

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To authorize and provide for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$130 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of such bonds to assist Provident Group – Howard Center Inc. and Provident Group – Tubman Quad Properties Inc., in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Howard Center and Howard Tubman Quad Refunding Revenue Bonds Project Emergency Approval Resolution of 2020”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “Authorized Delegate” means the Mayor or the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor’s functions under this resolution pursuant to section 422(6) of the Home Rule Act.

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

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

(4) “Borrower” means the owner of the assets financed, refinanced, or reimbursed with proceeds from the Bonds, which shall be Provident Group – Howard Center Inc., and Provident Group – Tubman Quad Properties Inc., each a nonprofit corporation organized and existing under the laws of the District of Columbia, which

1 are exempt from federal income taxes under 26 U.S.C § 501(a) as organizations described in 26 U.S.C. § 501(c)(3) and  
2 which are liable for the repayment of the Bonds.

3 (5) “Chairman” means the Chairman of the Council of the District of Columbia.

4 (6) “Closing Documents” means all documents and agreements, other than Financing Documents,  
5 that may be necessary and appropriate to issue, sell, and deliver the Bonds and to make the Loan, and includes  
6 agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

7 (7) “District” means the District of Columbia.

8 (8) “Financing Documents” means the documents, other than Closing Documents, that relate to the  
9 financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the Bonds and the  
10 making of the Loan, including any offering document, and any required supplements to any such documents.

11 (9) “Home Rule Act” means the District of Columbia Home Rule Act, approved December 24,  
12 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

13 (10) “Issuance Costs” means all fees, costs, charges, and expenses paid or incurred in connection  
14 with the authorization, preparation, printing, issuance, sale, and delivery of the Bonds and the making of the Loan,  
15 including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and  
16 expenses incurred in connection with the development and implementation of the Financing Documents, the Closing  
17 Documents, and those other documents necessary or appropriate in connection with the authorization, preparation,  
18 printing, issuance, sale, marketing, and delivery of the Bonds and the making of the Loan, together with financing  
19 fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial  
20 institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and  
21 other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents  
22 for the District.

23 (11) “Loan” means the District’s lending of proceeds from the sale, in one or more series, of the  
24 Bonds to the Borrower.

25 (12) “Project” means the financing, refinancing or reimbursing of all or a portion  
26 of the Borrower’s costs of:

27 (A) Refunding the (i) District of Columbia Revenue Bonds (Provident Group - Howard  
28 Center Issue), Senior Series 2018A-1 (Taxable), originally issued in the aggregate principal amount of \$1,740,000; (ii)

1 District of Columbia Revenue Bonds (Provident Group - Howard Center Issue), Senior Series 2018A-2, originally  
2 issued in the aggregate principal amount of \$23,640,000; and (iii) District of Columbia Revenue Bonds (Provident  
3 Group - Howard Center Issue), Subordinate Series 2018B, originally issued in the aggregate principal amount of  
4 \$7,795,000 pursuant to provisions of the Howard Center Revenue Bonds Project Emergency Approval Resolution of  
5 2017 (Resolution No. 22-354, adopted by the Council on December 5, 2017);

6 (B) Refunding the (i) District of Columbia Revenue Bonds (Provident Group - Harriet  
7 Tubman Quad Issue), Senior Series 2019A-1 (Taxable), originally issued in the aggregate principal amount of  
8 \$730,000; (ii) District of Columbia Revenue Bonds (Provident Group - Harriet Tubman Quad Issue), Senior Series  
9 2019A-2, originally issued in the aggregate principal amount of \$43,735,000; and (iii) District of Columbia Revenue  
10 Bonds (Provident Group - Harriet Tubman Quad Issue), Subordinate Series 2019B, originally issued in the aggregate  
11 principal amount of \$25,355,000, pursuant to provisions of the Howard Tubman Quad Revenue Bonds Project  
12 Approval Resolution of 2019 (Resolution No. 23-122, adopted by the Council on June 4, 2019);

13 (C) Funding certain working capital costs or capitalized interest, to the extent financeable;

14 (D) Funding any credit enhancement costs, termination fees, liquidity costs or debt service  
15 reserve fund; and

16 (E) Paying Issuance Costs and other related costs to the extent permissible.

17 Sec. 3. Findings.

18 The Council finds that:

19 (1) Section 490 of the Home Rule Act provides that the Council may by resolution authorize the  
20 issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations)  
21 to borrow money to finance, refinance, or reimburse costs, and to assist in the financing, refinancing, or reimbursing  
22 of, the costs of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or  
23 reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage,  
24 note, or other security, or by the purchase, lease, or sale of any property.

25 (2) The Borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more  
26 series pursuant to a plan of finance, in an aggregate principal amount not to exceed \$130 million, and to make the Loan  
27 for the purpose of financing, refinancing, or reimbursing costs of the Project.

1 (3) The Project is located in the District and will contribute to the health, education, safety, or  
2 welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the  
3 District.

4 (4) The Project is an undertaking in the area of a facility used in connection with educational  
5 purposes as set forth within the meaning of section 490 of the Home Rule Act.

6 (5) The authorization, issuance, sale, and delivery of the Bonds and the Loan to the Borrower are  
7 desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will  
8 assist the Project.

9 Sec. 4. Bond authorization.

10 (a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing,  
11 refinancing or reimbursing the costs of the Project by:

12 (1) The issuance, sale, and delivery of the Bonds, in one or more series, in an aggregate principal  
13 amount not to exceed \$130 million; and

14 (2) The making of the Loan.

15 (b) The Mayor is authorized to make the Loan to the Borrower for the purpose of financing, refinancing or  
16 reimbursing the costs of the Project and establishing any fund with respect to the Bonds as required by the Financing  
17 Documents.

18 (c) The Mayor may charge a program fee to the Borrower, including, but not limited to, an amount sufficient  
19 to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series  
20 of the Bonds, the District's participation in the monitoring of the use of the Bond proceeds and compliance with any  
21 public benefit agreements with the District, and maintaining official records of each bond transaction, and assisting in  
22 the redemption, repurchase, and remarketing of the Bonds.

23 Sec. 5. Bond details.

24 (a) The Mayor and each Authorized Delegate is authorized to take any action reasonably necessary or  
25 appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery,  
26 security for, and payment of the Bonds of each series, including, but not limited to, determinations of:

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

- 1 (2) The principal amount of the Bonds to be issued and denominations of the Bonds;
- 2 (3) The rate or rates of interest or the method for determining the rate or rates of interest on the  
3 Bonds;
- 4 (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the Bonds,  
5 and the maturity date or dates of the Bonds;
- 6 (5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed,  
7 accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated  
8 maturities;
- 9 (6) Provisions for the registration, transfer, and exchange of the Bonds and the replacement of  
10 mutilated, lost, stolen, or destroyed Bonds;
- 11 (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;
- 12 (8) The time and place of payment of the Bonds;
- 13 (9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure  
14 that the proceeds are properly applied to the Project and used to accomplish the purposes of the Home Rule Act and  
15 this resolution;
- 16 (10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the  
17 Bonds are marketed; and
- 18 (11) The terms and types of credit enhancement under which the Bonds may be secured.
- 19 (b) The Bonds shall contain a legend, which shall provide that the Bonds are special obligations of the  
20 District, are without recourse to the District, are not a pledge of, and do not involve the faith and credit or the taxing  
21 power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for  
22 private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.
- 23 (c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile  
24 signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of  
25 Columbia's manual or facsimile signature. The Mayor's execution and delivery of the Bonds shall constitute  
26 conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the Bonds.
- 27 (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced  
28 on the Bonds.

1 (e) The Bonds of any series may be issued in accordance with the terms of a trust instrument to be entered  
2 into by the District and a trustee to be selected by the Borrower subject to the approval of the Mayor, and may be  
3 subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home  
4 Rule Act.

5 (f) The Bonds may be issued at any time or from time to time in one or more issues and in one or more series.  
6 Sec. 6. Sale of the Bonds.

7 (a) The Bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or  
8 more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

9 (b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the Bonds, offering  
10 documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes  
11 of compliance with federal laws and regulations governing such matters and may authorize the distribution of the  
12 documents in connection with the sale of the Bonds.

13 (c) The Mayor is authorized to deliver the executed and sealed Bonds, on behalf of the District, for  
14 authentication, and, after the Bonds have been authenticated, to deliver the Bonds to the original purchasers of the  
15 Bonds upon payment of the purchase price.

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

19 Sec. 7. Payment and security.

20 (a) The principal of, premium, if any, and interest on, the Bonds shall be payable solely from proceeds  
21 received from the sale of the Bonds, income realized from the temporary investment of those proceeds, receipts and  
22 revenues realized by the District from the Loan, income realized from the temporary investment of those receipts and  
23 revenues prior to payment to the Bond owners, other moneys that, as provided in the Financing Documents, may be  
24 made available to the District for the payment of the Bonds, and other sources of payment (other than from the  
25 District), all as provided for in the Financing Documents.

26 (b) Payment of the Bonds shall be secured as provided in the Financing Documents and by an assignment by  
27 the District for the benefit of the Bond owners of certain of its rights under the Financing Documents and Closing

1 Documents, including a security interest in certain collateral, if any, to the trustee for the Bonds pursuant to the  
2 Financing Documents.

3 (c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the Bonds  
4 pursuant to the Financing Documents.

5 Sec. 8. Financing and Closing Documents.

6 (a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all  
7 Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the  
8 Bonds and to make the Loan to the Borrower. Each of the Financing Documents and each of the Closing Documents  
9 to which the District is not a party shall be approved, as to form and content, by the Mayor.

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

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

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

17 (e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing  
18 Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the Bonds, and  
19 to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered  
20 Financing Documents and Closing Documents.

21 Sec. 9. Authorized delegation of authority.

22 To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the  
23 performance of any function authorized to be performed by the Mayor under this resolution.

24 Sec. 10. Limited liability.

25 (a) The Bonds shall be special obligations of the District. The Bonds shall be without recourse to the District.  
26 The Bonds shall not be general obligations of the District, shall not be a pledge of, or involve the faith and credit or  
27 the taxing power of, the District, shall not constitute a debt of the District, and shall not constitute lending of the public  
28 credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

1 (b) The Bonds shall not give rise to any pecuniary liability of the District and the District shall have no  
2 obligation with respect to the purchase of the Bonds.

3 (c) Nothing contained in the Bonds, in the Financing Documents, or in the Closing Documents shall create  
4 an obligation on the part of the District to make payments with respect to the Bonds from sources other than those  
5 listed for that purpose in section 7.

6 (d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event  
7 to be effected by the Financing Documents.

8 (e) All covenants, obligations, and agreements of the District contained in this resolution, the Bonds, and the  
9 executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be  
10 considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and  
11 each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set  
12 forth in this resolution.

13 (f) No person, including, but not limited to, the Borrower and any Bond owner, shall have any claims against  
14 the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered  
15 as a result of the failure of the District or any of its elected or appointed officials, officers, employees or agents to  
16 perform any covenant, undertaking, or obligation under this resolution, the Bonds, the Financing Documents, or the  
17 Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing  
18 Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or  
19 agents have acted in a willful and fraudulent manner.

20 Sec. 11. District officials.

21 (a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or  
22 agents of the District shall not be liable personally for the payment of the Bonds or be subject to any personal liability  
23 by reason of the issuance, sale or delivery of the Bonds, or for any representations, warranties, covenants, obligations,  
24 or agreements of the District contained in this resolution, the Bonds, the Financing Documents, or the Closing  
25 Documents.

26 (b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official  
27 appearing on the Bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all

1 purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the Bonds,  
2 the Financing Documents, or the Closing Documents.

3 Sec.12. Maintenance of documents.

4 Copies of the specimen Bonds and of the final Financing Documents and Closing Documents shall be filed  
5 in the Office of the Secretary of the District of Columbia.

6 Sec.13. Information reporting.

7 Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the Bonds,  
8 the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

9 Sec. 14. Disclaimer.

10 (a) The issuance of Bonds is in the discretion of the District. Nothing contained in this resolution, the Bonds,  
11 the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any Bonds  
12 for the benefit of the Borrower or to participate in or assist the Borrower in any way with financing, refinancing, or  
13 reimbursing the costs of the Project. The Borrower shall have no claims for damages or for any other legal or equitable  
14 relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any  
15 failure to issue any Bonds for the benefit of the Borrower.

16 (b) The District reserves the right to issue the Bonds in the order or priority it determines in its sole and  
17 absolute discretion. The District gives no assurance and makes no representations that any portion of any limited  
18 amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax  
19 purposes, will be reserved or will be available at the time of the proposed issuance of the Bonds.

20 (c) The District, by adopting this resolution or by taking any other action in connection with financing,  
21 refinancing, or reimbursing costs of the Project, does not provide any assurance that the Project is viable or sound, that  
22 the Borrower is financially sound, or that amounts owing on the Bonds or pursuant to the Loan will be paid. Neither  
23 the Borrower, any purchaser of the Bonds, nor any other person shall not rely upon the District with respect to these  
24 matters.

25 Sec. 15. Expiration.

26 If any Bonds are not issued, sold, and delivered to the original purchaser within 3 years of the date of this  
27 resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the Bonds  
28 shall expire.

1           Sec. 16. Severability.

2           If any particular provision of this resolution or the application thereof to any person or circumstance is held  
3 invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall  
4 not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the  
5 requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the Bonds,  
6 and the validity of the Bonds shall not be adversely affected.

7           Sec. 17. Compliance with public approval requirement.

8           This approval shall constitute the approval of the Council as required in section 147(f) of the Internal  
9 Revenue Code of 1986, as amended, and section 490(k) of the Home Rule Act, for the Project to be financed,  
10 refinanced, or reimbursed with the proceeds of the Bonds. This resolution approving the issuance of the Bonds for the  
11 Project has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a  
12 newspaper of general circulation in the District.

13           Sec. 18. Transmittal.

14           The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

15           Sec. 19. Fiscal impact statement.

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

19           Sec. 20. Effective date.

20           This resolution shall take effect immediately.  
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