

Town of Medway

Request for Transfer from the Finance Committee Reserve Fund

Date June 3, 2021

Finance Committee
Town of Medway

Committee Members:

Request is hereby made for the following transfer from the Reserve Fund in accordance with Chapter 40, Section 6, of the Massachusetts General Laws:

1. Amount requested: \$6,900 see attached proposal. We are requesting the full amount in order to have the balance currently in the account available for regular Planning and Economic Development Board (PEDB) consulting services.
2. To be transferred to: Planning Board Consulting Services 01175002-5305
(Name of Appropriation)
3. Present balance in said appropriation: \$2,995.58
4. The amount requested will be used for: (give specific purpose)

Hiring a consultant to assist the PEDB to review and revise the noise standards in the zoning bylaw for the Fall Town Meeting.

5. This expenditure is extraordinary and/or unforeseen for the following reasons:

The need to acquire outside consulting assistance was only recently identified as a result of discussions at PEDB meetings. It is important that the proposed bylaw amendments be ready for the Fall Town Meeting to address on-going citizen concerns.



Officer or Department Head

Action of Finance Committee

Date of Meeting: _____

Number present and voting: _____

Transfer voted in the sum of _____

Transfer disapproved []

Chair, Finance Committee



June 3, 2021

NCE Proposal: P5097.21
Consulting Services for Noise Standards Review and Revision

Susan Affleck-Childs
Town of Medway
155 Village Street
Medway, MA 02053

Dear Ms. Affleck-Childs:

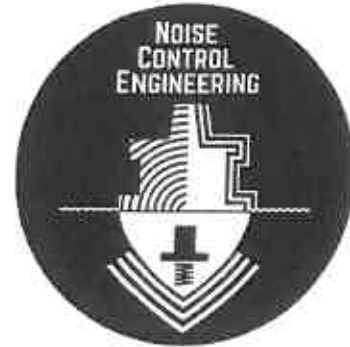
Noise Control Engineering, LLC (NCE) is pleased to provide this proposal to provide consulting services to assist in crafting Zoning Bylaw amendment language for consideration at the November 2021 Town Meeting. The goal is to develop a noise standard that is equitable, understandable, protects the Town's citizens without unnecessary regulation of businesses, and is enforceable.

Thank you for your consideration of NCE for this project and I hope this quote meets your technical and budgetary requirements. If you should need anything else, or have any questions or would like to discuss, please feel free to contact me.

Sincerely,
NOISE CONTROL ENGINEERING, LLC

Jeffrey M. Komrower
Senior Engineer
Ph: (978) 584-3026 (direct)
Jeff.komrower@noise-control.com

Consulting Services for Noise Standards Review and Revision



Proposal P5097.21

June 3, 2021

Prepared for:

Town of Medway
155 Village Street
Medway, MA 02053
Attention: Ms. Susan Affleck-Childs

Technical Contact:

Jeffrey M. Komrower
Noise Control Engineering LLC
85 Rangeway Road
Building 2 – 2nd Floor
Billerica, MA 01821
(978) 584-3026 (direct)
jeffk@noise-control.com (email)

The information contained herein shall not be disclosed outside The Town of Medway and shall not be duplicated, used or disclosed in whole or in part. The data subject to this restriction is on all the pages of this proposal.

1.0 INTRODUCTION AND SCOPE OF WORK

The Medway Planning and Economic Development Board (PEDB) continues to work on preparing revisions to the Environmental Standards provisions of the Zoning Bylaw, specifically noise. It has continued to receive public comments from various points of view and has worked to refine the provisions. This proposal is to provide consulting services to provide assistance in crafting Zoning Bylaw amendment language for consideration at the November 2021 Town Meeting that is equitable, understandable, protects the Town's citizens without unnecessary regulation of businesses, and is enforceable. The scope of services would include but may not be limited to the following:

- Review the most recent draft of the noise standards.
- Review minutes of the PEDB meetings when this was discussed and the associated documents provided by resident John Lally, COMCAN owner Ellen Rosenfeld (and team), and PEDB member Tom Gay.
- Facilitate two ZOOM meetings with stakeholders to discuss concerns and issues – 2 Marc Road property owner Ellen Rosenfeld, Dan Merrikin (project engineer for Ellen Rosenfeld), Andy Caballaria (Acentech, noise consultant for Ellen Rosenfeld), PEDB member Tom Gay, abutter John Lally, and Town staff.
- Attend at least two PEDB meetings to discuss findings and recommendations and obtain feedback.
- Prepare revisions to the proposed noise standards based upon the above input as well as acceptable professional standards.

2.0 PRICING

This project will be on a time & material not to exceed basis subject to the terms and conditions at the end of this proposal. The price for this effort as outlined above is \$6,900 and includes up to 30 hours for a Senior Engineer plus travel expenses to attend two PEDB meetings in person. Only actual time will be billed.

3.0 PROJECT MANAGEMENT

This project will be under the supervision of Mr. Jeffrey Komrower, Senior Acoustical Engineer and will be assisted by other NCE engineers as needed. Mr. Komrower holds a B.S. in Mechanical Engineering from Rensselaer Polytechnic Institute and a M.S. in Ocean Engineering from Florida Atlantic University. Mr. Komrower has over 40 years of experience in the noise and vibration field and has been the project manager for noise control efforts on US Navy Aircraft Carriers and for the Bureau of Reclamation Hydroelectric Powerplants including the Grand Coulee Powerhouses and Hoover Dam Powerplant. Mr. Komrower has extensive experience in environmental noise issues and has been involved in numerous projects where these issues needed to be addressed.

4.0 CONTRACTUAL TERMS

This proposal is accepted with the scope of work, schedule and pricing as indicated within the body of this proposal. All terms and conditions follow this page or are attached as a separate document.

PROPOSAL TITLE:	Consulting Services for Noise Standards Review and Revision
NCE Proposal #:	P5097.21
Prepared For:	Town of Medway, MA
Accepted By: (Print Name)	
Title	
Signature and Date	
BILLING INFORMATION	
Accounts Payable Contact Person:	
Company Name:	
Street Address:	
City, State & Zip:	
Phone Number:	
Email:	
Special Instructions for Invoicing	

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1. **PROFESSIONAL SERVICES – FIXED FEE.** Where the scope of services, including reimbursable expenses, subcontracts, and outside services can be clearly defined, Noise Control Engineering will customarily bill for services on a fixed fee basis. Invoices for fixed fee services will be issued monthly based on estimated percent of work scope complete unless other billing milestones and schedules are established.
2. **PROFESSIONAL SERVICES – TIME & MATERIALS.** When fixed fee services are not appropriate, Noise Control Engineering will bill on a time & materials basis to a mutually agreed-upon budget. Invoices for time & materials services will be issued monthly for: Hourly fees for services —based on time, including travel time, expended on the project by professional, technical, and administrative personnel.

Reimbursable expenses – billed at cost plus G&A and fee, including costs for travel out of the office as well as items such as non-routine communication, reproduction, and delivery charges.

Subcontracts and outside services – billed at cost plus G&A and fee, with copies of all invoices from subcontractor or outside service provider.
3. **INVOICING AND PAYMENT.** Invoices will be submitted monthly for the prior month's services. Payment is due upon the invoice date and becomes delinquent thirty (30) days thereafter. A late charge will be added to delinquent amounts at the rate of 1½ percent for each thirty (30) days delinquency.
4. **SCOPE OF PROFESSIONAL SERVICES.** The entire basic scope of professional services to be provided by Noise Control Engineering is described in the attached Proposal. If mutually agreed to in writing by Client and Noise Control Engineering, additional services may be added to the basic scope of service, understanding that payment and schedule will be adjusted accordingly.
5. **PUBLIC LIABILITY & WORKERS' COMPENSATION.** Noise Control Engineering is protected by public liability insurance for bodily injury and property damage, and will furnish a certificate thereof upon request. Noise Control Engineering is also protected by Massachusetts Industrial Insurance (Workers' Comp) as required by state statute.
6. **LIMITATIONS OF PROFESSIONAL LIABILITY.** No warranty, express or implied, is made or intended by our proposal for consulting services, by our furnishing oral or written reports, or by our inspection of work. In recognition of the relative risks and benefits of the project to the Client and to Noise Control Engineering, the Client agrees, to the fullest extent permitted by law, to limit the liability of Noise Control Engineering, its parent company, and all Noise Control Engineering subsidiaries and subcontractors supporting the project for any and all claims, losses, damages, or incurred expenses from any cause, so that the total aggregate liability to Noise Control Engineering, its parent company, and all subsidiaries and subcontractors supporting the project is limited to \$50,000 or the total fee paid for the project, whichever is less. Such claims and losses include, but are not limited to negligence, professional errors or omissions, strict liability, and breach of contract.
7. **OTHER PROVISIONS.**
 - (i) One or more waivers by either or both parties of any provision, part of any provision, term, condition, or covenant of this agreement shall not be construed as a waiver by either party of any other provision, part of any other provision, term, condition, or covenant of this agreement.
 - (ii) Unless specifically stated in the attached Proposal, Noise Control Engineering, its parent company, and all Noise Control Engineering subsidiaries and subcontractors have no responsibility for discovery, presence, handling, removal, disposal, or exposure of personnel to hazardous or toxic materials in any form as part of the project scope.
 - (iii) Unless specifically stated in the attached Proposal, it is understood that Noise Control Engineering will not provide design and construction review services relating to safety precautions of any contractor or subcontractor on the project and further, it is understood that Noise Control Engineering will not provide any supervisory services relating to the construction of the project. Any opinions from Noise Control Engineering relating to any such review or supervisory services shall be considered only as general information and shall not be the basis for any claim against Noise Control Engineering, its parent company, or its subsidiaries and subcontractors.
 - (iv) Any opinion of project cost offered by Noise Control Engineering represents the judgment of a design professional and is supplied only for general guidance, but Noise Control Engineering does not warrant the accuracy of its opinion as compared to actual contractor bids or actual cost.
8. **DELAYS.** Noise Control Engineering will prepare reports, drawings, and specifications in a timely manner, consistent with professional care and the orderly progress of work. It is understood that a time extension will be granted to Noise Control Engineering for any and all delays beyond our control (including delays in work being done by subsidiaries and subcontractors) and which could not reasonably have been foreseen at the time this agreement was executed.

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9. **TERMINATION.** Either party may terminate this agreement with seven (7) days' written notice to the other in the event of a substantial failure of performance, including non-payment, by the other party through no fault of the terminating party. If this agreement is terminated, Noise Control Engineering shall be paid for services performed up to the termination notice date, including reimbursable expenses and subcontract obligations.

10. **OWNERSHIP OF DOCUMENTS.** Drawings, specifications and other documents, including those in electronic form, prepared by Noise Control Engineering, its parent company, and its subsidiaries and subcontractors, are instruments of service for use solely with respect to this project. Noise Control Engineering is the owner of these instruments of service and retains all common law, statutory and other reserved rights, including copyrights. Noise Control Engineering grants to Client a non-exclusive license to reproduce Noise Control Engineering's instruments of service solely for purposes of constructing, and using and maintaining the project, provided the Client complies with all obligations, including payment of all sums when due, under this agreement. Any termination of this Agreement prior to completion of the project shall terminate this license. Any subsequent use or changes to the instruments of service not made or specifically approved by Noise Control Engineering shall be at Client's sole risk and without liability to Noise Control Engineering, its parent company, or its subsidiaries and subcontractors.

11. **ELECTRONIC DOCUMENT TRANSMITTAL.** Noise Control Engineering accepts liability and responsibility only for instruments of service that can be verified as having been produced and released by Noise Control Engineering or its subsidiaries and subcontractors as indicated in hard copies by a hand-applied signature or in electronic copies by a verifiable digital signature. Drawings, Specifications, and other Documents supplied in electronic form as editable or native format files are provided solely for convenience of the Client as non-verifiable information and therefore will not be considered instruments of service. By accepting delivery of non-verifiable electronic files, the Client acknowledges that information in the electronic files may be incorrect and/or in conflict with the contracted instruments of service.

12. **VENUE.** This agreement shall be interpreted and enforced in accordance with the laws of the State of Washington. The venue of any action brought to interpret or enforce any of the terms of this agreement or otherwise adjudicate the rights or liabilities of the parties hereto shall be in King County, Washington.