

ORDINANCE NO. 5368

An ORDINANCE creating the Landmark Community Development Authority.

WHEREAS, the City Council of the City of Alexandria, Virginia (the "Council"), has received a petition (the "Petition") from Landmark Mall, LLC, and Seritage SRC Finance, LLC (collectively, the "Landowners"), for the creation of the Landmark Community Development Authority (the "CDA"), and the Landowners have represented that they own at least fifty-one percent (51%) of the land area or assessed value of the land within the proposed CDA district (the "CDA District");

WHEREAS, a public hearing has been held on September 18, 2021, by the Council on the adoption of this Ordinance and notice has been duly provided as set forth in §§15.2-5104 and 15.2-5156 of the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2, Code of Virginia of 1950, as amended (the "Act");

WHEREAS, the Council proposes to create the CDA in order to provide the public infrastructure, facilities and services described in the Petition in connection with the development or redevelopment of certain real property located in the City of Alexandria, Virginia (the "City"), collectively known as "Landmark Mall," into a mixed-used development that is anticipated to include (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 CDA is expected to (a) enter into one or more contractual obligations as authorized under §§15.2-5101, 15.2-5114, 15.2-5125 and 15.2-5158 of the Act (such obligations are referred to herein as "CDA Payment Obligations") to finance, or facilitate the City's financing of, all or a portion of the costs of the public infrastructure, facilities and services described in the Petition through the issuance of the City's general obligation bonds, including any refunding bonds (the "City Bonds"), and (b) request that the Council establish special assessments on the taxable property within the CDA District in connection with the financing of such public infrastructure, facilities and services;

WHEREAS, the Council proposes to set forth certain agreements with the CDA, the Landowners, Landmark Landholdings, LLC (the "Developer"), and the Industrial Development Authority of the City of Alexandria (the "IDA") pursuant to a Memorandum of Understanding among the City, the Landowners, the Developer, the CDA and the IDA (the "Memorandum of Understanding");

WHEREAS, the creation of the CDA to assist in and the establishment of special assessments on the taxable real property within the CDA District to support the funding of the public infrastructure, facilities and services described in the Petition (a) 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 (b) will be 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; and

WHEREAS, the Landowners have waived in writing their right to withdraw their signatures from the Petition in accordance with §15.2-5156(B) of the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALEXANDRIA, VIRGINIA:

1. Creation of CDA: Powers under the Act. The Landmark Community Development Authority is hereby created as a political subdivision of the Commonwealth of Virginia in accordance with the applicable provisions of the Act. The CDA shall have the powers set forth in the Act.
2. Boundaries of CDA. The CDA boundaries shall initially include the property identified in the attached Exhibit A (the "Initial CDA District"). In accordance with §15.2-5157 of the Act, a copy of this Ordinance shall be recorded in the land records of the Circuit Court of the City of Alexandria for each tax map parcel in the Initial CDA District upon its adoption. The boundaries of the Initial CDA District (a) may be expanded by the Council by subsequent ordinance upon petition filed pursuant to the Act and (b) may be adjusted by the City 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.
3. Facilities and Services. The CDA is created for the purpose of exercising the powers set forth in the Act, including acquiring, financing, funding, designing, constructing, equipping and providing 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 more particularly described in the Petition (the "Infrastructure") (or otherwise facilitating such undertakings by, and in cooperation with, the City), which description is incorporated herein by reference. The CDA shall not provide services which are provided by, or obligated to be provided by, any authority already in existence pursuant to the Act unless such authority provides the certification required by §15.2-5155(B) of the Act.
4. Articles of Incorporation. Attached hereto as Exhibit B are the proposed Articles of Incorporation of the CDA. The City Manager is authorized and directed to execute and file such Articles of Incorporation on behalf of the Council with the State Corporation Commission in substantially the form attached as Exhibit B with such changes, including insubstantial changes to the boundary description of the CDA District described therein, as the City Manager may approve. The City Manager is authorized to approve such changes or corrections to the Articles of Incorporation prior to filing with the State Corporation Commission as do not change the purpose or function of the CDA as set forth in this Ordinance and in the Petition.
5. Capital Cost Estimates. The Council hereby finds, in accordance with §15.2-5103(B) of the Act, that it is impracticable to include capital cost estimates, project proposals and project service rates, except as preliminarily summarized in the Petition.

6. Membership of the Authority.

(a) The powers of the CDA shall be exercised by a board (the "CDA Board") consisting of five (5) members.

(b) All members of the CDA Board shall be appointed by the Council pursuant to §15.2-5113 of the Act. The Mayor shall make recommendations for, and the Council shall approve, the appointment of such members. Members of the CDA Board shall be selected from the members of the Council.

(c) The initial members of the CDA Board shall be as set forth in the Articles of Incorporation for the terms set forth therein.

(d) CDA Board members shall receive no compensation from the CDA for their service as CDA Board members.

7. Plan of Finance.

(a) The public infrastructure, facilities and services to be undertaken by or on behalf of, the CDA or the City as described herein and in the Petition shall be funded from all or some of the following sources: (i) proceeds derived from the City Bonds, (ii) special assessments to be levied pursuant to §15.2-5158(A)(5) of the Act, (iii) contributions made by the City of certain incremental tax revenues generated by development or redevelopment of the property within the CDA District as more particularly described in the Petition and the Memorandum of Understanding and (iv) any other available revenues of the CDA.

(b) The aggregate principal amount of the CDA Payment Obligations shall not exceed the principal amount of the City Bonds, which shall be issued in a maximum aggregate principal amount sufficient to (i) generate \$86,000,000 in net construction proceeds and (ii) pay capitalized interest on the City Bonds.

(c) 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.

(d) The proceeds derived from the City Bonds and allocable to any CDA Payment Obligations shall be applied (either directly or constructively) to pay (or reimburse the City for prior payments of) the costs of the infrastructure improvements, facilities and services as described herein and in the Petition, capitalized interest and any additional administrative costs to be incurred by the City in connection with the administration and operation of the CDA.

(e) Each CDA Payment Obligation shall be a debt of the CDA and shall neither be a debt or other obligation of the City nor constitute a pledge of the faith and credit of the City.

8. Approval of Memorandum of Understanding. The Memorandum of Understanding is approved in substantially the form presented to the Council at this meeting,

with such changes and corrections (including, without limitation, changes in the date thereof) that do not materially adversely affect the City's interests as may be approved by the City Manager, whose approval shall be evidenced conclusively by the execution and delivery of the Memorandum of Understanding. The City Manager is authorized and directed to execute and deliver the Memorandum of Understanding.

9. Establishment of Special Assessments; Notice of Creation of CDA District and Levy of Special Assessments; Annual Approval by Council of Collection of Special Assessments.

(a) By agreement between the Landowners, the CDA and the City pursuant to the Memorandum of Understanding, special assessments to pay the costs of public improvements to benefit property within and abutting the CDA District are hereby established and apportioned in accordance with the Rate and Method of Apportionment of Special Assessments ("RMA") in substantially the form presented to the Council at this meeting. The CDA Board is authorized to approve or to provide for the approval of a Special Assessment Roll allocating the special assessments among the tax parcels within the CDA District in accordance with the RMA as such tax parcels exist as of the date of recordation of the RMA in the land records of the City. The CDA shall cause notice of the special assessments to be reported to the City's Director of Finance. The special assessments shall be liens on the taxable real property in the CDA District in accordance with the provisions of §§15.2-2404 et seq. of the Code of Virginia of 1950, as amended (the "Virginia Code"). The CDA shall cause notice of the creation of the CDA District and the levy of the special assessments to be recorded in the deed book and land records of the City in accordance with the requirements of Virginia Code §§15.2-2412 and 15.2-5157. Based upon the Memorandum of Understanding, the RMA and the special assessment report described therein, the Council finds and determines that the special assessments will meet the requirements of Virginia Code §§15.2-2404 et seq. and 15.2-5158(5).


(b) As and to the extent permitted by Virginia Code §58.1-3965.2, when an installment of a special assessment is delinquent, proceedings may be instituted to sell any real property subject to such special assessment on the first anniversary of the date on which such installment became due.

(c) In accordance with the terms of the Memorandum of Understanding and upon each CDA request of the City to collect the annual installments of the special assessments, the City Manager shall request the Council to approve the collection of such annual installments and present an ordinance or resolution to the same effect for the Council's consideration.

10. Subsequent Resolution. The City may make such additional changes or amendments to the Memorandum of Understanding as the Council determines to be necessary or appropriate by subsequent resolution.

11. Severability. If any part, section, clause or phrase of this Ordinance, or any individual assessment levied hereby, is declared to be unconstitutional or invalid for any reason, such decision shall not affect the validity of any other portion hereof or assessment hereunder.

12. Effective Date. This Ordinance shall take effect upon the occurrence of closing under the Inova Site Purchase Agreement as described in Section 2.2(f) of the Landmark Mall Development and Financing Agreement dated as of July 30, 2021, by and among the City, Landmark Land Holdings, LLC, and Inova Health Care Services.


JUSTIN M. WILSON
Mayor

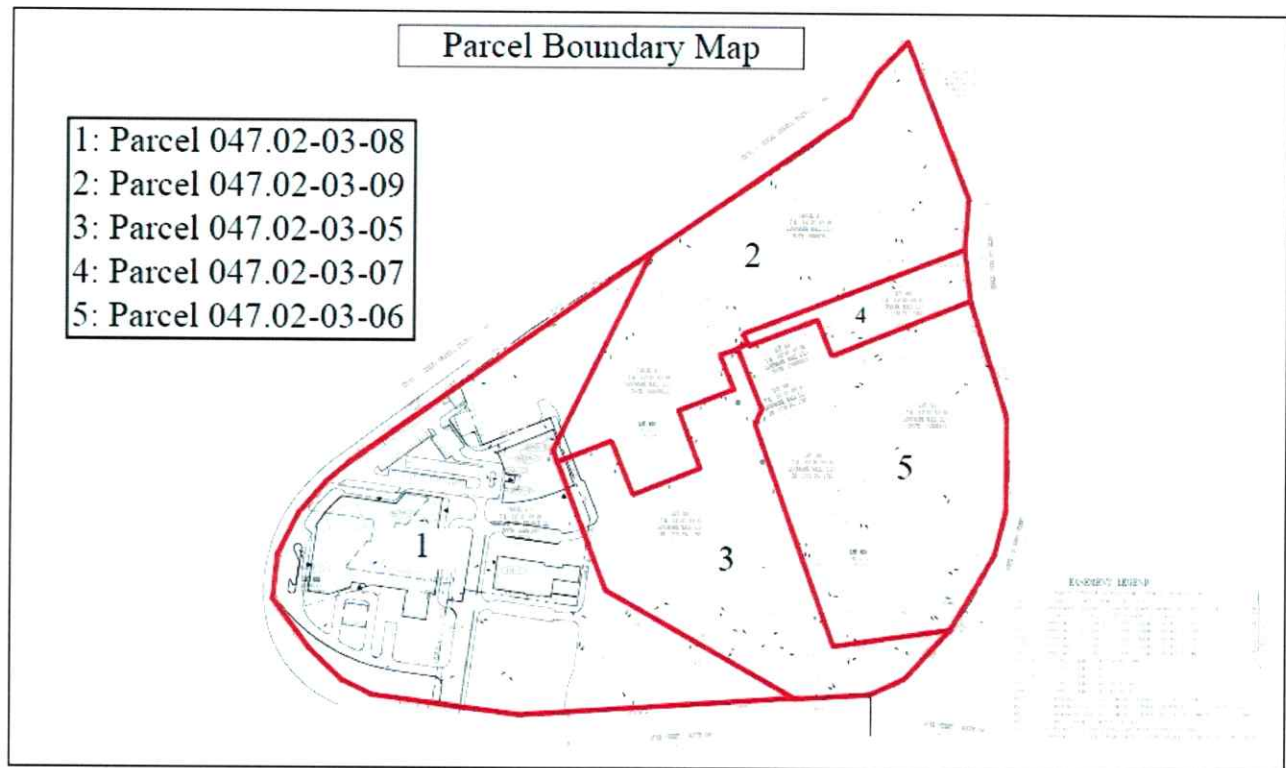
ATTEST:


Gloria A. Sitton, CMC City Clerk

Exhibit A: Initial CDA Boundaries
Exhibit B: Articles of Incorporation

Introduction: September 14, 2021
First Reading: September 14, 2021
Publication: August 19, 2021, August 26, 2021, September 2, 2021, September 16, 2021
Public Hearing: September 18, 2021
Second Reading: September 18, 2021
Final Passage: September 18, 2021

Initial CDA District Boundaries



Tax Map Parcel Numbers

Parcels Owners	Tax Map Ref	Lot Size in SF ⁽¹⁾	Area in Acres ⁽¹⁾
Seritage SRC Finance, LLC	047.02-03-08	791,780	18.1768
Landmark Mall, LLC	047.02-03-09	504,510	11.5820
Landmark Mall, LLC	047.02-03-07	68,665	1.5763
Landmark Mall, LLC	047.02-03-05	380,317	8.7309
Landmark Mall, LLC	047.02-03-06	494,606	11.3546
	Total Land Area	2,239,878	51.4205

⁽¹⁾ Reflects approximate square footage and acreage.

EXHIBIT B

Proposed Articles of Incorporation

Attached

Description of Initial Authority District

Tax Map Parcel Numbers

Parcels Owners	Tax Map Ref	Lot Size in SF⁽¹⁾	Area in Acres⁽¹⁾
Seritage SRC Finance, LLC	047.02-03-08	791,780	18.1768
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Landmark Mall, LLC	047.02-03-06	494,606	11.3546
Total Land Area		2,239,878	51.4205

⁽¹⁾ Reflects approximate square footage and acreage.

Exhibit C

Petition to Create Authority

Attached

**Articles of Incorporation
of
Landmark Community Development Authority**

The undersigned, pursuant to Chapter 51, Title 15.2 of the Code of Virginia of 1950, as amended, adopts the following Articles of Incorporation for the Landmark Community Development Authority and states as follows:

Article I

Name

The name of this Authority is LANDMARK COMMUNITY DEVELOPMENT AUTHORITY (the "Authority").

Article II

Organization

Pursuant to an ordinance adopted by the City Council of the City of Alexandria, Virginia (the "Council") on September 18, 2021 (the "Ordinance"), the Authority shall be organized by the City of Alexandria, Virginia (the "City"), under the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2 of the Code of Virginia of 1950, as amended) (the "Act"), as a public body corporate and politic and a political subdivision governed by the laws of the Commonwealth of Virginia.

Article III

Members

The affairs of the Authority shall be conducted by an authority board of five members ("Authority Board"). The initial Authority Board members are as set forth in Exhibit A attached hereto and incorporated by reference. All members of the Authority Board shall be appointed by the Council. The Mayor shall make recommendations for, and the Council shall approve, the appointment of such members. Members of the Authority Board shall be selected from and shall at all times be members of the Council. Each member of the Authority Board shall serve a term concurrent with their respective term as a member of the Council, including the initial members of the Authority Board who shall serve the terms of office set forth in Exhibit A hereto. No member of the Authority Board shall serve a term in excess of that permitted by §15.2-5113 of the Act, provided that any member of the Authority Board may be reappointed for one or more terms (consecutive or otherwise). The election of officers of the Authority shall be as set forth in the By-Laws of the Authority. Qualifications and appointment of members of the Authority Board shall be consistent with the requirements of the Act.

The Authority Board shall have the powers and duties set forth in the Act and in these Articles of Incorporation and the By-Laws, to the extent that such powers and duties are not inconsistent with the Act.

Article IV

Principal Office

The Authority's initial principal office shall be c/o City Manager, City of Alexandria, Virginia, 301 King Street, Room 3500, Alexandria, Virginia 22314. The Authority may conduct its business and maintain offices for such purposes at such other places within or without the City as may from time to time be deemed advisable by the Authority Board, and not in conflict with the requirements of the Act.

Article V

Authority District

The land initially encompassed within the Authority is set forth in Exhibit B attached hereto (the "Initial Authority District") provided that the boundaries of the Initial Authority District (a) may be expanded by the Council by subsequent ordinance upon petition filed pursuant to the Act and (b) may be adjusted by the City 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 Authority district after the adjustment originally petitioned for the creation of the Authority.

Article VI

Purposes and Powers

The Authority is organized for the purpose of exercising all powers granted by the Act, including acquiring, financing, funding, designing, constructing, equipping and providing for the construction, installation, operation, maintenance (unless dedicated to and accepted by the appropriate governmental entity other than the Authority), enhancement, replacement, relocation and alteration of all or portions of the public infrastructure, facilities and services generally described in the Petition to create the Authority attached hereto as Exhibit C (or otherwise facilitating such undertakings by, and in cooperation with, the City). The Authority shall have all powers granted to a "community development authority" under the Act.

Article VII

Not-for-Profit

The Authority shall not be organized or operated for pecuniary gain or profit. No part of the net earnings of the Authority shall inure to the benefit of, or be distributable to any member, director, officer, or any other private person, except that the Authority shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments in furtherance of the purposes set forth in Article VI.

Article VIII

Amendment of Articles

These Articles of Incorporation may be amended at any time and from time to time by the Council as now or hereafter prescribed by the Act.

Article IX

Registered Office and Registered Agent

The address of the initial registered office of the Authority is c/o Joanna Anderson, City Attorney, 301 King Street, Room 1300, Alexandria, Virginia 22314. The initial Registered Agent of the Authority is Joanna Anderson, whose business address is identical to that of the initial registered office and who is a resident of Virginia and a member of the Virginia State Bar.

Article X

Initial Members

The names and addresses of the initial members of the Authority Board are as set forth on the attached and incorporated Exhibit A.

Article XI

Indemnification

(a) For purposes of this Article XI the following definitions shall apply:

(i) “expenses” include counsel fees, expert witness fees, and costs of investigation, litigation and appeal, as well as any amounts expended in asserting a claim for indemnification;

(ii) “liability” means the obligation to pay a judgment, settlement, penalty, fine, or other such obligation;

(iii) “legal entity” means a corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise; and

(iv) “proceeding” means any threatened, pending, or completed action, suit, proceeding or appeal whether civil, criminal, administrative or investigative and whether formal or informal.

(b) In every instance in which the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation, the members, directors and officers of the Authority shall not be liable to the Authority.

(c) The Authority shall indemnify any individual who is, was or is threatened to be made a party to a proceeding (including a proceeding by or in the right of the Authority) because such individual is or was a member, director or officer of the Authority or because such individual is or was serving the Authority or any other legal entity in any capacity at the request of the Authority while a member, director or officer of the Authority, against all liabilities and reasonable expenses incurred in the proceeding except such liabilities and expenses as are incurred because of such individual's willful misconduct or knowing violation of the criminal law. Service as a member, director or officer of a legal entity controlled by the Authority shall be deemed service at the request of the Authority. The determination that indemnification under this paragraph (c) is permissible and the evaluation as to the reasonableness of expenses in a specific case shall be made, in the case of a member or director, as provided by law, and in the case of an officer, as provided in Section (d) of this Article; provided, however, that if a majority of the members of the Authority has changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Authority Board and such person. Unless a determination has been made that indemnification is not permissible, the Authority shall make advances and reimbursements for expenses incurred by a member, director or officer in a proceeding upon receipt of an undertaking from such member, director or officer to repay the same if it is ultimately determined that such member, director or officer is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured general obligation of the member, director or officer and shall be accepted without reference to such member's, director's or officer's ability to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that a member, director or officer acted in such a manner as to make such member, director or officer ineligible for indemnification. The Authority is authorized to contract in advance to indemnify and make advances and reimbursements for expenses to any of its members, directors or officers to the same extent provided in this paragraph (c).

(d) The Authority may, to a lesser extent or to the same extent that it is required to provide indemnification and make advances and reimbursements for expenses to its members, directors and officers pursuant to paragraph (c) of this Article, provide indemnification and make advances and reimbursements for expenses to its employees and agents, the members, directors, officers, employees and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of the Authority, and may contract in advance to do so. The determination that indemnification under this paragraph (d) is permissible, the authorization of such indemnification and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Authority Board, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law. No person's rights under paragraph (c) of this Article shall be limited by the provisions of this paragraph (d).

(e) The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors and administrators. Special legal counsel selected to make determinations under this Article may be counsel for the Authority. Indemnification pursuant to this Article shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by

legal entities other than the Authority and indemnification under policies of insurance purchased and maintained by the Authority or others. However, no person shall be entitled to indemnification by the Authority to the extent such person is indemnified by another, including an insurer. The Authority is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to the Authority or any other legal entity at the request of the Authority regardless of the Authority's power to indemnify against such liability. The provisions of this Article shall not be deemed to preclude the Authority from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above. If any provision of this Article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Article, and to this end the provisions of this Article are severable.

(f) No amendment, modification or repeal of this Article shall diminish the rights provided hereunder to any person arising from conduct or events occurring before the adoption of such amendment, modification or repeal.

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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 September 15 of each year, commencing September 15, 2027, 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 collection date to the extent that the Incremental Tax Revenues collected in the preceding fiscal year were sufficient to pay, or reimburse the City for payment of, the debt service due on the City Bonds in such fiscal year. In making the above request, the CDA shall provide such information as the City may request to enable it to collect the Annual Installments. Each Annual Installment shall be collected on the applicable November 15 due date for real property taxes (commencing November 15, 2027) and shall be in an amount equal to the debt service that was due on the City Bonds in the preceding fiscal year less the Incremental Tax Revenues collected in such fiscal year.

(ii) *City's Agreement with respect to Special Assessments; Retention of Annual Installments by City* – Following receipt of the CDA's request pursuant to clause (i) above, the City Manager shall ask the Council to approve the collection of the applicable Annual Installment; it being understood that the collection of each Annual Installment shall be made only to the extent that the Incremental Tax Revenues calculated pursuant to this Memorandum and collected in the applicable fiscal year were insufficient to pay, or reimburse the City for payment of, the debt service due on the City Bonds in such fiscal year. So long as any CDA Payment Obligations remain outstanding, the City shall 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, apportioned and collected 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 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 or collection 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, at the same time as it bills its November 15 installment of real estate taxes, provided that such bill shall be mailed not later than November 1. 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 collected on each 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 for each fiscal year, determined as set forth below, and apply such collected Incremental Tax Revenues (or other legally available funds in amounts equal thereto) to the payment, or the reimbursement of the City for payment of, the debt service due on the City Bonds in such fiscal year. For purposes of this Memorandum, the Incremental Tax Revenues for a fiscal shall only include amounts that the City has recognized for such fiscal in accordance with its then-current accounting practices. 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* -- The annual Incremental Tax Revenues shall equal the sum of:

(A) 100% of the regular ad valorem real property tax revenues (excluding any special tax revenues) collected for each fiscal 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 fiscal year 2021;

(B) 100% of the City's portion of the retail sales and use tax revenues collected for each fiscal 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 fiscal year 2021;

(C) 100% of the meals tax revenues (excluding the portion of such revenues required to be allocated to affordable housing) collected for each fiscal 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 fiscal year 2021; and

(D) 100% of the transient lodging tax revenues collected for each fiscal year by the City from hotels and other establishments located within the CDA District (excluding any revenues realized from "short-term residential rentals" as defined in Section 3-2-152 of the City Code of Ordinances) that exceed the transient lodging tax revenues collected by the City within the CDA District during fiscal year 2021.

Notwithstanding the foregoing, Incremental Tax Revenues shall not include any amounts realized from penalties or interest collected in connection with payments of delinquent taxes.

(iii) *Timing of Application of Incremental Tax Revenues* -- Commencing July 1, 2025, and for so long as any City Bonds remain outstanding, the City shall apply the Incremental Tax Revenues collected for each fiscal year (or other legally available funds in amounts equal thereto) to the payment, or the reimbursement of the City for payment, of debt service due on the City Bonds in such fiscal year. Except as provided in the following sentence, any excess

Incremental Tax Revenues of a particular fiscal year remaining after payment of debt service due on the City Bonds in such fiscal year shall then be available for the City's general use and shall not be credited against any debt service on the City Bonds due in any other fiscal year or otherwise applied to reduce the Special Assessment lien. Any Incremental Tax Revenues collected in fiscal year 2026 shall be credited, together with any Incremental Tax Revenues collected in fiscal year 2027, to the payment of debt service coming due on the City Bonds in fiscal year 2027.

(iv) *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.

(d) Application of City's Accounting Practices. For the purposes of making the calculations and determinations provided for under this Section 4, the recognition of revenues and expenditures shall be consistent with the City's then-current accounting practices.

(e) Treatment of CDA District Property Leased to Inova. For the avoidance of doubt, no Special Assessments shall be levied upon the property owned by the IDA and leased to Inova Health Care Services to the extent such property is otherwise exempt from real property tax under applicable law

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.

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 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: (703) 746-4300

with a copy to: City Attorney's Office
301 King Street
Alexandria, Virginia 22314
Attention: City Attorney
Phone: (703) 746-3750

IDA: Industrial Development Authority of the City of Alexandria
625 N. Washington Street, Suite 400
Alexandria, Virginia 22314
Attention: Stephanie Landrum, Assistant Secretary
Phone: (703) 739-3820

with a copy to: City Attorney's Office

301 King Street
Alexandria, Virginia 22314
Attention: City Attorney
Phone: (703) 746-3750

CDA: Landmark Community Development Authority
c/o City of Alexandria
301 King Street
Alexandria, Virginia 22314
Attention: City Manager
Phone: (703) 746-4300

with a copy to: City Attorney's Office
301 King Street
Alexandria, Virginia 22314
Attention: City Attorney
Phone: (703) 746-3750

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: (301) 922-3392

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: (301) 980-4725

with a copy to: Arent Fox LLP
1717 K Street, NW
Washington, DC 20006
Attention: Richard A. Newman
Phone: (202) 857-6170

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 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).

(d) 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 and shall at all times be members of the Council. Each member of the CDA shall serve a term concurrent with their respective term as a member of the Council. No member of the CDA shall serve a term in excess of that permitted by Virginia Code §15.2-5113, provided that any member of the CDA may be reappointed for one or more terms (consecutive or otherwise).

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 5th day of August, 2021.

Landmark Mall, LLC,
a Delaware limited liability company

By: *Peter F. Riley*

Name: Peter F. Riley

Title: Secretary

State of Texas

~~COMMONWEALTH OF VIRGINIA~~

CITY/COUNTY OF Montgomery

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 Peter F. Riley (name), Secretary (title), on behalf of Landmark Mall, LLC.

Given under my hand this 5th day of August, 2021.

My commission expires: 1-12-2025.

Brenda Koerber

Notary Public

My registration number is: 132863711.



Seritage SRC Finance, LLC,
a Delaware limited liability company

By: ML

Name: Matthew Fernand

Title: Vice President

State of New York
~~COMMONWEALTH OF VIRGINIA~~

CITY/COUNTY OF New York

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 Matthew Fernand (name), Vice President (title), on behalf of Seritage SRC Finance, LLC.

Given under my hand this 3rd day of August, 2021.

My commission expires: _____.

J. Nelson

Notary Public

My registration number is: _____.

JODIEANN NELSON
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01NE6266888
Qualified in Kings County
Commission Expires August 6, 2024

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;

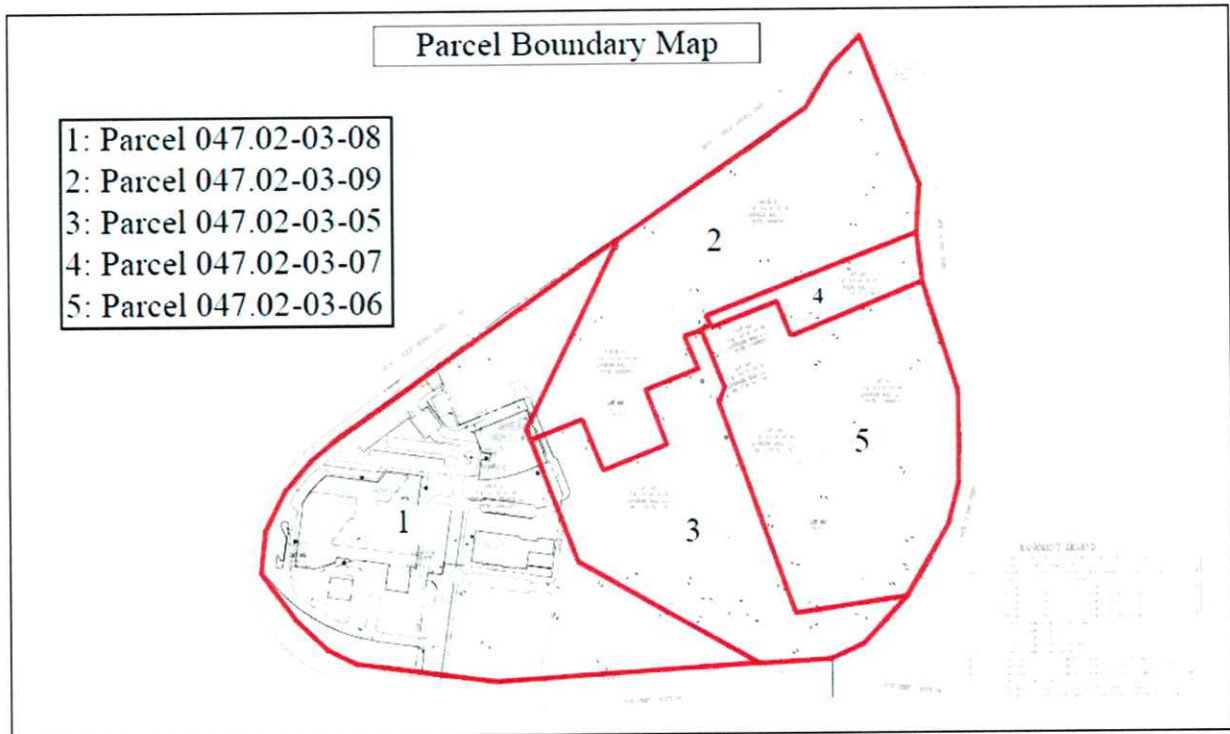
North 56°03'08" East a distance of 95.82 feet to a point;

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

Parcels Owners	Tax Map Ref	Lot Size in SF⁽¹⁾	Area in Acres⁽¹⁾
Seritage SRC Finance, LLC	047.02-03-08	791,780	18.1768
Landmark Mall, LLC	047.02-03-09	504,510	11.5820
Landmark Mall, LLC	047.02-03-07	68,665	1.5763
Landmark Mall, LLC	047.02-03-05	380,317	8.7309
Landmark Mall, LLC	047.02-03-06	494,606	11.3546
	Total Land Area	2,239,878	51.4205

⁽¹⁾ Reflects approximate square footage and acreage.

MAP OF CDA DISTRICT



DESCRIPTION OF PROPOSED INFRASTRUCTURE

	Infrastructure Cost			Funding Allocation Table			
	Hard Costs ¹	Soft Costs ²	Total Cost	Public Infrastructure	Private Infrastructure with Public Access	City Funding	Developer Funding
				\$ Amount	\$ Amount	\$ Amount	\$ Amount
Off-Site CDD Infrastructure							
Off-Site Infrastructure (excl. I-395 Interchange)	\$27,270,000	\$9,640,000	\$36,910,000	\$36,910,000	\$0	\$36,910,000	\$0
Subtotal	\$27,270,000	\$9,640,000	\$36,910,000	\$36,910,000	\$0	\$36,910,000	\$0
On-Site Infrastructure (incl. Inova Pad-Ready)							
Preparation, Demolition, & Enablement ³	\$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 ⁴	\$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	\$10,920,000	\$3,650,000	\$14,570,000	\$0	\$14,570,000	\$7,119,222	\$6,850,778
Existing Garage Rehab & Reconfiguration ⁴	\$13,580,000	\$4,800,000	\$18,380,000	\$3,485,862	\$14,894,138	\$3,485,862	\$14,894,138
Roadwork Infrastructure							
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	\$1,110,000	\$0
Road 4 (Private)	\$2,890,000	\$1,010,000	\$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
Subtotal	\$77,660,000	\$25,680,000	\$103,340,000	\$35,970,778	\$67,369,222	\$49,090,000	\$54,250,000
Total	\$104,930,000	\$35,330,000	\$140,250,000	\$72,880,778	\$67,369,222	\$86,000,000	\$54,250,000
Total Infrastructure Cost & Bond Proceeds						\$140,250,000	

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)

***Landmark Community Development Authority
City of Alexandria, Virginia***

***Rate and Method of Apportionment
Of Special Assessments***

A. INTRODUCTION

Special Assessments shall be imposed on and collected from parcels of real property within the Landmark Community Development Authority (the “Authority”) district (the “CDA District”), created by the Alexandria City Council pursuant to the Memorandum of Understanding (as hereafter defined), through the application of the procedures described below. The Board of Directors of the Landmark Community Development Authority or their designee shall make all determinations in this Rate and Method of Apportionment of Special Assessments unless stated otherwise.

The Special Assessment for each Parcel represents the total obligation of a Parcel, including the Parcel’s share of any CDA Payment Obligations (including principal of and interest on the City Bonds) and any related Administrative Expenses. The Special Assessments may be prepaid at any time as the Principal Portion of the Special Assessments as provided for herein. If not prepaid, the Special Assessments are payable annually as the Annual Installment. Incremental Tax Revenues and capitalized interest on the City Bonds may be available to apply to the repayment of the City Bonds. As a result, it may not be necessary to collect the full amount of the Annual Installment to satisfy the CDA Payment Obligations. The portion of the Annual Installment required to be collected each year to satisfy the CDA Payment Obligations and to pay any Administrative Expenses, less any credits as hereinafter described, is referred to as the Annual Payment.

Terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Development Agreement.

B. DEFINITIONS

The terms used herein shall have the following meanings:

“**Act**” means the Virginia Water and Waste Authorities Act, beginning with §15.2-5100 *et seq.* of the Code of Virginia, 1950, as it may be amended from time to time.

“**Adjusted Annual Installment**” means the amount calculated as the Adjusted Annual Installment for each Parcel pursuant to Section D.2.

“**Administrative Expenses**” means the costs related to commencing foreclosure and pursuing collection of delinquent Annual Payments or other costs of the City related to the CDA estimated for the Assessment Year or previously incurred and not reimbursed from the CDA Payment Obligation.

“**Administrator**” means the official or designee of the Authority who shall be responsible for determining the Annual Revenue Requirement and other calculations required herein, preparing

the update of the Special Assessment Roll, and undertaking such other responsibilities as provided herein or as directed by the Board of Directors.

“Annual Credit” means the amount calculated as the Annual Credit for each Parcel pursuant to Section D.3.

“Annual Installment” means the portion of the Special Assessments as set forth in the Special Assessment Roll that may be collected each Assessment Year from all Parcels in the CDA District pursuant to Virginia Code section 15.2-5158(A)(5) and the provisions herein. The Annual Installment for each year as shown on the Special Assessment Roll may be revised by the Board of Directors to better match the expenses of the Authority as long as the total of the Special Assessments are not exceeded.

“Annual Parcel Installment” means the allocation of the Annual Installment to each Parcel pursuant to Section C.

“Annual Payment” means the portion of the Annual Installment to be collected each Assessment Year as determined by the provisions of Section D.1. The Annual Payment for any Parcel may be less than, but may not exceed, the Annual Installment for such Parcel for any Assessment Year.

“Annual Revenue Requirement” means, for any Assessment Year, the sum of the following: (1) debt service due on the City Bonds in the preceding fiscal year; and (2) any Administrative Expenses; less (3) Incremental Tax Revenues collected in the preceding fiscal year, whether or not appropriated by the City Council for the payment of the City Bonds; (4) any funds available to pay expenses of the Annual Revenue Requirement pursuant to the Memorandum of Understanding, such as capitalized interest or interest earnings on any account balances, and (5) any other funds available to the Authority that may be applied to the Annual Revenue Requirement.

“Assessed Property” means, for any Assessment Year, Parcels other than Non-Benefited Property. For the avoidance of doubt, no assessments shall be levied upon the property owned by the Industrial Development Authority of the City of Alexandria and leased to Inova Health Care Services to the extent such property is otherwise exempt from real property tax under applicable law.

“Assessment Year” means the annual cycle in which the Annual Payment is determined for each Parcel and the Annual Payment is collected as set forth in the Memorandum of Understanding.

“Base Year Tax Revenues” means for each of the tax revenues included in the Incremental Tax Revenues, the tax revenues collected by the City for fiscal year 2021 as provided for in the Memorandum of Understanding.

“Board of Directors” means the Board of Directors of the Authority as appointed by the City Council.

“CDA Infrastructure Improvements” means those improvements that the Authority has been authorized to provide support for as provided for in the Memorandum of Understanding.

“**CDA Payment Obligations**” has the meaning of such term in the Memorandum of Understanding.

“**City**” means the City of Alexandria, Virginia.

“**City Bonds**” has the meaning of such term in the Memorandum of Understanding.

“**City Council**” means the Council of the City of Alexandria, Virginia.

“**Commencement Year**” means the first Assessment Year following the issuance of the City Bonds.

“**Development Agreement**” means the Development and Financing Agreement by and among the City, the Developer, and INOVA, as defined therein, setting forth the terms and other provisions relating to the City Bonds, as modified, amended and /or supplemented from time to time.

“**Equivalent Units**” means, for Land Use Classes 1, 2, 3 and 4, the number of dwelling units, for Land Use Class 5, the Gross Floor Area per 1,000 square feet, and for Land Use Class 6, the number of rooms, in all cases built or to be built on a Parcel, multiplied by the factors for each land use class shown below, which represent an allocation of the costs of the CDA Infrastructure Improvements funded by the City Bonds to the Parcels of Assessed Property:

<u>Land Use Class</u>	<u>Equivalent Unit Factor</u>
Land Use Class 1	0.38 Per Unit
Land Use Class 2	1.00 Per Unit
Land Use Class 3	1.32 Per Unit
Land Use Class 4	2.07 Per Unit
Land Use Class 5	0.94 Per 1,000 GFA
Land Use Class 6	0.37 per Hotel Room

The computation of Equivalent Units for each Parcel shall be based on the expected development in substantial conformance with the conceptual and final development plans as approved by the City Council, which is expected to be measured by actual development, development plans, the legal maximum development allowed, the acreage of a Parcel or reasonable density ratios, or other reasonable methods as calculated by the Administrator and confirm by the Board of Directors.

“**Gross Floor Area**” or “**GFA**” means the sum of the area of the horizontal surface of the several floors of a building measured from the exterior faces of exterior walls, to include all floor area not defined as gross parking area.

“**Incremental Tax Revenues**” has the meaning of such term in the Memorandum of Understanding.

“**Land Use Class 1**” means affordable Rental Residential units, specifically, units with below market rents used or intended to be used primarily as rental units available to eligible households pursuant to income restrictions under federal, state, or local programs, including any ancillary uses thereto, excluding Land Use Class 2.

“Land Use Class 2” means Rental Residential used or intended to be used primarily as market rate rental units, including any ancillary uses thereto.

“Land Use Class 3” means Assessed Property used or intended to be used as stacked flat dwelling units and are subject to the Condominium Act, Va. Code § 55-79.39, et seq., or Virginia Real Estate Cooperative Act, Va. Code § 55-424, et seq., or any amendments thereto, including any ancillary uses thereto, but not including property in Land Use Class 1 or Land Use Class 2.

“Land Use Class 4” means Assessed Property used or intended to be used primarily for attached dwelling units in a series of three or more units separated from one another by continuous vertical walls without openings from basement to roof or roofs, including any ancillary uses thereto, but not including property including property in Land Use Class 1, Land Use Class 2, or Land Use Class 3.

“Land Use Class 5” means Assessed Property used or intended to be used primarily for retail, restaurant, office, or other commercial use, not including Assessed Property classified as Land Use Class 6 or any residential land use class, including any ancillary uses thereto.

“Land Use Class 6” means Assessed Property used or intended to be used primarily as a hotel, including any ancillary uses thereto.

“Mandatory Prepayment” shall mean a mandatory prepayment of Special Assessments pursuant to Section J.

“Memorandum of Understanding” means the memorandum of understanding by and between the City, the Authority, the IDA, the Landowners, and the Developer related to the creation of the CDA, as defined therein, setting forth the terms and other provisions relating to the CDA Payment Obligations, as modified, amended or supplemented from time to time.

“Non-Benefited Property” means Public Property, Owner Association Property, or easements that create an exclusive use for a public utility provider.

“Owner Association Property” means Parcels within the boundaries of the CDA District owned by or irrevocably offered for dedication to a property owners’ association (if not used in a trade or business) and available for use by property owners in general.

“Parcel” means a lot or parcel of real property within the CDA District with a parcel number assigned by the City for real property tax purposes.

“Principal Portion of Special Assessments” means the portion of the Special Assessments equal to the outstanding principal amount of the City Bonds allocable to the CDA Payment Obligations. The Principal Portion of Special Assessments shall initially be allocated to Assessed Property in the CDA District proportionate to the Special Assessment as set forth in Section C hereof. The Principal Portion of Special Assessments may be increased for each Parcel of Assessed Property pro rata to the Equivalent Units of each Parcel for refunding purposes or other reasons as long as the total of the Special Assessment is not increased to more than the amount set forth in the Special Assessment Roll.

“Public Property” means, for any Assessment Year, property within the boundaries of the CDA District owned by or irrevocably offered for dedication to the federal government, Commonwealth of Virginia, the City, the Authority, or any other public agency, political subdivision, or entity, whether in fee simple or any other property ownership interest that creates a substantially exclusive use by the public entity in the property.

“Rental Residential” means Assessed Property in which generally all of the dwelling units within a building are to be rented and used or intended to be used as a building or portion thereof containing three or more dwelling units, located on a single lot or parcel of ground that has a common outside entrance or entrances for all the dwelling units with units that are generally designed to occupy a single floor one above another, including any ancillary uses thereto.

“Special Assessment Roll” means the document attached hereto as Appendix A, as updated from time to time by the Board of Directors of the Authority in accordance with the procedures set forth herein.

“Special Assessments” means the Special Assessments on each Parcel as shown on the Special Assessment Roll permitted by Virginia Code Sections 15.2-5158(A)(5) and 15.2-2404 et seq., as they may be reapportioned or reduced according to the provisions herein.

“Termination Date” means the last Assessment Year in which Special Assessments may be collected as provided for in Section H herein.

C. SPECIAL ASSESSMENTS

1. The Amount of the Special Assessments

The total of the Special Assessments is equal to the amounts set forth in the Special Assessment Roll as it may be updated from time to time as provided for herein. The Special Assessments for each Parcel shall not be changed thereafter except pursuant to the provisions hereof.

The Special Assessments on each Parcel shall be set according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Special Assessments for any particular Parcel "X"
- B = the total of the Special Assessments for all Parcels in the CDA District as shown in the Special Assessment Roll prior to the incurrence of any CDA Payment Obligations
- C = the Equivalent Units of Parcel "X"
- D = the sum of the Equivalent Units of all of the Parcels in the CDA District

2. Reapportionment of Special Assessments

a. Subdivision of a Parcel

Upon the subdivision of any Parcel, the Special Assessments of the Parcel prior to the subdivision shall be reallocated to each new and remainder Parcel related to the subdivision in proportion to the Equivalent Units of each Parcel and the Special Assessments for the Parcel prior to the subdivision. The reapportionment of the Special Assessments shall be represented by the formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Special Assessment for a new or remainder Parcel related to the subdivision
- B = the Special Assessments for the Parcel or Parcels existing immediately prior to the subdivision from which a Parcel was subdivided
- C = the Equivalent Units of the Parcel as determined as set forth below
- D = the sum of the Equivalent Units of all Parcels related to the subdivision of the prior Parcel or Parcels

The computation of the Equivalent Units shall be made by the Administrator and confirmed by the CDA Board based on the information available regarding the Parcel. Consistent standards shall be used in preparing the calculations and records shall be made and kept of the calculations.

b. Consolidation of a Parcel

Upon the consolidation of two or more Parcels, the Special Assessments for the consolidated Parcel shall equal the sum of the Special Assessments for the Parcels immediately prior to the consolidation.

c. Request of a Parcel Owner

The Special Assessments on some or all of the Parcels may be reallocated upon the unanimous request of the owners of the Parcels for which the Special Assessments are to be reallocated if there has been a change in the estimate of the Equivalent Units applicable to one of the Parcels.

The reallocation of the Special Assessments shall be made pursuant to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Special Assessment after reallocation for each Parcel "X" for which the Special Assessments are being reallocated
- B = the sum of the Special Assessments immediately prior to reallocation of the Parcels for which the Special Assessments are being reallocated
- C = the Equivalent Units of Parcel "X" after the reallocation

D = the sum of the Equivalent Units after the reallocation for all of the Parcels for which Special Assessments are being reallocated

d. Principal Portion of Special Assessments and Annual Installment

The Principal Portion of Special Assessments and Annual Installment shall be set and reallocated in the same manner as the Special Assessments.

3. Reduction in the Special Assessments

a. Reduction in Costs

If the Board of Directors resolves that the total actual costs to be incurred by the Authority, including the costs of the CDA Infrastructure Improvements financed with proceeds of any City Bonds (including any refunding bonds), certain capitalized interest on such City Bonds and any Administrative Expenses, are less than the total amount of the Special Assessments, then the Board of Directors shall reduce the Special Assessments such that the sum of Special Assessments equals the total costs incurred or to be incurred. The Special Assessments shall be reduced for every Parcel of Assessed Property in the CDA District in the following manner.

First, if the CDA Infrastructure Improvements were or will not be completed using bond proceeds and, in the judgment of the Board of Directors, any Parcels were not fully improved by the CDA Infrastructure Improvements, the Special Assessments shall be reduced on these Parcels to represent the CDA Infrastructure Improvements provided to each Parcel as determined by the Board of Directors, in the reasonable exercise of its discretion. The Board of Directors may provide for the reduction in the Special Assessments by equal percentage for each Parcel or some other means if the Board of Directors determines this would be the most fair or practical method of reducing the Special Assessments.

Second, if additional reductions are to be made in the Special Assessments, the Special Assessments shall be reduced by an equal percentage such that the sum of the resulting Special Assessments for every Parcel equals the actual costs to be incurred by the Authority.

The Special Assessments as reduced according to the provisions of this section shall not be reduced to an amount that is less than the outstanding amount of the CDA Payment Obligations (including, but not limited to, the outstanding principal of the City Bonds allocable thereto and the scheduled interest on such City Bonds) .

The Principal Portion of Special Assessments shall be reduced in the same manner as the reduction in the Special Assessments such that the total of the Principal Portion of the Assessments is equal to the total principal of the outstanding City Bonds (including any refunding bonds) allocable to the CDA Payment Obligations.

b. Repayment of the CDA Payment Obligations

The Special Assessment and the Annual Parcel Installment applicable to any Parcel shall be reduced each Assessment Year in an amount equal to the Annual Parcel Installment for such Parcel for the Assessment Year. The Principal Portion of Special Assessment shall be reduced for the

Principal Portion of the Special Assessment included in the Annual Parcel Installment for each Parcel for the Assessment Year.

c. Prepayment of Special Assessment

The Special Assessments and the Principal Portion of Special Assessments applicable to any Parcel shall be reduced or eliminated, as the case may be, as the result of any prepayment of Special Assessments for the Parcel.

D. METHOD OF DETERMINING THE ANNUAL PAYMENT

Commencing with the Annual Payment to be collected as of the Commencement Year and for each following Assessment Year, the Administrator shall calculate, and the Board of Directors shall confirm the Annual Payment on each Parcel pursuant to the following provisions.

1. The Annual Payment

The Annual Payment for any Parcel for which the Special Assessment has not been paid in full shall be paid each year on the dates provided for in the Memorandum of Understanding. The Annual Payment for each Parcel shall be in an amount equal to the lesser of (i) the Annual Installment for the Parcel and (ii) an amount calculated pursuant to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Annual Payment for a Parcel;
- B = the Annual Revenue Requirement for the Assessment Year for which the Annual Payment is being calculated;
- C = the Adjusted Annual Installment for the Parcel;
- D = the Adjusted Annual Installment for all Parcels in the CDA District.

2. The Adjusted Annual Installment

The Adjusted Annual Installment for a Parcel shall equal the Annual Installment for such Parcel less the Annual Credit for the Parcel.

3. The Annual Credit

The Annual Credit for each Parcel for each Assessment Year shall be equal to the Incremental Tax Revenues produced by that Parcel included in the calculation of the Annual Revenue Requirement for that Assessment Year.

For purposes of calculating the Incremental Tax Revenues for each Parcel, the Base Year Tax Revenues for each Parcel shall be subtracted from the total tax revenues used to calculate the Incremental Tax Revenues for each Parcel. The Base Year Tax Revenues for each Parcel shall be an amount calculated pursuant to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Base Year Tax Revenues allocated to a Parcel for an Assessment Year;
- B = the Base Year Tax Revenues;
- C = the tax revenue for the Parcel as used to determine the Incremental Tax Revenues for the Assessment Year;
- D = the total tax revenue for all Parcels as used to determine the Incremental Tax Revenues for that Assessment Year.

This formula shall be applied separately for calculating the Base Year Tax Revenues for each type of tax included in the Incremental Tax Revenues.

4. Deferral of Annual Payment

Any Parcel that receives an exemption or a deferral of real property taxes pursuant to the Tax Relief for the Elderly & Disabled (to include Deferrals) City Ordinance, Title 3, Chapter 2, Article L; §3-2-160 et seq. (as such may be subsequently modified), shall also receive a deferral of the Annual Payment until such time as the Parcel is transferred (except for a transfer that results solely from the death of the qualifying spouse).

5. Exemption from the Annual Payment

Any Parcel that is exempt from real property taxes pursuant to the Code of Virginia, Title 58.1., Taxation, Subtitle III. Local Taxes » Chapter 32. Real Property Tax » (A) Article 2.3. Exemption for Disabled Veterans » § 58.1-3219.5. Exemption from taxes on property for disabled veterans or (B) Article 2.4. Exemption for Surviving Spouses of Members of the Armed Forces Killed in Action » § 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action, shall also be exempt from the Annual Payment as long as such exemption applies to the real property taxes for such Parcel.

E. UPDATING THE ASSESSMENT ROLL

The Board of Directors shall provide for and approve an update the Special Assessment Roll from time to time but at least annually in accordance with the provisions herein in order to maintain records for the collection of Special Assessments. The Special Assessment Roll shall be updated each Assessment Year to reflect (i) the current Parcels in the CDA District, (ii) the Special Assessments allocated to each Parcel, including any adjustments to the Special Assessments as provided for herein, (iii) the Principal Portion of Special Assessments for each Parcel; (iv) the Annual Installment for each Parcel for the Assessment Year, (v) the Annual Payment for each Parcel for the Assessment Year, (vi) prepayments of Special Assessments, (vii) termination of the collection of Special Assessments, and (viii) any other information helpful to the collection of Special Assessments.

F. MANNER OF COLLECTION OF THE ANNUAL PAYMENT

The Annual Payment shall be collected as provided for in the Memorandum of Understanding. The Authority shall notify the City of the amount of the Annual Payment to be collected on each Parcel each Assessment Year in a timely manner to allow the collection of the Annual Payment by the City. The City Council may provide for other means of collecting the Annual Payment, to the extent permitted under the Act.

G. ADMINISTRATIVE REVIEW

An owner of a lot claiming that a calculation error has been made in the update of Special Assessment Roll in any Assessment Year shall send a written notice describing the error to the Board of Directors not later than one year after the date any amount which is alleged to be incorrect is due prior to seeking any other remedy. The Board of Directors shall promptly review the notice, and if necessary, meet with the property owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Board of Directors determines that a calculation error has been made that requires the Special Assessment Roll to be modified or changed in favor of the property owner, a cash refund may not be made for any amount previously paid by the owner (except for the final Assessment Year during which the Special Assessment shall be collected or if a determination is made that there will otherwise be sufficient funds available to meet the Annual Revenue Requirement for an Assessment Year), but an adjustment shall be made in the amount of the Annual Payment to be paid in the following Assessment Year. The decision of the Board of Directors regarding a calculation error relating to the Special Assessment Roll shall be conclusive as long as there is a rational basis for the determination.

H. TERMINATION OF COLLECTION OF SPECIAL ASSESSMENTS

Except for any delinquent Annual Payment and related penalties and interest, the Annual Payment may be collected for a term not to exceed the term of the CDA Payment Obligations. In no event shall the Annual Payment be collected beyond the period in which the Special Assessments are fully paid or the final Special Assessment is collected upon the repayment of the CDA Payment Obligations.

After the retirement of all CDA Payment Obligations, and the collection of any final and delinquent Special Assessments, penalties and interest, the Authority shall provide each owner of a Parcel a recordable document (or provide for the recordation of such document) evidencing the termination of the imposition and collection of Special Assessment.

I. PREPAYMENT OF SPECIAL ASSESSMENT

The Special Assessments on any Parcel may be fully paid at any time, the Special Assessments reduced to zero, and the obligation to pay the Annual Installments permanently satisfied by payment of an amount calculated according to the following provisions:

1. A sum equal to the Principal Portion of the Special Assessments for the Parcel, as it may have been set, reapportioned or reduced pursuant to the provisions herein; less,

2. A sum equal to (a) the amount needed to pay interest on the outstanding City Bonds to be redeemed in connection with the repayment of the CDA Payment Obligations less the investment earnings on the prepayment amount until the City Bonds can be called and redeemed, after taking into consideration the Annual Payment paid or to be paid but not accounted for in the calculation of the Principal Portion of the Special Assessments in Step 1 and (b) expenses of the Authority related to the prepayment.

The amounts calculated in the preceding steps shall be paid to the City and shall be used to pay costs related to the prepayment and for the repayment of the CDA Payment Obligations. Upon the payment of such prepayment amount to the Authority, the obligation to pay the Special Assessments for such Parcel shall be deemed to be permanently satisfied, the Special Assessments for such Parcel shall be reduced to zero, the Annual Installment shall not be collected on the Parcel thereafter, and the Authority shall provide to the owner (or cause to be recorded) a recordable notice of the payment of the Special Assessments within a reasonable period of time of receipt of such prepayment amount.

The Special Assessments may be prepaid in part in an amount sufficient to allow for a convenient redemption of City Bonds as determined by the City.

J. MANDATORY PREPAYMENT OF SPECIAL ASSESSMENTS

A Mandatory Prepayment of Special Assessments shall be required on any Parcel that is acquired by an entity that results in the Parcel being classified as Non-Benefited Property, if the Special Assessments may not be reapportioned to a Parcel of Assessed Property pursuant to the provisions of Section C.2. In the event an entire Parcel becomes Non-Benefited Property such that the Special Assessment cannot be reallocated to any other Parcel pursuant to the provisions of Section C, the Special Assessments shall become immediately due and payable by the Parcel, specifically prior to any transfer of the Parcel, but if and to the extent funds are available for that purpose from any of the following sources, may be collected from proceeds of a sale, condemnation, or other form of compensation for the property or from any other legally available source of funds. The Mandatory Prepayment of the Special Assessment shall be calculated as set forth in Section I.

K. AMENDMENTS

Immaterial amendments may be made to this Rate and Method of Apportionment of Special Assessments by the Board of Directors without further approval by the City Council and without further notice under the Act to owners of Assessed Property within the CDA District. Immaterial amendments shall be those that (i) clarify or correct minor inconsistencies in the matters set forth herein, (ii) provide for lawful procedures for the collection and enforcement of Special Assessments and other charges imposed herein so as to assure their efficient collection, and (iii) otherwise improve the ability of the Authority to fulfill its obligations to impose and collect Special Assessments and charges imposed herein and to make it available for the payment of the CDA Payment Obligations.

Amendments may not be made to this Rate and Method of Apportionment of Special Assessments pursuant to the procedure described above that would increase the total of the Special Assessments or charges as set forth herein.

L. INTERPRETATION OF PROVISIONS

The Board of Directors shall make all interpretations and determinations related to the application of this Rate and Method of Apportionment of Special Assessments, unless stated otherwise herein or in the Indenture, and as long as there is a rational basis for the determination made by the Board of Directors, such determination shall be conclusive.

M. SEVERABILITY

If any section or part of a section of this Rate and Method of Apportionment of Special Assessments is declared invalid or unenforceable, the validity, force, and effect of any other section or part of a section herein shall not thereby be affected or impaired unless such other section or part of a section herein is wholly or necessarily dependent upon the section or part of a section so held to be invalid or unenforceable.

**Landmark Community Development Authority
City of Alexandria, Virginia**

**APPENDIX A
SPECIAL ASSESSMENT ROLL**

**Landmark Community Development Authority
City of Alexandria, Virginia**

APPENDIX A-1

TOTAL ANNUAL INSTALLMENTS

ANNUAL ASSESSMENTS

Assessment Year Beginning	Principal	Interest	Administrative Expense	Annual Installment
2024	\$0	\$1,615,455	\$20,000	\$1,635,455
2025	\$0	\$4,566,240	\$30,400	\$4,596,640
2026	\$0	\$4,566,240	\$31,008	\$4,597,248
2027	\$708,000	\$4,566,240	\$31,628	\$5,305,868
2028	\$2,033,000	\$4,534,380	\$32,261	\$6,599,641
2029	\$2,124,000	\$4,442,895	\$32,906	\$6,599,801
2030	\$2,220,000	\$4,347,315	\$33,564	\$6,600,879
2031	\$2,320,000	\$4,247,415	\$34,235	\$6,601,650
2032	\$2,424,000	\$4,143,015	\$34,920	\$6,601,935
2033	\$2,533,000	\$4,033,935	\$35,618	\$6,602,553
2034	\$2,647,000	\$3,919,950	\$36,331	\$6,603,281
2035	\$2,767,000	\$3,800,835	\$37,057	\$6,604,892
2036	\$2,891,000	\$3,676,320	\$37,799	\$6,605,119
2037	\$3,021,000	\$3,546,225	\$38,555	\$6,605,780
2038	\$3,157,000	\$3,410,280	\$39,326	\$6,606,606
2039	\$3,299,000	\$3,268,215	\$40,112	\$6,607,327
2040	\$3,448,000	\$3,119,760	\$40,914	\$6,608,674
2041	\$3,603,000	\$2,964,600	\$41,733	\$6,609,333
2042	\$3,765,000	\$2,802,465	\$42,567	\$6,610,032
2043	\$3,934,000	\$2,633,040	\$43,419	\$6,610,459
2044	\$4,111,000	\$2,456,010	\$44,287	\$6,611,297
2045	\$4,296,000	\$2,271,015	\$45,173	\$6,612,188
2046	\$4,490,000	\$2,077,695	\$46,076	\$6,613,771
2047	\$4,691,000	\$1,875,645	\$46,998	\$6,613,643
2048	\$4,903,000	\$1,664,550	\$47,938	\$6,615,488
2049	\$5,123,000	\$1,443,915	\$48,896	\$6,615,811
2050	\$5,353,000	\$1,213,380	\$49,874	\$6,616,254
2051	\$5,595,000	\$972,495	\$50,872	\$6,618,367
2052	\$5,847,000	\$720,720	\$51,889	\$6,619,609
2053	\$6,109,000	\$457,605	\$52,927	\$6,619,532
2054	\$4,060,000	\$182,700	\$17,758	\$4,260,458
Total	\$101,472,000	\$89,540,550	\$1,217,042	\$192,229,592

**Landmark Community Development Authority
City of Alexandria, Virginia**

APPENDIX A-2

SPECIAL ASSESSMENTS

Tax Parcel Number	Equivalent Units ¹	Special Assessment	Principal Portion of Special Assessment	Annual Installment (20XX-20YY Assessment Year)	
				Annual Parcel Installments	Annual Credit Payment
047.02-03-08	319	\$25,958,932	\$13,702,910		
047.02-03-09	617	\$50,138,056	\$26,466,314		
047.02-03-05	875	\$71,107,149	\$37,535,244		
047.02-03-07	0	\$0	\$0		
047.02-03-06	554	\$45,025,455	\$23,767,532		
Total	2,364	\$192,229,592	\$101,472,000		

¹See Appendix A-3.

Landmark Community Development Authority
City of Alexandria, Virginia

SPECIAL ASSESSMENT WORKSHEET

Appendix A-3¹

Proposed Development

Tax Parcel Number	Land Use Class						Total
	Class 1 (MF Affordable)	Class 2 (Multi-Family)	Class 3 (Stacked Flats)	Class 4 (Townhomes)	Class 5 (Commercial)	Class 6 (Hotel)	
047.02-03-08	205.0	232.0	0.0	0.0	10.0	0.0	447
047.02-03-09	14.0	395.0	0.0	0.0	230.2	0.0	639
047.02-03-05	12.0	539.0	109.0	31.0	73.8	145.0	910
047.02-03-07	0.0	0.0	0.0	0.0	0.0	0.0	0
047.02-03-06	11.0	378.0	0.0	46.0	81.3	0.0	516
Total units	242	1,544	109	77	395	145	2,512
Equivalent unit factor	0.38	1.00	1.32	2.07	0.94	0.37	
Equivalent units	92	1,544	144	159	372	54	2,364

Equivalent Units

Tax Parcel Number	Land Use Class						Total
	Class 1 (MF Affordable)	Class 2 (Multi-Family)	Class 3 (Stacked Flats)	Class 4 (Townhomes)	Class 5 (Commercial)	Class 6 (Hotel)	
047.02-03-08	78	232	0	0	9	0	319
047.02-03-09	5	395	0	0	216	0	617
047.02-03-05	5	539	144	64	69	54	875
047.02-03-07	0	0	0	0	0	0	0
047.02-03-06	4	378	0	95	76	0	554
Total equivalent units	92	1,544	144	159	372	54	2,364

Tax Parcel Number	Total Equivalent Units	Percentage of Total	Allocation of Special Assessments	
			Special Assessments	Principal Portion
047.02-03-08	319	14%	\$25,958,932	\$13,702,910
047.02-03-09	617	26%	\$50,138,056	\$26,466,314
047.02-03-05	875	37%	\$71,107,149	\$37,535,244
047.02-03-07	0	0%	\$0	\$0
047.02-03-06	554	23%	\$45,025,455	\$23,767,532
Total	2,364	100%	\$192,229,592	\$101,472,000

¹Commercial equivalent units are shown per 1,000 square feet. Hotel equivalent units are shown per room. MF affordable, Multi-Family, Stacked Flats, and Townhomes are shown per unit.

City of Alexandria, Virginia

Landmark Community Development Authority

Presentation to City Council
September 14, 2021



What is a Community Development Authority (CDA)?



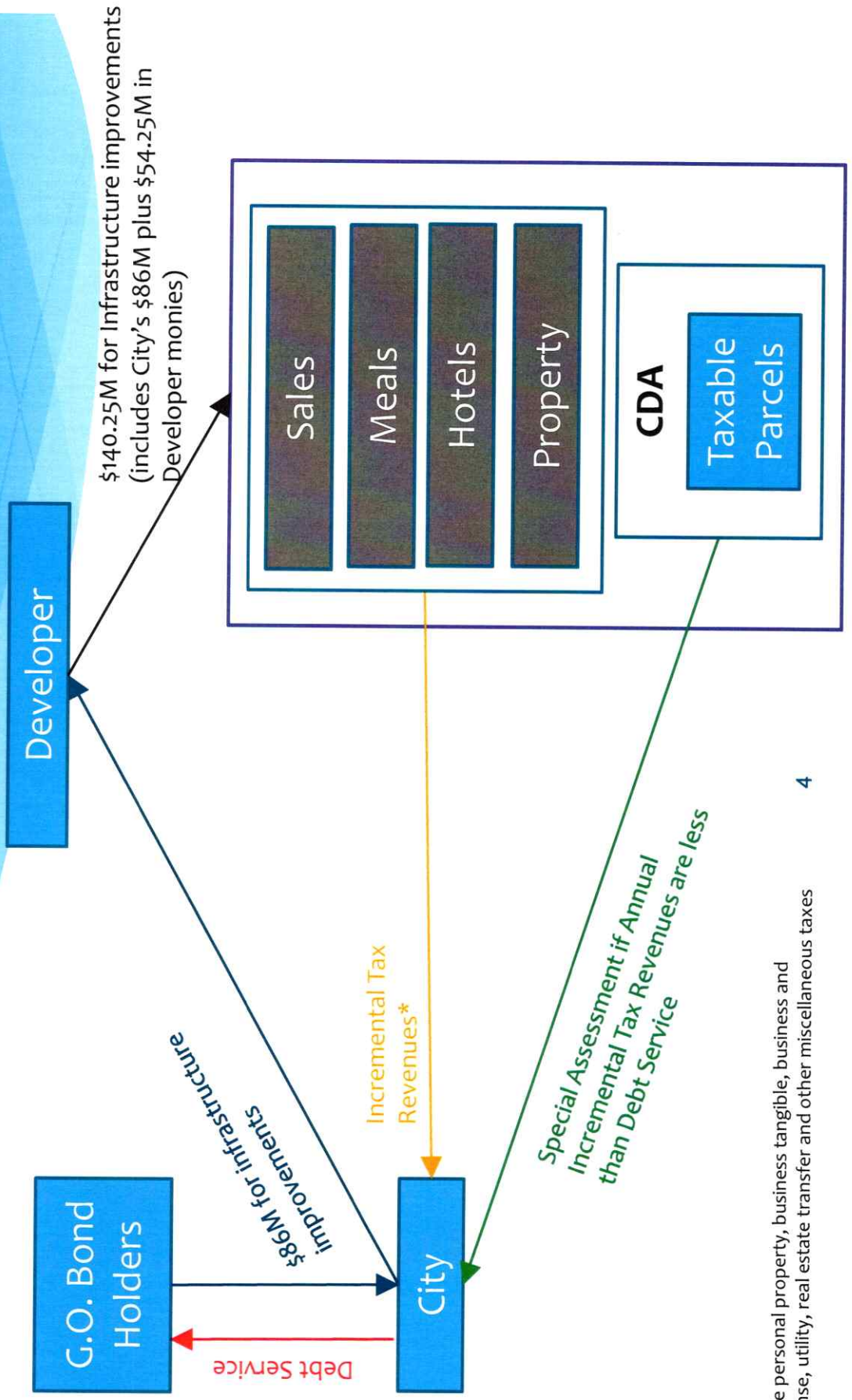
- A financing tool authorized by the State Code that enables local governments partner with the private sector to provide infrastructure or services
- A separate political subdivision created by the locality for a specific development
- May include voluntary special assessments imposed on landowners
- Request initiated and agreed to by landowners
- Fairfax County (Mosaic District), Arlington County (Ballston Quarter), and other Virginia localities have created CDAs to facilitate development and redevelopment.

Purpose of Landmark CDA



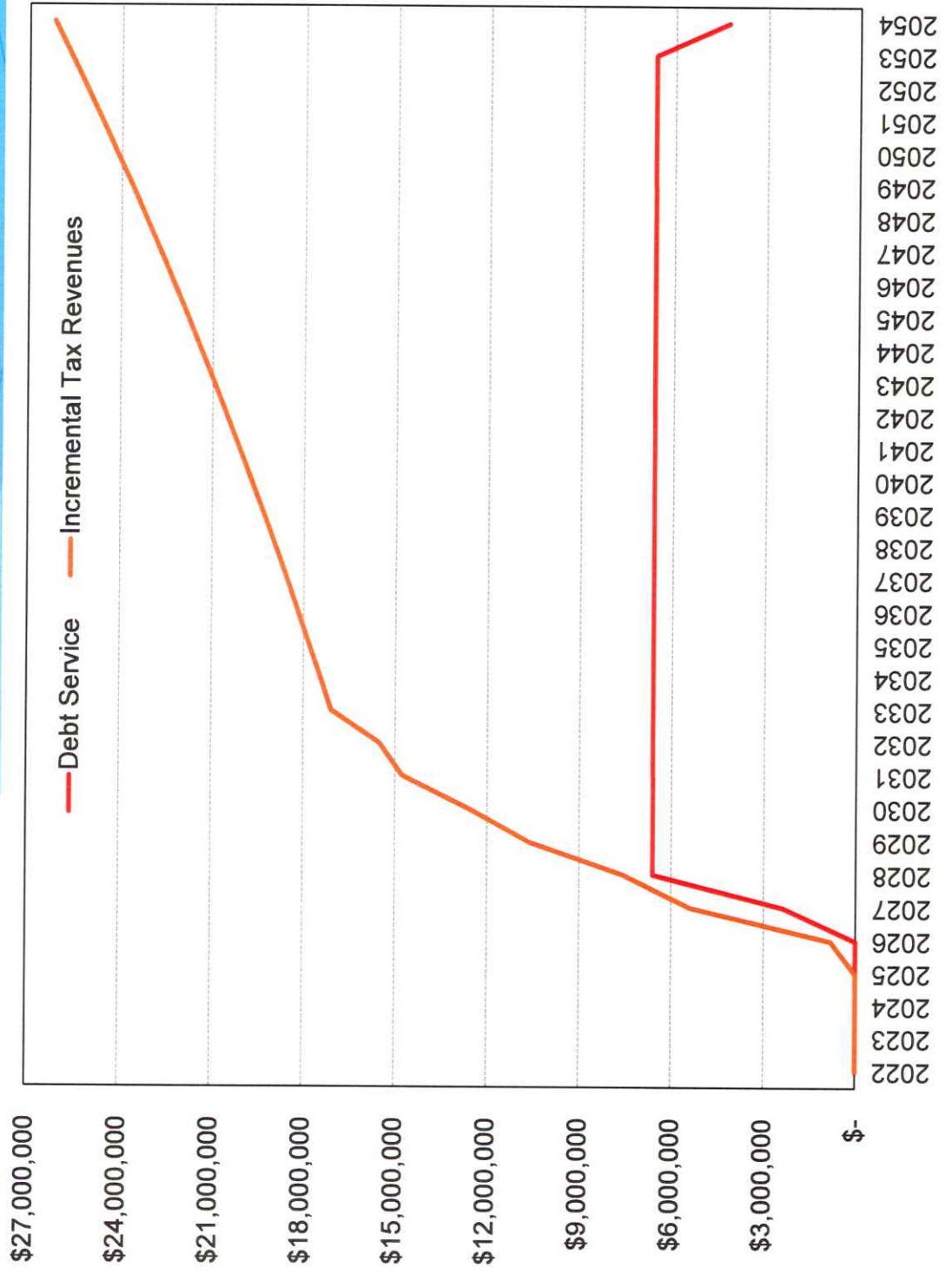
- To facilitate the repayment of \$86 million in infrastructure improvement bonds
- To serve as backstop entity to levy additional assessments on taxable property if incremental taxes generated are not sufficient to pay debt service
- Not applicable to Inova real estate except for
 - a) Private medical office uses (likely)
 - b) If Inova property is no longer tax exempt (highly unlikely)

Landmark Infrastructure Improvement Financing Plan



*Does not include personal property, business tangible, business and professional license, utility, real estate transfer and other miscellaneous taxes

Incremental Tax Revenues Vs. Debt Service



Questions?