



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

July 28, 2021

The Honorable
Erie County Legislature
92 Franklin Street
4th Floor
Buffalo, New York 14202

RE: Intro. 15-5

Dear Honorable Members:

On July 26, 2021, in compliance with Erie County Charter Section 2512, Erie County Legislative Clerk Robert Graber submitted five certified copies of Erie County Legislative Resolution INTRO. 15-5 (INTRO 15-5) for my approval or veto.

INTRO 15-5 purports to appropriate \$10,000,000 for the implementation of a small business and not-for profit COVID-19 reimbursement program. INTRO 15-5 funds this supplemental appropriation from Fund 252, which is used to segregate Federal CARES (Coronavirus Aid, Relief, and Economic Stability) Act funding. While this is a noble goal, at this time Fund 252 does not have sufficient free-and-clear funding to administer this program.

Recital four of INTRO 15-5 states that "Erie County still has \$14 million in undesignated funding from the 2020 CARES Act allocations, all of which must be expended by the end of 2021". This statement does not reflect all current expenses and encumbrances which are charged to Fund 252. Current expenses and encumbrances include items like payroll cost shifts for employees significantly dedicated to the COVID-19 effort, various capital expenses, and even rent for the County's Personal Protective Equipment (PPE) warehouse. In actuality there is a truly free-and-clear balance of approximately \$5,000,000.

Remaining CARES Act funding is currently used for ongoing COVID-19 response operations including contact tracing, vaccinations, COVID-19 testing, PPE distribution, the operations of the COVID-19 hotline, and other services. While not as significant as operations last winter and fall, the county continues to respond to the pandemic. In addition to our current

response, the ongoing rise and spread of the Delta variant of COVID-19 poses significant risk and many experts believe the U.S. will experience widespread disease this fall if more individuals do not choose to get vaccinated. Should the Delta variant or another even more communicable or deadly strain of COVID-19 emerge, the county response effort will have to ramp up.

I would also like to note that for over a year, my administration partnered with the Erie County Industrial Development Agency (ECIDA) to operate a similar program to that proposed in INTRO 15-5. ECIDA provided grant funding to allow businesses to make physical space and safety investments totaling \$700,938.63 from September 2020 through June of this year. Throughout the pandemic the Erie County Business Task Force has been working diligently to address these issues and support our community.

As INTRO 15-5 states, it is critical to ensure all federal funding is expended in a timely fashion but, with 5 months left to go in the year and COVID-19 on the rise, now is not a prudent time to expend the remaining CARES Act funding. As we move deeper into the fall I welcome the opportunity to have a conversation about the remaining CARES Act dollars should they not be needed for COVID-19 operations.

For the reasons stated above, I do hereby veto Erie County Legislative Resolution INTRO. 15-5.

Should your Honorable Body have any questions, please contact my office directly. Thank you for your consideration.

Sincerely,



Mark C. Poloncarz, Esq.
Erie County Executive

MCP

cc: Budget Director Robert Keating
County Attorney Michael Siragusa

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS LORIGO, GREENE, TODARO, MILLS, BASKIN, MEYERS,
JOHNSON, CHIMERA, HARDWICK, VINAL & GILMOUR**

Re: Creation of the Erie County Small Business and Not-for-Profit Relief Program

WHEREAS, COVID-19 has forced many businesses and not-for-profits in Erie County to take steps to reduce the spread of COVID-19. Areas open to the public have seen enhanced cleanings, installations of hand sanitizers, upgrades to HVAC units, and the introduction of sneeze guards and new crowd control implements; and

WHEREAS, many of the improvements, services, and equipment were purchased by the business or organizations to follow state and federal guidelines to help limit the spread of COVID-19; and

WHEREAS, further, as a result of Covid-19 restrictions, many nonprofit organizations were unable to fundraise at pre-pandemic levels but still incurred many of their pre-pandemic expenses that they need assistance with; and

WHEREAS, Erie County still has \$14 million in undesignated funding from the 2020 CARES Act allocations, all of which must be expended by the end of 2021; and

WHEREAS, Director Keating has indicated that this funding may be used to offset COVID-19 expenses incurred by small businesses and not-for-profits during the pandemic; and

WHEREAS, it is the position of this body that small businesses and local organizations should be supported for their losses incurred as a result of COVID-19 related expenses.

NOW, THEREFORE, BE IT

RESOLVED, that this body hereby creates the Erie County Small Business and Not-for-Profit Relief Program to provide financial assistance to businesses and organizations across Erie County, including not-for-profit entities, who have expended funding to combat the spread of COVID-19; and, be it further

RESOLVED, that this honorable body hereby directs the Department of Budget and Management and the Department Environment and Planning to accept requests for funding under this program and to facilitate the transfer of funding to eligible Erie County entities; and be it further

RESOLVED, prior to transferring any funding to any business or organization under this program, Erie County shall publish notice about the program in the newspapers of record for a period of two weeks; and be it further

RESOLVED, that \$10 million in remaining CARES Act funding shall be set aside to fund this program, which will be run on a first-come, first-served basis, and will remain open until such funding is exhausted or December 31, 2021, whichever comes first; and be it further

RESOLVED, for the purpose of this resolution, any entity that has COVID-19 related expenses shall be eligible to apply, whether they be a for profit business or a not-for-profit organization; and be it further

RESOLVED, that the following restrictions and requirements shall apply to all applicants:

1. The business or entity was in operation for a minimum of 12 months prior to March 15, 2020 and the applicant submits an itemized list detailing their costs requested for reimbursement from March 15, 2020 through to present;
2. The business or entity has not already received reimbursement for the same COVID-19 expenses from Erie County, New York State, or the Federal Government;
3. All applicants shall be based in Erie County;
4. Government entities shall not be eligible for reimbursement under this program.

RESOLVED, eligible expenses for reimbursement shall include the following:

1. Purchase of Personal Protective Equipment for provision to employees or patrons;
2. Purchase of personal sanitizing materials for use by employees or patrons, whether it be hand sanitizer or cleaning products;
3. Purchase of glass or acrylic materials used to set up sneeze and cough guards;
4. Purchase of physical barriers and signage related to social distancing requirements; and
5. Upgrade of HVAC or other air handling system to include additional air filtering capabilities (i.e. UV or HEPA filtration).

and be it further

RESOLVED, that due to the limited nature of the funding source, it is this body's intention to restrict awards of funding to only those entities who can show some degree of current financial hardship. Proof of financial hardship may include inability to fully pay rent or mortgage, inability to make payroll or invest in their operations, or any other proof deemed acceptable by the Department of Budget and Management; and be it further

RESOLVED, it is the intent of this body to ensure all federal funding is expended in as timely a manner as possible and to provide as much aid and assistance to local businesses and entities. If part of this plan is now, or becomes, unworkable due to changes in federal guidelines for expending CARES Act funding, the Administration is hereby directed to effectuate this plan as widely as possible, or to return to the Legislature with a suitable alternative; and be it further

RESOLVED, reimbursement for expenses in excess of \$10,000 shall require legislative approval; and be it further

RESOLVED, the County Executive is hereby directed to provide the Legislature with a monthly report of all expenditures out of Fund 252 until all funding is accounted for; and be it further

RESOLVED, that certified copies of this resolution be forwarded to Erie County Executive Mark C. Poloncarz, the Director of Budget Management, the Erie County Comptroller, and any other party deemed necessary and proper.

Fiscal Impact: The fiscal impact of this program shall be limited to the funding contained in Fund 252 provided to the County of Erie by the Federal Government. No County dollars are intended to be spent to facilitate this assistance.

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY
CLERK'S OFFICE

BUFFALO, N.Y., July 22, 2021

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, *That at the 15th Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the Twenty-Second day of July, 2021 A.D., a Resolution was adopted, of which the following is a true copy:*

AYES: 11
NOES: 0

REFERENCE: **INTRO. 15-5 (2021) As Amended**

ATTEST



ROBERT M. GRABER
Clerk of the Legislature of Erie County