

SCOPE OF WORK

**PROFESSIONAL TECHNICAL ADVISORY SERVICES
FOR
GOWANUS COMMUNITY STAKEHOLDER GROUP**

PREAMBLE

On 19 January 2001, settlement was reached in a lawsuit brought by Transportation Alternatives, Inc., *et al.* (hereinafter the “Plaintiffs”) against the New York Metropolitan Transportation Council *et al.* (hereinafter the “Defendants”), which lawsuit challenged certain decisions made by the New York State Department of Transportation *et al.*, who were among the Defendants, in respect to the replacement or rehabilitation of the Gowanus Expressway, which is an elevated highway in Brooklyn, New York (hereinafter the “Viaduct”), part of Interstate Highway 278 (hereinafter the “Gowanus Project”). Among the interests of the Plaintiffs are that the outcome of the Gowanus Project be the replacement of the Viaduct with a tunnel, the enhancement of access to the waterfront for the communities situated along the Gowanus Expressway, and the facilitation and implementation of all identified and/or adopted community improvement plans with the full participation of community groups and advocacy organizations in the planning of the Gowanus Project.

The settlement provides for a Technical Advisor to be nominated by the Plaintiffs and funded, at least in part, by the State of New York. This Statement of Work defines the professional services to be provided by the Technical Advisor.

1 DEFINITIONS

As used herein, the following terms have the corresponding meanings:

Gowanus Community Stakeholder Group (GCSG)	Collectively, the community groups and advocacy organizations that are located in and adjacent to the Gowanus Corridor, including the Plaintiffs and other individuals and organizations that the Plaintiffs will invite to participate. The Stakeholders will represent the concerns of the Gowanus Corridor communities to the Defendants, and, as such, will supersede the Plaintiffs.
DEIS	The Draft Environmental Impact Statement for the Gowanus Project.

FEIS	The Final Environmental Impact Statement for the Gowanus Project.
FHWA	The United States Federal Highway Administration, one of the Government Entities.
GCSG	The Gowanus Community Stakeholder Group (see above).
Government Entities	The governmental agencies that will be responsible for the execution of the Gowanus Project, including but not necessarily limited to agencies of the City of New York, the NYSDOT, the FHWA, and the United States Department of Transportation, and their agents and consultants.
Gowanus Corridor	The area traversed by the Gowanus Expressway and affected immediately by traffic on same, including the neighborhoods commonly referred to as Bay Ridge, Boerum Hill, Brooklyn Heights, Bush Terminal, Carroll Gardens, Cobble Hill, Dyker Heights, Gowanus, Greenwood Heights, Park Slope, Sunset Park, and Windsor Terrace.
Gowanus Expressway	The portion of Interstate Highway 278 in Brooklyn, New York, extending from the southerly end of the toll plaza of the Brooklyn-Battery Tunnel to the Brooklyn approach to the Verrazano-Narrows Bridge, south of 92 nd Street. The non-elevated portion of the Gowanus Expressway, i.e. between the Verrazano-Narrows Bridge and the beginning of the Viaduct, near 7 th Avenue and 65 th Street, will not be replaced but is likely to be affected by the replacement or rehabilitation of the Viaduct.
Gowanus Project	The project to replace or rehabilitate the Viaduct.
Grantee	The entity that receives and administers the New York State grant that will fund the Technical Advisor on behalf of the Plaintiffs and the GCSG.
NYSDOT	The New York State Department of Transportation.
Tunnel Option	The proposal to replace the Viaduct, as defined herein, with a tunnel.

2 SCOPE OF TECHNICAL ADVISORY SERVICES

- 2.1 The Technical Advisor shall provide the requisite professional services to provide all necessary technical and engineering assistance to the GCSG, to support and enhance community participation in the Gowanus Project and the development of the DEIS and the FEIS, specifically with regard to the feasibility and desirability of the Tunnel Option.
- 2.2 The professional services shall include, but not necessarily be limited to, the following:
- Engineering and technical opinions, studies, plans, research, attendance at meetings, and preparation of position papers and proposals on behalf of the GCSG;
 - Assistance to the GCSG in interpreting and understanding the technical aspects of the preparation of the DEIS and FEIS, and formulating ideas and proposals in a format that can be presented to the Government Entities; and
 - Addressing, *inter alia*, the following areas of concern: the impacts of the various alternatives being studied for the DEIS and FEIS on air quality, noise, human health, social and economic conditions within the Gowanus Corridor, design issues, traffic and transportation, and land use patterns.

3 NYSDOT SERVICES IN CONNECTION WITH TECHNICAL ADVISOR

- 3.1 Access to Data.
- 3.1.1 The Technical Advisor and any subcontractor retained hereunder shall, upon their request and without the need for a request under the United States Freedom of Information Act, 5 U.S.C. §552 or the New York State Freedom of Information Law, N.Y. Public Officers Law §§84-90, be provided with underlying documents, data and information that are available under these laws. Documents that are excluded from disclosure under the United States Freedom of Information Act pursuant to 5 U.S.C. §552(b)(5) shall not be made available pursuant to this section, except that inter-agency and intra-agency documents, data and information that are otherwise excluded pursuant to 5 U.S.C. §552(b)(5) shall be made available to the Technical Advisor and any subcontractor once those documents are transmitted or circulated beyond NYSDOT or FHWA, including their consultants and counsel, to another interested agency, or other person or entity. Access to such documents, data and information shall include, without limitation, obtaining photocopies (with costs of copying to be borne by the requesting party) and electronic copies.

- 3.1.2 The Technical Advisor and any subcontractor shall also be given access to draft sections of the DEIS, as well as any pertinent background memoranda or other documents, data or information used, reviewed or considered in preparation of the FEIS. In the case of draft sections of the DEIS, or portions thereof, such sections or portions shall be made available to the Technical Advisor and any subcontractor at the time those documents have been transmitted or circulated beyond NYSDOT and FHWA, including their consultants and counsel, to another interested agency, or other person or entity.
- 3.1.3 Other documents that the Technical Advisor, and any subcontractor, shall have access to include any study, report, data compilation or memoranda prepared by a consultant to NYSDOT and/or FHWA once finalized to the point where NYSDOT and/or FHWA anticipate that such documents will no longer be changed or revised. Non-proprietary models, data, and any other documents or information referred to herein, shall be made available to the Technical Advisor and any subcontractor if in the possession, custody or control of NYSDOT, FHWA, or their consultants.
- 3.1.4 In addition, upon completion, and in any event no less than forty-five (45) days prior to the dates of their formal release to the general public, NYSDOT will provide drafts of the texts of the full DEIS and FEIS to the Technical Advisor and any subcontractor, whether or not specifically requested, and NYSDOT shall inform the Technical Advisor and any subcontractor of the formal release of the full DEIS and FEIS promptly upon their completion. Any comments or suggestions submitted by the Technical Advisor and any subcontractor in writing to NYSDOT fifteen (15) days or more prior to the release date will be given consideration in the DEIS and FEIS prior to their release; provided, however, that such preliminary comment opportunity granted to the Technical Advisor and any subcontractor shall not be construed as comments requiring a response under NEPA or SEQRA. Likewise, the provision by NYSDOT or FHWA of such preliminary comment opportunity shall not be construed as discharging any of NYSDOT and FHWA's notice and comment obligations under NEPA.
- 3.2 NYSDOT shall make available, upon reasonable notice, space in Brooklyn, New York for the Technical Advisor for community meetings, consultations, presentations and temporary storage of documents necessary for such meetings, consultations, and presentations.

4 SUBCONTRACTS

- 4.1 NYSDOT shall have the right to exercise a good-faith veto over any potential subcontractor proposed by the Technical Advisor. The Technical Advisor, through the Grantee, shall provide NYSDOT with such information as the GCSG may deem pertinent regarding the proposed subcontractor's background and qualifications, as well as any additional information that NYSDOT reasonably requests concerning the proposed subcontractor. NYSDOT shall, within fourteen (14) calendar days of receipt of the nomination of a subcontractor, inform the Grantee that the nominee is acceptable or that the nominee is not acceptable and is being vetoed. If NYSDOT fails to so affirmatively inform the Grantee, then the nominee shall be considered accepted.
- 4.2 Reasonable requests by NYSDOT for additional information regarding the nominee shall toll the running of the fourteen-day period for up to one month from receipt of the nomination by NYSDOT. The time period for NYSDOT to review requested information regarding a nominee may be further extended by written agreement between NYSDOT and the Grantee. Should NYSDOT veto a proposed subcontractor, Grantee and/or the Technical Advisor shall have the right to make a new nomination and the process described in this Section 4 shall be repeated until a nominee is acceptable to NYSDOT.
- 4.3 For purposes of this Section 4, NYSDOT shall be deemed to have received written notice of a nomination of a Technical Advisor or subcontractor on the actual day of receipt by the agency, and the actual day of receipt shall be excluded in counting the fourteen-day period for NYSDOT to exercise its veto or request additional information.

5 AUDIT

- 5.1 NYSDOT, its agents, and/or the New York State Comptroller and its agents shall have the right to audit the expenditure of funds hereunder to determine that funds were properly expended for the purposes of this contract. Should there be an expenditure of funds for non-contract purposes, the State of New York shall have the right to be reimbursed by the Technical Advisor, through the Grantee, for such improper expenditure. In order to ensure the right to audit, the Technical Advisor shall retain all records relating to the accomplishment of the work hereunder for five (5) years after the completion of such work.
- 5.2 The Technical Advisor shall, fourteen (14) calendar days prior to the yearly anniversary of the contract, provide Grantee with a bank statement or equivalent account statement showing the status of the funds received and expended hereunder.

- 6.3 Relationship of the Parties. Nothing in this contract shall grant or imply the right of either the Grantee or the Technical Advisor to commit the other party for any obligations or to act as agent for the other party, or otherwise, on its behalf. Nothing in this Agreement shall be construed as an obligation on the part of either the Grantee or the Technical Advisor to refrain from engaging at any time in the same or any business similar or dissimilar to the business in which the other is now engaged.
- 6.4 Period of Performance. The period of performance of this contract is from the date of execution until twelve (12) months thereafter. It shall be renewable, by written mutual agreement of the Parties, for periods not exceeding twelve (12) months each.
- 6.5 Governing Law. This contract shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of law rules.
- 6.6 Entire Agreement. This contract contains the entire agreement of the parties and supersedes any previous understandings, commitments, or oral or written agreements bearing on the subject matter covered by this contract.
- 6.7 Modifications. Any change or waiver of the conditions of this contract must be agreed to in a writing signed by both parties.