

CITY OF FRANKLIN  
QUARRY MONITORING COMMITTEE\*  
MEETING AGENDA

Franklin City Hall, Common Council Chambers  
9229 W. Loomis Road, Franklin, Wisconsin 53132  
Thursday, January 31, 2019, 6:00 p.m.

- I. Call to Order and Roll Call
- II. Approval of Minutes
  - a. Regular meeting of January 9, 2019.
- III. Citizen Comment Period

PLEASE NOTE: Due to the anticipated number of citizens who may attend, each speaker may need to be limited to three minutes, allowing everyone who wishes the opportunity to speak.
- IV. Hearings
  - a. None.
- V. Business (Action may be taken on any item)
  - a. Update from the Quarry Monitoring Committee Aldermanic Representatives related to Item G.4. of the January 22, 2019 Common Council meeting, with further action(s) as may be needed as a result of the Council's direction.
    - i. Review and discussion related to quarry information updates needed on the City's website.
    - ii. Review and discussion to replace the citizen quarry informational pamphlet with a short news article and web link, per Council direction.
    - iii. Review and discussion of citizen questions pertaining to the Payne & Dolan quarry blast of October 1, 2018, and mapping for history, biannual report requirement, and website update use.
    - iv. Consideration of continued Quarry Monitoring Services for 2019.
    - v. Consideration for a suggested resolution via a detailed write up to the Common Council related to the survey and the centerline of S. 51<sup>st</sup> Street.
    - vi. Status report on the review of the Planned Development District Ordinances by the Common Council.
    - vii. Status report on the Updated Quarry Reclamation Plan prepared by Payne & Dolan and recommended for approval by the Quarry Monitoring Committee.

- b. Updates from the Planning Manager about matters pertaining to citizen complaints, staff's quarry monitoring activities, and the consultant's quarry monitoring activities.

## VI. Schedule Next Meeting

## VII. Adjournment

*\*Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which the Common Council has decision-making responsibility. This may constitute a meeting of the Common Council per State ex rel. Badke v. Greendale Village Board, even though the Common Council will not take formal action at this meeting.*

*Notice is further given that upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, please contact the Franklin City Clerk's office at (414) 425-7500.*

**City of Franklin**  
**Quarry Monitoring Committee Meeting**  
**January 9, 2019**  
**Minutes**

unapproved

**I. CALL TO ORDER**

Alderswoman Wilhelm called the January 9, 2019 Quarry Monitoring Committee meeting to order at 6:00 p.m. in the Hearing Room at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Alderswoman Kristen Wilhelm, Alderman Mike Barber, Member Margie Shore, Member Fred Knueppel, and Member Andrew Ruffing. Also present were Alderman John Nelson, Planning Manager Joel Dietl, Clint Weninger and David Klein of Payne & Dolan, and Mike Roznowski of Stantec Consulting Services Inc.

**II. APPROVAL OF MINUTES**

- a. Regular meeting of November 29, 2018.

Alderman Barber moved and Member Knueppel seconded approval of the November 29, 2018 minutes of the regular meeting of the Quarry Monitoring Committee with corrections as noted. On voice vote, all voted 'aye'. Motion carried.

**III. CITIZEN COMMENT PERIOD**

12 persons spoke in regard to a number of quarry related issues and concerns including but not limited to Committee appointments, Committee packets and other related information, the status of the questions previously raised by neighbors of the quarry, changes to the Planned Development District, etc.

**IV. HEARINGS**

- a. None.

No action needed. None taken.

**V. BUSINESS**

- a. Review and discussion of citizen questions pertaining to the Payne & Dolan quarry blast of October 1, 2018 and other related matters, including Mayor Olson's letter to Mr. Clint Weninger of Payne & Dolan dated December 16, 2018.

Mr. Mike Roznowski and the Quarry Monitoring Committee (QMC) discussed the questions previously submitted by neighbors of the quarry, and the responses to many of those questions provided by Mr. Roznowski.

Alderswoman Wilhelm presented a number of historic maps and aerials of the quarry area, and requested that discussion of these maps be included on the QMC's next agenda.

The QMC discussed other questions submitted by neighbors of the quarry. The QMC also discussed that the Aldermanic representatives should prepare a Common Council Action Sheet to present to the Common Council the topics discussed at this meeting, including the newsletter/flyer, the questions submitted by the neighbors of the quarry, and follow up to the motion made at the December 4, 2018 Common Council meeting regarding potential recommendations from the Quarry Monitoring Committee.

Furthermore, citizens present and the QMC discussed the letter from Mayor Olson to Mr. Weninger dated December 16, 2018. Alderman Barber and Member Knueppel stepped out at 8:19pm and returned at 8:23pm.

b. Consideration of Continued Quarry Monitoring Services for 2019.

Mr. Roznowski presented a summary of the past monitoring efforts undertaken by Stantec Consulting Services Inc. Mr. Roznowski then summarized his anticipated contract for 2019, which would include two monitors which would provide online 24/7 monitoring capability for approximately 10 months, and slightly less visual monitoring, to ensure that the costs stay within the budgeted amount for such monitoring.

Alderman Barber moved and Member Knueppel seconded a motion that the Quarry Monitoring Committee directs the Aldermanic representatives to present the proposed 2019 Quarry Monitoring budget, the remaining budget amount from 2018, and the contract to the Common Council at its January 22, 2019 meeting contingent upon review by the Quarry Monitoring Committee and of no objections, with the Mayor's signature to be held until the Quarry Monitoring Committee makes its final recommendation. On voice vote, all voted 'aye'. Motion carried.

c. Updates from the Planning Manager about matters pertaining to citizen complaints, staff's quarry monitoring activities, and the consultant's quarry monitoring activities.

Planning Manager Dietl indicated that the City had received 8 blast complaints since the Committee's last meeting. Of these, one complaint was about a blast event on December 6th, 4 complaints were about a blast event on December 10<sup>th</sup>, and of other blast events December 12th (1), December 17th (1), and December 21st (1). Staff review of these events indicates that all of the events were within the PDD blast limits.

Planning Manager Dietl also indicated that the quarry was still open and blasting, and that the City website was fixed so that copies of the Ordinances for Planned Development District No. 23 and 24 could be accessed.

d. Status Report on the Updated Quarry Reclamation Plan prepared by Payne & Dolan and Recommended for Approval by the Quarry Monitoring Committee.

Planning Manager Dietl indicated that the Plan, which had been recommended for approval by the Quarry Monitoring Committee, has not yet been submitted to the Plan Commission nor to the Common Council.

## VI. SCHEDULE NEXT MEETING

It was agreed that the next meeting of the Quarry Monitoring Committee would be on January 31, 2019 or February 14, 2019 with staff to confirm that a quorum would be present.

## VII. ADJOURNMENT

Alderman Barber moved and Member Ruffing seconded to adjourn the January 9, 2019 Quarry Monitoring Committee meeting at 9:02 p.m. All present voted 'aye'; motion carried.

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">January 22, 2019</p>
<p style="text-align: center;"><b>REPORTS AND RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Update from the Quarry Monitoring Committee on the suggested potential recommendations to address citizen questions and concerns, as directed the by Common Council.</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>G.H.</i></p>

At the December 4, 2018 meeting of the Common Council, Alderman Taylor moved to direct staff to review and address all of the suggested potential recommendations from the Quarry Monitoring Committee (QMC) and return to the Common Council when appropriate upon sufficient fact finding, with an update no later than February 1, 2019. Seconded by Alderman Dandrea. All voted Aye: motion carried.

The below potential recommendations are a direct result of citizen comments and questions. Given the QMC is a recommending body to the Council, any direction or action on the listed items would fall under the jurisdiction of the Common Council.

**Citizen requests that can be addressed by staff direction:**

1. Add Quarry packets to the online system (Mark L.)
2. Quarry information on the website to be updated (Mark L.)
3. QMC meetings held in the Council chambers for better sound and recording (Joel D.)
4. Previous QMC article to be distributed to residents (1-pg. newsletter of website information and associated cost)
5. Allow citizen access to online blasting information (in progress – Joel/Stantec)
6. Continue to work on citizen questions to bring back before the Council (as previously directed)
  - Note: Many of the questions pertaining to item 6 have been answered but need to be collated and summarized. This is to be placed on the February agenda.

**Citizen requests that involve additional Council attention:**

1. Renew the monitoring contract (see Stantec contract on agenda)
  2. Provide additional monitoring when blasting is not halted over the winter season (see Stantec contract)
  3. Approval a different monitoring system as suggested by Stantec (see Stantec contract)
  4. Review of the Stantec survey related to the blasting distance from the S. 51<sup>st</sup> St. centerline (as set within the PDD)
  5. Review proximity to homes and current blasting levels allowed (as set within the PDD)
  6. Review QMC appointments in consideration of adding interested citizens (some terms are ending in 2019)
  7. Update the Council on the content and status of the *Quarry Reclamation Plan* (QMC completed its review)
- \* Note: 1-3 Could be addressed within the renewed Stantec monitoring contract on the agenda.

**COUNCIL ACTION REQUESTED**

1. Motion to direct staff to act upon the citizen requests as enumerated within items 1-6 (state which or all items to be acted upon) with an update by (set date).  
and
2. Motion to bring forth for Council action items 1-7 (or state which items) with an update by (date).

**From:** [Shirley Roberts](#)  
**To:** [Gail Olsen](#)  
**Cc:** [Sandi Wesolowski](#)  
**Subject:** RE: Draft Motion  
**Date:** Friday, January 25, 2019 11:13:53 AM

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Here it is below:

QUARRY  
MONITORING

G.4. Alderwoman Wilhelm moved to direct staff to act upon the following citizen requests, with an update by the second meeting in March, 2019:  
Seconded by Alderman Barber. All voted Aye; motion carried.

Alderwoman Wilhelm further moved to bring forth the following Council action items, with an update by the second meeting in March, 2019:  
Seconded by Alderman Barber. All voted Aye; motion carried.

**Shirley Roberts, Deputy  
City Clerk**

City of Franklin  
City Clerk's Office  
9229 West Loomis Road  
Franklin, WI 53132  
[sroberts@franklinwi.gov](mailto:sroberts@franklinwi.gov)  
Phone: 414-425-7500  
Fax: 414-425-6428

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**From:** Gail Olsen  
**Sent:** Friday, January 25, 2019 9:44 AM  
**To:** Shirley Roberts  
**Cc:** Sandi Wesolowski  
**Subject:** Draft Motion  
**Importance:** High

Shirley –

Can you please send me a draft motion from Item G.4 of the January 22nd Common Council? This is for our Quarry Packets that need to mail today.

Thank you,

Gail Olsen  
Planning Secretary - Department of City Development

City of Franklin  
9229 W. Loomis Road  
Franklin, Wisconsin 53132  
Phone: 414-425-4024  
Fax: 414-427-7691



10/22/18 Franklin Scale9600 Lat N42.9092 Lon W087.9898 Trk181 Run001 Photo0041

WILD 15/4 UAG-S  
Nr. 13391 153.80

0041



FS200 1/ 600 f/4.0 FF2.0 EC 0 SP- v/h.07294 00% dt008.8 ds017 25.2V -68mb ER00 CAM5363





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**PAYNE & DOLAN**  
INCORPORATED  
A WALBEC GROUP COMPANY

January 18, 2019

Mr. Joel Dietl  
Department of City Development  
9229 W. Loomis Road  
Franklin, WI 53132

**Subject: Annual Aerial Photos (2018)**

Dear Mr. Dietl:

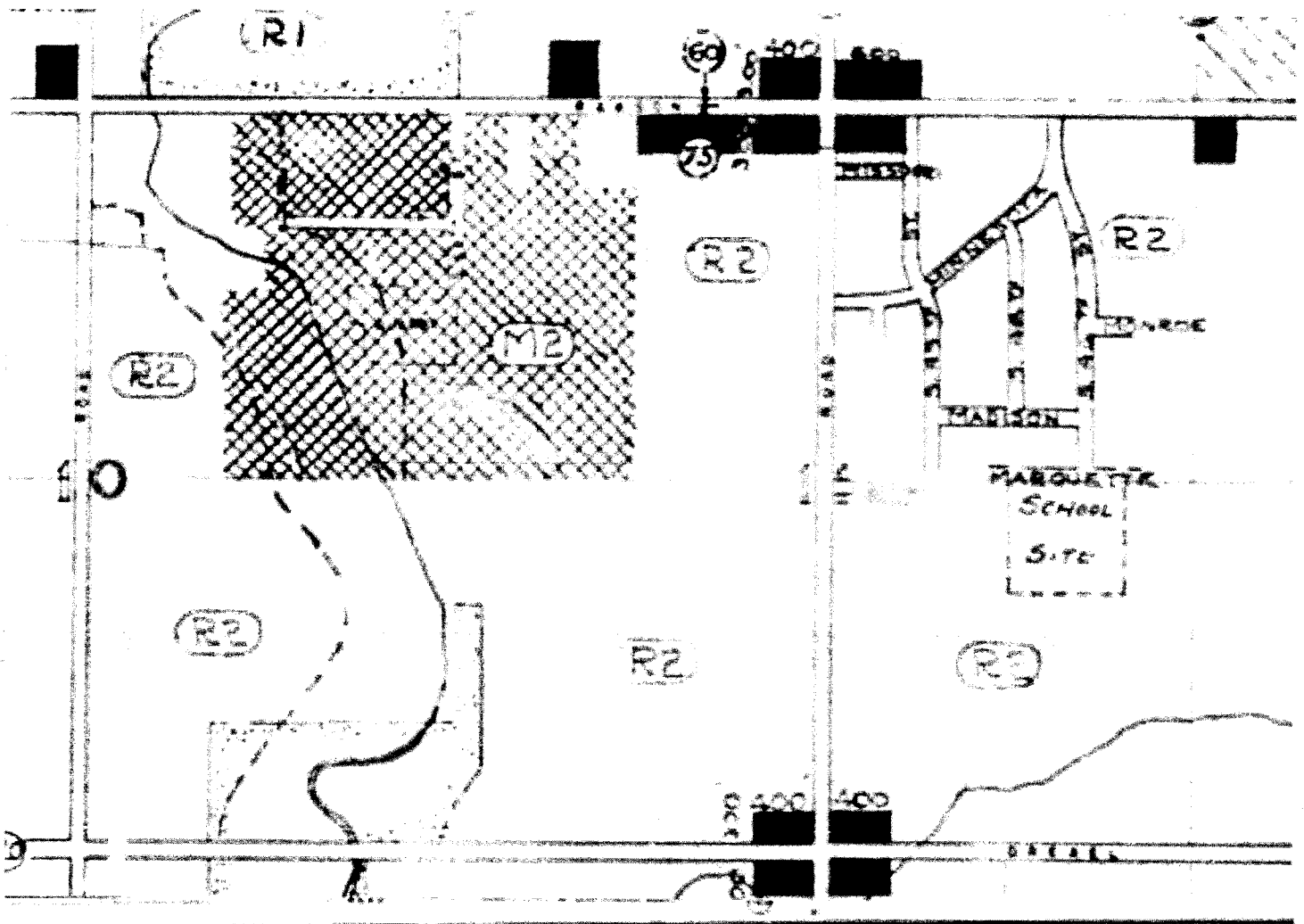
As required by PDD #97-1456 & PDD #97-1457 (or PDD #23 and PDD #24), I have enclosed two copies of the 2018 aerial photo of the Franklin Aggregates quarry located on Rawson Avenue. The photo was taken on October 22, 2018 and encompasses an area large enough to include both PDD #23 and PDD #24.

Please do not hesitate to contact me in the office at (262) 524-1258, if you have any additional questions and/or would like some additional information.

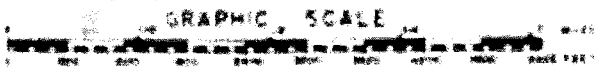
Sincerely,

**Payne & Dolan, Inc.**

Clint Weninger, P.G.  
Land Resources Manager



ZONING MAP  
OF  
**CITY OF FRANKLIN**  
MILWAUKEE COUNTY, WISCONSIN



ADOPTED BY THE COMMON COUNCIL OF CITY OF FRANKLIN  
OF MILWAUKEE COUNTY ON NOVEMBER, 10, 1959

↑  
1959

1937

1937 Grey

1951 Grey

1953 Grey

1957 Grey

1970 Grey

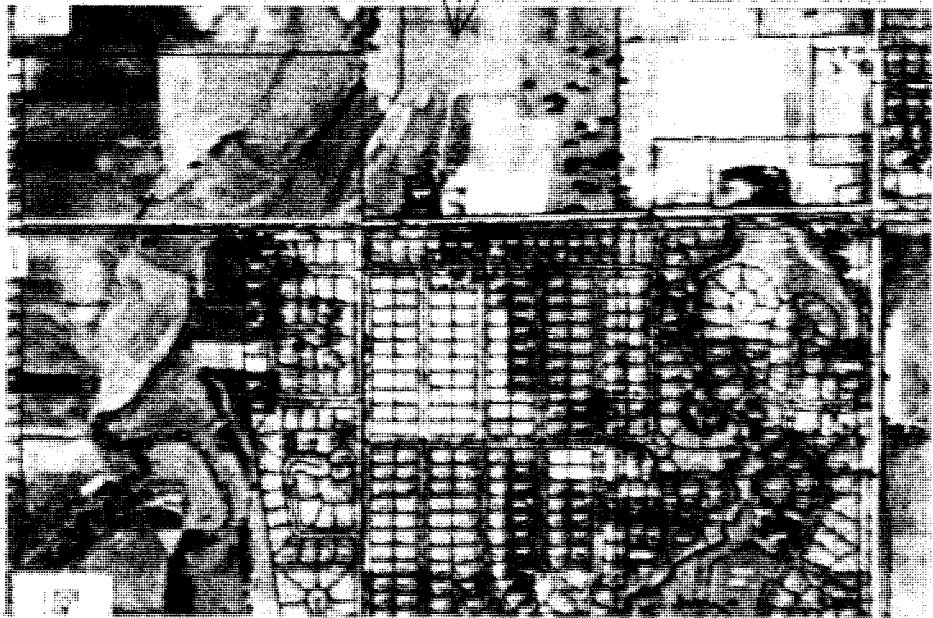
1975 Grey

1976 Color - Partial

1980 Grey

1985 Grey

1990 Grey



2000 Grey

2005 Color

2010 Color

2013 Color

2015 Color

2018 Color

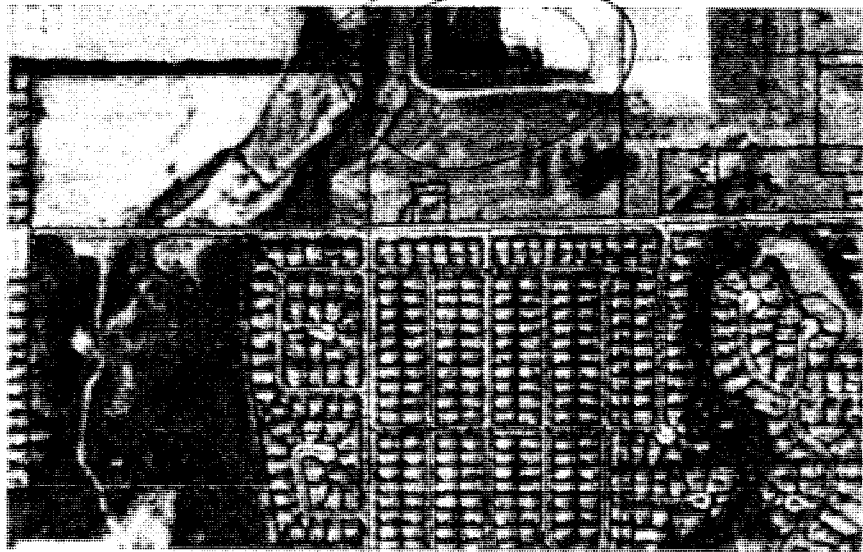
2018

Basemaps

Street Labels

Cathedral Basemap

Haverhill



(1930-1989)

WATER WELL INSTALLATION DATES



RESIDENTIAL CUSTOMER  
FRANKLIN, WI 53132



## Introduction to the Payne & Dolan Quarry

There is one active quarry area in the City of Franklin. It is located in the northeastern portion of the City, from Rawson Avenue on the north to Drexel Avenue on the south and from 51st Street on the east to the Root River on the west. It is owned by Payne & Dolan, Inc.

The primary activity at the quarry is the creation and extraction of “aggregate” or crushed limestone. After removing surface materials, the exposed limestone bedrock is blasted with explosives. It is then crushed, washed, and sorted for use in various construction projects throughout southeastern Wisconsin, including asphalt production which occurs in two asphalt plants located in the bottom of the quarry pit itself. Blasting typically occurs a few times each week, and over the past four years, averages about 115 times a year.

Multiple state and federal agencies regulate and issue permits and periodically inspect aspects of the mine and its operations. The City of Franklin is also involved in oversight since the quarry is also subject to regulations mutually agreed upon, most recently in 1997. The agreements are documents titled Planned Development District (PDD) No. 23 and Planned Development District (PDD) No. 24, which address issues such as the hours of operation, setbacks that limit the area of operations, blasting limits and monitoring, and air quality standards. The PDDs require the quarry operator to monitor and record all of its blasts and sets blasting limits that are more strict than State requirements. They also require the quarry operator to pay the City to hire professional consultants to independently monitor blasting on behalf of the City. Importantly, a local committee of appointed citizen volunteers (*the Quarry Monitoring Committee*) provides additional oversight of the operations and its impacts and provides input directly to the Common Council.

**For more interesting and detailed information about the quarry, including maps, aerial views, and the PDDs, go to the City’s website at <https://www.franklinwi.gov/Home/Departments/Planning/QuarryMonitoring.htm>. The City is actively working to continue to improve the level of information available at this site.**

**Quarry complaints and concerns can be reported at the City’s website at <https://www.franklinwi.gov/Home/ResourcesDocuments/OnlineForms/QuarryEventComplaintForm.htm>. Additional questions can be emailed to the City of Franklin Planning Manager at [generalplanning@franklinwi.gov](mailto:generalplanning@franklinwi.gov).**

<b>APPROVAL</b>  <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  01/22/2019
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>REVIEW OF THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF FRANKLIN AND STANTEC CONSULTING SERVICES INC. FOR QUARRY MONITORING SERVICES FOR 2019</b>	<b>ITEM NUMBER</b>  <i>6.5.</i>

**INTRODUCTION**

At its January 9, 2019 meeting, the Quarry Monitoring Committee approved a motion to direct the Aldermanic representatives to present the proposed 2019 quarry monitoring budget, the remaining budget amount from 2018, and the contract to the Common Council at its January 22, 2019 meeting contingent upon review by the Quarry Monitoring Committee and of no objections, with the Mayor's signature to be held until the Quarry Monitoring Committee makes its final recommendation. It can be noted that the Quarry Monitoring Committee's next meeting is scheduled for January 31, 2019.

The proposed draft Professional Services Agreement with Stantec Consulting Services Inc. (including a Quarry Monitoring Services Scope of Work and Associated Cost is hereby attached, as well as an email from Mr. Mike Roznowski providing some background explanation of the proposed scope of work and costs.

**CONTRACT SUMMARY**

It can be noted that this would be the seventh consecutive year such a contract has been entered into with Stantec Consulting Services Inc. for quarry monitoring services. Similar to previous years, this contract includes blast monitoring services, onsite operations monitoring, and an end-of-year report. Similar to last year, is a line item titled "Blast Complaint Evaluation". This was added last year by the Quarry Monitoring Committee in order to review blast complaints in comparison with the blast monitoring data compiled by Payne & Dolan's consultant. The intent is to look for trends, patterns, etc.

New this year, under the Blast Monitoring line item, is the installation/use of two seismographs, which will provide continuous (24/7) remote monitoring.

In addition, Stantec Consulting Services and the Quarry Monitoring Committee have indicated that approximately \$7,800 of the total \$43,300 that was budgeted for quarry monitoring in 2018 was not billed nor spent. As noted above in the Quarry Monitoring Committee's motion and related discussion, the Committee would like consideration of this amount of money to be added to the 2019 quarry monitoring budget. However, the Director of Finance has indicated that these funds are an unused appropriation which has no resources.

**COUNCIL ACTION REQUESTED**

Motion to approve the Quarry Monitoring Professional Services Agreement with Attachment A containing service details and costs as provided by Stantec Consulting Services Inc., contingent upon review by the Quarry Monitoring Committee and of no objections, with the Mayor's signature to be held until the Quarry Monitoring Committee makes its final recommendation, and to authorize staff to enter into said agreement not to exceed \$46,000 subject to technical corrections by staff and the City Attorney.

-or-

Such other action as the Common Council may determine.

## PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (hereinafter "AGREEMENT"), made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, between the City of Franklin, 9229 West Loomis Road, Franklin, Wisconsin 53132 (hereinafter "the CITY") and Stantec Consulting Services Inc. (hereinafter "the CONTRACTOR"), whose principal place of business is 12075 Corporate Parkway, Suite 200, Mequon, Wisconsin 53092.

### WITNESSETH

WHEREAS, the CONTRACTOR is duly qualified and experienced as a quarry monitoring service contractor and has offered services for the purposes specified in this AGREEMENT; and

WHEREAS, in the judgment of the CITY, it is necessary and advisable to employ the CONTRACTOR in connection with providing quarry monitoring services, as described in Attachment A, for the City of Franklin.

NOW, THEREFORE, in consideration of these premises and the following mutual covenants, terms, and conditions, the CITY and the CONTRACTOR agree as follows:

#### I. BASIC SERVICES AND AGREEMENT ADMINISTRATION

- A. The CONTRACTOR shall provide services to the CITY for the quarry monitoring activities specified in Attachment A, which is attached and incorporated herein by reference.
- B. The CONTRACTOR shall serve as the CITY's professional representative in matters to which this AGREEMENT applies. The CONTRACTOR may employ the services of outside consultants and subcontractors when deemed necessary by the CONTRACTOR to complete work under this AGREEMENT following approval by the City for each such type of use.
- C. The CONTRACTOR is an independent contractor and all persons furnishing services hereunder are employees of, or independent subcontractors to, the CONTRACTOR and not of the CITY. All obligations under the Federal Insurance Contribution Act (FICA), the Federal Unemployment Tax Act (FUTA), and income tax withholding are the responsibility of the CONTRACTOR as employer. The CITY understands that express agreements may exist between the CONTRACTOR and its employees regarding extra work, competition, and nondisclosure.

## **II. FEES AND PAYMENTS**

The CITY agrees to pay the CONTRACTOR, as set forth in Attachment A, for an in consideration of the performance of Services as set forth in Attachment A, except as such services and fees may otherwise be amended in accordance with and as provided for by the terms of this agreement.

- A. The CONTRACTOR shall invoice the CITY at least quarterly but not more than once monthly for and following performance of services and delivery of required reports to the City. The invoice shall include base costs and any adjustment for additional services as provided for herein. The CITY shall pay any undisputed invoices within 30 days of receipt. Alternatively, the CITY shall notify the CONTRACTOR of any dispute to an invoice, and the nature of the dispute, within 30 days of receipt of the invoice.
- B. In consideration of the faithful performance of this AGREEMENT, the CONTRACTOR will not exceed the fee for Services without written authorization from the CITY to perform work over and above that described in this original AGREEMENT, including Attachment A.
- C. Should the CITY find deficiencies in work performed or reported, it will notify the CONTRACTOR in writing within thirty (30) days of receipt of invoice and related report and the CONTRACTOR will remedy the deficiencies within thirty (30) days of receiving the CITY's notice, which period may be extended by mutual agreement of the CONTRACTOR and the CITY's Planning Manager. This Subsection shall not be construed to be a limitation of any rights or remedies otherwise available to the CITY.

## **III. MODIFICATION AND ADDITIONAL SERVICES**

- A. This AGREEMENT may only be amended by written instrument signed by both the CITY and the CONTRACTOR.
- B. The CITY may, in writing, request changes in the scope of work required to be performed by the CONTRACTOR under this AGREEMENT. Upon acceptance of the request of such changes, the CONTRACTOR shall submit a "Change Order Request Form" to the CITY for authorization, notice to proceed, and signature. Following execution the City shall return a copy to the CONTRACTOR. Should any such changes be made, an equitable adjustment (based upon fees, costs, and rates set forth in Attachment A and/or CONTRACTOR's original written response to the RFP, where applicable) will be made to compensate the CONTRACTOR or reduce the fixed price, for any incremental or decremental labor or direct costs, respectively. Any claim by the CONTRACTOR for adjustments hereunder must be made to the CITY in writing no later than forty-five (45) days after receipt by the CONTRACTOR of notice of such changes from the CITY.



**IV. ASSISTANCE AND CONTROL**

- A. Michael Roznowski, Principal, will serve as Project Manager and will coordinate the work of the CONTRACTOR, and will be solely responsible for communication within the CITY's organization as related to all issues originating under this AGREEMENT.
- B. Joel Dietl, Planning Manager, will serve as the representative of the City for all issues relating to administration of this AGREEMENT

**V. TERMINATION**

- A. This AGREEMENT may be terminated by either party to this AGREEMENT upon thirty (30) days written notice. Upon such termination by the CITY, the CONTRACTOR shall be entitled to payment of such amount as shall fairly compensate the CONTRACTOR for all work approved and completed up to the date of termination, except that no amount shall be payable for any losses of revenue or profit from any source outside the scope of this AGREEMENT, including but not limited to, other actual or potential AGREEMENTS for services with other parties.
- B. In the event that this AGREEMENT is terminated for any reason, the CONTRACTOR shall deliver to the CITY all data, reports, summaries, correspondence, and other written, printed, or tabulated material pertaining in any way to services that the CONTRACTOR may have accumulated. Such material is to be delivered to the CITY whether in completed form or in process.
- C. The rights and remedies of the CITY and the CONTRACTOR under this section are not exclusive and are in addition to any other rights and remedies provided by law or appearing in any other article of this AGREEMENT.
- D. Failure to maintain the designated staff (as identified herein and in CONTRACTOR'S original response to the RFP) or such similarly qualified staff as determined by the City may lead to termination of the agreement, as determined by the City.

**VI. INSURANCE**

The CONTRACTOR shall, during the life of the AGREEMENT, maintain insurance coverage, with an authorized insurance carrier operating within the State of Wisconsin, at least equal to the minimum limits set forth below:

- A. Limit of General/Commercial Liability \$2,000,000
- B. Automobile Liability: Bodily Injury/Property Damage \$1,000,000
- C. Excess Liability for General Commercial or Automobile Liability \$3,000,000
- D. Worker's Compensation and Employers' Liability \$500,000 or per statute  
whichever is greater

E. Professional Liability

\$1,000,000

Upon the execution of this AGREEMENT, the CONTRACTOR shall supply the CITY with a suitable statement certifying said protection and defining the terms of the policy issued, which shall specify that such protection shall not be cancelled without thirty (30) calendar days prior notice to the CITY, and naming the CITY as an additional insured for General Liability.

## **VII. INDEMNIFICATION AND ALLOCATION OF RISK**

- A. To the fullest extent permitted by law, the CONTRACTOR shall indemnify and hold harmless the CITY and the CITY's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of the CONTRACTOR or the CONTRACTOR's officers, directors, partners, employees, and consultants in the performance of the CONTRACTOR's services under this AGREEMENT.
- B. To the fullest extent permitted by law, the CITY shall indemnify and hold harmless the CONTRACTOR and the CONTRACTOR's officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of the CITY or the CITY's officers, directors, partners, employees, and consultants with respect to this AGREEMENT.
- C. To the fullest extent permitted by law, the CONTRACTOR's total liability to the CITY and anyone claiming by, through, or under the CITY for any injuries, losses, damages and expenses caused in part by the negligence of the CONTRACTOR and in part by the negligence of the CITY or any other negligent entity or individual, shall not exceed the percentage share that the CONTRACTOR's negligence bears to the total negligence of the CITY, the CONTRACTOR, and all other negligent entities and individuals.
- D. Nothing contained within this agreement is intended to be a waiver or estoppels of the contracting municipality or its insurer to be entitled to and/or to rely upon the limitations, defenses, and immunities contained within Wisconsin law, including those contained within Wisconsin Statutes 893.80, 895.52, and 345.05. To the extent that indemnification is available and enforceable, the municipality or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin Law.

## **VIII. TERM AND TIME FOR COMPLETION**

- A. The initial term of this agreement shall be eleven months from receipt of a Notice to Proceed. The term anticipates monitoring and at-quarry work occurs for ten

months, thereby leaving one month to compile, report, and present results for the final period and to provide any required summary information and recommendations.

- B. In order to enable the City to evaluate its complete quarry monitoring program and to consider altering the scope of work required for future years, the initial term may be extended for a period and for terms as mutually agreed to in writing by the CITY and the CONTRACTOR. Each such subsequent term may also be extended for a period and for terms as mutually agreed to in writing by the CITY and the CONTRACTOR.
- C. The CONTRACTOR shall commence immediately upon receipt of a Notice to Proceed, not to exceed 30 days from the date approved by the Common Council.

## **IX. DISPUTES**

This AGREEMENT shall be construed under and governed by the laws of the State of Wisconsin. The venue for any actions arising under this AGREEMENT shall be the Circuit Court for Milwaukee County. The prevailing party shall be awarded its actual costs of any such litigation, including reasonable attorney fees.

## **X. RECORDS RETENTION**

The CONTRACTOR shall maintain all records pertaining to this AGREEMENT during the term of this AGREEMENT and for a period of not less than three (3) years following its completion. Such records shall be made available by the CONTRACTOR to the CITY for inspection and copying upon request.

## **XI. CONFLICT OF INTEREST**

The nature of this project requires an impartial, unbiased approach on the part of the CONTRACTOR. The CONTRACTOR shall not, during the performance of these services, engage in any other professional relationship or representation that would create any type of conflict or conflict of interest with regard to the consulting services provided hereby to and for the CITY.

Further, the CONTRACTOR warrants that neither it nor any of its affiliates has any financial or other personal interest that would conflict in any manner with the performance of the services under this AGREEMENT and that neither it nor any of its affiliates will acquire directly or indirectly any such interest. The CONTRACTOR warrants that it will immediately notify the CITY if any actual or potential conflict of interest arises or becomes known to the CONTRACTOR. Upon receipt of such notification, a review and written approval by the CITY is required for the CONTRACTOR to continue to perform work under this AGREEMENT.

## **XII. PROFESSIONALISM**

The CONTRACTOR stipulates that the same degree of care, skill and diligence shall be exercised in the performance of the services as is possessed and exercised by a member of the same profession, currently practicing, under similar circumstances, and all persons providing such services under this AGREEMENT shall have such active certifications, licenses and permissions as may be required by law.

**XIII. PURSUANT TO LAW**

Notwithstanding anything to the contrary anywhere else set forth within this AGREEMENT, all services and any and all materials and/or products provided by the CONTRACTOR under this AGREEMENT shall be in compliance with all applicable governmental laws, statutes, decisions, codes, rules, orders, and ordinances, be they Federal, State, County or Local.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed on the day and year first above written.

CITY OF FRANKLIN, WISCONSIN

CONTRACTOR

BY: \_\_\_\_\_

BY: \_\_\_\_\_

PRINT NAME: Stephen R. Olson

PRINT NAME: \_\_\_\_\_

TITLE: Mayor

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

PRINT NAME: Sandra L. Wesolowski

PRINT NAME: \_\_\_\_\_

TITLE: City Clerk

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

PRINT NAME: Paul Rotzenberg

PRINT NAME: Jesse Wesolowski

TITLE: Director of Finance and Treasurer

TITLE: City Attorney

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## QUARRY MONITORING SERVICES

### SCOPE OF WORK AND ASSOCIATED COST

The following scope of work items, each with their own associated professional fee, is offered to the City by Stantec for calendar year 2019.

DESCRIPTION	EVENT PERIOD	COST PER EVENT	# OF EVENTS	SUBTOTAL	NOTES REGARDING SCOPE OF SERVICES
<b>Operations Monitoring</b>	daily	\$700	9	\$6,300	Visual assessments around quarry perimeter, concentrating on Rawson Avenue adjacent to the quarry entrances. Will include weather data as part of observation summary, along with photos and short duration videos during periods of high winds.
<b>Blast Monitoring</b>	monthly	\$2,945	10	\$29,450	Stantec will provide remote vibration monitoring by using Normis Seismographs. We plan to subcontract Sauls Seismic to assist with this scope of work. Two separate seismographs will be installed, each co-located with two existing Payne & Dolan (Vibra-Tech) monitors located at: 7301 S. 51 <sup>st</sup> Street, and 5800 W. Allwood Drive. Each monitor will be provided with an enclosure, and will either be pole mounted or located in a short-stack weatherproof enclosure. Power will be provided via an internal battery and an external battery connected to a solar panel. All maintenance/repair and annual calibration of seismographs are included. This type of configuration will provide continuous (24/7) remote monitoring, allowing Stantec to have access to data anytime via the internet.  Stantec will prepare monthly summaries of blasting data, comparing the Payne & Dolan (Vibra-Tech) unit recordings, to the Stantec (Sauls Seismic) unit recordings. This will allow the City to better evaluate the validity of the current seismic monitoring and the actual blasts being conducted by Payne & Dolan.
<b>Blast Complaint Evaluation</b>	Per blast that results in one or more complaints	\$300	25 (estimate)	\$7,500	On a monthly basis, the City will forward to Stantec specific information pertaining to quarry complaints received. Stantec will evaluate each one to evaluate the following corresponding collaborative conditions: <ul style="list-style-type: none"> <li>• For off-site dust complaints = weather conditions (wind direction and speed) the day of the complaint</li> <li>• For off-site seismic complaints = seismic data from both Stantec and Payne &amp; Dolan placed monitors</li> </ul> A short summary will be provided to the City Planning Manager Joel Diertl, and a compilation of all complaints and evaluations during the year will be provided with the End-of-Year Report.
<b>End-of-year Report</b>	Report	\$2,750	1	\$2,750	Report summarizing Operations and Blast Monitoring, along with complaint evaluations, completed during year.
<b>\$46,000 TOTAL (compared to budget: \$46,000)</b>					

**Note:** The exact number of events cannot be determined at this time for both the Blast Monitoring (since we do not know when Stantec will obtain a Notice to Proceed from the City nor how long Payne & Dolan plans to blast in calendar year 2019) or the Blast Complaint Evaluation (since we do not know how many blasts during 2019 will actually result in complaints). Stantec agrees to be flexible with the City regarding this scope of work as the year progresses as the actual number of events are determined, and agrees not to exceed the approved budget without prior approval.

**From:** [Roznowski, Mike](#)  
**To:** [Joel Dietl](#)  
**Cc:** [Kristen Wilhelm](#); [Kristen Wilhelm \(External\)](#); [Mike Barber](#); [Mike Barber](#); [ajruffing@aol.com](#); [fredkn@hotmail.com](#)  
**Subject:** Stantec scope of services 2019  
**Date:** Friday, January 11, 2019 9:34:21 AM  
**Attachments:** [stantec franklin quarry mntg scope of work 2019 0110 final.pdf](#)

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Joel,

Attached is our revised scope of work and quote for 2019. This is not a DRAFT, this can be considered a final...the numbers are good. I received several quotes for the equipment and this is the lowest price with the quality I feel we will need to do the work. A few notes:

- Compared to 2018, the cost for the blast monitoring has increased primarily due to the increased level of monitoring (24/7) and the period of time (10 months or so).
- Compared to 2018, the cost for the daily visits for operational monitoring (dust) was decreased from \$800 to \$700, primarily since I have a less costly employee in our local office that can assist with this work.
- Compared to 2018, the cost for the annual report is going up from \$2,600 to \$2,750. It seems this report is getting a bit lengthier each year.
- Compared to 2018, the blast complaint evaluation charge is being changed from a "per complaint" charge to a "per blast that results in a complaint" charge. You did not ask for this but it just seems fairer to do it this way. This was one of the areas I did not fully charge for in 2018.
- I'm not charging for coming to the Quarry Committee Meetings (when I am available to attend).
- The exact number of events cannot be determined at this time for both the Blast Monitoring (since we do not know when Stantec will obtain a Notice to Proceed from the City nor how long Payne & Dolan plans to blast in calendar year 2019) or the Blast Complaint Evaluation (since we do not know how many blasts during 2019 will actually result in complaints). Stantec agrees to be flexible with the City regarding this scope of work as the year progresses as the actual number of events are determined, and agrees not to exceed the approved budget (\$46k) without prior approval.
- I estimated 10 months of blast monitoring. If it ends up being less than this (e.g., 9 months), then it merely means we will have that budget to use for additional subtasks (e.g., additional operational monitoring for dust evaluation and/or blast complaint evaluations).

Once I get an authorization to proceed from the city we may be able to get the seismic monitors installed in a few short weeks. We'll have to coordinate with Payne & Dolan, but I don't anticipate a problem here. The only thing that might become a problem would be if it were to suddenly get much colder up there and the ground freezes. It can be a huge problem trying to install a graph in frozen ground. We'll cross that when we get to it.

That's about it. Let me know if there are any questions. Thanks.

Mike Roznowski, CHMM  
Principal / Industrial Team Leader  
Stantec  
1165 Scheuring Road, De Pere WI 54115-1001  
Office: (920) 592-8400 / direct (920) 278-3200  
Cell: (920) 655-1852  
Fax: (920) 592-8444  
[mike.roznowski@stantec.com](mailto:mike.roznowski@stantec.com)

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