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

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' MOTION TO STAY
DISCOVERY**

Civil No. 4:23CV44

Honorable David Nuffer

RELIEF REQUESTED AND GROUNDS

Defendants St. George City, City Council of St. George, Councilmembers Jimmie Hughes, Danielle Larkin, Natalie Larsen, Gregg McArthur, and Michelle Tanner, Mayor Michelle Randall, and City Manager John Willis (collectively "Defendants") move the Court to stay discovery until

it rules on Defendants' motion for partial summary judgment on claims for declaratory and injunctive relief on the ground that they are moot now that Plaintiffs held the event that is the subject of their lawsuit and St. George City has repealed and replaced the Special Event Ordinance to provide more robust First Amendment protections.

Plaintiffs filed a Complaint and Motion for Preliminary Injunction to allow them to hold their event on June 30, 2023. The Court granted that motion on June 16, 2023, and Plaintiffs held their event on June 30, 2023. Two months later, on August 31, 2023, St. George City repealed and its Special Events Ordinance and replaced it with a more robust ordinance to protect against future First Amendment violations. Among other things, the new ordinance removed appeals of permit denials from the City Council and vested such authority in an Administrative Law Judge. Defendants have moved for partial summary judgment on Plaintiffs' claims seeking to hold their event and to find the advertising ordinance was unconstitutional on the grounds they are moot because they event had been held and the ordinance had been replaced.

Defendants now seek to stay discovery until the Court rules on whether Plaintiffs' claims related to the event and prior special event ordinance are moot. This ruling will significantly impact the scope of discovery and the delay of a stay will be minimal, as the briefing on the motion is scheduled to be completed by February 9, 2023. Thus, a stay will not prejudice either party. For these reasons, and others set forth below, the Court should stay discovery until it rules upon Defendants' motion for partial summary judgment.

STATEMENT OF FACTS

1. On March 3, 2023, Southern Utah Drag Stars filed an application for a special event permit from St. George City to host an event on April 28, 2023.¹

2. On March 31, 2023, St. George City sent Southern Utah Drag Stars a letter denying their March 3rd Permit. *See* March 31, 2023 Denial Letter.²

3. Southern Utah Drag Stars appealed. The St. George City Council heard the appeal on April 11, 2023 and affirmed the denial with a 4-1 vote.³

4. On May 23, 2023, Plaintiffs filed their Complaint in the present case. *See* [Dkt. #1](#).

5. On May 30, 2023, Plaintiffs filed a motion for a preliminary injunction. *See* [Dkt. #34](#).

6. On June 16, 2023, the Court entered a preliminary injunction requiring St. George City to allow Plaintiffs to hold their event on their chosen date (June 30, 2023) at one of two forums of their choice. *See* [Dkt. #63](#).

7. On June 30, 2023, Plaintiffs held their event pursuant to the preliminary injunction order.

8. On August 15, 2023, the Court entered a Scheduling Order that allowed for 15 depositions for each side, and 25 interrogatories, requests for admission, and requests for production of documents for each side. *See* [Dkt. #71](#).

9. On August 31, 2023, St. George City revoked its special event permit ordinance and replaced it with a new ordinance. *See* Ordinance 2023-017, Def 202-223, Exh. 1.

¹ [Dkt#34-7, DSTARS000045](#)

² [Dkt#34-7, DSTARS000036](#)

³ [4.11.23 City Council Meeting Minutes, p. 2.](#)

10. On September 8, 2023, Plaintiffs served their Initial Disclosures. Plaintiffs disclosed 16 witnesses (including parties) and asserted “Compensatory damages in excess of \$20,000” and costs and attorneys fees that “are currently in excess of \$900,000.” Plaintiffs’ Initial Disclosures, p. 4-5, Exh. 2.

11. That same day, Defendants also served their Initial Disclosures. Defendants disclosed 11 witnesses (including parties). *See* Defendants’ Initial Disclosures, Exh. 3.

12. On December 13, 2023, the Court entered an amended scheduling order adjusting the discovery deadlines. *See* [Dkt. #82](#).

13. On December 14, 2023, Defendants filed a motion for partial summary judgment on the claims related to Plaintiffs’ event for mootness because Plaintiffs held their event on June 30, 2023 and St. George City amended its Special Events Policy on August 31, 2023. *See* [Dkt. #83](#).

ARGUMENT

The Federal Rules “should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1. “A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending.” Fed. R. Civ. P. 26(c)(1). “The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (A) forbidding the disclosure or discovery; (B) specifying the terms, including time and place, for the disclosure or discovery...” *Id.*

I. DISCOVERY SHOULD BE STAYED BECAUSE THE SCOPE OF DISCOVERY MAY BE SIGNIFICANTLY REDUCED IF THE COURT RULES THAT PLAINTIFFS' CLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF ARE NOW MOOT.

Plaintiffs have sought two types of relief: (1) declaratory/injunctive relief allowing them to hold their event, and (2) compensatory damages. Defendants have moved for summary judgment on Plaintiffs' claims for declaratory/injunctive relief on grounds of mootness because Plaintiffs held the event in question on June 30th, per the Court's order, and Defendants have repealed and replaced the Special Events Ordinance. The Court should stay discovery until it rules on Defendants' summary judgment motion because it could greatly reduce the scope of discovery. If the motion is granted, the sole issue left to be resolved would be Plaintiffs' compensatory damages. This would include "Compensatory damages in excess of \$20,000, reflecting lost ticket sales, lost vendor payments, additional fees charged by the City, and equipment costs, among other costs. Compensatory damages for reputational harm in an amount to be proven at trial." Plaintiffs' Initial Disclosures, p. 5, Exh. 2. Discovery on this issue would take much less time and require significantly less resources in terms of attorney, client and witness time.

II. THE DELAY IN DISCOVERY WILL NOT BE SIGNIFICANT.

The delay in discovery in order to resolve Defendant's motion for partial summary judgment will not be significant. By stipulation, Plaintiffs have until January 26, 2024 to file their opposition memo. Defendants are then scheduled to file their reply by February 9, 2024. At that point, the briefing will be complete. While additional time will be needed for a decision from the Court, the delay will not impact the parties significantly because Plaintiffs have already held the event that is the subject of their lawsuit and the ordinance has been repealed and replaced.

III. THE COSTS OF DISCOVERY WILL BE ENORMOUS.

A stay of discovery is also warranted due to the costs of litigation to this point. Plaintiffs asserted in their Initial Disclosures, filed just four months after filing their complaint, that they have incurred more than \$900,000 in attorneys' fees. This amount relates to filing the Complaint, the Motion for Preliminary Injunction and accompanying briefing, and the briefing on Defendants' motion for judgment on the pleadings related to the claims against the individual defendants. It does not include any discovery. Thus, it does not include written discovery, which the parties have served and answered, or any depositions of the 16 witnesses who have been designated (which have yet to be taken). It would be inefficient to incur these discovery expenses before the Court rules on whether the claims related to the event and ordinance are moot. If the parties proceed with discovery and the Court grants Defendants' motion in any part, much of the discovery would be for naught. Simply put, the Court's ruling on Defendants' motion for partial summary judgment will greatly impact the scope of discovery. Therefore, a stay is warranted.

CONCLUSION

For the reasons set forth above, the Court should stay discovery until it resolves Defendants' motion for partial summary judgment.

DATED this 9th day of January, 2024.

SNOW CHRISTENSEN & MARTINEAU

/s/ Scott Young
Scott Young
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of January, 2024, I electronically filed the foregoing **DEFENDANTS' MOTION TO STAY DISCOVERY** with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Annette Gamero

Exhibit 1

ORDINANCE NO. 2023-017

AN ORDINANCE REPEALING CHAPTER 10 OF TITLE 3 OF THE ST. GEORGE CITY CODE AND REENACTING PROVISIONS REGARDING SPECIAL EVENTS AND TO ENACT CHAPTER 11 OF TITLE 3 REGARDING OTHER EVENT PERMITS.

PREAMBLE

WHEREAS, Utah Code §10-8-84 and §10-9a-102 authorize cities to enact ordinances, resolutions, and rules and to enter other forms of land use controls they consider necessary or appropriate for the use of land within the municipality to provide for the health, safety, welfare, prosperity, peace, and good order, comfort, convenience, and aesthetics of the municipality; and,

WHEREAS, the authority granted to municipalities granted under Utah Code §10-8-84 and §10-9a-102 cities to enact ordinances, resolutions, rules, and land use controls for the use of land within the municipality is especially important to the health, safety, welfare, prosperity, peace, and good order, comfort, convenience, and aesthetics of the municipality when applying those regulations to the use of public properties and spaces; and,

WHEREAS, the City Council recognized that the desire for and utilization of public properties and spaces for events had elevated to create an imbalance with the need to maintain those spaces and provide access to the general public outside of scheduled events; and,

WHEREAS, the City Council determined that the effects of the demand for events in public spaces were outpacing the City's ability to properly study and assess the needs processing event applications, the applicability of existing City Code provisions regarding special events and other event types, and the demand and availability of public spaces and properties other than special events and other event types; and,

WHEREAS, on March 16, 2023, the City Council adopted Ordinance 2023-03-003, by a 3-to-1 vote, a temporarily regulation suspending the permitting or processing of certain Special Event Permits under Title 3, Chapter 10 of the City Code for a period not to exceed six months; and,

WHEREAS, while Ordinance 2023-03-003 was in effect, the City Council has held multiple discussions during advertised and public work meetings to consider revisions to the provisions regarding special events in Chapter 10 of Title 3 of the St. George City Code and the creation of Chapter 11 in Title 3 to address other event permits; and,

WHEREAS, the City Council has determined that it is in the best interest of the City and the public to amend provisions of City Code, Title 3, to revise Chapter 10 regarding special events and enact a new Chapter 11 regarding other event permits; and,

WHEREAS, after careful consideration, the City Council has determined that amending Title 3 is in the best interest of the health, safety, and welfare of the citizens of St. George to provide regulations, standards, and procedures for permitting special events and other event types in a manner that is more clear, balanced, and free of content considerations;

NOW, THEREFORE, BE IT ORDAINED, by the St. George City Council, as follows:

Section 1. Repealer. Any provision of the St. George City Code found to be in conflict with this Ordinance is hereby repealed.

Section 2. Enactment. The Chapter 10 of Title 3 of the St. George City Code regarding special events is hereby repealed and reenacted as set forth in Exhibit 'A' attached hereto and incorporated herein. The St. George City Code is also hereby amended by adopting and enacting Chapter 11 of Title 3 regarding other event permit types, as set forth in Exhibit 'B' attached hereto and incorporated herein.

Section 3. Severability. If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 4. Effective Date. This Ordinance shall take effect immediately upon execution below and upon posting in the manner required by law.

APPROVED AND ADOPTED by the St. George City Council, this 31st day of August, 2023.

CITY OF ST. GEORGE:

Michele Randall
Michele Randall, Mayor



APPROVED AS TO FORM:
City Attorney's Office

Jami Brackin
Jami Brackin, Deputy City Attorney

ATTEST:

Christina Fernandez
Christina Fernandez, City Recorder

VOTING OF CITY COUNCIL:

Councilmember Hughes aye
Councilmember McArthur aye
Councilmember Larkin aye
Councilmember Larsen aye
Councilmember Tanner aye

EXHIBIT A

CHAPTER 10 OF TITLE 3 REGARDING SPECIAL EVENTS

**CHAPTER 10
SPECIAL EVENTS**

- 3-10-1 Purpose**
- 3-10-2 Definitions**
- 3-10-3 Permit Required**
- 3-10-4 Application Requirements and Procedures**
- 3-10-5 Insurance Requirement**
- 3-10-6 Fees**
- 3-10-7 Fee Waivers and Sponsorships**
- 3-10-8 Application Review, Approval, and Issuance**
- 3-10-9 City Parks, Sites, and Facilities Used For Special Events**
- 3-10-10 Grounds for Denial**
- 3-10-11 Appeal Procedures**
- 3-10-12 Inspections**
- 3-10-13 Violation**

3-10-1 PURPOSE:

The purpose of this chapter is to provide for and encourage temporary events to occur in the city in order to create a sense of community and enhance the quality of life for city residents. It is also the City's intent to promote, protect and assure the safety and convenience of residents and visitors by mitigating potential issues which may occur as a result of the special event. This Chapter is adopted to ensure that the special events do not create disturbances, become a nuisance, threaten life, health, and property, disrupt traffic, or threaten or damage private or public property. It is not the intent of this chapter to regulate in any manner the content of speech or infringe upon the right to assemble, except for time, place, and manner regulations.

3-10-2 DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall be defined as set forth in this Section:

APPLICANT: The individual event organizer and the organization responsible for the event and the payment of fees.

ATHLETIC EVENT: An organized competitive or recreational event in which a group of people collectively engage in a sport or form of physical exercise, including, but not limited to, running, jogging, walking, bicycling, or skating, racing, or fighting held on any public or private property, including events occurring at a venue specifically designed for the purpose of that sport or activity such as baseball/softball, soccer, tennis, pickleball, rodeo, etc.

CELEBRATION EVENT: An event celebrating a wedding, birthday, anniversary, graduation, funeral, or other milestone that qualifies as a special event as defined.

CITY EVENT: An event of any variety that is planned, organized, and operated by the City, whether directly or by contract with a third-party operator.

CITY PARTNER EVENT: As defined in City Code §3-11-1.

CITY SPONSORED EVENT: A special event for which the City Council has agreed to provide financial, in-kind, or other support or remuneration in exchange for the City's name and logo to be added as a

sponsor of the event in all print, video, or internet publications, advertising, or signs. The use of the City's name or logo without sponsorship is prohibited.

COMPLETED APPLICATION: An application will be considered complete when all information and documents necessary for review and approval have been provided to the City, including all application fees paid, site layouts, security plans, venue, and vendor information, etc. An insurance certificate and a facility use agreement are not required prior to review by ERC but shall be required prior to any permit being issued.

DIRECTOR: The Community Development Director.

ENCROACHMENT PERMIT: As defined in City Code §3-11-1.

FEE WAIVERS: A decision by the City Council to waive some or all application fees or facility use fees requested by applicants for a special event. The grant of a fee waiver alone does not act as a sponsorship for the event.

FILMING EVENT: As defined in City Code §3-11-1.

GATHERING EVENTS: An event consisting of the gathering of people at a location for the purpose of amusement, display or demonstration of goods, whether or not for sale, or similar activities such as, but not limited to, fairs, carnivals, parades, block parties, or outdoor sales events.

MARKET EVENT: An event designed and organized to create primarily a sales marketplace for the vendors, but which may have other food or entertainment included as well, such as but not limited to farmers' markets.

OUTDOOR SALES EVENT: An organized event in which a group of people or an organization engages in the sale of product including, but not limited to, displays and exhibitions, craft fairs, outdoor sales, tent sales and other similar activities.

PARADE EVENT: As defined in City Code §3-11-1.

PERFORMANCE EVENTS: A one-time event consisting of a gathering of people at a location for the purpose of live performance entertainment through the participation in or observation of a performance such as but not limited to live talent shows, dancing, recitals, theatrical, dramatic, or musical concerts or events.

PERMITTEE: The "applicant" as defined herein, becomes a "permittee" upon approval and issuance of a special event permit. As the permit holder, a permittee becomes the sole proprietor and responsible party for the event, including all fees, insurance provisions, and violations.

PERSON: Any individual, natural human being, partnership, corporation, firm, company, association, society, or group.

PROTEST ZONE: A geographic area in the vicinity of an event, voluntarily established by the event, specifically designated for protestors or demonstrators to exercise their free speech rights.

SPECIAL EVENT: An event which impacts the city by involving the use of or having an impact on public property or facilities, including rights-of-way, or which require City licensing, land use approval, or services beyond the scope of normal business and/or special liquor regulations, or creates public impact through bringing a group of people together in one or more locations for a limited period of time for a particular activity, including:

- A. Any athletic event, entertainment event, carnival, circus, dance, musical event, rodeo event, fighting event, racing event, live shows, fairs, concerts, or outdoor sales event, whether held for profit, nonprofit or charitable purposes held on public property within the city, other than Specific Venue Events.
- B. Any gathering event at any public park, public square, or other City property which and which uses more services, amusement devices such as stages, inflatable devices, temporary structures, tables, lighting, or equipment, whether provided by the City or a third party, than normally provided to groups which reserve park facilities or other City-owned facilities.
- C. Use or creation of amplified sound.
- D. Events on private property which are not consistent with the allowed uses of the property's zoning designation.
- E. Any event which requires an event permit or license from the Utah Department of Alcohol and Beverage Services as set forth in Utah Code Title 32B, Chapter 9.

The following are not considered special events but may require other permitting as set forth in Chapter 11 of this Title:

- F. An event held on private property or within a structure that is a business location with a current annual business license as an event business;
- G. An event held in any building with an assembly group classification under the International Building Code, as adopted by the state, so long as the event does not exceed the posted occupancy load as approved by the City; and
- H. A City Event or City Partner Event. (see §3-11-4)
- I. Specific Venue Events (see §3-11-5).
- J. Filming Events (see §3-11-2).
- K. Parade Events (§3-11-3).

SPECIFIC VENUE EVENTS: As defined in City Code §3-11-1.

SPONSOR: A person, group, or business which has contracted to provide financial or logistical support to any special event. The sponsor agreement may provide for advertising rights, product promotion, logo promotion, exclusivity of rights, products, or logos.

SUBSTANTIAL CHANGES: Any change to a previously held special event or new permit application which adds:

- 1. Additional security;
- 2. Amplified sound;
- 3. Sale of alcohol;
- 4. More than three hundred additional participants;
- 5. Additional road closures or other encroachments;
- 6. Inclusion of artificial lighting or other aspects that present the potential for nuisance or impact to neighboring property owners; or
- 7. Change of venue requested by the applicant.

VENDOR(S): A person engaging in business at a permitted special event, City Event, or City Sponsored

Event.

VENUE: The location or locations at which a special event is held, which may include the ingress and egress route, protest zones, or other affiliated areas as approved in the special event permit.

3-10-3 PERMIT REQUIRED:

- A. Permit Required. It is unlawful for any person, corporation, partnership, association, or other entity, public or private, to hold a special event without first obtaining a Special Event Permit.

- B. Events Not Requiring a Special Event Permit. The following events, or events held at the following are not special events under this Chapter, but may require other permitting:
 - 1. A building or private property that has a business located on or within and a current annual Business License as an event business;
 - 2. A building with an assembly group classification under the International Building Code adopted by the state, so long as the event does not exceed the posted occupancy load as approved by the City and has a current annual Business License, if required;
 - 3. A grand opening or open house event, not to exceed 30 days, held on-site in association and conjunction with the conclusion of construction.

- C. Associated Permits. Certain types of special events will necessitate the need for associated permits and/or agreements such as, but not limited to, an Encroachment Permit to allow for the closure of a public street, trail, or other public property in order to make the event viable, or Use Agreements for the use of the facility. Such associated permits shall be secured prior to or as part of the approval of a Special Event Permit for the same event. Unless addressed in Chapter 11 of this Title, events that do not require a Special Event Permit under this Chapter, but require an Encroachment Permit or other associated permit, shall also require a full Special Event Permit.

3-10-4 APPLICATION REQUIREMENTS AND PROCEDURES:

- A. Application Submission:
 - 1. Except as provided in Subsection B of this Section, a completed electronic application on the City form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the City at least 45 calendar days, but no more than 365 days prior to, before the event is scheduled to take place, in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in the event the application is denied. Complete applications shall be processed as outlined in this Section, from the date of application so long as the application submitted is complete and timely.
 - 2. If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the 45-day deadline shall not begin until the application is resubmitted and determined to be a complete application. APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A COMPLETE APPLICATION FOR A SPECIAL EVENT PERMIT WELL IN ADVANCE OF THE 45-DAY APPLICATION DEADLINE.
 - 3. Applications for events that submit the application less than 45 calendar days prior to the scheduled event shall not be accepted.
 - 4. The City shall issue a written decision, in the form of a use agreement for approved permits or a letter of explanation for denied applications, on all complete Special Event Permit applications no less than ten business days prior to the event.

- B. Events Review Committee (ERC). Once received, completed applications for an Event Permit shall be forwarded to the ERC for review. The Events Review Committee shall be made up of:
1. the Special Events Coordinator;
 2. the City Manager;
 3. one designated member of the City Council;
 4. the City's Risk Management Officer;
 5. a representative of the City Attorney's Office;
 6. a designated official from the St. George Police Department;
 7. a designated official from the St. George Fire Department;
 8. the Community Development Director;
 9. a designated official from the St. George Parks Department;
 10. a designated official responsible for City facilities;
 11. a designated official from the St. George Streets Department;
 12. a designated official from the St. George Engineering Department;
 13. a designated official from the Washington County Health Department; and

Where appropriate, review by a designated official from SunTran and the Dixie Convention Center may be included as part of the ERC.

- C. Review Process. Applications for a Special Event Permit shall be submitted electronically to the Special Events Coordinator (SEC) who, within three business days, shall verify that the application is complete and either return the application to the applicant for correction or supplementation if incomplete or forward the complete application to the ERC for review. Upon resubmission of a returned incomplete application, the application shall be reviewed as if it was an original application submission.
1. The SEC shall act as the facilitator of the application review process and shall be responsible for collecting review responses from the ERC as well as coordinating the process with applicants. While an application is under review by the ERC; the SEC shall:
 - a. verify park or facility availability and reservation(s) for event; and
 - b. within three business days of the distribution of an application to the ERC, forward any application for a fee waiver or sponsorship request for review by the City Council.
 2. The ERC members shall, no more than ten business days from distribution of an application for review, provide a recommendation including the identification of any comments or concerns to the SEC. Upon receipt of the recommendations from ERC members, the SEC shall provide a summary of those recommendations, within three business days, to the ERC approval body consisting of the Special Events Coordinator, City Manager, Community Development Director, City Council member, City Attorney's representative, Parks Department representative, Police Department Representative, and Fire Department representative. Based on the recommendations of ERC members, the approval body may require corrections to the application by the applicant prior to consideration of issuance of a decision on the application. In the event that corrections are required, the corrected application need only be reviewed by the approval body which may, at their discretion, consult with other members of the ERC regarding the corrected application.
 3. Upon completion of the application review, the ERC approval body shall approve the application, approve with conditions, or deny the application.
 4. Following a decision of the ERC approval body, within one business day the SEC shall issue a written notification to the applicant for a Special Event Permit of the approval, approval with conditions, or denial of the application.

5. If at any point substantial changes are made to the event application, the application and information must be resubmitted as a new application and reviewed accordingly.
6. Special Event Permits that are approved or approved with conditions shall enter into a written use agreement for the event. The use agreement, once executed, shall serve as the permit and authorization to hold the event. The applicant shall sign the use agreement and return it to the City for execution. Upon the City Manager's signature on the agreement, the Special Event Permit shall be considered approved, and the special event may be held once a sufficient certificate of insurance has been received by the SEC from the applicant. The SEC shall provide a copy of the fully executed use agreement to the applicant within one business day of execution and not less than ten calendar days prior to the scheduled event.

3-10-5 INSURANCE REQUIREMENT:

- A. Insurance: The applicant, vendors, exhibitors, and concessionaires of a special event held on City property shall procure and maintain commercial general liability insurance as posted on the City's website in the amount required by the City to protect the City against loss from liability imposed by law for damages on account of bodily injury or property damage arising from the event. Such insurance shall provide the following and shall be submitted to the City on an insurance certificate which shall include the following:
 1. The name and address of the insured.
 2. The City shall be named as an additional primary insured and noncontributory on the general liability certificate.
 3. The location of the operations to which the insurance applies.
 4. The number of the policy and the type or types of insurance in force thereunder on the date of the certificate.
 5. The expiration date of the policy and the limit or limits of liability thereunder on the date of the certificate.
 6. A statement that all coverage is on an occurrence basis rather than a claims basis.
 7. A provision that the policy or policies will not be canceled, denied renewal, or reduced in coverage until at least 30 days after written notice has been received by the City.
 8. Name, address, and telephone number of the insurance company's agent.
 9. A waiver of subrogation.
- B. Workers' Compensation Insurance: Applicant shall procure and maintain workers' compensation insurance as required by Utah law.
- C. Certificate Of Insurance: No Special Event Permit shall be issued until the applicant and all vendors, exhibitors, or concessionaires participating in the event submit to the City a certificate of insurance as required in this Chapter.

3-10-6 FEES:

- A. Application Fees: Along with the application for a Special Event Permit, the applicant shall be required to pay the following fees:
 1. A non-refundable special event application fee; and
 2. A non-refundable facility use deposit fee, representing 10% of the required fee for the location sites as well as any equipment or portable facilities, including City-owned equipment such as but not limited to a temporary stage, structures, chairs or seating, etc.
- B. City Cost Recovery Fees: Before a permit is issued, the applicant shall pay the application fees and

cost recovery fees as determined by the City based on the application, the applicant's past event history with the City, and experience with similar events. Extra City services will be provided for special events as determined by the City to be needed to protect the health, safety and welfare of the public. City costs include, but are not limited to the use of, police, fire, park maintenance, power, water, road closures, and cleanup of city facilities before, during, or after the event, and other costs to City directly attributable to the special event.

- C. Invoice and Payment: No permit shall be issued without the payment of all fees prior to the tenth business day before the scheduled event.
1. Prior to issuing the permit, the City shall deliver to the applicant via email or other methods, an invoice detailing all costs including the application fee, facility fees, and cost recovery fees.
 2. Any facility use fees paid at the time of application shall be credited towards the overall fee total for the issuance of a Special Event Permit. If the total amount exceeds the City cost recovery fees paid in advance, the applicant shall pay the unpaid portion of the invoice. If the amount is less than the application fees paid prior to issuance of the permit, then the remaining amount shall be returned to the applicant.
 3. In the event force majeure prevents the event from occurring, the cost recovery fees may be refunded to the applicant or applied to a future event.
 4. Application fees and deposits are non-refundable.
 5. Approved special events which are to occur for more than four total days may, upon request, have a payment schedule included in use agreement whereby fees for the event may be broken out into scheduled payments according to the following:
 - i. Scheduled payments shall occur no less frequently than on a monthly basis.
 - ii. The days an event is to be held shall be identified as to which days are tied to each scheduled payment.
 - iii. Days for the event shall be considered confirmed reservations upon payment of the scheduled payment to which that day is tied.
 - iv. Site or facility reservations for an event shall be in a "hold" status for all days not paid for under the payment schedule.
 - v. In the event a subsequent event application or reservation request is submitted for a date on hold, the applicant for the event shall have two business days from the date of notification from the City to make full payment for that day to confirm the reservation or forfeit the day or days requested by the subsequent application or reservation. A confirmation payment for a day or days under this Subsection shall be applied towards the scheduled payment in which that day or days were tied.

3-10-7 FEE WAIVERS AND SPONSORSHIPS:

- A. Fee Waivers. An applicant for a special event may request, by separate application in writing, a waiver of the fees associated with part or all of the permitting for the event.
Fee Waivers may be granted if the applicant:
1. Provides evidence of their inability to pay the fees;
 2. Shows good cause that the event promotes the health, safety, or welfare of the citizens and why the fees should be waived, and the event subsidized by taxpayers; and
 3. Provides evidence of other remuneration or benefit that the City will receive in lieu of fees.
- B. Sponsorship. An applicant for a special event may request, in writing with the application for the event, a City sponsorship for the event. The application for sponsorship shall include the specific type of sponsorship requested (monetary or in-kind), the quantity or amount, and a sample of how and

where the City's name and logo will appear on any materials.

- C. An applicant for a special event may request both a fee waiver and sponsorship, when eligible, for a single event through independent requests for each. Requests and approvals for fee waivers and sponsorships shall be considered independently and mutually exclusive of each other. Decisions of the City Council on fee waivers and sponsorship requests shall not carry influence on the other. The City Council shall maintain full discretion for the approval, partial approval, or denial of any fee waiver or sponsorship request. The decision of the City Council is final and not subject to appeal.

3-10-8 APPLICATION REVIEW, APPROVAL, AND ISSUANCE:

After a review and recommendation by the ERC and Director, the City Manager, or a designee, shall review and either approve, approve with conditions, or deny the request for a Special Event Permit. The City Manager may refer any request for a Special Event Permit to the City Council for recommendation prior to approval or denial. The signature of the City Manager on the affiliated Use Permit shall act as the written approval of the Special Event Permit.

3-10-9 CITY PARKS, SITES, AND FACILITIES USED FOR SPECIAL EVENTS:

In order to best accommodate larger gatherings, parking, and impacts on neighborhoods, special events may take place generally only within community parks or neighborhood parks and facilities identified in Table 1 below. City squares, neighborhood parks, or other Specific Event Facilities (not listed herein) are generally not available for special events but may require a Special Event Permit if triggered by the allowed activity.

- A. City parks and facilities identified in Table 1 shall be reserved as part of the Special Event Permit.
- B. All parks, squares, and facilities shall be available for City Events and City Partner Events.
- C. Those neighborhood parks not listed on Table 1 may be available for Celebration Events if the facility and parking are sufficient for or meet the needs of the event.
- D. All other City parks, City facilities, or specific pavilions or facilities within the City parks not listed in Table 1, shall continue to be reservable through the Parks Department, but are not available for special events.
- E. A Special Event Permit may be required for a specific venue event as defined and set forth in City Code §3-11-4, or any other type of event, if the specific venue event requires an alcohol permit from Utah DABS, or meets the definition of a special event. Consistent with state law, alcoholic beverages shall be permitted on public property only when the appropriate DABS permit, and Special Event Permit has been obtained.
- F. Athletic Events shall not be limited to the park sites and facilities identified in Table 1 when occurring at a facility specifically designed and intended for the sport or activity of the event. Athletic Events involving races that will utilize City roads and rights-of-way shall be allowed to do so outside of the park sites and facilities identified in Table 1 so long as the basecamp for the event is located within and complies with the park sites and facilities identified in Table 1.
- G. Special events using City parks, sites, and facilities shall be subject to a maximum number of availability days per month to ensure appropriate access for the general public. The maximum number of days per month, regardless of days of the week, that a City park, site, or facility shall be eligible for reservation for special events shall be as identified in Table 1 of this Section.

Table 1

| Park | Type* | Parking | Allowed Event Types | Special Requirements and Comments | Available Days |
|-------------------------------|-------|---------|--|---|----------------|
| Bloomington Park | CP | 164 | Gathering Events Celebration Events City Sponsor Events Market Event | | 15 |
| Centennial Park | NP | 101 | Performance Events Gathering Events Athletic Events | Additional school parking may be available after hours | 10 |
| Christensen Park | NP | 12 | Celebration Events Gathering Events | | 10 |
| Cottonwood Cove Park | CP | 92 | Gathering Events Sporting events | | 10 |
| Cox Park | NP | 14 | Gathering Events Celebration Events | | 10 |
| Crosby Family Confluence Park | NP | 57 | Performance Events Gathering Events Outdoor Sales Events | Additional parking requires permission from Dixie Convention Center | 15 |
| Dixie Downs Park | NP | 28 | Gathering Events Celebration Events | | 10 |
| Dixie Sunbowl | F | 52 | Specific Activity (rodeo or equestrian) Performance Events Gathering Events Outdoor Sales Events Market Events | Additional parking on street and in North dirt lot. | 20 |
| Fields at Little Valley | CP | 322 | Gathering Events Athletic Events Performance Events Specific Activity (pickleball, soccer) Market Event | | 15 |
| Hela Seegmiller Park | CP | 83 | Gathering Events Celebration Events Market Events | | 10 |
| J.C. Snow Park | CP | 100 | Gathering Events Performance Events City Sponsor Events Market Events | | 15 |

| | | | | | |
|--------------------------------|----|------|--|--|----|
| Mathis Park | NP | 78 | Gathering Events Celebration Events City Sponsor Events | | 10 |
| Pioneer Park | CP | 118 | Gathering Events Celebration Events City Sponsor Events | No electrical outlets or water available | 15 |
| Sandtown Park | CP | 94 | Gathering Events Performance Events Athletic Events Market Events | | 15 |
| Tonaquint Park | CP | 260 | Specific Activity (Tennis) Gathering Events | | 15 |
| Town Square | SQ | 100+ | City Events City Partner Events | | 10 |
| West Parking Lot - Town Square | SQ | 100+ | Gathering Events Market Events Outdoor Sales Events City Sponsor Events Performance Events | | 10 |
| Vernon Worthen Park | CP | 52 | Gathering Events Performance Events Market Events Celebration Events City Sponsor Events | Additional street parking available | 15 |
| 2450 East Park | NP | 15 | Gathering Events Celebration Events | | 10 |

* For the purpose of Table 1, the following shall apply:
 CP shall mean Community Park
 NP shall mean Neighborhood Park
 SQ shall mean square, plaza, or similar site
 F shall mean facility

3-10-10 GROUNDS FOR DENIAL:

- A. Grounds For Denial: An application for a Special Event Permit may be denied by the City if:
 1. The proposed special event violates a federal, state, or local law.
 2. The proposed special event is not consistent with the intended nature and use of the requested City park or facility as set forth in §3-10-9 above.
 3. The proposed special event is scheduled at a place and time that could disrupt or interfere with an already approved special event or park/facility reservation.
 4. The proposed location or building is not adequate to accommodate the proposed special event such as parking, sanitation facilities, and health or safety codes, or the nature of the proposed special event is such that the City, or the applicant does not have sufficient resources available to ensure the health, safety, and welfare of special event participants or the general public.
 5. The permit application contains a material falsehood or misrepresentation.
 6. The applicant has failed to pay a debt to the City including costs incurred during a prior special event.

7. Incomplete permit applications.
8. The applicant or any person on whose behalf the application for a permit was made has on prior occasions:
 - a. Damaged City property, if the applicant is for an event on City property; or
 - b. Made material misrepresentations regarding the nature or scope of an event or activity previously permitted; or
 - c. Has violated the terms of prior permits issued to or on behalf of the applicant.
 - d. Had violations of state or local laws at a prior event.
9. Unavailability of the site or facility identified for the event.

B. Notice: If a Special Event Permit application is denied, the City shall notify the applicant in writing of the reason or reasons for the denial.

3-10-11 APPEAL PROCEDURES:

- A. Initial Appeal. Any applicant for a Special Event Permit desiring to appeal an administrative decision concerning the denial, condition or modification of a Special Event Permit may appeal to the Administrative Law Judge (ALJ) within five calendar days of the written decision. All appeals to the ALJ shall be in writing, shall state the specific grounds for the appeal, and shall be delivered to the City Recorder via email or by hand delivery. Any decision made by the ALJ shall be considered the final decision of the City.
- B. Court Appeal. An applicant may appeal the ALJ's decision by seeking judicial review with the District Court within 30 calendar days of the ALJ decision. The Court's review shall be limited to a review of the record. The District Court shall presume the ALJ's decision is valid and shall review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

3-10-12 INSPECTIONS:

Authorized law enforcement officers, fire control officers, and other government personnel performing inspections pursuant to this Chapter 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.

3-10-13 VIOLATION:

- A. Any admission to, finding of civil responsibility for, or finding of guilt for violations of federal, state, or local laws during the course of the event, by the Permittee or attendees of the event, including the provisions of Utah Code Title 76, Chapter 7, Parts 1 and 7, or City Code Titles 3 and 5 shall also be deemed a violation of this Chapter and subject to the penalties set forth in Subsection C below.
- B. A violation of any provision of this Chapter shall be a class B misdemeanor and subject to the civil penalty set forth in Subsection C below.
- C. Events and/or Permittees that are found to have violated the terms of this Chapter shall be barred from applying for another Special Event Permit for the same or another event for a period of two years (730 calendar days from the date of the violation). Events and/or permittees which are barred a second time shall be permanently prohibited from applying for a Special Event Permit.
- D. Events and/or Permittees which are barred may, after 365 calendar days of the debarred period have expired, apply to the City Council for reinstatement of good standing upon demonstration of:

1. A complete separation from the organizing person or entity at fault for the violations of this Chapter that was the basis of the event being barred;
2. A proposal for ensuring the violation is corrected or removed; and
3. A proposal for ensuring the violation will not reoccur.

In reviewing a reinstatement request for a barred event or Permittee, the City Council shall maintain full discretion in determining the appropriateness of the information and proposals for reinstatement of the event or permittee.

EXHIBIT B

CHAPTER 11 OF TITLE 3 REGARDING OTHER EVENTS PERMITS

**CHAPTER 11
OTHER EVENT PERMITS**

- 3-11-1** Definitions
- 3-11-2** Filming Event Permits
- 3-11-3** Parade Event Permits
- 3-11-4** City Events and Partner Events Permits
- 3-11-5** Specific Venue Events
- 3-11-6** Non-Construction Encroachment Permits
- 3-11-7** Inspections

3-11-1 DEFINITIONS:

For the purposes of this Chapter, the following words and phrases shall be defined as set forth in this Section:

CITY PARTNER EVENT: A special event that is planned, organized, and operated by a state or local governmental entity other than the City, including schools, special districts, governmental non-profit organizations, and interlocal entities or entities with whom there is an interlocal agreement. City Partner also includes Washington County's Greater Zion Convention & Tourism Office.

ENCROACHMENT PERMIT: The required permit under City Code §7-1-3 which enables the use, encroachment into, or closure of a public road or right-of-way.

FACILITY USE AGREEMENT: An agreement between the permittee and City to use a City facility which contains the terms and conditions of that agreement and the costs for the use.

FILMING EVENT: The recording by film, video, or other medium of live action or landscapes for educational, commercial, or other purposes beyond personal use. Filming Events include the filming of a motion picture, television broadcast, and digital media production but does not include filming for a news broadcast.

LOCATION AGREEMENT: An agreement allowing a filming event to occur at a particular public location, which may or may not include a city facility.

PARADE EVENT: A public procession of vehicles, persons, or other devices, using public streets and rights-of-way.

PERSON: Any individual, natural human being, partnership, corporation, firm, company, association, society, or group.

SPECIFIC VENUE EVENTS: An event occurring within a venue, location, or facility specifically intended or constructed for that type of activity, including but not limited to the Sunbowl for rodeo or equestrian events, the Fields at Little Valley for soccer, softball, or pickleball, the Canyon Complex for softball, or Tonaquint Park for the tennis courts.

3-11-2 FILMING EVENT PERMITS:

Any person who intends to engage in a filming event shall first obtain a Filming Event Permit, location agreement, facility use agreement, and/or other permit or agreement as necessary for locations and facilities needed for or in association with the event.

- A. Application Submission:
1. Except as provided in Subsection B of this Section, a completed electronic application on the City form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the City at least 20 calendar days before the event is scheduled to take place, in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in the event the application is denied.
 2. If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the 20-day deadline shall not begin until the application is resubmitted and determined to be a complete application. **APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A COMPLETE APPLICATION FOR A FILMING EVENT PERMIT WELL IN ADVANCE OF THE 20-DAY APPLICATION DEADLINE.**
 3. Applications for events that submit the application less than 20 calendar days prior to the scheduled event shall not be accepted.
 4. The City shall issue a written decision of approval, approval with conditions, or denial, in the form of a use agreement, for approved permits or a letter of explanation for denied applications, on all complete Filming Event Permit applications no less than ten calendar days prior to the event.
- B. Events Review Committee (ERC). The Events Review Committee shall be made up in the same manner outlined in Section 3-10-4(C).
- C. Review Process. Applications for a Filming Event Permit shall be submitted electronically to the Special Events Coordinator (SEC) who, within three business days, shall verify that the application is complete and either return the application to the applicant for correction or supplementation if incomplete or forward the complete application to the ERC for review. Upon resubmission of a returned incomplete application, the application shall be reviewed as if it was an original application submission. Once submitted to the ERC, the review and approval process for a Filming Event Permit application shall be as described in Section 3-10-4(D) for special events.

3-11-3 PARADE EVENT PERMITS:

Any person who intends to engage in a parade event shall first obtain a Parade Event Permit, location agreement, facility use agreement, and/or other permit or agreement as necessary for locations and facilities needed for or in association with the event.

- A. Application Submission:
1. Except as provided in Subsection B of this Section, a completed electronic application on the City form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the City at least 45 calendar days before the event is scheduled to take place, in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in the event the application is denied.
 2. If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the 45-day deadline shall not begin until the application is resubmitted and determined to be a complete application. **APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A COMPLETE APPLICATION FOR A PARADE EVENT PERMIT WELL IN ADVANCE OF THE 45-DAY APPLICATION DEADLINE.**

3. Applications for events that submit the application less than 45 calendar days prior to the scheduled event shall not be accepted.
 4. The City shall issue a written decision of approval, approval with conditions, or denial, in the form of a use agreement, for approved permits or a letter of explanation for denied applications, on all complete Parade Event Permit applications no less than ten calendar days prior to the event.
- B. Events Review Committee (ERC). The Events Review Committee shall be made up in the same manner outlined in Section 3-10-4(C).
- C. Review Process. Applications for a Parade Event Permit shall be submitted electronically to the Special Events Coordinator (SEC) who, within three business days, shall verify that the application is complete and either return the application to the applicant for correction or supplementation if incomplete or forward the complete application to the ERC for review. Upon resubmission of a returned incomplete application, the application shall be reviewed as if it was an original application submission. Once submitted to the ERC, the review and approval process for a Parade Event Permit application shall be as described in Section 3-10-4(D) for special events.

3-11-4 CITY EVENTS AND CITY PARTNER EVENT PERMITS:

Any City partner who intends to engage in an event shall first obtain a permit, location agreement, facility use agreement, and/or other permit or agreement as necessary for locations and facilities needed for or in association with the event. City events may follow an informal internal process to plan, review, and approve events within the city involving City properties and facilities.

- A. Application Submission:
1. Except as provided in Subsection B of this Section, a completed electronic application on the City form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the City at least 20 calendar days before the event is scheduled to take place, in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in the event the application is denied.
 2. If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the 20-day deadline shall not begin until the application is resubmitted and determined to be a complete application. **APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A COMPLETE APPLICATION FOR A CITY PARTNER EVENT PERMIT WELL IN ADVANCE OF THE 20-DAY APPLICATION DEADLINE.**
 3. Applications for events that submit the application less than 20 calendar days prior to the scheduled event shall not be accepted.
 4. The City shall issue a written decision of approval, approval with conditions, or denial, in the form of a use agreement, for approved permits or a letter of explanation for denied applications, on all complete City Partner Event Permit applications no less than ten calendar days prior to the event.
- B. Events Review Committee (ERC). The Events Review Committee shall be made up in the same manner outlined in Section 3-10-4(C).
- C. Review Process. Applications for a City Partner Event Permit shall be submitted electronically to the Special Events Coordinator (SEC) who, within three business days, shall verify that the application is complete and either return the application to the applicant for correction or supplementation if incomplete or forward the complete application to the ERC for review. Upon resubmission of a returned incomplete application, the application shall be reviewed as if it was an original application

submission. Once submitted to the ERC, the review and approval process for a City Partner Event Permit shall be as described in Section 3-10-4(D) for special events.

3-11-5 SPECIFIC VENUE EVENT PERMITS:

Any person who intends to engage in a specific venue event shall first obtain a Specific Venue Event Permit, location agreement, facility use agreement, and/or other permit or agreement as necessary for the venues and locations needed for or in association with the event.

- A. Application Submission:
1. Except as provided in Subsection B of this Section, a completed electronic application on the City form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the City at least 45 calendar days before the event is scheduled to take place, in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in the event the application is denied.
 2. If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the 45-day deadline shall not begin until the application is resubmitted and determined to be a complete application. APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A COMPLETE APPLICATION FOR A SPECIFIC VENUE EVENT PERMIT WELL IN ADVANCE OF THE 45-DAY APPLICATION DEADLINE.
 3. Applications for events that submit the application less than 45 calendar days prior to the scheduled event shall not be accepted.
 4. The City shall issue a written decision of approval, approval with conditions, or denial, in the form of a use agreement, for approved permits or a letter of explanation for denied applications, on all complete Specific Venue Event Permit applications no less than ten calendar days prior to the event.
- B. Events Review Committee (ERC). The Events Review Committee shall be made up in the same manner outlined in Section 3-10-4(C). The ERC shall include a designated representative of the venue(s) identified in the permit application when considering an application for a Specific Venue Event Permit.
- C. Review Process. Applications for a Specific Venue Event Permit shall be submitted electronically to the Special Events Coordinator (SEC) who, within three business days, shall verify that the application is complete and either return the application to the applicant for correction or supplementation if incomplete or forward the complete application to the ERC for review. Upon resubmission of a returned incomplete application, the application shall be reviewed as if it was an original application submission. Once submitted to the ERC, the review and approval process for a Specific Venue Event Permit application shall be as described in Section 3-10-4(D) for special events.

3-11-6 NON-CONSTRUCTION ENCROACHMENT PERMITS:

Any person who intends to close or restrict any public right-of-way, trail, or other public property for non-construction purposes shall first obtain a Non-Construction Encroachment Permit.

- A. Application Submission:
1. Except as provided in Subsection B of this Section, a completed electronic application on the City form, including the payment of application fees and the submission of corrected or additional information as required, shall be submitted to the City at least 45 calendar days before the event is scheduled to take place, in order to allow sufficient time to process the application, to review the preparation and setup of the event, for any inspection to occur, and to allow timely appeal in

- the event the application is denied.
2. If an application is determined to be incomplete or if substantial changes are made to an existing application or event, the 45-day deadline shall not begin until the application is resubmitted and determined to be a complete application. APPLICANTS ARE STRONGLY ENCOURAGED TO SUBMIT A COMPLETE APPLICATION FOR A NON-CONSTRUCTION ENCROACHMENT PERMIT WELL IN ADVANCE OF THE 45-DAY APPLICATION DEADLINE.
 3. Applications for new permits that submit the application less than 45 calendar days prior to the scheduled event shall not be accepted.
 4. Applications for a Non-Construction Encroachment Permit shall also include:
 - i. a complete list of names and current mailing addresses, obtained from the Office of the Washington County Recorder, for all owners of property within or partially within the area fronting the segment of public right-of-way proposed for closure by the permit;
 - ii. for properties that have a mailing address or owner that is not represented to be the resident or occupant a property identified under Subsection (A)(4)(i) herein, an additional notice shall be provided to the resident or occupant of the property.
 5. The City shall issue a written decision of approval, approval with conditions, or denial, in the form of a use agreement, for approved permits or a letter of explanation for denied applications, on all complete Non-Construction Encroachment Permit applications no less than ten calendar days prior to the event. With the issuance of a written decision of approval, the City shall issue a notice of the approved permit, which includes the details and anticipated impacts of the approved encroachment, to all property owners, residents, and occupants identified in Subsection (A)(4) herein no less than ten calendar days prior to the event.
- B. Events Review Committee (ERC). The Events Review Committee shall be made up in the same manner outlined in Section 3-10-4(C).
- C. Review Process. Applications for a Non-Construction Encroachment Permit shall be submitted electronically to the Special Events Coordinator (SEC) who, within three business days, shall verify that the application is complete and either return the application to the applicant for correction or supplementation if incomplete or forward the complete application to the ERC for review. Upon resubmission of a returned incomplete application, the application shall be reviewed as if it was an original application submission. Once submitted to the ERC, the review and approval process for a Specific Venue Event Permit application shall be as described in Section 3-10-4(D) for special events.

3-11-7 INSPECTIONS:

Authorized law enforcement officers, fire control officers, and other government personnel performing inspections pursuant to this Chapter 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.

CERTIFICATION OF CITY OF ST. GEORGE
ORDINANCE NO. 2023-017

Pursuant to Utah Code §10-3-713, I hereby certify that on the 31st day of August, 2023, the St. George City Council passed Ordinance No. 2023-017 and that a short summary of said ordinance was published on the Utah Public Notice Website, the City's website, and at the St. George City Offices located at 175 East 200 North, on September 1, 2023.


Christina Fernandez
St. George City Recorder



Exhibit 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, SOUTHERN REGION**

SOUTHERN UTAH DRAG STARS, LLC;
MITSKI AVALŌX,

Plaintiffs,

v.

CITY OF ST. GEORGE;
CITY COUNCIL OF ST. GEORGE;
COUNCILMEMBER JIMMIE HUGHES, in his
official capacity;
COUNCILMEMBER DANNIELLE LARKIN in her
official capacity;
COUNCILMEMBER NATALIE LARSEN in her
official capacity;
COUNCILMEMBER GREGG MCARTHUR in his
official capacity;
COUNCILMEMBER MICHELLE TANNER in her
official capacity;
MAYOR MICHELE RANDALL in her official
capacity;
CITY MANAGER JOHN WILLIS in his official
capacity,

Defendants.

Case No. 4:23-cv-00044-PK-DN

Judge David Nuffer
Magistrate Judge Paul Kohler

**PLAINTIFFS' INITIAL DISCLOSURES
UNDER RULE 26(a)(1)**

Plaintiffs Southern Utah Drag Stars and Mitski Avalōx hereby made the following initial disclosures in accordance with Fed. R. Civ. P. 26(a)(1). These disclosures are based upon the information currently known to Plaintiffs and their counsel. Plaintiffs and their counsel have not completed their investigation of the allegations in the Complaint (ECF 2) and will modify, amend, or supplement these disclosures based upon information that becomes available to them during the course of this litigation (and reserve the right to do so). In addition, these disclosures are made without waiving the right to object to Defendants' use of disclosed information or to object to any other discovery request or proceeding involving or relating to the subject matter of these disclosures. For efficiency, additional witnesses or documents that are identified or produced by

Plaintiffs or by Defendants in the course of the litigation shall be treated as incorporated into these disclosures.

- i. **The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

Based on information obtained to date, the following individuals and entities may have discoverable information that Plaintiffs may use to support their claims:

- Plaintiff Mitski Avalōx, who may be contacted through undersigned counsel. Ms. Avalōx has information respecting, among other things, Plaintiffs' communications with Defendants regarding Plaintiffs' planned event, Plaintiffs' preparations for the event, and the damages Plaintiffs suffered as a result of Defendants' actions.
- Tara Lipsyncki, who may be contacted through undersigned counsel. Tara Lipsyncki has information regarding the planning and carrying out of both Plaintiffs' original, cancelled event and the event which Plaintiffs were later able to organize pursuant to an order of the Court in this litigation.
- Lisa Dorn. Ms. Dorn has information regarding her communications with Councilmember Tanner regarding Plaintiffs and the motivation behind Defendants' unconstitutional actions against Plaintiffs.
- Defendant Michelle Tanner. Councilmember Tanner has information regarding the actions of Defendants at issue in this proceeding and the motivations behind Defendants' unconstitutional actions.
- Defendants Jimmie Hughes, Dannielle Larkin, Natalie Larsen, Gregg McArthur, Michele Randall, and John Willis. Each of these Defendants has information

regarding Defendants' unconstitutional actions.

- Sarah Reber, who is an employee of the City of St. George and may be contacted through the City. Ms. Reber has information regarding Defendants' unconstitutional actions.
- Marc Mortensen, who is an employee of the City of St. George and may be contacted through the City. Mr. Mortensen has information regarding Defendants' unconstitutional actions.
- Tani Pack Downing, who is an employee of the City of St. George and may be contacted through the City. Ms. Downing has information regarding Defendants' unconstitutional actions.
- Ryan Dooley, who is an employee of the City of St. George and may be contacted through the City. Mr. Dooley has information regarding Defendants' unconstitutional actions.
- Jami Brackin, who is an employee of the City of St. George and may be contacted through the City. Ms. Brackin has information regarding Defendants' unconstitutional actions.
- Jocelyn Chavez, who was formerly employed by the City of St. George. Ms. Chavez has information regarding Defendants' unconstitutional actions.
- All individuals listed and/or identified in Defendants' Rule 26(a)(1) initial disclosures and discovery responses.
- Additional individuals who were involved in or witnessed Defendants' unconstitutional actions or the effects thereof, whose identities are not known at this time.

- ii. **A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**
- All documents filed on the docket, including but not limited to documents submitted as part of the parties' submissions in connection with Plaintiffs' Motion for a Preliminary Injunction.
 - Documents produced by the City of St. George to Plaintiff Mitski Avalōx and to Skyler Monteer in response to GRAMA requests.
 - Documents reflecting Plaintiffs' preparations for the Allies Drag Show, including Plaintiffs' application for a special events permit, and evidence of Plaintiffs' damages.
 - Documents obtained through discovery from Defendants.
 - Documents obtained through discovery from third parties.
 - All documents provided or identified by Defendants in their Rule 26(a)(1) initial disclosures.
- iii. **A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

An exact computation of damages is premature because Plaintiffs' calculation of damages will require review of and access to materials obtained through discovery. Preliminarily, and reserving the right to update this damages disclosure as necessary, Plaintiffs estimate that their damages will include, at minimum:

- Compensatory damages in excess of \$20,000, reflecting lost ticket sales, lost vendor

payments, additional fees charged by the City, and equipment costs, among other costs.

- Compensatory damages for reputational harm in an amount to be proven at trial.

Plaintiffs also seek recovery of their costs, expenses, and reasonable attorney's fees. These amounts are not yet fixed and will continue to accrue during the pendency of this litigation, but are currently in excess of \$900,000.

- iv. For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

Plaintiffs are not aware of any such insurance agreements at this time.

Dated: September 8, 2023

By: /s/ Jeremy Creelan

Valentina De Fex
John Mejia
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Exhibit 3

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

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 CITY COUNCIL OF ST.
GEORGE, COUNCILMEMBERS
JIMMIE HUGHES, DANIELLE
LARKIN, NATALIE LARSEN, GREGG
MCARTHUR, AND MICHELLE
TANNER; MAYOR MICHELE
RANDALL; AND CITY MANAGER
JOHN WILLIS’S INITIAL
DISCLOSURES**

Civil No. 4:23CV44

Honorable David Nuffer

Defendant City Council of St. George, Councilmembers Jimmie Hughes, Danielle Larkin, Natalie Larsen, Gregg McArthur, and Michelle Tanner, Mayor Michelle Randall, and City Manager John Willis (collectively “Defendants”), by and through its counsel of record hereby submits the following as its initial disclosures pursuant to Fed. R. Civ. P. 26:

Individuals Likely to Have Discoverable Information Supporting Defendant's Defenses and/or Fact Witnesses the Defendant May Call in its Case-in-Chief

1. **Mitski Avalox**, Plaintiff, c/o, Jenner & Block LLP, 353 North Clark Street, Chiago, IL 60654, 313.222.9350. Ms. Avalox is anticipated to have information regarding her claims in this case, including, but not limited to, her special event permit application, the event held on June 30, 2023, and the damages she alleges she has suffered.

2. **Southern Utah Drag Stars, LLC.**, Plaintiff, c/o, Jenner & Block LLP, 353 North Clark Street, Chiago, IL 60654, 313.222.9350. SUDS is anticipated to have information regarding the claims in this case, including, but not limited to, the special event permit application, the event held on June 30, 2023, and the damages alleged to have been suffered.

3. **Jimmie Hughes, Council Member**, c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Mr. Hughes is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30.

4. **Danielle Larkin, Council Member**, c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Ms. Larkin is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30

5. **Natalie Larsen, Council Member**, c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Ms. Larsen is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George

City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30

6. **Tara Lipsyncki, unknown.** Ms. Lipsyncki is anticipated to have information regarding the claims and defenses in this case, including the April 28, 2023 event requested in the permit and the June 30, 2023 event that was held.

7. **Gregg Macarthur, Council Member,** c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Mr. Macarthur is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30.

8. **Michelle Randall, Defendant, Mayor,** c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Mayor Randall is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30

9. **Sarah Reber, Special Events Coordinator,** c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Ms. Reber is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30

10. **Michelle Tanner, Council Member,** c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Ms. Tanner is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George

City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30

11. **John Willis, City Manager**, c/o Snow Christensen & Martineau, 10 Exchange Place, 11th Floor, Salt Lake City, UT 84111. Mr. Willis is anticipated to have information regarding the claims and defenses in this case, including, but not limited to, St. George City's special events permit policy, how it has been applied historically, how it was applied in this case, recent changes to the policy, and the event held by Plaintiffs on June 30.

12. Records custodians necessary to authenticate documents produced by any party.

13. Any witness identified at any time by any party.

Description of Documents Supporting Defendant's Defenses (DEF-000001-000317)

1. Agenda packets
2. City Council Meeting Minutes
3. City Council Public Notice
4. Correspondence
5. Special Event Permit Applications
6. Special Event Permit Application Review Process
7. Special Event Permit Checklist
8. Special Event Permit Lists
9. St. George City Code - Title 3 - Ch. 10
10. St. George City Ordinances 2023-03-003, 2023-04-001, 2013-017
11. Surveys
12. Use Agreements

13. DSTARS-000001-000149 – Produced by Plaintiffs as attachments to Notice of Motion and Motion for Preliminary Injunction (Docket 034).

Computation of Damages

Not applicable.

Insurance Agreement

The insurance agreement will be produced upon receipt.

DATED this 8th day of September, 2023.

SNOW CHRISTENSEN & MARTINEAU

/s/ Scott Young

Scott Young
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of September, 2023, I served the foregoing **DEFENDANTS CITY COUNCIL OF ST. GEORGE, COUNCILMEMBERS JIMMIE HUGHES, DANIELLE LARKIN, NATALIE LARSEN, GREGG MCARTHUR, AND MICHELLE TANNER; MAYOR MICHELE RANDALL; AND CITY MANAGER JOHN WILLIS'S INITIAL DISCLOSURES** to all counsel of record via email.

/s/ Annette Gamero _____

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

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.

**ORDER GRANTING DEFENDANTS'
MOTION TO STAY DISCOVERY**

Civil No. 4:23CV44

Honorable David Nuffer

For the reasons set forth in Defendants' Motion to Stay Discovery, and for good cause shown, the Court hereby GRANTS Defendants' Motion to Stay Discovery.

IT IS SO ORDERED.

DATED this ____ day of January, 2024.

/s/

Honorable Paul Kohler
United States Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of January, 2024, I electronically filed the foregoing **ORDER GRANTING DEFENDANTS' MOTION TO STAY DISCOVERY** with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Annette Gamero