

## 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

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

## EXHIBIT A

Initial CDA District BoundariesTax Map Parcel Numbers

Parcels	Tax Map	Lot Size	Area in
<u>Owners</u>	<u>Ref</u>	<u>in SF<sup>(1)</sup></u>	<u>Acres<sup>(1)</sup></u>
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

<sup>(1)</sup> Reflects approximate square footage and acreage.

EXHIBIT B

Proposed Articles of Incorporation

Attached