

RESOLUTION NO. PC2019-06

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING A CONDITIONAL USE PERMIT FOR AN EDUCATIONAL
AMPHITHEATER LOCATED AT 2407 COMMERCE WAY AND 486 ATEN ROAD;
IMPERIAL CA, 92251 SUBJECT TO THE ATTACHED CONDITIONS OF APPROVAL**

WHEREAS, Imperial Valley Food Bank submitted a conditional use permit application for a educational amphitheater use situated at 2407 Commerce Way and Aten Road; and

WHEREAS, the subject site is located within a I-1 Industrial Zone and education institutions are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on February 27, 2019, to hear testimony for and against the proposed Conditional Use Permit; and

WHEREAS, upon hearing and considering all testimony and arguments, examining the environmental study, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit CUP(19-03)** subject to the conditions of approval outlined in Exhibit A and based on the following findings:
 - 1. The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act.
 - 2. There is no substantial evidence that the proposed land use will have a significant impact on the environment.
 - 3. The project meets all the requirements per section 24.07.110 through 24.07.170 of the Imperial Zoning Ordinance for granting said conditional use permit as follows:
 - a) That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is located within a I-1 Industrial General Zone which is intended to provide modern industrial, research, and administrative facilities that can meet high performance and development standards and take advantage of the Imperial County Airport.

- b) That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.07.130 through 24.07.170 of the Imperial Zoning Ordinance.

The proposed location is ideal for the facility as it is surrounded by similar land uses. To the north, east, south and west of the project site are General Industrial land uses.

- c) That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Noise and traffic issues are the two categories that would impact the surrounding neighborhood. The school purposely chose this location and the operating hours so as to minimize the impacts to a level that is not significant.

- d) That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed location of the school is not detrimental to the public health, safety or welfare of those within the vicinity of the project.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 27th day of February 2019.

Charlie Lucas,
Planning Commission Chairman

ATTEST:

Debra Jackson, City Clerk

**RESOLUTION PC2019-06
EXHIBIT A**

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT (19-03)

**Educational Amphitheater Use located at 2407 Commerce Way and 486 Aten Road; Imperial,
CA 92251**

1. Conditional Use Permit (19-03) is valid for the operation of an education amphitheater only.
2. No more than 240 people can be at this (educational amphitheater) facility at any given time.
3. The Educational Amphitheater shall maintain “Noise-Levels” within the allowable range per the City of Imperials Noise Element.
4. No special events shall be permitted unless a temporary use permit is obtained at least thirty (30) days prior to the event and notice is given to parcels within 300 feet of the location.
5. Prior to occupancy, the Applicant shall provide a traffic drop-off and pick-up plan which illustrates and details traffic flow, drop-off points and a narrative that describes the peak times expected for dropping off and picking up when the educational amphitheater is in use.
6. This Conditional Use Permit shall only be valid as long as the Imperial Valley Food Bank is operating as a whole operation/business/entity. The Conditional Use Permit does not transfer with new ownership.
7. The Developer/Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
8. The Developer/Applicant shall pay all applicable impact and capacity fees.
9. The Conditional Use Permit shall not constitute the waiver of any requirement of the City’s Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
10. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or

proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.

11. All conditions of approval for this Conditional Use Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
12. The Applicant shall maintain a perimeter fencing at least six feet in height that adequately screens storage areas from public view.
13. All access gates shall open inwardly and the gates shall be kept closed when the yard is not open for business.
14. All signs advertising the project shall be reviewed and subject to approval by the City of Imperial Community Development Department.
15. All facilities and related equipment shall be maintained in good repair. Any damage from any case shall be repaired immediately so as to minimize occurrences of dangerous conditions or visual blight.
16. The owner and/or operator of the facility shall not allow patrons to park in a manner that will block any required parking spaces, fire access or roadways, except as otherwise approved by this Resolution.
17. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
18. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with

its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.

19. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the re-located business.