

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

Department of the Treasury

Number: 202028001  
Release Date: 7/10/2020

Date: April 14, 2020

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

#### LEGEND

UIL: 4942.03-07

B = State  
C = County  
D = Place  
E = Date  
f dollars = Amount  
g dollars = Amount

Dear Applicant:

#### **Why you are receiving this letter**

This is our response to your August 23, 2019 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 f dollars for the C Historical Society. The C Historical Society is a public charity exempt under Section 501(c)(3) of the Code.

The C Historical Society, among other things, owns and maintains the historic D, an residence. D is located within a historical district, and the contributing structures within the district, including the D, serve as an exemplary

representation of 19<sup>th</sup> century commercial and residential development. D is significant as a contributing structure to the Historic district. The C Historical Society has proposed a restoration project to, among other things, rehabilitate and restore D consistent with the historic preservation standards and make accessibility and code-compliance improvements. The total cost of the Project is estimated to be approximately g dollars.

The grant is subject to an agreement between you and the C Historical Society. Pursuant to the terms of the agreement, you will make a matching grant of f dollars to the C Historical Society 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 the C Historical Society as a result of fundraising activities undertaken by the C Historical Society in response to your matching grant challenge.

You stated under the terms of the agreement, if the C Historical Society raises the matching funds and satisfies certain other conditions of the agreement, you will disburse the funds to the C Historical Society in a lump sum within 21 business days after satisfaction of these conditions. Upon receipt of the funds from you, the C Historical Society will deposit the funds in a separate interest-bearing account. Subject to the satisfaction of all of the conditions of the agreement, the C Historical Society may make disbursements from the project account to pay reimbursable costs of the project, provided that, unless otherwise agreed by you, disbursements from the project account are limited to one-third of the total reimbursable costs incurred in connection with the project to the date of disbursement.

The Project can be better accomplished by use of a set-aside. 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. Regarding the matching-grant program, you believe that the program is necessary to stimulate grants to the C Historical Society from the community-at-large. You believe that, due to the extent and cost of the rehabilitation and restoration needed for the D, grants from the community-at-large must form an essential and significant part of the Project funding. Through your matching-grant program, you hope to encourage other donors to support the Project. The approximate three-year period provided in the Agreement to raise the necessary matching funds has been mutually agreed by you and the C Historical Society as allowing sufficient time for them to complete the anticipated capital campaign for the Project.

Under the terms of the Agreement, if the C Historical Society raises the matching funds and satisfies certain other conditions of the Agreement, you will disburse the funds to the C Historical Society in a lump sum within 21 business days after satisfaction of these conditions. Upon receipt of the funds from you, the C

Historical Society will deposit the funds in a separate interest-bearing account (the "Project Account"). Subject to the satisfaction of all of the conditions set forth in the Agreement, the C Historical Society may make disbursements from the Project Account to pay reimbursable costs of the Project, provided that, unless otherwise agreed by you, disbursements from the Project Account are limited to one-third of the total reimbursable costs incurred in connection with the Project to the date of disbursement. The Agreement further specifies that the C Historical Society must use your gift solely for "reimbursable costs" incurred in connection with the Project and for no other purpose.

The payment must be made to the C Historical Society no later than E, which is less than 60 months from the date of the 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,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure