

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To authorize, on an emergency basis, the issuance of tax increment financing bonds to support the development project on a portion of the land known as Reunion Square, located to the east of Martin Luther King Jr. Avenue S.E., to the north of Chicago Street S.E., to the west of Railroad Avenue S.E., and to the south of W Street S.E.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the “Reunion Square Tax Increment Financing Second Emergency Act of 2020”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Authorized Delegate” means the Deputy Mayor for Planning and Economic Development, the Chief Financial Officer, the Treasurer, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this act pursuant to section 422(6) of the Home Rule Act.

(2) “Available Increment” shall have the same meaning as set forth in the Reserve Agreement.

(3) “Available Real Property Tax Revenues” means the revenues resulting from the imposition of the tax provided for in Chapter 8 of Title 47 of the District of Columbia Official Code, inclusive of any penalties and interest charges, exclusive of the special tax provided for in

27 section 481 of the Home Rule Act pledged to payment of general obligation indebtedness of the
28 District.

29 (4) “Available Sales Tax Revenues” means the revenues resulting from the
30 imposition of the tax under Chapter 20 of Title 47 of the District of Columbia Official Code,
31 including penalty and interest charges, exclusive of the portion thereof required to be deposited in
32 the Washington Convention Center Fund established pursuant to section 208 of the Washington
33 Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C.
34 Official Code § 10-1202.08), and any amounts to be made available to the Washington
35 Metropolitan Transit Authority pursuant to section 7101 of the Fiscal Year 2018 Budget Support
36 act of 2017 (D.C. Law 22-0033; 64 DCMR 7652), and section 2 of the Stable and Reliable Source
37 of WMATA Revenues act of 1982 (D.C. Law 4-103; D.C. Official Code 9-1111.15(b)(2)(A)).

38 (5) “Available Tax Increment,” with respect to any series of bonds, means the
39 sum of the Available Sales Tax Revenues and Available Real Property Tax Revenues generated
40 in the Reunion Square TIF Area in any fiscal year of the District minus the sum of Available Sales
41 Tax Revenues and Available Real Property Tax Revenues generated in the Reunion Square TIF
42 Area in the base year.

43 (6) “Bond Counsel” means a firm or firms of attorneys designated as bond
44 counsel from time to time by the Mayor.

45 (7) “Bonds” means the District of Columbia Class A Bonds, Class B Bonds and
46 any other revenue bonds, notes, or other obligations, in one or more series, authorized to be issued
47 pursuant to this act. Unless otherwise specified, the term “Bonds” shall include Refunding Bonds.

48 (8) “Chairman” means the Chairman of the Council of the District of Columbia.

49 (9) “Chief Financial Officer” means the Chief Financial Officer established by
50 section 424(a)(1) of the Home Rule Act.

51 (10) “Closing Documents” means all documents and agreements, other than
52 Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds,
53 and includes agreements, certificates, letters, opinions, forms, receipts, and other similar
54 instruments.

55 (11) “Council” means the Council of the District of Columbia.

56 (12) “Debt Service” means principal, premium, if any, and interest on the bonds.

57 (13) “Development Costs” has the same meaning as in section 2(13) of the Tax
58 Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143;
59 D.C. Official Code § 2-1217.01(13)) and may include any costs for District tenant improvements
60 in the Project.

61 (14) “Development Sponsor” means Four Points LLC, Curtis Investment Group,
62 and Blue Sky Housing LLC as Development Sponsors or any other entity that undertakes the
63 development of the Project with the approval of the Mayor.

64 (15) “District” means the District of Columbia.

65 (16) “Financing Documents” means the documents, other than Closing
66 Documents, that relate to the financing or refinancing of transactions to be affected through the
67 issuance, sale, and delivery of the bonds, including any offering document, and any required
68 supplements to any such documents.

69 (17) “Home Rule Act” means the District of Columbia Home Rule Act,
70 approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 et seq.).

71 (18) “Project” means the financing, refinancing, or reimbursing of Development
72 Costs incurred within the Reunion Square TIF Area.

73 (19) “Refunding Bonds” means the District of Columbia bonds, notes, or other
74 obligations, in one or more series, authorized to be issued pursuant to this act to refund the Bonds.

75 (20) “Reserve Agreement” means that certain Reserve Agreement, dated as of
76 April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A., and Financial
77 Security Assurance, Inc.

78 (21) “TIF” means tax increment financing.

79 Sec. 3. Creation of the Reunion Square TIF Fund.

80 (a) There is established as a nonlapsing fund the Reunion Square TIF Fund. The Chief
81 Financial Officer shall deposit into the Reunion Square TIF Fund the Available Tax Increment and
82 any other taxes or fees specifically designated by law for deposit in the Reunion Square TIF Fund.

83 (b) The Mayor may pledge and create a security interest in the funds in the Reunion
84 Square TIF Fund, or any sub-account within the Reunion Square TIF Fund, for the payment of
85 debt service on the bonds without further action by the Council as permitted by section 490(f) of
86 the Home Rule Act. The payment of debt service shall be made in accordance with the provisions
87 of the Financing Documents entered into by the District in connection with the issuance of the
88 bonds.

89 (c) If, at the end of any fiscal year of the District, the balance of cash and investments
90 in the Reunion Square TIF Fund exceeds the amount of debt service (including prepayment of
91 principal and interest), reserves on any bonds, and any approved bond-related administrative
92 expenses during the upcoming fiscal year, 50% of the excess shall be used to prepay the principal

93 of the bonds and the remaining 50% of the excess shall be transferred to the unrestricted balance
94 of the General Fund of the District of Columbia.

95 Sec. 4. Creation of the Reunion Square TIF Area.

96 (a) There is created a TIF area designated as the Reunion Square TIF Area. The
97 Reunion Square TIF Area is defined as: Square 5784, Lots 899, 900, and 1101; Square 5783, Lot
98 1018; and Square 5772, Lots 827, 829, 984, 1017, and 1020.

99 (b) As provided under section 3, the Available Tax Increment from the Reunion
100 Square TIF Area shall be deposited in the Reunion Square TIF Fund and may be used for the
101 purposes set forth in section 3.

102 (c) (1) The base year for determination of Available Sales Tax Revenues from
103 locations within the Reunion Square TIF Area shall be the tax year preceding the year in which
104 this act becomes effective.

105 (2) The base amount for determination of Available Real Property Tax
106 Revenues shall be:

107 (A) \$121, 881 in base year 2020;

108 (B) \$121, 881 in base year 2021;

109 (C) \$121,881 in base year 2022;

110 (D) \$129, 193in base year 2023;

111 (E) \$136, 945 in base year 2024; and

112 (F) \$141,738 in base year 2025 and each base year thereafter.

113 (d) The Reunion Square Street TIF Area shall terminate on the earlier of

114 (1) Twenty-five years after the issuance of the last Bonds issued pursuant to this
115 act;

116 (2) The date on which the Bonds are paid in full or are defeased and are no longer
117 outstanding, or

118 (3) September 30, 2025 if no Bonds are issued.

119 Sec. 5. Class A Bond authorization.

120 (a) The Council approves and authorizes the issuance of one or more series of Class A
121 Bonds in an aggregate principal amount not to exceed \$16.9 million to fund the Project. The Class
122 A Bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or
123 taxable as the Mayor shall determine and shall be payable and secured as provided in section 7(a).

124 (b) The Mayor may pay from the proceeds of the Class A Bonds the financing costs
125 and expenses of issuing and delivering the Class A Bonds, including, but not limited to,
126 underwriting, legal, accounting, financial advisory, credit enhancement, marketing, sale, and
127 printing costs and expenses.

128 Sec. 6. Class B Bond authorization

129 (a) The Council approves and authorizes the issuance of one or more series of Class B
130 Bonds in an aggregate principal amount not to exceed \$45.8 million, less the issued gross Class A
131 Bond amount, to reimburse Development Costs of the Project and financing costs incurred by the
132 District and to fund capitalized interest and required reserves. The Class B Bonds, which may be
133 issued from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall
134 determine and shall be payable and secured as provided in section 7(b).

135 (b) The Mayor may pay from the proceeds of the Class B Bonds the financing costs
136 and expenses of issuing and delivering the Class B Bonds, including, but not limited to,
137 underwriting, legal, accounting, financial advisory, credit enhancement, marketing, sale, and
138 printing costs and expenses.

139 (c) The Class B Bonds also may be issued as a TIF note to the Development Sponsor
140 and may be held and used as security for debt incurred or to be incurred by the Development
141 sponsor, an agent of the Development Sponsor, or another party selected by the Development
142 sponsor and Approved by the District.

143 Sec. 7. Payment and security.

144 (a) For the Class A Bonds:

145 (1) Except as may be otherwise provided in this act, the principal of, premium,
146 if any, and interest on, the Class A Bonds, and the payment of ongoing administrative expenses
147 related to the bond financing shall be payable solely from proceeds received from the sale of the
148 bonds, income realized from the temporary investment of those proceeds, Available Tax Increment
149 and any other taxes or fees deposited in the Reunion Square TIF Fund, income realized from the
150 temporary investment of the monies in the Reunion Square TIF Fund prior to payment to the Class
151 A Bondholders, and other funds that, as provided in the Financing Documents, may be made
152 available to the District for payment of the bonds from sources other than the District, all as
153 provided for in the Financing Documents.

154 (2) There is further allocated to the payment of debt service, on the Class A
155 Bonds the Available Increment, subordinate to the allocation of Available Increment to the
156 Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve
157 Agreement and to the extent that the Reserve Agreement continues to apply to the Available
158 Increment, to be used for the payment of debt service on the Class A Bonds to the extent that the
159 revenues allocated in subsection (a) of this section are inadequate to pay debt service on the Class
160 A Bonds. The allocation of Available Increment authorized by this subsection shall be made in
161 compliance with all existing contractual obligations of the District with respect to the Available

162 Increment and shall terminate on the date on which all of the Class A Bonds are paid or provided
163 for and are no longer outstanding pursuant to their terms.

164 (3) Payment of the Class A Bonds shall be secured as provided in the Financing
165 Documents and by an assignment by the District for the benefit of the Class A Bondholders of
166 certain of its rights under the Financing Documents and Closing Documents to the trustee for the
167 Class A Bonds pursuant to the Financing Documents.

168 (4) The trustee or paying agent is authorized to deposit, invest, and disburse the
169 proceeds received from the sale of the Class A Bonds pursuant to the Financing Documents.

170 (b) For the Class B Bonds:

171 (1) Except as may be otherwise provided in this act, the principal of, premium,
172 if any, and interest on, the Class B Bonds, and the payment of ongoing administrative
173 expenses related to the Class B Bond financing shall be payable solely from proceeds
174 received from the sale of the subordinate Class B Bonds and income realized from the
175 temporary investment of those proceeds, the Available Tax Increment and any other taxes
176 or fees deposited in the Reunion Square TIF Fund, income realized from the temporary
177 investment of the monies in the Reunion Square TIF Fund prior to payment to the Class B
178 Bondholders, and other funds that, as provided in the Financing Documents, may be made
179 available to the District for payment of the subordinate Class B Bonds from sources other
180 than the District, all as provided for in the Financing Documents.

181 (2) Payment of debt service on the Class B Bonds from monies deposited in the
182 Reunion Square TIF Fund or income realized from the temporary investment of those
183 monies shall be subordinate to (i) the payment of debt service on the Class A Bonds from

184 monies deposited in the Reunion Square TIF Fund or income realized from the temporary
185 investment of those monies and (ii) any reasonable reserves required by the District.

186 (3) Payment of the Class B Bonds shall be secured as provided in the Financing
187 Documents and by an assignment by the District for the benefit of the Class B Bondholders
188 of certain of its rights under the Financing Documents and Closing Documents to the
189 trustee for the s Class B Bonds pursuant to the Financing Documents.

190 (4) The trustee or paying agent is authorized to deposit, invest, and disburse the
191 proceeds received from the sale of the Class B Bonds pursuant to the Financing Documents.

192 Sec. 8. Bond details.

193 (a) The Mayor is authorized to take any action reasonably necessary or appropriate in
194 accordance with this act in connection with the preparation, execution, issuance, sale, delivery,
195 security for, and payment of the bonds of each class and series, including, but not limited to,
196 determinations of:

197 (1) The final form, content, designation, and terms of the bonds, including a
198 determination that the bonds may be issued in certificated or book-entry form;

199 (2) The principal amount of the bonds to be issued and denominations of the
200 bonds;

201 (3) The rate or rates of interest or the method for determining the rate or rates
202 of interest on the bonds;

203 (4) The date or dates of issuance, sale, and delivery of, and the payment of
204 interest on, the bonds, and the maturity date or dates of the bonds;

205 (5) The terms under which the bonds may be paid, optionally or mandatorily
206 redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before
207 their respective stated maturities;

208 (6) Provisions for the registration, transfer, and exchange of the bonds and the
209 replacement of mutilated, lost, stolen, or destroyed bonds;

210 (7) The creation of any reserve fund, sinking fund, or other fund with respect
211 to the bonds;

212 (8) The time and place of payment of the bonds;

213 (9) Procedures for monitoring the use of the proceeds received from the sale of
214 the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of
215 the Home Rule Act and this act;

216 (10) Actions necessary to qualify the bonds under blue sky laws of any
217 jurisdiction where the bonds are marketed; and

218 (11) The terms and types of any credit enhancement under which the bonds may
219 be secured.

220 (b) The bonds shall contain a legend which shall provide that the bonds are special
221 obligations of the District, are without recourse to the District, are not a pledge of, and do not
222 involve, the faith and credit or the taxing power of the District (other than the Available Tax
223 Increment, the Available Increment, and any other taxes and fees deposited in the Reunion Square
224 TIF Fund), do not constitute a debt of the District, and do not constitute lending of the public credit
225 for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

226 (c) The bonds shall be executed in the name of the District and on its behalf by the
227 manual or facsimile signature of the Mayor, and attested by the Secretary of the District of
228 Columbia by the Secretary's manual or facsimile signature.

229 (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or
230 otherwise reproduced on the bonds.

231 (e) The bonds of any series may be issued in accordance with the terms of a trust
232 instrument to be entered into by the District and a trustee or paying agent to be selected by the
233 Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor
234 pursuant to section 490(a)(4) of the Home Rule Act.

235 (f) The bonds may be issued at any time or from time to time in one or more issues
236 and in one or more series.

237 (g) The bonds are declared to be issued for essential public and governmental purposes.
238 The bonds, the interest thereon, and the income therefrom, and all funds pledged or available to
239 pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District,
240 except for estate, inheritance, and gift taxes.

241 (h) The District pledges, covenants, and agrees with the holders of the bonds that,
242 subject to the provisions of the Financing Documents, the District will not limit or alter the
243 revenues pledged to secure the bonds or the basis on which such revenues are collected or
244 allocated, will not impair the contractual obligations of the District to fulfill the terms of any
245 agreement made with the holders of the bonds, will not in any way impair the rights or remedies
246 of the holders of the bonds, and will not modify, in any way, the exemptions from taxation provided
247 for in this act, until the bonds, together with interest thereon, and all costs and expenses in
248 connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are

249 fully met and discharged. This pledge and agreement for the District may be included as part of
250 the contract with the holders of the bonds. This subsection constitutes a contract between the
251 District and the holders of the bonds. To the extent that any acts or resolutions of the Council may
252 be in conflict with this act, this act shall be controlling.

253 (i) Consistent with section 490(a)(4)(B) of the Home Rule Act and notwithstanding
254 Article 9 of Chapter 28 of the District of Columbia Official Code:

255 (1) A pledge made and security interest created in respect of the bonds or
256 pursuant to any related Financing Document shall be valid, binding, and perfected from the time
257 the security interest is created, with or without physical delivery of any funds or any property and
258 with or without any further action;

259 (2) The lien of the pledge shall be valid, binding, and perfected as against all
260 parties having any claim of any kind in tort, contract, or otherwise against the District, whether or
261 not such party has notice; and

262 (3) The security interest shall be valid, binding, and perfected whether or not
263 any statement, document, or instrument relating to the security interest is recorded or filed.

264 Sec. 9. Issuance of the bonds.

265 (a) The bonds of any series may be sold at negotiated or competitive sale at, above, or
266 below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the
267 best interests of the District.

268 (b) The Mayor or an Authorized Delegate may execute, in connection with each sale
269 of the bonds, offering documents on behalf of the District, may deem final any such offering
270 document on behalf of the District for purposes of compliance with federal laws and regulations

271 governing such matters, and may authorize the distribution of the documents in connection with
272 the bonds.

273 (c) The Mayor is authorized to deliver executed and sealed bonds, on behalf of the
274 District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to
275 the original purchasers of the bonds upon payment of the purchase price.

276 (d) The bonds shall not be issued until the Mayor receives an approving opinion from
277 Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is
278 expected to be exempt from federal income taxation, the treatment of the interest on the bonds for
279 purposes of federal income taxation.

280 (e) The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law
281 18-371; D.C. Official Code § 2-351.01 et seq.), and subchapter III-A of Chapter 3 of Title 47 of
282 the District of Columbia Official Code shall not apply to any contract the Mayor may from time
283 to time enter into, or the Mayor may determine to be necessary or appropriate, for the purposes of
284 this act.

285 Sec. 10. Financing and Closing Documents.

286 (a) The Mayor is authorized to prescribe the final form and content of all Financing
287 Documents and all Closing Documents to which the District is a party that may be necessary or
288 appropriate to issue, sell, and deliver the bonds.

289 (b) The Mayor is authorized to execute, in the name of the District and on its behalf,
290 the Financing Documents and any Closing Documents to which the District is a party by the
291 Mayor's manual or facsimile signature.

292 (c) If required, the official seal of the District, or a facsimile of it, shall be impressed,
293 printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing
294 Documents to which the District is a party.

295 (d) The Mayor's execution and delivery of the Financing Documents and the Closing
296 Documents to which the District is a party shall constitute conclusive evidence of the Mayor's
297 approval, on behalf of the District, of the final form and content of the executed Financing
298 Documents and the executed Closing Documents.

299 (e) The Mayor is authorized to deliver the executed and sealed Financing Documents
300 and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance,
301 sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District
302 contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

303 Sec. 11. Limited liability.

304 (a) The bonds shall be special obligations of the District. The bonds shall be without
305 recourse to the District. The bonds shall not be general obligations of the District, shall not be a
306 pledge of, or involve, the faith and credit or the taxing power of the District (other than the
307 Available Tax Increment, the Available Increment, and any other taxes or fees allocated to the
308 Reunion Square TIF Fund), shall not constitute a debt of the District, and shall not constitute
309 lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home
310 Rule Act.

311 (b) The bonds shall not give rise to any pecuniary liability of the District and the
312 District shall have no obligation with respect to the purchase of the bonds.

313 (c) No person, including, but not limited to, any bond owner, shall have any claims
314 against the District or any of its elected or appointed officials, officers, employees, or agents for

315 monetary damages suffered as a result of the failure of the District to perform any covenant,
316 undertaking, or obligation under this act, the bonds, the Financing Documents, or the Closing
317 Documents, or as a result of the incorrectness of any representation in or omission from the
318 Financing Documents or the Closing Documents, unless the District or its elected or appointed
319 officials, officers, employees, or agents have acted in a willful and fraudulent manner.

320 Sec. 12. District officials.

321 (a) Except as otherwise provided in section 11(c), the elected or appointed officials,
322 officers, employees, or agents of the District shall not be liable personally for the payment of the
323 bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any
324 representations, warranties, covenants, obligations, or agreements of the District contained in this
325 act, the bonds, the Financing Documents, or the Closing Documents.

326 (b) The signature, countersignature, facsimile signature, or facsimile countersignature
327 of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall
328 be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases
329 to hold that office before delivery of the bonds, the Financing Documents, or the Closing
330 Documents.

331 Sec. 13. Maintenance of documents.

332 Copies of the specimen bonds and of the final Financing Documents and Closing
333 Documents shall be filed in the Office of the Secretary of the District of Columbia.

334 Sec. 14. Information reporting.

335 Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the
336 issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the
337 Council.

338 Sec. 15. Expiration of issuance authority.

339 (a) The authority to issue the Bonds shall expire on September 30, 2025 if no Bonds
340 have been issued; provided, however, that the expiration of the authority shall have no effect on
341 any Bonds issued prior to the expiration date or on the District’s ability to issue Refunding Bonds
342 on a future date.

343 (b) The authority to issue the Class B Bonds shall expire on September 30, 2030;
344 provided, however, that the expiration of the authority shall have no effect on any Class B Bonds
345 issued prior to the expiration date.

346 Sec. 16. Fiscal impact statement.

347 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
348 statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved
349 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

350 Sec. 17. Effective date.

351 This act shall take effect following approval by the Mayor (or in the event of veto by the
352 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
353 90 days, as provided for emergency acts of the Council of the District of Columbia in section
354 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
355 D.C. Official Code § 1-204.12(a)).