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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency, with respect to amending the Freedom of Information Act of 1976 to adjust the tolling period for FOIA requests.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “FOIA Tolling Emergency Declaration Resolution of 2020.”

Sec. 2. (a) Earlier this year, the Council adopted several emergency and temporary measures related to the COVID-19 Pandemic. One provision included in Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130) allowed for the tolling of any Freedom of Information Act (FOIA) requests during a time in which the Mayor has declared a Public Health Emergency.

(b) At the time of initial adoption, the Council believed that the provision was necessary because government staff had limited access to documents and records that may be responsive to a FOIA request.

35 (c) Despite limitations, many agencies have continued to receive and process FOIA
36 requests and advocates have asked that the Council revisit this provision in light of agencies
37 having the ability to fulfill these requests now that the government has adjusted to working
38 during the pandemic.

39 (d) In order to provide public bodies with time to process the FOIA requests that they
40 have received over the last eight months that FOIA has been tolled, the emergency does not end
41 the FOIA tolling until January 15, 2021 and provides public bodies 45 days to respond to the
42 FOIA requests that they have received thus far.

43 (e) To ensure that individuals remain safe and healthy during the COVID-19 pandemic,
44 the emergency includes a provision that extends the FOIA response timelines when the need to
45 conduct an on-site review of records could present a significant risk to an individual's health or
46 safety. Thus, individuals will not have to risk their health or safety in order to respond to a FOIA
47 request.

48 Sec. 3. The Council of the District of Columbia determines that the circumstances in
49 section 2 constitute emergency circumstances, making it necessary that the FOIA Tolling
50 Emergency Amendment Act of 2020 be adopted after a single reading.

51 Sec. 4. This resolution shall take effect immediately.