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 11 NEVADA RESORT ASSOCIATION

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 LISA MCALLISTER, an individual; and  
 15 BRANDON SUMMERS, an individual,

16 Plaintiffs,

17 v.

18 CLARK COUNTY, a political subdivision of  
 19 the state of Nevada,

20 Defendants.

21 CASE NO. 2:24-cv-00334-JAD-NJK

22 **MOTION FOR LEAVE TO FILE BRIEF  
 23 AS AMICUS CURIAE**

24 The Nevada Resort Association—the primary advocacy voice for Nevada’s gaming and  
 25 resort industry—comes now as amicus curiae, by and through its counsel of record, Brownstein  
 26 Hyatt Farber Schreck, LLP, and moves this Honorable Court for an order granting this Motion for  
 27 Leave to File Brief as Amicus Curiae (“Motion”), thereby allowing it to file the attached brief in  
 28 the above-captioned case in support of Clark County, Nevada. This Motion is based on the  
 following Memorandum of Points and Authorities, the attached exhibits, and any pleadings and  
 papers already on file with the Court.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

The Nevada Resort Association is uniquely situated to aid this Court for two reasons. First, it was a participant in the public comment period of the Ordinance<sup>1</sup> at issue in this case. As a public comment participant, the NRA reviewed and summarized research into the unique dangers to public safety on pedestrian bridges and its own data on tourist demand relevant to a tourist's perception of safety. As a result, it has firsthand knowledge and experience that supports the need for and purpose of the Ordinance, as well as the regulatory history in this case.

Second, the Nevada Resort Association’s expertise includes how tourist safety and regulation of our tourism industry impacts Nevada’s economic wellbeing. To consider the primary issues in this litigation will require this Court to determine Clark County’s significant government interest and whether the Ordinance is narrowly tailored and provides ample alternatives to speech. The Nevada Resort Association can aptly provide insight on the government’s economic interests in tourism safety, as well as how the unique issues of pedestrian bridge safety affect the gaming resort corridor.

Therefore, the Nevada Resort Association respectfully requests this Court grant it Motion and allow it to file its Brief of Amicus Curiae, The Nevada Resort Association, In Support of Defendant Clark County, Nevada, attached to this Motion as Exhibit A.

## II. BACKGROUND

In November 2023, the Clark County Board of Commissioners (the “Commission”) considered an amendment to Title 16 of the Clark County Code, which would establish a “Pedestrian Flow Zone” on pedestrian bridges spanning the Las Vegas Strip. *See Exhibit 3 to Proposed Brief*, Nov. 2023 Agenda Item. The proposed ordinance, if enacted, “would prohibit any person from stopping, standing, or engaging in activity that causes another person to stop or stand within a Pedestrian Flow Zone.” *Id.*

The Commission invited public comment on the proposed amendment. In response, on December 4, 2023, the Nevada Resort Association (“NRA”) sent a letter to the Commission in

<sup>1</sup> The “Ordinance” is enacted as Clark County Code § 16.13.010-.050.

1 support of the proposed ordinance. *See generally Exhibit 1 to Proposed Brief*, Dec. 4, 2023 NRA  
 2 Letter of Support. In its letter, the NRA highlighted how, in our unique economy, “[e]very citizen  
 3 of this State benefits from (and many depend on) [the] collective success” of the gaming resort  
 4 industry. *Id.* To illustrate, the NRA provided an overview of relatively recent events, such as the  
 5 financial crisis of 2008 and the Covid-19 pandemic, to illustrate how a reduced demand in tourism  
 6 affects “not just investors but also the thousands of Nevadans employed directly and indirectly in  
 7 the tourism industry.” *Id.*

8 The NRA then shared its institutional knowledge on how tourist safety, and the tourist’s  
 9 perception of how safe it is to visit the Las Vegas Strip, impacts our State’s economy as a whole,  
 10 considering “the tourism industry is the single largest contributor to the State’s general fund, [and]  
 11 our public safety, education, healthcare, and other infrastructure depend on its success.” *Id.* at 2.  
 12 The NRA reported that the gaming resort industry’s “concerns are steadily increasing regarding the  
 13 willingness of guests to return to Las Vegas if they do not feel safe or have bad experiences.” *Id.*  
 14 at 3.

15 The NRA reported its concerns were increasing, in part, because “[c]rime reported on the  
 16 [pedestrian] bridges is roughly twice that of sidewalks even though the bridges represent a very  
 17 small portion of the overall sidewalk system.” *Id.* . The NRA shared its experience that “[v]isitors  
 18 and guests report that they are afraid to use the bridges and are witnessing crime, being confronted  
 19 with lewd acts, unsanitary conditions, and a gauntlet of illegal confidence games and vendors.” *Id.*  
 20 at 4. Further, the NRA outlined that a tourist’s perception of danger can be just as harmful and  
 21 dangerous to tourist safety, describing an incident where a broken window at a resort valet station  
 22 ended with understandably skittish tourists rushing across the pedestrian bridges in an attempt to  
 23 self-evacuate. *Id.*

24 As support for the NRA’s collective concerns, the NRA attached an expert report authored  
 25 by Dr. William H. Sousa, Ph.D. of the University of Nevada, Las Vegas, discussing the unique  
 26 public safety concerns arising from pedestrian traffic on the bridges spanning the Las Vegas Strip.  
 27 *See generally Exhibit 2 to Proposed Brief*, Dr. Sousa Report.

28 On January 2, 2024, the Commission met and passed the proposed amendment to Title 16,

1 thereby creating Pedestrian Flow Zones on pedestrian bridges over the Las Vegas Strip under CCC  
 2 16.13 (the “Ordinance”). *See Exhibit 4 to Proposed Brief*, CCC 16.13.010-.050; *see also* ECF  
 3 No. 1 at 6 ¶ 34, n. 1. In order “[t]o maintain the safe and continuous movement of pedestrian  
 4 traffic,” the Ordinance, under CCC 16.13.030, made it “unlawful for any person to stop or stand  
 5 within any Pedestrian Flow Zone” or, with the requisite intent, cause another person to do so. Ex.  
 6 4 at 22-23. The Ordinance also included its “Purpose” under CCC 16.13.010, which includes many  
 7 of the same tourist and employee safety concerns the NRA raised in its supporting letter. *Id.* at 19-  
 8 22.

9       Shortly after the Pedestrian Flow Zones were created, on February 16, 2024, the Plaintiffs  
 10 in the above-captioned case filed their Complaint to challenge the new Ordinance. In their  
 11 Complaint, the Plaintiffs allege the Ordinance, specifically CCC 16.13.030, is unconstitutional  
 12 under the First and Fourteenth Amendments to the United States Constitution and corresponding  
 13 Articles of the Nevada State Constitution. They also claim the Ordinance violates the Americans  
 14 with Disabilities Act. ECF No. 1.

15 **III. LEGAL AUTHORITY**

16       While the District of Nevada’s Local Rules do not outline the process for amicus  
 17 participation, this Court “may grant leave to appear as an amicus if the information offered is  
 18 ‘timely and useful.’” *See Long v. Coast Resorts, Inc.*, 49 F. Supp. 2d 1177, 1178 (D. Nev. 1999)  
 19 (*citing Waste Management of Pennsylvania, Inc. v. City of York*, 162 F.R.D. 34, 35 (M.D.Pa.1995)).  
 20 The primary reason to allow amicus curiae briefing is to offer insights not available from the parties  
 21 for the purpose of aiding the Court. *Pratt v. Indian River Cent. Sch. Dist.*, No. 7:09-CV-0411-GTS-  
 22 GHL, 2010 WL 11681606, at \*3 (N.D.N.Y. Dec. 6, 2010). This is especially true in cases involving  
 23 matters of public interest. *See* 4 Am.Jur.2d Amicus Curiae § 3 (updated May 2007) (footnotes  
 24 omitted).

25 **A. The NRA’s Proposed Amicus Brief is Useful to the Court and Involves a  
 26 Matter of Public Interest.**

27       As an organization, and as a participant in the public comment period, the NRA is uniquely  
 28 qualified to assist the Court in understanding the background of this case as well as the significant  
 government interest at stake in tourist safety and its effect on Nevada’s economy. The Nevada

1     Resort Association (“NRA”) was established in 1965 to represent and advocate for one of Nevada’s  
 2     most vital economic sectors—the gaming resort industry. But the NRA is more than an advocacy  
 3     organization, it also is a repository of information on how Nevada law has affected tourism and the  
 4     gaming resort industry, going all the way back to 1864. The NRA also tracks contemporary data,  
 5     such as annual trends in visitor volume, as well as those visitors’ use of Nevada infrastructure.  
 6     Further, the NRA keeps detailed information on the economic impact of tourism on our State by  
 7     tracking indicators such as gaming resort industry employment rates, individual health insurance  
 8     coverage rates, economic recovery, capital investment, and education.

9           On the topic of tourism demand and its economic impact to our State, the NRA has  
 10     significant expertise. The gaming resort industry is responsible for 35% of Nevada’s general fund  
 11     revenue. Since 2000, the industry’s hotel taxes has funded the construction of 48 elementary  
 12     schools in Clark County. It is the largest employer in Nevada, with more than 385,000 jobs sourced  
 13     to resorts. The industry and its guests are responsible for more than \$90 billion in total economic  
 14     impact. Our gaming resort industry also brought in \$7.5 billion in taxable retail sales in 2023. It  
 15     also funds many of our State’s capital investments, including 57 that are currently either planned  
 16     or under construction, and provides over \$1.4 billion in employee benefits to Nevadan workers.

17           As can be seen from our recent history, when tourists feel unease about their wellbeing,  
 18     tourism demand declines and Nevadans suffer. Recent visitors to Las Vegas have reported to NRA  
 19     members that they are afraid to use our pedestrian bridges because they are witnessing crimes,  
 20     being confronted with lewd acts, are passing unsanitary conditions, and having to navigate a  
 21     gauntlet of illegal confidence games and vendors when they cross. The NRA shared a summary of  
 22     these visitors’ concerns with the Commission.

23           Accordingly, the NRA has substantial knowledge and experience to aid this Court in  
 24     determining whether Clark County had significant government interests in creating the Pedestrian  
 25     Flow Zones—both in public safety and in sustaining the economic benefits to Nevada that come  
 26     from tourism.

27      **IV. CONCLUSION**

28           As the Nevada Resort Association’s attached proposed amicus brief provides useful and

1 timely information to this Court for resolving the above-captioned dispute, the NRA respectfully  
2 requests this Court grant its Motion for Leave to File Brief as Amicus Curiae.  
3

4 Dated: March 14, 2024

**BROWNSTEIN HYATT FARBER  
SCHRECK, LLP**

6 By: /s/ Mitchell J. Langberg  
7 MITCHELL J. LANGBERG  
JAMIE P. LEAVITT

8 *Counsel for Amicus Curiae*  
9 *NEVADA RESORT ASSOCIATION*

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# **EXHIBIT A**

**BRIEF OF AMICUS CURIAE,  
NEVADA RESORT ASSOCIATION,  
IN SUPPORT OF DEFENDANT  
CLARK COUNTY, NEVADA**

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9 NEVADA RESORT ASSOCIATION

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 LISA MCALLISTER, an individual; and  
13 BRANDON SUMMERS, an individual,

14 Plaintiffs,

15 v.  
16 CLARK COUNTY, a political subdivision of  
17 the state of Nevada,

18 Defendants.

19 CASE NO. 2:24-cv-00334-JAD-NJK

20  
21 **BRIEF OF AMICUS CURIAE, NEVADA**  
22 **RESORT ASSOCIATION, IN SUPPORT**  
23 **OF DEFENDANT CLARK COUNTY,**  
24 **NEVADA**

## **I. STATEMENT OF INTEREST<sup>1</sup>**

The Nevada Resort Association (“NRA”) was established in 1965 to represent and advocate for one of Nevada’s most vital economic sectors—the gaming resort industry. But the NRA is more than an advocacy organization, it also is a repository of information on how Nevada law has affected tourism and the gaming resort industry, going all the way back to 1864. The NRA also collects contemporary data from experts, such as annual trends in visitor volume, as well as those visitors’ use of Nevada infrastructure. Further, the NRA keeps detailed information on the economic impact of tourism on our State by tracking indicators such as gaming resort industry employment rates, individual health insurance coverage rates, economic recovery, capital investment, and education.

The NRA shared its institutional knowledge with the Clark County Board of Commissioners (the “Commission”) in a December 4, 2023, letter of support for a proposed amendment to Clark County Code Title 16 that would create Pedestrian Flow Zones, thereby preventing people from stopping or standing on the pedestrian bridges spanning the Las Vegas Strip. *See generally Exhibit 1*, Dec. 4, 2023, Letter of Support. To its letter, the NRA attached the research findings on pedestrian bridge safety of Dr. William H. Sousa, Ph.D, of the University of Nevada, Las Vegas Center for Crime and Justice Policy, which Dr. Sousa had previously shared with the Commission. *See generally Exhibit 2*, Dr. Sousa Report.

The NRA wrote its letter to the Commission because the gaming resort industry had been increasingly concerned about tourist safety, in part resulting from visitors' complaints about their experiences on the pedestrian bridges. The NRA feared that if tourists experience and perceive the bridges as unsafe, many visitors may choose not to travel to Las Vegas, which would result in reduced economic viability for the State of Nevada. *See* Ex. 1.

<sup>1</sup> No party or party's counsel authored this brief or contributed money to fund the preparation or submission of this brief. No persons other than amicus, its members, and its counsel contributed to the preparation or submission of this brief.

1       On review of the Plaintiffs' pleadings in this case, the NRA remains concerned. The NRA  
 2 therefore files this amicus brief to provide useful information to this Court on the impact of  
 3 Pedestrian Flow Zones on tourist safety generally, and how a reduction in tourist safety—whether  
 4 actual or perceived—could impact Nevada's economy.

5       **II. SUMMARY OF ARGUMENT**

6       The Plaintiffs challenge the constitutionality of Pedestrian Flow Zones by claiming the  
 7 Ordinance<sup>2</sup> is overly vague and violates their right to free speech. To support their argument,  
 8 Plaintiffs largely rely on a handful of public statements made around the time the Ordinance was  
 9 enacted. But the Ordinance itself is plain and unambiguous: "it is unlawful for any person to stop  
 10 or stand within a Pedestrian Flow Zone." This language is clear and understandable so that a person  
 11 of ordinary intelligence can understand what conduct is prohibited. Likewise, the direction is clear  
 12 enough that the Ordinance does not invite subjective enforcement.

13       Furthermore, as a content-neutral regulation with only an incidental impact on speech, Clark  
 14 County's restriction satisfies well-established constitutional standards as the Ordinance serves a  
 15 significant government interest, is narrowly tailored, and there are ample alternatives to the  
 16 pedestrian bridges for any speech that might be limited. Clark County expressly included its  
 17 purpose for enacting the Ordinance within the Ordinance itself, which is *public safety*. Public safety  
 18 has long been recognized as a significant government interest. The NRA adds that Clark County  
 19 also has a significant government interest in *tourist safety* specifically, as tourism directly impacts  
 20 to the economic wellbeing of our entire state. Beyond Clark County's significant government  
 21 interests, the Ordinance is narrowly tailored to restrict only the conduct of a person who is stopped  
 22 or standing on a pedestrian bridge—under the Ordinance there is no restriction on a person  
 23 (including one who is engaged in First Amendment activity) while moving on the bridge.  
 24 Furthermore, there are ample available alternatives for speech along Las Vegas Boulevard,  
 25 especially considering the pedestrian bridges make up only 6% of the overall sidewalk  
 26 infrastructure.

27  
 28 <sup>2</sup> The "Ordinance" is enacted as Clark County Code § 16.13.010-.050.

1                   A. **History and Purpose of Ordinance**

2                   1. **The Origin of the Ordinance: Public Safety Concerns Increase as a  
 3                   Result of Increased Tourism and Heightened Risk on Pedestrian  
 4                   Bridges.**

5                   In November 2023, the Clark County Board of Commissioners (the “Commission”)  
 6                   considered an amendment to Title 16 of the Clark County Code, which would establish a  
 7                   “Pedestrian Flow Zone” on pedestrian bridges spanning the Las Vegas Strip. *See Exhibit 3*, Nov.  
 8                   2023 Agenda Item. The proposed ordinance, if enacted, “would prohibit any person from stopping,  
 9                   standing, or engaging in activity that causes another person to stop or stand within a Pedestrian  
 Flow Zone.” *Id.*

10                  The Commission invited public comment on the proposed amendment. In response, on  
 11                  December 4, 2023, the Nevada Resort Association (“NRA”) sent a letter to the Commission in  
 12                  support of the proposed ordinance. *See generally* Ex. 1. In its letter, the NRA highlighted how, in  
 13                  our unique economy, “[e]very citizen of this State benefits from (and many depend on) [the]  
 14                  collective success” of the gaming resort industry. *Id.* at 2 To illustrate, the NRA provided an  
 15                  overview of relatively recent events, such as the financial crisis of 2008 and the Covid-19 pandemic,  
 16                  to illustrate how a reduced demand in tourism affects “not just investors but also the thousands of  
 17                  Nevadans employed directly and indirectly in the tourism industry.” *Id.*

18                  The NRA then shared its institutional knowledge on how tourist safety, and how a tourist’s  
 19                  perception of how safe it is to visit the Las Vegas Strip, impacts our State’s economy as a whole,  
 20                  considering “the tourism industry is the single largest contributor to the State’s general fund, [and]  
 21                  our public safety, education, healthcare, and other infrastructure depend on its success.” *Id.* The  
 22                  NRA reported that the gaming resort industry’s “concerns are steadily increasing regarding the  
 23                  willingness of guests to return to Las Vegas if they do not feel safe or have bad experiences.” *Id.*  
 24                  at 3.

25                  The NRA reported its concerns were increasing, in part, because “[c]rime reported on the  
 26                  [pedestrian] bridges is roughly twice that of sidewalks even though the bridges represent a very  
 27                  small portion of the overall sidewalk system.” *Id.* The NRA shared its experience that “[v]isitors

1 and guests report that they are afraid to use the bridges and are witnessing crime, being confronted  
2 with lewd acts, unsanitary conditions, and a gauntlet of illegal confidence games and vendors.” *Id.*  
3 at 4. Further, the NRA outlined that a tourist’s perception of danger can be just as harmful and  
4 dangerous to tourist safety, describing an incident where a broken window at a resort valet station  
5 ended with understandably skittish tourists rushing across the pedestrian bridges in an attempt to  
6 self-evacuate. *Id.*

7        The NRA attached an expert report prepared for the Commission by Dr. William H. Sousa,  
8 Ph.D. of the University of Nevada, Las Vegas. The NRA attached the report to highlight Dr.  
9 Sousa's research into the unique public safety concerns arising from pedestrian traffic on the  
10 bridges spanning the Las Vegas Strip. See *generally* Ex. 2.

a. **Dr. Sousa's Explains the Unique Risk to Public Safety on Pedestrian Bridges.**

At the time he drafted the report, Dr. Sousa had been researching public safety in urban settings for nearly 20 years, with his research largely focused in Clark County, Nevada. Ex. 2 \_\_\_\_\_. As part of his overall research methodology, Dr. Sousa conducted ride-along/walk-along observations with Las Vegas Metro Police Officers, studied local Nevadan's perceptions of safety along Las Vegas Boulevard ("LVB"), pedestrian safety on LVB generally, issues arising from major events on LVB, concerns related to unhoused youth in Southern Nevada, and more. Ex. 2 \_\_\_\_\_.

In drafting his report, Dr. Sousa stated that the research he reviewed and prepared for his report “directly [related] to concerns that have developed along the pedestrian bridges over Las Vegas Boulevard.” Ex 2 at 8. Dr. Sousa’s ultimate conclusion was that the pedestrian bridges were comparatively less safe than the sidewalks and were not safely designed for the purpose of people stopping, standing, or congregating.

24 To support his assertions, Dr. Sousa provided empirical data, including data showing that  
25 public disorder originating from LVB have increased by 23% in the last four years. *Id.* In  
26 reviewing this data, Dr. Sousa reported that the pedestrian bridges over the Las Vegas Strip have  
27 received a comparatively out-sized portion of those calls, because *while the bridges make up only*

1 6% of the sidewalk system on LVB, 11% of disorder-related calls originated from events occurring  
 2 on the pedestrian bridges. *Id.* (emphasis added).

3 Dr. Sousa noted that a great deal of disorderly conduct is common on LVB sidewalks  
 4 generally, such as panhandling, solicitation, aggressive street performers, and drug-related activity.  
 5 *Id.* at 9. That said, he explained that when those same behaviors occur on the pedestrian bridges,  
 6 it is especially problematic “for at least two reasons”:

7 **First**, disorderly acts and conditions contribute to obstructions and crowding  
 8 on the overpasses as people stop to react to the disorder. While not all acts  
 9 of disorder are necessarily intended to make people stop, many of the  
 behaviors described above ... are done by individuals who are stopped on a  
 bridge and who deliberately cause other pedestrians to stop and congregate.

10 **Second**, people trying to cross a pedestrian bridge are a “captive audience”  
 11 .... If pedestrians want to safely cross Las Vegas Boulevard, they have little  
 12 choice but to use the overpasses. Once they are on a bridge, they are  
 13 essentially confined to a restricted space with no way to leave other than the  
 14 point that they entered and the exit point on the opposite side. Such  
 15 conditions make pedestrians on overpasses particularly vulnerable to  
 16 intimidation from disorderly behaviors or conditions. .... Given the  
 17 relatively limited width of the bridges ... pedestrians are often unable to  
 18 negotiate around the disorders they encounter. Their only choice may be to  
 19 return to the point where they entered, but doing so would deny them from  
 20 the legitimate purpose of using the bridge in the first place, which is to safely  
 21 cross Las Vegas Boulevard.

22 *Id.* at 10.

23 Beyond disorderly conduct, Dr. Sousa also highlighted the unique increase in risk of injury  
 24 and heightened dangers arising from mass movement in times of panic, such as bottlenecking at  
 25 the bridge’s limited escalators. *Id.* at 11. Dr. Sousa noted that this bottlenecking would also  
 26 increase risk to pedestrians on the bridge by impeding the ability of first responders to reach the  
 27 bridge to respond to any incidents or injuries. *Id.*

28 Dr. Sousa’s suggested remedy to the real and potential maladies associated with the  
 29 pedestrian bridges was to find means of “encouraging people to keep moving on the overpasses,  
 30 discouraging people from stopping or congregating on the bridges.” *Id.* at 12. To that end, he  
 31 explained that a pedestrian bridge can be architecturally designed to encourage pedestrians to keep  
 32 moving and prevent them from stopping or congregating. *Id.* However, when a pedestrian bridge

1 is already designed and constructed, such as those spanning LVB, local ordinances and law  
 2 enforcement are the only available options. *Id.* As for alternative laws to ones such as the  
 3 Pedestrian Flow Zone, for example a law that would penalize a person causing an obstruction on a  
 4 pedestrian bridge, Dr. Sousa concluded that such an ordinance would be insufficient because it is  
 5 solely *reacting* to an existing safety concern instead of proactively *preventing* the issue in the first  
 6 place. *Id.* at 13. And, as his report outlined, proactively preventing safety concerns on a pedestrian  
 7 bridge is really the only way to ameliorate the unique dangers he identified.

8                   **2. The Commission Expressly Provided Its Purpose for Enacting the  
 9                   Ordinance: Public Safety.**

10                  On January 2, 2024, the Commission met and passed the proposed amendment to Title 16,  
 11 thereby creating Pedestrian Flow Zones on pedestrian bridges over the Las Vegas Strip under CCC  
 12 16.13 (the “Ordinance”). *See Exhibit 4*, CCC 16.13.010-050; *see also* ECF No. 1 at 6 ¶ 34, n. 1.  
 13 In order “[t]o maintain the safe and continuous movement of pedestrian traffic,” the Ordinance,  
 14 under CCC 16.13030, made it “unlawful for any person to stop, stand, or engage in an activity that  
 15 causes another person to stop or stand within any Pedestrian Flow Zone” or to “engage in any  
 16 activity within a Pedestrian Flow Zone with the intent of causing another person who is within a  
 17 Pedestrian Flow Zone to stop or stand.” Ex. 4 at 22-23.

18                  The Ordinance also included its “Purpose” under CCC 16.13.010, which includes many of  
 19 the same tourist and employee safety concerns the NRA raised in its supporting letter. *Compare*  
 20 Ex. 4 “Purpose,” *with* Ex. 2. As enacted, the Purpose of the ordinance includes:

- 21                  • The purpose of the pedestrian bridges is to provide above street-level “access for the  
 22                   visitors, employees, and residents of Clark County to safely cross the roadways  
 23                   located within the Las Vegas Strip.”
- 24                  • The pedestrian bridges are part of the sidewalk system … and were created for the  
 25                   purpose of separating pedestrian traffic from vehicular traffic to facilitate  
 26                   pedestrians crossing in those locations.
- 27                  • Pedestrians are prohibited from crossing at grade level where pedestrian bridges are

1 located.

- 2 • The pedestrian bridges were designed to facilitate crossing at all foreseeable levels
- 3 of demand, which can vary significantly and unpredictably.
- 4 • The pedestrian bridges were not designed for use beyond pedestrian traffic crossing
- 5 from one side to the other side.
- 6 • For pedestrians to be able to stop, stand or congregate ... the pedestrian bridges
- 7 would have been designed differently.
- 8 • Stopping on the pedestrian bridges creates conditions that can foment disorder
- 9 which, in turn, can lead to crime and serious safety issues.
- 10 • Because pedestrian traffic demand on the bridges varies significantly and
- 11 unpredictably ... it is impossible to know in advance when stopping will result in
- 12 criminal or otherwise dangerous conditions ... and because of the physical nature of
- 13 the pedestrian bridges, by the time such conditions exist, it would often be too late
- 14 for law enforcement or other first responders to intervene, mitigate, render aid,
- 15 rescue, or take other actions necessary as a result of crime and other serious safety
- 16 issues. In recent years, numerous incidents have occurred that underscore these
- 17 concerns.
- 18 • There is an ever-increasing demand as visitation numbers have reached near
- 19 historical levels. Clark County continues to attract major sporting events and has
- 20 become the home to major sports teams.
- 21 • Clark County has a substantial government interest in providing safe pedestrian
- 22 access on the Las Vegas Strip.
- 23 • The increased number and frequency of high-profile attacks in places of public
- 24 gatherings throughout the country have contributed to the occurrence of threats and
- 25 perceived threats that result in public panic and immediate and unexpected demand
- 26 on pedestrian bridges as in an event of flight by large groups of people.
- 27 • From 2018 to 2022, calls for law enforcement services on the Las Vegas Strip have

increased twenty-nine percent (29%) from 37,598 in 2018 to 48,358 in 2022. The service calls for disorderly offenses increased twenty-three percent (23%) from 6,981 in 2018 to 8,750 in 2022.

- While the pedestrian bridges constitute only approximately six percent (6%) of the total linear feet of public sidewalks available to pedestrians, the service calls for disorderly conduct on the pedestrian bridge are almost twice as high.
  - In addition to the disproportionate call volume on pedestrian bridges, the pedestrian bridges create a unique opportunity for criminal disorder as the bridges create a captive audience.
  - The Board finds that adoption of Pedestrian Flow Zones is a narrowly tailored means to accomplish the County's important objective of reducing the incidence and risk of crime and serious safety issues on pedestrian bridges and allows pedestrians to freely and safely get to their desired location.
  - The pedestrian bridges represent only six percent (6%) of the total linear feet of the public sidewalk available to pedestrians within the Las Vegas Strip...
  - ...to the extent the Pedestrian Flow Zones have some incidental impact on the manner of First Amendment activity, (people must continue to move, whether engaged in First Amendment activity or not), there is ample alternative means of communication on the other approximately ninety-four percent (94%) of the sidewalks located within the Las Vegas Strip.

See Ex. 4 at 19-22.

3. **Largely Relying on Public Statements, the Plaintiffs Challenge the Ordinance.**

Shortly after the Pedestrian Flow Zones were created, on February 16, 2024, the Plaintiffs in the above-captioned case filed their Complaint to challenge the new Ordinance. In their Complaint, the Plaintiffs allege the Ordinance, specifically CCC 16.13.030, is unconstitutional under the First and Fourteenth Amendments to the United States Constitution and corresponding

1 Articles of the Nevada State Constitution, as well as asserting it violates the Americans with  
2 Disabilities Act. ECF No. 1. The Plaintiffs aver, *inter alia*, that CCC 16.13.030 is  
3 unconstitutionally vague and does not serve a significant government interest justifying its impact  
4 on free speech. *Id.* To support their claims, the Plaintiffs cite public statements made by members  
5 of the Commission and law enforcement around the time the Ordinance was enacted. *Id.* The  
6 Plaintiffs also filed two motions, each asking this Court to restrain the new ordinance from going  
7 into effect. *See generally* ECF Nos. 4, 5.

**B. The Ordinance Gives Reasonable Notice of what is Prohibited Conduct to Pedestrians and Law Enforcement.**

10        “A fundamental principle in our legal system is that laws which regulate persons or entities  
11 must give fair notice of conduct that is forbidden or required.” *FCC v. Fox Television Stations, Inc.*,  
12 567 U.S. 239, 253 (2012). “Laws that are impermissibly vague offend due process because they  
13 contravene two bedrock constitutional norms. The first is that regulated parties should know what  
14 is required of them so they may act accordingly. The second is that laws must provide proper  
15 precision and guidance” to ensure that those enforcing the law do not act in an arbitrary or  
16 discriminatory way.” *Butcher v. Knudsen*, 38 F.4th 1163, 1168 (9th Cir. 2022) (citing *Fox*, 597  
17 U.S. at 253) (internal quotations and citations omitted). That said, when an ordinance is plain and  
18 unambiguous on its face, there is no need to consider the legislative history as a guide to its  
19 meaning. *TVA v. Hill*, 437 U.S. 153, 184 (1978)

20 Plaintiffs' first challenge CCC 16.13.030 under the Fourteenth Amendment of the United  
21 States Constitution and the Nevada State Constitution's corresponding provision found under Art.  
22 1, Sec. 8. CCC 16.13.030 reads in its entirety as follows:

27 || See Ex. 4 at 22-23.

1 Plaintiffs argue the terms “stop” and “stand” are vague; so vague, in fact, the terms invite  
 2 discriminatory enforcement. ECF 1, at 10-15. Much of the Plaintiffs’ argument throughout hangs  
 3 on a handful of public statements made around the time the Ordinance was enacted. Those  
 4 statements do not appear within the Ordinance, so those statements are not part of the Ordinance’s  
 5 notice informing pedestrians what is required of them while crossing a pedestrian bridge safely.  
 6 Accordingly, the Plaintiffs’ inclusion of limited public statements in their pleadings is not  
 7 particularly useful in evaluating whether the ordinance is unconstitutionally vague.

8 Instead, the Ordinance is plain and unambiguous on its face: it is unlawful for any person  
 9 to stop or stand within a Pedestrian Flow Zone. As discussed below, the terms “stop” and “stand,”  
 10 as used in the Ordinance, are not unconstitutionally vague. Nor do the terms “stop” or “stand”  
 11 invite discriminatory enforcement. Therefore, the ordinance does not violate the Plaintiffs’ Due  
 12 Process rights.

13 **1. The Terms “Stop” and “Stand” Gives Pedestrians Reasonable Notice  
 14 of Prohibited Conduct in the Pedestrian Flow Zone.**

15 An ordinance is not unconstitutionally vague merely because it relies on “an imprecise but  
 16 [otherwise] comprehensible standard”; rather, for an ordinance to be vague, “no standard of conduct  
 17 is specified [within the ordinance] at all. *See Botosan v. Paul McNally Realty*, 216 F.3d 827, 836  
 18 (9th Cir. 2000) (*citing Coates v. City of Cincinnati*, 402 U.S. 611, 614, 91 S.Ct. 1686, 29 L.Ed.2d  
 19 214 (1971)). Under this standard, an ordinance would be vague only if it is so indefinite in its terms  
 20 that it failed to articulate a comprehensible standard for a person’s conduct to conform to. *See id.*

21 To determine whether an ordinance articulates a comprehensible standard, the Court “ask[s]  
 22 whether it … provide[s] a person of ordinary intelligence fair notice of what is prohibited.” *Butcher*,  
 23 38 F.4th at 1169 (citing *Fox*, 567 U.S. at 254); *see also Grayned v. City of Rockford*, 408 U.S. 104,  
 24 108 (1972) (“[W]e assume that man is free to steer between lawful and unlawful conduct, [so] we  
 25 insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is  
 26 prohibited, so that he may act accordingly.”); *People v. Superior Ct. (J.C. Penney Corp.)*, 246 Cal.  
 27 Rptr. 3d 128, 146 (2019), *as modified on denial of reh’g* (May 6, 2019) (“It is a well-settled rule

1 that a statute which either forbids or requires the doing of an act in terms so vague that people of  
 2 common intelligence must necessarily guess at its meaning and differ as to its application, violates  
 3 the first essential of due process of law.”) (internal quotations and citations omitted). The Court  
 4 does not consider the regulating body’s intent when determining whether an ordinance “is  
 5 sufficiently clear to satisfy the requirements of fair notice.” *J.C. Penney*, 246 Cal. Rptr at 153.

6 From a young age, a person of ordinary intelligence understands what it means to “stop”<sup>3</sup>  
 7 and “stand.”<sup>4</sup> The Plaintiffs attempt to obfuscate the simplicity of these terms by citing to cherry-  
 8 picked public statements describing what an individual person would or would not consider to be  
 9 stopping or standing. But what a person making a public statement personally understands  
 10 “stopping” or “standing” to mean *for them* does not make the notice given to pedestrians under  
 11 CCC 16.13.030 somehow vague. The direction is clear: it is unlawful for any person to stop or  
 12 stand within a Pedestrian Flow Zone. Therefore, CCC 16.13.030 provides sufficient, clear notice  
 13 so that a person of ordinary intelligence using a pedestrian bridge is given a reasonable opportunity  
 14 to know that stopping or standing is prohibited on the bridge, and she may act accordingly.

15 **2. The Terms “Stop” and “Stand” Give Law Enforcement Sufficient  
 16 Standards for Applying the Ordinance Without Discrimination.**

17 An ordinance does not invite discriminatory enforcement so long as it provides sufficient  
 18 standards for those who enforce the ordinance. *Grayned*, 408 U.S. at 108. In *Grayned*, an anti-  
 19 noise ordinance was challenged on the basis of it being vague and overbroad. *Id.* The anti-noise  
 20 ordinance read, in pertinent part:

21 No person while on public or private grounds adjacent to any building in  
 22 which a school or any class thereof is in session, shall willfully make noise  
 23 or assist in the making of any noise or diversion which disturbs or tends to  
 24 disturb the pace or good order of such school session or class thereof.

25 *Id.* at 107-108 (internal quotation marks omitted). The Appellant challenged the ordinance as being

26 <sup>3</sup> “Stop” appears in children’s books, including books designed for beginning readers. See Dr. Seuss, *Hop on Pop*, New York: Beginner Books, 1963, pg. 41 (stating “STOP. You must not hop on Pop.”) An e-version of this book is available at <https://fliptml5.com/pssqt/dhmd/basic> (last visited Mar. 12, 2024).

27 <sup>4</sup> “Stand” is a command often featured in children’s songs. See, e.g., Noodle & Pals, *Stand Up Sit Down*, [https://www.youtube.com/watch?v=-iMGSD\\_35pM](https://www.youtube.com/watch?v=-iMGSD_35pM), (last visited Mar. 12, 2024) (streaming over 14 million views to a preschool audience).

1 both vague and overbroad. In reviewing the ordinance, the Supreme Court defined a vague law as  
 2 one that “impermissibly delegates basic policy matters to policemen...for resolution on an ad hoc  
 3 and subjective basis, with the attendant dangers of arbitrary and discriminatory applications.” *Id.*  
 4 at 108-109.

5 The Supreme Court concluded that “the anti[-]noise ordinance [was] not impermissibly  
 6 vague.” *Id.* at 109. The Court determined that “we must extrapolate [the ordinance’s] allowable  
 7 meaning,” and while the ordinance at issue was “marked by flexibility and reasonable breadth,  
 8 rather than meticulous specificity,” given that regulating bodies are “[c]ondemned to the use of  
 9 words, we can never expect mathematical certainty from [their language].” *Id.* at 110 (internal  
 10 quotation marks and citations omitted). In so doing, the Court concluded that “[i]t is clear what the  
 11 ordinance as a whole prohibits.” *Id.*

12 Here, CCC 16.13.030 provides less discretion to law enforcement than the anti-noise  
 13 ordinance at issue in *Grayned*. The direction to law enforcement under the Ordinance is clear and  
 14 approaching meticulous specificity: it is unlawful for any person to stop or stand within a Pedestrian  
 15 Flow Zone. The Ordinance’s direction is therefore sufficiently clear to not delegate any policy  
 16 decisions and it provides very little wiggle room for a responding Officer’s subjectivity. As such,  
 17 it does not invite discriminatory application.

18 **C. The Ordinance Serves Significant Government Interests, is Narrowly**  
**Tailored, and Leaves Ample Alternatives for Expression.**

20 When an ordinance incidentally restricts the time, place, or manner of speech, yet is  
 21 otherwise content-neutral, and also (1) serves a significant government interest, (2) is narrowly  
 22 tailored towards that interest, and (3) leaves ample alternative channels of communication, the  
 23 ordinance does not run afoul of the First Amendment. *United States v. Grace*, 461 U.S. 171, 177  
 24 (1983); *see also Camenzind v. California Exposition & State Fair*, 84 F.4th 1102, 1114 (9th Cir.  
 25 2023). The Plaintiffs in this case challenge the Ordinance as failing all three of these prongs.

26 At the onset, it is important to note that at no point does the Ordinance restrict speech by  
 27 content or type generally—the public is free to exercise its First Amendment rights while on the

1 pedestrian bridges, but must do so while neither stopping or standing. *See generally* Ex. 4. As  
2 discussed more fully below, the Commission detailed its Purpose within the Ordinance under CCC  
3 16.13.010, explaining in detail how the pedestrian bridges, as designed, must function in the same  
4 manner as an active street-level crosswalk to ensure public safety and ameliorate risk. Further, as  
5 the Purpose contains statistical information on how the pedestrian bridges are both actually and  
6 perceptively more dangerous than their street-level counterparts, the Ordinance was no broader  
7 than was necessary to proactively prevent the danger, injury, and risk that comes from people  
8 stopping or standing on the bridges. The Purpose also provides that the pedestrian bridges make  
9 up only 6% of the total sidewalks located on Las Vegas Boulevard, which leaves an ample 94% of  
10 the sidewalks along the Strip available as alternatives for speech activities.

**1. Clark County has a Significant Government Interest in Public Safety and Economic Viability.**

13 Courts have long found public safety, crowd control, and free flow of traffic to be a  
14 significant government interest sufficient to support a content-neutral restriction on the time, place,  
15 and manner of speech.<sup>5</sup> *See, e.g., McCullen v. Coakley*, 573 U.S. 464, 481 (2014) (noting that the  
16 parties did not dispute the government had a significant interest in ensuring safety and preventing  
17 obstruction when petitioner challenged a state law making it a crime to knowingly stand on a public  
18 sidewalk within 35 feet of an entrance to an abortion clinic); *Schenck v. Pro-Choice Network of*  
19 *Western N.Y.*, 519 U.S. 357, 376 (1997) (recognizing the legitimacy of the government’s interests  
20 in ensuring public safety and order by promoting the free flow of traffic on streets and sidewalks);  
21 *Heffron v. Int'l Soc. for Krishna Consciousness, Inc.*, 452 U.S. 640 (1981) (concluding a state had  
22 a significant interest in crowd control, thereby allowing a law making it a misdemeanor to sell or

<sup>5</sup> While not the Commission’s Purpose in enacting the ordinance, Courts have also recognized protecting the community’s aesthetic values—especially in tourist economies—to be a significant government interest. *See, e.g., Members of City Council of City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 805 (1984) (“It is well settled that the state may legitimately exercise its police powers to advance esthetic value....The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary.’’); *Honolulu Wkly., Inc. v. Harris*, 298 F.3d 1037, 1045 (9th Cir. 2002) (concluding the challenged law, which restricted the amount of news racks that could be on streets and sidewalks in a tourist area served the substantial government interest of “preserving the Waikiki Special District” as it was “essential for tourism and residential life”).

1 distribute any merchandise without a license at the state fair). This is true even when the  
 2 government *anticipates* a public safety issue related to the free flow of pedestrian traffic. *Camenzid*,  
 3 76 F.3d at 1114 (concluding an ordinance restricting First Amendment Activities to designated  
 4 “free expression zones” outside a state fair entrance to ensure that walkways were clear for  
 5 pedestrians to enter the fairgrounds was a permissible regulation).

6 Relevant to the NRA’s concerns particularly, Courts have also recognized the significant  
 7 government interest in protecting a tourism-based economy. *See, e.g., Honolulu Wkly., Inc. v.*  
 8 *Harris*, 298 F.3d 1037, 1045 (9th Cir. 2002) (concluding the challenged law, which restricted the  
 9 number of news racks that could be on public streets and sidewalks in a tourist area, served the  
 10 substantial government interest of “preserving the Waikiki Special District” as it was “essential for  
 11 tourism and residential life”); *One World One Fam. Now v. City & Cnty. of Honolulu*, 76 F.3d  
 12 1009, 1013 (9th Cir. 1996) (recognizing cities, like Honolulu, “rely on a prosperous, stable  
 13 merchant community for their tax base, as well as for the comfort and welfare of their citizens”).

14 The Commission laid out its significant government interests in the Purpose of the  
 15 Ordinance. *See supra*, Sec. III.A.2; *see also* Ex. 4. Chief among those interests was public safety.  
 16 *Id.* The Commission’s interest in public safety on the pedestrian bridges was supported by reports  
 17 of incidents and dangers already existing on the pedestrian bridges, as well as dangers that could  
 18 be reasonably anticipated or repeated. *See Camenzid*, 76 F.3d at 1114. As can be seen under CCC  
 19 16.13.010, the Commission enacted the Ordinance to: (1) facilitate pedestrians safely crossing over  
 20 LVB, regardless of demand or time of day; (2) prevent criminal activity, danger, and obstructions  
 21 before becoming an issue; (3) prevent criminal activity, danger, and obstructions because the  
 22 pedestrian bridges are harder to reach by first responders and more difficult to evacuate; (4) regulate  
 23 the pedestrian bridges because there is increased crime on the bridges compared to the sidewalks,  
 24 which is only exacerbated by the recent increase in use of the bridges related to Las Vegas’s  
 25 addition of sporting events to its tourism economy; and (5) decrease the likelihood of a mass-  
 26 shooting event.<sup>6</sup>

27 <sup>6</sup> The Las Vegas Strip experienced the deadliest mass shooting in United States’ history on Oct. 1,  
 28 2017. Guldner GT, Rozendaal SM, Berkeley RP, Allswede MP, Domanski KH, Sairafe OM,

1           The gaming and resort industry is the most vital sector of Nevada's economy. As the NRA  
 2 included in its letter to the Commission, Nevadans do not have to look too far back in history—  
 3 only to the 2008 financial crisis and the Covid-19 pandemic-related shutdowns—to know how  
 4 intimately tied the economic health of our State is to tourism. *See* Ex. 1. While not expressly  
 5 among the Purposes of the Ordinance, tourists' perception of their safety impacts tourism demand.  
 6 So it follows that ensuring the safety of pedestrians within Pedestrian Flow Zones serves Nevada's  
 7 economic interests.

8           On this topic, the NRA has significant expertise. The gaming resort industry is responsible  
 9 for 35% of Nevada's general fund revenue.<sup>7</sup> Since 2000, the industry's hotel taxes has funded the  
 10 construction of 48 elementary schools in Clark County.<sup>8</sup> It is the largest employer in Nevada, with  
 11 more than 385,000 jobs sourced to resorts.<sup>9</sup> The industry and its guests are responsible for more  
 12 than \$90 billion in total economic impact.<sup>10</sup> Our gaming resort industry also brought in \$7.5 billion  
 13 in taxable retail sales in 2023.<sup>11</sup> It also funds many of our State's capital investments, including 57  
 14 that are currently either planned or under construction, and provides over \$1.4 billion in employee  
 15 benefits to Nevadan workers.<sup>12</sup>

16           As can be seen from our recent history, when tourists feel unease about their wellbeing,  
 17 tourism demand declines and Nevadans suffer. Recent visitors to Las Vegas have reported to NRA  
 18 members that they are afraid to use our pedestrian bridges because they are witnessing crimes,  
 19 being confronted with lewd acts, are passing unsanitary conditions, and being confronted by a  
 20 gauntlet of illegal confidence games and vendors when they cross. The NRA shared a summary of

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22           Davey DF, Abou-Ziab H, Siegel JT. *Impact of the Las Vegas Mass Shooting Event on the Graduate*  
 23 *Medical Education Mission: Can There Be Growth from Tragedy?* West J Emerg Med. 2022 Dec.  
 24 The impact of that tragedy on Nevadans and our economy is still being studied and the extent of  
 25 the damage is not yet known. *Id.*

26           <sup>7</sup> Nev. Resort Assoc., *Raising the Bar for All Nevadans*, <https://www.nevadaresorts.org/> (last  
 27 visited Mar. 12, 2024).

28           <sup>8</sup> *Id.*

29           <sup>9</sup> *Id.*

30           <sup>10</sup> *Id.*

31           <sup>11</sup> Nev. Resort Assoc., *Tracking the Industry's Performance*, <https://www.nevadaresorts.org/data/>  
 32 (last visited Mar. 12, 2024).

33           <sup>12</sup> Nev. Resort Assoc., *Impact of Gaming in Nevada*, <https://www.nevadaresorts.org/impact/> (last  
 34 visited Mar. 12, 2024).

1 these visitors' concerns with the Commission. *See* Ex. 1. Accordingly, Clark County has  
 2 significant government interests in creating the Pedestrian Flow Zones—both in public safety and  
 3 in sustaining the economic benefits to Nevada that come from tourism.

4 **2. The Ordinance is Narrowly Tailored**

5 Narrow tailoring does not require the government to adopt the least-restrictive or least-  
 6 intrusive means of serving the government's interest if the ordinance does not completely foreclose  
 7 any means of communication. *See Hill v. Colorado*, 530 U.S. 703, 726 (2000). There is no burden  
 8 on the government to show its solution is the least intrusive means possible, nor must it rebut some  
 9 "imaginable alternative that might be less burdensome on speech." *United States v. Albertini*, 472  
 10 U.S. 675, 689 (1985).

11 Here, the Ordinance creating the Pedestrian Flow Zone does not foreclose all means of  
 12 communication, only those that are made while stopping or standing on the pedestrian bridge. By  
 13 analogy, restrictions on activity affecting speech in street-level crosswalks are instructive. As  
 14 described within the Purpose of the Ordinance, our pedestrian bridges are effectively elevated  
 15 crosswalks, as evidenced by there being no street-level crosswalks in the same location as a  
 16 pedestrian bridge. Understandably, on street-level crosswalks, pedestrians are not permitted to  
 17 stop, congregate, or stand because doing so would be dangerous and obstructive to vehicular traffic.  
 18 Thus, speech is somewhat incidentally limited in street-level crosswalks. Likewise, allowing  
 19 pedestrians to stop, congregate, or stand on a pedestrian bridge is dangerous and obstructive to  
 20 pedestrian traffic, as evidenced by the amount of calls law enforcement receives about disorder on  
 21 the pedestrian bridges over LVB. The Ordinance, under CCC 16.13.030, is therefore narrowly  
 22 tailored to prevent crime, disorder, and danger to pedestrians—thereby increasing safety and  
 23 reducing the need for first responders—while still allowing speech activities while moving across  
 24 the bridge.

25 **3. As Pedestrian Bridges are Only 6% of the Total Overall Sidewalks on  
 26 the Strip, Ample Alternatives for Speech Exist Along Las Vegas Blvd.**

27 Ordinances that create an incidental restriction on speech are valid if they are content-  
 28

1 neutral, narrowly tailored to serve a significant governmental interest, and leave open ample  
 2 alternative channels of communication. *Ward* 491 U.S. at 791. In *Honolulu Weekly*, the City of  
 3 Honolulu enacted an ordinance restricting all publishers who wished to distribute their publications  
 4 along sidewalks in the City's tourism district to using solely one of two sets of government-  
 5 provided news racks. 298 F.3d at 1041. The ordinance outlawed any privately owned news racks  
 6 and identified the ordinance's purposes as protecting pedestrian safety, preserving the district's  
 7 aesthetics, and facilitating the distribution of publications. *Id.* The ordinance was challenged, in  
 8 part, for not providing ample alternatives for speech. *Id.* However, the 9th Circuit concluded that  
 9 the ordinance was not "substantially broader than necessary" and that the City had provided ample  
 10 alternatives in its two sets of news racks. *Id.* at 1045. Also, the city's ordinance did not restrict the  
 11 publisher's distribution outside of the tourism district, so there were ample alternatives outside of  
 12 the tourism district. *Id.* at 1047.

13 The Ordinance here only requires that a person be moving (including while engaged in First  
 14 Amendment activity) when using the pedestrian bridges. Therefore, the Commission's Ordinance  
 15 at issue in this case is considerably less restrictive than the ordinance at issue in *Honolulu Weekly*.  
 16 As explained in the Purpose of the Ordinance, speech activity may still be conducted on 96% of  
 17 the sidewalks on LVB—which allows significantly greater alternatives than the two government-  
 18 issued news racks provided by the City of Honolulu. Further, unlike in *Honolulu Weekly*, the  
 19 Ordinance does not limit a person's ability to speak within the Las Vegas tourist district. In sum,  
 20 ample alternative opportunities for speech exist all along Las Vegas Boulevard.

21 **III. CONCLUSION**

22 The Plaintiffs challenge the constitutionality of Pedestrian Flow Zones by claiming the  
 23 Ordinance is overly vague and violates their right to free speech. But the Ordinance is clear and  
 24 understandable so that a person of ordinary intelligence can understand what conduct is prohibited.  
 25 Likewise, the direction is clear enough that the Ordinance does not invite subjective enforcement.

26 Furthermore, when enacting the Ordinance, Clark County had long-recognized significant  
 27 government interests of public safety and economic viability. Further, the Ordinance is narrowly  
 28

1 tailored to restrict only the expressive conduct of a person who is stopped or standing on a  
2 pedestrian bridge and there are ample available alternatives for speech along Las Vegas Boulevard,  
3 including over 94% of its sidewalks.

4 Dated: March 14, 2024

5 **BROWNSTEIN HYATT FARBER  
SCHRECK, LLP**

6 By: /s/ Mitchell J. Langberg  
7 MITCHELL J. LANGBERG  
JAMIE P. LEAVITT

8 *Counsel for Amicus Curiae*  
9 *NEVADA RESORT ASSOCIATION*

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# **EXHIBIT 1**

**DECEMBER 4, 2023,  
LETTER OF SUPPORT**



December 4, 2023

The Honorable James B. Gibson, Chair  
The Honorable Tick Segerblom, Vice Chair  
The Honorable Michael Naft  
The Honorable Marilyn Kirkpatrick  
The Honorable Ross Miller  
The Honorable William McCurdy II  
The Honorable Justin Jones

Clark County Board of County Commissioners  
Clark County  
500 S. Grand Central Pkwy  
Las Vegas, NV 89155

**Subject: Pedestrian Bridge Ordinance**

Dear Commissioners,

We are writing in support of the proposed ordinance to amend Title 16 of the Clark County Code to add Chapter 16.13, establishing pedestrian flow zones on pedestrian bridges within the resort corridor.

The resorts along the corridor—and the ability to continuously attract visitors—are critical to the economic viability of the State of Nevada. Gaming was legalized in 1931 to attract visitors to Nevada in order to stimulate the economy, create jobs, and encourage capital investment. Because the tourism industry is the single largest contributor to the State's general fund, our public safety, education, healthcare, and other infrastructure systems depend on its success. The financial crisis of 2008 and the recent pandemic have reminded us that this industry's vitality benefits not just investors but also the 100,000 of thousands of Nevadans employed directly and indirectly in the tourism industry. Every citizen of this State benefits from (and many depend on) our collective success.

The significance of our role is something we all take very seriously. As you know, we make substantial investments and take great efforts in that regard. Sometimes, we must turn to state and local government to help. Because public safety and the public's perception of safety along the resort corridor can have a meaningful impact on our operations, we believe it is very important for the Commission to enact proposed Chapter 16.13.

**NRA\_AM\_BRF\_0002**

### **Safety is a Top Priority**

Safety for guests and employees is a top priority of the tourism industry and community leaders alike. Recognizing the importance of tourism safety and the significance of tourism to the economy, UNLV recently announced the creation of a Tourism Safety Institute. Growth in the availability of gaming, sporting events, concerts, and other entertainment options is promising for the future of the tourism industry. At the same time, concerns are steadily increasing regarding the willingness of guests to return to Las Vegas if they do not feel safe or have bad experiences. As the sole method of crossing Las Vegas Boulevard (“LVB”) for a significant portion of the resort corridor, the pedestrian bridges are a significant point of concern for both the actual and perceived safety of guests and employees. We are at a critical point in time when we can change the trajectory of disorder on pedestrian bridges, make bridges safer for guests and employees, and avoid loss of the reputation of Las Vegas as a safe destination.

### **Problem**

Development on LVB has resulted in larger resorts and more hotel rooms. As visitation increased, sidewalks were installed in the areas between hotels and the street. Pedestrian bridges were constructed across LVB to safely separate pedestrians from traffic. Subsequently, bollards were installed between the roadway and the sidewalks. The bridges and bollards have been effective for preventing pedestrian conflicts with vehicular traffic. Increased pedestrian traffic on sidewalks and bridges has resulted in congestion on the bridges which are designed to provide unobstructed movement of pedestrians.

Bridges are typically confined, narrow elevated corridors connected at each end to elevators and escalator landings which transport pedestrians between the elevated bridges and the ground below. Unfortunately, bridges and elevators have become opportunities for significant disorder which also creates the conditions that foment illegal activity. Congestion on the bridges is creating an environment for disorder. As described by Dr. Sousa in “Questions Related to Public Safety on Pedestrian Bridges” (Exhibit A), there is a connection between disorder and threats to public safety. Dr. Sousa explains that research indicates that disorder results in fear of victimization and that unchecked disorder can lead to greater disorder.

Dr. Sousa further explains that several common disorders on the bridges, including aggressive panhandlers, solicitation while intoxicated, illegal vendors, confidence games, and drug activity are prevalent. He points out that the location of disorderly conduct is often most problematic when performed in areas where people are “most vulnerable to intimidation (i.e., in areas where the observer of the behavior is a ‘captive audience’)”.

Crime reported on the bridges is roughly twice that of sidewalks even though the bridges represent a very small portion of the overall sidewalk system. Employees and guests who use the bridges experience crime and feelings of being unsafe and, unlike sidewalks, they have no place to escape the situations they may encounter on a bridge. The potential for rapid egress from a bridge creates the potential for a dangerous crush of people by the elevators or on the escalators. During reports of a broken window at a

resort valet station, misinformed tourists rushed to self-evacuate from the bridges momentarily creating chaos.<sup>1</sup>

Visitors and guests report that they are afraid to use the bridges and are witnessing crime, being confronted with lewd acts, unsanitary conditions, and a gauntlet of illegal confidence games and vendors.

### **Economic Contributions to State Economy**

It is no surprise that tourism is the largest industry in the state. Tourism provides 35% of the state's general fund, 27% of the jobs, and \$90.7 billion (43%) of the state's total gross domestic product. Southern Nevada is the source of much of these economic impacts where more than 40 million tourists visited Southern Nevada in 2022.

By the end of 2023, there will be more than 150,000 hotel rooms in Clark County. As demonstrated after September 11, 2001, the Great Recession of 2008/2009, the Savings and Loan Crisis of the 80s and 90s, and during the Pandemic, when tourism is down, revenue to state and local governments declines, unemployment is high, and the State of Nevada suffers economic crisis. Among the many implications of these circumstances, any long-term economic crisis in the State jeopardizes funding for (and, ultimately, the quality of) public safety, healthcare services, and education throughout the state.

### **Justification for the Bridge Ordinance**

Certainly, issues surrounding public safety and the impact on Las Vegas' reputation cannot be legislated away. But, where possible, improvement should be embraced. Proposed Chapter 16.13 is just such an improvement.

The proposed restriction is designed to ensure that traffic on the pedestrian bridges constantly flows without disruption. Given the initial purpose of the pedestrian bridges—to replace the means of crossing LVB once the crosswalks were removed—ensuring the free flow of pedestrian traffic makes logical sense.

It would be enough to consider the disproportionate disorder and illegal activity that occurs on the pedestrian bridges simply because once pedestrians access the escalators, elevators, and bridges, they are limited in their ability to avoid any disorder or crime. The fact that the bridges are above street level and, therefore, the ability for law enforcement to observe what occurs on the bridges is more limited, likely explains the disproportionate misconduct on the bridges. And, because there is limited egress from the bridges, events of disorder and illegal activity that might cause pedestrians to flee can result in a clogging effect, inhibiting first responders' ability to access the bridges and intervene or render aid.

Beyond those issues, what makes these pedestrian bridges even more unique is the unpredictability of the pedestrian demand. With the increasing number of conferences, sporting events, concerts, and

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<sup>1</sup> [Headline Las Vegas Review Journal: 2 Sue Las Vegas resort after false report of gun shots leads to stampede.](#)

other sources of pedestrian traffic, the demand on the bridges can vary greatly day-to-day and at various times of the day. That only factors organized events. It is an unfortunate but undeniable reality that the increased threat environment for catastrophic events has caused numerous “scares” in high-density places of gathering, including on the resort corridor. These scares have and will continue to put sudden, unpredictable, and uncontrollable heavy demand on the pedestrian bridges. We all must also acknowledge the potential for an actual emergent crisis that will put immediate demand on the pedestrian bridges as a means for escape.

Unfortunately, by the time one of these events occurs, it is too late to ensure that the pedestrian bridges are clear of obstructions to allow for an emergent rush. Unlike the rest of the sidewalk system, there are simply fewer places to go. The increased risk of injury is obvious.

The solution in proposed Chapter 16.13 is relatively simple. Prohibit people from stopping or causing others to stop on the pedestrian bridges. There is no impact on people who are merely seeking to cross LVB. Admittedly, the new ordinance would disrupt those who would otherwise take up stationary positions on the pedestrian bridges for sightseeing, entertainment, to rest, etc. But the disruption is minimal. The bridges make up only 6% of the entire sidewalk system. The no stopping rules are limited to that small portion of the sidewalk system. Any impact on First Amendment activity is incidental and quite limited. Of course, under the proposed ordinance, those engaged in First Amendment activity who do not stop on the pedestrian bridges are not restricted. Those who wish to exercise their First Amendment rights in some stationary form are limited by the proposed ordinance only on the 6% of the sidewalk system that is made up of the pedestrian bridges. Assuming that they do not violate other restrictions (like obstructing pedestrian traffic), those activities can still be conducted just feet away from the bridges, at surface level. People engaged in such activity will have access to nearly the same exact audience as pedestrians' access and egress the pedestrian bridges.

In other words, proposed Chapter 16.13 will make the bridges safer by keeping pedestrian traffic moving while having minimal impact on other activity which can take place on the vast majority of the remaining sidewalk system.

Therefore, we encourage you to vote in favor of enacting Chapter 16.13. Thank you for your consideration.

Respectfully,



Virginia Valentine  
President & CEO  
Nevada Resort Association

Cc: Nevada Resort Association Board of Directors  
Kevin Schiller, Clark County Manager

Abby Frierson, Clark County Assistant County Manager  
Lisa Logston, County Counsel, Clark County District Attorney  
Mitch Langberg, Brownstein, Hyatt, Faber, Schrek  
Kevin McMehill, Sheriff, Las Vegas Metropolitan Police Department  
Andrew Walsh, Undersheriff, Las Vegas Metropolitan Police Department  
Liesl Freedman, General Counsel, Las Vegas Metropolitan Police Department

Attachments:

*“Questions Related to Public Safety on Pedestrian Bridges”*, Dr. William Sousa, UNLV Center for Crime and Justice Policy  
*“The FACTS”*, Nevada Resort Association, 2023

# **EXHIBIT 2**

**Dr. William H. Sousa, Ph.D.**  
**Report**

**QUESTIONS RELATED TO PUBLIC SAFETY ON PEDESTRIAN BRIDGES**

**William H. Sousa, Ph.D.**

**1. What is the focus of Dr. Sousa's research projects and how do they relate to the pedestrian overpasses?**

The focus of my research is on crime, disorder, and public safety, particularly in urban settings. I am an author of a textbook on policing and numerous articles, monographs, and book chapters on the nature of disorder, its impact on community life, and the role of police and citizens in terms of dealing with disorder. The nature of the research often involves conducting observations of police as they manage complex problems in public places. Over my nearly 20-year career, I have conducted approximately 150 ride-along / walk-along observations with police, totaling well over 1,000 hours.

While I have explored issues related to public safety in numerous cities around the country, much of my research is focused in Clark County. As just a few examples, I have studied citizen perceptions of disorder along Las Vegas Boulevard and Fremont Street,<sup>1</sup> issues related to pedestrian safety on Las Vegas Boulevard,<sup>2</sup> efforts to manage major crowd events along Las Vegas Boulevard,<sup>3</sup> concerns related to unhoused youth in Southern Nevada,<sup>4</sup> and violence prevention efforts in Las Vegas neighborhoods.<sup>5</sup>

Whereas much of this work examines connections between disorder and public safety, the research relates directly to concerns that have developed along the pedestrian bridges over Las Vegas Boulevard.<sup>6</sup> Analyses indicate that calls for service for disorder-related events on Las Vegas Boulevard increased 23% between 2018 and 2022. Moreover, while problems related to disorder have increased on the Strip in general, further analyses reveal that disorder tends to concentrate on the pedestrian overpasses. While the bridges comprise less than 6% of the sidewalk system along Las Vegas Boulevard, 11% of disorder-related calls occurred on the overpasses.

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<sup>1</sup> Jonathan Birds and William Sousa (2015). *Perceptions of Disorder: Results from Two Las Vegas Tourist Locations*. Research in Brief Series, 2015-01. Las Vegas, NV: UNLV Center for Crime and Justice Policy.

<sup>2</sup> William Sousa (2023). *Safety on Las Vegas Boulevard, 2018-2022*. Stat Sheet Series, 2023-01. Las Vegas, NV: UNLV Center for Crime and Justice Policy.

<sup>3</sup> William H. Sousa and Tamara D. Madensen (2011). "The police and major event planning: A case study in Las Vegas, Nevada." *Preventing Crowd Violence*. Crime Prevention Studies Series, 26, 139-158.

<sup>4</sup> Patricia Cook-Craig, Jennifer Guthrie, William Sousa, Carlton Craig, Michael Bruner, Judy Tudor, Jessica Word, and Melissa Jacobowitz (2017). *The State of Youth Homelessness in Southern Nevada*. Research in Brief. Las Vegas, NV: Greenspun College of Urban Affairs.

<sup>5</sup> Timothy Radtke, William Sousa, and Timothy Hart (2008). "Operation Ceasefire in Clark County, Nevada: Evaluating a Cross-Jurisdictional Approach to Reducing Gun Violence." Washington, DC: Bureau of Justice Statistics.

<sup>6</sup> See, generally, Sousa (2023).

**2. What does disorder mean with respect to Dr. Sousa's expertise and areas of research and study? What is the relationship between disorder and crime and other safety issues? Explain disorder and how it creates conditions of public safety and/or crime.**

Within the criminological literature, “disorder” refers to a broad range conditions and behaviors that are not necessarily illegal (although they often are), but are nevertheless considered to be problematic in public places.<sup>7</sup> The term “disorder” is sometimes used interchangeably with terms such as “incivilities” or “quality-of-life concerns.” Research often distinguishes between two types of disorders: social and physical. Social disorders involve active behaviors, such as aggressive panhandlers who intimidate passersby, individuals engaging in street prostitution, people using drugs and alcohol in public, or unruly teenagers who harass pedestrians. Physical disorders involve persistent conditions, such as litter along sidewalks, locations with evidence of public urination and defecation, or graffiti on walls of public buildings.<sup>8</sup>

Disorder is a concern because of the potential harmful effect it can have on public life. Research indicates that disorder can lead to citizen fear, to more disorder, and to serious crime. Researchers have argued, for example, that citizens’ perceptions of disorder are significantly related to fear of victimization,<sup>9</sup> and that people will often alter their behavior to avoid confrontations with disorderly actors or conditions.<sup>10</sup> Other studies demonstrate that relatively little disorder, if left unchecked, can generate more disorder.<sup>11</sup> Furthermore, although it is not inevitable, locations with permissive atmospheres toward disorder are more susceptible to serious criminal activity.<sup>12</sup> This is because serious offenders are generally more comfortable in places where acts of disorder are common and appear to be acceptable.

Several factors escalate problems related to disorder, including the amount of visible disorder at any given time, the level of aggressiveness of the disorderly actor(s), and the type of location where the disorder is occurring. Location is particularly important because disorderly behaviors are often most problematic when they are performed in specific locations where people are especially vulnerable to intimidation (i.e., in areas where the observer of the behavior is a “captive audience”). Examples of such locations are bus stops, train platforms, and subway cars.

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<sup>7</sup> Wes G. Skogan (1990). *Disorder and Decline: Crime and the Spiral of Decay in American Neighborhoods*. New York: The Free Press.

<sup>8</sup> William H. Sousa (2010). “Wesley Skogan’s ‘Disorder and Decline’” in *The Encyclopedia of Criminological Theory*, Frank Cullen & Pam Wilcox (eds.), SAGE publications.

<sup>9</sup> Catherine E. Ross and Sung Joon Jang (2000). “Neighborhood disorder, fear, and mistrust: the buffering role of social ties with neighbors.” *American Journal of Community Psychology*, 28(4), 401-420.

<sup>10</sup> William H. Sousa and George L. Kelling (2014). “Order Maintenance Policing” in *Encyclopedia of Criminology and Criminal Justice*, G. Bruinsma & D. Weisburd (eds.), Springer.

<sup>11</sup> Kees Keizer, Siegwart Lindenberg, and Lionda Steg (2008). “The spreading of disorder.” *Science*, 322, 1681-1685.

<sup>12</sup> Skogan (1990).

Those who are a captive audience often fear that they could be an easy victim of serious crime if they refuse the disorderly actor, or they fear harassment because it is physically difficult for them to “get away.”<sup>13</sup> Even if people are physically able to avoid or remove themselves from a particular location where the disorder is occurring, doing so may prevent them from the legitimate use of that location. Notably, it is often the most vulnerable members of society – such as the elderly, children, and the disabled – who are the most susceptible to this type of intimidation.

**3. When considering the pedestrian overpasses as part of Las Vegas Boulevard South / Resort District sidewalk system, are there disorder or safety issues that are unique or more significant to the bridges separate from the at-grade sidewalks? If so, what are the issues unique to the bridges that are not issues on the at-grade sidewalks?**

A number of disorders are common on the Las Vegas Boulevard South / Resort District sidewalk system, including aggressive panhandlers, solicitation while intoxicated, aggressive street performers, illegal vendors, confidence games (i.e., three-card monte), and drug related activity. These are all disorders that, as discussed above, can potentially lead to more significant problems if they are not managed.

While many of these behaviors are not unique to the pedestrian bridges (they occur on the at-grade sidewalks as well), the nature of the bridges makes these disorders especially problematic for at least two reasons. First, disorderly acts and conditions contribute to obstructions and crowding on the overpasses as people stop to react to the disorder. While not all acts of disorder are necessarily intended to make people stop, many of the behaviors described above (three-card monte, for example) are done by individuals who are stopped on a bridge and who deliberately cause other pedestrians to stop and congregate.

Second, people trying to cross a pedestrian bridge are a “captive audience” similar to those described above in Question #2. If pedestrians want to safely cross Las Vegas Boulevard, they have little choice but to use the overpasses. Once they are on a bridge, they are essentially confined to a restricted space with no way to leave other than the point that they entered and the exit point on the opposite side. Such conditions make pedestrians on overpasses particularly vulnerable to intimidation from disorderly behaviors or conditions. Pedestrians on at-grade sidewalks have more flexibility in terms of avoiding disorder if they feel threatened by it – since they are not restricted by the walls of a pedestrian bridge, they can retreat, enter a property, or otherwise maneuver around the disorder. Given the relatively limited width of the bridges, however, pedestrians are often unable to negotiate around the disorders they encounter. Their only choice may be to return to the point where they entered, but doing so would deny them from the legitimate purpose of using the bridge in the first place, which is to safely cross Las Vegas Boulevard.

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<sup>13</sup> George L. Kelling and Catherine M. Coles (1996). *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities*. New York, NY: The Free Press, p.34.

**4. With respect to the pedestrian overpasses, are there issues of egress in times of panic and increased risk of injury?**

Pedestrians on an overpass are in a rigidly confined space with traffic flow in only two directions. This creates a heightened risk of injury should an incident occur that triggers rapid group movement in one direction (i.e., panicked pedestrians rushing toward one side of the bridge).<sup>14</sup> A bottleneck can occur as a quickly moving crowd on an overpass is funneled to a narrower exit point (i.e., a doorway or an escalator on the overpass). As crowd density increases at the concentrated exit point, people can become so packed together that injuries result – a phenomenon known as “crowd crush.”

An escalator further complicates matters in the event of an emergency on a pedestrian overpass. While the down-escalator is a potential source of bottlenecking as people rush off the bridge, the up-escalator will continue delivering people to the same location as the bottleneck. This can result in a pileup at the outlet of the up-escalator, which further contributes to crowd density and increases the likelihood of injury.<sup>15</sup>

Additionally, crowd density caused by pedestrians who are rapidly exiting an overpass can impede the efforts of first responders who are trying to enter the bridge. This can prevent authorities from reaching the initial source of the panic, and it can delay emergency medical treatment to those injured on the overpass.

**5. Are these issues that are unique or more significant to bridges exacerbated by those who congregate or stop on bridges, regardless of whether the people who stop or congregate are engaging in wrongful conduct themselves?**

As discussed above, the rigid boundaries of pedestrian bridges reduce the ability of people to distance themselves from each other, particularly if there are large numbers of people on a bridge at a given time. Individuals who are standing, sitting, laying, or otherwise stopped on an overpass may obstruct pedestrians and therefore present a physical risk both to themselves and to others, especially in an emergency.

Those who are stopped may also encourage others to stop or congregate (either intentionally or unintentionally). Regardless of whether people who stop or congregate are engaged in wrongful conduct, the relatively confined space along a pedestrian overpass generates a higher propensity for increased crowd density when people are stopped. Pedestrians may be forced to negotiate through the crowd since going around it may not be an option.

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<sup>14</sup> See, generally, John J. Fruin (1984). “Crowd dynamics and auditorium management.” *Auditorium News*, May ed.

<sup>15</sup> John J. Fruin (1993). “The causes and prevention of crowd disasters.” Paper presented at the First International Conference on Engineering for Crowd Safety, London, England, March 1993.

In addition to the heightened risk of injury as crowd density increases (as discussed in Question #4), research on crowd dynamics suggests a number of other problems that can result as crowds gather, especially if the density of the crowd is such that people are close enough to physically touch.<sup>16</sup> For example, pickpocketing, groping, and other forms of theft, assault, and violence are more common in crowded conditions, particularly if alcohol or drugs are involved.

**6. What actions can be taken to reduce disorder and improve public safety on the pedestrian bridges and how and why would they do so?**

When the nature of an environment is such that there are limited points of ingress and egress, efforts should be made to facilitate the orderly movement of people and make the flow of pedestrian traffic as efficient as possible.<sup>17</sup> In practical terms, this means encouraging people to keep moving on the overpasses, discouraging people from stopping or congregating on the bridges, and managing any disorderly conditions that may cause people to stop.

In some environments, technological, architectural, or engineering modifications could be implemented that might reduce disorder or otherwise encourage pedestrians to keep moving / prevent pedestrians from stopping or congregating. Given the architectural design of the pedestrian overpasses, however, options for altering the physical environment are limited.

Enforcement efforts would be another method to reduce disorder and facilitate the flow of pedestrian traffic along the overpasses. Official ordinances give police the legal authority to issue warnings for non-compliance or, as a last resort, take formal action (i.e., citations). A local ordinance that prohibits stopping, for example, would provide a legal mechanism for police who seek to manage the orderly movement of people along the overpasses.

**7. Assuming one such action is to prevent the stoppage or congregating of all persons, how does that action decrease risk to the public? To be effective does it need to include everyone, including those who stop or congregates and are not engaging in bad behavior?**

Efforts designed to prevent stopping or congregating on pedestrian bridges would improve public safety in several ways. First, as discussed in Question #5, regardless of whether people who stop or congregate are engaged in wrongful behavior, they may contribute to crowd density that can increase risk of injury (i.e., “crowd crush”) or other problems that arise when people are close enough to physically touch (i.e., pickpocketing, theft, groping, fights). By keeping all pedestrians moving on the overpasses, risks associated with crowd density are minimized.

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<sup>16</sup> Miliaikeala SJ. Heen and Joel D. Lieberman (2018). “Sexual harassment and violence at music concerts and festivals.” Stat Sheet Series, 2018-03. Las Vegas, NV: UNLV Center for Crime and Justice Policy.

<sup>17</sup> Fruin (1993).

Additionally, as discussed in Question #3, much of the disorder that occurs along the pedestrian bridges is the result of people who are stopped or who encourage others to stop (either intentionally or unintentionally). Research demonstrates that efforts to manage disorderly behaviors directly reduce those behaviors and can also prevent more serious problems from forming.<sup>18</sup> Preventing stopping or congregating on bridges – regardless of the actor’s motivation for stopping – is likely to reduce disorder and therefore improve public safety.

#### **8. Why is a prohibition on obstruction insufficient to resolve the issues on the bridges?**

As discussed above, obstructions can occur as the result of unsafe and disorderly conditions along the walkways. Once obstructions have occurred, however, it may be too late to prevent their more serious consequences, including the elevated risk of injury to pedestrians and the increased difficulty for first responders to quickly manage emergencies. A prohibition on obstruction is therefore insufficient because such a prohibition will not address the problematic conditions that create obstructions in the first place.

The main safety concern on the bridges stems from people who stop or congregate. Those who are stopped, even if they are not intentionally obstructing others, may encourage other pedestrians to stop. This can contribute to increased crowd density and its potential results, including risk of physical injury and criminal activity that can occur when people are in close proximity to each other. Relatedly, those who are stopped may add to the amount of disorder on the bridges even if their actions are not unlawful.

Whereas the purpose of the overpasses is to safely deliver people from one side of Las Vegas Boulevard to the other, the most reasonable solution to minimize problems related to crowd density, disorder, and criminal activity is to keep pedestrians moving along the bridges. A prohibition on obstruction alone will not resolve these concerns.

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<sup>18</sup> See George L. Kelling and William H. Sousa (2001). *Do Police Matter? An Analysis of the Impact of New York City's Police Reforms*. Civic Report No. 22. New York, NY: The Manhattan Institute for Policy Research; see also Anthony A. Braga, Brandon C. Welsh, and Cory Schnell (2015). “Can policing disorder reduce crime? A systematic review and meta-analysis.” *Journal of Research in Crime and Delinquency*, 52(4), 567–588.

## Stat Sheet

April 2023

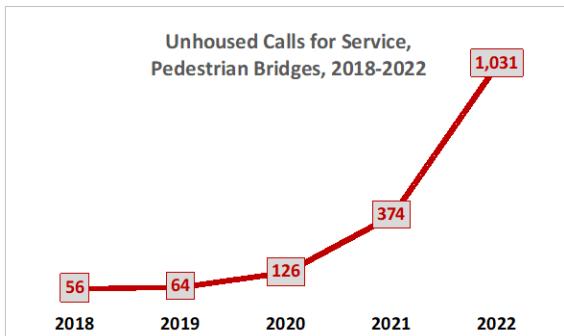
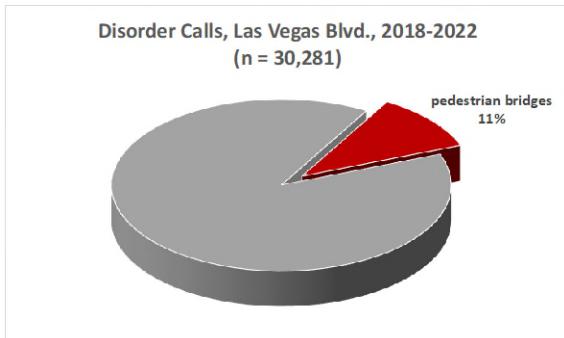
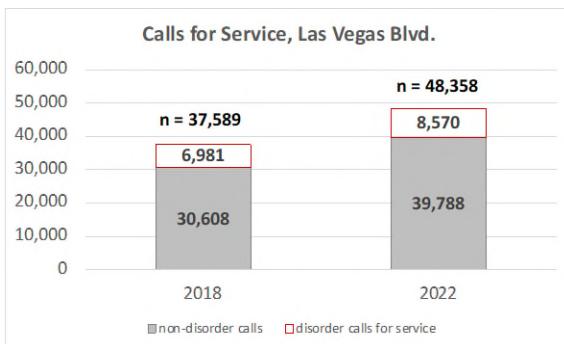
CCJP-SS 2023-1

### Safety on Las Vegas Boulevard, 2018-2022

By: William Sousa

Safety concerns related to police calls for service, disorderly conditions, and unhoused individuals present numerous challenges for public officials. This Stat Sheet provides an overview of safety conditions on Las Vegas Boulevard from 2018-2022.

### Key Stats



#### 1. Calls for Service – Disorder

Overall calls for service on Las Vegas Boulevard increased 29% from 37,589 in 2018 to 48,358 in 2022.

Calls specifically for disorderly offenses jumped from 6,981 in 2018 to 8,570 in 2022 – an increase of 23%.

#### 2. Disorder on Pedestrian Bridges

Calls for disorderly offenses on Las Vegas Boulevard are disproportionately concentrated on pedestrian bridges.

Although the pedestrian bridges account for less than 6% of the total length of the sidewalk system along Las Vegas Boulevard, 11% of disorder calls occurred on the walkways.

#### 3. Calls Related to Unhoused Individuals

Calls for service related to unhoused individuals increased dramatically on Las Vegas Boulevard from 2018-2022.

For example, calls related to the unhoused increased on the pedestrian bridges from 56 in 2018 to 1,031 in 2022 – an increase of over 1,700%.

NRA\_AM\_BRF\_0014

# Center for Crime and Justice Policy

## Introduction

Public safety along Las Vegas Boulevard – the heart of the entertainment industry in Clark County – is an important consideration for public officials. As a major tourist destination, issues related to police calls for service, disorderly conditions, and unhoused individuals present a number of challenges. An analysis of data from 2018-2023 provides information on measures of public safety along Las Vegas Boulevard.<sup>1</sup>

## Calls for Service

Calls for service are a gauge for the amount of police resources required to manage problems at locations. While many calls are not necessarily crime-related, they often reflect citizen concerns about problematic conditions related to personal health and safety. Analyses reveal that calls for service along the stretch of Las Vegas Boulevard between Russell Road and Sahara Avenue increased substantially, from 37,589 in 2018 to 48,358 in 2022 – an increase of 29%.

## Disorder

Research demonstrates that problematic quality-of-life conditions (aggressive panhandling, public drug and alcohol use, excessive trash and litter, etc.) can lead to more quality-of-life issues in public spaces, increased sanitation problems, heightened fear among citizens, and serious criminal activity. Calls for service specifically for disorder increased from 6,981 in 2018 to 8,570 in 2022 – an increase of 23%. Disorder also appears to concentrate at specific locations along Las Vegas Boulevard. For example, although pedestrian bridges make up less than 6% of the total length of the sidewalk system, 11% of disorder calls on Las Vegas Boulevard occurred on the walkways.<sup>2</sup>

## Unhoused Individuals

Safety concerns related to unhoused individuals present a number of challenges. The unhoused are disproportionately impacted by struggles with physical health, mental health, and substance abuse problems – and they are at heightened risk of victimization by serious crime. Many calls for service to police concern unhoused individuals. Calls related to the unhoused increased at an alarming rate along Las Vegas Boulevard, from 346 in 2018 to 7,066 in 2022 – an increase of over 1,900%. On the pedestrian bridges alone, calls increased from just 56 in 2018 to 1,031 in 2022 – an increase of over 1,700%.

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<sup>1</sup> Data were provided by the LVMPD Research & Analysis Unit and the Clark County Public Works Department.

<sup>2</sup> The total length of the sidewalks between Russell Road and Sahara Avenue (east and west sides), including the pedestrian bridges, is 39,600 linear feet. The length of the bridges alone is 2,300 linear feet. These measures do not include the privately owned pedestrian bridges in front of Treasure Island, the Venetian, and the Wynn.

# **EXHIBIT 3**

**November 2023 Agenda Item before  
the Clark County Board of  
Commissioners**

## CLARK COUNTY BOARD OF COMMISSIONERS

### AGENDA ITEM

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**Petitioner:** Kevin Schiller, County Manager  
Abigail Frierson, Deputy County Manager

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**Recommendation:**

**Introduce an Ordinance to amend Title 16 of the Clark County Code to add a new Chapter 16.13 to establish pedestrian flow zones on pedestrian bridges and up to 20 feet surrounding a touchdown structure; and providing for other matters properly relating thereto; and set a public hearing. (For possible action)**

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**FISCAL IMPACT:**

Fund #:	N/A	Fund Name:	N/A
Fund Center:	N/A	Funded PGM/Grant:	N/A
Amount:	N/A		
Description:	N/A		
Additional Comments:	N/A		

**BACKGROUND:**

The proposed ordinance would create Pedestrian Flow Zones within the resort corridor on pedestrian bridges and up to 20 feet surrounding a touchdown structure, which includes elevators, escalators and stairways located on public right of way associated with a pedestrian bridge. The ordinance would prohibit any person from stopping, standing, or engaging in activity that causes another person to stop or stand within a Pedestrian Flow Zone to ensure the continuous movement of pedestrian traffic on pedestrian bridges and surrounding touchdown structures. The public safety concerns regarding pedestrian bridges on the Las Vegas Strip are discussed in a report prepared by William Sousa, Ph.D. The ordinance addresses public safety on the pedestrian bridges on the Las Vegas Strip and is narrowly tailored to accomplish this goal by requiring every person utilizing the pedestrian bridge to keep moving across the bridge to ensure pedestrians get to their desired location in the safest manner possible.

Staff recommends a public hearing be set for December 5, 2023, at 10:00 a.m.

Cleared for Agenda

**11/21/2023**

File ID#

**23-1617**

**NRA\_AM\_BRF\_0017**

# **EXHIBIT 4**

**Clark County Code  
Ordinance No. 16.13.010-.050**

Item #38 16.13.030 updated

[Bracketed] material is that portion being deleted  
Underlined material is that portion being added

BILL NO. \_\_\_\_\_

SUMMARY – Establishes Pedestrian Flow Zones on Pedestrian Bridges and up to 20 feet surrounding a touchdown structure.

ORDINANCE NO. \_\_\_\_\_  
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 16 OF THE CLARK COUNTY CODE TO ADD A NEW CHAPTER 16.13 TO ESTABLISH PEDESTRIAN FLOW ZONES ON PEDESTRIAN BRIDGES AND UP TO 20 FEET SURROUNDING A TOUCHDOWN STRUCTURE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 16 of the Clark County Code is amended as follows:

**CHAPTER 16.13 – PEDESTRIAN FLOW ZONES**

**16.13.010 – Purpose.**

The pedestrian bridges located within the world-famous Las Vegas Strip provide above grade access for the visitors, employees, and residents of Clark County to safely cross the roadways located within the Las Vegas Strip. The pedestrian bridges are part of the sidewalk system of the Las Vegas Strip and were created for the purpose of separating pedestrian traffic from vehicular traffic to facilitate pedestrians crossing in those locations. Pedestrians are prohibited from crossing at grade level where pedestrian bridges are located. The pedestrian bridges were designed for the specific purpose of

facilitating such crossings at all foreseeable levels of demand which can vary significantly and unpredictably regardless of day or time of day. The parameters for the pedestrian bridge design did not include uses beyond pedestrian traffic crossing from one side to the other side. The parameters included that pedestrians would not stop, stand or congregate other than for incidental and fleeting viewing of the Las Vegas Strip from the pedestrian bridge. For pedestrians to be able to stop, stand or congregate for any other reason, the pedestrian bridges would have been designed differently to account for such uses.

Stopping on the pedestrian bridges creates conditions that can foment disorder which, in turn, can lead to crime and serious safety issues. Because pedestrian traffic demand on the bridges varies significantly and unpredictably regardless of day or time of day, it is impossible to know in advance when stopping will result in criminal or otherwise dangerous conditions (whether involving the particular pedestrian who has stopped or others) and because of the physical nature of the pedestrian bridges, by the time such conditions exist, it would often be too late for law enforcement or other first responders to intervene, mitigate, render aid, rescue, or take other actions necessary as a result of crime and other serious safety issues. In recent years, numerous incidents have occurred that underscore these concerns. There is an ever-increasing demand as visitation numbers have reached near historical levels. Clark County continues to attract major sporting events and has become the home to major sports teams. Clark County has a substantial government interest in providing safe pedestrian access on the Las Vegas Strip. The increased number and frequency of high-profile attacks in places of public gatherings throughout the country have contributed to the occurrence of threats and

perceived threats that result in public panic and immediate and unexpected demand on pedestrian bridges as in an event of flight by large groups of people.

From 2018 to 2022, calls for law enforcement services on the Las Vegas Strip have increased twenty-nine percent (29%) from 37,598 in 2018 to 48,358 in 2022. The service calls for disorderly offenses increased twenty-three percent (23%) from 6,981 in 2018 to 8,750 in 2022. While the pedestrian bridges constitute only approximately six percent (6%) of the total linear feet of public sidewalks available to pedestrians, the service calls for disorderly conduct on the pedestrian bridge are almost twice as high. In addition to the disproportionate call volume on pedestrian bridges, the pedestrian bridges create a unique opportunity for criminal disorder as the bridges create a captive audience. Generally, in order for a pedestrian to cross Las Vegas Boulevard the pedestrian must use the bridge, therefore, unlike on a sidewalk where a pedestrian has a greater ability to avoid disorder, on the pedestrian bridge, the pedestrian is confined to the restricted space of the pedestrian bridge.

The Board has a substantial government interest in ensuring public safety on the pedestrian bridges. The Board finds that adoption of Pedestrian Flow Zones is a narrowly tailored means to accomplish the County's important objective of reducing the incidence and risk of crime and serious safety issues on pedestrian bridges and allows pedestrians to freely and safely get to their desired location. The pedestrian bridges represent only six percent (6%) of the total linear feet of the public sidewalk available to pedestrians within the Las Vegas Strip, to the extent the Pedestrian Flow Zones have some incidental impact on the manner of First Amendment activity, (people must continue to move, whether engaged in First Amendment activity or not), there is ample alternative means of

communication on the other approximately ninety-four percent (94%) of the sidewalks located within the Las Vegas Strip. Therefore, for the reasons described herein, the Board hereby adopts the following ordinance.

**16.13.020 - General definitions.**

“Pedestrian Bridges” are bridges located in the Resort Corridor that allow pedestrians to cross streets in the Resort Corridor above grade level. For the purposes of this chapter, “pedestrian bridges” shall include bridges for pedestrians in the Resort Corridor that are private property upon which a limited easement of public access has been granted. However, no provision of this chapter shall be construed to limit any right of the private property owner to restrict or limit the use of that private property.

“Pedestrian Flow Zones” include the Pedestrian Bridges and up to 20 feet surrounding a Touchdown Structure located within the Resort Corridor.

“Resort Corridor” includes the boundaries established by Sections 9, 10, 15, 16, 17, 18, 20, 21, 22, 27, 28 and 29 of Township 21 South Range 61 East, Mount Diablo Meridian, Clark County, Nevada.

“Touchdown Structure” means the elevators, escalators and stairways located on the public right of way associated with Pedestrian Bridges.

**16.13.030 – Pedestrian Flow Zones.** To maintain the safe and continuous movement of pedestrian traffic, it is unlawful for any person to (1) stop or stand within any Pedestrian Flow Zone, or (2) engage in any activity **while within a Pedestrian Flow Zone with the intent of causing another person who is within a Pedestrian Flow Zone to stop or stand. A person is not in violation of this Section if they stop or stand while**

waiting for access to an elevator or escalator for purposes of entering or exiting a

Pedestrian Flow Zone.

**16.13.040** – Designation of Pedestrian Flow Zones. The County shall place signs in Pedestrian Flow Zones providing notice to the public they are in a Pedestrian Flow Zone and that stopping, standing, or engaging in an activity that causes another person to stop within the Pedestrian Flow Zone is not permitted.

**16.13.050** – Penalty for Violation. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

PASSED on the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

AYES: \_\_\_\_\_

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NAYS: \_\_\_\_\_

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ABSTAINING: \_\_\_\_\_

ABSENT: \_\_\_\_\_

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BOARD OF COUNTY COMMISSIONERS  
CLARK COUNTY, NEVADA

By: \_\_\_\_\_

ATTEST:

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LYNN GOYA, County Clerk

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day of  
2024.