6.0 STEP 6 – PUBLIC, MUNICIPALITY, AND AGENCY INVOLVEMENT

6.1 DEGREE AND TYPE OF INVOLVEMENT

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*Rental Unit Owner and Tenant, and Category C Areas Voting*

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6.6 RESPONDING TO TYPE II ABATEMENT REQUESTS

*Example MDOT Traffic Noise Nuisance Calls or Type II Response Letter*
6.0 STEP 6 – Public, Municipality, and Agency Involvement

6.1 Degree and Type of Involvement

The degree and type of public/municipality/agency involvement will vary from project to project. Public involvement activities for projects requiring the consideration of highway traffic noise should allow for presentations and subsequent discussions of both highway traffic noise and construction noise levels and impacts related to the Type I and Type II projects. Opportunities for such involvement should be provided as appropriate during both the EPE Phase during the environmental document preparation and the PE Phase through the CSS process. The MDOT Guidelines for Stakeholder Engagement (January 2009) document can help you determine an appropriate level of stakeholder engagement for your project. Discussion should relate to issues such as:

- noise compatible land use planning;
- highway traffic noise levels;
- highway traffic noise-related impacts;
- highway traffic noise abatement options;
- areas where highway traffic noise abatement is not feasible and reasonable.

NOTE – Final Design Noise Abatement Public Meeting(s):

Preliminary Engineering (PE) Phase noise abatement public meetings should not be conducted until the draft version of the Final Design Highway Traffic Noise Report is approved by the Region or TSC, Lansing Office and FHWA. Highway traffic noise abatement commitments and aesthetics will be finalized at the final design stakeholder engagement meeting(s). The results of the final design noise abatement public meeting(s) will be included in the final version of the Final Design Highway Traffic Noise Report.

6.2 Local Officials

An effort shall be made to inform local officials, within whose jurisdiction(s) the highway project is located, of ways to prevent future highway traffic noise impacts on currently undeveloped lands. This information could be presented in the form of a document or by meeting with the officials. The information, whether by document or meeting, should be conducted before or during the early stages of the noise analysis. The following bullets [from 23 CFR 772.15(b) and 17] include the information that should be provided.

- Noise compatible land use planning concepts;
- The best estimation of future noise levels (for various distances from the highway improvement) for undeveloped lands or properties from the edge of the nearest travel lane of the highway improvement where the future noise levels meet
MDOT’s definition of “approach” for undeveloped lands or properties within the project limits.

- Non-eligibility for federal-aid participation for Type II projects. For Type II projects, noise abatement measures will be approved only for projects that were approved before November 28, 1995, or are proposed along lands where land development or substantial construction predated the existence of any highway. The granting of a building permit must have occurred prior to right-of-way acquisition or construction approval for the original highway. Noise abatement measures will not be approved at locations where such measures were previously determined not to be reasonable and feasible for a Type I project.

Once a noise barrier has been identified as meeting feasibility and reasonableness during the EPE Phase, during the PE Phase MDOT will conduct discussions with local authorities on developing a maintenance or easement agreement for functional enhancements (e.g. fire hydrants, emergency access doors), and aesthetic and structural maintenance on the residential side of the structure, or on both sides when the structure is on the residential side of a service road that is not MDOT property.

The agreements, resolutions, or ordinances will be recorded in the Final Design Highway Traffic Noise Report

**NOTE – Local Officials Vote on Noise Abatement Construction**

Local officials as a body do not have a vote on the preference for or against noise abatement construction. The construction of noise abatement is solely based on the vote of property owners and residents of benefiting units. Local officials cannot override the desires of the property owners and residents benefiting units for or against noise abatement construction.

### 6.3 Benefited Receptors/Community

Noise abatement will not be approved without documentation that the public involvement process had been followed during the EPE and PE Phases. Coordination with the public is a very important part of successful noise abatement. A good community relations effort can often prove to be the most effective highway traffic noise mitigation component. The specific number and schedule of meetings will be made by MDOT and its consultants based on the extent of the project and level of controversy or public interest.

Information on FHWA and MDOT noise abatement regulations, rules and procedures will be presented within the public meetings held as required by NEPA during the EPE Phase. After the draft Noise Abatement Technical Report is approved by MDOT and FHWA, the public meetings will include explanations on the study results, identify preliminary findings on feasible and reasonable noise barrier locations, explain the Statement of Likelihood, and the public involvement process during the PE Phase. Typically, during the NEPA process for an EIS or EA, the noise abatement analysis information is presented along with other environmental concerns.
and analyses. A Categorical Exclusion with noise impacts will include a meeting specifically on the noise abatement analysis, if there are no other environmental concerns. If the noise analysis during the CE Classification phase does not identify any feasible and reasonable noise abatement, then no public meeting is required. The public will have an opportunity during this meeting to provide comments on the study and provide any insight that may aid in the assessment of the noise environment during the PE Phase. The method of collecting comments will be determined on a project-to-project need based on the scope of the project and the level of controversy. All comments regarding the traffic noise analysis will be included in the final Noise Abatement Technical Report and in the Highway Traffic Noise Analysis Data File (Refer to STEP 7 – Reporting Results of Highway Traffic Noise Analyses, Subsection 7.1.4)

The public involvement process during the Preliminary Engineering (PE) Phase is to give the property owners and residents of the benefitting receptor units the opportunity to voice their opinions on the noise abatement, and, along with the other stakeholders, on the aesthetics and functional elements (such as emergency vehicle or fire hydrant access) of the noise abatement. The property owners and residents of the benefitting receptor units will have the opportunity to vote for or against noise abatement construction after the draft Final Design Highway Traffic Noise Report is approved by MDOT and FHWA. The initial stakeholder engagement meeting, as part of the Context Sensitive Solutions (CSS) process, may be held at the same meeting on the vote on noise abatement. Stakeholder engagement public meetings with affected property units and local officials are held for their input on the aesthetics of the abatement such as color, texture, landscaping, etc. Subsequent community meetings allow for a refinement of the abatement design, keeping in mind the acoustic, engineering, and safety considerations until agreement is reached.

At any time during this process, up to the publication of the Final Design Highway Traffic Noise Report the majority of the property owners and residents of the benefitting receptor units may decide that they do not want noise abatement. If this is the case, the decision not to accept the proposed noise abatement recommendations shall be documented in the Report.

6.4 Voting Procedures

The method of obtaining votes (i.e., flyers, door-to-door, public meeting, etc.) shall be determined by the MDOT Region Office or TSC on a project-by-project basis and must be recorded in the environmental documentation how each benefitting receptor unit owner or resident voted. The method must be conducted in a manner that definitively assures that all benefitting units have had an opportunity to vote and provide comment on any noise abatement measure. The public meeting notices should include a voting method for those who may not be able to attend a public meeting such as return ballots, web based, or any survey technology that also assures that the voter is a benefitting unit property owner or resident.

6.4.1 Voting on the Construction of the Noise Barrier

A meeting during the PE Phase shall be conducted, as previously stated, so the property owners or residents of benefitting units will have the opportunity to vote on whether they are in favor of the proposed noise barrier. Only the owners and residents of those receptor units that benefit from noise abatement may vote. This is an essential factor in determining reasonableness of the noise abatement. Only one vote per benefited unit will be accepted with the exception of rental
dwelling units (See the following note – *Rental Unit Owner and Tenant, and Special Use Areas Voting*). Of all the votes tallied, 50% or more of the benefiting units must vote in favor of noise abatement. The absence of returned surveys or attendees to public meeting may be considered as an affirmative vote for noise abatement. Final interpretation of the voting results will be made by MDOT and its consultants, considering all the feedback gained during the public involvement process.

**NOTE – Voting Against Noise Abatement**

The property owners and residents of benefiting units will be informed before the vote that a decision against noise abatement at a specific location means no future noise abatement, including Type II, will be considered or approved for that specific location. Only a Type I scenario will trigger a future noise abatement assessment at that location.

**NOTE – Rental Unit Owner and Tenant, and Activity Category C Areas Voting:**

The property owner and tenant will receive notice of the public meetings regarding noise abatement. The property owner of a rental benefiting dwelling unit(s) will count as one (1) vote per benefiting unit for or against a noise barrier and/or a barrier’s aesthetics. The owner may delegate this authority to an office/property manager if one is available. The tenant of an individual benefiting dwelling unit will count as a one-half (0.5) vote. For Activity Category C areas such as churches, schools, and park/recreational fields, the vote(s) will be accepted only from the governing authority that owns or manages the area in question.

**NOTE – Condominium Complexes:**

Condominium complexes will be viewed the same as any other residential property.

### 6.4.2 Voting on the Color & Texture of the Noise Barrier

The MDOT Roadside Development Unit will coordinate the CSS process in the stakeholder collaboration for the color, texture, landscaping, etc. In general, all stakeholders will have equal votes and status as to the aesthetics of the noise barrier. In the case of conflicting desires, those affected property units that abut the noise barrier, abut the right-of-way line, or have an unobstructed view of the noise barrier will receive greater consideration than those receivers that have an obstructed view of the barrier. Professional judgment will be required in making this determination. It is recommended that the project team tally the votes and summarize the results on project mapping to facilitate decision making in reconciling conflicting desires. Final interpretation of the voting results will be made by MDOT and its consultants, considering all feedback gained during the public involvement process.
6.5 Third-Party Funding Options

Third-party funding is limited to aesthetic and functional enhancements above and beyond that for which MDOT is responsible. Third-party funding will be limited to aesthetic enhancements requested such as specific wall graphics (e.g. city seals), plantings, etc. and cannot be used to contribute funds when the reasonableness cost criteria is not met. Any additional costs associated with the desires of a municipality/community to have special graphical designs (i.e., standard color/texture vs. imprinted or painted graphical designs) on either the residential side or the highway side of the proposed noise barrier must be paid for by the municipality/community.

Regardless of contribution sharing, no barrier will be funded by MDOT which does not meet the feasibility and reasonableness requirements. The Region Office or TSC must work with those providing the funding to work out the details of the agreement. Once the noise barrier components (posts, panels, caps, etc.) are ordered, the third party is committed to the funds associated with the agreement, and no changes will be made to the order unless the third party is willing to absorb the additional cost associated with the order change. All third-party funding agreements must be addressed in a non-discriminatory way and documented in the Final Design Highway Traffic Noise Report.

NOTE - Screening Barrier or Walls

MDOT Lansing Office, Region Office, and/or TSC may receive requests for a barrier (structure or vegetative) to screen traffic in lieu of noise abatement which did not meet feasibility and reasonableness. The term, “screening barrier” or “screening wall” is not noise abatement and should never be used in the context of noise abatement and MDOT discourages their use or to create the perception of noise abatement.

If the MDOT TSC or Region Office decides to use a screening wall or barrier for aesthetic purposes, then the adjacent property owners must be informed that this screening is not meant for noise abatement. Screening walls are an enhancement for the adjacent properties. Screening walls should only block the line of sight of the majority of the traffic. The view of the top of tractor-trailer should not be taken into consideration in the design of a screening wall or barrier. MDOT Roadside Development should be contacted and utilized in regard to the use, design, and aesthetics of any screening activities such as walls or vegetative screens.

However, a screening wall or a vegetative screen can be kept in a project manager’s toolbox for use in ROW negotiation with adjacent land owners. Contact an MDOT Real Estate representative and the Lansing Office Environmental Section before any ROW and enhancement negotiation.
6.6 Responding to Traffic Noise Nuisance Calls or Type II Abatement Requests

MDOT periodically receives requests to provide noise abatement along existing highways. The MDOT noise abatement policy is currently limited to construction of Federal-aided Type I noise abatement. The following standardized letter should be used when responding to inquiries concerning abatement on existing highways.

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**Example MDOT Traffic Noise Nuisance Calls or Type II Response Letter**

Dear Resident:

This letter is in response to your interest in constructing noise barriers on existing highways. The Michigan Department of Transportation’s (MDOT) noise abatement policy is currently limited to construction of warranted noise barriers as part of a highway projects listed in the federal regulation 23 CFR 772.5 definition of Type I projects which include a project on new alignment or for a major reconstruction project which adds travel lanes. There is no federal guidance requiring the construction of noise barriers on existing highways nor are there federal funds for these projects.

MDOT does have a Type II noise abatement program which is voluntary and provides for Federal-aided noise abatement for existing highways. However, due to budgetary constraints MDOT’s Type II is suspended until further notice.

While we periodically receive requests for noise abatement along existing roadways, we have been unable to accommodate them due to resource constraints.

Thank you for your continuing interest in Michigan’s Transportation Program. Please reference the federal regulation 23 CFR 772 and MDOT noise policy, rules and procedures handbook for further information. If you have any further concerns regarding this issue, please feel free to contact MDOT in the future.

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