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10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 LISA MCALLISTER, an individual; and }
13 BRANDON SUMMERS, an individual, }
14 Plaintiffs, }
15 vs. }
16 CLARK COUNTY, a political subdivision }
of the state of Nevada. }
17 }
18 Defendant(s). }

19 Case No: 2:24-cv-00334

20 **DEFENDANT CLARK COUNTY'S**
ANSWERS TO PLAINTIFF'S FIRST
SET OF INTERROGATORIES

21 TO: Plaintiff LISA MCALLISTER; and
TO: Plaintiff BRANDON SUMMERS; and
TO: CHRISTOPHER M. PETERSON, Nevada Bar No. 13932
TATIANA R. SMITH, Nevada Bar No. 16627
AMERICAN CIVIL LIBERTIES UNION OF NEVADA; and
MARGARET A. MCLETCHIE, Nevada Bar No. 10931
LEO S. WOLPERT, Nevada Bar No. 12658
MCLETCHIE LAW,
Plaintiff's counsel of record.

1 COMES NOW, Defendant CLARK COUNTY (hereinafter "Defendant"), through its
 2 attorney STEVEN B. WOLFSON, District Attorney, and by JOEL K. BROWNING, Deputy
 3 District Attorney, and JEFFREY S. ROGAN, Deputy District Attorney, and hereby answers
 4 PLAINTIFF'S FIRST SET OF INTERROGATORIES, pursuant to the requirements of Rule
 5 33, as follows:

6 INTERROGATORY NO. 1:

7 DEFINE the term "disorderly offenses" as used in Clark County Code § 16.13.010,
 8 including but not limited to IDENTIFYING ALL specific conduct or criminal offenses
 9 included in the term "disorderly offense" as used in Clark County Code § 16.13.010 and
 10 IDENTIFYING ANY DOCUMENT, along with ANY relevant page and line citation, that
 11 DESCRIBES what a "disorderly offense" is in the context of Clark County Code § 16.13.010.

12 ANSWER:

13 Objection. Defendant objects to the extent that Plaintiffs' Interrogatory calls for a legal
 14 conclusion. The instant Interrogatory is further objectionable to the extent that it calls for a
 15 line-by-line explanation of an ordinance and/or the plain meaning and common definition of
 16 words equally available to both parties. Defendant further objects to the extent the instant
 17 Interrogatory seeks to impermissibly establish legislators' subjective motives or opinions
 18 protected under the deliberative process and legislative privileges in First Amendment
 19 challenges such is the instant case. *See, e.g., City of Las Vegas v. Foley*, 747 F.2d 1294, 1298
 20 (9th Cir. 1984). Inquiries for First Amendment purposes are strictly limited to the facial effect
 21 of the ordinance upon freedom of expression, not upon the legislative bodies' subjective intent
 22 or individual legislators' subjective understanding of the language of an ordinance absent
 23 objective indicators of illicit purpose which are not present here. *Id; see also Colacurcio v.*
 24 *City of Kent*, 163 F.3d 545, 552 (9th Cir. 1998). Without waiving the foregoing objections and
 25 subject to the same, Defendant answers as follows:

26 The term "disorderly offenses" as used in Clark County Code § 16.13.010 is undefined
 27 in Clark County Code and should be attributed its plain meaning by the Court as a matter of
 28 law. Clark County cannot define a term where no definition has been provided by its legislative

1 body, the Clark County Board of County Commissioners, as each commissioner's
 2 understanding of the term is subjective and not discoverable in facial First Amendment
 3 challenges. To the extent it is responsive to Plaintiffs' Interrogatory, Clark County directs
 4 Plaintiffs to the legislative record disclosed in Defendant Clark County's Initial Disclosure
 5 and Production of Documents per FRCP 26(a)(1) and all supplements thereto including, but
 6 not limited to, bates CC 001 to CC 032, CC 033 to CC 070, CC 071 to CC 126, CC 127 to CC
 7 131, CC 132 to CC 139, CC 140 to CC 145, CC 824 to CC 973, CC 974 to CC 1163, CC 1164
 8 to CC 1206, CC 1207 to CC 1383, CC 1405 to CC 1418, CC 1419 to CC 1427, CC 1428 to
 9 CC 1437, and CC 1438 to CC 1446 and any dictionaries as may be appropriate.

10 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
 11 instant Answer as additional information becomes available in the course of discovery.

12 INTERROGATORY NO. 2:

13 DEFINE the term "criminal disorder" as used in Clark County Code§ 16.13.010,
 14 including but not limited to IDENTIFYING ALL specific conduct or criminal offenses
 15 included in the term "criminal disorder" as used in Clark County Code § 16.13.010 and
 16 IDENTIFYING ANY DOCUMENT, along with ANY relevant page and line citation, that
 17 DESCRIBES what a "criminal disorder" is in the context of Clark County Code § 16.13.010.

18 ANSWER:

19 Objection. Defendant objects to the extent that Plaintiffs' Interrogatory calls for a legal
 20 conclusion. The instant Interrogatory is further objectionable to the extent that it calls for a
 21 line-by-line explanation of an ordinance and/or the plain meaning and common definition of
 22 words equally available to both parties. Defendant further objects to the extent the instant
 23 Interrogatory seeks to impermissibly establish legislators' subjective motives or opinions
 24 protected under the deliberative process and legislative privileges in First Amendment
 25 challenges such is the instant case. *See, e.g., City of Las Vegas v. Foley*, 747 F.2d 1294, 1298
 26 (9th Cir. 1984). Inquiries for First Amendment purposes are strictly limited to the facial effect
 27 of the ordinance upon freedom of expression, not upon the legislative bodies' subjective intent
 28 or individual legislators' subjective understanding of the language of an ordinance absent

1 objective indicators of illicit purpose which are not present here. *Id*; *see also Colacurcio v.*

2 *City of Kent*, 163 F.3d 545, 552 (9th Cir. 1998). Without waiving the foregoing objections and

3 subject to the same, Defendant answers as follows:

4 The term “disorderly conduct” as used in Clark County Code § 16.13.010 is undefined

5 in Clark County Code and should be attributed its plain meaning by the Court as a matter of

6 law. Clark County cannot define a term where no definition has been provided by its legislative

7 body, the Clark County Board of County Commissioners, as each commissioner’s

8 understanding of the term is subjective and not discoverable in facial First Amendment

9 challenges. To the extent it is responsive to Plaintiffs’ Interrogatory, Clark County directs

10 Plaintiffs to the legislative record disclosed in Defendant Clark County’s Initial Disclosure

11 and Production of Documents per FRCP 26(a)(1) and all supplements thereto including, but

12 not limited to, bates CC 001 to CC 032, CC 033 to CC 070, CC 071 to CC 126, CC 127 to CC

13 131, CC 132 to CC 139, CC 140 to CC 145, CC 824 to CC 973, CC 974 to CC 1163, CC 1164

14 to CC 1206, CC 1207 to CC 1383, CC 1405 to CC 1418, CC 1419 to CC 1427, CC 1428 to

15 CC 1437, and CC 1438 to CC 1446 and any dictionaries as may be appropriate.

16 Discovery is ongoing and Defendant Clark County reserves the right to supplement the

17 instant Answer as additional information becomes available in the course of discovery.

18 **INTERROGATORY NO. 3:**

19 IDENTIFY ALL FACTS YOU relied upon to conclude Clark County Code§ 16.13.030

20 was necessary to address "captive audience[s]" on the PEDESTRIAN BRIDGES as stated in

21 Clark County Code § 16.13.010, including but not limited to IDENTIFYING ALL instances

22 where a "captive audience" occurred on the PEDESTRIAN BRIDGES and IDENTIFYING

23 ANY DOCUMENT, along with ANY relevant page and line citation, that DESCRIBES the

24 formation of a "captive audience" as used in Clark County Code§ 16.13.030.

25 **ANSWER:**

26 Objection. The instant Interrogatory seeks to impermissibly establish legislators’

27 subjective motives or opinions protected under the deliberative process and legislative

28 privileges in First Amendment challenges such is the instant case. *See, e.g., City of Las Vegas*

1 *v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984). Inquiries for First Amendment purposes are
 2 strictly limited to the facial effect of the ordinance upon freedom of expression, not upon the
 3 legislative bodies' subjective intent or individual legislators' subjective understanding of the
 4 language of an ordinance absent objective indicators of illicit purpose which are not present
 5 here. *Id*; *see also Colacurcio v. City of Kent*, 163 F.3d 545, 552 (9th Cir. 1998). Defendant
 6 further objects to the extent that Defendant Clark County is not the custodian of records for
 7 records about enforcement activity on the pedestrian bridges and, accordingly, lacks sufficient
 8 knowledge to answer Plaintiffs' Interrogatory as worded. Defendant further objects to the
 9 extent that the instant Interrogatory is vague and ambiguous as to time and as it pertains to the
 10 terms "DOCUMENT" or "page and line citation." The Interrogatory is further objectionable
 11 as it is overly broad and unduly burdensome as it seeks an accounting of "ALL instances" and
 12 is not reasonably calculated to lead to the discovery of admissible evidence.

13 Without waiving the foregoing objections and subject to the same, Defendant answers
 14 as follows:

15 While the County has a burden to establish "that the anticipated harms it bases the
 16 ordinance on are real and not merely conjectural," it does not have a burden to martial evidence
 17 of every instance of wrongful conduct that has ever occurred on a pedestrian bridge, nor is it
 18 obligated to rehash the policy debate or the weight of the evidence supporting the enactment
 19 of the subject ordinance with Plaintiffs' counsel for a second time in discovery. [ECF No. 51]
 20 at 31:4-5. To the extent it is responsive to Plaintiffs' instant Interrogatory, Defendant directs
 21 Plaintiffs to the relevant legislative record disclosed in Defendant Clark County's Initial
 22 Disclosure and Production of Documents per FRCP 26(a)(1) and all supplements thereto
 23 including, but not limited to CC 071 to CC 126, CC 128, CC 133 to CC 134, CC 142, CC 824
 24 to CC 973, CC 974 to CC 1163, CC 1164 to CC 1206, CC 1207 to CC 1383, CC 1428 to CC
 25 1436, CC 1437 to 1461 (including photographs of persons in the pedestrian flow zones
 26 incapacitated by drug and alcohol use, lighting fires, engaged in lewd and indecent conduct,
 27 engaging in acts of violence, conducting illegal confidence games and gambling, pick-
 28 pocketing, engaging in unlicensed and illegal commerce, approaching pedestrians for

1 donations or photographs, holding signs, and loitering with pets thereby either exploiting
 2 captive audiences or congesting pedestrian flow zones thereby contributing to the creation of
 3 captive audiences).

4 Discovery is ongoing and Defendant Clark County reserves the right to supplement
 5 the instant Answer as additional information becomes available in the course of discovery.

6 INTERROGATORY NO. 4:

7 DEFINE the term "stop" as used in Clark County Code § 16.13.030, including
 8 IDENTIFYING ANY circumstance or activity where a person would be allowed to cease
 9 moving on a PEDESTRIAN BRIDGE without violating Clark County Code§ 16.13.030 and
 10 confirming whether a person would be allowed to cease moving on a PEDESTRIAN BRIDGE
 11 to engage in:

- 12 • "incidental and fleeting viewing of the Las Vegas Strip from the pedestrian bridge" as
 13 stated in Clark County Code§ 16.13.010;
- 14 • "brief or insubstantial variations in movement" as stated in DEFENDANT Clark
 15 County's Motion to Dismiss Plaintiffs Complaint, ECF No. 9, 15:22; and
- 16 • "taking photographs" as stated in DEFENDANT Clark County's Motion to Dismiss
 17 Plaintiffs Complaint, ECF No. 9, 15:2-3.

18 ANSWER:

19 Objection. The instant Interrogatory is compound with discrete subparts. Defendant
 20 further objects to the extent that Plaintiffs' Interrogatory calls for legal conclusions. The
 21 instant Interrogatory is further objectionable to the extent that it calls for a line-by-line
 22 explanation of an ordinance and/or the plain meaning and common definition of words equally
 23 available to both parties. Defendant further objects to the extent the instant Interrogatory seeks
 24 to impermissibly establish legislators' subjective motives or opinions protected under the
 25 deliberative process and legislative privileges in First Amendment challenges such is the
 26 instant case. *See, e.g., City of Las Vegas v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984).
 27 Inquiries for First Amendment purposes are strictly limited to the facial effect of the ordinance
 28 upon freedom of expression, not upon the legislative bodies' subjective intent or individual

1 legislators' subjective understanding of the language of an ordinance absent objective
 2 indicators of illicit purpose which are not present here. *Id*; *see also Colacurcio v. City of Kent*,
 3 163 F.3d 545, 552 (9th Cir. 1998). Defendant further objects to the extent the instant
 4 Interrogatory is overly broad and unduly burdensome as it requires Clark County to
 5 "IDENTIFY [...] ANY circumstance or activity." Without waiving the foregoing objections
 6 and subject to the same, Defendant answers as follows:

7 The term "stop" as used in Clark County Code § 16.13.010 is undefined in Clark
 8 County Code and should be attributed its plain meaning by the Court as a matter of law. Clark
 9 County cannot define a term where no definition has been provided by its legislative body, the
 10 Clark County Board of County Commissioners, as each commissioner's understanding of the
 11 term is subjective and not discoverable in facial First Amendment challenges. To the extent it
 12 is responsive to Plaintiffs' Interrogatory, Clark County directs Plaintiffs to the language of the
 13 ordinance and the legislative record disclosed in Defendant Clark County's Initial Disclosure
 14 and Production of Documents per FRCP 26(a)(1) and all supplements thereto including, but
 15 not limited to bates CC 001 to CC 032, CC 033 to CC 070, CC 071 to CC 126, CC 127 to CC
 16 131, CC 132 to CC 139, CC 140 to CC 145, CC 824 to CC 973, CC 974 to CC 1163, CC 1164
 17 to CC 1206, CC 1207 to CC 1383, CC 1405 to CC 1418, CC 1419 to CC 1427, CC 1428 to
 18 CC 1437, and CC 1438 to CC 1446 and any dictionaries as may be appropriate.

19 Furthermore, the discrete subparts of the instant Interrogatory as it pertains to
 20 enforcement of the ordinance constitute incomplete hypotheticals which require speculation
 21 on the part of Clark County as it is not the entity tasked with enforcing laws. While the
 22 legislative record makes clear that the Clark County Commissioners passed CCC § 16.13.030
 23 with the anticipation that LVMPD would exercise its discretion in enforcing the subject
 24 ordinance fairly and with a priority on educating and obtaining voluntary compliance from
 25 residents and visitors, each application of CCC § 16.13.030 would need to be evaluated on its
 26 own merits, by the Court, to determine if it was applied by LVMPD constitutionally in "as
 27 applied" challenges and Clark County declines to speculate about potential applications of
 28 CCC § 16.13.030 based on incomplete and hypothetical facts.

1 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
 2 instant Answer as additional information becomes available in the course of discovery.

3 **INTERROGATORY NO. 5:**

4 IDENTIFY ALL FACTS YOU were aware of at the time of the passage of Clark
 5 County Code § 16.13.030 that a prohibition on stopping or standing on the PEDESTRIAN
 6 BRIDGES would "ensur[e] public safety" as stated in Clark County Code§ 16.13.010.

7 **ANSWER:**

8 Objection. The instant Interrogatory seeks to impermissibly establish legislators'
 9 subjective motives or opinions protected under the deliberative process and legislative
 10 privileges in First Amendment challenges such is the instant case. *See, e.g., City of Las Vegas*
 11 *v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984). Inquiries for First Amendment purposes are
 12 strictly limited to the facial effect of the ordinance upon freedom of expression, not upon the
 13 legislative bodies' subjective intent or individual legislators' subjective understanding of the
 14 language of an ordinance absent objective indicators of illicit purpose which are not present
 15 here. *Id; see also Colacurcio v. City of Kent*, 163 F.3d 545, 552 (9th Cir. 1998). Defendant
 16 further objects to the extent the instant request is vague and ambiguous as to time and is overly
 17 broad and unduly burdensome as it seeks identification of "ALL FACTS." Defendant further
 18 objects that the instant Interrogatory is not reasonably calculated to lead to the discovery of
 19 admissible evidence. Defendant further objects that the instant Interrogatory is not
 20 proportional to the needs of the case. Without waiving the foregoing objection and subject to
 21 the same, Defendant answers as follows:

22 Clark County cannot possibly ascertain all facts known to its employees, staff, and the
 23 Clark County Board of County Commissioners nor does it have a duty to disclose the same,
 24 as each commissioner's subjective understanding and communications with staff regarding
 25 the drafting of the ordinance are not discoverable in facial First Amendment challenges such
 26 as this or admissible for consideration. To the extent it is responsive to Plaintiffs'
 27 Interrogatory, Clark County directs Plaintiffs to the legislative record and pedestrian bridge
 28 studies and manuals disclosed in Defendant Clark County's Initial Disclosure and Production

1 of Documents per FRCP 26(a)(1) and all supplements thereto including, but not limited to,
 2 Bates CC 001 to CC 032, CC 033 to CC 070, CC 071 to CC 126, CC 127 to CC 131, CC 132
 3 to CC 139, CC 140 to CC 145, CC 253 to CC 823, CC 824 to CC 973, CC 974 to CC 1163,
 4 CC 1164 to CC 1206, CC 1207 to CC 1383, CC 1405 to CC 1418, CC 1419 to CC 1427, CC
 5 1428 to CC 1437, and CC 1438 to CC 1446.

6 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
 7 instant Answer as additional information becomes available in the course of discovery.

8 **INTERROGATORY NO. 6:**

9 IDENTIFY ALL FACTS supporting YOUR claim that at the time of the passage of
 10 Clark County Code § 16.13.030 there were "significant public safety and pedestrian traffic
 11 flow problems caused by the ever-increasing pedestrian congestion on the pedestrian bridges"
 12 as stated in DEFENDANT Clark County's Response to Plaintiffs Motion for Preliminary
 13 Injunction and Motion for Temporary Restraining Order, ECF No. 10, 18:19-21.

14 **ANSWER:**

15 Objection. The instant Interrogatory calls for a legal conclusion. Defendant further
 16 objects that instant Interrogatory seeks to impermissibly establish legislators' subjective
 17 motives, opinions or knowledge protected under the deliberative process and legislative
 18 privileges in First Amendment challenges such is the instant case. *See, e.g., City of Las Vegas*
 19 *v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984). Inquiries for First Amendment purposes are
 20 strictly limited to the facial effect of the ordinance upon freedom of expression, not upon the
 21 legislative bodies' subjective intent or individual legislators' subjective understanding of the
 22 language of an ordinance absent objective indicators of illicit purpose which are not present
 23 here. *Id; see also Colacurcio v. City of Kent*, 163 F.3d 545, 552 (9th Cir. 1998). Defendant
 24 further objects to the extent the instant request is vague and ambiguous as to time and is overly
 25 broad and unduly burdensome as it seeks identification of "ALL FACTS." Defendant further
 26 objects that the instant Interrogatory is not reasonably calculated to lead to the discovery of
 27 admissible evidence. Defendant further objects that the instant Interrogatory is not
 28

1 proportional to the needs of the case. Without waiving the foregoing objection and subject to
 2 the same, Defendant answers as follows:

3 Clark County cannot possibly ascertain all facts known to its employees, staff, and the
 4 Clark County Board of County Commissioners nor does it have a duty to disclose the same,
 5 as each commissioner's subjective understanding and communications with staff regarding
 6 the drafting of the ordinance are not discoverable in facial First Amendment challenges such
 7 as this. To the extent it is responsive to Plaintiffs' Interrogatory, Clark County directs Plaintiffs
 8 to the legislative record and pedestrian bridge studies and manuals disclosed in Defendant
 9 Clark County's Initial Disclosure and Production of Documents per FRCP 26(a)(1) and all
 10 supplements thereto including, but not limited to, bates CC 001 to CC 032, CC 033 to CC 070,
 11 CC 071 to CC 126, CC 127 to CC 131, CC 132 to CC 139, CC 140 to CC 145, CC 253 to CC
 12 823, CC 824 to CC 973, CC 974 to CC 1163, CC 1164 to CC 1206, CC 1207 to CC 1383, CC
 13 1405 to CC 1418, CC 1419 to CC 1427, CC 1428 to CC 1437, and CC 1438 to CC 1446.

14 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
 15 instant Answer as additional information becomes available in the course of discovery.

16 **INTERROGATORY NO. 7:**

17 IDENTIFY ALL actions YOU undertook before the enactment of Clark County Code
 18 § 16.13.030 to reduce the "pedestrian traffic flow problems" caused by "pedestrian congestion
 19 on the pedestrian bridges" as stated in DEFENDANT Clark County's Response to Plaintiffs
 20 Motion for Preliminary Injunction and Motion for Temporary Restraining Order, ECF No. 10,
 21 18:19-21.

22 **ANSWER:**

23 Objection. The instant Interrogatory is objectionable to the to the extent it presupposes
 24 that Clark County or the Clark County Board of County Commissioners had a duty to take
 25 action to reduce "pedestrian traffic flow problems" or attempt to employ alternative solutions
 26 for "pedestrian traffic flow problems" prior to the enactment of Clark County Code §
 27 16.13.030. Defendant further objects that the instant Interrogatory is overly broad and unduly
 28 burdensome as it seeks to require Defendant to identify "ALL actions" of it and its employees

1 and commissioners. Defendant further objects that the instant Interrogatory is vague and
 2 ambiguous as to time. Defendant further objects that the subject information is a matter of
 3 public record and is equally available to both parties. The instant Interrogatory is further
 4 objectionable as it is not proportional to the needs of the case. Without waiving the foregoing
 5 objections and subject to the same, Defendant answers as follows:

6 To the extent it is responsive to Plaintiffs' Interrogatory, Clark County directs Plaintiffs
 7 to the legislative record and pedestrian bridge studies and manuals disclosed in Defendant
 8 Clark County's Initial Disclosure and Production of Documents per FRCP 26(a)(1) and all
 9 supplements thereto including, but not limited to, bates CC 001 to CC 032, CC 033 to CC 070,
 10 CC 071 to CC 126, CC 127 to CC 131, CC 132 to CC 139, CC 140 to CC 145, CC 253 to CC
 11 823, CC 824 to CC 973, CC 974 to CC 1163, CC 1164 to CC 1206, CC 1207 to CC 1383, CC
 12 1405 to CC 1418, CC 1419 to CC 1427, CC 1428 to CC 1437, and CC 1438 to CC 1446.

13 The aforementioned record confirms that for decades the State of Nevada and Clark
 14 County have conducted studies on pedestrian traffic and safety and have taken affirmative
 15 steps to improve the flow of traffic and to protect pedestrians by, among other things, removing
 16 obstructions, improving lighting, widening sidewalks, increasing shade, adding traffic
 17 bollards, changing to more pedestrian-friendly infrastructure, constructing pedestrian bridges,
 18 enacting ordinances, and considering enacting potential legislation to further these aims. The
 19 enactment of Clark County Code § 16.13.030 is only the latest step in a long history of action
 20 aimed at reducing pedestrian traffic flow problems on the Las Vegas Strip and Resort Corridor
 21 by Nevada governmental entities to promote public safety and support the economic viability
 22 of Nevada's primary tourist destination.

23 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
 24 instant Answer as additional information becomes available in the course of discovery.

25 **INTERROGATORY NO. 8:**

26 DESCRIBE the original "parameters for the pedestrian bridge design" as referenced in
 27 Clark County Code§ 16.13.010, including but not limited to IDENTIFYING ALL of the
 28 original parameters, IDENTIFYING ALL FACTS relied upon to determine the original

1 parameters, IDENTIFYING ALL individuals involved in the creation of the original
 2 parameters, IDENTIFYING how the original parameters had been enforced before Clark
 3 County Code § 16.13.030 was enacted, and IDENTIFYING ANY DOCUMENT, along with
 4 ANY relevant page and line citation, that DESCRIBES the original parameters for the
 5 PEDESTRIAN BRIDGES.

6 ANSWER:

7 Objection. Defendant objects to the extent that Plaintiffs' Interrogatory calls for legal
 8 conclusions and is comprised of discrete subparts. The instant Interrogatory is further
 9 objectionable to the extent that it calls for a line-by-line explanation of an ordinance and/or
 10 the plain meaning and common definition of words equally available to both parties.
 11 Defendant further objects to the extent the instant Interrogatory seeks to impermissibly
 12 establish legislators' subjective motives, opinions or knowledge protected under the
 13 deliberative process and legislative privileges in First Amendment challenges such is the
 14 instant case. *See, e.g., City of Las Vegas v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984).
 15 Inquiries for First Amendment purposes are strictly limited to the facial effect of the ordinance
 16 upon freedom of expression, not upon the legislative bodies' subjective intent or individual
 17 legislators' subjective understanding of the language of an ordinance absent objective
 18 indicators of illicit purpose which are not present here. *Id; see also Colacurcio v. City of Kent*,
 19 163 F.3d 545, 552 (9th Cir. 1998). Defendant further objects to the extent the instant
 20 Interrogatory is overly broad and unduly burdensome as it requires Clark County to
 21 "IDENTIFY[...] ALL FACTS." Clark County further objects to the extent the instant
 22 Interrogatory is premature and seeks expert testimony. An expert report will be disclosed in
 23 accordance with the Discovery Plan and Scheduling Order in effect in the instant case. Without
 24 waiving the foregoing objections and subject to the same, Defendant answers as follows:

25 To the extent it is responsive to Plaintiffs' Interrogatory, Clark County directs Plaintiffs
 26 to the legislative record and pedestrian bridge studies and manuals disclosed in Defendant
 27 Clark County's Initial Disclosure and Production of Documents per FRCP 26(a)(1) and all
 28 supplements thereto including, but not limited to, bates CC 987 ("Amend the relevant

1 provisions of Chapter 16.11 to clarify that pedestrian bridges are for the prompt and safe
2 movement of pedestrians and that, like crosswalks, stopping and standing on pedestrian
3 bridges are prohibited.”), CC 1118 (“The pedestrian bridges have constrained widths and are
4 an integral part of the pedestrian walkway system. Based upon the observed pedestrian
5 volumes, and walkway LOS, it is appropriate to designate the pedestrian bridges as no-
6 obstruction zones. Pedestrian bridges should be maintained free of any obstructions, including
7 obstructions like trash enclosures. In addition the areas on and around stair landings, elevator
8 waiting areas, along with escalator approach and departure landing zones should also be
9 maintained free of any obstructions.”), CC 1118 (“Pedestrian bridge escalators and elevators
10 should be maintained with a schedule that provides a high reliability of service. It is important
11 to have these facilities be fully operational during holiday weekends. The capacity of the
12 pedestrian bridges is severely impacted when the escalators are not functioning.”), CC 1122
13 (“Study the feasibility of a pedestrian bridge at this location to eliminate the at-grade
14 pedestrian crossing.”), CC 1197 (“Pedestrian bridges should be maintained free of any
15 obstructions, as well as escalator and elevator approach, and departure landing zones. It is
16 appropriate at times to designate pedestrian bridges as no-obstruction zones”), CC 1199
17 (“Construct pedestrian bridge systems to eliminate at-grade pedestrian crossings at locations
18 with high demand.”), CC 1334 (“The pedestrian bridges are an integral part of the pedestrian
19 walkway system, but have constrained widths. Based upon the observed pedestrian volumes
20 and walkway LOS, it is appropriate at times to designate pedestrian bridges as no-obstruction
21 zones. Pedestrian bridges should be maintained free of any obstructions, whether permanent
22 or non-permanent in nature. In addition, the areas on and around stair landings, elevator
23 waiting areas, as well as escalator approach, and departure landing zones should also be
24 maintained free of any obstructions (permanent or nonpermanent.”), CC 1335 (“Construct
25 pedestrian bridge systems to eliminate at-grade pedestrian crossings in compliance with the
26 adopted Transportation Element of the Clark County Master Plan.”), CC 1335 (“Coordinate
27 with the Nevada Department of Transportation (NDOT) to remove trash enclosures located on
28 existing pedestrian bridges.”), etc.

1 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
 2 instant Answer as additional information becomes available in the course of discovery.

3 INTERROGATORY NO. 9:

4 IDENTIFY ALL FACTS YOU were aware of at the time of the passage of Clark
 5 County Code § 16.13.030 that "pedestrian bridges create a unique opportunity for criminal
 6 disorder" as stated in Clark County Code § 16.13.010, including but not limited to:

- 7 • DESCRIBING how "a sidewalk . . . has a greater ability to avoid disorder" than the
 8 PEDESTRIAN BRIDGES as stated in Clark County Code § 16.13.010;
- 9 • DESCRIBING how YOU monitor instances of criminal disorder on PEDESTRIAN
 10 BRIDGES and grade-level sidewalks;
- 11 • DESCRIBING how YOU determined the difference between "calls for law
 12 enforcement services" and "service calls for disorderly offenses" as stated in Clark
 13 County Code §16.13.010; and
- 14 • IDENTIFYING ANY DOCUMENT, along with ANY relevant page and line citation,
 15 that DESCRIBES the increased likelihood of criminal disorder occurring on the
 16 PEDESTRIAN BRIDGES.

17 ANSWER:

18 Objection. Defendant objects to the extent that Plaintiffs' Interrogatory calls for legal
 19 conclusions and is comprised of discrete subparts. The instant Interrogatory is further
 20 objectionable to the extent that it calls for a line-by-line explanation of an ordinance and/or
 21 the plain meaning and common definition of words equally available to both parties.
 22 Defendant further objects to the extent the instant Interrogatory seeks to impermissibly
 23 establish legislators' subjective motives, opinions or knowledge protected under the
 24 deliberative process and legislative privileges in First Amendment challenges such is the
 25 instant case. *See, e.g., City of Las Vegas v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984).
 26 Inquiries for First Amendment purposes are strictly limited to the facial effect of the ordinance
 27 upon freedom of expression, not upon the legislative bodies' subjective intent or individual
 28 legislators' subjective understanding of the language of an ordinance absent objective

1 indicators of illicit purpose which are not present here. *Id*; *see also Colacurcio v. City of Kent*,
 2 163 F.3d 545, 552 (9th Cir. 1998). Defendant further objects to the extent the instant
 3 Interrogatory is overly broad and unduly burdensome as it requires Clark County to
 4 “IDENTIFY ALL FACTS.” Clark County further objects to the extent the instant
 5 Interrogatory is premature and seeks expert testimony. An expert report will be disclosed in
 6 accordance with the Discovery Plan and Scheduling Order in effect in the instant case. Without
 7 waiving the foregoing objections and subject to the same, Defendant answers as follows:

8 To the extent it is responsive to Plaintiffs’ Interrogatory, Clark County directs Plaintiffs
 9 to the legislative record and pedestrian bridge studies and manuals disclosed in Defendant
 10 Clark County’s Initial Disclosure and Production of Documents per FRCP 26(a)(1) and all
 11 supplements thereto including, but not limited to, bates CC 001 to CC 032, CC 033 to CC 070,
 12 CC 071 to CC 126, CC 127 to CC 131, CC 132 to CC 139, CC 140 to CC 145, CC 824 to CC
 13 973, CC 974 to CC 1163, CC 1164 to CC 1206, CC 1207 to CC 1383, CC 1405 to CC 1418,
 14 CC 1419 to CC 1427, CC 1428 to CC 1437, and CC 1438 to CC 1446.

15 In regard to the discrete subparts contained in Plaintiffs’ instant Interrogatory, the
 16 legislative record and public documents cited support the following responses:

- 17 • Sidewalks are better able to avoid disorder because of their structural
 18 differences. In cases of panic or disorder, pedestrians on the street level may
 19 avoid hazards by stepping into the adjacent road or landscaping or by entering
 20 one of any number of properties abutting the street; whereas with pedestrian
 21 bridges, which feature structural choke points, constrained widths, and highly
 22 elevated above-ground construction, avoiding panic, disorder and harm are
 23 substantially more difficult.
- 24 • Defendant periodically conducts traffic surveys and studies of traffic on the Las
 25 Vegas Strip to assess the sufficiency of resources and infrastructure and to
 26 receive recommendations for potential ways to improve traffic flows and safety
 27 on the Las Vegas Strip. Defendant also periodically receives presentations from
 28 LVMPD about the state of criminal disorder on the Las Vegas Strip.

- The instant discrete subpart of the Interrogatory seeks to impermissibly establish legislators' subjective motives, opinions or knowledge protected under the deliberative process and legislative privileges in First Amendment challenges such is the instant case. *See, e.g., City of Las Vegas v. Foley*, 747 F.2d 1294, 1298 (9th Cir. 1984).
- *See* the legislative record cited above; particularly at bates CC 071 to CC 126, CC 127 to CC 131, CC 132 to CC 139, CC 140 to CC 145, and CC 1428 to CC 1437.

9 Discovery is ongoing and Defendant Clark County reserves the right to supplement the
10 instant Answer as additional information becomes available in the course of discovery.

11 The foregoing Answers to Plaintiffs' Interrogatories are made in response to questions
12 for legal conclusions and/or information based on the face of the legislative history, public
13 record, and the language of the subject ordinance and, accordingly, no separate verification is
14 provided.

15 || DATED this 14th day of November, 2024.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

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CERTIFICATE OF ELECTRONIC SERVICE

2 I hereby certify that I am an employee of the Office of the Clark County District
3 Attorney and that on this 14th day of November, 2024, I served a true and correct copy of the
4 foregoing **DEFENDANT CLARK COUNTY'S ANSWERS TO PLAINTIFF'S FIRST**
5 **SET OF INTERROGATORIES** (United States District Court Pacer System or the Eighth
6 Judicial District Wiznet), by e-mailing the same to the following recipients. Service of the
7 foregoing document by e-mail is in place of service via the United States Postal Service.

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