

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

Department of the Treasury

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Release Date: 8/14/2015
Date: May 22, 2015**

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

**UIL:
4942.03-07**

**B = State
C = Name of Organization
D = State**

**f dollars = Amount
g dollars= Amount
h dollars= Amount
j= Date
k= Date
m=Date
n= Date
p= Date
q= Date
r= Date
t= Number**

Dear :

Why you are receiving this letter

This is our response to your November 25, 2014 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 to C as part of a matching grant program. C is a 501(c)(3) public charity organized under the laws of the State of D, which, among other things, owns, preserves, and operates an historic house. The house is listed in the National Register of Historic Places and is designated as a National Historic Landmark. To this day, the house contributes to the historic significance of the area, but is in serious need of extensive repairs and restoration such as mechanical, electrical and plumbing upgrades, as well as the need to restore the paint, plaster, windows, and other finishes throughout the house. C's board of directors completed a comprehensive study to serve as the basis for the preservation plan for the house; the report identifies the future planning, maintenance, conservation and repair needs. The recommendations were made with the goal of maintaining the integrity of the house by minimizing the impact of contemporary mechanical systems on the historic structure of the house and surrounding grounds.

Your grant will support restoration costs for the house. The total cost of the restoration project is estimated as g dollars. You will make a matching grant for f dollars to fund one third of the estimated costs; 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.

You submitted a detailed agreement with C. Under the terms of the agreement, if C raises the matching funds, you will disburse the funds to C within 21 business days of thereafter which C will deposit in a separate interest bearing account. Subject to the satisfaction of all of the conditions set forth in the agreement, C may make disbursements from the project account to pay reimbursable costs of the project provided that otherwise agreed by you, disbursements are limited to one third of the total reimbursable costs incurred in connection with the project to the date of disbursement. Specific Conditions precedent to the grant are as follows:

- a. On or before j, (i) C shall have received eligible matching contributions in an amount not less than h dollars (2/3 of the total grant needed) and (ii) shall provide you evidence satisfactory to you in your sole discretion that such contributions have been received. To qualify as an eligible matching contribution, (i) a contribution must be a contribution or government grant of cash or marketable securities earmarked for the restoration project actually paid or received on or after k (the date of your board meeting at which the grant was awarded and prior to m (Loans and amounts not earmarked for the restoration project shall not constitute eligible matching contributions), (ii) an irrevocable unconditional binding pledge from a private donor or an irrevocable unconditional binding pledge from a governmental agency to contribute or grant cash or marketable securities for the restoration project made on or after k and prior to m and payable not later than n; or (iii) an irrevocable binding commitment made after k and prior to m for an in kind contribution which has a readily ascertainable

market value such as, a contribution of materials for which price quotations are readily available or a contribution of services by a person regularly engaged in the business of providing such services. If C conducts two or more challenge grant campaigns including your challenge grant campaign at any time on or after k, and prior to m, all contributions received by C during such time period shall specifically identify which challenge grant campaign the contribution shall apply toward and all such contributions received by C that are specifically identified as applying toward your challenge grant campaign shall be deposited in a separate bank account. Services performed by volunteers and other persons who are not regularly engaged in the business of providing such services and contributions of used or second hand materials shall not be considered as eligible matching contributions. For purposes of determining the amount of eligible contributions raised by C, in-kind contributions of materials shall be valued based on the prices customarily charged by the donor or seller of comparable materials. In-kind contributions of services shall be valued based upon charges customarily provided by the provider of such services for similar work at the time of the contribution. Eligible matching contributions shall not include interest earned on amounts deposited in the project account or the value of any new, marketable, historical or other tax credits attributable to the project.

- b. On or before p you shall have received assurances that C has engaged an architectural or contracting firm approved by you as supervising architect or construction manager for the restoration project.
- c. On or before q, C shall submit to you in writing the drawings, plans and specifications for the restoration project for your approval.
- d. On or before r, you shall be satisfied in your sole discretion C has sufficient funding for completing the restoration project as embodied in the plans.
- e. Prior to disbursement of any portion of grant from the project account for the purchase of any materials for the performance of any work on the project you will have approved in writing the contractor, vendor or other supplier and the final awarded contract for the labor and/or materials for which such disbursements are to be made.
- f. At the time the grant is to be initially paid to C and at the time of any disbursement of any portion of the grant from the project account, C shall not be in default in the performance of any of its obligations under the agreement and shall be an organization described in Sections 501(c)(3) and 509(a)(1) or (2) of the Internal Revenue Code of 1986 as amended.

Any approvals or determinations required to be given or made by you may be given or withheld in your sole discretion. Your right to approve the plans and final contracts shall include the right to approve the preliminary plans and each of the final contracts including the contractor or vendor, the furnishings, materials and services to be supplied or performed, or/and any revisions to the plans incorporated in the final contracts after the initial solicitation for bids. If any of the conditions set forth above are not satisfied and if you should not be willing to waive

the same, then the agreement and your obligation to make this grant may be terminated at your option by written notice to C. If you give a termination notice, after you have funded the project account, then C shall after receiving the termination notice, pay or refund to you promptly, any undisbursed balance remaining in the project account plus the difference if any between the amount of such undisbursed balance and the amount of the grant originally paid to C.

This project can be better accomplished by a set aside because 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 the use of the set aside. The approximate t month period provided in the agreement to raise the necessary matching funds has been mutually agreed on by you and C. With regard to quality control, you believe it is crucial that you retain a degree of control over the renovation process because of your concern with the historical features of the house. By making the disbursement dependent on 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 house and assure the final restoration project is consistent in the scope and the concept with the project originally submitted by you. You have previously submitted multiple set aside requests similar to this request which have received set aside approval under Code Section 4942(g)(2)(B)(i); however, typical grants of yours are not subject to Set Aside Requests. You provided a statement that the latest possible date of the payment is no later than 60 months after date of your 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. C construction contract payments were to be made mainly during the final two years. This constituted a "specific project." C 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. C 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,

Director, Exempt Organizations

Enclosure