RESOLUTION NO. 23-106

A RESOLUTION GRANTING APPROVAL OF A TEMPORARY USE PERMIT TO ALLOW A CONCRETE BATCH PLANT TO OCCUR ON THE PROPERTY LEGALLY DESCRIBED AS PART OF LOTS 1, 2, AND 3, AUDITOR'S SUBDIVISION, IN THE SW1/4 SW1/4 OF SECTION 23-75-44, POTTAWATTAMIE COUNTY, IOWA, IN RELATION TO THE I-29/I-480 RECONSTRUCTION PROJECT FROM APRIL 11, 2023, TO OCTOBER 11, 2023.

WHEREAS, The applicant, Cedar Valley Corporation, has been subcontracted by Ames Construction for production of concrete in relation to the Iowa DOT Interstate 29 reconstruction project and is requesting a temporary use permit to use this property for concrete production; and

WHEREAS, The temporary use permit will commence on April 11, 2023, and extend through October 11, 2023; and

WHEREAS, The applicant has provided the following additional information regarding the request:

A. The site will be used solely for the production of concrete and storage of vehicles when not in use. No crushing or recycling of concrete will occur on the subject property.

B. Operating hours on the subject property will be daylight hours, approximately 7:00 a.m. to 7:00 p.m. The batch plant will primarily operate on weekdays, with weekend operations as needed.

C. The batch plant will operate with approximately 20 employees at any given time during active hours. Of those, about half would drive trucks to and from the work site.

D. Cedar Valley Corporation plans to mitigate dust by using a water truck to intermittently wet the soil around the plant site.

E. Cedar Valley Corporation will prepare the site for use as a batch plant by creating a sturdy base for operations. If the ground is not already prepared, Cedar Valley Corporation will strip the top layer of soil and pile it into a berm, then lay rock and compact it to withstand the truck traffic and weight of materials on site.

F. Cedar Valley Corporation will keep all disturbed topsoil on the subject property and replace it once the batch plant operation has concluded.

G. Cedar Valley Corporation does not plan to remove any trees as part of this operation, but they may remove smaller vegetation if needed.

H. Cedar Valley Corporation will coordinate with the Iowa Department of Natural Resources to develop a stormwater plan.

I. The applicant does not plan to put gravel down on truck parking areas on site; and

WHEREAS, The request was routed to all local utility providers and City Departments. The following comments were received:

<u>Council Bluffs Community Development Department</u> provided the following comments:

A. CBMC §15.02.110 states that "temporary batch plants shall be located at least one thousand (1,000) feet from any recreational area, school, or

residence. The proposed batch plant would be located less than 1,000 feet from multiple residences, the closest of which is approximately 600 feet from the batch plant site (see Attachment E). However, all residences within this 1,000-foot radius of the proposed batch plant are located on the other side of Interstate 29. The Interstate is a significant barrier that would insulate residences from negative impacts (e.g. noise, dust, etc.) associated with the proposed batch plant. Additionally, the applicant's truck traffic plan shows that trucks will not utilize residential streets, and the Community Development Department has no record of any complaints about the identical batch plant that operated on the subject property in 2022. For these reasons, the City Council would be justified in granting Cedar Valley Corporation a waiver from the 1,000-foot distance requirement for the duration of the temporary use permit.

B. Because Avenue "Q" is a local road, the applicant would need a waiver from City Council to use Avenue "Q" to access the site. Avenue "Q" experiences very low traffic volumes and is not connected to any residential streets, so such a waiver would be justified for the duration of the permit.

C. The proposed batch plant is shown to be located in the southerly portion of the subject property according to the applicant's site plan. The applicant shall not extend the batch plant operations into any neighboring properties, and any expansion of the footprint of the batch plant on the subject property shall be reviewed and granted approval by the City prior to expansion; and

WHEREAS, The Community Development Department recommends approval of the request for a temporary use permit to allow a concrete batch plant operation to occur on the property legally described as part of Lots 1, 2, and 3, Auditor's Subdivision, in the SW1/4 SW1/4 of Section 23-75-44, Pottawattamie County, Iowa, in relation to the I-29/I-480 reconstruction project from April 11, 2023, to October 11, 2023, subject to the following conditions:

A. Approval of the temporary use permit shall include a waiver from the requirement in CBMC §15.02.110 that "temporary batch plants shall be located at least one thousand (1,000) feet from any recreational area, school, or residence." As a condition of said waiver, no portion of the temporary batch plant shall be located less than 600 feet from the closest recreational area, school, or residence.

B. Approval of the temporary use permit shall include a waiver from the requirement in CBMC §15.02.110 that "a temporary batch plant shall only be allowed access via arterial or collector roads and highways," based on reasons stated above.

C. Dust and other byproducts shall be minimized at all times. All dust control measures outlined in the submitted application shall be followed and improved if needed to control airborne dust.

D. The operator shall maintain and remain in compliance with all applicable Federal, State, and local permits and regulations, including but not limited to: the Iowa DNR NPDES General Permit #3, Stormwater Pollution Prevention plan, and Spill Prevention Plan.

E. The hours of operation for the batch plant shall be limited to Monday through Sunday 7:00 AM-7:00 PM.

F. All materials, vehicles, and structures brought on-site shall be limited to use for the I-29/I-480 reconstruction project. Any expansion of the batch plant's footprint beyond what is shown on the applicant's site plan shall be reviewed and granted approval by the City prior to the expansion occurring.

G. The requested temporary use permit shall commence on April 11, 2023, and approval shall expire on October 11, 2023. The City may administratively grant a six-month extension of time for the temporary use permit if the batch plant complies with all of the conditions of the temporary use permit and there are no nuisances or other city code enforcement actions on record for the operation. The applicant shall apply for any desired extension prior to the expiration date of the permit.

H. Prior to expiration of the permit, all materials, debris, and equipment related to the batch plant operation shall be removed from site, and the site shall be restored to predevelopment conditions. The contractor shall request a site inspection to ensure that the site has been restored to predevelopment conditions.

I. Due to the temporary nature of the request, the applicant shall not be required to pave parking areas on site. However, if unpaved parking areas become problematic in terms of dust, dirt, and/or mud, the contractor shall lay gravel for all parking areas or use other measures to adequately control dust and mud. All gravel poured shall be removed at the end of the temporary batch plant operation as part of site cleanup.

J. All materials used at the batch plant shall be routinely processed, and no aggregate piles shall exceed twenty-five (25) feet in height.

K. The applicant shall not alter any existing tree lines that help shield the batch plant from view from the interstate.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the temporary use permit allowing a temporary batch plant from April 11, 2023, until October 11, 2023, on the property legally described as part of Lots 1, 2, and 3, Auditor's Subdivision, in the SW1/4 SW1/4 of Section 23-75-44, Pottawattamie County, Iowa, in relation to the I-29/I-480 reconstruction project, is hereby approved subject to the comments and conditions set forth above.

ADOPTED
AND
APPROVED: April 10, 2023.

_____
Matthew J. Walsh Mayor

ATTEST: _____
Jodi Quakenbush City Clerk