

RESOLUTION OF THE LANDMARK COMMUNITY DEVELOPMENT AUTHORITY

WHEREAS, pursuant to Ordinance No. 5368 adopted on September 18, 2021 (the “Original CDA Ordinance”), the City Council (the “Council”) of the City of Alexandria, Virginia (the “City”) created the Landmark Community Development Authority (the “CDA”) to facilitate the City’s financing of a portion of the costs of certain infrastructure (the “Improvements”) to benefit property within and abutting the geographic boundaries of the CDA district (the “CDA District”), all as described in the Original CDA Ordinance and in a Memorandum of Understanding dated as of December 14, 2021 (the “Original Memorandum of Understanding”), among the City, the CDA, Landmark Mall, LLC, Seritage SRC Finance, LLC, Landmark Land Holdings, LLC (the “Developer”), and the Industrial Development Authority of the City of Alexandria (the “IDA”);

WHEREAS, pursuant to the Original CDA Ordinance and the terms of the Original Memorandum of Understanding, the Council (a) approved a plan to fund a portion of the costs of the Improvements from the following sources: (i) proceeds of the City’s general obligation bonds (the “City Bonds”), (ii) special assessments to be levied pursuant to §15.2-5158(A)(5) of the Code of Virginia of 1950, as amended and (iii) contributions made by the City of certain incremental tax revenues generated by development or redevelopment of the property within the CDA District (the “Incremental Tax Revenues”), which Incremental Tax Revenues are to be applied to pay, or reimburse the City for payment of, debt service on the City Bonds, (b) imposed the special assessments on the taxable property within the CDA District (the “Special Assessments”) to serve as an additional source of funds to reimburse the City for debt service on the City Bonds to the extent that incremental tax revenues are insufficient for such purpose and (c) authorized the CDA to incur one or more payment obligations (the “CDA Payment Obligations”) secured by the Special Assessments to facilitate the City’s financing of the Improvements through the issuance of the City Bonds;

WHEREAS, by Ordinance No. [_____] adopted on September 23, 2023 (the “Amending Ordinance”), the Council (a) amended the plan of finance set forth in the Original CDA Ordinance to increase the maximum principal amount of the CDA Payment Obligations to facilitate the issuance of additional City Bonds to fund a certain increased costs of the Improvements and (b) subject to the formal request of the CDA, approved a corresponding increase in the amount of the Special Assessments to secure the increased principal amount of the CDA Payment Obligations;

WHEREAS, on September 26, 2023, the CDA adopted a resolution (a) requesting the Council to increase the amount of the Special Assessments and (b) authorizing the execution of a First Amendment to Memorandum of Understanding among the City, the CDA, the IDA and the Developer, providing for the amendment of the Original Memorandum of Understanding (as so amended, the “Memorandum of Understanding”) to reflect increases in the maximum principal amount of the CDA Payment Obligations and the amount of the Special Assessments;

WHEREAS, the City has issued an initial series of City Bonds, and expects to issue additional series of City Bonds, to provide funding for a portion of the costs of the Improvements and to pay certain capitalized interest on the City Bonds; and

WHEREAS, in accordance with the terms of the Memorandum of Understanding, the CDA desires to issue a CDA Payment Obligation to make available Special Assessment revenues to reimburse the City for debt service payments on the City Bonds to the extent that Incremental Tax Revenues are insufficient to timely pay such debt service;

NOW, THEREFORE, BE IT RESOLVED by the Landmark Community Development Authority, as follows:

1. The CDA hereby authorizes the issuance of a CDA Payment Obligation in an aggregate principal amount not to exceed \$140,696,000, which shall be evidenced by a note substantially in the form of Exhibit A attached hereto (the "Note"). The Note shall be secured by the revenues derived from any installments of the Special Assessments collected and appropriated by the City in accordance with the terms of the Memorandum of Understanding.

2. The Chairman and Vice Chairman of the CDA, either of whom may act, are hereby authorized and directed to execute the Note and deliver it to the City. The executed Note shall be in substantially the form attached hereto as Exhibit A, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Chairman or Vice Chairman, whose approval shall be evidenced conclusively by the execution and delivery thereof.

3. The Note shall be (a) issued as a single, registered note, (b) designated "Special Assessment Revenue Note, Series 2023," (c) numbered R-1 and (d) dated the date determined by the Chairman or Vice Chairman of the CDA. The Note shall mature not later than one year after the final maturity of the City Bonds and in no event more than 40 years after the date of the Note. The Note shall provide for the City to make constructive principal advances from time to time in an aggregate amount not to exceed \$140,696,000 (provided that no actual proceeds shall be advanced to the CDA, but instead such amounts shall be retained by the City to fund a portion of the costs of the Improvements as set forth in the Memorandum of Understanding) and to note such advances on the Note as principal is constructively advanced by the City thereunder. The principal advances shall be payable in annual installments, subject to earlier prepayment, all on the terms set forth in the form of the Note attached hereto as Exhibit A. Each principal advance shall have a true interest cost (taking into account any original issue discount or premium and underwriter's discount on the applicable City Bonds and any associated costs of issuance of such City Bonds) equal to the lesser of (x) the true interest cost of the corresponding series of City Bonds (including any City Bonds issued to refund other City Bonds) and (y) 6.50%, provided that the weighted average true interest cost of all advances (excluding the initial advance) shall not exceed 4.50%. In the event that the weighted average true interest cost of the City Bonds (excluding the initial series of City Bonds) exceeds 4.50%, the true interest cost of the final principal advance under the Note shall be adjusted in accordance with the terms set forth in the form of the Note. Interest on the advances shall accrue and be payable on the terms set forth in the form of the Note. Any Incremental Tax Revenues applied by the City to pay, or reimburse the City for payment of, the debt service due on the City Bonds in a fiscal year shall be applied as a credit against the principal and interest payable on the Note that accrued during such fiscal year on the terms set forth in the Memorandum of Understanding and the form of the Note.

4. All other actions of the members, officers and agents of the CDA in conformity with the purposes and intent of this Resolution and in furtherance of the issuance of the CDA

Payment Obligation to be evidenced by the Note and the execution and delivery of the Note are ratified, approved and confirmed.

5. This Resolution shall take effect immediately upon its adoption.

Adopted September 26, 2023.

**LANDMARK COMMUNITY
DEVELOPMENT AUTHORITY**

By: _____
Title: Secretary/Treasurer

EXHIBIT A

Form of Note

**UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA**

**LANDMARK COMMUNITY DEVELOPMENT AUTHORITY
SPECIAL ASSESSMENT REVENUE NOTE
SERIES 2023**

REGISTERED

REGISTERED

R-1

[_____, 2023]

THE LANDMARK COMMUNITY DEVELOPMENT AUTHORITY (the “Authority”), for value received, promises to pay, solely from the revenues pledged to the payment of this Note, to the City of Alexandria, Virginia (the “City”), or its legal representative, the principal amount equal to the aggregate amount of principal advances (each an “Advance”) hereunder up to ONE HUNDRED FORTY MILLION SIX HUNDRED NINETY-SIX THOUSAND DOLLARS (\$140,696,000). If Advances up to \$140,696,000 are not made, the principal amount due on this Note shall not include such undisbursed amount. The Advances shall be payable in installments as hereinafter described, subject to earlier prepayment as hereinafter provided. Each Advance shall equal the principal amount of the corresponding City Bonds (as defined in the Memorandum of Understanding (as hereinafter defined)) issued to finance or refinance, as applicable, the Improvements (as hereinafter defined), provided that the City shall be solely responsible for determining which portions of any City issued general obligation bonds shall constitute the City Bonds. Each Advance shall be deemed to have been made on the issue date of the applicable series of City Bonds. In the event the City elects to refund all or a portion of a prior series of City Bonds (the “Refunded City Bonds”), the Advance attributable to such Refunded City Bonds shall be adjusted to reflect the principal amount of the City Bonds issued to refund the Refunded City Bonds.

The Authority also promises to pay, but solely from the revenues pledged to the payment of this Note, interest on the aggregate amount of unpaid Advances made hereunder. The true interest cost of each Advance (taking into account any original issue discount or premium and underwriter’s discount on the applicable City Bonds and any associated costs of issuance of such City Bonds) shall equal the lesser of (a) the true interest cost of the corresponding City Bonds (including any City Bonds issued to refund other City Bonds) and (b) 6.50%, provided that the weighted average true interest cost of all Advances (excluding the Initial Advance (as hereinafter defined)) shall not exceed 4.50%. In the event that the weighted average true interest cost of the City Bonds (excluding the Initial City Bonds) exceeds 4.50%, the true interest cost of the final Advance shall be adjusted as hereinafter described. Interest on the outstanding Advances shall accrue and be payable as hereinafter described.

Authority for Note; Pledge of Revenues. This Note is authorized and issued by the Authority pursuant to the Water and Waste Authorities Act, Chapter 51, Title 15.2 of the Code of Virginia of 1950, as amended, for the purpose of facilitating the financing of certain infrastructure improvements (the “Improvements”) in accordance with the terms of a

Memorandum of Understanding dated as of December 14, 2021, among the City, the Authority, Landmark Mall, LLC, Seritage SRC Finance, LLC, Landmark Land Holdings, LLC (the “Developer”), and the Industrial Development Authority of the City of Alexandria (the “IDA”), as amended by a First Amendment to Memorandum of Understanding dated as of September [], 2023, among the City, the Authority, the IDA and the Developer (collectively, and as may be amended further from time to time, the “Memorandum of Understanding”).

This Note is payable solely from revenues derived from the special assessments imposed on certain property within the boundaries of the Authority’s district, the maximum amount of such special assessments having been established pursuant to the Memorandum of Understanding and the Amended and Restated Declaration of Notice of Special Assessments and Lien dated as of September [], 2023, by the Authority, the IDA and the Developer. Reference is made to the Memorandum of Understanding for a description of the annual installments of the special assessments (including, without limitation, the proceeds from any prepayments and foreclosures) pledged and assigned as security for this Note and the provisions with respect to the collection, appropriation and application of such annual installments.

Payment and Prepayment Terms. Interest shall accrue on each Advance from the date of issuance of the corresponding City Bonds through the final maturity of such City Bonds. The interest accrued on each Advance during the City’s prior fiscal year (commencing July 1 and ending June 30) shall be payable annually in arrears on each December 31 and, except as otherwise provided in the following sentence, shall equal the interest paid on the corresponding City Bond during such fiscal year less any amount of capitalized interest paid from the proceeds of such City Bonds during such fiscal year. If the weighted average true interest cost of the City Bonds (excluding the Initial City Bonds) exceeds 4.50%, the interest payments on the final Advance shall be reduced by an amount sufficient to produce a weighted average true interest cost of all Advances (excluding the Initial Advance) as close to, but not in excess of, 4.50% as the City’s financial advisor can model. Principal of each Advance shall be payable annually on December 31 in installments equal to the principal amount of the corresponding City Bonds paid during the City’s prior fiscal year. The City issued the initial City Bonds on December 8, 2022 (the “Initial City Bonds”), a schedule of the principal and interest payments for the corresponding Advance (the “Initial Advance”) has been attached hereto as Appendix I. Such Appendix I shall be updated contemporaneously with the issuance of each subsequent series of City Bonds to include an additional schedule setting forth the principal and interest payments for each corresponding Advance and, in the event that all or a portion of the City Bonds are refunded, to reflect any adjustment to the principal and interest payments for the Advance that corresponds to such Refunded City Bonds. In the absence of manifest error, all schedules attached as Appendix I shall be prima facie evidence of the existence and amounts of the Advances and the principal and interest payments thereon; provided that the failure or delay of the City in updating any such schedules or any error therein shall not in any manner affect the obligation of the Authority to repay any Advances, together with accrued interest thereon, in accordance with the terms of this Note.

Notwithstanding any provision herein to the contrary, all amounts due under this Note shall be due and payable on December 31, 2054, if not sooner paid.

Any Incremental Tax Revenues (as defined in the Memorandum of Understanding) applied by the City to pay, or reimburse the City for payment of, the debt service due on the City Bonds in a fiscal year in accordance with the Memorandum of Understanding shall be applied as a credit against the principal and interest payable on this Note that accrued during such fiscal year.

The Authority shall have the option to prepay all or a portion of the Advances hereunder at any time upon payment of such amount as is necessary to enable the City to exercise its option to redeem the corresponding City Bonds or related portion(s) thereof in accordance with their terms, or to otherwise pay debt service on any corresponding non-callable City Bonds or portions thereof to their respective maturity dates. The amount necessary to enable the City to optionally redeem, or pay to maturity, the applicable City Bonds shall be determined in accordance with the provisions of Section I of the Rate and Method of Apportionment of Special Assessments attached as Exhibit C to the Memorandum of Understanding. Any partial prepayments of the outstanding principal of this Note shall be applied pro rata to each of the outstanding Advances based on the total amount of Advances then outstanding. Any partial prepayment applied to a particular Advance shall be applied pro rata to each annual principal installment of such Advance. Appendix I attached hereto shall be updated to reflect any reductions in the principal and interest payments for the outstanding Advances following any partial prepayment of the Advances.

Any annual installments of the special assessments (including, without limitation, the proceeds from any prepayments and foreclosures) collected and appropriated by the City in accordance with the Memorandum of Understanding shall be retained by the City in satisfaction of the amounts due and payable under this Note.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in connection with the issuance of this Note have happened, exist and have been performed.

IN WITNESS WHEREOF, the Landmark Community Development Authority has caused this Note to be executed by the manual or facsimile signature of its Chairman.

**LANDMARK COMMUNITY DEVELOPMENT
AUTHORITY**

By: _____
Chairman, Landmark Community Development
Authority

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto

(Please print or type name and address, including zip code, of Transferee)

[PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF TRANSFeree:]

: _____ :
: _____ :
: _____ :

the within note and all rights thereunder, hereby irrevocably constituting and appointing

_____,
Attorney, to transfer said note on the books kept for the registration thereof, with full power of
substitution in the premises.

Dated: _____

Signature Guaranteed

NOTICE: Signature(s) must be guaranteed
by an Eligible Guarantor Institution such
as a Commercial Bank, Trust Company,
Securities Broker/Dealer, Credit Union,
or Savings Association who is a
member of a medallion program
approved by The Securities Transfer
Association, Inc.

(Signature of Registered Owner)

NOTICE: The signature above must
correspond with the name of the
registered owner as it appears on the
front of this note in every particular
without alteration or enlargement
or any change whatsoever.

APPENDIX I

Schedule of Principal and Interest Payments for Principal Advances

[To be Attached]