

**MEMORANDUM OF UNDERSTANDING**

THIS **MEMORANDUM OF UNDERSTANDING** (this “Memorandum”) is made as of [\_\_\_\_\_, 2021], by and between the **CITY OF ALEXANDRIA, VIRGINIA** (the “City”); the **LANDMARK COMMUNITY DEVELOPMENT AUTHORITY** (the “CDA”); the **INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF ALEXANDRIA** (the “IDA”); **LANDMARK MALL, LLC**, a Delaware limited liability company, and **SERITAGE SRC FINANCE, LLC**, a Delaware limited liability company, and their respective successors and assigns, as landowners (collectively, the “Landowners”); and **LANDMARK LAND HOLDINGS, LLC**, a Delaware limited liability company (the “Developer”).

**WITNESSETH**

**WHEREAS**, by petition (the “Petition”) filed with the City Council of the City (the “Council”) pursuant to Sections 15.2-5152 *et seq.* of the Code of Virginia of 1950, as amended (the “Virginia Code”), the Council was requested to create a community development authority to support the financing of certain infrastructure improvements, facilities and services as described in the Petition and as more particularly described on Exhibit A to this Memorandum (collectively, the “Improvements”);

**WHEREAS**, pursuant to the Petition and in consideration of the Developer’s undertaking of the development and redevelopment of the property comprising the site of the former Landmark Mall, by Ordinance adopted [\_\_\_\_\_, 2021] (the “Ordinance”), attached hereto as Exhibit B, the Council created the CDA and established the initial boundaries of the CDA district (the “CDA District”);

**WHEREAS**, the transactions contemplated by this Memorandum will benefit the citizens of the City by promoting increased employment opportunities, a strengthened economic base, increased tax revenues and additional business, retail and recreational opportunities; and

**WHEREAS**, the parties wish to set forth several understandings with respect to the CDA and its plan to facilitate the City’s financing of the Improvements in this Memorandum:

**NOW, THEREFORE**, in consideration of the foregoing, the parties set forth the following agreements and understandings:

**1. Definitions.** In addition to certain terms defined in the recitals above and elsewhere herein, the following terms shall have the meanings specified below unless otherwise expressly provided or the context otherwise requires:

“CDA Payment Obligation” means any contractual obligation of the CDA authorized under Virginia Code Sections 15.2-5101, 15-2.-5114, 15.2-5125 and 15.2-5158 and entered into to support the City’s financing of the costs of the Improvements.

“City Bonds” means general obligation bonds issued by the City for the purpose of financing the costs of the Improvements and any bonds issued by the City to refund such general obligation bonds.

## **2. Improvement Financing Plan.**

(a) The City proposes to issue one or more series of City Bonds in a maximum aggregate principal amount sufficient to (i) generate \$86,000,000 in net construction proceeds available to pay the costs of the Improvements and (ii) pay capitalized interest on the City Bonds. Although the City Bonds will be issued as general obligation bonds, the parties hereto understand and agree that the City Bonds are intended to be repaid from certain incremental tax revenues described in Section 4(c) below (the “Incremental Tax Revenues”). To the extent that the Incremental Tax Revenues are less than the amounts due on the City Bonds, the City shall be entitled to seek reimbursement for any City funds applied to pay debt service on the City Bonds through the collection of special assessments as set forth in more detail herein.

(b) The CDA proposes to provide for the establishment of special assessments on taxable property within the CDA District (as hereinafter described, the “Special Assessments”) as a source of funds available to reimburse the City for debt service payments on the City Bonds in the event that the Incremental Tax Revenues are insufficient to timely pay such debt service. The aggregate principal amount of the CDA Payment Obligations shall not exceed the principal amount of the City Bonds. Each CDA Payment Obligation shall be entered into for a term extending not more than one year beyond the term of the corresponding City Bonds.

(c) The CDA shall enter into one or more CDA Payment Obligations pursuant to which the CDA will pay installments of the Special Assessments as necessary to reimburse the City for any insufficiencies in the Incremental Tax Revenues.

## **3. Development of Improvements.**

(a) The City agrees to arrange for the acquisition, design, construction, equipping, project management and development of the Improvements and to finance the related costs with proceeds of the City Bonds. In exchange for the City’s assistance in providing the Improvements, the CDA agrees to provide financing support by entering into one more CDA Payment Obligations to provide for the levy and collection of installments of the Special Assessments in the event that the Incremental Tax Revenues are insufficient to timely pay the debt service on the City Bonds.

(b) The Improvements consist of various infrastructure improvements, facilities and services more particularly described in the Petition and Exhibit A hereto.

(c) The City or the CDA, or the Developer or its designee, on behalf of the City or the CDA, shall enter into contracts for the acquisition, design, construction, equipping, project management and development of the Improvements.

## **4. Special Assessments and Incremental Tax Revenues.**

### **(a) Special Assessments.**

(i) *Request for Collection* -- Not later than [February 15] of each year, commencing [February 15, 20\_\_], the CDA shall request the City to collect annual installments (the “Annual Installments”) of the Special Assessments pursuant to Virginia Code Section 15.2-5158(A)(5) in amounts to be determined in accordance with the Rate and Method of Apportionment of Special Assessments attached hereto as Exhibit C (the “Rate and Method”),

which amounts may be zero for a particular levy date to the extent that the Incremental Tax Revenues were sufficient to timely pay the debt service on the City Bonds on the two payment dates for the City Bonds (each a “Payment Date”) immediately preceding each such levy date. In making the above request, the CDA shall provide such information as the City may request to enable it to levy and collect the Annual Installments. Each Annual Installment shall be levied on the applicable [June/November]<sup>1</sup> 15 due date for real property taxes (commencing [June/November] 15, 20\_\_)) and shall be in an amount equal to the debt service that was due on the City Bonds on the two immediately preceding Payment Dates less the Incremental Tax Revenues that were available for timely payment of the debt service on the City Bonds on such Payment Dates.

(ii) *City’s Agreement with respect to Special Assessments; Retention of Annual Installments by City* -- The City Manager shall propose the levy and collection of such Annual Installments in the City’s budget for each fiscal year during which any CDA Payment Obligations will be outstanding; it being understood that the levy and collection of each Annual Installment shall be made only to the extent that the Incremental Tax Revenues calculated pursuant to this Memorandum were insufficient to timely pay the debt service on the City Bonds on the applicable Payment Dates. So long as any CDA Payment Obligations remain outstanding, the City shall levy and collect the Annual Installments and shall be entitled to retain the amounts collected in satisfaction of the CDA’s obligations under such CDA Payment Obligations. The CDA hereby pledges and assigns all of its right, title and interest in the Annual Installments (including, without limitation, any proceeds from prepayments and foreclosures) as security for the CDA Payment Obligations, which amounts shall be retained by the City and applied to reimburse the City for prior debt service payments on the City Bonds and any costs of collection of the Annual Installments.

(iii) *Landowners’ Agreement with Respect to Assessments* -- In accordance with Virginia Code Sections 15.2-5158(A)(5) and 15.2-2405, the parties hereto agree to the Special Assessments to be levied and apportioned in accordance with this Memorandum and the Rate and Method, which is incorporated as though set forth fully herein. The Landowners for themselves and their successors and assigns represent and agree that the Special Assessments, as apportioned pursuant to the Rate and Method, does not exceed the peculiar benefit to the assessed property resulting from the Improvements and is apportioned to the property within the CDA District on a rational basis. The Landowners acknowledge that the City may commence foreclosure proceedings for the collection of delinquent Annual Installments within the CDA District and that foreclosure proceedings may be instituted whenever an Annual Installment remains delinquent one year from its initial due date (except for owner-occupied residential property, to which the provisions of Virginia Code Section 58.1-3965 shall apply) in accordance with Virginia Code Section 58.1-3965.2. In order to reduce the likelihood of any prolonged foreclosure actions, the Landowners, as appropriate, shall provide for facilitated service of process with respect to any foreclosure action in respect of any delinquent Annual Installments levied in the CDA District and shall waive affirmative defenses to any such foreclosure action pertaining to the formation of the CDA District and its financing structure, including the Rate and Method, the validity of the CDA Payment Obligations and the priority of CDA District liens and foreclosure of liens to collect delinquent Annual Installments, provided, however, that such waiver shall not be deemed to

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<sup>1</sup> NTD: City to confirm desired levy/collection date for annual installments.

prevent any Landowner from asserting in a separate legal action (and not as an affirmative defense in any foreclosure action) a challenge to (A) any levy not made in accordance with the terms of the Rate and Method or the Virginia Code or (B) a foreclosure not undertaken in accordance with the City's generally applicable foreclosure procedures.

(iv) *Billing and Collection of Annual Installment* -- The City shall bill the Annual Installments, to the extent Incremental Tax Revenues are insufficient to timely pay debt service on the City Bonds described above, in the same manner and at the same time as it bills its [June/November] 15 installment of real estate taxes. The amount of the Annual Installments for each parcel shall be recorded in the City land records such that the public will have access to its existence. Penalties and interest on delinquent payments of the Annual Installments shall be charged as provided by law. The Annual Installments shall be included on the City's regular real estate tax bill or in a separate bill in the same envelope as the City's regular real estate tax bill, and shall be collected on each [June/November] 15.

(v) *Collection of Delinquent Assessments* -- The City's customary tax payment enforcement proceedings shall apply to the collection of any delinquent payment of an Annual Installment except that foreclosure proceedings may be instituted to sell any parcel (except for owner-occupied residential property, to which the provisions of Virginia Code Section 58.1-3965 shall apply) when the Annual Installment for such parcel remains unpaid one year from its initial due date in accordance with Virginia Code Section 58.1-3965.2. The City shall pursue the collection of delinquent payments with the same diligence it employs in the collection of the City's general ad valorem real estate taxes, including the commencement of tax foreclosure proceedings to the extent provided by the then-current statutes of the Commonwealth of Virginia. The City agrees that it will provide notice to the CDA of any legal proceedings to be instituted for the collection of delinquent payments of Annual Installments. The parties understand and agree that the City's ordinary discretion in this regard allows it to decide not to expend resources to collect de minimis outstanding amounts; provided that the City shall obtain the CDA's consent with respect to waiving collection of any such amounts in excess of \$200. The CDA agrees to cooperate with the City in any such enforcement action.

(b) Notice to Subsequent Landowners. Each Landowner shall include in each sales contract and each deed for the conveyance of a fee simple interest in any portion of land within the CDA District that is subject to an outstanding Special Assessment a disclosure statement that includes a statement of the amount of the applicable portion of the Special Assessment and setting forth the name and address of the CDA's administrator or other location where information regarding the CDA and the Special Assessment may be obtained. All such sales contracts and deeds shall also include a covenant that all subsequent deeds conveying any fee simple interest in land within the CDA District that is subject to an outstanding Special Assessment include such disclosure statement. Each Landowner agrees that it will notify the CDA and the CDA's administrator in writing, within ten (10) days after recordation of a deed of conveyance, of the sale of any land owned by such Landowner indicating the tax map parcel number of the property sold and the purchaser of the property.

(c) Incremental Tax Revenues.

(i) *City's Agreement to Track and Apply Incremental Tax Revenues* -- Subject to the provisions of this clause (i) and for so long as any City Bonds remain outstanding, the City

shall track and collect the Incremental Tax Revenues, determined as set forth below, and apply such collected Incremental Tax Revenues (or other legally available funds in amounts equal thereto) semiannually to the payment of debt service on the City Bonds on each Payment Date. For purposes of this Memorandum, the Incremental Tax Revenues shall only include amounts that the City has collected. Further, the City's agreement to credit such Incremental Tax Revenues to the payment of the City Bonds as provided in this Memorandum is made in consideration of the Developer satisfying its agreement contained in Sections 4.1, 4.2 and 4.3 of the Development Agreement, pursuant to which the Developer has agreed to construct or cause to be constructed the Private Infrastructure with Public Access, the Offsite CDD Infrastructure and the Public Infrastructure Improvements (each as defined therein). In the event the Developer fails to construct or cause to be constructed the Private Infrastructure with Public Access, the Offsite CDD Infrastructure or the Public Infrastructure Improvements within the allotted time set forth in the Development Agreement, the City shall have no obligation to credit any Incremental Tax Revenues to the payment of debt service on the City Bonds as provided in this Section 4(c) until such time as the Developer has satisfied such obligations under Sections 4.1, 4.2 and 4.3 of the Development Agreement.

(ii) *Calculation of Incremental Tax Revenues; Timing of Payments* -- The annual Incremental Tax Revenues shall equal the sum of:

(A) 100% of the regular ad valorem real property tax revenues (not including any special tax revenues) collected each calendar year by the City within the CDA District [(including payments of any "roll back" taxes)] that exceed the regular ad valorem real property tax revenues collected by the City within the CDA District during calendar year [2023];

(B) 100% of the City's portion of the retail sales and use tax revenues collected each calendar year by the City from retail and other establishments located within the CDA District that exceed the City's portion of the retail sales and use tax revenues collected by the City within the CDA District during calendar year [2023];

(C) 100% of the meals tax revenues (excluding the portion of such revenues required to be allocated affordable housing)<sup>2</sup> collected each calendar year by the City from restaurants and other establishments located within the CDA District that exceed the meals tax revenues collected by the City within the CDA District during calendar year [2023]; and

(D) 100% of the transient lodging tax revenues collected each calendar year by the City from hotels and other establishments located within the CDA District that exceed the transient lodging tax revenues collected by the City within the CDA District during calendar year [2023].

So long as any City Bonds remain outstanding, the City shall apply the Incremental Tax Revenues collected in each six-month period ending on [\_\_\_\_\_] or [\_\_\_\_\_] (or other legally available funds in amounts equal thereto) to the payment of debt service due on the City Bonds on the

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<sup>2</sup> NTD: Subject to City review of phrasing re: application of a portion of meals tax revenues to affordable housing.

Payment Date that immediately follows the conclusion of the most recent six-month period. Except as provided in the following sentence, any excess Incremental Tax Revenues remaining after payment of debt service on the City Bonds on the applicable Payment Date shall then be available for the City's general use and shall not be credited against any debt service payment due on any other Payment Date or otherwise applied to reduce the Special Assessment lien. Any Incremental Tax Revenues collected in the first [calendar] year following the issuance of the [initial] series of City Bonds shall be credited to the payment of debt service coming due on such City Bonds in the succeeding [calendar] year.<sup>3</sup>

(iii) *Release of Incremental Tax Revenues* -- After all City Bonds have been repaid in full, or provision for their repayment in full has been made, the tax increment contribution plan shall expire and all Incremental Tax Revenues shall thereafter be available for the City's general use.

**5. Additional Covenants.**

(a) Public Ownership of Improvements. The Developer, the Landowners, the City, the IDA and the CDA agree that all Improvements financed with proceeds of the City Bonds and supported by the CDA Payment Obligations will be conveyed to the City or other appropriate public entity or that the City or other appropriate public entity will have a long term-interest in such improvements via a lease, an easement or other property right. The Developer, the Landowners, the City, the IDA and the CDA further agree that the City shall not be required to undertake ownership, operation or maintenance of any improvements unless the City agrees to such undertaking.

(b) Assets upon Dissolution. Upon dissolution of the CDA, any assets of the CDA not previously conveyed to another governmental entity shall be transferred to or at the direction of the City.

(c) Developer Reports. The Developer agrees to provide the City with regular reports (which may be in written or oral form) regarding the progress of the development and such other matters as the City may reasonably request. Such reports shall be delivered at least once per calendar year.<sup>4</sup>

**6. Approval by City.** Any approval or consent required of the City under this Memorandum may be given by the City Manager or such officer's designee unless action by the Council is expressly required.

**7. Successors and Assigns.** This Memorandum shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

**8. Amendments.** This Memorandum may be amended only in writing signed by each of the parties hereto or their successors and assigns; provided, however, any Landowner's consent

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<sup>3</sup> NTD: City and Developer to review/revise as desired to meet expectations re: application of first year TIF revenues.

<sup>4</sup> NTD: City and Developer to review/revise as desired to meet expectations re: annual reports.

to and execution of an amendment shall only be required with respect to amendments affecting such Landowner.

9. **Term.** This Memorandum shall be in full force and effect until all City Bonds and CDA Payment Obligations have been paid or deemed no longer outstanding.

10. **Severability.** If any clause, provision or section of this Memorandum is held to be illegal or invalid by any court, the invalidity of the clause, provision or section shall not affect any of the remaining clauses, provisions or sections, and this Memorandum shall be construed and enforced as if the illegal or invalid clause, provision or section had not been contained in it.

11. **Counterparts.** This Memorandum may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

12. **Recitals.** The recitals set forth at the beginning of this Memorandum are incorporated into and made a part of this Memorandum as though they were fully set forth in this Section 14 and constitute representations and understandings of the parties hereto.

13. **Governing Law and Venue.** This Memorandum shall be governed by the laws of the Commonwealth of Virginia without regard to its conflict of law rules. Any action or dispute arising out of this Memorandum that cannot be resolved among the parties shall be resolved in the City of Alexandria Circuit Court or in the United States District Court, Eastern District of Virginia, Alexandria Division and in no other forum.

14. **Notices.** Any notice, request or other deliveries required to be given hereunder shall be deemed given if sent by registered or certified mail, or overnight delivery service, postage prepaid, addressed to the following addresses:

City: City of Alexandria  
301 King Street  
Alexandria, Virginia 22314  
Attention: City Manager  
Phone: [\_\_\_\_\_]

with a copy to: City Attorney's Office  
301 King Street  
Alexandria, Virginia 22314  
Attention: City Attorney  
Phone: [\_\_\_\_\_]

IDA: Industrial Development Authority of the City of Alexandria  
625 N. Washington Street, Suite 400  
Alexandria, Virginia 22314  
Attention: Stephanie Landrum, Assistant Secretary  
Phone: [\_\_\_\_\_]

with a copy to: City Attorney's Office  
301 King Street  
Alexandria, Virginia 22314

Attention: City Attorney  
Phone: [\_\_\_\_\_]

CDA: Landmark Community Development Authority  
c/o City of Alexandria  
301 King Street  
Alexandria, Virginia 22314  
Attention: [\_\_\_\_\_]  
Phone: [\_\_\_\_\_]

with a copy to: City Attorney's Office  
301 King Street  
Alexandria, Virginia 22314  
Attention: City Attorney  
Phone: [\_\_\_\_\_]

Developer: Landmark Land Holdings, LLC  
c/o Foulger Pratt  
12435 Park Potomac Avenue, Suite 200  
Potomac, Maryland 20854  
Attention: Cameron Pratt and Brigg M. Bunker  
Phone: [\_\_\_\_\_]

with a copy to: Landmark Land Holdings LLC  
c/o Foulger Pratt  
12435 Park Potomac Avenue, Suite 200  
Potomac, Maryland 20854  
Attention: Demetri Datch  
Phone: [\_\_\_\_\_]

with a copy to: Arent Fox LLP  
1717 K Street, NW  
Washington, DC 20006  
Attention: Richard A. Newman  
Phone: [\_\_\_\_\_]

Any party may designate any other addresses for notices or requests or other deliveries by giving notice under this Section 14.

WITNESS the following signatures.

**CITY OF ALEXANDRIA, VIRGINIA**

By: \_\_\_\_\_  
[NAME, TITLE]

**LANDMARK COMMUNITY DEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
[NAME, TITLE]

**INDUSTRIAL DEVELOPMENT AUTHORITY  
OF THE CITY OF ALEXANDRIA**

By: \_\_\_\_\_  
[NAME, TITLE]

**LANDMARK MALL, LLC**

By: \_\_\_\_\_  
[NAME, TITLE]

**SERITAGE SRC FINANCE, LLC**

By: \_\_\_\_\_  
[NAME, TITLE]

**LANDMARK LAND HOLDINGS, LLC**

By: \_\_\_\_\_  
[NAME, TITLE]

Exhibit A - Petition

Exhibit B - Ordinance

Exhibit C - Rate and Method of Apportionment of Special Assessments

**PETITION PURSUANT TO VIRGINIA CODE SECTION 15.2-5153  
FOR THE CREATION OF  
THE LANDMARK COMMUNITY DEVELOPMENT AUTHORITY  
TO THE CITY COUNCIL OF  
THE CITY OF ALEXANDRIA, VIRGINIA**

WHEREAS, the City Council of the City of Alexandria, Virginia (the “Council”), is authorized, pursuant to §15.2-5152 of the Code of Virginia of 1950, as amended (the “Virginia Code”), to consider petitions for the creation of community development authorities;

WHEREAS, the undersigned (the “Petitioners”) are the fee simple owners of certain real property located in the City of Alexandria, Virginia (the “City”), collectively known as “Landmark Mall” and more particularly shown on Exhibit A attached hereto and incorporated herein by this reference (collectively, the “Property”);

WHEREAS, the Petitioners and the City desire to develop or redevelop the Property into a mixed-use development, which is anticipated to include, among other things, (a) multi-family residential apartment buildings, hotel space and retail space, (b) commercial and medical office buildings with healthcare service and retail components and (c) hospital and other medical facilities;

WHEREAS, the Petitioners desire to join with the Council to create a mechanism to support the funding of certain infrastructure improvements, facilities and services through the issuance of the City’s general obligation bonds, including any refunding bonds (the “City Bonds”), which infrastructure improvements, facilities and services are more specifically described herein and are necessary or desirable for development or redevelopment within or affecting the Property or to meet the increased demands placed upon the City as a result of development or redevelopment within or affecting the Property;

WHEREAS, the Petitioners, in cooperation with the City, have determined that a community development authority (the “CDA”) affords the best mechanism to provide financial support for the financing of such infrastructure improvements, facilities and services; and

WHEREAS, the provision of such infrastructure improvements, facilities and services will promote increased employment opportunities in the City and will facilitate the successful expansion of the City’s tax base through increased real property tax revenues, personal property tax revenues, retail sales tax revenues, transient lodging tax revenues and business and license fee revenues from the expansion of the tax base contemplated within the CDA district;

NOW, THEREFORE, the undersigned Petitioners, pursuant to Virginia Code §15.2-5153, do hereby petition the Council to establish, by ordinance pursuant to Virginia Code §15.2-5155, the CDA. In support of this Petition, the Petitioners state as follows:

1. Petitioners and District. The Petitioners are the fee simple owners of more than fifty-one percent (51%) of the land area or assessed value of the land proposed to be included within the geographic boundaries of the CDA (such real property to be located within the boundaries of the CDA is referred to herein collectively as the “CDA District”). Legal descriptions of the initial parcels to be included within the CDA District are attached to this Petition as Exhibit A, and the tax map parcel numbers of such initial parcels to be included within the CDA District are attached to this Petition as Exhibit B, all of which are incorporated herein by this reference. All of the initial parcels within the

CDA District are located exclusively within the City. The initial boundaries of the CDA District are shown on the map attached to this Petition as Exhibit C and incorporated herein by this reference, but (a) may be expanded by the Council by subsequent ordinance upon petition filed pursuant to the Virginia Code §15.2-5153 and (b) may be adjusted to exclude certain land as long as the owners of at least fifty-one percent (51%) of the land area or assessed value of land that will remain in the CDA District after the adjustment originally petitioned for the creation of the CDA. The Petitioners request that the CDA be called the “Landmark Community Development Authority.”

2. Description of Infrastructure, Facilities and Services. The CDA shall be formed for the purpose of providing financing support for, among other things, the acquisition, financing, funding, design, construction, equipping and provision for the construction, installation, operation, maintenance (unless dedicated to and accepted by the appropriate governmental entity other than the CDA), enhancement, replacement, relocation and alteration of all or portions of the public infrastructure, facilities and services identified on Exhibit D (or otherwise facilitating such undertakings by, and in cooperation with, the City), including, without limitation, (a) sanitary sewer mains and lines, (b) water mains and lines, pump stations and water storage facilities, (c) storm sewer mains and lines, (d) landscaping and related site improvements, (e) parking facilities, (f) sidewalks and walkway paths, (g) storm water management and retention systems (including best management practices, water quality devices and erosion and sediment control), (h) lighting (including street and decorative lights in public rights of way), (i) street and directional signage, (j) wetlands mitigation, (k) roads, curbs and gutters (inclusive of rights of way and easements related thereto), (l) public park, plaza and recreational facilities, (m) new or enhanced public access and open space areas, and (n) any and all facilities and services appurtenant to the above including the acquisition of land (collectively, all such existing and new public roads, utilities, facilities and services hereinafter, the “Infrastructure”). The CDA may contract for and incur all necessary expenses to accomplish the above and all related purposes, and all such operating expenses of the CDA, including, without limitation, administrative, underwriting, accounting, engineering and legal (all collectively hereinafter “the Operation of the CDA”), shall be included within the scope of any contractual obligations of the CDA as authorized under Virginia Code §§15.2-5101, 15-2.-5114, 15.2-5125 and 15.2-5158 (such obligations are referred to herein as “CDA Payment Obligations”). The CDA may perform or cause to be performed all work necessary to accomplish these purposes, including, without limitation, right-of-way and easement acquisition, permitting and/or relocation of existing utilities.

3. Description of Provision and Financing of Infrastructure and Operation of the CDA. The Infrastructure shall be constructed or acquired by, or on behalf of, the CDA or the City, and the costs thereof shall be paid for, or reimbursed by, the CDA or the City, upon availability of funding. As set forth in Paragraph 2 above, the CDA may contract for all services required for the Operation of the CDA and the provision of the Infrastructure. The City and the CDA may contract with each other and with other parties necessary or desirable for the Operation of the CDA and the provision of the Infrastructure or services directly related to the Operation of the CDA.

The proposed plan for the Operation of the CDA and for the provision of the Infrastructure within the CDA District is as follows:

- (a) The Petitioners propose that the CDA request the City issue one or more series of City Bonds to finance the costs of (i) the Operation of the CDA, (ii) the provision of the Infrastructure or any portion thereof and (iii) the administrative and other authorized costs and

expenses of performing the work necessary to provide the Infrastructure or any portion thereof. The City Bonds shall be issued in a maximum aggregate principal amount sufficient to (x) generate \$86,000,000 in net construction proceeds and (y) pay capitalized interest on the City Bonds.

(b) The CDA may enter into one or more CDA Payment Obligations to finance (or, as applicable, to facilitate the financing of) the costs of (i) the Operation of the CDA, (ii) the provision of the Infrastructure or any portion thereof, (iii) the administrative and other authorized costs and expenses of entering into such CDA Payment Obligations and performing the work necessary to provide the Infrastructure or any portion thereof and (iv) the payment of all or a portion of the debt service on any City Bonds. Any CDA Payment Obligations shall be payable solely from revenues received by the CDA. The aggregate principal amount of the CDA Payment Obligations shall not exceed the principal amount of the City Bonds.

(c) The CDA shall not enter into any CDA Payment Obligation without the consent of the Council, which shall be evidenced by an ordinance or a resolution of the Council consenting to the incurrence of such CDA Payment Obligation.

(d) The Petitioners propose that the CDA request the Council to establish special assessments upon the taxable real property within the CDA District to finance or otherwise provide for payment of all or a portion of the costs of the Infrastructure and the Operation of the CDA as provided in Virginia Code §15.2-5158(A)(5).

(e) The Petitioners propose that the CDA request the Council approve a tax increment contribution plan, using certain incremental tax revenues generated by development or redevelopment of the property within the CDA District, to finance or otherwise provide for the payment of all or a portion of the costs of the Infrastructure and the Operation of the CDA, with such tax increment contribution plan expiring following the repayment of any City Bonds and any CDA Payment Obligations. Installments of the special assessments described in Section 3(d) shall only be collected if such incremental tax revenues are insufficient to pay debt service on the City Bonds.

4. Expected Benefits from the Provision of Proposed Infrastructure and the Operation of the CDA. The provision of the Infrastructure and the Operation of the CDA will facilitate the City's efforts to attract new business and economic development to the City in furtherance of the City's business development and revitalization strategies. The Infrastructure and the Operation of the CDA are necessary or desirable for development or redevelopment within or affecting the CDA District or to meet the increased demands placed upon the City as a result of development or redevelopment within or affecting the CDA District. The development or redevelopment of the area within the CDA District, which will be enabled by the Infrastructure, will enhance the City's tax base by increasing tax revenues and real property values of property within and around the CDA District.

5. Members of the CDA. The CDA shall have five members appointed by the Council pursuant to Virginia Code §15.2-5113. The Mayor shall make recommendations for, and the Council shall approve, the appointment of such members. Members of the CDA shall be selected from the members of the Council. Members shall serve three-year staggered terms.

6. Duration/Abolition of the CDA. The CDA may be abolished at any time by appropriate action of the Council, provided that no such abolition shall occur while any CDA Payment Obligations remain outstanding. Furthermore, it is contemplated that the CDA shall continue to exist beyond the retirement of all of its obligations to the extent necessary and/or appropriate to provide the public infrastructure, facilities and services identified in this Petition.

7. Waiver. The Petitioners intend to provide waivers of the thirty (30) day period to withdraw their signatures from this Petition as provided in Virginia Code §15.2-5156(B).

ACCORDINGLY, for the reasons above, and in reliance upon the assurances and covenants set out herein, the Petitioners respectfully request that the Council establish the Landmark Community Development Authority for the purposes set forth in this Petition.

IN WITNESS HEREOF, the Petitioners have executed this Petition pursuant to due authority this \_\_\_\_ day of \_\_\_\_\_, 2021.

**Landmark Mall, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that the foregoing instrument was acknowledged before me in the jurisdiction aforesaid by \_\_\_\_\_ (name), \_\_\_\_\_ (title), on behalf of Landmark Mall, LLC.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2021.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_

Notary Public

My registration number is: \_\_\_\_\_.

**Seritage SRC Finance, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that the foregoing instrument was acknowledged before me in the jurisdiction aforesaid by \_\_\_\_\_ (name), \_\_\_\_\_ (title), on behalf of Seritage SRC Finance, LLC.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_

Notary Public

My registration number is: \_\_\_\_\_.

**Exhibits:**

Exhibit A - Parcel Descriptions in the CDA District

Exhibit B - List of Parcels by Tax Map Number

Exhibit C - Map of CDA District

Exhibit D - Description of Proposed Infrastructure

**PARCEL DESCRIPTIONS IN THE CDA DISTRICT**

**Description of the Lands of Landmark Mall L.L.C.**

**Parcel B-2**

**Instrument 000007614**

**Lot 501**

**Instrument 170000324**

**Lot 500 and Lot 502**

**Deed Book 1720 at Page 1762**

**City Of Alexandria, VA**

Beginning at a point on the southwesterly corner of the land of Combined Van Dorn Towers, LLC, as recorded in Instrument 190016436 among the land records of the City of Alexandria, VA; Said point also being on the westerly right-of-way of North Van Dorn Street, a variable width right-of-way; Thence departing the land of said Combined Van Dorn Towers, LLC and running with said North Van Dorn Street;

468.83 feet along the arc of a curve to the left having a radius of 898.89 feet and subtended by a chord bearing South 07°34'42" East a distance of 463.54 feet to a point;

South 22°31'14" East a distance of 4.34 feet to a point;

699.67 feet along the arc of a curve to the right having a radius of 714.22 feet and subtended by a chord bearing South 05°32'41" West a distance of 672.03 feet to an iron pipe found;

South 37°04'34" West a distance of 90.16 feet to a concrete monument found;

South 44°09'27" West a distance of 119.69 feet to a concrete monument found;

144.40 feet along the arc of a curve to the right having a radius of 291.56 feet and subtended by a chord bearing South 58°20'45" West a distance of 142.93 feet to a concrete monument found on the northerly right-of-way line of Duke Street, Virginia State Route 236, a variable width right-of-way; Thence departing said North Van Dorn Street and running with said Duke Street;

141.68 feet along the arc of a reverse curve to the left having a radius of 1512.69 feet and subtended by a chord bearing South 87°02'47" West a distance of 141.63 feet to a point;

South 86°05'08" West a distance of 63.40 feet to a point on the southeasterly right-of-way of the land of Seritage SRC Finance LLC, as recorded in Instrument 150011927 among the land records of City of Alexandria, Virginia; Thence departing said Duke Street and running with the land of said Seritage SRC Finance LLC;

North 60°36'01" West a distance of 603.02 feet to a point;

North 21°15'15" West a distance of 413.13 feet to a point;

North 26°01'06" East a distance of 611.98 feet to a point on the southerly right-of-way line of Henry G. Shirley Memorial Highway, Interstate Highway 395, a variable width limited access highway; Thence departing the land of said Seritage SRC Finance LLC and running with said Henry G. Shirley Memorial Highway;

526.35 feet along the arc of a curve to the left having a radius of 10000.00 feet and subtended by a chord bearing North 56°45'25" East a distance of 526.29 feet to a point;

North 51°36'25" East a distance of 133.19 feet to a concrete monument found;

North 31°28'43" East a distance of 140.72 feet to a concrete monument found;

North 43°10'11" East a distance of 124.06 feet to a concrete monument found on the westerly line of the land of the aforementioned Combined Van Dorn Towers, LLC; Thence departing said Henry G. Shirley Memorial Highway and running with the land of said Combined Van Dorn Towers, LLC;

South 21°18'19" East a distance of 467.89 feet to the point of beginning and containing an area of 1,450,091 square feet or 33.2895 acres, more or less.

**Description of the Land of Seritage SRC Finance LLC  
Parcel A-2  
Instrument 150011927  
City Of Alexandria, VA**

Beginning at a point on the northwesterly corner of the land of Landmark Mall L.L.C. (Parcel B-2), as recorded in Instrument 000007614 among the land records of City of Alexandria, Virginia; Said point also being on the southerly right-of-way line of Henry G. Shirley Memorial Highway, Interstate Highway 395, a variable width limited access highway; Thence departing said Henry G. Shirley Memorial Highway and running with the land of said Landmark Mall L.L.C. (Parcel B-2);

South 26°01'06" West a distance of 611.98 feet to a point;

South 21°15'15" East a distance of 413.13 feet [passing through the westernmost corner of the land of Landmark Mall L.L.C. (Lot 500), as recorded in Deed Book 1720 at Page 1762 among the land records of City of Alexandria, Virginia at 30.99 feet] to a point; Thence continuing with the land of said Landmark Mall L.L.C. (Lot 500);

South 60°36'01" East a distance of 603.02 feet to a point on the northerly right-of-way line of Duke Street, Virginia State Route 236, a variable width right-of-way; Thence departing the land of said Landmark Mall L.L.C. (Lot 500) and running with said Duke Street;

South 86°05'08" West a distance of 631.05 feet to a point;

317.24 feet along the arc of a curve to the right having a radius of 1400.00 feet and subtended by a chord bearing North 87°25'22" West a distance of 316.56 feet to a point;

North 80°55'52" West a distance of 180.07 feet to a point;

283.79 feet along the arc of a curve to the right having a radius of 350.00 feet and subtended by a chord bearing North 57°42'15" West a distance of 276.08 feet to a point;

North 34°28'32" West a distance of 154.97 feet to a concrete monument found on the southerly right-of-way line of the aforementioned Henry G. Shirley Memorial Highway; Thence departing said Duke Street and running with said Henry G. Shirley Memorial Highway;

413.23 feet along the arc of a curve to the right having a radius of 450.00 feet and subtended by a chord bearing North 27°10'28" East a distance of 398.86 feet to a concrete monument found;

North 53°28'53" East a distance of 221.61 feet to a point;

North 56°03'08" East a distance of 95.82 feet to a point;

North 53°09'18" East a distance of 338.60 feet to a point;

North 56°26'03" East a distance of 294.13 feet to a point;

96.43 feet along the arc of a curve to the left having a radius of 10000.00 feet and subtended by a chord bearing North 58°32'28" East a distance of 96.43 feet to the point of beginning and containing an area of 791,782 square feet or 18.1768 acres, more or less.

**Description of Proposed Lot 601  
Landmark Mall Redevelopment  
City of Alexandria, VA**

Beginning at a point on a concrete monument found on the intersection of the rights-of-way of Duke Street, Virginia State Route 236, a variable width right-of-way and Henry G. Shirley Memorial Highway, Interstate Highway 395, a variable width limited access highway; Thence departing said Duke Street and running with said Henry G. Shirley Memorial Highway;

413.23 feet along the arc of a curve to the right having a radius of 450.00 feet and subtended by a chord bearing North 27°10'28" East a distance of 398.86 feet to a concrete monument found;

North 53°28'53" East a distance of 221.61 feet to a point;

North 56°03'08" East a distance of 95.82 feet to a point;

North 53°09'18" East a distance of 84.27 feet to a point; Thence departing said Henry G. Shirley Memorial Highway and running through the land of Seritage SRC Finance LLC, as recorded in Instrument 150011927 among the City of Alexandria;

South 21°20'48" East a distance of 181.98 feet to a point;

North 68°08'38" East a distance of 201.74 feet to a point;

South 21°51'22" East a distance of 298.33 feet [passing through the property of Landmark Mall L.L.C. (Parcel B-2), as recorded in Instrument 000007614 among the land records of City of Alexandria, Virginia at 64.12 feet and the land of Landmark Mall L.L.C. (Lot 500), as recorded in Deed Book 1720 at Page 1762 among the land records of City of Alexandria, Virginia at 118.19 feet] to a point; Thence continuing through the land of said Landmark Mall L.L.C. (Lot 500);

South 08°08'38" West a distance of 244.45 feet [passing through the property of said Seritage SRC Finance LLC at 55.98 feet] to a point; Thence continuing through the land of said Seritage SRC Finance LLC;

North 81°51'22" West a distance of 314.50 feet to a point;

South 08°08'38" West a distance of 34.00 feet to a point;

North 81°51'22" West a distance of 41.50 feet to a point;

South 08°08'38" West a distance of 291.22 feet to a point on the northerly right-of-way line of said Duke Street; Thence running with said Duke Street;

North 80°55'52" West a distance of 119.02 feet to a point;

283.79 feet along the arc of a curve to the right having a radius of 350.00 feet and subtended by a chord bearing North 57°42'15" West a distance of 276.08 feet to a point;

North 34°28'32" West a distance of 154.97 feet to the point of beginning and containing an area of 452,443 square feet or 10.3867 acres, more or less.

**EXHIBIT B****LIST OF PARCELS BY TAX MAP NUMBER**

<b>Parcels Owners</b>	<b>Tax Map Ref</b>	<b>Lot Size in SF</b>	<b>Area in Acres</b>
Seritage (F/K/A Sears)	047.02-03-08	791,780	18.1768
Landmark Mall LLC (Howard Hughes)	047.02-03-09	504,510	11.5820
Landmark Mall LLC (Howard Hughes)	047.02-03-07	68,665	1.5763
Landmark Mall LLC (Howard Hughes)	047.02-03-05	380,317	8.7309
Landmark Mall LLC (F/K/A Macy's)	047.02-03-06	494,606	11.3546
	<b>Total Land Area</b>	<b>2,239,878</b>	<b>51.4205</b>



**EXHIBIT D**

**DESCRIPTION OF PROPOSED INFRASTRUCTURE**

				Infrastructure Cost		Funding Allocation Table	
	Hard Costs <sup>1</sup>	Soft Costs <sup>2</sup>	Total Cost	Public Infrastructure	Private Infrastructure with Public Access	City Funding	Developer Funding
				\$ Amount	\$ Amount	\$ Amount	\$ Amount
<b>Off-Site CDD Infrastructure</b>							
Off-Site Infrastructure (excl. I-395 Interchange)	\$27,270,000	\$9,640,000	\$36,910,000	\$36,910,000	\$0	\$36,910,000	\$0
<b>Subtotal</b>	<b>\$27,270,000</b>	<b>\$9,640,000</b>	<b>\$36,910,000</b>	<b>\$36,910,000</b>	<b>\$0</b>	<b>\$36,910,000</b>	<b>\$0</b>
<b>On-Site Infrastructure (incl. Inova Pad-Ready)</b>							
Preparation, Demolition, & Enablement <sup>3</sup>	\$17,470,000	\$6,180,000	\$23,650,000	\$8,886,724	\$14,763,276	\$8,886,724	\$14,763,276
Contaminated Soils on Hospital Campus	\$5,000,000	\$0	\$5,000,000	\$0	\$5,000,000	\$0	\$5,000,000
General On-Site Utility Facilities <sup>3</sup>	\$3,100,000	\$1,100,000	\$4,200,000	\$1,578,192	\$2,621,808	\$1,578,192	\$2,621,808
Parks & Open Spaces Improvements & Finishing	\$10,320,000	\$3,650,000	\$13,970,000	\$0	\$13,970,000	\$7,119,222	\$6,850,778
Existing Garage Rehab & Reconfiguration <sup>4</sup>	\$13,580,000	\$4,800,000	\$18,380,000	\$3,485,862	\$14,894,138	\$3,485,862	\$14,894,138
<b>Roadwork Infrastructure</b>							
Road 1 (Private)	\$5,960,000	\$2,110,000	\$8,070,000	\$0	\$8,070,000	\$4,000,000	\$4,070,000
Road 2 (Public) & Transit Hub	\$6,170,000	\$2,180,000	\$8,350,000	\$8,350,000	\$0	\$8,350,000	\$0
Road 3 (Public)	\$1,560,000	\$550,000	\$2,110,000	\$2,110,000	\$0	\$2,110,000	\$0
Road 4 (Private)	\$2,890,000	\$1,020,000	\$3,910,000	\$0	\$3,910,000	\$2,000,000	\$1,910,000
Road 4 (Public)	\$1,170,000	\$410,000	\$1,580,000	\$1,580,000	\$0	\$1,580,000	\$0
Road 5 (Public)	\$4,050,000	\$1,430,000	\$5,480,000	\$5,480,000	\$0	\$5,480,000	\$0
Road 6 (Public)	\$2,020,000	\$710,000	\$2,730,000	\$2,730,000	\$0	\$2,730,000	\$0
Road 7 (Private)	\$3,060,000	\$1,080,000	\$4,140,000	\$0	\$4,140,000	\$0	\$4,140,000
Public Road Scope Contingency	\$1,310,000	\$460,000	\$1,770,000	\$1,770,000	\$0	\$1,770,000	\$0
<b>Subtotal</b>	<b>\$77,660,000</b>	<b>\$25,680,000</b>	<b>\$103,340,000</b>	<b>\$35,970,778</b>	<b>\$67,369,222</b>	<b>\$49,090,000</b>	<b>\$54,250,000</b>
<b>Total</b>	<b>\$104,930,000</b>	<b>\$35,330,000</b>	<b>\$140,250,000</b>	<b>\$72,880,778</b>	<b>\$67,369,222</b>	<b>\$86,000,000</b>	<b>\$54,250,000</b>
<b>Total Infrastructure Cost &amp; Bond Proceeds</b>						<b>\$140,250,000</b>	

1. Includes hard cost contingency of 10%
2. Includes development fee of 7.0%
3. Percentage of "Public Infrastructure" calculated as Hospital Campus plus public roadways as a percentage of net site area (calculated as total site less existing garage and Block P, both undemolished)
4. Percentage of "Public Infrastructure" calculated as 550 stalls for Inova use as a percentage of total stalls in garage (2,900)