

MEMORANDUM

TO: Maryland Heritage Areas Authority

FROM: Elizabeth Hughes, Staff

DATE: December 16, 2005

RE: MHAA Grant Agreement Amendments

At its October 31st meeting, the Authority asked to be briefed on policies and conditions surrounding amendments to MHAA grant project timetables and scopes of work. The following summary analyzes why such amendments are necessary, explains how such amendments are processed, and suggests options for changes to the process for the Authority's consideration.

Grant Timetable Extensions

1. Historical Overview and Process: MHAA grants are generally expected to be completed within a period of two years from the date of award, as outlined in the standard text of all MHAA grant agreements. However, all grant agreements also include timetables that are specific to the project scope of work and are tied to the submission of progress reports, disbursement requests, and product deliverables. Requests for project timetable extensions are not uncommon. Of the 37 FY03 grants awarded, for example, 28 (or 76%) requested and were granted timetable extensions. In some cases, grantees requested and were granted more than one time extension. Of the 28 projects for which extensions were granted, only 14 (or 38%) required more than 2 years total to complete.

On October 24, 2000, the Authority resolved to authorize staff to approve and execute grant agreement time extensions. Time extensions are processed by staff by means of a letter of amendment signed by both the grant project monitor and the grantee, which includes a justification for the request (see attached sample).

2. Why Necessary: Overall, problems with grantee administrative capacity are the primary reason for time extension requests. Small, volunteer-led, non-profit organizations that operate on a shoestring often struggle to complete projects in a timely manner. Turnover in organization staff and, for grants to local governments, in political leadership, also cause delays.

In other cases, time extension requests are required because of conditions outside of a grantee's control. For example, the Ward Museum of Wildfowl Art received a FY03 MHAA grant to construct an educational pavilion and erect signage, and the project timetable was extended once. The final report on the project identified problems associated with the project, such as:

- When working with volunteers and donated services and materials it always takes longer than expected.

- The Museum experienced strong winds and all of the signs blew down. The company who hung the signs would not return to properly hang the signs. Museum staff had to rehang the signs.

- While doing the site preparation, Schumaker Pond...flooded the Museum and the whole site washed out before sod was laid down. We had to regrade and prepare the site prior to laying sod. This required five truck loads of top soil.

Capital projects face particular challenges in meeting the two year deadline due to the unpredictable nature of construction projects. This, coupled with the requirement for a perpetual preservation easement to the Maryland Historical Trust from the owner of historic properties, can constitute a justifiable cause for project delay. Easements, typically take from nine months to one year to complete.

Practically speaking, timetable extension denials are difficult for staff to administer. By the time an extension is requested, MHAA grant funds have already been expended. As a result, the project is incomplete, the grantee is unhappy, and MHAA must analyze what portion of the grant has been properly spent and, therefore, how much – if any – must be recaptured.

3. Alternatives:

(a) The Authority may rescind its resolution of October 24, 2000 delegating consideration of timetable extension requests to staff, and consider grant timetable amendment requests as a regular part of its quarterly meetings.

(b) The Authority may amend its resolution of October 24, 2000 delegating consideration of timetable extension requests to staff, and choose to consider requests only for extensions those that would extend projects beyond two years.

(c) The Authority may continue the current delegation to staff unchanged.

Grant Scope or Work Amendments

1. Historical Overview and Process: Grantee requests to amend a project scope of work are infrequent. Since the inception of the program, only 4 of 114 grants (or 3.5% of projects) have sought amendments to the approved grant scope of work. These amendment requests, all of which were brought before the Authority for approval, included:

FY01 Canal Place Rewatering Project - \$100,000

On 2/24/00 the Authority approved the award of \$100,000 to the Canal Place Preservation and Development Authority for canal rewatering engineering. On 3/26/01, the Authority approved an amendment to the scope of work which allowed the grant funds to assist with the design and relocation of the Western Maryland Scenic Railroad tracks to a new location connecting the CSX tracks north of the station rather than on canal re-watering engineering. This amendment was approved since the heritage area described the elimination of the hazard and visual blight of the railroad tracks from the C&O towpath as a critical element of the canal rewatering project. The

Authority approved a further amendment to the project scope on 4/30/02 which allowed expenditure of the grant funds on the rehabilitation of a section of the Western Maryland Scenic Railroad tracks and the railroad bridge over the C&O Canal Guard locks at the proposed basin rather than on relocation of those tracks. This amendment was requested because the actual costs associated with the track relocation were found to be excessive (approximately \$5.8 million) compared to the initial estimates provided for this work.

FY02 Historic Annapolis Foundation Video Orientation Project - \$50,000

On 10/16/01, the Authority approved the award of \$50,000 to Historic Annapolis Foundation for planning and production of an 8-12 minute video to provide an introduction to historic Annapolis and heritage resources of the area; and, production of 3-5 minute video "Tools of the Trade" and "Continuing Traditions. On 10/31/05, the Authority approved an amendment to the scope of work which allowed the grant funds to be used for a PowerPoint presentation for the Visitor Welcome Room, a 5-minute video entitled "Annapolis Today," and a 5-minute video entitled "The Incredible Change." The change to the scope of work was due to the fact that the Annapolis History Center, where the film will be shown, will not be large enough to house a theatre where visitors can enjoy an 8-12 minute video and due to unanticipated video production costs.

FY03 City of Cambridge Water Street Improvements - \$37,500

On 12/11/03, the Authority approved the award of \$37,500 to the City of Cambridge for undergrounding utilities and installing pedestrian lighting in the Water Street/Long Wharf area. On 4/20/05, the Authority approved an amendment to the scope of work which allowed the grant funds to be spent on burying wires and installing new lighting in the 400 block of Race Street rather than in the Water Street/Long Wharf area. The change to the scope of work was due to the fact that the Water Street project, which would require the undergrounding of electric, cable, and telephone wires, had increased in cost to such an extent (\$250,000) that it was no longer feasible for the City to undertake the project. In contrast, the project on the 400 block of Race Street involved electric wires only and was therefore much less expensive.

FY03 City of Hyattsville 4318 Gallatin Street - \$15,000

On 12/11/03, the Authority approved the award of \$15,000 to the City of Hyattsville for completion of a conceptual space planning study and design specifications for the development of an Anacostia Trails Visitors Reception and Information Center in space located at 4318 Gallatin Street. On 7/25/05 the Authority considered and denied an amendment to the scope of which would have allowed the funds to be spent on preparation of architectural and structural roof replacement drawings for 4318 Gallatin Street. The justification for the request was that the property had deteriorated significantly since the time of the original grant award due to water infiltration and this activity constituted a more pressing need than the space planning study.

2. Why Amendments Are Necessary: Scope amendments, like time extensions, are often the result of conditions beyond the grantee's control. This is particularly true of capital projects in which the scope of work originally proposed by the applicant is their "best guess" prior to the involvement in the project of architects, engineers, consultants, and MHT staff. There are also unforeseen items that are only discovered once the actual construction component of the project has begun.

However, in other instances, scope amendments are required because of poor or inadequate planning on the part of the grantee. Grantees sometimes seek funding commitments early in their project planning process, before all of the project implementation details have been fully worked out. The TAC can only use its best judgment to identify those projects which are not ready to proceed and therefore are premature for funding.

Practically speaking, in most cases scope amendment denials are easier for MHAA staff to administer since MHAA funds typically have not been expended by grantees prior to requesting the amendment.

3. Alternatives:

(a) The Authority may determine that scope of work amendments should never be approved and therefore decline to consider such requests.

(b) The Authority may continue to treat the circumstances faced by each project as unique and therefore consider amendment requests on a case by case basis.