



# Office of the County Executive

Monroe County, New York

**Adam J. Bello**  
County Executive

May 21, 2021

<b>OFFICIAL FILE COPY</b>	
No. <u>210206</u>	
Not to be removed from the Office of the Legislature Of Monroe County	
Committee Assignment	
<b>READ-PRINT</b>	<b>-L</b>

**Via Hand Delivery**

Mr. Jack Moffitt  
Clerk of the Legislature  
Monroe County Legislature  
407 County Office Building  
Rochester, New York 14614

Dear Mr. Moffitt:

This is in response to your letter of May 14, 2021, in which you presented, among other matters, Resolution No. 169 of 2021, "Authorizing Allocation of Emergency Grant Funding to Support Arts Organizations Negatively Impacted by COVID-19 Pandemic," which was certified by you as having been adopted by the Monroe County Legislature at its meeting on May 11, 2021. Pursuant to Monroe County Charter § C2-7, with this letter I am providing notice to the Legislature that I have vetoed Resolution No. 169 and am returning the vetoed Resolution to you.

First, this Resolution is deeply flawed from a legal and technical perspective. The New York State Constitution generally prohibits the County from simply providing grants to private organizations. There are ways to provide such grants to arts organizations, either from funding sources permitting such expenditures or under the parameters outlined in County Law § 224, but this legislation does not fit within these exceptions. In fact, the legislation provides no details on the legal authority for the program or how the program will be administered; instead it generally authorizes unspecified "grant agreements, contracts, or applications." The failure to implement a legally compliant grant process exposes the County to audit and litigation risk, and exposes grant recipients to the risk of litigation seeking to claw back improperly paid funds.

Additionally, in several instances, the Resolution fails to identify an appropriate entity with whom the County could contract. In some cases, the Resolution fails to identify a legally incorporated entity: for example, the Irondequoit Arts Club, added to the Resolution via an on-the-fly amendment by President Carbone, is not a duly incorporated entity and therefore lacks the legal capacity to enter into a contract or receive County funds. In other instances, the Resolution appears to identify the incorrect entity to receive funding: for example, it is my understanding that Rochester Latino Theatre accepts funds through a fiduciary agent, and does not accept funds directly. All of this demonstrates a lack of due diligence in identifying grant recipients and ensuring they are eligible to receive County funding.

Second, the Resolution's authorization of the President of the Legislature to execute grant agreements, contracts, or applications bypasses the proper process for contracting built into our system of County government. All County contracts are reviewed by the department procuring the contracted services, the Division of Purchasing and Central Services, the Office of Management and Budget, and the Law Department. Once this process is complete, I confirm and execute contracts on behalf of the County.

Mr. Jack Moffitt  
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May 21, 2021  
Page 2

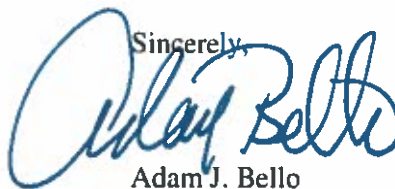
The importance of this process is illustrated by the legal and technical mistakes outlined above which make it impossible for recipients to receive funding. Authorizing the Legislature to both appropriate funds and enter into funding agreements removes needed checks and balances that safeguard County funds, ensure they can be spent for the intended purpose, and protect the entities with which the County contracts. The Administration, not the Legislature, has the technical expertise to ensure that taxpayer funds are protected and therefore is responsible for drafting, executing, and administering County contracts.

Finally, the lack of transparency and methodology in selecting grant recipients is concerning. My Administration is committed to ensuring Monroe County's arts policies are representative of the diversity of our arts community, align with regional strategies, and follow established best practices. The discussion during the May 11 meeting of the Legislature revealed that there was no methodology or selection criteria applied to determine award recipients. Further, there was no indication of how organizations were invited to be considered or how funding amounts were determined, and thus no assurance that the selection process was fair or transparent. Indeed, several organizations report that they were not even contacted regarding this program and were not aware of why they were awarded funds or how the amount of funding was determined. Public funds should not be spent in such a haphazard manner.

Our local arts organizations are an essential part of the fabric of our community. I am committed to supporting local artists and ensuring that the arts community receives adequate funding, particularly as we seek to recover from the pandemic. As such, in the coming days I will be announcing a new initiative that will provide arts organizations with grant funding to address the financial hardships they have experienced over the past year. This funding will be provided in a manner that is fair, transparent, and legally sound, standards that this Resolution fails to meet. Should the Monroe County Legislature choose to cure the aforementioned defects to provide grant funding to arts organizations in Monroe County out of the Community Contingency Fund, the County Law Department stands ready to provide any necessary support to ensure any future Resolution meets the legal and technical requirements for such a program.

For the reasons stated above, I have vetoed Resolution No. 169.

Sincerely,



Adam J. Bello  
Monroe County Executive

Enc.

By Legislators Felder, Flagler-Mitchell and Keophtelasy

Intro. No. 227

RESOLUTION NO. 169 OF 2021  
(As Amended by Motion No. 53 of 2021)

**AUTHORIZING ALLOCATION OF EMERGENCY GRANT FUNDING TO SUPPORT ARTS ORGANIZATIONS NEGATIVELY IMPACTED BY COVID-19 PANDEMIC**

BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. The President of the Legislature, or his designee, is hereby authorized to execute grant agreements, contracts, or applications, and any amendments thereto, with the organizations listed below, in the total amount of \$136,000, for emergency grant funding related to the COVID-19 pandemic, for the period of January 1, 2021 through December 31, 2021.

Organization

The Avenue Blackbox Theatre	\$20,000
Rochester Contemporary Art Center	\$10,000
Rochester Community Television	\$20,000
Borinquen Dance Theatre	\$20,000
Legacy Drama House	\$10,000
Rochester Latino Theatre	\$10,000
Irondequoit Arts Club	\$5,000
Blackfriars of Rochester Inc.	\$3,500
Boa Editions Limited	\$3,500
Deep Arts	\$2,500
Flower City Arts Center	\$3,500
Garth Fagan Dance	\$4,000
Landmark Society of WNY Inc.	\$4,500
Push Physical Theatre	\$3,000
Rochester City Ballet	\$5,500
Rochester Oratorio Society	\$3,000
Visual Studies Workshop Inc.	\$3,500
Writers And Books	\$4,500
Total:	<u>\$136,000</u>

Section 2. Funding for these agreements, contracts, or applications is included in the 2021 operating budget of the Monroe County Legislature, general fund 9001, funds center 1001020000, Community Contingency Fund.

Section 3. This resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Matter of Urgency  
File No. 21-0165

ADOPTION: Date: May 11, 2021

Vote: 26-3 (Legislators Baynes, Maffucci and Yudelson Voted in the Negative.)

ACTION BY THE COUNTY EXECUTIVE

APPROVED: \_\_\_\_\_ VETOED:

SIGNATURE: Aday Belth DATE: 5/21/2021

EFFECTIVE DATE OF RESOLUTION: \_\_\_\_\_