

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

**Release Number: 201533015
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Date: May 22, 2015**

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

**UIL:
4942.03-07**

**B = State
C = Organization Name
D = State
n dollars= Amount
p dollars= Amount
q dollars= Amount**

**r= Date
s= Date
t= Date
u= Date
v= Date
w=Date
y= Date
z= Number**

Dear :

Why you are receiving this letter

This is our response to your November 25, 2014 letter requesting approval of a set-aside under Internal Revenue Code section 4942(g)(2). You've been recognized as tax-exempt under section 501(c)(3) of the Code and have been determined to be a private foundation under section 509(a).

Our determination

Based on the information furnished, your set-aside program is approved under Internal Revenue Code section 4942(g)(2). As required under section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Description of set-aside request

You were incorporated in the state of B. You wish to set aside a grant totaling n dollars to C for a matching grant program. C is a 501(c)(3) public charity organized under the laws of the State of D, which owns, preserves, and operates a building of cultural and historical significance for the local community. C was formed to raise the necessary funds to rehabilitate and preserve this historically significant property. The building is in need of extensive restoration and repair work; C commissioned a historic structure report to identify future repair and restoration needs. The report consists of five phases for the restoration of the building; Phase II consists of roof and chimney restoration which is critical to stop roof leakage and prevent further deterioration.

Your grant will assist in funding Phase II of C's restoration project. The total cost of the restoration project is estimated as p dollars. You will make a matching grant for n dollars to fund one third of the estimated costs; it is anticipated that the remaining two thirds of the costs of the project will be funded by donations and grants made to C as a result of fundraising activities undertaken by C in response to your matching grant challenge.

You submitted a detailed agreement with C. Under the terms of the agreement, if C raises the matching funds, you will disburse the funds to C within 21 business days of thereafter which C will deposit in a separate interest bearing account. Subject to the satisfaction of all of the conditions set forth in the agreement, C may make disbursements from the project account to pay reimbursable costs of the project provided that otherwise agreed by you, disbursements are limited to one third of the total reimbursable costs incurred in connection with the project to the date of disbursement. The agreement states reimbursable costs shall mean costs actually incurred by C for labor, materials, furnishings, fixtures, fees and permits for the restoration project including the labor, materials, and other expenses described in the proposal. Reimbursement costs shall not include publicity, planning, fundraising, legal and accounting costs or cost of financing, staff salaries or other administrative or operating costs of C or any other soft costs not directly incurred to procure labor, materials, fixtures, or services for the project.

Specific Conditions precedent to the grant are as follows:

- a. On or before r, C shall have received eligible matching contributions in an amount not less than q dollars (two thirds of the total grant needed) and shall provide evidence satisfactory to you in your sole discretion that such contributions have been received. To qualify as an eligible matching contribution, (i) a contribution must be a contribution or government grant of cash or marketable securities earmarked for the restoration project actually paid or received by you on or after s (being the date of your board meeting at which the grant was awarded and prior to t. (Loans and amounts not earmarked for the restoration project shall not constitute eligible matching contributions, (ii) an irrevocable unconditional binding pledge from a private donor or an irrevocable unconditional binding pledge from a

governmental agency to contribute or grant cash or marketable securities for the restoration project made on or after s and prior to t and payable not later than y or (iii) an irrevocable binding unconditional commitment made after s and prior to t for an in-kind contribution for the restoration project which has a readily ascertainable market value such as, a contribution of materials for which price quotations are readily available or a contribution of services by a person regularly engaged in the business of providing such services. If C conducts two or more challenge grant campaigns (including yours) at any time on or after s, and prior to t, all contributions received by C during such time period shall specifically identify which challenge grant campaign the contribution shall apply toward and all such contributions received as specifically identified toward your challenge grant campaign shall be deposited in a separate bank account. Services performed by volunteers and other persons who are not regularly engaged in the business of providing such services and contributions of used or second hand materials shall not be considered as eligible matching contributions. For purposes of determining the amount of eligible contributions raised by C, in kind contributions of materials shall be valued based on the prices customarily charged by the donor of comparable materials. In kind contributions of services shall be valued based upon charges customarily provided by the provider of such services for similar work at the time of the contribution. Eligible matching contributions shall not include interest earned on amounts deposited in the project account or the value of any new, marketable, historical or other tax credits attributable to the project.

- b. On or before u, you shall have received assurances that C has engaged an architectural or contracting firm approved by you as supervising architect or construction manager for the restoration project.
- c. On or before v, C shall have submitted to you and you shall have approved in writing the drawings, plans and specifications for the restoration project.
- d. On or before w, you shall be satisfied in your sole discretion that C has sufficient funding for completing the restoration project as embodied in the plans.
- e. Prior to disbursement of any portion of grant from the project account for the purchase of any materials for the performance of any work on the restoration project, you shall have approved in writing the contractor, vendor or other supplier and the final awarded contract for the labor and/or materials for which such disbursements are to be made.
- f. At the time the grant is to be initially paid to C and the time of any disbursement of any portion of the grant, C shall not be in default in the performance of any of its obligations under this agreement and shall be an organization described in Sections 170(b)(1)(A)(vi), 501(c)(3) and 509(a)(1) or (2) of the Internal Revenue Code of 1986 as amended and C further represents the grant will not jeopardize its classification as a publicly supported organization described in Section 170(b)(1)(A)(vi) of the Code. Such written information and financial information provided by C shall

comply with the requirements of Section 1.170A-9(f)(5)(iii) of the Treasury Regulations.

Any approvals or determinations required by you may be given or withheld in your sole discretion. Your right to approve the plans and final contracts shall include the right to approve the preliminary plans and each final contract including the contractor or vendor who is to be a party to such contract, the furnishings, the materials and services to be supplied or performed and/or any revisions to the plans incorporated in the final contracts after the initial bid solicitation. If any of the conditions set forth above are not satisfied and if you should not be willing to waive the same, then the agreement and your obligation to make this grant may be terminated at your option by written notice to C. If you provide notice to C, after you have provided funding, then C shall after receiving the termination notice, promptly pay or refund to you any undisbursed balance remaining in the project account plus the difference if any between the amount of such undisbursed balance and the amount of the grant originally paid to C.

This project can be better accomplished by a set aside because the purpose of the grant requires the use of a matching grant program and the preservation of control over the long term project both of which can be better accomplished by the use of the set aside. The matching grant program will stimulate grants to C from the community at large. Through your matching grant program, you hope to encourage others to donate to the restoration project. The approximate z month period provided in the agreement to raise the necessary matching funds has been mutually agreed on by you and C as allowing sufficient time for C to complete the anticipated capital campaign for the restoration project. You have also previously submitted multiple set aside requests similar to this request which have received set aside approval under Code Section 4942(g)(2)(B)(i); however, typical grants of yours are not subject to Set Aside Requests.

You provided a statement that the latest possible date of the payment is no later than 60 months after date of your set-aside.

Basis for our determination

Internal Revenue Code section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the

private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 74-450, 1974-2 C.B. 388, an operating foundation converted a portion of newly acquired land into a public park under a four-year construction contract. The construction contract payments were to be made mainly during the final two years. This constituted a "specific project." The foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under Internal Revenue Code section 4942(g)(2).

What you must do

Your approved set-aside(s) will be documented on your records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

Additional information

This determination is directed only to the organization that requested it. Internal Revenue Code section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this letter in your records. We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Director, Exempt Organizations

Enclosure