

**APPALACHIAN REGIONAL COMMISSION
WASHINGTON, DC**

**REPORT ON THE APPLICATION OF AGREED-UPON
PROCEDURES TO**

**MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION**

GRANT No. MD-11798-94-I-302-0808

ARC CONTRACT No. 95-15

GRANT PERIOD: DECEMBER 6, 1994 THROUGH MARCH 31, 1996

OIG Report 97-28(H)
May 20, 1997

Caution: Certain information contained herein is subject to disclosure restrictions under the Freedom of Information Act, 5 U.S.C. 5222 9(b)(4). Distribution of this report should be limited to Appalachian Regional Commission and other pertinent parties.

Mr. Hubert Sparks
Inspector General
Appalachian Regional Commission
Washington, DC

INDEPENDENT ACCOUNTANT'S REPORT ON APPLICATION OF AGREED-UPON PROCEDURES

We have performed the procedures described below, which were agreed-to by the Appalachian Regional Commission's Office of Inspector General, with respect to the Appalachian Regional Commission's (ARC) Grant No. MD-11798-94-I-302-0808 to the Maryland Department of Transportation - State Highway Administration for the period December 6, 1994 through March 31, 1996, solely to assist you in determining the allowability of costs incurred, whether they met grant objectives, and the current status of the project. This engagement to apply agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the Appalachian Regional Commission's Office of Inspector General. Consequently, we make no representations regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures were as follows:

- Held an entrance conference with the grantee
- Evaluated the grant agreement and any modifications
- Compared total grant costs to the general ledger or other records kept by the grantee
- Analyzed cash receipts against current needs
- Evaluated the allowability and supporting documentation of a sample of four subgrantee invoices
- Determined if specific grant objectives were achieved
- Determined if matching/non-federal contribution requirements were met
- Held an exit conference with the grantee

The results of these procedures are discussed in the **RESULTS OF APPLICATION OF AGREED-UPON PROCEDURES** section of this report.

We were not engaged to, and did not perform an audit, the objective of which would be the expression of an opinion on payments received and costs incurred under this grant. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that we would have reported to you.

This report is intended solely for the Appalachian Regional Commission and the management of the Maryland Department of Transportation - State Highway Administration and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. Upon, acceptance, however, this report is a matter of public record.

M. D. Oppenheim & Company, P.C.

Fairfax, Virginia
May 20, 1997

**REPORT ON APPLICATION OF AGREED-UPON PROCEDURES TO
MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION
BALTIMORE, MARYLAND**

**GRANT No. MD-11798-94-I-302-0808
APPALACHIAN REGIONAL COMMISSION CONTRACT No. 95-15
GRANT PERIOD: DECEMBER 6, 1994 THROUGH MARCH 31, 1996**

PURPOSE

The purpose of our application of agreed-upon procedures was to determine (1) the allowability of costs claimed under the Appalachian Regional Commission (ARC) Grant No. MD-11798-94-I-302-0808 by the Maryland Department of Transportation - State Highway Administration, (2) if the grant objectives had been met, (3) the grantee's compliance with OMB Circulars, provisions of the grant agreement, and the ARC Code, and (4) the current status of the project.

SCOPE

We evaluated the costs incurred and claimed for reimbursement under ARC Contract No. 95-15. Under the terms of this grant, for the complete and satisfactory performance under this grant agreement, and upon receipt of proper invoices approved by ARC, the Commission shall reimburse the grantee for the actual, reasonable and eligible costs of the project, as determined and approved by ARC, provided total cost reimbursement payments shall not exceed \$325,000.

The grantee's non-federal share was \$785,200 or 18% in cash, contributed services, or in-kind contributions, as approved by ARC. The Grantee was responsible for obtaining other federal funds in the amount of \$3,140,800, or (73.9%).

The period of performance for this grant was December 6, 1994 through March 31, 1996. The Appalachian Regional Commission obligated \$325,000 for this grant. The grantee received payments totaling \$323,849. The remaining \$1,151 was deobligated. (See **EXHIBIT A.**)

We reviewed reports prepared by the grantee, evaluated project records, and held discussions with the Project Engineer during the period May 19-20, 1997. As a basis for determining allowable costs and compliance requirements, we used the provisions of the grant agreement, Office of Management and Budget (OMB) Circular A-87 and the Common Rule, and the Appalachian Regional Commission Code.

BACKGROUND

This grant was to assist in the ongoing C&O Canal Parkway Development project. The project provided funds for preliminary design and planning costs for the Canal Parkway project. The Canal Parkway project is planned to improve access between I-68 (part of the Appalachian Development Highway System) and the southern portion of Cumberland, Maryland including the Cumberland Municipal Airport. The project area is located south of MD 51 and the CSX railroad tracks and is bounded on three sides by the Potomac River.

The objectives of this project were to:

- conduct field surveys.
- examine the impact of a proposed retaining wall upon the C&O Canal National Park, Canal and tow paths.
- investigate for contaminated soils.
- perform hydraulic studies.
- evaluate disturbance to the Potomac River floodplain.
- begin plan preparation incorporating right-of-way issues and identify National Park Service mitigation areas.

The main application of ARC funding was directed to the preparation of Preliminary Investigation construction plans (30% design complete). These plans incorporated preliminary right-of-way issues and identified National Park Service mitigation areas, such as the Meander Marsh. The following tasks were performed throughout the preliminary investigation design phase:

- investigation for contaminated soils in areas throughout the limit of work for the subject project.
- archaeological investigations in areas where artifacts, if present, would be disturbed.
- hydraulic studies with special attention to the Potomac River floodplain.
- examination of the impacts of the proposed retaining walls upon the C&O Canal National Park, the canal, and the towpath.

RESULTS OF APPLICATION OF AGREED-UPON PROCEDURES

We have reviewed the costs incurred by the Maryland Department of Transportation - State Highway Administration, under Appalachian Regional Commission Contract No. 95-15 for the period December 6, 1994 through March 31, 1996. The results of our application of the agreed-upon procedures are discussed in the **OBSERVATIONS AND RECOMMENDATIONS** section and in **EXHIBIT A** of this report. Contract No. 95-15 established an Appalachian Regional Commission obligation of \$325,000. The grantee requested and has received \$323,849. The unpaid balance of \$1,151 was deobligated.

Our procedures disclosed the following observations:

- Observation 1 - Lack of applicable records.
- Observation 2 - Lack of proper documentation for a final report.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 - Lack of applicable records.

The grantee, the Maryland State Highway Administration, could not provide documentation of the standard Application for Federal Financial Assistance (SF-424) or the approved ARC budget (SF-424A).

The requirements for grant administration embodied in the Common Rule, § 4(e) and 10(b), state:

Access to records - (1) Records of grantees and subgrantees. The awarding agency . . . shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts and transcripts

The requirements for grant administration embodied in the Grant Agreement, Article 2-6, state:

Detailed Budget.

(1) Within thirty days after execution of this agreement, Grantee shall submit a detailed budget for the work to be carried out under this agreement.

The Maryland State Highway Administration, had only a rough (hand written/cut and paste) Application for Federal Financial Assistance in the files. The Project Engineer who initiated the request, is no longer employed by the grantee. The current Project Engineer believes the original application has been archived. On March 21, 1995, the grantee submitted a detailed budget to ARC for work to be performed, which was more than 90 days after execution of the grant agreement effective on December 6, 1994. No documentation from ARC, for either a preliminary approval or an approved budget, was provided by the grantee as a basis of determination for costs. The grantee believes the approved ARC budget is archived.

Effect:

Because the grantee could not find the application and budget, we were unable to determine the propriety of the allowability of the expenditures. In addition, because the grantee was unable to locate these documents, we have no assurance that the grantee made any attempt to comply with the budget or any other grant guidelines.

Recommendation

We recommend that the Project Engineer continue to search for and provide to ARC, the standard Application for Federal Financial Assistance (SF-424) and the approved ARC budget (SF-424A).

Grantee Response

None.

Auditor's Conclusion

The grantee did not respond; therefore, our recommendation remains the same.

Observation 2 - Lack of proper documentation of an approved Final Report

The Maryland State Highway Administration, submitted a draft final report to ARC for review on September 12, 1995. The grantee was unable to document ARC's approval of the draft final report, or the changes recommended. As a result, a final report has not been submitted.

The requirements for grant administration embodied in the Grant Agreement, Article 2-7.2, state:

Final Report.

- (3) **Review.** *After ARC review of the final report, which will be completed within 15 days after submission by the Grantee, the Commission will either (a) return to the Grantee the approved draft with such comments, including any requirements or suggestions for modifications as deemed necessary, in which case Grantee shall, within 15 days, submit another draft for review and comment.*
- (4) **Final Submission.** *Within 15 days after receipt of the approved draft final report, the Grantee will prepare and submit to the Commission, through the ARC Project Coordinator, 5 copies of the approved report and a reproducible master.*

The Grantee used an engineering consultant for this project. The Grantee submitted a draft final report to ARC on September 12, 1995, indicating that the specific tasks in paragraph 2-2 of the grant agreement were satisfactorily performed within the effective dates of the grant agreement (December 6, 1994 - December 5, 1995). However, ARC approved an amendment to the grant agreement on December 4, 1995 extending the period of performance to March 31, 1996. The grantee was unable to provide documentation of 1) ARC's comments on the Draft Report, 2) submission of the final report or, 3) justification of the six-month extension.

Recommendation

We recommend that the Grantee contact ARC to clarify the status of the draft final report, in view of Amendment No. 1 to the grant agreement extending the period of performance, and to comply with the above-referenced final submission requirements.

Grantee Response

None.

Auditor's Conclusion

The grantee did not respond; therefore, our recommendations remain the same.

**MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION**

GRANT No. MD-11798-94-I-302-0808

ARC CONTRACT No. 95-15

GRANT PERIOD: DECEMBER 6, 1994 THROUGH MARCH 31, 1996

(Unaudited)

SCHEDULE OF CASH PAYMENTS

DATE	PAYMENT TYPE	AMOUNT PAID
05/29/96	Final	\$ 323,849.20
Total Paid		\$ 323,849.20
Total Award		<u>325,000.00</u>
Balance		1,150.80
Amount Deobligated		<u>1,150.80</u>
Total Balance Available		<u><u>0.00</u></u>

See independent accountant's report on application of agreed-upon procedures.

S. Hawtof



APPALACHIAN REGIONAL COMMISSION

1666 Connecticut Avenue, N.W.
Washington, D.C. 20235

Mr. Steven I. Hawtof
Maryland Department of Transportation
State Highway Administration
707 N. Calvert St.
Baltimore, MD 21203

Re: ARC Contract No. 95-15
MD-11798-94-I-302-0808
Canal Parkway Design

Dear Mr. Hawtof:

Enclosed is a formal grant agreement, which I have executed, confirming and setting forth the terms and conditions of the agreement between Maryland Department of Transportation, State Highway Administration and the Appalachian Regional Commission (ARC), to provide funds for preliminary design and planning costs for the Canal Parkway project.

For the complete and satisfactory performance of this grant agreement, as determined by ARC, Grantee shall be paid by ARC a total sum not to exceed \$325,000, or 7.6% of actual, reasonable and eligible project cost, whichever is less, as provided in Article 3.

Pursuant to the policy expressed in the Federal Drug-Free Workplace Act of 1988 (Public Law 100-690), all Grantees are required to certify that they will maintain a drug-free workplace and that they will take steps to provide a drug-free workplace in accordance with that Act. In addition, pursuant to the Federal Anti-Lobbying Act (Public Law 101-121), recipients of grants in excess of \$100,000 are required to certify that they have not used Federal funds to influence the award of the grant. To implement these policies, you are requested to execute the Certifications attached hereto as Appendix A, and return it to ARC.

Please indicate your acceptance of this agreement by signing the original of this letter and returning it, together with the executed certifications, to the Commission, attention: General Counsel. The duplicate original and a complete copy of the agreement are enclosed for your records.

APPALACHIAN REGIONAL COMMISSION
EXECUTIVE DIRECTOR

MARYLAND DEPARTMENT OF
TRANSPORTATION, STATE
HIGHWAY DEPARTMENT

Thomas M. Hunter

THOMAS M. HUNTER

[Signature]

NAME

12-21-94

DATE

Administrator, State Highway Adm

TITLE

Approved as to form and Legal sufficiency
this *30th* day of *January* 19 *95*
[Signature] - *w/arc reviewed P 3*
Assistant Attorney General *42-4(4)*

DATE

CERTIFICATION REGARDING LOBBYING FOR ARC CONTRACTS,
GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of this ARC contract, the making of this ARC grant, the making of this ARC funded loan, the entering into of this cooperative agreement, or the extension, continuation, renewal, amendment, or modification of this ARC contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person or entity for influencing or attempting to influence an officer or employee of ARC, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this ARC contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Copies of the disclosure form and instructions may be obtained from the Office of Chief Counsel, ARC.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. All certifications and disclosure forms shall be provided to ARC.

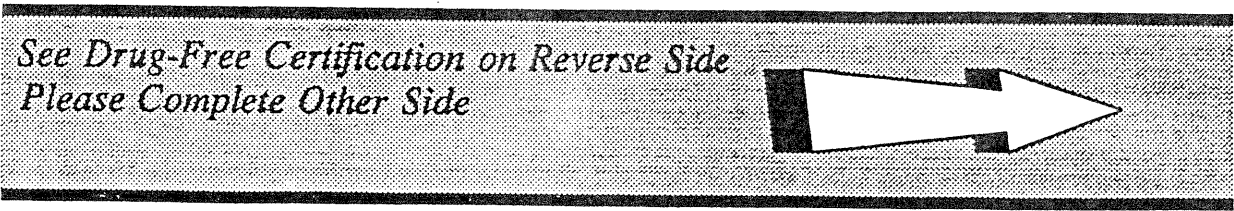
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction. The Commission may terminate for cause any grant, contract, loan or cooperative agreement with respect to which a false certification is made. Any person who files a false certification may be subject to penalties under the law.

Maryland State Highway Administration, 707 N. Calvert St. Balto MD
Organization Name and Address 21202

Hal Kassoff, Administrator
Name and Title of Authorized Representative

[Signature]
Signature

2/2/95
Date



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

A. By execution of this Grant Agreement No. 95-75, the grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance (as defined in schedules I through V of the Controlled Substances Act (21 U.S.C. 812), and as further defined by regulation at 21 CFR 1308.11 through 1308.15) is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about --

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the Commission in writing within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted --

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The site(s) for the performance of work done in connection with the specific grant are below. If there are more than five sites, please list on separate sheet and attach hereto.

Workplace Site(s)

Canal Parkway from MD 51 to the Wiley Ford Bridge

(Street Address)

Cumberland MD 21502

(City, County, State, Zip Code)

(Street Address)

(City, County, State, Zip Code)

For a grant with a period of performance of 30 days or less, the drug-free workplace statement and program required by paragraph A. above must be in effect as soon as possible, but in any case before performance is expected to be completed. For a grant with a period of performance of more than 30 days, the drug-free workplace statement and program must be in effect within 30 days after Grantee's execution of this certification.

False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide Federal suspension or debarment. (See Sec. 4 CFR Part 85, Sections 85, 615 and 86.620)

MD State Highway Administration 707 N. Calvert Street Balto MD 21202
Organization Name and Address

Hal Kasssoff, Administrator
Name and Title of Authorized Representative

Signature

2/2/15
Date



Date:

Subject: Canal Parkway Design, Cumberland, Allegany County, Maryland, (Maryland Department of Transportation, State Highway Department) MD-11798-94-I-302-0808

To: The Federal Co-Chairman

In the attached application, the State of Maryland requests an ARC Section 302 grant of \$325,000 for preliminary design and planning costs for the Canal Parkway project. The Canal Parkway project is planned to improve access between I-68 (part of the Appalachian Development Highway System) and the south portion of Cumberland, including the Cumberland Municipal Airport. The project area is south of MD 51 and the CSX railroad tracks and is bounded on three sides by the Potomac River. Currently the only access to this area is a two lane underpass of the CSX, which experiences traffic congestion during peak periods and has a significantly higher accident rate than other roadways with similar traffic.

The project is a component of the ongoing C&O Canal Parkway Development project, a two-phased initiative with two basic components:

- as an economic development project, Canal Parkway will serve as a focal point for the tourism and hospitality industry in Allegany County, complimenting a joint effort underway by Department of Interior/National Park Service, ARC, Maryland DOT, Allegany County and the City of Cumberland to develop the terminus area of the 184 mile long C&O Canal. Phase I of this element is complete with the dedication of Station Square at the Western Maryland Railroad Station. (ARC provided \$570,000 for this phase). Phases II & III, planned for next year, will expand facilities and incorporate a green area to complement the plaza. These phases link the open space resources of the canal with the core of historic Cumberland's downtown, and will serve as a civic focal point as well as a focus for historic interpretation and tourist orientation. Tangible results have already been realized, with over 300 motorcoach bookings for visits and overnight packages for the Fall '94 season.
- as a transportation project, the Canal Parkway will link South Cumberland to the City's central business district, and provide direct access between the City and the Cumberland Regional Airport.

A Partnership for the Development of Appalachia

*Alabama • Georgia • Kentucky • Maryland • Mississippi • New York • North Carolina • Ohio
Pennsylvania • South Carolina • Tennessee • Virginia • West Virginia*

ARC funding for this project will enable the State of Maryland to conduct field surveys, examine the impact of a proposed retaining wall on the C&O Canal National Park, Canal and two paths, investigate for contaminated soils, perform hydraulic studies, and evaluate disturbance to the Potomac River floodplain. Funds will also allow the State to begin plan preparation incorporating right-of-way plats and mitigation details. ARC funds will be matched on a 50:50 basis and ARC funds will not be used to bring the federal contribution to more than 80 percent in any of the subcomponents.

Total cost of the two year design phase is estimated at \$4.2 million, of which ARC will constitute about 7.6 percent. State funding of \$785,200 and Federal Highway funding of \$3,140,800 will also be used in the design stage. Estimated construction cost for the parkway is between \$30 and \$40 million.

This project was included in Maryland's 1994 investment package and received a waiver of the April 30 submission deadline at the Governors' Quorum meeting.

Approval of the project is recommended.

Recommended:



THOMAS M. HUNTER
Executive Director

Approved:



JESSE L. WHITE, JR.
Federal Co-Chairman

JUL 05 1994

Date Approved

GRANT AGREEMENT

Between

MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION

and

THE APPALACHIAN REGIONAL COMMISSION

This grant agreement consists of the following:

1. Cover Letter, attached
2. Part I -- Special Provisions
3. Supplement A to Part I
4. Part II -- General Contract Provisions (except G7)
5. Part III -- Administrative Provisions

PART I -- SPECIAL PROVISIONS

ARTICLE 1.

PARTIES.

- 1-1 (1) The term "Grantee" refers to Maryland Department of Transportation, State Highway Administration, 707 N. Calvert St., Baltimore, Maryland 21203. Hereinafter, Grantee may also be referred to as "Contractor."
- (2) The Grantee's Project Director (see Part III -- Administrative Provisions, Article 8) is Mr. Steven Hawtof, at the above address, telephone number 410-333-1295.
- 1-2 (1) The "Commission" refers to the Appalachian Regional Commission (ARC), 1666 Connecticut Avenue, N.W., Washington, D.C., 20235.
- (2) The Commission's Project Coordinator (see Part III -- Administrative Provisions, Article 9) for this agreement is Mrs. Geri Storm, at the above address, telephone number 202-884-7750.

ARTICLE 2.

SCOPE OF SERVICES.

2-1

General.

2-1.1 Background; Statement of Purpose. This agreement implements a grant made under the authorities in Section 302 of the Appalachian Regional Development Act of 1965 (ARDA), as amended, to provide funds for preliminary design and planning costs for the Canal Parkway project. The Canal Parkway project is planned to improve access between I-68 (part of the Appalachian Development Highway System) and the southern portion of Cumberland, including the Cumberland Municipal Airport. The project area is located south of MD 51 and the CSX railroad tracks and is bounded on three sides by the Potomac River.

This project is a component of the ongoing C&O Canal Parkway Development project, a two-phased initiative with two basic components:

1. as an economic development project, Canal Parkway will serve as a focal point for the tourism and hospitality industry in Allegany County; and
2. as a transportation project, the Canal Parkway will link South Cumberland to the City's central business district, and provide direct access between the City and the Cumberland Regional Airport.

2-1.2 Authorities/Order of Precedence. This grant is made subject to the provisions of the ARDA, the ARC Code, and the specific terms of this grant agreement in the order listed on page 1 of Part I, and any conflicts among these provisions shall be resolved giving precedence to these authorities in the order in which they are listed here.

2-1.3 Grantee's Responsibility. Grantee, as an independent contractor and not as an agent of the Commission, shall provide all personnel, facilities, supplies, and equipment necessary to carry out the specific tasks in Article 2-2.

2-1.4 Incorporation of Proposal. Grantee's proposal, submitted to the ARC on August 3, 1994, is incorporated by this reference and made a part of this agreement as Supplement A to Part I. A copy has been placed in the master contract file. To the extent the Articles of this grant agreement conflict with the incorporated proposal, the Articles shall control.

2-2

Specific Tasks. Grantee shall perform the following specific tasks:

1. conduct field surveys;

2. examine the impact of a proposed retaining wall upon the C&O Canal National Park, Canal and tow paths;
3. investigate for contaminated soils;
4. perform hydraulic studies;
5. evaluate disturbance to the Potomac River floodplain; and
6. begin plan preparation incorporating right-of-way plats and identify Park mitigation details.

2-3 ARC Right to Request Refinement. ARC reserves the right to require Grantee, upon reasonable notice, to submit detailed work plans for, or to refine proposal provisions relating to, any activities and work to be performed under this agreement. Grantee agrees, after receipt of such notice under this Article, to provide such work plans and/or refinements of the proposals within a reasonable time. No costs pertaining to such activities or work shall be eligible project costs until ARC approves such plan or refinement.

2-4 Indemnification. Notwithstanding any other provisions of this grant agreement, it is expressly agreed that:

(1) Grantee will carry out the program under this grant agreement as an independent contractor and not as agent of the Commission;

(2) Grantee assumes sole and complete responsibility for the conduct of the program in such a manner as to assure the safety and welfare of all persons participating in or in any way involved in, or affected by, any activities conducted under this grant agreement;

(3) The Commission, by its provision of funds for this project, undertakes no responsibility in this regard;

(4) **To the extent permitted by Maryland law and subject to availability of appropriations,** Grantee shall indemnify and save harmless the Commission, its agents, officers and employees, from and against any and all claims, demands, suits, judgments, settlements, etc., for sums of money for or on account of personal injuries, property damage, or loss of life or property of any persons arising from or in any way connected with the performance of the **specific tasks set forth in Article 2-2;** and

(5) Further, the Grantee expressly releases the ARC from any liability for any losses or damages suffered by Grantee, directly or indirectly, from or in any way connected with the performance of this grant agreement.

2-5 Coordination and Non-Duplication. In carrying out the project under this grant agreement, Grantee shall assure that the planning, design work and implementation of activities under this agreement are coordinated with the activities conducted under ARC Contract Nos. 93-91 and 94-84, and shall assure that there shall be no duplication of effort or funding under this agreement of any work or payments under that agreements.

2-6 Detailed Budget.

(1) Within thirty (30) days after execution of this agreement, Grantee shall submit a detailed budget for the work to be carried out under this agreement.

(2) Prior to submission of the detailed budget to ARC, no costs shall be eligible for reimbursement except those costs directly related to the preparation of such budget. Within one week after receipt, ARC shall complete a preliminary review of the budget and shall immediately advise the Grantee either that the budget is unacceptable or that it is preliminarily approved. After such preliminary approval by ARC, the Grantee may proceed with work on the project immediately with such modifications in the budget as requested by ARC. Thereafter, only those costs which are incurred in accord with the approved budget shall be eligible for reimbursement.

2-7 Reports.

2-7.1 Progress Reports. Grantee shall prepare and submit to the ARC Project Coordinator, in three copies, quarterly progress reports indicating the work accomplished under the agreement to date, any problems encountered and ameliorative actions taken, and a forecast of work for the next report period.

2-7.2 Final Report.

(1) Draft; Contents. Within one (1) month after the period of performance (see Article 4), Grantee shall prepare and submit to the ARC Project Coordinator for approval, three copies of a draft final report of all work accomplished under this agreement including recommendations and conclusions based on the experience and results obtained.

(2) Draft; Organization. The draft report shall be organized so as to clearly indicate, by reference to grant agreement Articles and subsections, the specific grant agreement requirements that each section of the draft report is addressing. The draft report shall contain a Table of Contents or similar listing of contents which shall indicate by reference to specific pages in the draft report the portion of the report that addresses specified grant agreement provisions.

(3) Review. After ARC review of the draft final report, which will be completed within 15 days after submission by the Grantee, the Commission will either (a) return to the Grantee the approved draft with such comments, including any requirements or suggestions for modifications as deemed necessary, or (b) require resubmission of the draft report if it is deemed necessary, in which case Grantee shall, within 15 days, submit another draft for review and comment.

(4) Final Submission. Within 15 days after receipt of the approved draft final report, the Grantee will prepare and submit to the Commission, through the ARC Project Coordinator, 5 copies of the approved report and a reproducible master.

ARTICLE 3.

CONSIDERATION AND METHOD OF PAYMENT.

3-1 Total. For the complete and satisfactory performance of this grant agreement, as determined by ARC, Grantee shall be paid by ARC a total sum not to exceed \$325,000, or 7.6% of actual, reasonable and eligible project cost, whichever is less. Grantee shall pay or cause to be paid the non-federal share of \$785,200, or 18.5% in cash, contributed services, or in-kind contributions, as approved by ARC. Grantee shall also pay or cause to be paid other federal funds in the amount of \$3,140,800, or (73.9%).

3-2 Basis for Determination. Costs will be determined in general accord with the budget which Grantee is required to submit under Article 2-6, subject to the terms of this grant agreement and to pertinent ARC Code Provisions.

3-3 Method of Payment.

3-3.1 Progress Payments. Grantee may receive progress payments (1) on the basis of the work performed; (2) upon ARC concurrence as to reasonableness of costs and submission of Form SF 270 (Request for Advance or Reimbursement); (3) upon submission to ARC of, and with the same frequency as, progress reports; and (4) upon determination by the ARC that the requirements of the agreement are being met. The total of such progress payments shall not exceed \$292,500.

3-3.2 Final Payment. Upon Grantee's satisfactory completion of the agreement, Grantee shall receive any balance of funds which may be due under this agreement, estimated \$32,500.

ARTICLE 4.

EFFECTIVE DATE.

The effective date of this grant agreement is December 6, 1994. The period of performance is December 6, 1994 through December 5, 1995.