

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 Emergency Act of 2019”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 (a) There is created a TIF area designated as the Reunion Square TIF Area. The
96 Reunion Square TIF Area is defined as follows:

97 Square 5784, Lots 899 -900, 1101

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

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

104 (2) The base year for determination of Available Real Property Tax Revenues
105 shall be the tax year of the District preceding the year in which this act becomes effective and the
106 initial assessed value to be used in making the determination of Available Real Property Tax
107 Revenues shall be the assessed value of each lot of taxable real property in the Reunion Square
108 TIF Area for the preceding tax year in which this act becomes effective.

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

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

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

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

115 Sec. 5. Class A Bond authorization.

116 (a) The Council approves and authorizes the issuance of one or more series of Class A
117 Bonds in an aggregate principal amount not to exceed \$16.9 million to fund the Project. The Class
118 A Bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or
119 taxable as the Mayor shall determine and shall be payable and secured as provided in section 77(a).

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

124 Sec. 6. Class B Bond authorization

125 (a) The Council approves and authorizes the issuance of one or more series of Class B
126 Bonds in an aggregate principal amount not to exceed \$8.1 million to reimburse Development
127 Costs of the Project and financing costs incurred by the District and to fund capitalized interest
128 and required reserves. The Class B Bonds, which may be issued from time to time, in one or more
129 series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and
130 secured as provided in section 7(b).

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

135 (c) The Class B Bonds also may be issued as a TIF note to the Development Sponsor
136 and may be held and used as security for debt incurred or to be incurred by the Development

137 sponsor, an agent of the Development Sponsor, or another party selected by the Development
138 sponsor and Approved by the District.

139 Sec. 7. Payment and security.

140 (a) For the Class A Bonds:

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

150 (2) There is further allocated to the payment of debt service, on the Class A
151 Bonds the Available Increment, subordinate to the allocation of Available Increment to the
152 Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve
153 Agreement and to the extent that the Reserve Agreement continues to apply to the Available
154 Increment, to be used for the payment of debt service on the Class A Bonds to the extent that the
155 revenues allocated in subsection (a) of this section are inadequate to pay debt service on the Class
156 A Bonds. The allocation of Available Increment authorized by this subsection shall be made in
157 compliance with all existing contractual obligations of the District with respect to the Available
158 Increment and shall terminate on the date on which all of the Class A Bonds are paid or provided
159 for and are no longer outstanding pursuant to their terms.

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

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

166 (b) For the Class B Bonds:

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

177 (2) Payment of debt service on the Class B Bonds from monies deposited in the
178 Reunion Square TIF Fund or income realized from the temporary investment of those
179 monies shall be subordinate to (i) the payment of debt service on the Class A Bonds from
180 monies deposited in the Reunion Square TIF Fund or income realized from the temporary
181 investment of those monies and (ii) any reasonable reserves required by the District.

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

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

188 Sec. 8. Bond details.

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

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

195 (2) The principal amount of the bonds to be issued and denominations of the
196 bonds;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

237 (h) The District pledges, covenants, and agrees with the holders of the bonds that,
238 subject to the provisions of the Financing Documents, the District will not limit or alter the
239 revenues pledged to secure the bonds or the basis on which such revenues are collected or
240 allocated, will not impair the contractual obligations of the District to fulfill the terms of any
241 agreement made with the holders of the bonds, will not in any way impair the rights or remedies
242 of the holders of the bonds, and will not modify, in any way, the exemptions from taxation provided
243 for in this act, until the bonds, together with interest thereon, and all costs and expenses in
244 connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are
245 fully met and discharged. This pledge and agreement for the District may be included as part of
246 the contract with the holders of the bonds. This subsection constitutes a contract between the
247 District and the holders of the bonds. To the extent that any acts or resolutions of the Council may
248 be in conflict with this act, this act shall be controlling.

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

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

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

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

260 Sec. 9. Issuance of the bonds.

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

264 (b) The Mayor or an Authorized Delegate may execute, in connection with each sale
265 of the bonds, offering documents on behalf of the District, may deem final any such offering
266 document on behalf of the District for purposes of compliance with federal laws and regulations
267 governing such matters, and may authorize the distribution of the documents in connection with
268 the bonds.

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

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

276 (e) The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law
277 18-371; D.C. Official Code § 2-351.01 et seq.), and subchapter III-A of Chapter 3 of Title 47 of
278 the District of Columbia Official Code shall not apply to any contract the Mayor may from time
279 to time enter into, or the Mayor may determine to be necessary or appropriate, for the purposes of
280 this act.

281 Sec. 10. Financing and Closing Documents.

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

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

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

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

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

299 Sec. 11. Limited liability.

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

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

309 (c) No person, including, but not limited to, any bond owner, shall have any claims
310 against the District or any of its elected or appointed officials, officers, employees, or agents for
311 monetary damages suffered as a result of the failure of the District to perform any covenant,
312 undertaking, or obligation under this act, the bonds, the Financing Documents, or the Closing
313 Documents, or as a result of the incorrectness of any representation in or omission from the
314 Financing Documents or the Closing Documents, unless the District or its elected or appointed
315 officials, officers, employees, or agents have acted in a willful and fraudulent manner.

316 Sec. 12. District officials.

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

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

327 Sec. 13. Maintenance of documents.

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

330 Sec. 14. Information reporting.

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

334 Sec. 15. Expiration of issuance authority.

335 The authority to issue the Bonds shall expire on September 30, 2025 if no Bonds have been
336 issued; provided, however, that the expiration of the authority shall have no effect on any Bonds
337 issued prior to the expiration date or on the District's ability to issue Refunding Bonds on a future
338 date.

339 Sec. 16. Fiscal impact statement.

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

343 Sec. 17. Effective date.

344 This act shall take effect following approval by the Mayor (or in the event of veto by the
345 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
346 90 days, as provided for emergency acts of the Council of the District of Columbia in section
347 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788,
348 D.C. Official Code § 1-204.12(a)), and publication in the District of Columbia Register.