

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

**Department of the Treasury**

**Date: August 3, 2021**

**Employer Identification Number:**

**Number: 202143010**  
**Release Date: 10/29/2021**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**

B = population  
C = program center 1  
D = program center 2  
g dollars = amount 1  
h dollars = amount 2  
j dollars = amount 3  
k dollars = amount 4

**UIL:**

4942.03-07

Dear \_\_\_\_\_ :

**Why you are receiving this letter**

This is in response to your December 18, 2020 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 upon 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 have requested a set-aside of g dollars for the tax year ending December 31, \_\_\_\_\_.

Your mission is to serve orphan and destitute children, with a preference given to B (the beneficiaries). You develop and support programs that address the basic needs of your beneficiaries, including foster care, housing, education and educational support, access to healthcare and other basic needs. In addition, you look for opportunities to offer programs that create and deliver other kinds of high impact services for your beneficiaries.

The current construction projects which would fall under the set-aside of g dollars are for your properties consisting of C and D.

For C, you have budgeted h dollars of the total set-aside amount of g dollars to be used for the renovation of the property. C will integrate housing, employment support programs, healthcare, social services, hygiene, meals, and access to public benefit programs, in order to support your beneficiaries on their pathways to thriving.

For D, you have budgeted j dollars of the total set-aside amount of g dollars to be used for the renovation of the property. D will enable your beneficiaries to discover pathways to purpose,

You plan to set aside an additional k dollars for D in the tax year .

The use of a set-aside to designate funds for the construction of the projects ensures that the funding will be available as the renovation costs are incurred, and allows you to conduct the renovations over time. The properties have already been purchased but the buildings need to be renovated for them to be suitable for your purposes. Setting aside the funds now allows you to ensure that funds remain available while also providing time to complete the necessary construction/renovation work to ensure that the buildings are appropriately suited for conducting your charitable activities. You are also requesting the set-aside because of unplanned delays due to the impact of COVID-19 and restricted state-wide business operations.

You expect to begin construction/renovation on C in late and be completed by . Design and planning for D is also expected to begin in , with construction to start in , and be completed by . In any event, both projects are expected to be completed with the 60 months after the date of the first 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 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 be better 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 sustainability test described in Section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes 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 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 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. Internal Revenue Code Section 6110(j)(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