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A BILL
22-382

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To authorize the issuance of tax increment financing bonds to support certain infrastructure and other costs for a portion of the land located within the Union Market Area.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Union Market Tax Increment Financing Act of 2017”.

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

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23 (4) “Available Sales Tax Revenues” means the revenues resulting from the
24 imposition of the tax under Chapter 20 of Title 47 of the District of Columbia Official Code,
25 including penalty and interest charges, exclusive of the portion thereof required to be deposited
26 in the Washington Convention Center Fund established pursuant to section 208 of the
27 Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law
28 10-188; D.C. Official Code § 10-1202.08), and any amounts to be made available to the
29 Washington Metropolitan Transit Authority pursuant to section 7102 of the Revised Revenue
30 Contingency List Act of 2017, enacted on July 31, 2017 (D.C. Act 22-130; 62 DCR 7652), and
31 section 2(b)(A) of the Stable and Reliable Source of Revenues for WMATA Act of 1982,
32 effective April 30, 1982 (D.C. Law 4-103; D.C. Official Code 9-1111.15(b)(2)(A)).

33 (5) “Available Tax Increment” means the sum of the Available Sales Tax
34 Revenues and Available Real Property Tax Revenues generated in the Union Market TIF Area in
35 any fiscal year of the District minus the sum of Available Sales Tax Revenues and Available
36 Real Property Tax Revenues generated in the Union Market TIF Area in the applicable base
37 year.

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

40 (7) “Bonds” means the District of Columbia revenue bonds, notes, or other
41 obligations (including refunding bonds, notes, and other obligations), in one or more series,
42 authorized to be issued pursuant to this act.

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

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

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

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

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

52 (13) “Development Costs” has the same meaning as in section 2(13) of the Tax
53 Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-
54 143; D.C. Official Code § 2-1217.01(13)).

55 (14) “Development Sponsor” means Union Market Infrastructure Corp., qualified
56 to do business in the District of Columbia, or any other entity that undertakes the development of
57 the project with the approval of the Mayor.

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

59 (16) “Financing Documents” means the documents, other than Closing
60 Documents, that relate to the financing or refinancing of transactions to be effected through the
61 issuance, sale, and delivery of the bonds, including any offering document, and any required
62 supplements to any such documents.

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

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65 (18) "Project" means the financing, refinancing, or reimbursing of Development
66 Costs incurred for construction of infrastructure and retail parking within the Union Market TIF
67 Area and adjoining public space.

68 (19) "Retail Parking" means structured parking located within the Union Market
69 TIF Area that is designed to support the development of the Union Market TIF Area as a retail

70 hub.20) "Reserve Agreement" means that certain Reserve Agreement, dated April 1, 2002, by
71 and among the District, Wells Fargo Bank Minnesota, N.A., and Financial Security Assurance,
72 Inc.

73 (21) "TIF" means tax increment financing.

74 (22) "Union Market TIF Area" means the geographical area described in section
75 4(a).

76 Sec. 3. Creation of the Union Market TIF Fund.

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

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

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

92 Sec. 4. Creation of the Union Market TIF Area.

93 (a) There is created a TIF area designated as the Union Market TIF Area. The Union
94 Market TIF Area is defined as the real property located in Lots 0001, 0002, and 0003 in Square
95 3594; Lots 0003, 0007, 0808, 0823, 0824, 0825, 0826, 0828, 0829, 0830, 0831, 0832, 7006,
96 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7014, 7015, 7016, 7017, 7018, 7019, 7020, 7021,
97 7022, and 7023 in Square 3587; Lots 0004, 0015, 0016, 0017, 0018, 0019, 0020, 0021, 0022,
98 0025, 0801, 0802, and 0803 in Square 3588; Lots 0003, 0008, 0009, 0029, 0030, 0031, 0032,
99 0033, 0034, 0035, 0036, 0049, 0050, 0051, 0052, 0053, 0804, 0805, 0806, and 0808, in Square
100 3589; Lots 0001, 0002, 0003, 0004, 0005, 0006, 0010, 0011, 0013, 0014, 0800, 0801, and 0802
101 in Square 3590; Lots 0002, 0003, 0004 and 0800 in Square 3591; Lots 0001, 0002, 0006, 0007,
102 0008, 0009, 0010, 0011, 0012, 0013, 0014, 0015, 0016, 0019, 0020, 0021, 0022, 0023, 0024,
103 0025, 0802, and 0803 in Square 3592; and Lots 0027, 0028, 0030, 0034, 0043, 0045, 0068, 0070,
104 0072, 0089, 0090, 0103, 0104, 0106, and 0112 in Parcel 0129.

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105 (b) As provided under section 3, the Available Tax Increment from the Union Market
106 TIF Area shall be deposited in the Union Market TIF Fund and may be used for the purposes set
107 forth in section 3.

108 (c)(1) The base amount for determination of Available Sales Tax Revenues shall be
109 \$2,644,943 in base year 2018, \$4,924,957 in base year 2019, \$5,984,737 in base year 2020, and
110 \$6,529,609 in base year 2021. For base years 2022 through 2051, the base amount for
111 determination of Available Sales Tax Revenues shall reflect an increase in the amount of 3.6%
112 from each previous base year's amount.

113 (2) The base amount for determination of Available Real Property Tax
114 Revenues shall be \$3,746,069 in base year 2018, \$4,858,887 in base year 2019, \$6,202,452 in base
115 year 2020, and \$7,488,037 in base year 2021. For base years 2022 through 2051, the base amount
116 for determination of Available Real Property Tax Revenues shall reflect an increase in the amount
117 of 3.0% from each previous base year's amount.

118 (3) The Union Market TIF Area shall terminate on the earliest of (1) 25 years after the issuance
119 of the last bonds issued pursuant to this Act, (2) the date on which the bonds are paid in full or are
120 defeased and are no longer outstanding, or (3) March 1, 2027 if no bonds are issued.

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121 Sec. 5. Bond authorization.

122 (a)(1) The Council approves and authorizes the issuance of one or more series of bonds in
123 an aggregate principal amount not to exceed \$82.4 million to fund the project. The bonds, which
124 may be issued from time to time, in one or more series, shall be tax-exempt or taxable as the
125 Mayor shall determine and shall be payable and secured as provided in section 6.

126 (2) Bonds in the aggregate principal amount of \$46.4 million may be issued to pay
127 for the construction of infrastructure and related Development Costs.

128 (3) Bonds in the aggregate principal amount not to exceed \$36 million may be
129 issued to pay for the construction of Retail Parking and related Development Costs.

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

133 Sec. 6. Payment and security.

134 (a) Except as may be otherwise provided in this act, the principal of, premium, if any,
135 and interest on, the bonds, and the payment of ongoing administrative expenses related to the
136 bond financing shall be payable solely from proceeds received from the sale of the bonds,
137 income realized from the temporary investment of those proceeds, receipts and revenues realized
138 by the District from the Union Market TIF Fund, income realized from the temporary investment
139 of those receipts and revenues prior to payment to the bond owners, and other funds that, as
140 provided in the Financing Documents, may be made available to the District for payment of the
141 bonds from sources other than the District, all as provided for in the Financing Documents.

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142 (a) (b) There is further allocated to the payment of debt service, on up to \$36 million
143 of the bonds the Available Increment, subordinate to the allocation of Available Increment to the
144 Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve
145 Agreement and to the extent that the Reserve Agreement continues to apply to the Available
146 Increment, to be used for the payment of debt service on the bonds to the extent that the revenues
147 allocated in subsection (a) of this section are inadequate to pay debt service on the bonds. The
148 allocation of Available Increment authorized by this subsection shall be made in compliance with
149 all existing contractual obligations of the District with respect to the Available Increment and shall
150 terminate on the date on which all of the bonds are paid or provided for and are no longer
151 outstanding pursuant to their terms. The foregoing allocation of Available Increment may be
152 increased to apply to bonds in excess of \$36 million, provided that the Development Sponsor
153 advances the amount of any reserve required in the District's budget to support such increased
154 allocation and any amount remaining in such reserve upon payment in full of such bonds shall be
155 returned to Development Sponsor.

156 (c) Payment of the bonds shall be secured as provided in the Financing Documents and
157 by an assignment by the District for the benefit of the bond owners of certain of its rights under
158 the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the
159 Financing Documents.

160 (d) The trustee or paying agent is authorized to deposit, invest, and disburse the proceeds
161 received from the sale of the bonds pursuant to the Financing Documents.

162 Sec. 7. Bond details.

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

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

169 (2) The principal amount of the bonds to be issued and denominations of the
170 bonds;

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

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

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

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

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

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

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

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

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

190 (b) The bonds shall contain a legend which shall provide that the bonds are special
191 obligations of the District, are without recourse to the District, are not a pledge of, and do not
192 involve, the faith and credit or the taxing power of the District (other than the Available Tax
193 Increment, the Available Increment, and any other taxes and fees allocated to the Union Market
194 TIF Fund), do not constitute a debt of the District, and do not constitute lending of the public
195 credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

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

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

201 (e) The bonds of any series may be issued in accordance with the terms of a trust
202 instrument to be entered into by the District and a trustee or paying agent to be selected by the

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203 Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor
204 pursuant to section 490(a)(4) of the Home Rule Act.

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

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

211 (h) The District pledges, covenants, and agrees with the holders of the bonds that, subject
212 to the provisions of the Financing Documents, the District will not limit or alter the revenues
213 pledged to secure the bonds or the basis on which such revenues are collected or allocated, will
214 not impair the contractual obligations of the District to fulfill the terms of any agreement made
215 with the holders of the bonds, will not in any way impair the rights or remedies of the holders of
216 the bonds, and will not modify, in any way, the exemptions from taxation provided for in this
217 act, until the bonds, together with interest thereon, and all costs and expenses in connection with
218 any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and
219 discharged. This pledge and agreement for the District may be included as part of the contract
220 with the holders of the bonds. This subsection constitutes a contract between the District and the
221 holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict
222 with this act, this act shall be controlling.

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

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

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

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

234 Sec. 8. Issuance of the bonds.

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

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

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

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

250 (e) The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law
251 18-371; D.C. Official Code § 2-351.01 *et seq.*), and subchapter III-A of Chapter 3 of Title 47 of
252 the District of Columbia Official Code shall not apply to any contract the Mayor may from time
253 to time enter into, or the Mayor may determine to be necessary or appropriate, for the purposes
254 of this act.

255 Sec. 9. Financing and Closing Documents.

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

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

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

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

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

273 Sec. 10. Limited liability.

274 (a) The bonds shall be special obligations of the District. The bonds shall be without
275 recourse to the District. The bonds shall not be general obligations of the District, shall not be a
276 pledge of, or involve, the faith and credit or the taxing power of the District (other than the
277 Available Tax Increment, the Available Increment, and any other taxes or fees allocated to the
278 Union Market TIF Fund), shall not constitute a debt of the District, and shall not constitute
279 lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the
280 Home Rule Act.

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

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

290 Sec. 11. District officials.

291 (a) Except as otherwise provided in section 10(c), the elected or appointed officials,
292 officers, employees, or agents of the District shall not be liable personally for the payment of the
293 bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any
294 representations, warranties, covenants, obligations, or agreements of the District contained in this
295 act, the bonds, the Financing Documents, or the Closing Documents.

296 (b) The signature, countersignature, facsimile signature, or facsimile countersignature of
297 any official appearing on the bonds, the Financing Documents, or the Closing Documents shall
298 be valid and sufficient for all purposes notwithstanding the fact that the individual signatory
299 ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing
300 Documents.

301 Sec. 12. Maintenance of documents.

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

304 Sec. 13. Information reporting.

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

308 Sec. 14. Expiration of issuance authority.

309 The authority to issue the bonds shall expire on March 1, 2027; provided, that the
310 expiration of the authority shall have no effect on any bonds issued prior to the expiration date.

311 Sec. 15. Repealer.

312 The Union Market District TIF Inducement Act of 2015, effective October 22, 2015
313 (D.C. Law 21-36; D.C. Official Code § 2-1217.36a *et seq.*), is repealed.

314 Sec.16. Applicability.

315 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget
316 and financial plan.

317 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in
318 an approved budget and financial plan, and provide notice to the Budget Director of the Council
319 of the certification.

320 (c)(1) The Budget Director shall cause the notice of the certification to be published in the
321 District of Columbia Register.

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325 Sec. 17. Fiscal impact statement.

326 The Council adopts the fiscal impact statement in the committee report as the fiscal
327 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
328 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

329 Sec. 18. Effective date.

330 This act shall take effect following approval by the Mayor (or in the event of veto by the
331 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
332 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
333 24, 1973 (87 Stat. 813, D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
334 Columbia Register.