

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

Department of the Treasury

Number: **202116019**
Release Date: 4/23/2021

Date:
01/26/2021
Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

B = City, State
C = Region
w dollars = Amount
x dollars = Amount
y dollars = Amount
z dollars = Amount

UIL: 4942.03-07

Dear :

Why you are receiving this letter

This is in response to your June 5, 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

One of your charitable focus areas is supporting individuals with physical disabilities. In the course of this work, you have determined that there is an acute need for rehabilitation and training facilities that are accessible for physically challenged athletes and military veterans in B and the C region. You are planning to build and potentially operate such a facility for the benefit of disabled veterans and other persons with physical disabilities.

For this purpose, you are requesting approval for the set-aside of funds in the amount of w dollars in the first year, with subsequent planned additions to the set aside amount in the amount of x dollars each year for the following four years. The funds will be used to purchase land and design, develop, and construct a world class training and rehabilitation facility (the "facility"). The purpose of the facility is to provide physically challenged athletes, wounded veterans and other individuals with physical disabilities or challenges with holistic evaluation, recovery, rehabilitation services and related appropriate programming. The facility will include a strength and conditioning center, aquatics facility, commercial kitchen, classrooms and multimedia space, an indoor multipurpose gymnasium, locker rooms, equipment storage space, administrative

offices, a center and other specialized facilities and equipment to be used for rehabilitation and training. It may also include dorm space for disabled persons who have to travel from distant places to access the therapy services.

Completion of the facility is better accomplished through a set-aside than through an immediate payment of the funds because you must identify and purchase an appropriate property on which to locate the facility. The set-aside will also allow the additional time necessary for design and construction, development of the therapy programs, and hiring of appropriate management and staff personnel. Current spending of the funds is not possible at this time because no charitable or other organization currently exists that is capable of developing and operating the facility and rehabilitation programs that are envisioned.

You have already identified potential sites for the facility in the B region, but you may not be able to negotiate the property purchase prior to year-end. In order for the project to move forward, you must reserve an appropriate amount of funds for the purchase of the property and the design and construction phases for the facility. It is anticipated that it will take approximately three to five years to complete the facility.

The total estimated cost of purchasing the property and completing the facility is between y dollars and z dollars. Currently, it is anticipated that any future funds needed for completion of the facility will be provided by you. However, due to the innovative approach of this project and the populations it will serve, you anticipate that other donors may be interested in providing financial and operational support. You contemplate that you may, in the future, help to form an independent public charity to operate the facility and solicit public support for related services and programs.

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

Enclosure