

Internal Revenue Service
P O Box 2508
Cincinnati, OH 45201

Department of the Treasury

Date: June 15, 2021

Number: **202136005**
Release Date: 9/10/2021

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

B= State

C= County Historical Society

D= Historical Site

E= Area

F= City

G= Number

H= Date

x dollars= \$

y dollars= \$

UIL: 4942.03-07

Dear :

Why you are receiving this letter

This is in response to your August 31, 2020 letter requesting approval of a set-aside under Internal Revenue Code (IRC) 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 upon the information furnished, your set-aside program is approved IRC 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 formed under the laws of the State of B. You wish to set aside a grant totaling x dollars to C, a public charity exempt under IRC Section 501 (c)(3). C owns and maintains an historic structure D located in E, B. D has remained a

. D remains functional today and is open to the public. However,
, and today it is in need of stabilization and repairs.

C has proposed a restoration project to, among other things, restore the keeper's residence, light tower, oil house, entry alcove, and built site features consistent with the historic preservation

standards (the "Project"). The total cost of the Project is estimated to be approximately y dollars. The ultimate goal of the Project is to restore, protect, and preserve D and to return it to its period of significance.

Your grant is the subject of a grant agreement between you and C. Pursuant to the terms of the Agreement, you will make a matching grant of x dollars to C to fund approximately one-third of the estimated cost of the Project if certain conditions described in the Agreement are satisfied. 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.

Under the terms of the Agreement, if C raises the matching funds and satisfies certain other conditions of the Agreement, you will disburse the funds to C in a lump sum within business days after satisfaction of these conditions. Upon receipt of the funds from you, C will deposit the funds in a separate interest-bearing account. Subject to the satisfaction of all of the conditions of the Agreement, C may make disbursements from the account pay reimbursable costs of the Project, provided that, unless otherwise agreed by you, disbursements from the account are limited to one-third of the total reimbursable costs incurred in connection with the Project to the date of disbursement.

You stated that 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 use of a set-aside. With regard to the matching grant program, you believe that the program is necessary to stimulate grants to C from the community at large. You believe that, due to the extent and cost of the rehabilitation and restoration needed for the F, grants from the community at large must form an essential and significant part of the Project funding. Through the matching-grant program, you hope to encourage other donors to support the Project. The approximate -year period provided in the agreement to raise the necessary matching funds has been mutually agreed by you and C as allowing sufficient time for C to complete its anticipated capital campaign for the Project. With regard to the maintenance of quality control, you believe it is crucial that you retain a degree of control over the renovation process because of your concern with the preservation of the historical features of the E. By making the disbursement of the funds dependent upon approval of outside consultants and contractors and of drawings, plans, and specifications of the Project, you believe you can best meet the goal of restoring the E and assure that the final restoration Project is consistent in scope and concept with the Project originally submitted to you by C.

Per the Agreement, payment of the grant must be made not later than H which is less than 60 months from the date of the set aside.

Basis for our determination

IRC 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).

IRC Section 4942(g)(2)(B) 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.

IRC Section 4942(g)(2)(B)(i) is satisfied if, at the time of the set-aside, the private foundation establishes that the project can be better accomplished using the set-aside than by making an immediate payment.

Treasury Regulation Section 53.4942(a)-3(b)(1) 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 sustainability test described in Treas. Reg. Sec. 53.4942(a)-3(b)(2).

Treas. Reg. Sec. 53.4942(a)-3(b)(2) 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 into a four-year construction contract. The construction contract payments were to be 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 IRC 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 IRC Section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account when 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. IRC Section 6110(k)(3) provides that it may not be used or cited as 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 questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations

Rulings and Agreements

cc: