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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 11 LISA MCALLISTER, an individual;
 12 BRANDON SUMMERS, an individual;
 13 JORDAN POLOVINA, an individual,

14 Plaintiffs,

15 v.

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

Defendant.

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

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

18 Nevada Resort Association (“NRA”), by and through its counsel of record, Brownstein
 19 Hyatt Farber Schreck, LLP, hereby files its Reply in Support of its Motion for Leave to File Brief
 20 as Amicus Curiae in Support of Defendant Clark County, Nevada’s Motion for Summary Judgment
 21 (“Motion”), thereby allowing it to file the Amicus Brief (the “Proposed Brief”), reattached here as
 22 **Exhibit A (Corrected)**,¹ in the above-captioned case.

23 ///

24 ///

25 ///

26 ¹ NRA resubmits its Proposed Brief as it appears the version submitted with the Motion
 27 inadvertently contained formatting errors, specifically the removal of bolded text, including
 28 headings. To ensure readability of the Proposed Brief, NRA resubmits the Proposed Brief as it
 initially intended to file without such errors. Exhibit A (Corrected) is substantively identical to the
 Exhibit A submitted with the Motion (ECF No. 112-1).

This Reply is based on the following Memorandum of Points and Authorities, the attached exhibits, and any pleadings and papers already on file with the Court.

DATED: January 12, 2026.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

NRA’s Proposed Brief should be permitted as it provides an account of the history that led to the enactment of the Ordinance,² specifically with respect to NRA’s involvement, and explores the significant government interests of ensuring public safety and the economic viability of the Resorts Corridor that are served by the Ordinance. Given NRA’s involvement in supporting the Ordinance on behalf of its members, expertise in how tourist safety and regulation of the tourism industry impacts Nevada’s economic wellbeing, and repository of information about the gaming resorts industry, NRA’s Proposed Brief will assist this Court in ruling on the County’s Motion for Summary Judgment. Thus, this Court should exercise its discretion to consider NRA’s Proposed Brief as it is timely and useful.

Plaintiffs' arguments against granting the Motion lack merit and do not support denying NRA leave to file the Proposed Brief. To the extent the Court agrees with Plaintiffs' arguments, this Court is well within its discretion to allow the Proposed Brief and may consider the portions thereof that it finds useful. And if the Proposed Brief is permitted, Plaintiffs may substantively respond thereto in opposing the County's Motion for Summary Judgment. Thus, denying the filing of the Proposed Brief whole-cloth would be improper under the circumstances, particularly considering that NRA was previously permitted leave to file an amicus brief in this case (to which Plaintiffs did not object).³

Accordingly, NRA respectfully requests that this Court grant the Motion and allow it to file its Brief of Amicus Curiae in Support of Clark County’s Motion for Summary Judgment, reattached to this Reply as **Exhibit A** (Corrected).

II. LEGAL ARGUMENT

A. This Court has Broad Discretion to Allow Amicus Briefs.

Plaintiffs seek to impose rigid requirements for when amicus briefs should be permitted,

² Capitalized terms shall have the same meaning ascribed to them in the Motion.

³ ECF Nos. 16, 22.

1 suggesting that in the absence of NRA claiming the County's counsel is incompetent⁴ or identifying
 2 "another case it is involved in that may be impacted by the Court's adjudication of the County's
 3 motion for summary judgment," its Motion should be denied.⁵ "Traditionally, amici curiae fulfill
 4 three classic roles: (1) assist in a case of public interest, (2) supplement the efforts of counsel, and
 5 (3) draw the court's attention to law that escaped consideration." *Wild Horse Educ. v. United States*
 6 *Dep't of Interior*, No. 3:23-CV-00372-LRH-CLB, 2023 WL 5918077, at *1 (D. Nev. Aug. 7, 2023).
 7 But "[t]here are no strict prerequisites to qualify as amici and the Court will allow an amicus brief
 8 where, as here, the amicus has unique information that can help the court beyond the help that the
 9 lawyers for the parties are able to provide." *Maneman v. Weyerhauser Co.*, 2025 WL 904434, at
 10 *1 (W.D. Wash. Mar. 25, 2025) (citation omitted). The primary reason to allow amicus curiae
 11 briefing is to offer insights not available from the parties to aid the Court, particularly in cases
 12 involving matters of public interest. *See, e.g., Pratt v. Indian River Cent. Sch. Dist.*, No. 7:09-CV-
 13 0411-GTSGHL, 2010 WL 11681606, at *3 (N.D.N.Y. Dec. 6, 2010); 4 Am.Jur.2d Amicus Curiae
 14 § 3 (updated May 2007).

15 Indeed, this Court has broad discretion to allow an amicus brief "if the information offered
 16 is 'timely and useful.'" *Long v. Coast Resorts, Inc.*, 49 F. Supp. 2d 1177, 1178 (D. Nev. 1999)
 17 (citing *Waste Management of Pa., Inc. v. City of York*, 162 F.R.D. 34, 35 (M.D.Pa.1995));
 18 *Maneman v. Weyerhauser Co.*, 2025 WL 904434, at *1 (W.D. Wash. Mar. 25, 2025) ("District
 19 courts have 'broad discretion' regarding the appointment of amici." (citation omitted)). "[C]ourts
 20 have exercised great liberality in permitting an amicus curiae to file a brief in a pending case[.]"
 21 *People's Legislature v. Miller*, No. 2:12-CV-00272-MMD, 2012 WL 3536767, at *5 n.5 (D. Nev.
 22 Aug. 15, 2012) (citation omitted); *see also, e.g., Portland Pipe Line Corp. v. City of S. Portland*,
 23 2017 WL 79948, at *5 (D. Me. Jan. 9, 2017) ("In dealing with amici motions, this Court has elected
 24 to follow the practical advice of then-Judge Samuel Alito, who essentially suggested that, assuming

25 _____
 26 ⁴ Courts recognize that "[w]hile incompetent counsel may be reason to allow amicus participation,
 27 ... the reverse is not necessarily true (i.e., that competent counsel is a bar to amicus participation)." *Duronslet v. Cnty. of L.A.*, 2017 WL 5643144, at *2 (C.D. Cal. Jan. 23, 2017) (internal citation
 28 omitted). The fact that the County is well represented should not weigh against granting the Motion.

⁵ ECF 115, at 7.

1 the other criteria are met, the court could grant the motion for leave to file an amicus brief and take
 2 the brief for what it is worth.”).

3 As explained in the Motion and herein, NRA’s Proposed Brief may be useful to this Court
 4 and thus should be permitted.

5 **B. NRA’s Proposed Brief Should Be Permitted as it is Useful to the Court and
 6 Involves a Matter of Public Interest.**

7 The Proposed Brief seeks to “assist in a case of public interest.” *Wild Horse Educ.*, 2023
 8 WL 5918077, at *1. Plaintiffs do not dispute, nor could they, that this case involves matters of
 9 public interest. The public, particularly the citizens of Las Vegas; tourists venturing the Strip; and
 10 those involved in the gaming resort industry are the most affected by and interested in the sidewalks
 11 and pedestrian bridges throughout the Resorts Corridor that serve as the connection between
 12 properties along the Strip.

13 The Proposed Brief focusses on the County’s significant government interests in the public
 14 safety and economic viability that are served by the Ordinance. Specifically, NRA seeks to assist
 15 the Court by providing support on the significant government interest in protecting a tourism-based
 16 economy.⁶ It is uniquely qualified to address this interest given that for about 60 years, NRA has
 17 represented and advocated for the gaming resort industry and serves as a resource of information
 18 on how Nevada law has affected tourism and the gaming resort industry since Nevada became a
 19 state. NRA maintains detailed information on the economic impact of tourism on the State by
 20 tracking indicators such as gaming resort industry employment rates, individual health insurance
 21 coverage rates, economic recovery, capital investment, and education. While the County mentions
 22 in its Motion for Summary Judgment “the substantial role that tourism plays in the local economy”
 23 that supports its “important and compelling interest in ensuring that both locals who work in these
 24 industries and visitors who patronize them are safe and secure in their person on the Las Vegas
 25 Strip and in the Resort Corridor,” the County does not substantively address this economic interest.⁷
 26 NRA’s Proposed Brief explores the significant government interest in protecting a tourism-based

27
 28 ⁶ See, e.g., Ex. A, Proposed Brief (Corrected), at 18-20.

⁷ ECF No. 103, at 2.

1 economy, which it is uniquely qualified to provide given its expertise and repository of information.
 2 As NRA shared with the Board, when tourists feel unsafe or uneasy about their wellbeing the State's
 3 tourist-based economy is threatened.⁸ This insight will assist this Court in assessing and
 4 determining that the governmental interests underpinning the Ordinance are significant and not
 5 merely hypothetical. *See, e.g., id.* at *1 (permitting amici curiae where proposed brief "will assist
 6 the Court here because the nature of this action is one of public interest"); *People's Legislature v.*
 7 *Miller*, No. 2:12-CV-00272-MMD, 2012 WL 3536767, at *6 (D. Nev. Aug. 15, 2012) (allowing
 8 NRA to "proceed as amicus curiae and . . . file briefs on dispositive matters in this case with leave
 9 of the Court" where "NRA claims that it has a significant interest in the disposition of this case
 10 because NRA 'has publicly supported and opposed various initiative petitions, and has been directly
 11 affected by multiple petitions filed this year'" (citation omitted)). *See generally, e.g., Funbus Sys.,*
 12 *Inc. v. State of Cal. Pub. Utilities Comm'n.*, 801 F.2d 1120, 1125 (9th Cir. 1986) (confirming that
 13 "a perfectly permissible role for an amicus" is to "take a legal position and present legal arguments
 14 in support of it").

15 Because the Proposed Brief will assist the Court in ruling on the County's Motion for
 16 Summary Judgment, the Motion should be granted.

17 **C. Whether NRA's Interests are "Adequately Represented" By the County is
 18 Irrelevant.**

19 Plaintiffs attempt to recharacterize NRA's Motion as one seeking to intervene in this matter,
 20 as they argue that the County can "adequately represent[]" NRA's interest.⁹ But whether a non-
 21 party's interests are adequately represented by the existing parties in a case is a requirement that
 22 must be shown to intervene as a matter of right. *See Prete v. Bradbury*, 438 F.3d 949, 954 (9th Cir.
 23 2006) (outlining elements that must be demonstrated to intervene as a matter of right). This
 24 consideration is not relevant to this Court's discretion to grant leave to file an amicus brief.

25 As explained in the Proposed Brief, NRA was an active participant in advocating for its
 26 members' interests in ensuring the public's safety and the economic viability of the Resorts

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 28 ⁸ Ex. A, Proposed Brief (Corrected), at 18-20; ECF No. 103-20 (Ex. R), Letter from NRA.

⁹ ECF No. 115, at 11-12.

1 Corridor, including with respect to the evolving concerns with the pedestrian bridges. As a
 2 participant in these efforts, including with the Workgroup and providing public comments and
 3 reports in support of ordinances, NRA offers a first-hand perspective on the interests served by the
 4 enactment of the Ordinance. And while NRA's interests may overlap with that of the County, they
 5 stand apart, with NRA advocating for the interests of its members in the gaming resorts industry
 6 and the County defending the Board's legislation.

7 NRA's involvement in assessing the public safety concerns with the pedestrian bridges and
 8 developing solutions to solve those problems, including advocating for the adoption of the
 9 Ordinance, does not discount NRA's ability to assist this Court in this matter, as Plaintiffs seem to
 10 suggest.¹⁰ *See, e.g., Funbus Sys.*, 801 F.2d at 1125 (confirming that "there is no rule that amici
 11 must be totally disinterested"); *Neonatology Assocs., P.A. v. Comm'r*, 293 F.3d 128, 131 (3d Cir.
 12 2002) (recognizing that the view of an amicus being an impartial advisor "became outdated long
 13 ago"); *Maneman v. Weyerhauser Co.*, 2025 WL 904434, at *1 (recognizing that "[c]ourts often
 14 welcome amicus briefs from non-parties 'concerning legal issues that have potential ramifications
 15 beyond the parties directly involved.'") (citation omitted)); *Pratt*, 2010 WL 11681606, at *4
 16 (rejecting argument that amicus brief should not be considered because it "is 'argumentative,' and
 17 acts like a surreply").

18 Thus, NRA need not show that its interests cannot be "adequately represented" by the
 19 County or that it must be disinterested in order for this Court to permit the Proposed Brief.

20 **D. Plaintiffs' "Extra-Record Evidence" Argument Lacks Merit and Does Not
 21 Support Denying NRA's Motion.**

22 Plaintiffs contend that NRA's Proposed Brief should not be permitted because "15 of the
 23 exhibits attached to the NRA's proposed brief appear to be new and are not exhibits the County
 24 offered in support of its motion for summary judgment."¹¹ They do not suggest that the exhibits
 25 were not produced in this case; instead, they summarily claim that they appear to have not been
 26

27
 28 ¹⁰ ECF 115, at 11-12.

¹¹ ECF 115, at 5.

1 disclosed because they lack Bates numbers.¹² As Plaintiffs themselves acknowledge, NRA is not
 2 a party to this case and did not participate in discovery such that it would have had access to the
 3 Bates-stamped versions of documents produced in this case. NRA's inability to attach the Bates-
 4 stamped versions of documents produced during discovery is inconsequential to whether the
 5 Proposed Brief should be permitted or not.

6 Notwithstanding, it is apparent from a review of the exhibits attached to the Proposed Brief
 7 that Plaintiffs seek to make much ado about nothing. As can be seen from the Index of Exhibits,
 8 the exhibits consist of the (A) declaration of Virginia Valentine, the President of NRA; (B) five
 9 publicly available news articles and releases; (C) NRA's submission of its letter to the Board in
 10 support of the Ordinance and NRA's publication, *2023 Facts*, which was provided therewith; (D)
 11 a copy of a research publication by Jonathan M. Birds, M.A. and William H. Sousa, Ph.D; (E)
 12 copies of relevant agendas, handouts, and meeting minutes of the Board and the Southern Nevada
 13 Tourism Infrastructure Committee; (F) a copy of the Ordinance; and (G) copies of Clark County's
 14 pedestrian study and presentation.¹³ Besides Ms. Valentine's declaration, the other exhibits were
 15 presumably produced in the case and/or are publicly available.

16 Moreover, the exhibits attached to the Proposed Brief are unlike the type of evidence that
 17 the amicus sought to submit in *WildEarth Guardians v. Jeffries*, 370 F. Supp. 3d 1208 (D. Or.
 18 2019), the only case cited by Plaintiffs in support of their contention that “[a]mici curiae are not
 19 parties and cannot submit extra-record evidence.”¹⁴ In *WildEarth Guardians*, the amicus moved to
 20 submit “a map it created of gray wolf dispersal paths,” which defendants objected to on the basis
 21 that the map was “flawed and improper for the Court to consider.” *Id.* at 1226. The District Court
 22 denied the motion because “the proffered map evidence would not be admissible” under the
 23 Administrative Procedure Act as it “was created after the administrative process and was not before
 24 the agency.” *Id.* at 1228. In so ruling, the District Court did not make a blanket rule, as Plaintiffs
 25 seem to suggest, that an amicus may not attach evidence to its brief beyond the Bates-stamped
 26

27 ¹² ECF 115, at 8.
 28 ¹³ Ex. A, Proposed Brief (Corrected), at 27.
 29 ¹⁴ ECF No. 115, at 8.

1 versions of documents produced in this case.¹⁵ The District Court's determination in *WildEarth*
 2 *Guardians* is not analogous here as NRA does not seek to offer evidence it "created," this case is
 3 not limited to the record before an agency, and NRA's exhibits were presumably produced in the
 4 case and/or are publicly available and thus should not be of any surprise to Plaintiffs.

5 This Court is well within its discretion to consider the exhibits attached to NRA's Proposed
 6 Brief. *See, e.g., Cazorla v. Koch Foods of Miss., LLC*, 2014 WL 2163151, at *3 (S.D. Miss. May
 7 23, 2014) (denying motion to strike exhibits attached to amicus brief, finding that the information
 8 provided was relevant); *Portland Pipe Line*, 2017 WL 79948, at *4 (permitting amicus briefs that
 9 attach evidence in summary judgment proceedings). *See generally, e.g., Kadel v. Folwell*, 2022
 10 WL 1046313, at *2 (M.D.N.C. Apr. 7, 2022) ("[T]his Court is not aware of any opinion requiring
 11 Amicus briefs to comply with the rules of Federal Rules of Evidence.").

12 **III. CONCLUSION**

13 Because NRA's Proposed Brief provides useful and timely information to this Court for
 14 resolving the above-captioned dispute, NRA respectfully requests this Court grant its Motion for
 15 Leave to File Brief as Amicus Curiae in Support of Defendant Clark County's Motion for Summary
 16 Judgment.

17 DATED: January 12, 2026.

18 BROWNSTEIN HYATT FARBER SCHRECK, LLP

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 26 *ASSOCIATION*

27
 28 ¹⁵ ECF No. 115, at 8.

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2026, I caused a true and correct copy of the foregoing
REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE,
NEVADA RESORT ASSOCIATION, IN SUPPORT OF DEFENDANT CLARK COUNTY,
NEVADA'S MOTION FOR SUMMARY JUDGMENT to be filed and served to all parties of
record through the Nevada District Court's e-filing system.

/s/ Wendy Cosby
An employee of Brownstein Hyatt Farber
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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Brief of Amicus Curiae, Nevada Resort Association, in Support of Defendant Clark County, Nevada's Motion for Summary Judgment (Corrected)

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