

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

Department of the Treasury

**Number: 201522007
Release Date: 5/29/2015**

Employer Identification Number:

Contact Person - ID Number:

Date: 3/3/2015

Contact Telephone Number:

**Legend:
\$x = dollar amount
\$y = dollar amount**

UIL: 4942.03-07

Dear _____ :

Why you are receiving this letter

This is our response to your December 31, 2013 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

Your sole purpose is the beautification of your city through the landscaping of school, parks, churches, roadways, and other public sites. Your most significant beautification project to date was the construction of a public garden that is adjacent to one of the city's most historic structures.

Adjacent to the public garden is a parking lot. You believe the public would benefit if the garden is expanded to include the parking lot. This expansion would involve the re-location and re-construction of a popular band stand located nearby. The band stand is being used for free public concerts.

The initial cost projections total \$x. You intend to set aside \$y of the proposed budget. You would like to raise the necessary funds through a matching campaign with local private foundations and possibly, a grant from the city government.

This expansion project will require up to three years in meeting with all interested parties, obtaining a consensus on design and budget, raising funds, final design, bidding, and construction. Therefore, it is better to accomplish your project by a set-aside rather than an immediate payment of funds. There are no planned additions to the set-aside after the initial establishment.

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.

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

Sincerely,

Director, Exempt Organizations