his federal income tax liability, regardless of whether cash distributions are made to him by the partnership. Distributions by a partnership to a partner are generally not taxable to the partnership or the partner unless the amount of cash distributed to him is in excess of the partner's adjusted basis in his partnership interest. Section 7704 of the Internal Revenue Code provides that publicly traded partnerships will, as a general rule, be taxed as corporations. However, an exception, referred to as the "Qualifying Income Exception," exists with respect to publicly traded partnerships of which 90% or more of the gross income for every taxable year consists of "qualifying income." Qualifying income includes, "rents from real property," gains from the sale of real property, interest (other than from a financial business), dividends and gains from the sale or other disposition of capital assets held for the production of income that otherwise constitutes qualifying income. In order to qualify as rents from real property, several requirements must be met.

- The amount of rent received generally must not be based on the income or profits of any person, but may be based on a fixed percentage or percentages of receipts or sales.

- Rents do not qualify if we own 10% or more by vote or value of the tenant, whether directly or after application of attribution rules. While we intend not to lease property to any party if rents from that property would not qualify as rents from real property, application of the 10% ownership rule is dependent upon complex attribution rules and circumstances that may be beyond our control.

- If rent attributable to personal property leased in connection with a lease of real property is 15% or less of the total rent received under the lease, then the rent attributable to personal property will qualify as rents from real property; if this 15% threshold is exceeded, the rent attributable to personal property will not so qualify. The portion of rental income treated as attributable to personal property is determined according to the ratio of the fair market value of the personal property to the total fair market value of the real and personal property that is rented.

- Rent attributable to services furnished or rendered to the tenants of the property will not qualify unless such services are customarily provided to similarly-situated tenants in the same geographic market area.

We estimate that less than 7% of our current gross income is not qualifying income; however, this estimate could change from time to time. Based upon and subject to this estimate, the factual representations made by us and our general partner and a review of the applicable legal authorities, Latham & Watkins LLP is of the opinion that at least 90% of our current-year gross income constitutes qualifying income. The portion of our income that is qualifying income may change from time to time.

The IRS has made no determination as to our status or the status of our operating subsidiaries for federal income tax purposes. Instead, we will rely on the opinion of Latham & Watkins LLP on such matters. It is the opinion of Latham & Watkins LLP that, based upon the Internal Revenue Code, its regulations, published revenue rulings and court decisions and the representations described below that:

- we will be classified as a partnership for federal income tax purposes; and
- each of our operating subsidiaries, except for Landmark Infrastructure Asset OpCo LLC and Landmark Infrastructure Finance Corp., will be treated as a partnership or will be disregarded as an entity separate from us for federal income tax purposes.

In rendering its opinion, Latham & Watkins LLP has relied on factual representations made by us and our general partner. The representations made by us and our general partner upon which Latham & Watkins LLP has relied include:

- neither we nor any of our operating subsidiaries, other than Landmark Infrastructure Asset OpCo LLC, has elected or will elect to be treated as a corporation;
- for each taxable year, more than 90% of our gross income has been and will be income of the type that Latham & Watkins LLP has opined or will opine is "qualifying income" within the meaning of Section 7704(d) of the Internal Revenue Code;
- all leases, lease and easement purchase agreements and easements will be substantially in the form of leases, lease and easement purchase agreements and easements reviewed by Latham & Watkins LLP; and
- all property from which rental income is derived is either raw land or a structure, such as a building, that is permanently attached to the ground, not intended to be moved and likely to sustain substantial damage if moved.

We believe that these representations have been true in the past and expect that these representations will continue to be true in the future.

If we fail to meet the Qualifying Income Exception, other than a failure that is determined by the IRS to be inadvertent and that is cured within a reasonable time after discovery (in which case the IRS may also require us to make adjustments with respect to our unitholders or pay other amounts), we will be treated as if we had transferred all of our assets, subject to liabilities, to a newly formed corporation, on the first day of the year in which we fail to meet the Qualifying Income Exception, in return for stock in that corporation, and then distributed that stock to the unitholders in liquidation of their interests in us. This deemed contribution and liquidation should be tax-free to unitholders and us so long as we, at that time, do not have liabilities in excess of the tax basis of our assets. Thereafter, we would be treated as a corporation for federal income tax purposes.

If we were treated as an association taxable as a corporation in any taxable year, either as a result of a failure to meet the Qualifying Income Exception or otherwise, our items of income, gain, loss and deduction would be reflected only on our tax return rather than being passed through to our unitholders, and our net income would be taxed to us at corporate rates. In addition, any distribution made to a unitholder would be treated as taxable dividend income, to the extent of our current and accumulated earnings and profits, or, in the absence of earnings and profits, a nontaxable return of capital, to the extent of the unitholder's tax basis in his common units, or taxable capital gain, after the unitholder's tax basis in his common units is reduced to zero. Accordingly, taxation as a corporation would result in a material reduction in a unitholder's cash flow and after-tax return and thus would likely result in a substantial reduction of the value of the units.

***The discussion below is based on Latham & Watkins LLP's opinion that we will be classified as a partnership for federal income tax purposes.***

**Tax Treatment of Income Earned Through Corporate Subsidiary**

Latham & Watkins LLP is unable to opine as to the qualifying nature of the income generated by certain portions of our operations. We currently conduct a portion of our business related to these operations in a separate subsidiary that is treated as a corporation for U.S. federal income tax purposes.

Such corporate subsidiary is subject to corporate-level federal income tax on its taxable income at the corporate tax rate, which is currently a maximum of 35%, and will also likely pay state (and possibly local) income tax at varying rates, on its taxable income. Any such entity level taxes will reduce the cash available for distribution to our unitholders. Distributions from any such corporate subsidiary will generally be taxed again to unitholders as qualified dividend income to the extent of current and accumulated earnings and profits of such corporate subsidiary. As of January 1, 2016, the maximum federal income tax rate applicable to such qualified dividend income that is allocable to individuals is generally 20%. An individual unitholder's share of dividend and interest income from any corporate subsidiary would constitute portfolio income that could not be offset by the unitholder's share of our other losses or deductions.

**Limited Partner Status**

Unitholders of Landmark Infrastructure Partners LP will be treated as partners of Landmark Infrastructure Partners LP for federal income tax purposes. Also, unitholders whose common units are held in street name or by a nominee and who have the right to direct the nominee in the exercise of all substantive rights attendant to the ownership of their common units will be treated as partners of Landmark Infrastructure Partners LP for federal income tax purposes.

A beneficial owner of common units whose units have been transferred to a short seller to complete a short sale would appear to lose his status as a partner with respect to those units for federal income tax purposes. Please read "—Tax Consequences of Unit Ownership—Treatment of Short Sales."

Income, gains, losses or deductions would not appear to be reportable by a unitholder who is not a partner for federal income tax purposes, and any cash distributions received by a unitholder who is not a partner for federal income tax purposes would therefore appear to be fully taxable as ordinary income. These holders are urged to consult their tax advisors with respect to the tax consequences to them of holding common units in Landmark Infrastructure Partners LP. The references to "unitholders" in the discussion that follows are to persons who are treated as partners in Landmark Infrastructure Partners LP for federal income tax purposes.

**Tax Consequences of Unit Ownership**

***Flow-Through of Taxable Income***

Subject to the discussion below under "—Tax Consequences of Unit Ownership—Entity-Level Collections" we will not pay any federal income tax. Instead, each unitholder will be required to report on his income tax return his share of our income, gains, losses and deductions without regard to whether we make cash distributions to him. Consequently, we may allocate income to a unitholder even if he has not received a cash distribution. Each unitholder will be required to include in income his allocable share of our income, gains, losses and deductions for our taxable year ending with or within his taxable year. Our taxable year ends on December 31.

***Treatment of Distributions***

Distributions by us to a unitholder generally will not be taxable to the unitholder for federal income tax purposes, except to the extent the amount of any such cash distribution exceeds his tax basis

in his common units immediately before the distribution. Our cash distributions in excess of a unitholder's tax basis generally will be considered to be gain from the sale or exchange of his common units, taxable in accordance with the rules described under "—Disposition of Common Units." Any reduction in a unitholder's share of our liabilities for which no partner, including the general partner, bears the economic risk of loss, known as "nonrecourse liabilities," will be treated as a distribution by us of cash to that unitholder. To the extent our distributions cause a unitholder's "at-risk" amount to be less than zero at the end of any taxable year, he must recapture any losses deducted in previous years. Please read "—Tax Consequences of Unit Ownership—Limitations on Deductibility of Losses."

A decrease in a unitholder's percentage interest in us because of our issuance of additional common units will decrease his share of our nonrecourse liabilities, and thus will result in a corresponding deemed distribution of cash. This deemed distribution may constitute a non-pro rata distribution. A non-pro rata distribution of money or property may result in ordinary income to a unitholder, regardless of his tax basis in his common units, if the distribution reduces the unitholder's share of our "unrealized receivables," including depreciation recapture and/or substantially appreciated "inventory items,' each as defined in the Internal Revenue Code, and collectively, "Section 751 Assets." To that extent, the unitholder will be treated as having been distributed his proportionate share of the Section 751 Assets and then having exchanged those assets with us in return for the non-pro rata portion of the actual distribution made to him. This latter deemed exchange will generally result in the unitholder's realization of ordinary income, which will equal the excess of (1) the non-pro rata portion of that distribution over (2) the unitholder's tax basis (often zero) for the share of Section 751 Assets deemed relinquished in the exchange.

***Basis of Common Units***

A unitholder's initial tax basis for his common units will depend on the specific terms of the transaction in connection with which he received his common units. A unitholder that received his common units in connection with an acquisition described herein should consult his tax advisor regarding his initial tax basis in those common units. That basis will be increased by his share of our income and by any increases in his share of our nonrecourse liabilities. That basis will be decreased, but not below zero, by distributions from us, by the unitholder's share of our losses, by any decreases in his share of our nonrecourse liabilities and by his share of our expenditures that are not deductible in computing taxable income and are not required to be capitalized. A unitholder will have no share of our debt that is recourse to our general partner to the extent of the general partner's "net value" as defined in Treasury Regulations under Section 752 of the Internal Revenue Code, but will have a share, generally based on his share of profits, of our nonrecourse liabilities. Please read "—Disposition of Common Units—Recognition of Gain or Loss."

***Limitations on Deductibility of Losses***

The deduction by a unitholder of his share of our losses will be limited to the tax basis in his units and, in the case of an individual unitholder, estate, trust, or corporate unitholder (if more than 50% of the value of the corporate unitholder's stock is owned directly or indirectly by or for five or fewer individuals or some tax-exempt organizations) to the amount for which the unitholder is considered to be "at risk" with respect to our activities, if that is less than his tax basis. A common unitholder subject to these limitations must recapture losses deducted in previous years to the extent that distributions cause his at-risk amount to be less than zero at the end of any taxable year. Losses disallowed to a unitholder or recaptured as a result of these limitations will carry forward and will be allowable as a deduction to the extent that his at-risk amount is subsequently increased, provided such losses do not exceed such common unitholder's tax basis in his common units. Upon the taxable disposition of a unit, any gain recognized by a unitholder can be offset by losses that were previously suspended by the

at-risk limitation but may not be offset by losses suspended by the basis limitation. Any loss previously suspended by the at-risk limitation in excess of that gain would no longer be utilizable.

In general, a unitholder will be at risk to the extent of the tax basis of his units, excluding any portion of that basis attributable to his share of our nonrecourse liabilities, reduced by (1) any portion of that basis representing amounts otherwise protected against loss because of a guarantee, stop loss agreement or other similar arrangement and (2) any amount of money he borrows to acquire or hold his units, if the lender of those borrowed funds owns an interest in us, is related to the unitholder or can look only to the units for repayment. A unitholder's at-risk amount will increase or decrease as the tax basis of the unitholder's units increases or decreases, other than tax basis increases or decreases attributable to increases or decreases in his share of our nonrecourse liabilities.

In addition to the basis and at-risk limitations on the deductibility of losses, the passive loss limitations generally provide that individuals, estates, trusts and some closely-held corporations and personal service corporations can deduct losses from passive activities, which are generally trade or business activities in which the taxpayer does not materially participate, only to the extent of the taxpayer's income from those passive activities. The passive loss limitations are applied separately with respect to each publicly traded partnership. Consequently, any passive losses we generate will only be available to offset our passive income generated in the future and will not be available to offset income from other passive activities or investments, including our investments or a unitholder's investments in other publicly traded partnerships, or the unitholder's salary, active business or other income. Passive losses that are not deductible because they exceed a unitholder's share of income we generate may be deducted in full when he disposes of his entire investment in us in a fully taxable transaction with an unrelated party. The passive loss limitations are applied after other applicable limitations on deductions, including the at-risk rules and the basis limitation.

A unitholder's share of our net income may be offset by any of our suspended passive losses, but it may not be offset by any other current or carryover losses from other passive activities, including those attributable to other publicly traded partnerships.

***Limitations on Interest Deductions***

The deductibility of a non-corporate taxpayer's "investment interest expense" is generally limited to the amount of that taxpayer's "net investment income." Investment interest expense includes:

- interest on indebtedness properly allocable to property held for investment;
- our interest expense attributed to portfolio income; and
- the portion of interest expense incurred to purchase or carry an interest in a passive activity to the extent attributable to portfolio income.

The computation of a unitholder's investment interest expense will take into account interest on any margin account borrowing or other loan incurred to purchase or carry a unit. Net investment income includes gross income from property held for investment and amounts treated as portfolio income under the passive loss rules, less deductible expenses, other than interest, directly connected with the production of investment income, but generally does not include gains attributable to the disposition of property held for investment or (if applicable) qualified dividend income. The IRS has indicated that the net passive income earned by a publicly traded partnership will be treated as investment income to its unitholders. In addition, the unitholder's share of our portfolio income will be treated as investment income.

***Entity-Level Collections***

If we are required or elect under applicable law to pay any federal, state, local or foreign income tax on behalf of any unitholder or any former unitholder, we are authorized to pay those taxes from our funds. That payment, if made, will be treated as a distribution of cash to the unitholder on whose behalf the payment was made. If the payment is made on behalf of a person whose identity cannot be determined, we are authorized to treat the payment as a distribution to all current unitholders. We are authorized to amend our partnership agreement in the manner necessary to maintain uniformity of intrinsic tax characteristics of units and to adjust later distributions, so that after giving effect to these distributions, the priority and characterization of distributions otherwise applicable under our partnership agreement is maintained as nearly as is practicable. Payments by us as described above could give rise to an overpayment of tax on behalf of an individual unitholder in which event the unitholder would be required to file a claim in order to obtain a credit or refund.

***Allocation of Income, Gain, Loss and Deduction***

In general, if we have a net profit, our items of income, gain, loss and deduction will be allocated among the unitholders in accordance with their percentage interests in us. At any time that distributions are made to the common units in excess of distributions to the subordinated units, or incentive distributions are made to our general partner, gross income will be allocated to the recipients to the extent of these distributions. If we have a net loss, that loss will be allocated to the unitholders in accordance with their percentage interests in us to the extent of their positive capital accounts, as adjusted to take into account the unitholders' share of nonrecourse debt.

Specified items of our income, gain, loss and deduction will be allocated to account for any difference between the tax basis and fair market value of any property contributed to us by Landmark Dividend LLC, its affiliates or by a third party (including in connection with the acquisitions described herein) that exists at the time of such contribution, referred to in this discussion as the "Contributed Property." The effect of these allocations, referred to as "Section 704(c) Allocations," to a unitholder purchasing common units from us in an offering will be essentially the same as if the tax bases of our assets were equal to their fair market values at the time of such offering. A unitholder that received his units in connection with an acquisition described herein should consult his tax advisors with respect to the effect of Section 704(c) Allocations to him, which will vary based on the specific terms of the acquisition of the Contributed Property or in the event of the disposition of the Contributed Property by us.

In the event we issue additional common units or engage in certain other transactions in the future, "reverse Section 704(c) Allocations," similar to the Section 704(c) Allocations described above, will be made to our unitholders immediately prior to such issuance or other transactions to account for the difference between the "book" basis for purposes of maintaining capital accounts and the fair market value of all property held by us at the time of such issuance or future transaction. In addition, items of recapture income will be allocated to the extent possible to the unitholder who was allocated the deduction giving rise to the treatment of that gain as recapture income in order to minimize the recognition of ordinary income by some unitholders. Finally, although we do not expect that our operations will result in the creation of negative capital accounts (subject to certain adjustments), if negative capital accounts (subject to such adjustments) nevertheless result, items of our income and gain will be allocated in an amount and manner sufficient to eliminate such negative balance as quickly as possible.

An allocation of items of our income, gain, loss or deduction, other than an allocation required by the Internal Revenue Code to eliminate the difference between a partner's "book" capital account, credited with the fair market value of Contributed Property, and "tax" capital account, credited with the tax basis of Contributed Property, referred to in this discussion as the "Book-Tax Disparity," will

generally be given effect for federal income tax purposes in determining a partner's share of an item of income, gain, loss or deduction only if the allocation has "substantial economic effect." In any other case, a partner's share of an item will be determined on the basis of his interest in us, which will be determined by taking into account all the facts and circumstances, including:

- his relative contributions to us;
- the interests of all the partners in profits and losses;
- the interest of all the partners in cash flow; and
- the rights of all the partners to distributions of capital upon liquidation.

Latham & Watkins LLP is of the opinion that, with the exception of the issues described in "—Tax Consequences of Unit Ownership—Section 754 Election" and "—Disposition of Common Units—Allocations Between Transferors and Transferees," allocations under our partnership agreement will be given effect for federal income tax purposes in determining a partner's share of an item of income, gain, loss or deduction.

***Treatment of Short Sales***

A unitholder whose units are loaned to a "short seller" to cover a short sale of units may be considered as having disposed of those units. If so, he would no longer be treated for tax purposes as a partner with respect to those units during the period of the loan and may recognize gain or loss from the disposition. As a result, during this period:

- any of our income, gain, loss or deduction with respect to those units would not be reportable by the unitholder;
- any cash distributions received by the unitholder as to those units would be fully taxable; and
- while not entirely free from doubt, all of these distributions would appear to be ordinary income.

Because there is no direct or indirect controlling authority on this issue relating to partnership interests, Latham & Watkins LLP is unable to render an opinion regarding the tax treatment of a unitholder whose common units are loaned to a short seller to cover a short sale of common units; therefore, unitholders desiring to assure their status as partners and avoid the risk of gain recognition from a loan to a short seller are urged to consult a tax advisor to discuss whether it is advisable to modify any applicable brokerage account agreements to prohibit their brokers from borrowing and loaning their units. The IRS has previously announced that it is studying issues relating to the tax treatment of short sales of partnership interests. Please also read "—Disposition of Common Units—Recognition of Gain or Loss."

***Tax Rates***

Under current law, the highest marginal U.S. federal income tax rate applicable to ordinary income of individuals is 39.6% and the highest marginal U.S. federal income tax rate applicable to long-term capital gains (generally, capital gains on certain assets held for more than twelve months) of individuals is 20%. Such rates are subject to change by new legislation at any time.

In addition, a 3.8% Medicare tax, or NIIT, is imposed on certain net investment income earned by individuals, estates and trusts. For these purposes, net investment income generally includes a unitholder's allocable share of our income and gain realized by a unitholder from a sale of units. In the case of an individual, the tax will be imposed on the lesser of (1) the unitholder's net investment income and (2) the amount by which the unitholder's modified adjusted gross income exceeds $250,000 (if the unitholder is married and filing jointly or a surviving spouse), $125,000 (if the unitholder is

married and filing separately) or $200,000 (in any other case). In the case of an estate or trust, the tax will be imposed on the lesser of (1) undistributed net investment income and (2) the excess adjusted gross income over the dollar amount at which the highest income tax bracket applicable to an estate or trust begins. The U.S. Department of the Treasury and the IRS have issued Treasury Regulations that provide guidance regarding the NIIT. Prospective unitholders are urged to consult with their tax advisors as to the impact of the NIIT on an investment in our common units.

***Section 754 Election***

We have made the election permitted by Section 754 of the Internal Revenue Code. That election is irrevocable without the consent of the IRS unless there is a constructive termination of the partnership. Please read "—Disposition of Common Units—Constructive Termination." The election generally permits us to adjust a common unit purchaser's tax basis in our assets ("inside basis") under Section 743(b) of the Internal Revenue Code to reflect his purchase price. This election does not apply with respect to a person who purchases common units directly from us. The Section 743(b) adjustment belongs to the purchaser and not to other unitholders. For purposes of this discussion, the inside basis in our assets with respect to a unitholder will be considered to have two components: (1) his share of our tax basis in our assets ("common basis") and (2) his Section 743(b) adjustment to that basis.

We have adopted the remedial allocation method as to all our properties. Where the remedial allocation method is adopted, the Treasury Regulations under Section 743 of the Internal Revenue Code require a portion of the Section 743(b) adjustment that is attributable to recovery property that is subject to depreciation under Section 168 of the Internal Revenue Code and whose book basis is in excess of its tax basis to be depreciated over the remaining cost recovery period for the property's unamortized Book-Tax Disparity. Under Treasury Regulation Section 1.167(c)-1(a)(6), a Section 743(b) adjustment attributable to property subject to depreciation under Section 167 of the Internal Revenue Code, rather than cost recovery deductions under Section 168, is generally required to be depreciated using either the straight-line method or the 150% declining balance method. Under our partnership agreement, our general partner is authorized to take a position to preserve the uniformity of units even if that position is not consistent with these and any other Treasury Regulations. Please read "—Uniformity of Units."

We depreciate the portion of a Section 743(b) adjustment attributable to unrealized appreciation in the value of Contributed Property, to the extent of any unamortized Book-Tax Disparity, using a rate of depreciation or amortization derived from the depreciation or amortization method and useful life applied to the property's unamortized Book-Tax Disparity, or treat that portion as non-amortizable to the extent attributable to property that is not amortizable. This method is consistent with the methods employed by other publicly traded partnerships but is arguably inconsistent with Treasury Regulation Section 1.167(c)-1(a)(6), which is not expected to directly apply to a material portion of our assets. To the extent this Section 743(b) adjustment is attributable to appreciation in value in excess of the unamortized Book-Tax Disparity, we will apply the rules described in the Treasury Regulations and legislative history. If we determine that this position cannot reasonably be taken, we may take a depreciation or amortization position under which all purchasers acquiring units in the same month would receive depreciation or amortization, whether attributable to common basis or a Section 743(b) adjustment, based upon the same applicable rate as if they had purchased a direct interest in our assets. This kind of aggregate approach may result in lower annual depreciation or amortization deductions than would otherwise be allowable to some unitholders. Please read "—Uniformity of Units." A unitholder's tax basis for his common units is reduced by his share of our deductions (whether or not such deductions were claimed on an individual's income tax return) so that any position we take that understates deductions will overstate the common unitholder's basis in his common units, which may cause the unitholder to understate gain or overstate loss on any sale of such units. Please read "—Disposition of Common Units—Recognition of Gain or Loss." Latham &

Watkins LLP is unable to opine as to whether our method for taking into account Section 743 adjustments is sustainable for property subject to depreciation under Section 167 of the Internal Revenue Code or if we use an aggregate approach as described above, as there is no direct or indirect controlling authority addressing the validity of these positions. Moreover, the IRS may challenge our position with respect to depreciating or amortizing the Section 743(b) adjustment we take to preserve the uniformity of the units. If such a challenge were sustained, the gain from the sale of units might be increased without the benefit of additional deductions.

A Section 754 election is advantageous if the transferee's tax basis in his units is higher than the units' share of the aggregate tax basis of our assets immediately prior to the transfer. In that case, as a result of the election, the transferee would have, among other items, a greater amount of depreciation deductions and his share of any gain or loss on a sale of our assets would be less. Conversely, a Section 754 election is disadvantageous if the transferee's tax basis in his units is lower than those units' share of the aggregate tax basis of our assets immediately prior to the transfer. Thus, the fair market value of the units may be affected either favorably or unfavorably by the election. A basis adjustment is required regardless of whether a Section 754 election is made in the case of a transfer of an interest in us if we have a substantial built-in loss immediately after the transfer, or if we distribute property and have a substantial basis reduction. Generally, a built-in loss or a basis reduction is substantial if it exceeds $250,000.

The calculations involved in the Section 754 election are complex and will be made on the basis of assumptions as to the value of our assets and other matters. For example, the allocation of the Section 743(b) adjustment among our assets must be made in accordance with the Internal Revenue Code. The IRS could seek to reallocate some or all of any Section 743(b) adjustment allocated by us to our tangible assets to goodwill instead. Goodwill, as an intangible asset, is generally nonamortizable or amortizable over a longer period of time or under a less accelerated method than many tangible assets. We cannot assure you that the determinations we make will not be successfully challenged by the IRS and that the deductions resulting from them will not be reduced or disallowed altogether. Should the IRS require a different basis adjustment to be made, and should, in our opinion, the expense of compliance exceed the benefit of the election, we may seek permission from the IRS to revoke our Section 754 election. If permission is granted, a subsequent purchaser of units may be allocated more income than he would have been allocated had the election not been revoked.

**Tax Treatment of Operations**

***Accounting Method and Taxable Year***

We use the year ending December 31 as our taxable year and the accrual method of accounting for federal income tax purposes. Each unitholder will be required to include in income his share of our income, gain, loss and deduction for our taxable year ending within or with his taxable year. In addition, a unitholder who has a taxable year ending on a date other than December 31 and who disposes of all of his units following the close of our taxable year but before the close of his taxable year must include his share of our income, gain, loss and deduction in income for his taxable year, with the result that he will be required to include in income for his taxable year his share of more than twelve months of our income, gain, loss and deduction. Please read "—Disposition of Common Units—Allocations Between Transferors and Transferees."

***Initial Tax Basis, Depreciation and Amortization***

The tax basis of our assets will be used for purposes of computing depreciation and cost recovery deductions and, ultimately, gain or loss on the disposition of these assets. The federal income tax burden associated with the difference between the fair market value of our assets and their tax basis immediately prior to an offering will be borne by our unitholders holding interests in us prior to such

offering. Please read "—Tax Consequences of Unit Ownership—Allocation of Income, Gain, Loss and Deduction."

To the extent allowable, we may elect to use the depreciation and cost recovery methods, including bonus depreciation to the extent available, that will result in the largest deductions being taken in the early years after assets subject to these allowances are placed in service. Please read "—Uniformity of Units." Property we subsequently acquire or construct may be depreciated using accelerated methods permitted by the Internal Revenue Code.

If we dispose of depreciable property by sale, foreclosure or otherwise, all or a portion of any gain, determined by reference to the amount of depreciation previously deducted and the nature of the property, may be subject to the recapture rules and taxed as ordinary income rather than capital gain. Similarly, a unitholder who has taken cost recovery or depreciation deductions with respect to property we own will likely be required to recapture some or all of those deductions as ordinary income upon a sale of his interest in us. Please read "—Tax Consequences of Unit Ownership—Allocation of Income, Gain, Loss and Deduction" and "—Disposition of Common Units—Recognition of Gain or Loss."

The costs we incur in selling our units (called "syndication expenses") must be capitalized and cannot be deducted currently, ratably or upon our termination. There are uncertainties regarding the classification of costs as organization expenses, which may be amortized by us, and as syndication expenses, which may not be amortized by us. The underwriting discounts and commissions we incur will be treated as syndication expenses.

***Valuation and Tax Basis of Our Properties***

The federal income tax consequences of the ownership and disposition of units will depend in part on our estimates of the relative fair market values, and the initial tax bases, of our assets. Although we may from time to time consult with professional appraisers regarding valuation matters, we will make many of the relative fair market value estimates ourselves. These estimates and determinations of basis are subject to challenge and will not be binding on the IRS or the courts. If the estimates of fair market value or basis are later found to be incorrect, the character and amount of items of income, gain, loss or deductions previously reported by unitholders might change, and unitholders might be required to adjust their tax liability for prior years and incur interest and penalties with respect to those adjustments.

**Disposition of Common Units**

***Recognition of Gain or Loss***

Gain or loss will be recognized on a sale of units equal to the difference between the amount realized and the unitholder's tax basis for the units sold. A unitholder's amount realized will be measured by the sum of the cash or the fair market value of other property received by him plus his share of our nonrecourse liabilities. Because the amount realized includes a unitholder's share of our nonrecourse liabilities, the gain recognized on the sale of units could result in a tax liability in excess of any cash received from the sale.

Prior distributions from us that in the aggregate were in excess of cumulative net taxable income for a common unit and, therefore, decreased a unitholder's tax basis in that common unit will, in effect, become taxable income if the common unit is sold at a price greater than the unitholder's tax basis in that common unit, even if the price received is less than his original cost.

Except as noted below, gain or loss recognized by a unitholder, other than a "dealer" in units, on the sale or exchange of a unit will generally be taxable as capital gain or loss. Capital gain recognized by an individual on the sale of units held for more than twelve months will generally be taxed at the U.S. federal income tax rate applicable to long-term capital gains. However, a portion of this gain or

loss, which will likely be substantial, will be separately computed and taxed as ordinary income or loss under Section 751 of the Internal Revenue Code to the extent attributable to assets giving rise to depreciation recapture or other "unrealized receivables" or to "inventory items" we own. The term "unrealized receivables" includes potential recapture items, including depreciation recapture. Ordinary income attributable to unrealized receivables, inventory items and depreciation recapture may exceed net taxable gain realized upon the sale of a unit and may be recognized even if there is a net taxable loss realized on the sale of a unit. Thus, a unitholder may recognize both ordinary income and a capital loss upon a sale of units. Capital losses may offset capital gains and no more than $3,000 of ordinary income, in the case of individuals, and may only be used to offset capital gains in the case of corporations. Both ordinary income and capital gain recognized on a sale of units may be subject to the NIIT in certain circumstances. Please read "—Tax Consequences of Unit Ownership—Tax Rates."

The IRS has ruled that a partner who acquires interests in a partnership in separate transactions must combine those interests and maintain a single adjusted tax basis for all those interests. Upon a sale or other disposition of less than all of those interests, a portion of that tax basis must be allocated to the interests sold using an "equitable apportionment" method, which generally means that the tax basis allocated to the interest sold equals an amount that bears the same relation to the partner's tax basis in his entire interest in the partnership as the value of the interest sold bears to the value of the partner's entire interest in the partnership. Treasury Regulations under Section 1223 of the Internal Revenue Code allow a selling unitholder who can identify common units transferred with an ascertainable holding period to elect to use the actual holding period of the common units transferred. Thus, according to the ruling discussed above, a common unitholder will be unable to select high or low basis common units to sell as would be the case with corporate stock, but, according to the Treasury Regulations, he may designate specific common units sold for purposes of determining the holding period of units transferred. A unitholder electing to use the actual holding period of common units transferred must consistently use that identification method for all subsequent sales or exchanges of common units. A unitholder considering the purchase of additional units or a sale of common units purchased in separate transactions is urged to consult his tax advisor as to the possible consequences of this ruling and application of the Treasury Regulations.

Specific provisions of the Internal Revenue Code affect the taxation of some financial products and securities, including partnership interests, by treating a taxpayer as having sold an "appreciated" partnership interest, one in which gain would be recognized if it were sold, assigned or terminated at its fair market value, if the taxpayer or related persons enter(s) into:

- a short sale;
- an offsetting notional principal contract; or
- a futures or forward contract;

in each case, with respect to the partnership interest or substantially identical property.

Moreover, if a taxpayer has previously entered into a short sale, an offsetting notional principal contract or a futures or forward contract with respect to the partnership interest, the taxpayer will be treated as having sold that position if the taxpayer or a related person then acquires the partnership interest or substantially identical property. The Secretary of the Treasury is also authorized to issue regulations that treat a taxpayer that enters into transactions or positions that have substantially the same effect as the preceding transactions as having constructively sold the financial position.

***Allocations Between Transferors and Transferees***

In general, our taxable income and losses will be determined annually, will be prorated on a monthly basis in proportion to the number of days in each month and will be subsequently apportioned among our unitholders in proportion to the number of units owned by each of them as of the opening

of the applicable exchange on the first business day of the month, which we refer to herein as the "Allocation Date." However, gain or loss realized on a sale or other disposition of our assets other than in the ordinary course of business will be allocated among our unitholders on the Allocation Date in the month in which that gain or loss is recognized. As a result, a unitholder transferring units may be allocated income, gain, loss and deduction realized after the date of transfer.

The U.S. Department of the Treasury and the Internal Revenue Service have issued Treasury regulations that permit publicly traded partnerships to use a monthly simplifying convention that is similar to ours, but they do not specifically authorize all aspects of the proration method we have adopted. Accordingly, Latham & Watkins LLP is unable to opine on the validity of this method of allocating income and deductions between transferor and transferee unitholders. If the Internal Revenue Service were to successfully challenge this method, our taxable income or losses might be reallocated among the unitholders. We are authorized to revise our method of allocation between transferor and transferee unitholders, as well as unitholders whose interests vary during a taxable year.

A unitholder who owns units at any time during a quarter and who disposes of them prior to the record date set for a cash distribution for that quarter will be allocated items of our income, gain, loss and deductions attributable to that quarter through the month of disposition but will not be entitled to receive that cash distribution.

***Notification Requirements***

A unitholder who sells any of his units is generally required to notify us in writing of that sale within 30 days after the sale (or, if earlier, January 15 of the year following the sale). A purchaser of units who purchases units from another unitholder is also generally required to notify us in writing of that purchase within 30 days after the purchase. Upon receiving such notifications, we are required to notify the IRS of that transaction and to furnish specified information to the transferor and transferee. Failure to notify us of a purchase may, in some cases, lead to the imposition of penalties. However, these reporting requirements do not apply to a sale by an individual who is a citizen of the United States and who effects the sale or exchange through a broker who will satisfy such requirements.

***Constructive Termination***

We will be considered to have technically terminated our partnership for federal income tax purposes if there is a sale or exchange of 50% or more of the total interests in our capital and profits within a twelve-month period. For purposes of determining whether the 50% threshold has been met, multiple sales of the same interest will be counted only once. Our technical termination would, among other things, result in the closing of our taxable year for all unitholders, which would result in us filing two tax returns (and our unitholders could receive two Schedules K-1 if relief was not available, as described below) for one fiscal year and could result in a deferral of depreciation deductions allowable in computing our taxable income. In the case of a unitholder reporting on a taxable year other than a fiscal year ending December 31, the closing of our taxable year may also result in more than twelve months of our taxable income or loss being includable in his taxable income for the year of termination. Our termination currently would not affect our classification as a partnership for federal income tax purposes, but instead we would be treated as a new partnership for federal income tax purposes. If treated as a new partnership, we must make new tax elections, including a new election under Section 754 of the Internal Revenue Code, and could be subject to penalties if we are unable to determine that a termination occurred. The IRS has announced a publicly traded partnership technical termination relief program whereby, if a publicly traded partnership that technically terminated requests publicly traded partnership technical termination relief and such relief is granted by the IRS, among other things, the partnership will only have to provide one Schedule K-1 to unitholders for the year notwithstanding two partnership tax years.

**Uniformity of Units**

Because we cannot match transferors and transferees of units, we must maintain uniformity of the economic and tax characteristics of the units to a purchaser of these units. In the absence of uniformity, we may be unable to completely comply with a number of federal income tax requirements, both statutory and regulatory. A lack of uniformity can result from a literal application of Treasury Regulation Section 1.167(c)-1(a)(6). Any non-uniformity could have a negative impact on the value of the units. Please read "—Tax Consequences of Unit Ownership—Section 754 Election." We depreciate the portion of a Section 743(b) adjustment attributable to unrealized appreciation in the value of Contributed Property, to the extent of any unamortized Book-Tax Disparity, using a rate of depreciation or amortization derived from the depreciation or amortization method and useful life applied to the property's unamortized Book-Tax Disparity, or treat that portion as nonamortizable, to the extent attributable to property the common basis of which is not amortizable, consistent with the regulations under Section 743 of the Internal Revenue Code, even though that position may be inconsistent with Treasury Regulation Section 1.167(c)-1(a)(6), which is not expected to directly apply to a material portion of our assets. Please read "—Tax Consequences of Unit Ownership—Section 754 Election." To the extent that the Section 743(b) adjustment is attributable to appreciation in value in excess of the unamortized Book-Tax Disparity, we will apply the rules described in the Treasury Regulations and legislative history. If we determine that this position cannot reasonably be taken, we may adopt a depreciation and amortization position under which all purchasers acquiring units in the same month would receive depreciation and amortization deductions, whether attributable to common basis or a Section 743(b) adjustment, based upon the same applicable rate as if they had purchased a direct interest in our assets. If this position is adopted, it may result in lower annual depreciation and amortization deductions than would otherwise be allowable to some unitholders and risk the loss of depreciation and amortization deductions not taken in the year that these deductions are otherwise allowable. This position will not be adopted if we determine that the loss of depreciation and amortization deductions will have a material adverse effect on the unitholders. If we choose not to utilize this aggregate method, we may use any other reasonable depreciation and amortization method to preserve the uniformity of the intrinsic tax characteristics of any units that would not have a material adverse effect on the unitholders. In either case, and as stated above under "—Tax Consequences of Unit Ownership—Section 754 Election," Latham & Watkins LLP has not rendered an opinion with respect to these methods. Moreover, the IRS may challenge any method of depreciating the Section 743(b) adjustment described in this paragraph. If this challenge were sustained, the uniformity of units might be affected, and the gain from the sale of units might be increased without the benefit of additional deductions. Please read "—Disposition of Common Units—Recognition of Gain or Loss."

**Tax-Exempt Organizations and Other Investors**

Ownership of units by employee benefit plans, other tax-exempt organizations, non-resident aliens, foreign corporations and other foreign persons raises issues unique to those investors and, as described below to a limited extent, may have substantially adverse tax consequences to them. Tax-exempt entities and non-U.S. persons should consult a tax advisor before investing in our common units. Employee benefit plans and most other organizations exempt from federal income tax, including individual retirement accounts and other retirement plans, are subject to federal income tax on unrelated business taxable income. A substantial portion of our income allocated to a unitholder that is a tax-exempt organization will be unrelated business taxable income and will be taxable to it.

Non-resident aliens and foreign corporations, trusts or estates that own units will be considered to be engaged in business in the United States because of the ownership of units. As a consequence, they will be required to file federal tax returns to report their share of our income, gain, loss or deduction and pay federal income tax at regular rates on their share of our net income or gain. Moreover, under rules applicable to publicly traded partnerships, our quarterly distribution to foreign unitholders will be

subject to withholding at the highest applicable effective tax rate. Each foreign unitholder must obtain a taxpayer identification number from the IRS and submit that number to our transfer agent on a Form W-8BEN, W-8BEN-E or applicable substitute form in order to obtain credit for these withholding taxes. A change in applicable law may require us to change these procedures.

In addition, because a foreign corporation that owns units will be treated as engaged in a U.S. trade or business, that corporation may be subject to the U.S. branch profits tax at a rate of 30%, in addition to regular federal income tax, on its share of our earnings and profits, as adjusted for changes in the foreign corporation's "U.S. net equity," that is effectively connected with the conduct of a U.S. trade or business. That tax may be reduced or eliminated by an income tax treaty between the United States and the country in which the foreign corporate unitholder is a "qualified resident." In addition, this type of unitholder is subject to special information reporting requirements under Section 6038C of the Internal Revenue Code.

A foreign unitholder who sells or otherwise disposes of a common unit will be subject to U.S. federal income tax on gain realized from the sale or disposition of that unit to the extent the gain is effectively connected with a U.S. trade or business of the foreign unitholder. Under a ruling published by the IRS, interpreting the scope of "effectively connected income," a foreign unitholder would be considered to be engaged in a trade or business in the United States by virtue of the U.S. activities of the partnership, and part or all of that unitholder's gain would be effectively connected with that unitholder's indirect U.S. trade or business. Moreover, under the Foreign Investment in Real Property Tax Act, a foreign common unitholder (other than certain "qualified foreign pension funds" (or an entity all of the interests of which are held by such a qualified foreign pension fund), which generally are entities or arrangements that are established and regulated by foreign law to provide retirement or other pension benefits to employees, do not have a single participant or beneficiary that is entitled to more than 5% of the assets or income of the entity or arrangement and are subject to certain preferential tax treatment under the laws of the applicable foreign country) generally will be subject to U.S. federal income tax upon the sale or disposition of a common unit if (1) he owned (directly or constructively applying certain attribution rules) more than 5% of our common units at any time during the five-year period ending on the date of such disposition and (2) 50% or more of the fair market value of all of our assets consisted of U.S. real property interests at any time during the shorter of the period during which such unitholder held the common units or the five-year period ending on the date of disposition. Currently, more than 50% of our assets consist of U.S. real property interests and we do not expect that to change in the foreseeable future. Therefore, foreign unitholders may be subject to federal income tax on gain from the sale or disposition of their units.

**Administrative Matters**

***Information Returns and Audit Procedures***

We intend to furnish to each unitholder, within 90 days after the close of each calendar year, specific tax information, including a Schedule K-1, which describes his share of our income, gain, loss and deduction for our preceding taxable year. In preparing this information, which will not be reviewed by counsel, we will take various accounting and reporting positions, some of which have been mentioned earlier, to determine each unitholder's share of income, gain, loss and deduction. We cannot assure you that those positions will yield a result that conforms to the requirements of the Internal Revenue Code, Treasury Regulations or administrative interpretations of the IRS. Neither we nor Latham & Watkins LLP can assure prospective unitholders that the IRS will not successfully contend in court that those positions are impermissible. Any challenge by the IRS could negatively affect the value of the units.

The IRS may audit our federal income tax information returns. Adjustments resulting from an IRS audit may require each unitholder to adjust a prior year's tax liability, and possibly may result in an

audit of his return. Any audit of a unitholder's return could result in adjustments not related to our returns as well as those related to our returns.

Partnerships generally are treated as separate entities for purposes of federal tax audits, judicial review of administrative adjustments by the IRS and tax settlement proceedings. The tax treatment of partnership items of income, gain, loss and deduction are determined in a partnership proceeding rather than in separate proceedings with the partners. The Internal Revenue Code requires that one partner be designated as the "Tax Matters Partner" for these purposes. Our partnership agreement names our general partner as our Tax Matters Partner.

The Tax Matters Partner has made and will make some elections on our behalf and on behalf of unitholders. In addition, the Tax Matters Partner can extend the statute of limitations for assessment of tax deficiencies against unitholders for items in our returns. The Tax Matters Partner may bind a unitholder with less than a 1% profits interest in us to a settlement with the IRS unless that unitholder elects, by filing a statement with the IRS, not to give that authority to the Tax Matters Partner. The Tax Matters Partner may seek judicial review, by which all the unitholders are bound, of a final partnership administrative adjustment and, if the Tax Matters Partner fails to seek judicial review, judicial review may be sought by any unitholder having at least a 1% interest in profits or by any group of unitholders having in the aggregate at least a 5% interest in profits. However, only one action for judicial review will go forward, and each unitholder with an interest in the outcome may participate.

A unitholder must file a statement with the IRS identifying the treatment of any item on his federal income tax return that is not consistent with the treatment of the item on our return. Intentional or negligent disregard of this consistency requirement may subject a unitholder to substantial penalties.

Pursuant to the Bipartisan Budget Act of 2015, for tax years beginning after December 31, 2017, if the IRS makes audit adjustments to our income tax returns, it may assess and collect any taxes (including any applicable penalties and interest) resulting from such audit adjustment directly from us. Generally, we expect to elect to have our general partner and our unitholders take such audit adjustment into account in accordance with their interests in us during the tax year under audit, but there can be no assurance that such election will be effective in all circumstances. If we are unable to have our general partner and our unitholders take such audit adjustment into account in accordance with their interests in us during the tax year under audit, our current unitholders may bear some or all of the tax liability resulting from such audit adjustment, even if such unitholders did not own units in us during the tax year under audit. If, as a result of any such audit adjustment, we are required to make payments of taxes, penalties and interest, our cash available for distribution to our unitholders might be substantially reduced. These rules are not applicable to us for tax years beginning on or prior to December 31, 2017.

Additionally, pursuant to the Bipartisan Budget Act of 2015, the Code will no longer require that we designate a Tax Matters Partner. Instead, for tax years beginning after December 31, 2017, we will be required to designate a partner, or other person, with a substantial presence in the United States as the partnership representative ("Partnership Representative"). The Partnership Representative will have the sole authority to act on our behalf for purposes of, among other things, federal income tax audits and judicial review of administrative adjustments by the IRS. If we do not make such a designation, the IRS can select any person as the Partnership Representative. We currently anticipate that we will designate our general partner as our Partnership Representative. Further, any actions taken by us or by the Partnership Representative on our behalf with respect to, among other things, federal income tax audits and judicial review of administrative adjustments by the IRS, will be binding on us and all of our unitholders. These rules are not applicable to us for tax years beginning on or prior to December 31, 2017.

***Additional Withholding Requirements***

Withholding taxes may apply to certain types of payments made to "foreign financial institutions" (as specially defined in the Internal Revenue Code) and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on rents, interest, dividends and other fixed or determinable annual or periodical gains, profits and income from sources within the United States ("FDAP Income"), or gross proceeds from the sale or other disposition of any property of a type that can produce interest or dividends from sources within the United States ("Gross Proceeds") paid to a foreign financial institution or to a "non-financial foreign entity" (as specially defined in the Internal Revenue Code), unless (1) the foreign financial institution undertakes certain diligence and reporting, (2) the non-financial foreign entity either certifies it does not have any substantial U.S. owners or furnishes identifying information regarding each substantial U.S. owner or (3) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in clause (1) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain U.S. persons or U.S.-owned foreign entities, annually report certain information about such accounts, and withhold 30% on payments to noncompliant foreign financial institutions and certain other account holders.

These rules generally currently apply to payments of FDAP Income and will apply to payments of relevant Gross Proceeds made on or after January 1, 2019. Thus, to the extent we have FDAP Income or we have Gross Proceeds on or after January 1, 2019 that are not treated as effectively connected with a U.S. trade or business (please read "—Tax-Exempt Organizations and Other Investors"), unitholders who are foreign financial institutions or certain other non-U.S. entities may be subject to withholding on distributions they receive from us, or their distributive share of our income, pursuant to the rules described above.

Prospective investors should consult their own tax advisors regarding the potential application of these withholding provisions to their investment in our common units.

***Nominee Reporting***

Persons who hold an interest in us as a nominee for another person are required to furnish to us:

- the name, address and taxpayer identification number of the beneficial owner and the nominee;
- whether the beneficial owner is:
    - a person that is not a U.S. person;
    - a foreign government, an international organization or any wholly owned agency or instrumentality of either of the foregoing; or
    - a tax-exempt entity;
- the amount and description of units held, acquired or transferred for the beneficial owner; and
- specific information including the dates of acquisitions and transfers, means of acquisitions and transfers, and acquisition cost for purchases, as well as the amount of net proceeds from dispositions.

Brokers and financial institutions are required to furnish additional information, including whether they are U.S. persons and specific information on units they acquire, hold or transfer for their own account. A penalty of $250 per failure, up to a maximum of $3,000,000 per calendar year, is imposed by the Internal Revenue Code for failure to report that information to us. The nominee is required to supply the beneficial owner of the units with the information furnished to us.

***Accuracy-Related Penalties***

An additional tax equal to 20% of the amount of any portion of an underpayment of tax that is attributable to one or more specified causes, including negligence or disregard of rules or regulations, substantial understatements of income tax and substantial valuation misstatements, is imposed by the Internal Revenue Code. No penalty will be imposed, however, for any portion of an underpayment if it is shown that there was a reasonable cause for that portion and that the taxpayer acted in good faith regarding that portion.

For individuals, a substantial understatement of income tax in any taxable year exists if the amount of the understatement exceeds the greater of 10% of the tax required to be shown on the return for the taxable year or $5,000 ($10,000 for most corporations). The amount of any understatement subject to penalty generally is reduced if any portion is attributable to a position adopted on the return:

- for which there is, or was, "substantial authority"; or
- as to which there is a reasonable basis and the pertinent facts of that position are disclosed on the return.

If any item of income, gain, loss or deduction included in the distributive shares of unitholders might result in that kind of an "understatement" of income for which no "substantial authority" exists, we must disclose the pertinent facts on our return. In addition, we will make a reasonable effort to furnish sufficient information for unitholders to make adequate disclosure on their returns and to take other actions as may be appropriate to permit unitholders to avoid liability for this penalty. More stringent rules apply to "tax shelters," which we do not believe includes us, or any of our investments, plans or arrangements.

A substantial valuation misstatement exists if (a) the value of any property, or the adjusted basis of any property, claimed on a tax return is 150% or more of the amount determined to be the correct amount of the valuation or adjusted basis, (b) the price for any property or services (or for the use of property) claimed on any such return with respect to any transaction between persons described in Internal Revenue Code Section 482 is 200% or more (or 50% or less) of the amount determined under Section 482 to be the correct amount of such price, or (c) the net Internal Revenue Code Section 482 transfer price adjustment for the taxable year exceeds the lesser of $5.0 million or 10% of the taxpayer's gross receipts. No penalty is imposed unless the portion of the underpayment attributable to a substantial valuation misstatement exceeds $5,000 ($10,000 for most corporations). If the valuation claimed on a return is 200% or more than the correct valuation or certain other thresholds are met, the penalty imposed increases to 40%. We do not anticipate making any valuation misstatements.

In addition, the 20% accuracy-related penalty also applies to any portion of an underpayment of tax that is attributable to transactions lacking economic substance. To the extent that such transactions are not disclosed, the penalty imposed is increased to 40%. Additionally, there is no reasonable cause defense to the imposition of this penalty to such transactions.

***Reportable Transactions***

If we were to engage in a "reportable transaction," we (and possibly you and others) would be required to make a detailed disclosure of the transaction to the IRS. A transaction may be a reportable transaction based upon any of several factors, including the fact that it is a type of tax avoidance transaction publicly identified by the IRS as a "listed transaction" or that it produces certain kinds of losses for partnerships, individuals, S corporations, and trusts in excess of $2.0 million in any single year, or $4.0 million in any combination of six successive tax years. Our participation in a reportable transaction could increase the likelihood that our federal income tax information return (and possibly your tax return) would be audited by the IRS. Please read "—Administrative Matters—Information Returns and Audit Procedures."

Moreover, if we were to participate in a reportable transaction with a significant purpose to avoid or evade tax, or in any listed transaction, you may be subject to the following additional consequences:

- accuracy-related penalties with a broader scope, significantly narrower exceptions, and potentially greater amounts than described above at "—Administrative Matters—Accuracy-Related Penalties";
- for those persons otherwise entitled to deduct interest on federal tax deficiencies, nondeductibility of interest on any resulting tax liability; and
- in the case of a listed transaction, an extended statute of limitations.

We do not expect to engage in any "reportable transactions."

**Recent Legislative Developments**

The present federal income tax treatment of publicly traded partnerships, including us, or an investment in our common units may be modified by administrative, legislative or judicial interpretation at any time. For example, members of Congress and the President have periodically considered substantive changes to the existing federal income tax laws that would affect the tax treatment of certain publicly traded partnerships, including the elimination of partnership tax treatment for publicly traded partnerships. Any modification to the federal income tax laws and interpretations thereof may or may not be retroactively applied and could make it more difficult or impossible to satisfy the requirements of the exception pursuant to which we are treated as a partnership for federal income tax purposes. Please read "—Partnership Status." We are unable to predict whether any such changes will ultimately be enacted. However, it is possible that a change in law could affect us, and any such changes could negatively impact the value of an investment in our common units.

**State, Local, Foreign and Other Tax Considerations**

In addition to federal income taxes, our unitholders will likely be subject to other taxes, such as state, local and foreign income taxes, unincorporated business taxes, and estate, inheritance or intangible taxes that may be imposed by the various jurisdictions in which we do business or own property or in which such unitholders reside. Although an analysis of those various taxes is not presented here, each prospective unitholder should consider their potential impact on his investment in us. We own property and do business throughout the United States. Many states impose an income tax on individuals, corporations and other entities. Although a unitholder may not be required to file a return and pay taxes in some jurisdictions because his income from that jurisdiction falls below the filing and payment requirements, unitholders will be required to file income tax returns and to pay income taxes in many of these jurisdictions in which we do business or own property and may be subject to penalties for failure to comply with those requirements. In some jurisdictions, tax losses may not produce a tax benefit in the year incurred and may not be available to offset income in subsequent taxable years. Some of the jurisdictions may require us, or we may elect, to withhold a percentage of income from amounts to be distributed to a unitholder who is not a resident of the jurisdiction. Withholding, the amount of which may be greater or less than a particular unitholder's income tax liability to the jurisdiction, generally does not relieve a nonresident unitholder from the obligation to file an income tax return. Amounts withheld will be treated as if distributed to unitholders for purposes of determining the amounts distributed by us. Please read "—Tax Consequences of Unit Ownership—Entity-Level Collections." Based on current law and our estimate of our future operations, our general partner anticipates that any amounts required to be withheld will not be material.

**It is the responsibility of each unitholder to investigate the legal and tax consequences, under the laws of pertinent states, localities and foreign jurisdictions, of his investment in us. Accordingly, each prospective unitholder is urged to consult his tax counsel or other advisor with regard to those matters. Further, it is the responsibility of each unitholder to file all state, local and foreign, as well as U.S. federal tax returns, that may be required of him. Latham & Watkins LLP has not rendered an opinion on the state tax, local tax, alternative minimum tax or foreign tax consequences of an investment in us.**

## INVESTMENT IN LANDMARK INFRASTRUCTURE PARTNERS LP BY EMPLOYEE BENEFIT PLANS

An investment in our common units by an employee benefit plan is subject to certain additional considerations because the investments of these plans are subject to the fiduciary responsibility and prohibited transaction provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the prohibited transaction restrictions imposed by Section 4975 of the Code or provisions under any federal, state, local, non-U.S. or other laws, rules or regulations that are similar to such provisions of the Internal Revenue Code or ERISA, which we refer to collectively as "Similar Laws." As used herein, the term "employee benefit plan" includes, but is not limited to, qualified pension, profit-sharing and stock bonus plans, certain Keogh plans, certain simplified employee pension plans and tax deferred annuities or individual retirement accounts or other arrangements established or maintained by an employer or employee organization, and entities whose underlying assets are considered to include "plan assets" of such plans, accounts and arrangements.

This summary is based on the provisions of ERISA and the Internal Revenue Code (and related regulations and administrative and judicial interpretations) as of the date of this prospectus. This summary does not purport to be complete and future legislation, court decisions, administrative regulations, rulings or administrative pronouncements could significantly modify the requirements summarized below. Any of these changes may be retroactive and, therefore, may apply to transactions entered into prior to the date of their enactment or release.

**General Fiduciary Matters**

ERISA and the Internal Revenue Code impose certain duties on persons who are fiduciaries of an employee benefit plan that is subject to Title I of ERISA or Section 4975 of the Internal Revenue Code, which we refer to as an "ERISA Plan," and prohibit certain transactions involving the assets of an ERISA Plan and its fiduciaries or other interested parties. Under ERISA and the Internal Revenue Code, any person who exercises any discretionary authority or control over the administration of such an ERISA Plan or the management or disposition of the assets of an ERISA Plan, or who renders investment advice for a fee or other compensation to an ERISA Plan, is generally considered to be a fiduciary of the ERISA Plan. In considering an investment in our common units with any portion of the assets of an employee benefit plan, a fiduciary of the employee benefit plan should consider, among other things, whether the investment is in accordance with the documents and instruments governing the employee benefit plan and the applicable provisions of ERISA, the Internal Revenue Code or any applicable Similar Law relating to the fiduciary's duties to the employee benefit plan, including, without limitation:

(a) whether the investment is prudent under Section 404(a)(1)(B) of ERISA and any other applicable Similar Laws;

(b) whether, in making the investment, the employee benefit plan will satisfy the diversification requirements of Section 404(a)(1)(C) of ERISA and any other applicable Similar Laws;

(c) whether making the investment will comply with the delegation of control and prohibited transaction provisions under Section 406 of ERISA, Section 4975 of the Internal Revenue Code and any other applicable Similar Laws (please read the discussion under "—Prohibited Transaction Issues" below);

(d) whether in making the investment, the employee benefit plan will be considered to hold, as plan assets, (1) only the investment in our common units or (2) an undivided interest in our underlying assets (please read the discussion under "—Plan Asset Issues" below); and

(e) whether the investment will result in recognition of unrelated business taxable income by the employee benefit plan and, if so, the potential after-tax investment return. Please read "Material U.S. Income Tax Considerations of Common Unit Ownership."

**Prohibited Transaction Issues**

Section 406 of ERISA and Section 4975 of the Internal Revenue Code prohibit employee benefit plans (and certain IRAs that are not considered part of an employee benefit plan) from engaging in certain transactions involving "plan assets" with parties that are "parties in interest" under ERISA or "disqualified persons" under the Code with respect to the employee benefit plan or IRA, unless an exemption is applicable. A party in interest or disqualified person who engages in a non-exempt prohibited transaction may be subject to excise taxes and other penalties and liabilities under ERISA and the Internal Revenue Code. In addition, the fiduciary of the ERISA Plan that engaged in such a non-exempt prohibited transaction may be subject to excise taxes, penalties and liabilities under ERISA and the Internal Revenue Code.

Because of the foregoing, our common units by any person investing "plan assets" of any employee benefit plan, unless such purchase and holding (or conversion, if any) will not constitute a non-exempt prohibited transaction under ERISA or the Internal Revenue Code or similar violation of any applicable Similar Laws.

**Plan Asset Issues**

In connection with an investment in the common units with any portion of the assets of an employee benefit plan, in addition to considering whether the purchase of our common units is a prohibited transaction, a fiduciary of an employee benefit plan should consider whether the plan will, by investing in our common units, be deemed to own an undivided interest in our assets, with the result that our general partner also would be a fiduciary of the plan and our operations would be subject to the regulatory restrictions of ERISA, including its prohibited transaction rules, as well as the prohibited transaction rules of the Internal Revenue Code and any other applicable Similar Laws. In addition, if our assets are deemed to be "plan assets" under ERISA, this would result, among other things, in (a) the application of the prudence and other fiduciary responsibility standards of ERISA to investments made by us, and (b) the possibility that certain transaction in which we seek to engage could constitute "prohibited transaction" under the Internal Revenue Code, ERISA and any other applicable Similar Laws.

The Department of Labor regulations, as modified by Section 3(42) of ERISA, provide guidance with respect to whether, in certain circumstances, the assets of an entity in which employee benefit plans acquire equity interests would be deemed "plan assets." Under these regulations, an entity's underlying assets generally would not be considered to be "plan assets" if, among other things:

(a) the equity interests acquired by the employee benefit plan are "publicly offered securities"—i.e., the equity interests are part of a class of securities that are widely held by 100 or more investors independent of the issuer and each other, "freely transferable" (as defined in the applicable Department of Labor regulations) and either part of a class of securities registered pursuant to certain provisions of the federal securities laws or sold to the plan as part of a public offering under certain conditions;

(b) the entity is an "operating company"—i.e., it is primarily engaged in the production or sale of a product or service other than the investment of capital either directly or through a majority-owned subsidiary or subsidiaries, or it qualifies as a "venture capital operating company" or a "real estate operating company"; or

(c) there is no "significant" investment by benefit plan investors (as defined in Section 3(42) of ERISA), which is defined to mean that, immediately after the most recent acquisition of an equity interest in any entity by an employee benefit plan, less than 25% of the total value of each class of equity interest, (disregarding certain interests held by our general partner, its affiliates and certain other persons who have discretionary authority or control with respect to the assets of the entity or provide investment advice for a fee with respect to such assets) is held by the employee benefit plans that are subject to part 4 of Title I of ERISA (which excludes governmental plans and non-electing church plans) and/or Section 4975 of the Internal Revenue Code, IRAs and certain other employee benefit plans not subject to ERISA (such as electing church plans).

With respect to an investment in our common units, we believe that our assets should not be considered "plan assets" under these regulations because it is expected that the investment will satisfy the requirements in (a) above and may also satisfy the requirements in (b) and/or (c) above (although there is little applicable Department of Labor guidance with respect to whether we may qualify as an "operating company" as required for compliance with (b), and we do not monitor the level of investment by benefit plan investors as required for compliance with (c)).

**The foregoing discussion of issues arising for employee benefit plan investments under ERISA, the Internal Revenue Code and applicable Similar Laws is general in nature and is not intended to be all inclusive, nor should it be construed as legal advice. Plan fiduciaries and other persons contemplating a purchase of our common units should consult with their own counsel regarding the potential applicability of and consequences of such purchase under ERISA, the Internal Revenue Code and other Similar Laws in light of the complexity of these rules and the serious penalties, excise taxes and liabilities imposed on persons who engage in non-exempt prohibited transactions or other violations. The sale of any common units by or to any employee benefit plan is in no respect a representation by us or any of our affiliates or representatives that such an investment meets all relevant legal requirements with respect to investments by such employee benefit plans generally or any particular employee benefit plan, or that such an investment is appropriate for such employee benefit plans generally or any particular employee benefit plan.**

**Representation**

By purchase or acceptance of the common units, each purchaser and subsequent transferee of the common units will be deemed to have represented and warranted that either (i) no portion of the assets used by such purchaser or transferee to acquire and hold the common units constitutes assets of any employee benefit plan or (ii) the purchase and holding (and any conversion, if applicable) of the common units by such purchaser or transferee will not constitute a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Internal Revenue Code or similar violation under any applicable Similar Laws.

## SELLING UNITHOLDERS

In general, the persons to whom we issue common units under this prospectus will be able to resell those common units, subject to certain conditions, in the public markets without further registration and without being required to deliver a prospectus. However, certain persons who are "affiliates," as defined by the SEC's rules, of an entity acquired by us or any of our subsidiaries may be deemed "underwriters" in connection with the sale of our common units received hereunder, unless those common units are sold pursuant to the provisions of Rule 145 of the Securities Act. Sales of our common units by persons deemed "underwriters" may be made pursuant to this prospectus and the registration statement of which it is a part. For any such sales, we will provide information concerning the selling unitholders either in a post-effective amendment to the registration statement of which this prospectus is a part or in a prospectus supplement.

## LEGAL MATTERS

Particular legal matters related to the common units described in this prospectus have been passed upon for us by Latham & Watkins LLP, Costa Mesa, California.

## EXPERTS

The consolidated and combined financial statements of Landmark Infrastructure Partners LP appearing in Landmark Infrastructure Partners LP's Annual Report (Form 10-K) for the year ended December 31, 2015 including the schedule appearing therein, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon included therein, and incorporated herein by reference. Such consolidated and combined financial statements are incorporated herein by reference in reliance upon such report given on the authority of such firm as expert in accounting and auditing.

## WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION OF DOCUMENTS BY REFERENCE

We file annual, quarterly, current and other reports with the SEC under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (File No. 001-36735). You may read and copy any document we file with the SEC at the SEC's public reference room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room. Our SEC filings are also available to the public through the SEC's website at *www.sec.gov*.

Our internet address is *www.landmarkmlp.com*. Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and other filings with the SEC are available, free of charge, through our website, as soon as reasonably practicable after those reports or filings are electronically filed with or furnished to the SEC. Information on our website or any other website is not incorporated by reference into this prospectus and you should not consider information contained on our website as part of this prospectus.

We "incorporate by reference" information into this prospectus, which means that we disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is deemed to be part of this prospectus, except for any information superseded by information contained expressly in this prospectus. You should not assume that the information in this prospectus is current as of the date other than the date on the cover page of this prospectus.

We incorporate by reference in this prospectus the documents listed below and any subsequent filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act (excluding information deemed to be furnished and not filed with the SEC) until all offerings under the registration statement of which this prospectus forms a part are completed or terminated:

- our Annual Report on Form 10-K for the year ended December 31, 2015, as filed with the SEC on February 16, 2016;
- our Current Reports on Form 8-K as filed with the SEC on February 2, 2016 (but only with respect to the information under Item 5.02) and February 16, 2016 (with respect to Items 1.01 and 9.01), respectively; and
- the description of our common units contained in our Registration Statement on Form 8-A (File No. 001-36735) as filed with the SEC on November 7, 2014.

We are also incorporating by reference all additional documents we may file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date hereof and prior to the effectiveness of the registration statement of which this prospectus forms a part.

You may request a copy of any document incorporated by reference in this prospectus and any exhibit specifically incorporated by reference in those documents, at no cost, by writing or telephoning us at the following address or phone number:

Landmark Infrastructure Partners LP
2141 Rosecrans Avenue, Suite 2100
El Segundo, CA 90245
Attention: George P. Doyle
Chief Financial Officer and Treasurer
Telephone: (310) 598-3173

No dealer, salesperson or other person has been authorized to give any information or to make representations other than those contained in this prospectus, and if given or made, such information or representations must not be relied upon as having been authorized by us. Neither the delivery of this prospectus nor any sale made hereunder shall under any circumstances create an implication that the information herein or incorporated by reference herein is correct as of any time subsequent to its date. The prospectus does not constitute an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to anyone to whom it is unlawful to make such offer or solicitation.


# Landmark Infrastructure Partners LP

## 5,000,000 Common Units
## Representing Limited Partner Interests

**PROSPECTUS**

**March 10, 2016**

LANDMARK
INFRASTRUCTURE

2141 Rosecrans Ave, Ste. 2100 – El Segundo, CA 90245
(866) 392-4200 - (310) 294-8160

July 10, 2018

City Of Valdez
PO BOX 307
Valdez, AK, 99686-0307

**Re: Letter of Intent for Contribution of Telecommunications Easement and Lease Rights**

Dear City Of Valdez:

This letter of intent ("**LOI**") shall set forth the material terms and conditions upon which Landmark Infrastructure Partners LP or its designee, will acquire the Contributor's interest in the Lease (as defined below) and an Easement (as defined below) relating thereto. This LOI is not intended to constitute a binding agreement, but rather to serve as the basis for negotiating and drafting a definitive contribution of lease agreement and grant of easement between the parties containing the terms stated in this LOI as well as other terms and conditions to be determined (the "**Contribution Agreement**"). Despite the foregoing, it is understood and agreed that this LOI binds the parties to negotiate in good faith for a period of 60 days for the completion of such a definitive Contribution Agreement.

| | |
|---|---|
| **Acquiror** | Landmark Infrastructure Partners LP, or its designee |
| **Contributor(s)** | City Of Valdez |
| **Title Company** | Fidelity National Title Insurance Company |
| **Property** | See Exhibit "A" attached hereto. |
| **Lease(s)** | Contributor shall contribute, transfer and assign to Acquiror all of Contributor's right, title and interest in and to that certain lease(s), as amended, and described in and attached hereto as Exhibit "B" (the "**Lease(s)**"); however, Contributor shall retain and continue to faithfully perform and discharge any and all of Contributor's obligations as lessor/fee owner under the Lease, as more specifically set forth in the Contribution Agreement. |
| **Easement** | Contributor shall grant and convey to Acquiror an exclusive easement (the "**Telecom Easement**"), for the Term below, in, to, under and over the portion or portions of the Property on which the Lease grants exclusive possession to that certain tenant, (the "**Leased Premises**") for telecommunications purposes. Contributor shall also grant to Acquiror a non-exclusive easement in, to, under and across those portions of the Property to which the Lease grants to that tenant non-exclusive possession or ingress and egress to the Leased Premises (the **"Access Easement"**). |
| **Term** | The term of the Telecom Easement and Assignment of Lease shall be 180 months. |
| **Purchase Price/Consideration** | A number of newly issued registered common units of Landmark Infrastructure Partners LP (NASDAQ: LMRK) ("**Common Units**") equal to $155,000.00 (which is based upon the initial analysis of the Lease(s) and associated revenue for the Lease(s) as identified in Exhibit "B" and subject to verification and adjustment during Due Diligence Period (defined below)), divided by the volume-weighted average price of the Common Units, as reported by the NASDAQ for the five [5] trading days ending three [3] trading days prior to the Closing Date. The investment prospectus of LMRK is attached hereto as |

Exhibit C and incorporated herein by reference. The marketing materials of LMRK are attached hereto as Exhibit D and incorporated herein by reference.

**Contributor Costs** Intentionally Omitted.

**Due Diligence Period** Acquiror shall have 60 calendar days after the execution and delivery of this LOI by Acquiror and Contributor (the "**Due Diligence Period**") to review and approve, in its sole and absolute discretion:

1) Property/Lease Conditions. Copies of all documents in Contributor's possession or control pertaining to the legal, financial and physical condition of the Lease and the Property (as it relates to the Lease), including without limitation, the Lease and any amendments thereto, prior title reports, survey(s) of all or any portion of the Property, notices received by Contributor with respect to any building or zoning code violation, any environmental violation at the Property or eminent domain proceedings, other leases affecting the Property (as it relates to the Lease), together with all modifications and amendments thereto, any correspondence from any tenant under the Lease, (together, the **"Contributor's Documents"**) all of which Contributor shall deliver to Acquiror within five (5) business days following execution and delivery of this LOI.

Further, during the Due Diligence Period, Acquiror shall have the right to enter upon the Telecom Easement and Leased Premises to conduct such inspections and feasibility studies of the Telecom Easement and Leased Premises as Acquiror shall consider necessary, in its sole discretion and at its expense. Acquiror shall be liable for any damage arising out if its presence on the Property.

2) Title Documents. A preliminary title report, together with all underlying title exception documents thereto, for the Property (the "**Title Report**"), which Acquiror shall cause Title Company to prepare and deliver to Acquiror promptly following execution of this LOI, at Acquiror's expense. The Due Diligence Period shall commence upon the execution and delivery of this LOI.

In the event Acquiror disapproves of any aspect of the Lease or title to the Property, then Acquiror shall have the right to terminate this LOI and Contribution Agreement (if applicable) by delivering written notice to Contributor no later than the expiration of the Due Diligence Period, and by returning to Contributor all Contributor's Documents delivered to Acquiror, and Acquiror and Contributor shall be released from any and all further obligations under this LOI and the Contribution Agreement (as applicable).

**Cooperation and Information** Contributor shall reasonably cooperate with Acquiror's investigations including, without limitation, providing the Contributor's Documents and, facilitating Acquiror's receipt of information about the Property and the Lease from applicable public agencies, all at no material expense to Contributor. Acquiror shall conduct its due diligence in a manner so as to interfere as little as possible with any other tenants on the Property. Acquiror shall make available to Contributor Acquiror's most recent prospectus and any relevant free writing prospectuses filed by Acquiror with the Securities and Exchange Commission relating to the Common Units.

**Operation of Property** Contributor shall not modify, amend, supplement, extend, renew, terminate or cancel the Lease during the term of this LOI. After the Closing, Contributor shall continue to operate the Property to the extent it affects the Lease or Telecom Easement granted herein, and will be responsible for all operating costs associated with the operation of the Property to the extent required in the Lease, as identified in the Contribution Agreement.

**Closing Date** The close of the transaction contemplated by the LOI and Contribution Agreement (the "**Closing Date**") shall occur within fifteen (15) business days from the expiration of the Contribution Agreement Approval Period. In the event Acquiror is not able to Close on

the Closing Date, Contributor shall have the right to terminate this LOI, and the Contribution Agreement, if executed.

**Representations and Warranties**

Contributor hereby represents that it is the lessor under the Lease, the owner of the Property, and that AT&T Mobility, General Communications is the tenant(s) ("**Tenant(s)**") of the Leased Premises under the Lease(s). Acquiror and Contributor shall make such other representations and warranties to the other as are contained in the Contribution Agreement.

**Conditions Precedent to Closing**

Acquiror's obligation to purchase the Property shall be subject to such conditions precedent as are contained in the Contribution Agreement, including, without limitation, the following:

1) Due Diligence Approval. Acquiror's approval, in its sole and absolute discretion, of the due diligence matters described above during the Due Diligence Period.

2) Successful acquisition of any consent or waivers, if required from the Tenant under the Lease.

3) Title Policy. Acquiror shall have obtained from the Title Company a commitment to issue a 2006 ALTA Owner's Policy of title insurance for the leasehold/easement interests to be acquired by Acquiror, subject only to those exceptions that Acquiror has approved during the Due Diligence Period (the "**Title Commitment**").

4) Non-Disturbance Agreements. If applicable, a fully executed Non-Disturbance Attornment and Partial Release of Leases and Rents ("**NDA**") in form acceptable to Acquiror and Contributor (in their reasonable discretion) from any of Acquiror's mortgagees with an existing encumbrance on title to the Property, thereby authorizing Acquiror to enter into the Contribution Agreement and allowing Contributor to perform the actions set forth in this LOI.

The failure of any of the foregoing conditions precedent shall entitle Acquiror to terminate this LOI and the Contribution Agreement (as applicable), on or before the end of the Due Diligence Period. In addition, Acquiror's obligation to close the transaction under the Contribution Agreement shall be conditioned upon the Title Company delivering at Closing a title policy in the form of the Title Commitment approved during the Due Diligence Period.

**Closing Costs**

Acquiror shall pay all of its own fees, costs (including its legal costs), and expenses in connection with its due diligence and the negotiation of the Contribution Agreement. Contributor shall bear all of its own fees, costs (including its legal costs), and expenses in connection with its obligation to cooperate with Acquiror with respect to Acquiror's due diligence as well as the negotiation of the Contribution Agreement. Acquiror shall pay the Title Policy premium, recording fees, closing costs and escrow fees. Contributor shall pay any transfer taxes. Notwithstanding anything herein to the contrary, if Acquiror does not terminate this LOI during the Due Diligence Period, and Contributor refuses to close, Acquiror shall, in addition to its other rights and remedies, be entitled to compensation for its time, effort and expense to evaluate this transaction (not to exceed $6,500.00) and, in any action to enforce this provision or the Contribution Agreement, to recovery of its reasonable attorneys' fees.

**Taxable Basis**

The parties hereto agree that Contributor's taxable basis in the real property contributed to Acquiror is zero ($0.00).

**Governing Law and Jurisdiction**

State of Alaska.

| | |
|---|---|
| **Definitive Contribution Agreement** | Acquiror will prepare and deliver to Contributor a proposed Contribution Agreement and Assignment of Lease, substantially in the form attached hereto as Exhibit E and incorporated herein by reference, the Telecom Easement, and ancillary documents relating thereto, within thirty (30) days after the full execution of this LOI. The Contribution Agreement will include, among other things, the terms specified in this LOI, representations from the Contributor required by Acquiror in connection with the sale of unregistered securities and such other terms and conditions as are customary for the type of transaction contemplated hereby. This LOI is contingent upon both Contributor and Acquiror agreeing to the terms of those documents prior to the end of the Due Diligence Period (the **"Contribution Agreement Approval Period"**). If the parties do not agree to such documents by that time, either Contributor or Acquiror may terminate this LOI and all obligations thereunder. |
| **Exclusivity** | Contributor shall not, directly or indirectly, (a) offer the Lease or the Property for sale or assignment to any other person during the term of this LOI; or (b) negotiate, solicit or entertain any offers to sell or assign any interest in the Lease or Premises to any other person during the term of this LOI. |
| **Confidentiality** | This LOI and all information exchanged between the parties in connection herewith shall be kept confidential, shall not be reproduced or disclosed, and shall not be used by either party other than in connection with evaluating and concluding the transactions described herein, except that each party may disclose such confidential information: (a) to attorneys, consultants, accountants, lenders and other professionals to the extent necessary to perform such party's obligations or exercise rights hereunder, and (b) if required by applicable law or court order. |
| **Broker's Commissions** | Each party shall indemnify and hold harmless the other party from the payment of any commission or fee to any broker, salesman or agent claiming by, through or under such indemnifying party. Each party shall pay its brokers fees and commissions, if any, in connection with this transaction subject to the terms of a separate agreement. |

This document is intended to constitute a non-binding letter of intent only, except for the parties' respective obligations to negotiate in good faith for a period of 60 days after execution and delivery of this LOI, for the completion of such a definitive agreement for purchase and sale of the Contributor's interest in the Lease; the Exclusivity, Confidentiality, and inspection damages provisions, as set forth above, shall also be binding from and after the mutual execution of this LOI. Completion of the transaction contemplated by this LOI is subject to the negotiation and execution of a mutually acceptable Contribution Agreement, the terms of which, if executed and delivered by both parties, shall govern the rights and obligations of both parties.

If this Option Agreement is not executed by you, by October 08, 2018, it shall be void and of no further cause or effect.

**[SIGNATURES ON THE FOLLOWING PAGE]**

**AGREED AND ACCEPTED:**

**ACQUIROR:**

LANDMARK INFRASTRUCTURE PARTNERS LP,
a Delaware limited partnership

by: Landmark Infrastructure Partners GP LLC,
its general partner

By: _____
Name: _____
Its: _____

**CONTRIBUTOR:**

City Of Valdez

By: _____
Name: _____
Its: _____

## Exhibit "A"

## Property Legal Description

**[To be inserted from Title Report Ordered by Landmark]**

## Exhibit "B"

| Tenant/ Carrier | Term Purchased | Current Rent | Rent Frequency | Escalation Rate | Escalation Frequency | Date of Next Escalation |
|---|---|---|---|---|---|---|
| AT&T Mobility | 180 Months | $9,600.00 | Annually | CPI | Per Term | October 01, 2020 |
| General Communications | 180 Months | $9,600.00 | Annually | CPI | Per Term | October 01, 2020 |

**Exhibit "C"**

**LMRK INVESTMENT PROSPECTUS**

[See Attached]

**Exhibit "D"**

**LMRK MARKETING MATERIALS**

[See Attached]

**Exhibit "E"**

**FORM OF CONTRIBUTION OF TELECOM EASEMENT AND ASSIGNMENT AGREEMENT**

[See Attached]

LANDMARK
INFRASTRUCTURE

2141 Rosecrans Ave, Ste. 2100 – El Segundo, CA 90245
(866) 392-4200 - (310) 294-8160

July 10, 2018

Jeremy Talbott
City Of Valdez
City Of Valdez
PO BOX 307
Valdez, AK, 99686-0307

**Re: Letter of Intent for Contribution of Telecommunications Easement and Lease Rights**

Dear Jeremy Talbott
City Of Valdez:

This letter of intent ("**LOI**") shall set forth the material terms and conditions upon which Landmark Infrastructure Partners LP or its designee, will acquire the Contributor's interest in the Lease (as defined below) and an Easement (as defined below) relating thereto. This LOI is not intended to constitute a binding agreement, but rather to serve as the basis for negotiating and drafting a definitive contribution of lease agreement and grant of easement between the parties containing the terms stated in this LOI as well as other terms and conditions to be determined (the "**Contribution Agreement**"). Despite the foregoing, it is understood and agreed that this LOI binds the parties to negotiate in good faith for a period of 60 days for the completion of such a definitive Contribution Agreement.

| | |
|---|---|
| **Acquiror** | Landmark Infrastructure Partners LP, or its designee |
| **Contributor(s)** | City Of Valdez |
| **Title Company** | Fidelity National Title Insurance Company |
| **Property** | See Exhibit "A" attached hereto. |
| **Lease(s)** | Contributor shall contribute, transfer and assign to Acquiror all of Contributor's right, title and interest in and to that certain lease(s), as amended, and described in and attached hereto as Exhibit "B" (the "**Lease(s)**"); however, Contributor shall retain and continue to faithfully perform and discharge any and all of Contributor's obligations as lessor/fee owner under the Lease, as more specifically set forth in the Contribution Agreement. |
| **Easement** | Contributor shall grant and convey to Acquiror an exclusive easement (the "**Telecom Easement**"), for the Term below, in, to, under and over the portion or portions of the Property on which the Lease grants exclusive possession to that certain tenant, (the "**Leased Premises**") for telecommunications purposes. Contributor shall also grant to Acquiror a non-exclusive easement in, to, under and across those portions of the Property to which the Lease grants to that tenant non-exclusive possession or ingress and egress to the Leased Premises (the **"Access Easement"**). |
| **Term** | The term of the Telecom Easement and Assignment of Lease shall be 420 months. |
| **Purchase Price/Consideration** | A number of newly issued registered common units of Landmark Infrastructure Partners LP (NASDAQ: LMRK) ("**Common Units**") equal to $240,000.00 (which is based upon the initial analysis of the Lease(s) and associated revenue for the Lease(s) as identified in Exhibit "B" and subject to verification and adjustment during Due Diligence Period |

(defined below)), divided by the volume-weighted average price of the Common Units, as reported by the NASDAQ for the five [5] trading days ending three [3] trading days prior to the Closing Date. The investment prospectus of LMRK is attached hereto as Exhibit C and incorporated herein by reference. The marketing materials of LMRK are attached hereto as Exhibit D and incorporated herein by reference.

**Contributor Costs** Intentionally Omitted.

**Due Diligence Period** Acquiror shall have 60 calendar days after the execution and delivery of this LOI by Acquiror and Contributor (the "**Due Diligence Period**") to review and approve, in its sole and absolute discretion:

1) Property/Lease Conditions. Copies of all documents in Contributor's possession or control pertaining to the legal, financial and physical condition of the Lease and the Property (as it relates to the Lease), including without limitation, the Lease and any amendments thereto, prior title reports, survey(s) of all or any portion of the Property, notices received by Contributor with respect to any building or zoning code violation, any environmental violation at the Property or eminent domain proceedings, other leases affecting the Property (as it relates to the Lease), together with all modifications and amendments thereto, any correspondence from any tenant under the Lease, (together, the **"Contributor's Documents"**) all of which Contributor shall deliver to Acquiror within five (5) business days following execution and delivery of this LOI.

Further, during the Due Diligence Period, Acquiror shall have the right to enter upon the Telecom Easement and Leased Premises to conduct such inspections and feasibility studies of the Telecom Easement and Leased Premises as Acquiror shall consider necessary, in its sole discretion and at its expense. Acquiror shall be liable for any damage arising out if its presence on the Property.

2) Title Documents. A preliminary title report, together with all underlying title exception documents thereto, for the Property (the "**Title Report**"), which Acquiror shall cause Title Company to prepare and deliver to Acquiror promptly following execution of this LOI, at Acquiror's expense. The Due Diligence Period shall commence upon the execution and delivery of this LOI.

In the event Acquiror disapproves of any aspect of the Lease or title to the Property, then Acquiror shall have the right to terminate this LOI and Contribution Agreement (if applicable) by delivering written notice to Contributor no later than the expiration of the Due Diligence Period, and by returning to Contributor all Contributor's Documents delivered to Acquiror, and Acquiror and Contributor shall be released from any and all further obligations under this LOI and the Contribution Agreement (as applicable).

**Cooperation and Information** Contributor shall reasonably cooperate with Acquiror's investigations including, without limitation, providing the Contributor's Documents and, facilitating Acquiror's receipt of information about the Property and the Lease from applicable public agencies, all at no material expense to Contributor. Acquiror shall conduct its due diligence in a manner so as to interfere as little as possible with any other tenants on the Property. Acquiror shall make available to Contributor Acquiror's most recent prospectus and any relevant free writing prospectuses filed by Acquiror with the Securities and Exchange Commission relating to the Common Units.

**Operation of Property** Contributor shall not modify, amend, supplement, extend, renew, terminate or cancel the Lease during the term of this LOI. After the Closing, Contributor shall continue to operate the Property to the extent it affects the Lease or Telecom Easement granted herein, and will be responsible for all operating costs associated with the operation of the Property to the extent required in the Lease, as identified in the Contribution Agreement.

**Closing Date**

The close of the transaction contemplated by the LOI and Contribution Agreement (the "**Closing Date**") shall occur within fifteen (15) business days from the expiration of the Contribution Agreement Approval Period. In the event Acquiror is not able to Close on the Closing Date, Contributor shall have the right to terminate this LOI, and the Contribution Agreement, if executed.

**Representations and Warranties**

Contributor hereby represents that it is the lessor under the Lease, the owner of the Property, and that AT&T Mobility, General Communications is the tenant(s) ("**Tenant(s)**") of the Leased Premises under the Lease(s). Acquiror and Contributor shall make such other representations and warranties to the other as are contained in the Contribution Agreement.

**Conditions Precedent to Closing**

Acquiror's obligation to purchase the Property shall be subject to such conditions precedent as are contained in the Contribution Agreement, including, without limitation, the following:

1) Due Diligence Approval. Acquiror's approval, in its sole and absolute discretion, of the due diligence matters described above during the Due Diligence Period.

2) Successful acquisition of any consent or waivers, if required from the Tenant under the Lease.

3) Title Policy. Acquiror shall have obtained from the Title Company a commitment to issue a 2006 ALTA Owner's Policy of title insurance for the leasehold/easement interests to be acquired by Acquiror, subject only to those exceptions that Acquiror has approved during the Due Diligence Period (the "**Title Commitment**").

4) Non-Disturbance Agreements. If applicable, a fully executed Non-Disturbance Attornment and Partial Release of Leases and Rents ("**NDA**") in form acceptable to Acquiror and Contributor (in their reasonable discretion) from any of Acquiror's mortgagees with an existing encumbrance on title to the Property, thereby authorizing Acquiror to enter into the Contribution Agreement and allowing Contributor to perform the actions set forth in this LOI.

The failure of any of the foregoing conditions precedent shall entitle Acquiror to terminate this LOI and the Contribution Agreement (as applicable), on or before the end of the Due Diligence Period. In addition, Acquiror's obligation to close the transaction under the Contribution Agreement shall be conditioned upon the Title Company delivering at Closing a title policy in the form of the Title Commitment approved during the Due Diligence Period.

**Closing Costs**

Acquiror shall pay all of its own fees, costs (including its legal costs), and expenses in connection with its due diligence and the negotiation of the Contribution Agreement. Contributor shall bear all of its own fees, costs (including its legal costs), and expenses in connection with its obligation to cooperate with Acquiror with respect to Acquiror's due diligence as well as the negotiation of the Contribution Agreement. Acquiror shall pay the Title Policy premium, recording fees, closing costs and escrow fees. Contributor shall pay any transfer taxes. Notwithstanding anything herein to the contrary, if Acquiror does not terminate this LOI during the Due Diligence Period, and Contributor refuses to close, Acquiror shall, in addition to its other rights and remedies, be entitled to compensation for its time, effort and expense to evaluate this transaction (not to exceed $6,500.00) and, in any action to enforce this provision or the Contribution Agreement, to recovery of its reasonable attorneys' fees.

**Taxable Basis**

The parties hereto agree that Contributor's taxable basis in the real property contributed to Acquiror is zero ($0.00).

| | |
|---|---|
| **Governing Law and Jurisdiction** | State of Alaska. |
| **Definitive Contribution Agreement** | Acquiror will prepare and deliver to Contributor a proposed Contribution Agreement and Assignment of Lease, substantially in the form attached hereto as Exhibit E and incorporated herein by reference, the Telecom Easement, and ancillary documents relating thereto, within thirty (30) days after the full execution of this LOI. The Contribution Agreement will include, among other things, the terms specified in this LOI, representations from the Contributor required by Acquiror in connection with the sale of unregistered securities and such other terms and conditions as are customary for the type of transaction contemplated hereby. This LOI is contingent upon both Contributor and Acquiror agreeing to the terms of those documents prior to the end of the Due Diligence Period (the **"Contribution Agreement Approval Period"**). If the parties do not agree to such documents by that time, either Contributor or Acquiror may terminate this LOI and all obligations thereunder. |
| **Exclusivity** | Contributor shall not, directly or indirectly, (a) offer the Lease or the Property for sale or assignment to any other person during the term of this LOI; or (b) negotiate, solicit or entertain any offers to sell or assign any interest in the Lease or Premises to any other person during the term of this LOI. |
| **Confidentiality** | This LOI and all information exchanged between the parties in connection herewith shall be kept confidential, shall not be reproduced or disclosed, and shall not be used by either party other than in connection with evaluating and concluding the transactions described herein, except that each party may disclose such confidential information: (a) to attorneys, consultants, accountants, lenders and other professionals to the extent necessary to perform such party's obligations or exercise rights hereunder, and (b) if required by applicable law or court order. |
| **Broker's Commissions** | Each party shall indemnify and hold harmless the other party from the payment of any commission or fee to any broker, salesman or agent claiming by, through or under such indemnifying party. Each party shall pay its brokers fees and commissions, if any, in connection with this transaction subject to the terms of a separate agreement. |

This document is intended to constitute a non-binding letter of intent only, except for the parties' respective obligations to negotiate in good faith for a period of 60 days after execution and delivery of this LOI, for the completion of such a definitive agreement for purchase and sale of the Contributor's interest in the Lease; the Exclusivity, Confidentiality, and inspection damages provisions, as set forth above, shall also be binding from and after the mutual execution of this LOI. Completion of the transaction contemplated by this LOI is subject to the negotiation and execution of a mutually acceptable Contribution Agreement, the terms of which, if executed and delivered by both parties, shall govern the rights and obligations of both parties.

If this Option Agreement is not executed by you, by October 08, 2018, it shall be void and of no further cause or effect.

**[SIGNATURES ON THE FOLLOWING PAGE]**

**AGREED AND ACCEPTED:**

**ACQUIROR:**

LANDMARK INFRASTRUCTURE PARTNERS LP,
a Delaware limited partnership

by: Landmark Infrastructure Partners GP LLC,
its general partner

By: _____
Name: _____
Its: _____

**CONTRIBUTOR:**

City Of Valdez

By: _____
Name: _____
Its: _____

## Exhibit "A"

## Property Legal Description

**[To be inserted from Title Report Ordered by Landmark]**

## Exhibit "B"

| Tenant/ Carrier | Term Purchased | Current Rent | Rent Frequency | Escalation Rate | Escalation Frequency | Date of Next Escalation |
|---|---|---|---|---|---|---|
| AT&T Mobility | 420 Months | $9,600.00 | Annually | CPI | Per Term | October 01, 2020 |
| General Communications | 420 Months | $9,600.00 | Annually | CPI | Per Term | October 01, 2020 |

**Exhibit "C"**

**LMRK INVESTMENT PROSPECTUS**

[See Attached]

**Exhibit "D"**

**LMRK MARKETING MATERIALS**

[See Attached]

**Exhibit "E"**

**FORM OF CONTRIBUTION OF TELECOM EASEMENT AND ASSIGNMENT AGREEMENT**

[See Attached]