

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

A BILL

23-830

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To authorize, on a temporary 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 Temporary Amendment 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

24 provided for in section 481 of the Home Rule Act pledged to payment of general obligation
25 indebtedness of the District.

26 (4) “Available Sales Tax Revenues” means the revenues resulting from the
27 imposition of the tax under Chapter 20 of Title 47 of the District of Columbia Official Code,
28 including penalty and interest charges, exclusive of the portion thereof required to be deposited
29 in the Washington Convention Center Fund established pursuant to section 208 of the
30 Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law
31 10-188; D.C. Official Code § 10-1202.08), and any amounts to be made available to the
32 Washington Metropolitan Transit Authority pursuant to section 7101 of the Revised Revenue
33 Contingency List Act of 2017, effective December 13, 2017 (64 DCR 7652), and section 2 of the
34 Stable and Reliable Source of WMATA Revenues act of 1982, effective April 30, 1982 (D.C.
35 Law 4-103; D.C. Official Code 9-1111.15(b)(2)(A)).

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

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

43 (7) “Bonds” means the District of Columbia Class A Bonds, Class B Bonds
44 and any other revenue bonds, notes, or other obligations, in one or more series, authorized to be

45 issued pursuant to this act. Unless otherwise specified, the term “Bonds” shall include Refunding
46 Bonds.

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

49 (9) “Chief Financial Officer” means the Chief Financial Officer established
50 by 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
53 bonds, 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
57 bonds.

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

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

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

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

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

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

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

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

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

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

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

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

92 (c) If, at the end of any fiscal year of the District, the balance of cash and investments
93 in the Reunion Square TIF Fund exceeds the amount of debt service (including prepayment of
94 principal and interest), reserves on any bonds, and any approved bond-related administrative
95 expenses during the upcoming fiscal year, 50% of the excess shall be used to prepay the
96 principal of the bonds and the remaining 50% of the excess shall be transferred to the
97 unrestricted balance of the General Fund of the District of Columbia.

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

99 (a) There is created a TIF area designated as the Reunion Square TIF Area. The
100 Reunion Square TIF Area is defined as: Lots 827, 829, 984, 1017, and 1020 in Square 5772; Lot
101 1018 in Square 5783; and Lots 899, 900, and 1101 in Square 5784.

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

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

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

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

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

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

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

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

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

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

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

119 (2) The date on which the Bonds are paid in full or are defeased and are no longer
120 outstanding; or

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

122 Sec. 5. Class A Bond authorization.

123 (a) Council approves and authorizes the issuance of one or more series of Class A Bonds
124 in an aggregate principal amount not to exceed \$16.9 million to fund the Project. The Class A
125 Bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or

126 taxable as the Mayor shall determine and shall be payable and secured as provided in section
127 7(a).

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

132 Sec. 6. Class B Bond authorization

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

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

143 (c) The Class B Bonds also may be issued as a TIF note to the Development Sponsor and
144 may be held and used as security for debt incurred or to be incurred by the Development
145 Sponsor, an agent of the Development Sponsor, or another party selected by the Development
146 sponsor and approved by the District.

147 Sec. 7. Payment and security.

148 (a) For the Class A Bonds:

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

158 (2) There is further allocated to the payment of debt service, on the Class A Bonds
159 the Available Increment, subordinate to the allocation of Available Increment to the Budgeted
160 Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve
161 Agreement and to the extent that the Reserve Agreement continues to apply to the Available
162 Increment, to be used for the payment of debt service on the Class A Bonds to the extent that the
163 revenues allocated in subsection paragraph (1) of this subsection are inadequate to pay debt
164 service on the Class A Bonds. The allocation of Available Increment authorized by this
165 subsection shall be made in compliance with all existing contractual obligations of the District
166 with respect to the Available Increment and shall terminate on the date on which all of the Class
167 A Bonds are paid or provided for and are no longer outstanding pursuant to their terms.

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

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

174 (b) For the Class B Bonds:

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

185 (2) Payment of debt service on the Class B Bonds from monies deposited in the
186 Reunion Square TIF Fund or income realized from the temporary investment of those monies
187 shall be subordinate to:

188 (A) The payment of debt service on the Class A Bonds from monies
189 deposited in the Reunion Square TIF Fund or income realized from the temporary investment of
190 those monies; and

191 (B) Any reasonable reserves required by the District.

192 (3) Payment of the Class B Bonds shall be secured as provided in the Financing
193 Documents and by an assignment by the District for the benefit of the Class B Bondholders of
194 certain of its rights under the Financing Documents and Closing Documents to the trustee for the
195 Class B Bonds pursuant to the Financing Documents.

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

198 Sec. 8. Bond details.

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

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

205 (2) The principal amount of the bonds to be issued and denominations of the
206 bonds;

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

ENGROSSED ORIGINAL

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

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

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

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

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

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

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

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

226 (b) The bonds shall contain a legend which shall provide that the bonds are special
227 obligations of the District, are without recourse to the District, are not a pledge of, and do not
228 involve, the faith and credit or the taxing power of the District (other than the Available Tax
229 Increment, the Available Increment, and any other taxes and fees deposited in the Reunion

230 Square TIF Fund), do not constitute a debt of the District, and do not constitute lending of the
231 public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

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

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

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

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

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

247 (h) The District pledges, covenants, and agrees with the holders of the bonds that,
248 subject to the provisions of the Financing Documents, the District will not limit or alter the
249 revenues pledged to secure the bonds or the basis on which such revenues are collected or
250 allocated, will not impair the contractual obligations of the District to fulfill the terms of any

251 agreement made with the holders of the bonds, will not in any way impair the rights or remedies
252 of the holders of the bonds, and will not modify, in any way, the exemptions from taxation
253 provided for in this act, until the bonds, together with interest thereon, and all costs and expenses
254 in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are
255 fully met and discharged. This pledge and agreement for the District may be included as part of
256 the contract with the holders of the bonds. This subsection constitutes a contract between the
257 District and the holders of the bonds. To the extent that any acts or resolutions of the Council
258 may be in conflict with this act, this act shall be controlling.

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

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

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

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

270 Sec. 9. Issuance of the bonds.

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

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

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

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

286 (e) The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C.
287 Law 18-371; D.C. Official Code § 2-351.01 et seq.), and subchapter III-A of Chapter 3 of Title
288 47 of the District of Columbia Official Code shall not apply to any contract the Mayor may from
289 time to time enter into, or the Mayor may determine to be necessary or appropriate, for the
290 purposes of this act.

291 Sec. 10. Financing and Closing Documents.

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

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

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

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

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

310 Sec. 11. Limited liability.

311 (a) The bonds shall be special obligations of the District. The bonds shall be without
312 recourse to the District. The bonds shall not be general obligations of the District, shall not be a

313 pledge of, or involve, the faith and credit or the taxing power of the District (other than the
314 Available Tax Increment, the Available Increment, and any other taxes or fees allocated to the
315 Reunion Square TIF Fund), shall not constitute a debt of the District, and shall not constitute
316 lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the
317 Home Rule Act.

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

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

327 Sec. 12. District officials.

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

333 (b) The signature, countersignature, facsimile signature, or facsimile countersignature
334 of any official appearing on the bonds, the Financing Documents, or the Closing Documents
335 shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory
336 ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing
337 Documents.

338 Sec. 13. Maintenance of documents.

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

341 Sec. 14. Information reporting.

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

345 Sec. 15. Expiration of issuance authority.

346 (a) The authority to issue the Bonds shall expire on September 30, 2025 if no Bonds
347 have been issued; provided, however, that the expiration of the authority shall have no effect on
348 any Bonds issued prior to the expiration date or on the District's ability to issue Refunding
349 Bonds on a future date.

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

353 Sec. 16. Fiscal impact statement.

354 The Council adopts the fiscal impact statement in the by the Chief Financial Officer
355 report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia
356 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
357 206.02(c)(3)).

358 Sec. 17. Effective date.

359 (a) This act shall take effect following the approval by the Mayor (or in the event of veto
360 by the Mayor, action by the Council to override the veto), a 30-day period of Congressional
361 review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved
362 December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-206.02(c)(1), and publication in the
363 District of Columbia Register.

364 (b) This act shall expire after 225 days of its having taken effect.