MEMORANDUM

TO: Nyasha Smith, Secretary to the Council

FROM: Phil Mendelson, Chairman

DATE: November 25, 2020

RE: **Request to Place Emergency Measures on the Agenda for the December 1, 2020 Legislative Meeting**

Please place the following measures on the agenda for the December 1, 2020 legislative meeting:

- **FOIA Tolling Emergency Declaration Resolution of 2020**
- **FOIA Tolling Emergency Amendment Act of 2020**
- **FOIA Tolling Temporary Amendment Act of 2020**

Earlier this year, the Council adopted several emergency and temporary measures related to the COVID-19 pandemic. One provision included in the Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130) allowed for the tolling of all Freedom of Information Act (FOIA) requests during a time in which the Mayor has declared a Public Health Emergency. At the time, the provision was necessary because government staff had limited access to documents and records that may be responsive to a FOIA request. However, since adoption many agencies have developed the capability to receive and process FOIA requests, despite the pandemic. Open government advocates have asked that the Council now revisit the moratorium.

The emergency and temporary measures would amend the current blanket tolling provision to restart the FOIA response clock as of January 15, 2021 but allow for an extension of FOIA deadlines when the need to conduct an on-site review of records could present a significant risk to health or safety during the COVID-19 pandemic. The January 15th start will ensure that any requests received since March 11, 2020 (the first day of the declared Public Health Emergency) do not immediately come due.

The draft measures are attached. Upon adoption the FOIA process will resume, but with adequate time for agencies to process backlogs. Please call me or Ms. Christina Setlow if you have any questions at (202) 724-4865.

cc: All Councilmembers
       Council Officers