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*Attorneys for Defendants*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

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SOUTHERN UTAH DRAG STARS, LLC,  
and MITSKI AVALOX,

Plaintiffs,

vs.

CITY OF ST. GEORGE, CITY COUNCIL OF  
ST. GEORGE, COUNCILMEMBER JIMMIE  
HUGHES, COUNCILMEMBER DANIELLE  
LARKIN, COUNCILMEMBER NATALIE  
LARSEN, COUNCILMEMBER GREGG  
MCARTHUR, COUNCILMEMBER  
MICHELLE TANNER, MAYOR MICHELE  
RANDALL, and CITY MANAGER JOHN  
WILLIS,

Defendants.

**DEFENDANTS' RESPONSES TO THE  
COURT'S QUESTIONS IN DOCKET #61**

Civil No. 4:23CV44

Honorable David Nuffer

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Pursuant to the Court's Order in Docket #61, Defendants submit the following responses to the Court's questions.

**1. The answer to question 1 on page 2 identifies documents as follows:**

**Council agenda packet: July 14, 2022 (Exhibit 1 attached)**

**Council agenda packet March 9, 2023 (Exhibit 2 attached)**

- a. It appears that the document attached as Exhibit 1 is not a Council agenda packet but a PowerPoint presentation. Is this correct?**

Both of the referenced exhibits were part of the agenda “packet” that goes to the Council for the discussion items listed on the agenda. The “packets” contain all of the staff reports, PowerPoint presentations, contracts, or other materials, for those items that are listed on the agenda for discussion. The PowerPoint presentation, copy of the ordinance and insurance level information contained in Exhibit 1 were the packet materials for the agenda item “1. Discussion regarding the process for special events and potential tiers for insurance certificates” on July 14, 2022.

The full agenda packet for the July 14, 2022 can be found [here](#).

- b. Similarly, the document attached as Exhibit 2 is not a Council agenda packet but a City of St. George Sponsorship Form. Is this correct?**

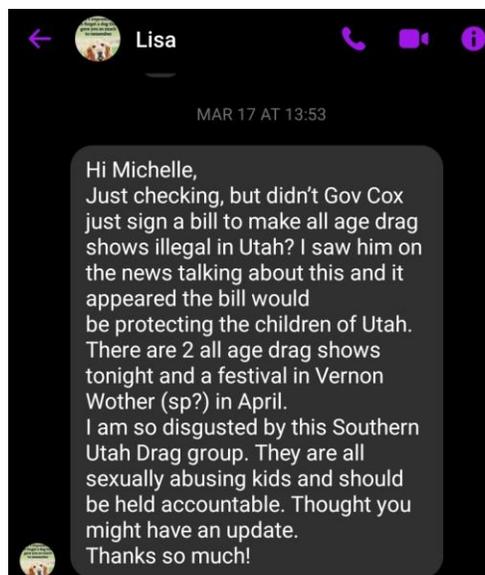
Exhibit 2, which was a draft application form, was the document contained in the agenda packet for the March 9, 2023 agenda item “6. Discussion regarding the criteria for City “sponsorship”.”

The full packet for all of the agenda items on March 9, 2023 can be found [here](#).

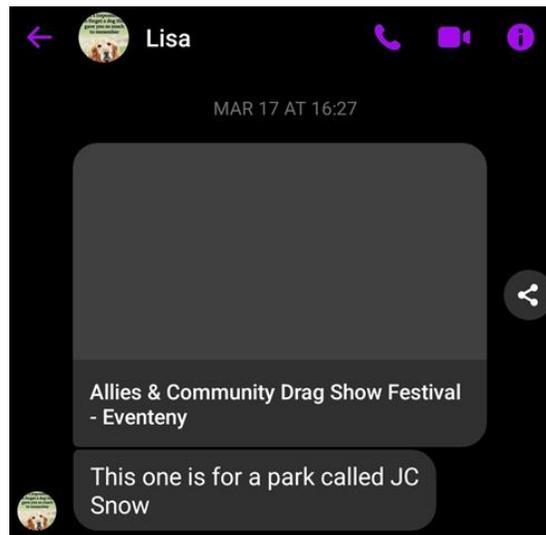
- 2. The answer to Question 2 on page 3 states “A complaint was received by City staff via an email from Councilmember Tanner on March 17, 2023 in which she reported hearing a complaint from a "concerned local mental health therapist" who had seen advertising. See Exhibit 1.”**

- a. **If the complaint from a "concerned local mental health therapist" was in writing, please provide it and any response from Councilmember Tanner to the therapist.**

The complaint was in the form of a text message from Lisa Dorn, an Adjunct Professor at Dixie State University and Certified Clinical Trauma Therapist, to Councilmember Tanner on March 17 at 1:53 p.m. It states:



At 4:27 p.m. on March 17<sup>th</sup>, 2023, Ms. Dorn also sent a text with a screenshot of an advertisement for Plaintiffs' event:



These texts are attached as Exhibit 1.

**b. Please provide more specific direction to the document referenced by "See Exhibit 1."**

With apologies to the Court, the reference to Exhibit 1 was mis-referenced and the relevant email was erroneously left out of the submission to the Court. The relevant email from Councilmember Tanner with attachments is attached hereto as Exhibit 2.<sup>1</sup> This is also the document referenced in the Willis Declaration (Exhibit 3) as "Exhibit 1".

**3. The Willis Declaration docket no. 60-3 on page 2 states: 5. I received an email from Councilmember Michelle Tanner on March 17, 2023, stating, "I have had a concerned mental health therapist contact me regarding a drag performance in Vernon Worthen Park in April (sounds like Southern Utah Drag Stars may have started advertising before receiving a permit which I believe violates our ordinance)." That paragraph cites to Defendant's Response to Court Questions in**

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<sup>1</sup> The attorney-client protected provisions have been redacted.

**Docket #56, Exhibit 1 but Exhibit 1 to docket no. 60 Defendants' Responses to the Court's Questions in Docket #56 appears to be a powerpoint presentation.**

- a. If the reference and attachment are correct, please explain.**
- b. If the reference and attachment or our understanding are incorrect, please provide correction.**
- c. Please provide the entire quoted email from Councilmember Michelle Tanner on March 17, 2023 and any subsequent replies between Willis and Tanner in that email thread.**

As indicated in the answer to Question #2 and again with apologies to the Court, the document is attached hereto as Exhibit 2.

- 4. Please explain Paragraph 5. b. of the Affidavit of Tawnee Greywolf. That paragraph states that "JC Snow Park is reserved on June 30, 2023 . . . from 11:00 a.m. to noon." Specify how this brief event is "a significant conflict" for Plaintiffs' event which has set up starting at noon with public opening at 5:00 p.m.?**

The event listed in Tawnee Greywolf's Affidavit poses a significant conflict because of the scope of Plaintiffs' proposed event. The Artie Bus (which is a City mobile arts and crafts event for children) will occupy both the east and west pavilions between 11:00 a.m. and noon, and generally an additional thirty minutes is needed after the event for clean-up.<sup>2</sup> Many of the children and their parents remain in the park after the event and parking is very limited. *Id.* Plaintiffs have estimated that 500 people will attend and/or participate in their event. *See* Application, DSTARS 45, Exhibit 4. They have stated that there will be "10x10 booths that will have canopies." *See Id.*,

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<sup>2</sup> Affidavit of Peyton Smith, Exh. 3.

DSTARS 46-47. There will also be a stage, music, a PA/Audio system, and barricades. *See Id.* Vendors selling food at Plaintiffs' event. *See Id.* In fact, Plaintiffs identified 10 vendors in their application, offering products and services ranging from food to stickers and T-shirts. *See Id.*, DSTARS 49. All of these items will have to be assembled before the event begins at 5 p.m. In fact, Plaintiffs' application expressly states that set-up would have to occur during the 11 am-12 time frame for the Artie Bus event, stating, "Set-up will begin at 10 am and will go on until 3 pm." DSTARS 47 (emphasis added). With the limited parking and the overlap in Plaintiffs' requested set up times and the Artie Bus event, the City believes this constitutes a significant conflict with the party who has reserved JC Snow Park.

DATED this 14<sup>th</sup> day of June, 2023.

SNOW CHRISTENSEN & MARTINEAU

/s/ Scott Young  
Scott Young  
*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 15, 2023, I caused a true and correct copy of the foregoing **DEFENDANTS' RESPONSES TO THE COURT'S QUESTIONS IN DOCKET #61** to be served upon all counsel of record:

/s/ Aliza Murad

# Exhibit 1



Lisa



MAR 17 AT 13:53

Hi Michelle,  
Just checking, but didn't Gov Cox just sign a bill to make all age drag shows illegal in Utah? I saw him on the news talking about this and it appeared the bill would be protecting the children of Utah. There are 2 all age drag shows tonight and a festival in Vernon Wother (sp?) in April. I am so disgusted by this Southern Utah Drag group. They are all sexually abusing kids and should be held accountable. Thought you might have an update.  
Thanks so much!





**Lisa**



MAR 17 AT 16:27

**Allies & Community Drag Show Festival  
- Eventeny**

**This one is for a park called JC  
Snow**

# Exhibit 2

**Michelle Tanner** <michelle.tanner@sgcity.org>

Fri, Mar 17, 2023 at 2:59 PM

To: Tani Downing <tani.downing@sgcity.org>, Ryan Dooley <ryan.dooley@sgcity.org>, Jami Brackin <jami.brackin@sgcity.org>, John Willis <john.willis@sgcity.org>, Michele Randall <michele.randall@sgcity.org>

Good afternoon legal team,

I have been receiving more complaints this week from residents regarding adult entertainment being performed in front of children, as well as in areas not zoned for adult entertainment performances. I have had an concerned local mental health therapist contact me regarding a drag performance in Vernon Worthen Park in April (sounds like Southern Utah Drag Stars may have started advertising before receiving a permit which I believe violates our ordinance). Southern Utah Drag Stars has also performed adult entertainment at times advertised for all ages and at times advertised as 18+ at Cafe Elevato. Is Cafe Elevato zoned for this type of entertainment and would they require permits to do so?

Thanks for the clarification.

Michelle Tanner

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**Tani Downing** <tani.downing@sgcity.org>

Fri, Mar 17, 2023 at 3:52 PM

To: Michelle Tanner <michelle.tanner@sgcity.org>

Cc: Ryan Dooley <ryan.dooley@sgcity.org>, Jami Brackin <jami.brackin@sgcity.org>, John Willis <john.willis@sgcity.org>, Michele Randall <michele.randall@sgcity.org>

Michelle

Let us look into this and get back with you.

Tani

...

**Michelle Tanner** <michelle.tanner@sgcity.org>

Fri, Mar 17, 2023 at 4:47 PM

To: Tani Downing <tani.downing@sgcity.org>

Cc: Ryan Dooley <ryan.dooley@sgcity.org>, Jami Brackin <jami.brackin@sgcity.org>, John Willis <john.willis@sgcity.org>, Michele Randall <michele.randall@sgcity.org>

[REDACTED]. Also, I did verify that Southern Utah Drag Stars has violated our ordinance by prematurely advertising. I believe this is also grounds for not issuing their permit. See attached.

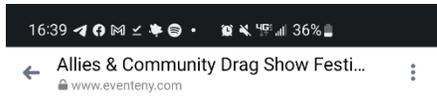
[Quoted text hidden]

**3 attachments**

**Screenshot\_20230317-163949\_Messenger.jpg**  
329K

**Screenshot\_20230317-164116\_Chrome.jpg**  
549K

**Screenshot\_20230317-163928\_Messenger.jpg**  
605K



Overview Marketplace

The Allies & Community Drag Show Festival will take place Friday, April 28th in JC Snow Park from 5 p.m. to 9 p.m. We anticipate this event will have over 500 people as we have an exciting line-up of music artists and drag stars.

The festival doors will open at 5 p.m. and we will start the show at 6:30 p.m. Please review the fees attached to being a vendor/sponsor for this event.

### Marketplace

Interested in applying to the event:  
2 active applications



#### 3-10-4: APPLICATION REQUIREMENTS AND PROCEDURES:

C. *Advertising:* No advertising of a special event shall be permitted until city approval of the special event is granted and a special event permit is issued.

D. *Inspections:* Authorized law enforcement officers, fire control officers, and other government personnel shall be permitted free access to the event to make inspections to ensure compliance with all city, state, and federal laws. All government personnel shall comply with the Fourth Amendment of the United States Constitution at all times during an inspection. (Ord. 2015-10-003, 10-1-2015; amd. Ord. 2022-12-006, 12-15-2022)

The St. George City Code is current through Ordinance 2023-01-008, passed January 5, 2023.

Disclaimer: The city recorder has the official version of the St. George City Code. Users should contact the city recorder for ordinances passed subsequent to the ordinance cited above.

Searching for "Special event permits"

1 of 15 Matches



Overview Marketplace



Hosted by Southern Utah Drag Stars



**Dates**  
Apr 28 5:00 pm - Apr 28 9:00 pm  
(GMT-06:00) Mountain Time (US & Canada)

**Location**  
900 S 400 E, St. George, Utah 84790, United States



# Exhibit 3

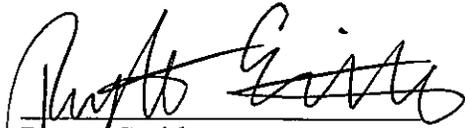


time to set up and stay after the reserved time to clean up. I have often observed parents who have arrived before the activity time and parents who stay afterwards with their children at the park.

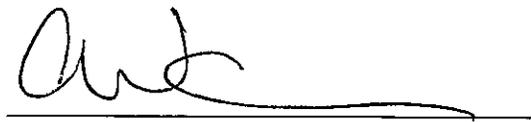
6. We typically see 15-20 children at each Artie the Bus activity and the number of parents accompanying those children and parked cars could equal up to the number of children attending.

FURTHER AFFIANT SAYETH NAUGHT

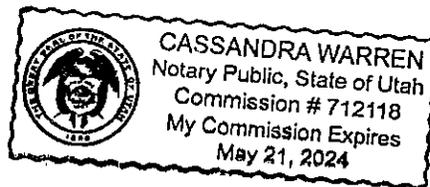
DATED: April 12, 2023

  
Peyton Smith

SUBSCRIBED AND SWORN to (or affirmed) before me this 15<sup>th</sup> day of June 2023, by Peyton Smith.



NOTARY PUBLIC



# Exhibit 4

Date Received Application: 3/3/23 Permit No: \_\_\_\_\_  
 Insurance Received: \_\_\_\_\_ Date Issued: \_\_\_\_\_

**APPROVALS:**  
 Asst. City Manager: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Fire: \_\_\_\_\_ Date: \_\_\_\_\_  
 Conditions of approval: \_\_\_\_\_  
 Police: Please see the Security Plan Request Application for approval and conditions.  
 Other Staff Approval: \_\_\_\_\_  
 Date: \_\_\_\_\_ Rev 09/10/22

**SPECIAL EVENT PERMIT APPLICATION**



City of St. George Special Events  
 175 East 200 North  
 St. George, UT 84770

Phone: 435-627-4712  
 E-mail: events@sgcity.org

**TYPE OF ACTIVITY (check all that apply):**

<input type="checkbox"/> Film Production	<input type="checkbox"/> Parade	<input type="checkbox"/> Cycling	<input type="checkbox"/> 5K	<input type="checkbox"/> Training Event	<input checked="" type="checkbox"/> Festival
<input type="checkbox"/> Outdoors Sales	<input type="checkbox"/> Fun Run	<input type="checkbox"/> Sporting	<input type="checkbox"/> 10K	<input type="checkbox"/> Block Party	<input type="checkbox"/> Religious
		<input type="checkbox"/> Dance	<input type="checkbox"/> Other: <u>Drag Show</u>		

Please print or type Our Allies & Community Drag Show

**EVENT NAME:** \_\_\_\_\_

1. **Location of Event:** Vernon Worthen Park

2. **Name of Organization:** Southern Utah Drag Stars

3. **Date(s) of Event:** Friday, April 28th, 2023.

**4. EVENT DETAILS:** [enter Start & End times as HH:MM]

Set-up	Date: <u>04/28/2023</u>	Start time: <u>12:00 P.M. NOON</u>	End time: <u>5:00 PM</u>
Event	Date: <u>Friday, April 28th, 2023.</u>	Start time: <u>5:00 PM</u>	End time: <u>7:30 PM</u>
Clean-up	Date: <u>04/28/2023</u>	Start time: <u>7:30 PM</u>	End time: <u>10:00 PM</u>

Is this a Recurring Event?  NO If yes; daily, weekly or other? N/A  
 Is this an Annual Event?  NO If yes; same date and place? N/A

**5. PARTICIPANTS**  
 # of Participants & Attendees expected: 500 # of Volunteers/Event Staff: 18

Open to the Public  Private Group/Party

If event is open to the public, is it:  Entrance Fee/Ticketed Event;  Fee for Participants/Racers/Runners Only;  Free.

**6. APPLICANT INFORMATION**

Name of Applicant: Mitski Avalox

Address: \_\_\_\_\_

Day Phone: \_\_\_\_\_ Cell/Other: \_\_\_\_\_ E-mail: mitski@sudragstars.com

Mailing Address (if different): \_\_\_\_\_

Event Web Address (if applicable): sudragstars.com

Alternate Contact For Event:

Day Phone: N/A Cell/Other: N/A E-mail: N/A

7. VENDORS/FOOD/ALCOHOL (check all that apply)

Yes  No Are Vendors/Merchants selling products or services?  
 If yes, Temporary Sales Tax Numbers are required from the Utah State Special Event Tax Division 801-297-6303

Yes  No Is Food available at the event? Description: \_\_\_\_\_  
 If yes, Is the food (please check all that apply)  
 Given away/pre-packaged  Catered by: \_\_\_\_\_  Prepared on site  
 Events which have Food available must contact the SW Utah Health Department for approval 435-986-2580

Yes  No Will Alcoholic Beverages be available at the event?  
 If yes, please check all that apply  
 Beer Stands  Fenced-in Beer Garden  
 Selling, Serving, Giving Away, Alcohol at an event requires City Council, City Business License and State Of Utah Department of Alcoholic Beverage Licensing approval 801-977-6800

8. TENTS/STAGES/STRUCTURES (include details on site map)

Yes  No Tents/Pop-up Canopies?  
 How many Tents/Pop-up Canopies will be used for the event? \_\_\_\_\_  
 Dimensions of Tents/Pop-up Canopies: 10x10 feet  
 All large or enclosed tents/canopies require Inspections from the SG Fire Department 435-627-4150

Yes  No Temporary Stage? Dimensions of Stage: 20x40 feet  
 Description of Tents/Canopies/Stage, etc.: 10x10 booths that will have canopies.

9. SITE SETUP/SOUND (check all that apply - please include details on site map)

Fencing/Scaffolding

Barricades (must obtain privately)

Portable Sanitary Units (must obtain privately)

Inflatables, Bounce House(s)  Generator(s) &  Certificate of Liability Insurance are required (must obtain privately)

Climbing Wall, Axe Throwing, Mechanical Bull, Zipline, &/or Dunk Tank  Certificate of Liability Insurance is required

Music If yes, check all that apply:  Acoustic  Amplified

PA/Audio System Type/Description: Microphone and Speaker/Video Screen

Fireworks/Fire Performances/Open Flame Requires approval from SG Fire Dept. 435-627-4150

Propane/Gas On-site Requires approval from SG Fire Dept. 435-627-4150

Trash/Recycle Bin coordination On-site WCSW 435-673-2813

10. ROAD & SIDEWALK USE (please include details on site map)

Yes  No Will Roads & Sidewalks Be Used?

Yes  No Are you requesting Road &/or Sidewalk Closures?  
 An Encroachment Permit is required for Road Closures and Sidewalk Use.  
 To obtain the permit, contact SG City Public Works Dept. 435-627-4058 <https://www.sgcity.org/encroachment/>

Road Use and Closure Location: \_\_\_\_\_

Sidewalk Use Location: \_\_\_\_\_  Will stay on sidewalks and follow pedestrian laws.

Parade Permit App Location: \_\_\_\_\_ Number of Floats: \_\_\_\_\_

11. SECURITY/OTHER (please complete and sign the Security Plan Approval Request Form, for approval of Security)

12. Application Fee is based on attendance, and charged per day, as follows:

\$75.00 for attendance under 300

\$150.00 for attendance over 300

Total: \$ 150.00 (payable to: City of St. George - Attn: Special Events, 175 East 200 North, St. George, UT 84770)

By submitting a signed application, the applicant certifies that falsifying any information on this application constitutes cause for rejection or revocation of the Permit.

Mitski Avalox \_\_\_\_\_ 02/15/23  
 Applicant's Name [PRINT] Applicant's Signature Date

## EVENT DESCRIPTION

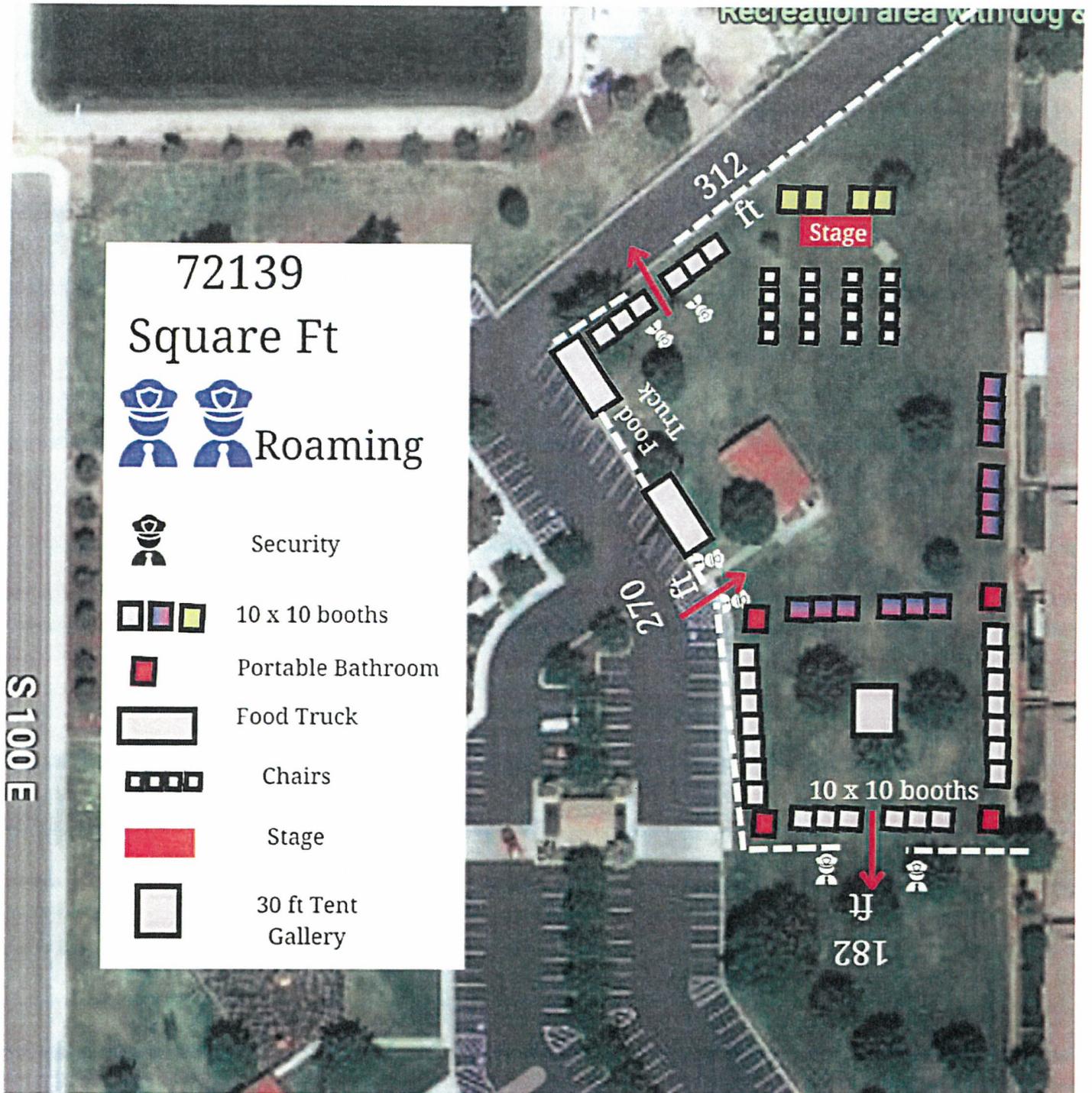
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PLEASE DESCRIBE YOUR EVENT IN DETAIL; ADD ANY ADDITIONAL INFORMATION OR PAGES.

- *Please be sure to include any elements of your event that will help with the approval of the event.*
- 

The Allies & Community Drag Show festival will be an amalgamation of vendors and artists performing at Vernon Worthen Park April 28th. This festival will promote unity and community in a 4-hour festival. This event will not have any alcohol vendors, but it will have food and merchandise (T-Shirts, stickers, candles, etc). This event will also have informational booths in addition to the food and merchandise vendors. For this event we anticipate that there will be more than 300 people. There is a map attached that shows we will approximately use 47290 square feet of the south-west side of Vernon Worthen Park. We will have 8 private citizens at this event for security with two at every entrance and two roaming the event. Security will have first-aid kits and identifying vests/T-shirts which have been trained for deescalation tactics to demonstrate with protesters.

The festival will have 54 10x10 booth slots and a 20x40 stage (see detailed sit map). There will be approximately 106 utah barricades surrounding the 47290 square foot area with one ticket entrance, and two exits. Set-up will begin at 10 am and will go on until 3 p.m. where vendors will begin to set up. At 5 p.m., the festival will begin and at 6:30, the stage will be used to start a show that will have local music artists sing and performance actors perform. The show will be done by 8 p.m. which will leave an hour for patrons to roam around until it ends at 9 p.m. Take down will commence and will finish at 10 p.m.



JC Snow map/layout

Date Received Vendor List 3/3/23 Permit No: \_\_\_\_\_  
 Payment Received \_\_\_\_\_ Date Completed \_\_\_\_\_

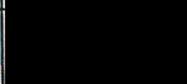
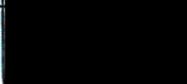
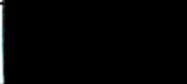
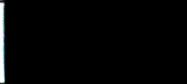
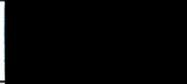
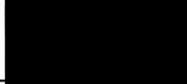
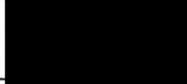
**SUB-LICENSE FEE(S)**  **St. George**

Please make check payable to: CITY OF ST. GEORGE  
 City of St. George Special Events Phone: 435-627-4712  
 175 East 200 North E-mail: events@sgcity.org  
 St. George, UT 84770

EVENT NAME: Allies & Community drag show CONTACT PHONE:   
 EVENT DATE(S): Friday, April 14th EVENT LOCATION: Vernon Worthen Park

**VENDOR INFORMATION**

Please provide the following information for all vendors. The sub-license fee for each vendor is \$5.00. Special Event Tax Numbers are required for each Vendor, 801-297-6303. Those Vendors selling, giving away, or preparing food on site are required to obtain approval from the Southwest Utah Public Health Department, 435-936-2580.

#	Vendor Name	Vendor Phone #	Product or Service to be offered at Event	Payment \$5.00
1	Equality Utah		Informational booth	
2	Our Family Designs		stickers, t-shirts	
3	Whisler provisions		candied popcorn	
4	Sauced Up		chips & salsa	
5	Inner Compass life		informational booth	
6	The Trash Pile		T-shirts	
7	Pride of Southern Utah		informational booth	
8	Local Charred Grill		<u>Food truck</u>	
9	<u>Circuitfit</u>		<u>Informational booth</u>	
10	<u>Simply Sae's Jewelry</u>		<u>Jewelry</u>	

Date Received 3/3/23 Permit No. \_\_\_\_\_  
Police Approved \_\_\_\_\_ Date Issued \_\_\_\_\_

Approval with Comments:

### SECURITY PLAN APPROVAL REQUEST FORM



6-2910-21

All questions must be answered completely or application will not be considered. Please allow TEN (10) days for approval. Together with this application, please provide a written Security Plan including names of all security personnel.

EVENT NAME: Our Allies & Community Drag Show

Event Location: Vernon Worthen Park

Type of Event: \_\_\_\_\_ Do You Expect Any Protesters?  YES  NO

Date of Event: Friday, April 28th, 2023 Hours of Event: 5-9 p.m.

Number of Expected Attendance: 500 Occupancy Load: \_\_\_\_\_

Name of Applicant: Mitski Avalōx

Address: [REDACTED]

Day Phone: [REDACTED] Cell/Other: \_\_\_\_\_

E-mail: mitski@sudragstars.com

- Security Personnel must be 21 years old or older;
- A Security Director must be onsite at all times with a cell phone;
- Shirts or Vests must look the same. "SECURITY" must be stated on the shirt or vest so it is visible to the public and the Police Department.

Please check applicable Security:  
The following will allow for the calculation of security required. The calculations will change depending on the type of event.

<input type="checkbox"/> Police Officers (\$100/hr)	2 Police Officers per	1 to 300 People
<input type="checkbox"/> Security Officers in Uniform	3 Security Officers per	1 to 300 People
<input checked="" type="checkbox"/> Private Citizens in Security Shirts or Vests	4 Private Citizens per	1 to 300 People

Name of On-site Security Director: Ermiya Fanaeian Cell Number: [REDACTED]

E-mail: [REDACTED]

Comments:

I understand that falsifying any information on this application constitutes sufficient cause for rejection or revocation of the Special Event Permit. I also understand that the Police Department may require additional information as permitted by Ordinance, and also agree to supply the same.

Applicant Signature: Ermiya Fanaeian Date: 02/26/23

## SECURITY PLAN INFORMATION

1. Please list the names of the security personnel, age, and cell phone number:

First	Last	Age	Cell Phone Number
Shawn	Wilson		
Aisha	Jackson		
Greg	Rud		
Audrey	Rud		
Seth	Johns		
Ian	Southerland		

8

2. Please indicate the number of security personnel that will be roaming on the premises of the event: \_\_\_\_\_.

3. Please provide a detailed Security Plan:

Additional Personnel: Neek Oh, 21+, 765-737-0271. Security personnel will be stationed at each entrance of the venue

Security will be wearing identifying uniforms  
 & will have first-aid kits on-hand. Security  
 is trained in deescalation tactics and will  
 be coordinating with security director who will  
 be roaming.

4. Please mark on the site plan the locations of each security person:

Please see event map.