

EXHIBIT A

**[Proposed] Brief of Amicus Curiae,
Nevada Resort Association, in Support of
Defendant Clark County, Nevada's
Motion for Summary Judgment**

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LISA MCALLISTER, an individual;
BRANDON SUMMERS, an individual;
JORDAN POLOVINA, an individual,

Plaintiffs,

v.

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

Defendant.

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

**BRIEF OF AMICUS CURIAE, NEVADA
RESORT ASSOCIATION, IN SUPPORT
OF DEFENDANT CLARK COUNTY,
NEVADA'S MOTION FOR SUMMARY
JUDGMENT**

TABLE OF CONTENTS

I.	STATEMENT OF INTEREST	1
II.	SUMMARY OF THE ARGUMENT.....	2
A.	HISTORY AND PURPOSE OF THE ORDINANCE.....	3
1.	The building of pedestrian bridges in the Resorts Corridor addressed certain public safety concerns but introduced new safety concerns.....	3
2.	Clark County’s attempt to address the long-existing safety concerns with the pedestrian bridges in the Resorts Corridor.....	5
3.	Clark County adopts the Ordinance to prevent obstruction on the pedestrian bridges in the Resorts Corridor based on legitimate public safety concerns.	7
B.	THE BOARD’S EXPRESS PURPOSE FOR ENACTING THE ORDINANCE: PUBLIC SAFETY	12
C.	THE ORDINANCE SERVES SIGNIFICANT GOVERNMENT INTERESTS, IS NARROWLY TAILORED, AND LEAVES AMPLE ALTERNATIVES FOR EXPRESSION.....	14
1.	Clark County has a significant government interest in public safety and economic viability.	15
a.	The government’s interest in public safety is significant and not merely hypothetical.....	15
b.	The government’s interest in economic viability is particularly significant with respect to the pedestrian bridges in the Resorts Corridor.	18
2.	The Ordinance is narrowly tailored.....	20
3.	Ample alternatives for speech exist along LVB as the pedestrian bridges constitute only 6% of the total overall sidewalks on the Strip.....	23
III.	CONCLUSION	25

TABLE OF AUTHORITIES

CASES

<i>Camenzind v. Cal. Exposition & State Fair</i> , 84 F.4th 1102 (9th Cir. 2023).....	15, 17
<i>City of Ladue v. Gilleo</i> , 512 U.S. 43 (1994)	24
<i>City of New Orleans v. Clark</i> , 251 So. 3d 1047 (La. 2018).....	18
<i>Fitchburg Gas & Elec. Light Co. v. Dep’t of Pub. Utilities</i> , 7 N.E.3d 1045 (Mass. 2014)	15
<i>Gypsum Res., LLC v. Clark Cnty.</i> , 674 F. Supp. 3d 985 (D. Nev. 2023).....	3
<i>Heffron v. Int’l Soc. for Krishna Consciousness, Inc.</i> , 452 U.S. 640 (1981).....	16
<i>Hill v. Colorado</i> , 530 U.S. 703 (2000).....	21
<i>Honolulu Wkly., Inc. v. Harris</i> , 298 F.3d 1037 (9th Cir. 2002).....	18, 24
<i>Kuba v. I-A Agr. Ass’n</i> , 387 F.3d 850 (9th Cir. 2004)	16
<i>Marcavage v. City of N.Y.</i> , 689 F.3d 98 (2d Cir. 2012)	17, 23
<i>McCullen v. Coakley</i> , 573 U.S. 464 (2014)	15, 22
<i>One World One Fam. Now v. City & Cnty. of Honolulu</i> , 76 F.3d 1009 (9th Cir. 1996)	18
<i>Reilly v. City of Providence ex rel. Napolitano</i> , No. 10–461 S., 2013 WL 1193352 (D.R.I. Mar. 22, 2013).....	17
<i>Schenck v. Pro–Choice Network of Western N.Y.</i> , 519 U.S. 357 (1997)	16
<i>Traditionalist Am. Knights of the Ku Klux Klan v. City of Desloge, Mo.</i> , 775 F.3d 969 (8th Cir. 2014)	17
<i>United States v. Albertini</i> , 472 U.S. 675 (1985)	21
<i>United States v. Grace</i> , 461 U.S. 171 (1983).....	14
<i>Ward v. Rock Against Racism</i> , 491 U.S. 781 (1989)	23
<i>Weinberg v. City of Chi.</i> , 310 F.3d 1029 (7th Cir. 2002).....	16, 22

STATUTES

Crime Prevention Act of 2016, Chpt. 1, Statutes of Nev., §8 (30th Special Session 2016)	1
NRS 463.0129	18
S. Nev. Tourism Innovation Act, Chpt. 1, Statutes of Nev., §2 (35th Special Session 2023).....	19

RULES

FRE 803	3, 4
FRE 902	3, 4, 5, 12

ORDINANCES

CCC 16.11.020.....	4, 5
CCC 16.11.040.....	5
CCC 16.13.010.....	12
CCC 16.13.030.....	12, 22

OTHER AUTHORITIES

Guldner GT, Roozendaal SM, Berkeley RP, Allswede MP, Domanski KH, Sairafe OM, Davey DF, Abou-Ziab H, Siegel JT. <i>Impact of the Las Vegas Mass Shooting Event on the Graduate Medical Education Mission: Can There Be Growth from Tragedy?</i> West J Emerg Med. 2022 Dec.	18
Taylor Reeves, <i>A Cry for Uniformity: The Pressing Need for Casinos to Be on the Same Page for Security</i> , 11 UNLV GAMING L.J. 321 (2021).....	20

I. STATEMENT OF INTEREST¹

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.² But NRA is more than an advocacy organization, it is also a repository of information on how Nevada law has affected tourism and the gaming resort industry, going all the way back to 1864.³ NRA also collects contemporary data from experts, such as annual trends in visitor volume, as well as those visitors’ use of Nevada infrastructure.⁴ Further, NRA keeps detailed information on the economic impact of tourism on the State by tracking indicators such as gaming resort industry employment rates, individual health insurance coverage rates, economic recovery, capital investment, and education.⁵

NRA has been intimately involved in Clark County’s efforts to ensure public safety and the economic viability of the Resorts Corridor,⁶ and specifically with respect to the public safety concerns arising with the addition of pedestrian bridges. It shared its institutional knowledge with the Clark County Board of Commissioners (the “Board”) 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.⁷ To its letter, 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 Board.⁸

¹ 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.

² Decl. of Virginia Valentine (“Valentine Decl.”), at ¶ 2, attached as **Exhibit 1**.

³ *Id.*

⁴ *Id.* at ¶¶ 4–5.

⁵ *Id.* at ¶ 5.

⁶ The “Resorts Corridor” refers to a statutorily defined area of the City of Las Vegas, the Town of Paradise and unincorporated Clark County. Crime Prevention Act of 2016, Chpt. 1, Statutes of Nev., §8 (30th Special Session 2016).

⁷ ECF No. 103-20 (Ex. R), Letter from NRA, dated Dec. 4, 2023; Ex. 1, Valentine Decl., at ¶¶ 9–11.

⁸ ECF No. 103-18 (Ex. P), Report of Dr. William Sousa. NRA submitted Dr. Sousa’s expert report to the Board to highlight Dr. Sousa’s research into the unique public safety concerns arising from

1 NRA wrote its letter to the Board because the gaming resort industry had been increasingly
2 concerned about tourist safety, in part resulting from visitors' complaints about their experiences
3 on the pedestrian bridges.⁹ NRA feared that if tourists experience and perceive the bridges as
4 unsafe, many visitors may choose not to travel to Las Vegas, which would result in reduced
5 economic viability for the State of Nevada.¹⁰

6 On review of Plaintiffs' First Amended Complaint (ECF No. 61) and other briefing in this
7 case, NRA remains concerned. NRA therefore files this amicus brief to provide useful information
8 to this Court on the impact of Pedestrian Flow Zones on tourist safety generally, and how a
9 reduction in tourist safety—whether actual or perceived—could impact Nevada's economy. This
10 additional perspective from NRA will be helpful in this Court's analysis of the issues set forth in
11 Clark County's Motion for Summary Judgment.

12 **II. SUMMARY OF THE ARGUMENT**

13 Plaintiffs challenge the constitutionality of Clark County Code ("CCC") 16.13.010-.050
14 (the "Ordinance") by claiming that it is overly vague and violates their right to free speech. This
15 content-neutral regulation, with only an incidental impact on speech, satisfies well-established
16 constitutional standards because the Ordinance serves a significant government interest, is narrowly
17 tailored, and ample alternatives exist for any speech that might be limited. Clark County expressly
18 included its purpose for enacting the Ordinance within the Ordinance itself, which is *public safety*.
19 Public safety has long been recognized as a significant government interest, and there is a long-
20 established history of the public safety concerns plaguing the pedestrian bridges in the Resorts
21 Corridor. NRA adds that Clark County also has a significant government interest in *tourist safety*
22 specifically, as tourism directly impacts the economic wellbeing of the entire State. Beyond Clark
23 County's significant government interests, the Ordinance is narrowly tailored to restrict only the
24 conduct of a person who is stopped or standing on a pedestrian bridge—under the Ordinance there

25
26 pedestrian traffic on the bridges spanning the Las Vegas Strip. *See, e.g.*, Email dated Dec. 4, 2023,
with attachments, attached as **Exhibit 2**; Ex. 1, Valentine Decl., at ¶ 9.

27 ⁹ Ex. 1, Valentine Decl., at ¶ 11.

28 ¹⁰ ECF No. 103-20 (Ex. R), Letter from NRA.

1 is no restriction on a person (including one who is engaged in First Amendment activity) while
 2 moving on the bridge. Furthermore, there are ample available alternatives for speech along Las
 3 Vegas Boulevard, especially considering the pedestrian bridges make up only 6% of the overall
 4 sidewalk infrastructure.

5 A. HISTORY AND PURPOSE OF THE ORDINANCE

6 1. The building of pedestrian bridges in the Resorts Corridor addressed 7 certain public safety concerns but introduced new safety concerns.

8 Bridges in the Resorts Corridor were initially erected to provide a safer alternative to
 9 traditional street-level crosswalks to connect pedestrians traveling from one side of Las Vegas
 10 Boulevard (“LVB”) to the other.¹¹ With the first pedestrian bridges being built in the early 1990s,
 11 connecting the MGM Grand, Tropicana, Excalibur, and New York-New York hotel and casinos,
 12 additional bridges have since been built in the Resorts Corridor to provide a safe walkway for the
 13 public above the heavy traffic of the Strip at all hours of the day.¹² But different safety issues have
 14 arisen with the addition of pedestrian bridges.

15 In 2011, the Board established a Resorts Corridor Workgroup, consisting of gaming
 16 industry executives, tourism experts, and law enforcement representatives, along with other
 17 participants such as NRA, who were tasked with “examin[ing] issues relating to the” Resorts

18
 19 ¹¹ See, e.g., ECF No. 103-11 (Ex. J), Excerpt from Clark Cnty. Bd. of Comm’rs Regular Minutes,
 20 at CC 3992, dated May 3, 2022 (testimony from Commissioner Marilyn K. Kirkpatrick recognizing
 21 that “pedestrians were getting killed every single day before the bridges came in”); *id.* at CC 3993–
 22 94 (testimony from Denis Cederburg from the Department of Public Works providing a history of
 the pedestrian bridges); ECF No. 103-19 (Ex. Q), Excerpt from Clark Cnty. Bd. of Comm’rs
 Regular Minutes, at CC 102, dated Jan. 2, 2024 (testimony from Lisa Logsdon, Deputy District
 Attorney recognizing the purpose of the pedestrian bridges in the Resorts Corridor).

23 The Clark County Committee Meeting minutes cited herein are self-authenticating public
 24 records under FRE 902(5) and are admissible under the hearsay rules pursuant to FRE 803(6) as a
 25 record of a regularly conducted activity. “Federal courts consider records from government
 26 websites to be self-authenticating under Rule 902(5).” *Gypsum Res., LLC v. Clark Cnty.*, 674 F.
 Supp. 3d 985, 1002 (D. Nev. 2023) (finding CCBC meeting transcripts to be self-authenticating
 when they came from CCBC’s website and were supported by the declaration of the Clerk of Clark
 County).

27 ¹² See *News Release: East Tropicana Pedestrian Bridge Opens Thursday in Las Vegas*, NEV. DEPT.
 28 OF TRANSPORTATION (June 26, 2017), attached as **Exhibit 3**. The Nevada Department of
 Transportation’s publication is presumed authentic under FRE 902(5) and is admissible under the
 hearsay rules pursuant to FRE 803(8) as a record of a public office.

Corridor and “develop[ing] a set of recommendations” for the Board’s consideration.¹³ In March 2012, the Resorts Corridor Workgroup shared their recommendations with the Board, including the recommendations, with respect to CCC Chapter 16.11, to: (1) “[r]evisit the criteria for the current designations of ‘no obstruction zones’ and renew the enforcement of the ‘no obstruction zones’ that still meet the criteria” and (2) “[a]mend the relevant provisions of Chapter 16.11 to clarify that pedestrian bridges are for the prompt and safe movement of pedestrians and that, like crosswalks, stopping and standing on pedestrian bridges are prohibited.”¹⁴

In connection with the Resorts Corridor Workgroup, Clark County commissioned a pedestrian study in 2012, which was updated in 2015.¹⁵ The pedestrian study recognized that “[p]edestrian mobility is key to maintaining economic vitality and the visitor experience.”¹⁶ The pedestrian study explained that in 2015, some of the pedestrian bridges had a level of service (“LOS”) of greater than C, which means 15-25 sq. ft. per person or less, as established by the Highway Capacity Manual.¹⁷ LOS C areas are generally “no obstruction zones” under CCC Chapter 16.11. The study concluded, in relevant part:

Pedestrian bridges should be maintained free of any obstructions, as well as escalator and elevator approach, and departure landing zones. It is appropriate at times to designate pedestrian bridges as no-obstruction zones.¹⁸

In 2015, UNLV’s Center for Crime and Justice Policy published research on the “perceptions of disorder,” surveying and studying two areas in Las Vegas: the Fremont Street

¹³ Ex. 1, Valentine Decl., at ¶ 6; Agenda Item Development Report, Off. of the Cnty. Manager for Clark Cnty., Nev., dated Mar. 27, 2012, attached as **Exhibit 4**. This Report by the Office of the County Manager is a self-authenticating public record under FRE 902(5) and is admissible under the hearsay rules pursuant to FRE 803(8) as a record of a public office.

¹⁴ Ex. 4, Agenda Item Development Report, dated Mar. 27, 2012; Ex. 1, Valentine Decl., at ¶ 7.

¹⁵ Ex. 4, Agenda Item Development Report, dated Mar. 27, 2012; Clark Cnty. Pedestrian Study Presentation (2015 Update), attached as **Exhibit 5**; Clark Cnty. Pedestrian Study (2015 Update), attached as **Exhibit 6**; ECF No. 61, at ¶¶ 61–63 (discussing the pedestrian study).

¹⁶ Ex. 5, Clark Cnty. Pedestrian Study Presentation, at 3.

¹⁷ Ex. 5, Clark Cnty. Pedestrian Study Presentation, at 4, 16, 27, 29. LOS C means “a pedestrian flow on a sidewalk of less than or equal to ten pedestrians per minute per foot as specified and defined in the Highway Capacity Manual, Special Report 209[.]” CCC 16.11.020(f).

¹⁸ Ex. 5, Clark Cnty. Pedestrian Study Presentation, at 34.

1 Experience and the Strip.¹⁹ Relevant here, 33% of the participants of the survey “rated aggressive
2 street peddlers as a problem,” “over 40% rated aggressive panhandling as a problem,” and
3 approximately 50% “identified street people or vagrants laying in public areas as problematic.”²⁰

4 At the end of 2015, the Clark County Manager, Clark County Director of Public Works,
5 and the Sheriff of LVMPD presented to the Southern Nevada Tourism Infrastructure Committee
6 (“SNTIC”) about the pedestrian movement in the Resorts Corridor.²¹ During this presentation, then
7 Sheriff Joseph Lombardo detailed the public safety concerns on the Strip, including the pedestrian
8 bridges, urging that “prevention is more successful than reacting and arresting.”²²

9 **2. Clark County’s attempt to address the long-existing safety concerns** 10 **with the pedestrian bridges in the Resorts Corridor.**

11 In 2021, a proposed bill to amend CCC 16.11.020 and 16.11.040 was introduced to the
12 Board, (the “2022 Proposed Ordinance”), which, in relevant part, would have amended the
13 definition of “crosswalk” to include “pedestrian overpass[es],” which would have forbidden
14 “obstructive use” of the pedestrian bridges, such as “[o]bstructing, delaying, hindering, blocking,
15 hampering or interfering with pedestrian passage” and “[p]lacing, erecting or maintaining an
16 unpermitted table, chair, booth or other structure.”²³ In the course of the Board’s consideration of
17 the 2022 Proposed Ordinance, the Board heard testimony from a representative of LVMPD,
18 Captain Joshua Bitsko, about the pedestrian bridges being “far from safe.”²⁴ Captain Bitsko
19 testified about the numerous safety concerns with the pedestrian bridges, including (i) the types of

20 ¹⁹ Jonathan M. Birds, M.A. and William H. Sousa, Ph.D, Perceptions of Disorder: Results from
21 Two Las Vegas Tourist Locations, UNLV Center for Crime and Justice Policy (Mar. 2015),
attached as **Exhibit 7**.

22 ²⁰ Ex. 7, Birds & Sousa, at 2.

23 ²¹ S. Nev. Tourism Infrastructure Comm. Meeting Minutes, at 3–5 (Dec. 3, 2015), attached as
24 **Exhibit 8**. The Meeting Minutes cited herein are self-authenticating public records under FRE
902(5). Pedestrian Issues on Las Vegas BLVD Presentation, dated Dec. 3, 2015, attached as
Exhibit 9.

25 ²² Ex. 8, S. Nev. Tourism Infrastructure Comm. Meeting Minutes, at 4.

26 ²³ Bill to Amend Title 16, Chapter 16.11, Sections 16.11.020 and 16.11.040 of the Clark County
Code, dated Apr. 11, 2022, attached as **Exhibit 10**. This Bill is a self-authenticating document as a
27 publication issued by the Board pursuant to FRE 902(5).

28 ²⁴ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3979 (testimony from Captain
Joshua Bitsko).

“felony crimes that are occurring on these bridges”; (ii) that the “stagnation of movement on the pedestrian bridges is causing opportunity for these crimes”;²⁵ (iii) that officers on street level have difficulty seeing crimes occurring because of the “elevated position” of the pedestrian bridges; and (iv) that “during an emergency, if obstructed, there’s only one way on and off of these bridges” so there is a “threat to public safety” by “any obstruction on these bridges” if “our tourists have to get off quickly.”²⁶ He testified that the pedestrian bridges “are made for walking, not for stopping and blocking,” and that the stagnation of movement results “in a significant threat to, and the degradation of, the safety of our pedestrians.”²⁷ Further, Captain Bitsko testified that in the absence of making the pedestrian bridges an obstruction-free zone, law enforcement is unable to “conduct enforcement on the initial stagnation that’s causing [the various public safety incidents], to move people along, to warn people,” so they “have to wait until the crimes that you see occur before we can do anything.”²⁸

The Board also heard testimony and a presentation from Officer Monica Alnes, bolstering the safety concerns raised by Captain Bitsko.²⁹ She showed photographs and played video footage of concerning situations involving urination on the bridge that caused a blockage in traffic, individuals with knives and syringes using drugs, pick-pocketing in the dim bridge lighting, indecent exposure, and three-card monte table games resulting in assaults.³⁰ Even more concerning, she shared video of a stabbing that occurred on the bridge, as well as an unprovoked fight resulting in death.³¹ She also explained that the elevators are being used as “personal

²⁵ Commissioner Jim Gibson noted how “the congregating of people poses a real problem for us. It isn’t just an - an enforcement problem, but it poses a hazard.” ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3997 (testimony from Commissioner Jim Gibson).

²⁶ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3979 (testimony from Captain Joshua Bitsko).

²⁷ *Id.* at CC 3979, 3986 (testimony from Captain Joshua Bitsko).

²⁸ *Id.* at CC 3992 (testimony from Captain Joshua Bitsko).

²⁹ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3980–84 (testimony from Officer Monica Alnes); Meeting Handout for Agenda Item 65, attached as **Exhibit 11**.

³⁰ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3983 (testimony from Officer Monica Alnes).

³¹ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3983 (testimony from Officer

apartments,” and testified that tourists have encountered individuals urinating, injecting themselves with narcotics, engaging in explicit sexual activities, and starting fires in the elevators.³²

During the public hearing before the Board, Commissioner Jim Gibson recognized the economic threats caused by the criminal activity on the pedestrian bridges:

I get calls from hotels. I was in a meeting on the Strip – uh – just – uh - the other day, last Thursday. And the issues associated with the criminal activity that is occurring – uh - on the streets around their properties, inside their properties and on the pedestrian bridges - movement of those who were responsible for that act - that activity is threatening the core of the economy of this valley. There’s something we must do, and we must do it now.³³

Virginia Valentine, NRA’s President and CEO, also testified before the Board about the 2022 Proposed Ordinance, recognizing that the obstruction on the pedestrian bridges hinders “our visitors, it’s our guests, it’s our - our employees.”³⁴ Ms. Valentine further testified:

if you read any tourism blog, any review of Las Vegas, you will undoubtedly come across - some of the most horrifically negative reviews of Las Vegas are crossing these bridges. I can tell you; people do not like them. They don’t enjoy having to walk a gauntlet through all kinds of different commercial activities.³⁵

The 2022 Proposed Ordinance was thereafter taken off the Board’s agenda.³⁶

3. Clark County adopts the Ordinance to prevent obstruction on the pedestrian bridges in the Resorts Corridor based on legitimate public safety concerns.

Although the 2022 Proposed Ordinance did not proceed to a vote, a new bill, which was later adopted (i.e., the Ordinance), proposing to add a new Chapter 16.13 to address the obstruction issues on the pedestrian bridges in the Resorts Corridor was introduced to the Board on November

Monica Alnes).

³² *Id.* at CC 3983–84 (testimony from Officer Monica Alnes).

³³ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3998 (testimony from Commissioner Jim Gibson).

³⁴ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 4004–05 (testimony from Virginia Valentine).

³⁵ *Id.* at CC 4005 (testimony from Virginia Valentine).

³⁶ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3947 (testimony from Commissioner Gibson).

21, 2023.³⁷ During the hearings on the Ordinance, the Board heard testimony from LVMPD Undersheriff Andy Walsh about the public safety issues plaguing the pedestrian bridges.³⁸ Like Captain Bitsko’s testimony, Undersheriff Walsh testified about (i) the crime occurring and (ii) the difficulty law enforcement has in policing the pedestrian bridges “that are congested . . . [given] the concealed nature of the bridges.”³⁹ He added further color to the safety concerns, recognizing the concerns “about crowd crush with the ever-growing number of tourists and large events that occur on [LVB],” the safety risks when people attempt to flee during “active shooter type events” using the congested pedestrian bridges, and the difficulty officers will have in those situations to “address the threat” or “maintain order.”⁴⁰

The Board also heard testimony and received a written report from Dr. William Sousa, a professor in the Department of Criminal Justice at UNLV and the Director of UNLV’s Center for Crime and Justice Policy.⁴¹ 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.⁴² 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 LVB, pedestrian safety on LVB generally, issues arising from major events on LVB, concerns related to unhoused youth in Southern Nevada, and more.⁴³

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.”⁴⁴ Dr. Sousa’s ultimate conclusion was that the pedestrian bridges were

³⁷ Clark Cnty. Bd. of Comm’rs, Agenda Item No. 68, dated Nov. 21, 2023, attached as **Exhibit 12**.

³⁸ ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm’rs Minutes, at CC 104 (testimony from Undersheriff Andy Walsh).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm’rs Minutes, at CC 103 (testimony from Dr. William Sousa); ECF No. 103-18 (Ex. P), Report of Dr. William Sousa.

⁴² ECF No. 103-18 (Ex. P), Report of Dr. William Sousa.

⁴³ *Id.*

⁴⁴ *Id.* at CC 132.

1 comparatively less safe than the sidewalks and were not safely designed for the purpose of people
2 stopping, standing, or congregating.

3 To support his assertions, Dr. Sousa provided empirical data, including data showing that
4 public disorder originating from LVB increased by 23% between 2018 and 2022.⁴⁵ In reviewing
5 this data, Dr. Sousa reported that the pedestrian bridges over the Las Vegas Strip have received a
6 comparatively out-sized portion of disorder calls, because *while the bridges make up only 6% of*
7 *the sidewalk system on LVB, 11% of disorder-related calls originated from events occurring on the*
8 *pedestrian bridges.*⁴⁶

9 Dr. Sousa noted that a great deal of disorderly conduct is common on LVB sidewalks
10 generally, such as panhandling, solicitation, aggressive street performers, and drug-related
11 activity.⁴⁷ That said, he explained that when those same behaviors occur on the pedestrian bridges,
12 it is especially problematic “for at least two reasons”:

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

18 **Second**, people trying to cross a pedestrian bridge are a “captive audience”
19 If pedestrians want to safely cross Las Vegas Boulevard, they have little
20 choice but to use the overpasses. Once they are on a bridge, they are
21 essentially confined to a restricted space with no way to leave other than the
22 point that they entered and the exit point on the opposite side. Such
23 conditions make pedestrians on overpasses particularly vulnerable to
24 intimidation from disorderly behaviors or conditions. Given the
25 relatively limited width of the bridges ... pedestrians are often unable to
26 negotiate around the disorders they encounter. Their only choice may be to
27 return to the point where they entered, but doing so would deny them from
28 the legitimate purpose of using the bridge in the first place, which is to safely
cross Las Vegas Boulevard.⁴⁸

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at CC 134.

⁴⁸ *Id.*

Beyond disorderly conduct, Dr. Sousa also highlighted the unique increase in risk of injury and heightened dangers arising from mass movement in times of panic, such as bottlenecking at the bridge's limited escalators.⁴⁹ Dr. Sousa noted that this bottlenecking would increase risk to pedestrians on the bridge by impeding the ability of first responders to reach the bridge to respond to any incidents or injuries.⁵⁰

Dr. Sousa's suggested remedy to the real and potential maladies associated with the pedestrian bridges was to find means of "encouraging people to keep moving on the overpasses" and "discouraging people from stopping or congregating on the bridges."⁵¹ By keeping pedestrians moving, public safety would be improved by preventing crowd density or injury from "crowd crush," as well as other problems that arise when people are close enough to touch, such as pickpocketing, theft, groping, and fights.⁵² To that end, he explained that in other contexts, it is possible for a pedestrian bridge to be architecturally designed to encourage pedestrians to keep moving and prevent them from stopping or congregating.⁵³ However, local ordinances and law enforcement are the only available options to address the congestion given the design of the current pedestrian bridges over LVB.⁵⁴ As for alternative laws, such as a law that would penalize a person causing an obstruction on a pedestrian bridge, Dr. Sousa concluded that such an ordinance would be insufficient because it is solely *reacting* to an existing safety concern instead of proactively *preventing* the issue in the first place.⁵⁵ And, as his report outlined, proactively preventing safety concerns on a pedestrian bridge is really the only way to ameliorate the unique dangers he identified.

Ms. Valentine, on behalf of NRA, also testified before the Board in support of the

⁴⁹ *Id.* at CC 135.

⁵⁰ *Id.*

⁵¹ *Id.* at CC 136.

⁵² *Id.* at CC 137.

⁵³ *Id.* at CC 136.

⁵⁴ *Id.* at CC 137.

⁵⁵ *Id.*

Ordinance.⁵⁶ She testified about how “[v]isitation to the Strip has increased and large events have grown in size and number”; that the Ordinance would “prevent significant injury should there be a need for rapid evacuation across the bridge or access by first responders”; and how forbidding obstructions will “proactively improve the safety of the pedestrian bridges for guests and employees.”⁵⁷ Additionally, NRA submitted a letter to the Board.⁵⁸ Therein, NRA highlighted how, in our unique economy, “[e]very citizen of this State benefits from (and many depend on) [the] collective success” of the gaming resort industry.⁵⁹ To illustrate, NRA provided an overview of relatively recent events, such as the financial crisis of 2008 and the Covid-19 pandemic, to illustrate how a reduced demand in tourism affects “not just investors but also the thousands of Nevadans employed directly and indirectly in the tourism industry.”⁶⁰

NRA then shared its institutional knowledge on how tourist safety, and how a tourist’s perception of how safe it is to visit the Las Vegas Strip impacts our State’s economy as a whole, considering “the tourism industry is the single largest contributor to the State’s general fund, [and] our public safety, education, healthcare, and other infrastructure depend on its success.”⁶¹ NRA reported that the gaming resort industry’s “concerns are steadily increasing regarding the willingness of guests to return to Las Vegas if they do not feel safe or have bad experiences.”⁶²

NRA’s concerns were increasing, in part, because “[c]rime reported on the [pedestrian] bridges is roughly twice that of sidewalks[,] even though the bridges represent a very small portion of the overall sidewalk system.”⁶³ NRA shared its experience that “[v]isitors and guests report that they are afraid to use the bridges and are witnessing crime, being confronted with lewd acts,

⁵⁶ ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm’rs Minutes, at CC 106–07 (testimony from Virginia Valentine).

⁵⁷ *Id.*

⁵⁸ ECF No. 103-20 (Ex. R), Letter from NRA.

⁵⁹ *Id.* at CC 127.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* at CC 128.

⁶³ *Id.* at CC 128.

1 unsanitary conditions, and a gauntlet of illegal confidence games and vendors.”⁶⁴ Further, NRA
2 outlined that a tourist’s perception of danger can be just as harmful and dangerous to tourist safety,
3 describing an incident where a broken window at a resort valet station ended with understandably
4 skittish tourists rushing across the pedestrian bridges in an attempt to self-evacuate.⁶⁵

5 The Board also heard from Mitchell Langberg, formerly a First Amendment attorney at
6 Brownstein Hyatt Farber Schreck, in response to the constitutional concerns raised at the hearing.
7 Mr. Langberg reinforced Dr. Sousa’s testimony that the pedestrian bridges only make up “6% of
8 the overall sidewalk system,” which is relevant because people who are engaged in First
9 Amendment activities to make their living from tips can simply go down to the street level and
10 speak to the same audience that they would speak to if they were on the bridge.⁶⁶

11 **B. THE BOARD’S EXPRESS PURPOSE FOR ENACTING THE ORDINANCE:**
12 **PUBLIC SAFETY**

13 On January 2, 2024, the Board met and passed the Ordinance, thereby creating Pedestrian
14 Flow Zones on pedestrian bridges over the Las Vegas Strip.⁶⁷ In order “[t]o maintain the safe and
15 continuous movement of pedestrian traffic,” the Ordinance, under CCC 16.13.030, made it
16 “unlawful for any person to stop, stand, or engage in an activity that causes another person to stop
17 or stand within any Pedestrian Flow Zone” or to “engage in any activity within a Pedestrian Flow
18 Zone with the intent of causing another person who is within a Pedestrian Flow Zone to stop or
19 stand.”⁶⁸

20 The Ordinance also included its “Purpose” under CCC 16.13.010, which includes many of
21 the same tourist and employee safety concerns NRA raised in its supporting letter.⁶⁹ As enacted,

22 _____
23 ⁶⁴ *Id.* at CC 129.

24 ⁶⁵ *Id.*

25 ⁶⁶ ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm’rs Minutes, at CC 109 (testimony from Mitchell
26 Langberg).

27 ⁶⁷ CCC 16.13.010–.050, attached as **Exhibit 13**; *see also* ECF No. 61, at 10 n.2. The Ordinance is
28 a self-authenticating document as a publication issued by a public authority pursuant to FRE 902(5).

⁶⁸ Ex. 13, CCC 16.13.010–.050, at 22–23.

⁶⁹ *Compare* Ex. 13, CCC 16.13.010–.050 (“Purpose”) *with* ECF No. 103-18 (Ex. P), Report of Dr.
William Sousa.

the Purpose of the ordinance includes:⁷⁰

- The purpose of the pedestrian bridges is to provide above street-level “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 ... 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 to facilitate crossing at all foreseeable levels of demand, which can vary significantly and unpredictably.
- The pedestrian bridges were not designed for use beyond pedestrian traffic crossing from one side to the other side.
- For pedestrians to be able to stop, stand or congregate ... the pedestrian bridges would have been designed differently.
- 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 ... it is impossible to know in advance when stopping will result in criminal or otherwise dangerous conditions ... 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

⁷⁰ Ex. 13, CCC 16.13.010–.050, at 19–22.

total linear feet of public sidewalks available to pedestrians, the service calls for disorderly conduct on the pedestrian bridges 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.

C. THE ORDINANCE SERVES SIGNIFICANT GOVERNMENT INTERESTS, IS NARROWLY TAILORED, AND LEAVES AMPLE ALTERNATIVES FOR EXPRESSION⁷¹

It is undisputed that the Ordinance is content neutral as it does not restrict speech by content or type generally—the public is free to exercise its First Amendment rights while on the pedestrian bridges, but must do so while neither stopping or standing.⁷² Thus, the Ordinance is a time, place, and manner restriction subject to intermediate scrutiny.⁷³ When an ordinance incidentally restricts the time, place, or manner of speech, yet is otherwise content-neutral, and also (1) serves a significant government interest, (2) is narrowly tailored towards that interest, and (3) leaves ample alternative channels of communication, the ordinance does not run afoul of the First Amendment. *United States v. Grace*, 461 U.S. 171, 177 (1983); *see also Camenzind v. Cal. Exposition & State*

⁷¹ In an effort not to regurgitate its prior arguments about how the Ordinance gives reasonable notice of prohibited conduct to pedestrians and law enforcement, NRA incorporates herein by reference its prior arguments in Section B of its initial Amicus Brief. ECF No. 23, at 10–20.

⁷² ECF No. 61, at ¶ 207 (conceding the Ordinance is content neutral); ECF No. 51, at 29 (recognizing that the “parties appear to agree that CCC 16.13.030 is a content-neutral restriction on speech”).

⁷³ ECF No. 61, at ¶¶ 207–210 (conceding that the Ordinance is subject to intermediate scrutiny and is a time, place, and manner restriction); ECF No. 51, at 29.

1 *Fair*, 84 F.4th 1102, 1114 (9th Cir. 2023). The Plaintiffs in this case challenge the Ordinance as
 2 failing all three of these prongs.⁷⁴

3 As explained below, the Board expressly detailed the purpose in the Ordinance, explaining
 4 how the pedestrian bridges, as designed, must function in the same manner as an active street-level
 5 crosswalk to ensure public safety and ameliorate risk. The Purpose also contains statistical
 6 information on how the pedestrian bridges are both actually and perceptively more dangerous than
 7 their street-level counterparts, and the Ordinance was no broader than was necessary to proactively
 8 prevent the danger, injury, and risk that comes from people stopping or standing on the bridges.
 9 During the hearings on the 2022 Proposed Ordinance and the Ordinance,⁷⁵ the Board heard
 10 testimony and saw videos and pictures evidencing the real public safety concerns on the pedestrian
 11 bridges. Given the type of public safety concerns and the inherent nature of the pedestrian bridges,
 12 no lesser restrictive alternatives exist to address these significant government interests. And
 13 because the pedestrian bridges make up only 6% of the total sidewalks located on Las Vegas
 14 Boulevard, 94% of the sidewalks along the Strip are available as an alternative for speech activities.

15 **1. Clark County has a significant government interest in public safety and**
 16 **economic viability.**

17 **a. *The government's interest in public safety is significant and not***
 18 ***merely hypothetical.***

19 It is well settled that public safety, crowd control, and free flow of traffic are significant
 20 government interests sufficient to support a content-neutral restriction on the time, place, and
 21 manner of speech. *See, e.g., McCullen v. Coakley*, 573 U.S. 464, 481 (2014) (recognizing there was
 22 no dispute that the government had a significant interest in ensuring safety and preventing
 23 obstruction when petitioner challenged a state law making it a crime to knowingly stand on a public

24 ⁷⁴ ECF No. 61, at ¶¶ 213–216.

25 ⁷⁵ The evidence and testimony presented to the Board regarding the 2022 Proposed Ordinance is
 26 part of the legislative history of the Ordinance. *See, e.g., Fitchburg Gas & Elec. Light Co. v. Dep't*
 27 *of Pub. Utilities*, 7 N.E.3d 1045, 1059 (Mass. 2014) (considering the legislative history of a
 28 challenged statute as “reflected in testimony on predecessor bills to the one that ultimately passed”
 in determining whether mandate “serves a legitimate public purpose”). After all, the evidence and
 testimony supporting 2022 Proposed Ordinance reflects the same concerns giving rise to the
 enactment of the Ordinance, as confirmed by the Purpose, and was presented to the same
 Commissioners about six months before the Board unanimously voted in favor of the Ordinance.

sidewalk within 35 feet of an entrance to an abortion clinic); *Schenck v. Pro-Choice Network of Western N.Y.*, 519 U.S. 357, 376 (1997) (recognizing the legitimacy of the government’s interests in ensuring public safety and order by promoting the free flow of traffic on streets and sidewalks); *Heffron v. Int’l Soc. for Krishna Consciousness, Inc.*, 452 U.S. 640, 649–55 (1981) (concluding a state had a significant interest in crowd control, thereby allowing a law making it a misdemeanor to sell or distribute any merchandise without a license at the state fair); *Kuba v. I-A Agr. Ass’n*, 387 F.3d 850, 858 (9th Cir. 2004) (recognizing the “interests in pedestrian and traffic safety, as well as in preventing traffic congestion, are significant”) (citing cases); *Weinberg v. City of Chi.*, 310 F.3d 1029, 1038 (7th Cir. 2002) (“There is no doubt the City has a legitimate interest in protecting its citizens and ensuring that its streets and sidewalks are safe for everyone Its interest in maintaining the flow of pedestrian traffic is intertwined with the concern for public safety.” (internal citation omitted)).

Plaintiffs have argued that Clark County’s purported “vague generalities” of “its concerns related to congestion and public safety” are merely “potential public safety concerns that are unlikely to occur.”⁷⁶ Not so. The public safety concerns are far from hypothetical. The Board heard extensive testimony from LVMPD representatives, Captain Bitsko, Officer Alnes, and Undersheriff Walsh, who police the Resorts Corridor, about the types of crimes occurring on the pedestrian bridges, the visibility difficulties experienced by officers at the street level and on the bridges, the limitations on the police to only address crimes once they have occurred in the absence of the Ordinance, and the increased congestion “with the ever-growing number of tourists and large events.”⁷⁷ The Board also saw pictures and videos of the types of conduct occurring on the pedestrian bridges and in the adjacent elevators, including people sleeping, sitting with their leashed and unleashed dogs, selling various items, urinating, engaging in drug use, pick pocketing,

⁷⁶ ECF No. 17, at 12–13.

⁷⁷ See, e.g., ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3979, 3986, 3992 (testimony from Captain Joshua Bitsko); ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3980–84 (testimony from Officer Monica Alnes); ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm’rs Minutes, at CC 104 (testimony from Undersheriff Andy Walsh).

undressed and performing lewd acts, engaging in table games, fighting, lighting fires, etc.⁷⁸ The real safety concerns were further bolstered by Dr. Sousa's testimony and report, including data showing that public disorder originating from LVB increased by 23% between 2018 and 2022.⁷⁹

The Board laid out its significant government interests in the Purpose of the Ordinance.⁸⁰ Chief among those interests was public safety. The Board's interest in public safety on the pedestrian bridges was supported by reports of incidents and dangers already existing on the pedestrian bridges, as well as dangers that could be reasonably anticipated or repeated. *See Camenzind*, 76 F.3d at 1114. As can be seen under CCC 16.13.010, the Board enacted the Ordinance to: (1) facilitate pedestrians safely crossing over LVB, regardless of demand or time of day, (2) prevent criminal activity, danger, and obstructions before becoming an issue, (3) prevent criminal activity, danger, and obstructions because the pedestrian bridges are harder to reach by first responders and more difficult to evacuate,⁸¹ (4) regulate the pedestrian bridges because there is increased crime on the bridges compared to the sidewalks, which is only exacerbated by the recent increase in use of the bridges related to Las Vegas's addition of sporting events to its tourism economy, and (5) decrease the likelihood of a mass-shooting event.⁸²

⁷⁸ ECF No. 103-11 (Ex. J), May 3, 2022, Comm'rs Minutes, at CC 3980–84 (testimony from Officer Monica Alnes); Ex. 11, Meeting Handout for Agenda Item 65.

⁷⁹ ECF No. 103-18 (Ex. P), Report of Dr. William Sousa, at CC 132.

⁸⁰ *See* Section II.B., *supra*; *see also* Ex. 13, CCC 16.13.010–.050 ("Purpose").

⁸¹ Clark County need not show that risks, like a mass evacuation, has or will occur to support that the government has a substantial interest in public safety on the pedestrian bridges. *See, e.g., Reilly v. City of Providence ex rel. Napolitano*, No. 10–461 S., 2013 WL 1193352, at *7 n.6 (D.R.I. Mar. 22, 2013) ("Plaintiff's additional argument that Defendants' actions were not narrowly tailored to the government's substantial interest in protecting public safety because there was no indication that mass evacuation would be necessary is unpersuasive."); *Marcavage v. City of N.Y.*, 689 F.3d 98, 105 (2d Cir. 2012) ("Because 'security protocols exist to deal with hypothetical risks'—and 'security planning is necessarily concerned with managing potential risks, which sometimes necessitates consideration of the worst-case scenario'—it is 'appropriate' for governments to consider possible security threats and the role that protesters may play in causing such threats or inadvertently preventing the authorities from thwarting or responding to such threats." (citation omitted)); *Traditionalist Am. Knights of the Ku Klux Klan v. City of Desloge, Mo.*, 775 F.3d 969, 975 (8th Cir. 2014) ("The fact that a pedestrian had not yet been hit while distributing materials in the city did not mean that it was not dangerous, for a 'government need not wait for accidents to justify safety regulations.'" (citation omitted)).

⁸² The Las Vegas Strip experienced the deadliest mass shooting in United States' history on Oct. 1, 2017. Guldner GT, Roozendaal SM, Berkeley RP, Allswede MP, Domanski KH, Sairafe OM, Davey DF, Abou-Ziab H, Siegel JT. *Impact of the Las Vegas Mass Shooting Event on the Graduate*

As evidenced by the well-documented public safety concerns supporting the Board's express justification for the Ordinance, there are no disputed issues of material fact regarding the government's significant interest in ensuring public safety on the pedestrian bridges.

b. The government's interest in economic viability is particularly significant with respect to the pedestrian bridges in the Resorts Corridor.

Relevant to NRA's concerns, courts have also recognized the significant government interest in protecting a tourism-based economy. *See, e.g., Honolulu Wkly., Inc. v. Harris*, 298 F.3d 1037, 1045 (9th Cir. 2002) (concluding the challenged law, which restricted the number of news racks that could be on public 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"); *One World One Fam. Now v. City & Cnty. of Honolulu*, 76 F.3d 1009, 1013 (9th Cir. 1996) (recognizing cities, like Honolulu, "rely on a prosperous, stable merchant community for their tax base, as well as for the comfort and welfare of their citizens"); *City of New Orleans v. Clark*, 251 So. 3d 1047, 1051, 1054 (La. 2018) (recognizing that an ordinance prohibiting art sales in certain parts of New Orleans advanced the City's substantial government interests in preserving the French Quarter, promoting tourism, and keeping its streets open for movement in a way that advances public safety).

The gaming and resort industry is the most vital sector of Nevada's economy.⁸³ This has been confirmed by the Legislature finding and declaring that "[t]he gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants," NRS 463.0129(1)(a), and finding that:

the Las Vegas area is the most visited and economically significant tourism market within this State, the tourism industry within the Las Vegas area is critically important to the economy of that local area and this State, and the continued growth and success of the tourism industry within the Las Vegas area is particularly vital to the general welfare and prosperity of that local area and this State.

Medical Education Mission: Can There Be Growth from Tragedy? West J Emerg Med. 2022 Dec. The impact of that tragedy on Nevadans and our economy is still being studied and the extent of the damage is not yet known. *Id.*

⁸³ Ex. 1, Valentine Decl., at ¶¶ 2, 5.

1 S. Nev. Tourism Innovation Act, Chpt. 1, Statutes of Nev., §2 (35th Special Session 2023). As
2 NRA included in its letter to the Board, Nevadans do not have to look too far back in history—only
3 to the 2008 financial crisis and the Covid-19 pandemic-related shutdowns—to know how intimately
4 tied the economic health of our State is to tourism.⁸⁴ While not expressly among the Purposes of
5 the Ordinance, tourists’ perception of their safety impacts tourism demand.⁸⁵ So it follows that
6 ensuring the safety of pedestrians within Pedestrian Flow Zones serves Nevada’s economic
7 interests.⁸⁶

8 On this topic, NRA has significant expertise. The gaming resort industry is responsible for
9 35% of Nevada’s general fund revenue.⁸⁷ It is the largest employer in Nevada, with more than
10 365,800 jobs sourced to resorts.⁸⁸ The industry and its guests are responsible for more than \$90
11 billion in total economic impact.⁸⁹ The gaming industry’s total economic impact was \$90.7 billion
12 in 2022, which has since increased to \$98 billion in 2024.⁹⁰ It also employs about 28% of the

13
14 ⁸⁴ ECF No. 103-20 (Ex. R), Letter from NRA; *see also* ECF No. 103-11 (Ex. J), May 3, 2022,
15 Comm’rs Minutes, at CC 4004–05 (testimony from Virginia Valentine); ECF No. 103-19 (Ex. Q),
16 Jan. 2, 2024, Comm’rs Minutes, at CC 106–07 (testimony from Virginia Valentine).

17 ⁸⁵ Ex. 1, Valentine Decl., at ¶ 11–12; Tourist safety issues are currently being researched at UNLV.
18 In 2019, the Las Vegas City Council approved a resolution establishing a community resiliency
19 initiative with the UNLV Greenspun College of Urban Affairs. *Greenspun College of Urban*
20 *Affairs, City of Las Vegas Partner to Develop Community Resilience Initiative*, UNLV NEWS
21 CENTER (Apr. 3, 2019), available at <https://www.unlv.edu/news/release/greenspun-college-urban-affairs-city-las-vegas-partner-develop-community-resilience>. In connection therewith, UNLV
22 created The Tourist Safety Institute, which aims to “develop community resilience solutions and
23 policies that enhance the safety and well-being of Nevada’s tourists, citizens, and the tourism
24 industry.” *About, Tourist Safety Institute*, UNLV, available at: <https://www.unlv.edu/tourist-safety-institute/about> (last accessed Dec. 8, 2025). The Institute is currently engaging in safety
25 research projects focused on “tourist perceptions of safety and disorder, as well as experiences
26 tourists have had in Nevada.” *Safety Research, Tourist Safety Institute*, UNLV, available at:
27 <https://www.unlv.edu/tourist-safety-institute/research-areas/safety> (last accessed Dec. 8, 2025).

28 ⁸⁶ Ex. 1, Valentine Decl., at ¶ 11.

⁸⁷ *Raising the Bar for All Nevadans*, NEV. RESORT ASSOC., <https://www.nevadaresorts.org/> (last visited Dec. 5, 2025); Ex. 1, Valentine Decl., at ¶ 5.

⁸⁸ *Impact of Gaming in Nevada*, NEV. RESORT ASSOC., <https://www.nevadaresorts.org/impact/index.php> (last visited Dec. 5, 2025); Ex. 1, Valentine Decl., at ¶ 5.

⁸⁹ *Impact of Gaming in Nevada*, NEV. RESORT ASSOC., <https://www.nevadaresorts.org/impact/index.php> (last visited Dec. 5, 2025); Ex. 1, Valentine Decl., at ¶ 5.

⁹⁰ *2023 The Facts*, NEV. RESORT ASSOC., attached as **Exhibit 14; Impact of Gaming in Nevada**, NEV. RESORT ASSOC., <https://www.nevadaresorts.org/impact/index.php> (last visited Dec. 5, 2025);

1 State's total employees.⁹¹

2 As can be seen from Nevada's recent history, when tourists feel unease about their
3 wellbeing, tourism demand declines and Nevadans suffer.⁹² Recent visitors to Las Vegas have
4 reported to NRA members that they are afraid to use our pedestrian bridges because they are
5 witnessing crimes, being confronted with lewd acts, are passing unsanitary conditions, and being
6 confronted by a gauntlet of illegal confidence games and vendors when they cross.⁹³ NRA shared
7 a summary of these visitors' concerns with the Board.⁹⁴

8 Thus, Clark County has significant government interests in creating the Pedestrian Flow
9 Zones to sustain the economic benefits to Nevada that come from tourism.

10 2. The Ordinance is narrowly tailored.

11 Narrow tailoring does not require the government to adopt the least-restrictive or least-
12 intrusive means of serving the government's interest if the ordinance does not completely foreclose

13
14 Ex. 2, Email dated Dec. 4, 2023, with attachments; Ex. 1, Valentine Decl., at ¶ 5.

15 ⁹¹ *Impact of Gaming in Nevada*, NEV. RESORT ASSOC.,
<https://www.nevadaresorts.org/impact/index.php> (last visited Dec. 5, 2025).

16 ⁹² This reality is well known and understood. *See, e.g.*, Richard Torres-Cortez, *With Metro gaining*
17 *upper hand on Strip violence, visitors feel safe again*, LAS VEGAS SUN (Oct. 31, 2020), attached as
18 **Exhibit 15** ("It's simple: If tourists don't feel safe, they'll stop coming."); Taylor Reeves, *A Cry*
19 *for Uniformity: The Pressing Need for Casinos to Be on the Same Page for Security*, 11 UNLV
20 GAMING L.J. 321, 326–330 (2021) (discussing the effects of crime on tourism in Las Vegas); Jay
21 Jones, *Las Vegas' new safety features? The city wants to stay fun -- and secure*, LA TIMES (July
22 12, 2019), attached as **Exhibit 16** ("But it's often smaller safety issues -- personal thefts or illegal
23 three-card monte games -- that sour people on Vegas. "It's usually those low-level offenses that
24 will prevent people from coming back," [LVMPD Deputy Chief Andy] Walsh said.").

25 ⁹³ Ex. 1, Valentine Decl., at ¶ 13; ECF No. 103-20 (Ex. R), Letter from NRA, at CC 127–28; ECF
26 No. 103-11 (Ex. J), May 3, 2022, Comm'rs Minutes, at CC 4004–05 (testimony from Virginia
27 Valentine); ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm'rs Minutes, at CC 106–07 (testimony
28 from Virginia Valentine).

⁹⁴ ECF No. 103-20 (Ex. R), Letter from NRA, at CC 127–28; ECF No. 103-11 (Ex. J), May 3,
2022, Comm'rs Minutes, at CC 4004–05 (testimony from Virginia Valentine); ECF No. 103-19
(Ex. Q), Jan. 2, 2024, Comm'rs Minutes, at CC 106–07 (testimony from Virginia Valentine).

Captain Bitsko also recognized that the resorts within the Resorts Corridor, including the
members of NRA, have received safety concerns and complaints from customers about the
pedestrian bridges. ECF No. 103-11 (Ex. J), May 3, 2022, Comm'rs Minutes, at 4000 (testimony
from Captain Joshua Bitsko, stating that he is in "contact with my counterparts on each of the
different resorts, in discussing the issue. And I can tell you, they have the same concerns about the
bridges that we do, because they receive the same complaints from their customers – um – as – as
we do as a police agency, or you guys do as Commissioners").

any means of communication. *See Hill v. Colorado*, 530 U.S. 703, 726 (2000). There is no burden on the government to show its solution is the least intrusive means possible, nor must it rebut some “imaginable alternative that might be less burdensome on speech.” *United States v. Albertini*, 472 U.S. 675, 689 (1985).

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

Moreover, there are not less restrictive alternatives that would address Clark County’s significant government interests. One of the main safety issues raised before the Board was that the police had no authority or way to prevent crimes from occurring on the pedestrian bridges. As Captain Bitsko testified, in the absence of making the pedestrian bridges an obstruction-free zone, law enforcement is unable to “conduct enforcement on the initial stagnation that’s causing [the various public safety incidents], to move people along, to warn people,” so they “have to wait until the crimes that you see occur before we can do anything.”⁹⁵ Dr. Sousa confirmed that alternative laws, such as those that would penalize a person for causing an obstruction on a pedestrian bridge, would be insufficient because it is solely *reacting* to an existing safety concern instead of

⁹⁵ ECF No. 103-11 (Ex. J), May 3, 2022, Comm’rs Minutes, at CC 3992 (testimony from Captain Joshua Bitsko).

1 proactively *preventing* the issue in the first place.⁹⁶ Thus, only proactively preventing safety
2 concerns on a pedestrian bridge would serve to ameliorate the unique dangers Dr. Sousa identified.

3 Clark County also cannot narrow the Ordinance in a manner that would allow crowds to
4 gather for Plaintiffs or other street performers on the pedestrian bridges and also address Clark
5 County's significant government interests in preventing crimes. *Cf., e.g., Weinberg*, 310 F.3d at
6 1039 (agreeing that ordinance that bans peddling but "leaves open activities such as leafleting,
7 newspaper sales, street performances, and charitable solicitations ... cannot advance the City's
8 interest in maintaining traffic congestion"). The public safety concerns necessitating the Ordinance
9 arise from the "stagnation of movement on the pedestrian bridges[, which] is causing opportunity
10 for these crimes."⁹⁷

11 As confirmed by the Ordinance's Purpose:

12 Because pedestrian traffic demand on the bridges varies significantly
13 and unpredictably regardless of day or time of day, it is impossible
14 to know in advance when stopping will result in criminal or
15 otherwise dangerous conditions (whether involving the particular
16 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.⁹⁸

17 In other words, the crime and public safety issues arise and fester when there is a lack of movement
18 on pedestrian bridges regardless of whether that stagnation is caused by multiple people sitting
19 along the sides of the bridges, people stopping to purchase goods or drinks from someone, or a
20 crowd forming to watch a street performer's performance. *Cf. generally McCullen*, 573 U.S. at
21 481 ("Obstructed access and congested sidewalks are problems no matter what caused them. A
22 group of individuals can obstruct clinic access and clog sidewalks just as much when they loiter as

23 ⁹⁶ ECF No. 103-18 (Ex. P), Report of Dr. William Sousa, at CC 137.

24 ⁹⁷ ECF No. 103-11 (Ex. J), May 3, 2022, Comm'rs Minutes, at CC 3979, 3984 (testimony from
25 Captain Joshua Bitsko); *see also, e.g.,* ECF No. 103-11 (Ex. J), May 3, 2022, Comm'rs Minutes, at
26 CC 3997 (testimony from Commissioner Jim Gibson); ECF No. 103-11 (Ex. J), May 3, 2022,
27 Comm'rs Minutes, at CC 3980–81 (testimony from Officer Monica Alnes); ECF No. 103-11 (Ex.
J), May 3, 2022, Comm'rs Minutes, at CC 3991 (testimony from Ruth Miller, assistant general
counsel for LVMPD); ECF No. 103-19 (Ex. Q), Jan. 2, 2024, Comm'rs Minutes, at CC 104
(testimony from Undersheriff Andy Walsh).

28 ⁹⁸ Ex. 13, CCC 16.13.010–.050 ("Purpose").

when they protest abortion or counsel patients.”). The reality is that even initially innocuous gatherings of people in the confined space of the bridges creates heightened safety risks as there is a greater opportunity for, for example, fights to break out, a lack of space for people to flee in the case of a mass shooting or emergency, clandestine drug purchases, obstacles for police in pursuit of a criminal, or obstacles for paramedics needing access to render medical aid.

Further, notwithstanding that narrower restrictions would not achieve the government’s safety concerns, any lesser restriction would also make it difficult, if not impossible, for the public to comply and the police to enforce, and may result in discriminatory enforcement. For example, if the Ordinance precluded stopping and standing on the bridges except for street performers and those actively engaged with street performers, the police would have to determine whether the crowd forming near a street performer was engaged with the performance before requesting that they move along, increasing the likelihood of discriminatory enforcement. *See, e.g., Marcavage*, 689 F.3d at 106 (“Policing a less than clear-cut regulation also would risk the fact or appearance of selective enforcement based on content, and would result in the ‘substantial, additional burdens of ... maintaining supervision of the protestors ... and generally providing enough manpower in close proximity to the protestors to quickly handle any protest that turned violent.’” (citation omitted)).

Thus, the Ordinance’s ban on stopping and standing is the only means to prevent stagnation and crowd formations to occur, and thus is narrowly tailored to address the government’s legitimate public safety concerns.⁹⁹

3. Ample alternatives for speech exist along LVB as the pedestrian bridges constitute only 6% of the total overall sidewalks on the Strip.

Ordinances that create an incidental restriction on speech are valid if they are content-neutral, narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels of communication. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). In *Honolulu Weekly*, the City of Honolulu enacted an ordinance restricting all publishers who

⁹⁹ The public safety concerns with the formation of crowds and stagnation of movement on the pedestrians bridges would not be addressed through enforcing any existing laws, like Plaintiffs have suggested, as those are largely reactive measures or do not sufficiently address all crowd-forming scenarios. ECF No. 17, at 14.

wished to distribute their publications along sidewalks in the City’s tourism district to *using solely one of two sets of government-provided news racks*. 298 F.3d at 1041. The ordinance outlawed any privately-owned news racks and identified the ordinance’s purposes as protecting pedestrian safety, preserving the district’s aesthetics, and facilitating the distribution of publications. *Id.* The ordinance was challenged, in part, for not providing ample alternatives for speech. *Id.* However, the Ninth Circuit concluded that the ordinance was not “substantially broader than necessary” and that the City had provided *ample alternatives in its two sets of news racks*. *Id.* at 1045. Also, the city’s ordinance did not restrict the publisher’s distribution outside of the tourism district, so there *were ample alternatives outside of the tourism district*. *Id.* at 1047.

The Ordinance here only requires that a person be moving (including while engaged in First Amendment activity) when using the pedestrian bridges. Therefore, the Board’s Ordinance at issue in this case is considerably less restrictive than the ordinance at issue in *Honolulu Weekly*. As explained in the Purpose of the Ordinance, speech activity may still be conducted on 96% of the sidewalks on LVB—which allows significantly greater alternatives than the two government-issued news racks provided by the City of Honolulu. Further, unlike in *Honolulu Weekly*, the Ordinance does not limit a person’s ability to speak within the Las Vegas tourist district.

Moreover, the Ordinance does not prevent Plaintiffs, or other street performers, from performing on the sidewalks of the Strip. And Plaintiffs offer nothing to support why the sidewalks do not provide ample alternatives for speech. Plaintiffs would reach the same audience—pedestrians on the Strip—whether they perform on a pedestrian bridge or on the sidewalks. This is not a scenario where a law precludes speech to a targeted audience such that any proffered alternatives are inadequate. *Cf. City of Ladue v. Gilleo*, 512 U.S. 43, 55–56 (1994) (recognizing that posting signs on commercial properties as an alternative to posting signs on residential properties was inadequate where residents may want their message to reach neighbors).

Instead, Plaintiffs claim that the pedestrian bridges are “unique” for street performers because “their visibility is increased” and they “offer a unique space away from an accidental bump or shove into adjacent traffic,” citing data of “15 fatal crashes on or adjacent to the strip” during a

5 year period.¹⁰⁰ These purported “unique” features of pedestrian bridges are unpersuasive. Plaintiffs offer nothing to support how performing on a pedestrian bridge provides more visibility than performing on the sidewalk, which would unquestionably provide more visibility given that they would be visible to sidewalk pedestrian traffic, passing drivers, and pedestrians from the bridges. While a traffic-related risk could arguably exist with performing on sidewalks, Clark County has worked to reduce any such risk by implementing various safety measures, such as the implementation of thousands of metal bollards along the sidewalks.¹⁰¹ Plaintiffs also ignore the dangers to street performers—like the other members of the public—on the pedestrian bridges, such as having their tips stolen or equipment damaged, or being caught in a stampede of people fleeing from a mass shooting or emergency.¹⁰²

At bottom, the Ordinance does not limit a person’s ability to speak within the Las Vegas tourist district, and ample alternative opportunities for speech exist all along LVB.

III. CONCLUSION

Plaintiffs’ challenges to the Ordinance are without merit. When enacting the Ordinance, Clark County had long-recognized significant government interests of public safety and economic viability. Further, the Ordinance is narrowly tailored to restrict only the expressive conduct of a person who is stopped or standing on a pedestrian bridge and there are ample available alternatives for speech along LVB, including over 94% of its sidewalks.

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¹⁰⁰ ECF No. 17, at 15.

¹⁰¹ See, e.g., Joe Vigil, *Security measures on the Las Vegas Strip that could help prevent attacks toward pedestrians*, FOX 5 NEWS (Jan. 2, 2025), attached as **Exhibit 17**; Ex. 16, Jay Jones, *Las Vegas’ new safety features? The city wants to stay fun -- and secure*, LA TIMES (July 12, 2019).

¹⁰² See, e.g., Denise Rosch, *Las Vegas Boulevard pedestrian bridge crime is the new focus of Metro Police recruits*, NEWS 3 (Nov. 10, 2016), attached as **Exhibit 18**.

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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
1	Declaration of Virginia Valentine
2	Email dated December 4, 2023, with attachments
3	<i>News Release: East Tropicana Pedestrian Bridge Opens Thursday in Las Vegas</i> , Nevada Department of Transportation, dated June 26, 2017
4	Agenda Item Development Report, Office of the County Manager for Clark County, Nevada, dated March 27, 2012
5	Clark County Pedestrian Study Presentation (2015 Update)
6	Clark County Pedestrian Study (2015 Update)
7	Jonathan M. Birds, M.A. and William H. Sousa, Ph.D, Perceptions of Disorder: Results from Two Las Vegas Tourist Locations, UNLV Center for Crime and Justice Policy (Mar. 2015)
8	Southern Nevada Tourism Infrastructure Committee Meeting Minutes, dated December 3, 2015
9	Pedestrian Issues on Las Vegas BLVD Presentation, dated December 3, 2015
10	Bill to Amend Title 16, Chapter 16.11, Sections 16.11.020 and 16.11.040 of the Clark County Code, dated April 11, 2022
11	Meeting Handout for Agenda Item 65, dated May 3, 2022
12	Clark County Board of Commissioners, Agenda Item No. 68, dated November 21, 2023
13	CCC 16.13.010-.050
14	<i>2023 The Facts</i> , Nevada Resort Association
15	Ricardo Torres-Cortez, <i>With Metro gaining upper hand on Strip violence, visitors feel safe again</i> , Las Vegas Sun, dated Oct. 31, 2020
16	Jay Jones, Las Vegas' new safety features? The city wants to stay fun -- and secure, LA Times, dated July 12, 2019
17	Joe Vigil, <i>Security measures on the Las Vegas Strip that could help prevent attacks toward pedestrians</i> , Fox 5 News, dated January 2, 2025
18	Denise Rosch, <i>Las Vegas Boulevard pedestrian bridge crime is the new focus of Metro Police recruits</i> , News 3, dated November 10, 2016