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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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

Plaintiffs,

vs.

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

Defendant.

Case No.: 2:24-cv-00334

**[CORRECTED] PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

[ORAL ARGUMENT REQUESTED]

Plaintiffs LISA MCALLISTER, BRANDON SUMMERS, and JORDAN POLOVINA
(collectively "Plaintiffs") moves this Honorable Court to grant summary judgment pursuant to FRCP

1 56. This motion is based on this notice, the memorandum of points and authorities filed herein, the
2 declaration(s) filed by Plaintiffs, the exhibits filed herein, the statement of uncontroverted facts and
3 conclusions of law, the pleadings previously filed in this action, and any oral argument permitted at
4 the hearing on this motion.

5 DATED this 18th day of December, 2025.

6 **ACLU OF NEVADA**

7 /s/Christopher M. Peterson
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The pedestrian bridges in the Resort Corridor have always been considered part of the largest, and, arguably, the most important, public forum in Nevada. For decades, people—including the Plaintiffs—have stopped on these bridges to play music, perform, protest, solicit people passing by, to drop a dollar into a tip jar, simply engage as an audience, or take photographs. In fact, the only data collected by Clark County prior to 2024 about people stopping on these bridges were of folks engaging in activities protected by the First Amendment.

Clark County Code 16.13.030, passed in 2024, brought these activities to an end. The ordinance banned all stopping, standing, and any activities encouraging other people to stop; conduct integral to most, if not all, First Amendment activities. While it claimed that the ordinance was necessary to ensure public safety and to avoid over congestion, the County in fact had no evidence that either harm threatened the bridges. Furthermore, it had no evidence that stopping on the bridges caused either harm, and it also made no effort to determine if less burdensome alternatives such as the already existing ordinances banning sidewalk obstructions, time- and bridge- based restrictions, or a ban with a carve-out for First Amendment activities would have satisfied the County’s objectives.

In addition to violating the First Amendment, CCC 16.13.030 violates the Fourteenth Amendment’s prohibition on criminal laws that encourage seriously discriminatory enforcement. The Las Vegas Metropolitan Police Department has exempted entire categories of activities from enforcement under CCC 16.13.030, including stopping to take photographs on the bridges or view the Strip, which are not exemptions provided by the plain language of the ordinance. While LVMPD is a separate entity from Clark County, its enforcement policy is in line with the guidance provided by the County via social media immediately after CCC 16.13.030, and the County’s testimony during the ordinance’s passage.

1 Plaintiffs seek to restore the pedestrian bridges to their status prior to CCC 16.13.030, when
2 First Amendment activity could occur as long as it did not actually obstruct pedestrian traffic. As the
3 ordinance indisputably violates the First Amendment, Fourteenth Amendment, and related Nevada
4 constitutional provisions, Plaintiffs are entitled to summary judgment.

5 **II. PLAINTIFFS' STATEMENT OF UNDISPUTED FACTS**

6 **A. The pedestrian bridges and the Resort Corridor sidewalk system**

7 There are 17 publicly-owned pedestrian bridges within the Resort Corridor. (Ex. 1, Deposition
8 of Kaizad J. Yazdani, 30(b)(6) Designee for Clark County (“Yazdani Clark County 30(b)(6)
9 Deposition”) at 24:5–8). These bridges are considered part of the Resort Corridor’s sidewalk system.
10 (*Id.* at 27:7–10.)

11 **B. Circumstances surrounding the passage of CCC 16.13.030**

12 In January of 2024, Clark County passed CCC 16.13.030, which banned stopping, standing,
13 and any activities intended to cause other people to stop in “pedestrian flow zones.” CCC 16.13.030.
14 The pedestrian flow zones included all pedestrian bridges located within the Resort Corridor and the
15 area around their entry and exit points. CCC 16.13.020.

16 Shortly after passing CCC 16.13.030, Clark County published a social media post stating that
17 “[I]t is unlawful for any person to stop, stand, or engage in an activity that causes another person to
18 stop or stand within any Pedestrian Flow Zone. This is not interpreted to mean that tourists and locals
19 cannot take photos along the Boulevard while on a pedestrian bridge[.]” (Ex. 2, Statement on X posted
20 by @ClarkCountyNV regarding CCC 16.13.030 on Jan. 2, 2024, 6:30 PM, M-S 00031.)

21 Since the passage of CCC 16.13.030, Clark County has testified that all intentional stopping
22 or standing, even if incidental, violates CCC 16.13.030, unless the person is waiting for an elevator
23 or escalator. (Ex. 3, Deposition of Abigail Frierson, 30(b)(6) Designee for Clark County (“Frierson
24 30(b)(6) Deposition”) at 107:16–23 (clarifying the only exception on the stopping ban is for people
25

1 waiting for the escalators), 120:25 – 121:56 (no exception for taking photographs)).

2 **C. Plaintiffs’ impacted activities**

3 Mr. Summers and Mr. Polovina are street performers who play the violin and cello
4 respectively. (Ex. 4, Declaration of Brandon Summers (“Summers Decl.”) at ¶¶ 4 & 5; Ex. 5,
5 Declaration of Jordan Polovina (“Polovina Decl.”) at ¶¶ 4 & 5.) They have regularly performed on
6 the sidewalks in the Resort Corridor for years, and prior to the passage of CCC 16.13.030, they both
7 played on the pedestrian bridges, always making efforts to avoid impeding pedestrian traffic. (Ex. 4,
8 Summers Decl. at ¶¶ 7 & 13; Ex. 5, Polovina Decl. at ¶¶ 7 & 13.) They intend for their performances
9 to attract an audience of people stopping to hear them play. (Ex. 4, Summers Decl. at ¶ 4; Ex. 5,
10 Polovina Decl. at ¶ 4.) While playing their instruments, both use small speakers to amplify their sound
11 so their performances can be heard above the ambient sounds. (Ex. 4, Summers Decl. at ¶¶ 6 & 9;
12 Ex. 5, Polovina Decl. at ¶¶ 6 & 9.) While playing they also solicit tips from people who come to
13 listen to their respective performances. (Ex. 4, Summers Decl. at ¶ 11; Ex. 5, Polovina Decl. at ¶ 11.)
14 Mr. Polovina cannot continuously move while performing because of the size of his cello, cannot
15 move while using his amplifier, and cannot move if playing and soliciting tips at the same time. (Ex.
16 5, Polovina Decl. at ¶¶ 8, 10, & 12.) Mr. Summers cannot move, play his violin, and use an amplifier
17 at the same time. (Ex. 4, Summers Decl. at ¶¶ 10 & 12).

18 Since the County passed CCC 16.13.030, neither can perform on the pedestrian bridges
19 without risking citation or arrest. This concern is not theoretical: Mr. Polovina was not only instructed
20 to stop performing and leave a pedestrian bridge by law enforcement when they were detaining
21 another individual for violating CCC 16.13.030, and has been warned by law enforcement that his
22 performance on pedestrian bridges violated CCC 16.13.030, he was actually cited for allegedly
23 violating CCC 16.13.030 on May 23, 2025, for “playing an instrument” on a pedestrian bridge. (Ex.
24 5, Polovina Decl. at ¶¶ 14-16; Ex. 6, Polovina Citation, M-S003041). Both Mr. Summers and Mr.

1 Polovina have been forced to stop performing on pedestrian bridges due to risk of prosecution under
2 CCC 16.13.030. (Ex. 4, Summers Decl. at ¶¶ 14 & 16; Ex. 5, Polovina Decl. at ¶¶ 17 & 20.)

3 **D. Pedestrian traffic data about people stopping, First Amendment activities, and**
4 **levels of congestion on pedestrian bridges**

5 Since the bridges were first built, Clark County has commissioned four pedestrian traffic
6 studies in the Resort Corridor that include information about traffic on the pedestrian bridges.¹ (Ex.
7 1, Yazdani, Clark County 30(b)(6) Deposition at 96:22–97:4.) These studies, completed by the firm
8 Kimley Horn in 2012, 2015, 2016, and 2022, include surveys of the pedestrian bridges within the
9 Resort Corridor. (*Id.*) While the 2022 pedestrian study was published to the public after the County
10 passed CCC 16.13.030, the County had access to the study’s data and Kimley Horn’s analysis prior
11 to passing the ordinance. (*Id.* at 157:5–20, 160:1–161:23.) These studies contain the only data about
12 pedestrian traffic on the bridges in the Resort Corridor within the last 30 years, and to the County’s
13 knowledge, the studies are accurate. (*Id.* at 96:13–97:7.)

14 As part of their pedestrian bridge surveys, the studies documented Non-Permanent
15 Obstructions (NPOs) on the bridges. (Ex. 7, Clark County Pedestrian Study, December 2022 (“2022
16 Pedestrian Study”) at CC 383907; Ex. 8, Clark County Pedestrian Study, November 2012 (“2012
17 Pedestrian Study”) at CC 1072; Ex. 9, Clark County Pedestrian Study, 2015 Update (“2015 Pedestrian
18 Study Update”) at CC 1241; Ex. 10, Pedestrian Study, 2016 Update of Non-Permanent Obstructions
19 (“2016 Pedestrian Study Update”) at CC 4268.) Every person designated as an NPO by the studies
20 engaged in one of four activities in addition to stopping: street performing, handbilling, soliciting, or
21 vending. (*Id.*) The studies only designated a person an NPO if they stopped while engaging in one of
22 these activities. (Ex. 1, Yazdani 30(b)(6) Deposition at 105:19–22; Ex. 11, Deposition of Devlin Val
23 Moore, 30(b)(6) Designee for Non-Party Kimley-Horn (“Moore Deposition”) at 35:16–36:2.) The

24 ¹ Another firm, Lee Engineering, also completed a pedestrian traffic study in 1994, but this study
25 does not include information about pedestrian traffic information on any bridges.

1 studies did not document anyone stopping on the pedestrian bridges other than to perform, handbill,
2 solicit, or vend. (Ex. 11, Moore Deposition at 47:10.) Over two decades, researchers documented
3 hundreds of instances of people street performing, handbilling, soliciting, and vending on the
4 pedestrian bridges within the Resort Corridor while conducting the studies. (Ex. 7, 2022 Pedestrian
5 Study at CC 383974–75; Ex. 8, 2012 Pedestrian Study at CC 1072; Ex. 10, 2016 Pedestrian Study
6 Update at CC 4282.)

7 The Kimley Horn studies also assessed Level of Service (“LOS”) on the sidewalks within the
8 Resort Corridor, including on the bridges. (Ex. 1, Yazdani 30(b)(6) Deposition at 86:20-89:13; Ex.
9 7, 2022 Pedestrian Study at 383881-882, 383985, 383911; Ex. 8, 2012 Pedestrian Study at CC 983-
10 984; Ex. 9, Pedestrian Study, 2015 Update at CC 1216, 1250–1251.) The County uses LOS to
11 determine whether a particular walkway is over congested. (Ex. 1, Yazdani 30(b)(6) Deposition at
12 86:20-89:13.) According to the County, a LOS of A, B, or C is acceptable, and LOS worse than C
13 (*i.e.*, D, E, or F) should be avoided. (*Id.*) (explaining the LOS C is the County’s acceptable level of
14 service). For the 2012, 2015, and 2022 studies, Kimley Horn identified the locations where the
15 calculated LOS dropped below C and documented how long the disruption lasted for. (Ex. 7, 2022
16 Pedestrian Study at CC 383985-383989; Ex. 8, 2012 Pedestrian Study at CC 1116–1117; Ex. 9,
17 Pedestrian Study, 2015 Update at CC 1326–28.). Over the three studies, the researchers only ever
18 identified three bridges that ever suffered an LOS worse than C (*id.*), and during the latest 2022 study,
19 the researchers only identified one disruption that lasted longer than 15 minutes. (Ex. 7, 2022
20 Pedestrian Study at CC 383987-383989.) According to that study, LOS never dropping below D on
21 any of the bridges. (*Id.*) By comparison, the researchers conducting the 2022 study identified multiple
22 grade-level sidewalks where LOS dropped as low as F and disruptions lasted up to 8 hours. (*Id.*)
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1 **E. Other evidence related to CCC 16.13.030’s impact on First Amendment**
2 **activities.**

3 Since CCC 16.13.030 was enacted, the Las Vegas Metropolitan Police Department (LVMPD)
4 has enforced it against many people engaging in First Amendment activities including solicitation,
5 protest, and street performing.

6 In 2024, LVMPD documented at least sixteen times where it arrested people who were
7 engaging in First Amendment activities, including playing music, soliciting money, filming music
8 videos, and vending for violating CCC 16.13.030. (*See* Ex. 12, Pedestrian Bridge Arrests, LVMPD
9 00296–306 (documenting arrests pursuant to CCC 16.13.030 from February 14, 2024, until October
10 3, 2024).) Over the same period of time, the vast majority of other enforcement measures were taken
11 against people who were actually obstructing the sidewalk, *i.e.*, sleeping, lying down, or sitting on
12 the sidewalk. (*Id.*)

13 While LVMPD has not provided systemic data of enforcement post-2024, people have been
14 charged for stopping on the bridges while protesting. (*See* Ex. 13, *State v. Mirabelli*, 25-CR-071740,
15 Criminal Complaint, CC 385906 (accusing defendant of “stopping on the pedestrian bridge to engage
16 in a protest”.)

17 **F. The County’s data to support the ordinance**

18 The County has no substantive data related to crime on the pedestrian bridge. (Ex. 1, Yazdani
19 30(b)(6) Deposition at 111:23-112:25, 212:3-16; Ex. 3, Frierson 30(b)(6) Deposition at 20:6-16, 33:6-
20 35:2, 52:9-18.) Instead, to claim that “disorder” is a problem on the pedestrian bridges and that CCC
21 16.13.030 is an appropriate solution, the County relies on testimony from Dr. William Sousa, who it
22 has noticed as an expert in this matter and whose definition of disorder the County has adopted. (Ex.
23 3, Frierson 30(b)(6) Deposition at 31:23-32:7; Ex. 14, Clark County Board of Commissioners
24 Meeting Agenda from November 21, 2023, at CC013; Ex. 15, Clark County Board of Commissioners
25 Meeting Agenda from December 5, 2023, at CC 041; Ex. 16, Clark County Board of Commissioners

1 Meeting Agenda from January 2, 2024, at CC080; *Compare* Ex. 3, Frierson 30(b)(6) Deposition at
2 55:19-62:13 *with* Ex. 17, Questions Related to Public Safety on Pedestrian Bridges, William H.
3 Sousa, Ph. D. (“Final Sousa Report”) at CC 133.). Dr. Sousa describes disorder as “relat[ing] to
4 problems that – don’t necessarily rise to the level of serious crime, but they’re nonetheless concerns
5 for citizens.” (Ex. 18, Deposition of William H. Sousa (“Sousa Deposition”) at 29:24–30:4.) Under
6 Sousa’s definition of disorder not all criminal behavior constitutes disorder and not all disorder is
7 criminal. (*Id.* at 30:22–31:7.) Also according to Dr. Sousa, there are no specific noncriminal acts that
8 would be considered disorder and that the determination is “mostly contextual.” (*Id.* at 32:16–32:19.)
9 Any type of activity, including activities protected by the First Amendment such as panhandling,
10 soliciting, and street performing, that encourages people to stop or generally irritates a viewer
11 constitutes disorder. (*Id.* at 36:16–37:2 (causing someone to stop), 40:14–41:4 (irritating).) Dr. Sousa
12 believes encouraging people to stop is inherently what street performing, soliciting, and panhandling
13 does. (*Id.* at 36:13–37:2.)

14 Dr. Sousa has no evidence that stopping or standing contributes to disorder or any other harm
15 on the bridges. (*Id.* at 194:4–10 (no connection between stopping and disorder), 236:21–237:4 (data
16 at all related to stopping on the bridges or its causal effect).) Sousa also has no evidence that disorder
17 on the bridges has caused any crime. (*Id.* at 199:9–13.) As for pedestrian congestion, Dr. Sousa admits
18 he did not review any data related to crowd density on the bridges nor does he have any evidence that
19 congestion is an issue. (Ex. 18, Sousa Deposition at 224:7-224:11.). Dr. Sousa also does not know
20 what level of service is. (Ex. 18, Sousa Deposition at 103:12–24).

21 No crowd crush incident has ever occurred on the pedestrian bridges, and the County has no
22 evidence that crowd density on the bridges ever reached levels where crowd crush could have
23 occurred. (Ex. 1, Yazdani 30(b)(6) Deposition at 103:10– 3, 113:6–9, 215:15–18, 252:4–11.)
24 Likewise, the County is unaware of any time where emergency personnel could not access the
25

1 pedestrian bridges. (*Id.* at 51:17–20.)

2
3 **G. Enforcement policy and exemptions to CCC 16.13.030’s ban on stopping and standing.**

4 LVMPD is the law enforcement agency that enforces CCC 16.13.030 on the pedestrian
5 bridges in the Resort Corridor. (Ex. 19, Deposition of Andrew Walsh, 30(b)(6) Designee for Non-
6 Party Las Vegas Metropolitan Police Department (“Walsh Deposition”) at 29:4-31:1. LVMPD has
7 established a policy that it does not enforce CCC 16.13.030 against people for “incidental stops”. (*Id.*
8 at 35:6–35:11; 49:24–50:2.) In training its officers on this policy, LVMPD does not define “incidental
9 stop” by a length of time; instead it exempts specific activities from enforcement including taking
10 photographs or stopping to take in views of the Strip. (*Id.* at 37:16–37:19, 37:20–38:13, 50:3–51:5.)

11 While LVMPD is a government entity separate from Clark County, it has expressly based its
12 policy on Clark County’s language in CCC 16.13.010 describing the purpose of the ordinance as well
13 as Clark County’s representations at the time CCC 16.13.030’s passage. (*Id.* at 38:15–40:14; 162:8–
14 163:8.)

15 **III. LEGAL STANDARD**

16 Summary judgment is appropriate if there is no genuine issue as to any material fact and the
17 moving party is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a). As this Court has
18 recently observed in a separate matter:

19 Who bears the burden of proof on the factual issue in question is critical
20 as to the legal standard on summary judgment. When the party moving
21 for summary judgment would bear the burden of proof at trial (typically
22 the plaintiff), he “must come forward with evidence [that] would entitle
23 [him] to a directed verdict if the evidence went uncontroverted at trial.”
24 *C.A.R. Transp. Brokerage Co. v. Darden Rests., Inc.*, 213 F.3d 474,
25 480 (9th Cir. 2000) (quoting *Houghton v. South*, 965 F.2d 1532, 1536
(9th Cir. 1992) (citation and quotations omitted)). Once the moving
party establishes the absence of a genuine issue of fact on each issue
material to its case, “the burden then moves to the opposing party, who
must present significant probative evidence tending to support its claim

1 or defense.” *Intel Corp. v. Hartford Accident & Indem. Co.*, 952 F.2d
 2 1551, 1558 (9th Cir. 1991) (citation omitted). In such instances, the
 3 responding party cannot point to mere allegations or denials contained
 4 in the pleadings; it is not enough for the non-moving party to produce
 5 a mere “scintilla” of evidence. *Celotex Corp.*, 477 U.S. at 252. Instead,
 6 the responding party must set forth, by affidavit or other admissible
 7 evidence, specific facts demonstrating the existence of an actual issue
 8 for trial. *KRL v. Moore*, 384 F. 3d 1105, 1110 (9th Cir. 2004).

9 *Estate of Taschek v. Fidelity Life Association*, 740 F.Supp.3d 1072, 1083 (D. Nev. 2024). As detailed
 10 below, Plaintiffs meet their burdens and the County cannot meet theirs.

11 **IV. ARGUMENT**

12 **A. Plaintiffs are entitled to summary judgment on their First Amendment 13 overbreadth claims.**

14 As this Court already observed in these proceedings, determining whether an ordinance
 15 violates the First Amendment is a multiple step process. (Order Denying Plaintiffs’ Motion for
 16 Injunctive Relief, Granting in Part Defendant’s Motions to Dismiss, and Denying Defendant’s
 17 Motion to Stay Discovery, ECF No. 51 at 18:5–7.) The plaintiff has the initial burden to show that
 18 the restriction at issue implicates the First Amendment; this requires the plaintiff to establish that the
 19 law impacts a constitutionally-protected activity taking place in a protected forum. ECF No. 51 at
 20 18:6–7 (citing *Moody v. Netchoice, LLC*, 144 S. Ct. 2383, 2394 (2024)..) In a facial challenge, the
 21 plaintiff must also show that the restriction burdens “a substantial amount of protected [activity],
 22 judged in relation to its plainly legitimate sweep.” ECF No. 51 at 18:7–9 (citing *Virginia v. Hicks*,
 23 539 U.S. 113, 118–119 (2003).

24 The burden then shifts to the government to show that the restriction imposed is a “reasonable
 25 restriction on the time, place, or manner of protected speech,” assuming that the restriction is content
 neutral.² *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). This requires the government to

² Between Dr. Sousa’s testimony indicating that the “disorder” the County intended to abate included First Amendment activity and the Kimley Horn pedestrian studies indicating that only First

1 establish that “the restrictions are justified without reference to the content of the regulated speech,
2 that they are narrowly tailored to serve a significant governmental interest, and that they leave open
3 ample alternative channels for communication of the information.” *McCullen v. Coakley*, 573 U.S.
4 464, 477 (2014). If the government defendant fails to establish that its restriction is narrowly tailored
5 to serve a significant government interest, the restriction is unconstitutional even if the restriction
6 leaves open alternative channels for communication. *See id.*, 573 U.S. at 496 n. 9 (“Because we find
7 that the Act is not narrowly tailored, we need not consider whether the Act leaves open ample
8 alternative channels of communication.”).

9 Based on the undisputed facts, Plaintiffs satisfy their threshold burden and the County cannot
10 meet its burdens. The United States Court of Appeals for the Ninth Circuit has previously determined
11 the sidewalk system in the Resort Corridor is a traditional public forum, and Clark County has always
12 considered the pathways over the pedestrian bridges part of this sidewalk system. CCC 16.13.030
13 impacts First Amendment activities such as street performing, soliciting, panhandling, and any
14 activity that involves either one-on-one communication or drawing an audience. The County’s
15 pedestrian studies, which provide the only systemic data available about who was stopping and
16 standing on the pedestrian bridges before CCC 16.13.030’s ban went into effect, establish
17 unequivocally that CCC 16.13.030 burdens a substantial amount of First Amendment activity
18 compared to its scope because, according to the data, everyone stopping on the bridges was also
19 engaging in some sort of protected activity. Likewise, the “disorder” that the ordinance is aimed at
20 getting rid of expressly includes protected activity such as panhandling and street performing.

21
22 _____
23 Amendment activity would be impacted by CCC 16.13.030, there is some evidence the County
24 directly intended CCC 16.13.030 to restrict First Amendment activity, subjecting CCC 16.13.030 to
25 strict scrutiny. (*See Ex. 18, Sousa Deposition at 36:13-37:2, 40:14-41:4; see also Ex. 11, Moore
Deposition at 47:10–47:14.*); *United States v. Dumas*, 64 F.3d 1427, 1429 (9th Cir. 1995) (“[A]
facially neutral law is nonetheless subject to strict scrutiny if it is an obvious pretext for
discrimination.”). However, in relying undisputable facts, Plaintiffs apply intermediate scrutiny for
the purposes of this motion.

1 By comparison, the County cannot show that CCC 16.13.030 is narrowly tailored to serve a
2 significant government interest. First, the County cannot show that CCC 16.13.030 is related to any
3 real government interest because it has no evidence that the pedestrian bridges were suffering or at
4 risk of suffering from any actual harm such as crime or crowding prior to the enactment of CCC
5 16.13.030. Even if the alleged harms were real, the County cannot meet its burden of showing that
6 CCC 16.13.030 alleviated these harms in a direct and material way because it has no evidence
7 stopping or standing caused any harm of any sort, let alone the harms CCC 16.13.030 was intended
8 to alleviate. Finally, the County has no evidence that obvious less-restrictive alternatives such as
9 using the preexisting obstruction ordinances or imposing time-based restrictions targeting known
10 high-volume periods, bridge-specific restrictions targeting bridges with known crowding issues, or
11 bans with an exemption for First Amendment activity would have failed to address its concerns.

12 As the Defendant cannot meaningfully dispute the evidence satisfying Plaintiffs' burden and
13 has not produced evidence satisfying any of the three elements it has the burden to show to establish
14 that the restriction is narrowly tailored, Plaintiffs are entitled to summary judgment on their First
15 Amendment and related Nevada constitutional claims.

16 **1. The pedestrian bridges in the Resort Corridor are a traditional public
17 forum.**

18 "Sidewalks, of course, are among those areas of public property that traditionally have been
19 held open to the public for expressive activities and are clearly within those areas of public property
20 that may be considered, generally without further inquiry, to be public forum property." *United States*
21 *v. Grace*, 461 U.S. 171, 179 (1983). Traditional examples of public fora include streets, parks, and
22 sidewalks—publicly owned spaces which, for 'time out of mind, have been used for purposes of
23 assembly, communicating thoughts between citizens, and discussing public questions.'" *Id.* at 1108
24 (quoting *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 45 (1983). The United States
25 Court of Appeals for the Ninth Circuit has expressly held that "[t]he sidewalks along the Las Vegas

1 Strip dedicated to public use are public fora.” *Santopietro v. Howell*, 73 F.4th 1016, 1024 (9th Cir.
2 2023); *Venetian Casino Resort, LLC v. Loc. Joint Exec. Bd. of Las Vegas*, 257 F.3d 937, 943–44 (9th
3 Cir. 2001).

4 As made clear by its designee, the County unequivocally considers the pedestrian bridges to
5 be part of the wider sidewalk system within the Corridor, which is consistent with those pathways
6 legal character. And as documented in the County’s pedestrian studies, Nevadans have openly
7 engaged in First Amendment activities on the pedestrian bridge sidewalks for years. There is no
8 genuine issue of material fact as to whether the sidewalks on the pedestrian bridges are traditional
9 public fora.

10 **2. Plaintiffs meet their burden.**

11 *a. CCC 16.13.030 implicates First Amendment activity.*

12 If an otherwise facially neutral restriction “regulates conduct that has an expressive element,”
13 that restriction is subject to First Amendment scrutiny. ECF No. 51, at 20:9 – 10 (citing *Arcara v.*
14 *Cloud Books, Inc.*, 478 U.S. 697, 703–04 (1986). And even if a restriction does not directly reference
15 protected conduct, it is still subject to First Amendment scrutiny if it “impose[s] a disproportionate
16 burden upon those engaging in protected First Amendment activities.” (*Id.*) In other words, if a
17 regulation targets conduct “integral, or commonly associated” with First Amendment activity, it
18 receives First Amendment scrutiny. *See Roulette v. City of Seattle*, 97 F.3d 300, 303 (9th Cir. 1996)
19 (determining whether an ordinance is subject to scrutiny by looking at whether the regulated conduct
20 is “integral, or commonly associated” with First Amendment activity). An indirect restriction may
21 also be subject to scrutiny if “it restricts access to the traditional public fora.” *McCullen*, 573 U.S. at
22 474. CCC 16.13.030 is subject to First Amendment scrutiny because it bans two activities that
23 implicate the First Amendment: stopping and standing on the pedestrian bridges and activities that
24 cause other people to stop and stand on the bridges. Additionally, CCC 16.13.030’s ban on
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1 encouraging people to stop also directly regulates conduct that has an expressive element since it bans
2 communication asking people to stop.

3 Stopping is integral to First Amendment activities. Many, if not most, street performers like
4 Mr. Summers and Mr. Polovina cannot play while moving; most performances are traditionally
5 carried out while standing or sitting, and it would be hard to imagine Mr. Polovina marching up-and-
6 down the bridge with cello in hand. Except for under unusual circumstances, performers using
7 amplified sound cannot play while dragging their speakers, no matter how small, after them. In turn,
8 people watching street performers like Mr. Summers and Mr. Polovina must stop to enjoy them.
9 Soliciting and other one-on-one communications such as signing petitions necessarily involve
10 stopping for conversation and possibly taking out a wallet or pen. And there is no way that anyone
11 could engage in all three activities simultaneously, like Mr. Summers and Mr. Polovina do, while
12 marching along. CCC 16.13.030 does not only “disproportionately impact” these activities, it
13 prevents them from occurring on the bridges at all.

14 Like stopping and standing, encouraging people to stop is integral to many protected
15 activities. “A fundamental principle of the First Amendment is that all persons have access to places
16 where they can speak and listen, and then, after reflection, speak and listen once more,” *Packingham*
17 *v. North Carolina*, 582 U.S. 98, 104 (2017) (cited by ECF No. 51 at 24:1–24:2). And as this Court
18 observed before, “[a]n ordinance that prohibits a speaker from encouraging passerby to stop and listen
19 or engage in a dialogue has real First Amendment implications.” ECF No. 51 at 24:2–24:4. In fact,
20 the County’s own proposed expert Dr. Sousa agrees that encouraging people to stop is integral to
21 street performing, panhandling, and soliciting, all activities protected under the First Amendment.

22 However, encouraging people to stop is not only integral to First Amendment activity but also
23 is itself protected by the First Amendment. Speech and other conduct is entitled to protection under
24 the First Amendment “when it is intended to convey a particularized message and the likelihood is
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1 great that the message would be so understood. *Porter v. Martinez*, 64 F.4th 1112, 1121 (9th Cir.
2 2023); *Hilton v. Hallmark Cards*, 599 F.3d 894, 904 (9th Cir. 2010). While encouraging someone
3 else to stop may take many forms – a salutation, a raised hand, a cardboard sign, a jingled tip jar –
4 such encouragement is a clear communication of the same, particularized message every time: please
5 stop. It is this message that is criminalized by CCC 16.13.030. As such, CCC 16.13.030 not only
6 targets conduct integral to First Amendment activity, it also targets conduct directly protected by the
7 Constitution as well.

8 *b. CCC 16.13.030 impacts a substantial amount of protected*
9 *activity in comparison to its legitimate scope.*

10 To make a facial challenge to a restriction, a plaintiff must establish that “a substantial number
11 of its applications are unconstitutional, judged in relation to the statute’s plainly legitimate sweep.”
12 *United States v. Stevens*, 559 U.S. 460, 473 (2010). In other words, there must be “a realistic danger
13 that the statute itself will significantly compromise recognized First Amendment protections of
14 parties not before the Court.” *Marquez-Reyes v. Garland*, 36 F.4th 1195, 1201 (9th Cir. 2022)
15 (quotation omitted). The overbreadth is determined from the text of the law and from actual fact. *N.Y.*
16 *State Club Ass’n v. City of New York*, 487 U.S. 1, 14 (1988) (cited by ECF No. 51 at 25:15–25:17).

17 “[T]he first step in overbreadth analysis is to construe the challenged statute; it is impossible
18 to determine whether a statute reaches too far without first knowing what the statute covers.” *Stevens*,
19 559 U.S. at 474. CCC 16.13.030’s plain language bans all stopping and standing on the pedestrian
20 bridges except for “waiting for access to an elevator or escalator for purposes of entering or exiting a
21 pedestrian flow zone” and any activity intending to cause other people to stop. Though it made
22 contrary representations in previous filings, *see, e.g.*, Clark County’s Motion to Dismiss, ECF No. 9
23 at 14:25 – 15:7 (stating that “incidental” stops are not prohibited under CCC 16.13.030), Clark
24 County’s position now is that ban applies to anyone intentionally stopping and standing for any
25

1 purpose, no matter how “incidental”, other than the exception expressly provided.

2 As discussed above, this ban *de facto* prohibits a substantial amount of First Amendment
3 activity. Stopping is integral to both protected activities that draw crowds like street performing or
4 protesting to more intimate communication such as soliciting, panhandling, or gathering petitions.
5 And since the intent behind these activities is to encourage people to stop and engage, they are
6 necessarily banned by CCC 16.13.030’s prohibition on activities intending to cause other people to
7 stop on the bridges.

8 Turning from the text to “actual fact”, the County commissioned four pedestrian traffic studies
9 from Kimley Horn that tracked people stopping on the bridges in 2012, 2015, 2016, and 2022.
10 According to the County, there is no other systemic data available related to people stopping on the
11 bridges besides what is contained in these studies. (Ex. 1, Yazdani 30(b)(6) Deposition at 104:2–
12 104:11.) The studies documented hundreds of instances where people stopped on the bridges to
13 engage in First Amendment activity, and there is no data about anyone else stopping on the bridges
14 for any other purpose. In other words, according to the data available, CCC 16.13.030 not only banned
15 a substantial amount of First Amendment activity, it *only* banned First Amendment activity.

16 In addition to the pedestrian studies, records from LVMPD establish that CCC 16.13.030 has
17 had an impact on First Amendment activity. People have openly arrested or cited under CCC
18 16.13.030 for playing music, soliciting, and protesting on the pedestrian bridges.

19 The scope of CCC 16.13.030’s stopping ban and the data available related to people stopping
20 on the bridges prior to CCC 16.13.030’s passage are undisputable. CCC 16.13.030 restricts a
21 substantial amount of First Amendment activity in relation to its legitimate scope.

22 **3. The County cannot meet its burden.**

23 Again, for an interest to be “legitimate”, the government must “demonstrate that the recited
24 harms are real, not merely conjectural, and that the regulation will in fact alleviate these harms in a
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1 direct and material way.” *Porter*, 68 F.4th at 443.

2 For a restriction to be narrowly tailored to a significant government interest, the restriction
3 must not “burden substantially more speech than is necessary to further the government’s legitimate
4 interests.” *McCullen*, 573 U.S. at 486. While a restriction need not be the least restrictive or least
5 intrusive means of serving the government’s interests, “the government must [still] demonstrate that
6 alternative measures that burden substantially less speech would fail to achieve the government’s
7 interests, not simply that the chosen route is easier.” *Id.*, at 467.

8 CCC 16.13.030 restrictions stopping and encouraging other people to stop are not narrowly
9 tailored. First, the County has no evidence that the harms that CCC 16.13.030 are meant to prevent,
10 *i.e.*, crowding and threats to public safety, are more than speculative. Second, the County has no
11 evidence that CCC 16.13.030’s ban on stopping and standing solves these harms because the County
12 has no evidence that stopping or standing causes any harm at all on the bridges. Finally, the County
13 has no evidence that obvious alternatives that burden substantially less speech, including the
14 preexisting obstruction ordinance, time-based restrictions, bridge-based restrictions, or even a straight
15 exemption for First Amendment activity would be inadequate to address County’s cited harms.

16
17 a) *The County has no evidence that stopping or standing causes any harm on bridges.*

18 The harm the County seeks to remedy is “disorder.” This is reflected in CCC 16.13.010, which
19 states that the County has banned all stopping and all activities encouraging people to stop on the
20 pedestrian bridges because “stopping on the bridges creates conditions that can foment disorder
21 which, in turn, can lead to crime and other serious safety issues.”

22 The alleged existence of a problem with “disorder” rests entirely on Dr. Sousa’s report
23 submitted to the County during the proceedings and his related testimony. Even assuming that Dr.
24
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1 Sousa’s testimony is admissible,³ it does not establish that the County has any legitimate interest in
2 regulating undifferentiated “disorder.” While it is the County’s purported reason for passing CCC
3 16.13.030, “disorder” is vague and ill-defined, if defined at all. “Disorder” is not based on any
4 objective standard and is so vague as to render it meaningless. (*See* Ex. 3, Frierson 30(b)(6)
5 Deposition at 181:27–182:1, 189:16–189:17, 194:20–194:22, 196:14–196:18, 197:19–197:25,
6 209:15–209:17 (providing wide ranging descriptions of what constitutes disorder, including
7 “incivilities”, “things that solicit fear”, and “aggressive anything”).

8 While the term is vague, it is clear that “disorder” encompasses First Amendment activity
9 such as street performing, soliciting, and panhandling. But stopping street performers and the other
10 First Amendment activity Dr. Sousa indicates as part of his “disorder” is of course an impermissible
11 aim.

12 As for the other harms purportedly encompassed in “disorder” such as crime, potential crowd
13 crush, emergency personnel access, and pedestrian congestion, they are conjectural and speculative.
14 The County does not have any evidence that the pedestrian bridges suffered from any of these harms
15 in any significant way, let alone more than any other sidewalk prior to passing CCC 16.13.030. The
16 County has no evidence regarding crime on the pedestrian bridges. As for pedestrian congestion, Dr.
17 Sousa admits he did not review any data related to crowd density on the bridges nor does he have any
18 evidence that congestion is an issue.

19 To the extent the County believes that its pedestrian studies indicate that the bridges suffered
20 from congestion, the LOS calculations in the pedestrian studies and the conclusions drawn from those
21 calculations are inadmissible; not only is it outside the record the County is confined to, the Kimley
22 Horn studies constitute expert witness testimony “based on scientific, technical, or specialized
23

24 ³ Plaintiffs intend to file a motion to exclude Dr. Sousa’s testimony pursuant to Fed. R. Evid. 701.
25

1 knowledge.” Fed. R. Evid. 701 (prohibiting lay witnesses from offering opinions based on scientific,
2 technical, or other specialized knowledge within the scope of Rule 702). The County noticed only
3 Dr. Sousa as an expert, and he does not know what LOS is.

4 Even if the LOS calculations in the pedestrian traffic studies are admissible, the pedestrian
5 studies do not reflect that the LOS is a particular problem to all pedestrian bridges but rather that it is
6 only problem on some bridges at particular times of day. The studies only documented LOS dropping
7 below an acceptable level at any point on three out of the seventeen bridges in the Resort Corridor.
8 According to the County, LOS is acceptable at A, B, or C levels, which the pedestrian studies
9 recommend as well. In multiple pedestrian studies, researchers identified both when and where LOS
10 degraded below level C during their observation period. In the most recent pedestrian study from
11 2022, researchers identified many instances where street level sidewalks dropped below level C, with
12 some disruptions lasting as long as 8 hours and LOS dropping as low as level F. By comparison,
13 researchers only identified three pedestrian bridges that dropped below LOS C at any time, and only
14 one bridge saw LOS drop below C for longer than 15 minutes. At no point did the levels drop lower
15 than D on any of the bridges.

16 Moreover, the County also has no admissible data indicating that pedestrian congestion is a
17 particular problem on the pedestrian bridges, especially compared to street-level sidewalks. The
18 studies in fact show that not only is congestion only an issue on some bridges at some times of day
19 but also that it is an issue on some bridges *along with some sidewalks*.

20 No crowd crush incident has ever occurred on the pedestrian bridges, and the County has no
21 evidence that crowd density on the bridges ever reached levels where crowd crush could have
22 occurred. Likewise, the County is unaware of any time where emergency personnel could not access
23 the pedestrian bridges.

24 While Plaintiffs recognize that public safety is generally a legitimate interest, as the above
25

1 reflects, the County has not met its burden of showing that there are non-conjectural harms such as
2 more arrests or citations on the pedestrian bridges than the rest of the sidewalk system, or other
3 problems it refers to within the vague term “disorder”.

4
5 *b) The County has no evidence that banning stopping and standing
fits its alleged harms*

6 For CCC 16.13.030’s ban to be constitutional, the County must not only show that the harms
7 it seeks to remedy are not merely conjectural (a burden it cannot meet) but also that banning stopping
8 and standing will relieve these harms in a direct and material way. As this Court previously explained,
9 even if the harms the County points to are real,

10 ... the court’s “inquiry does not end there, because when the
11 government seeks to regulate expression, even incidentally, to address
12 anticipated harms, it must ‘demonstrate that the recited harms are real,
13 not merely conjectural, and that the regulation will in fact alleviate
14 these harms in a direct and material way.’” Courts “may not simply
assume that the ordinance will always advance the asserted state
interests sufficiently to justify its abridgement of expressive activity”
rather, they “must be persuaded that the law actually furthers the
[government’s] asserted interest.”

15
16 ECF No. 51 at 30:8–31:3. Here, the County has no evidence that stopping or standing on the
17 pedestrian bridges causes “disorder”, crime, “serious safety issues”, or any other harm. The County’s
18 claim that stopping is linked to disorder rests entirely on Dr. Sousa’s report and testimony. But Dr.
19 Sousa never had any evidence that stopping or standing on the pedestrian bridges causes disorder or
20 any other harm. (Ex. 18, Sousa Deposition at 195:15–196:14.) To the extent the County claims that
21 the Kimley Horn’s calculations shows that people stopping on the bridges causes congestion, this
22 analysis is inadmissible as it is expert witness testimony “based on scientific, technical, or specialized
23 knowledge.” Fed. R. Evid. 701 (prohibiting lay witnesses from offering opinions based on scientific,
24 technical, or other specialized knowledge within the scope of Fed. R. Evid. 702). Again, the County
25

1 has only noticed Dr. Sousa as an expert, and he does not know what LOS is. (Ex. 18, Sousa Deposition
2 at 103:12–24.)

3
4 c) The County failed to establish reasonable, less burdensome
alternatives were unavailable.

5 “To meet the requirement of narrow tailoring, the government must demonstrate that
6 alternative measures that burden substantially less speech would fail to achieve the government’s
7 interests, not simply that the chosen route is easier.” *McCullen*, 573 U.S. at 495 (2014). The
8 government cannot just claim that an alternative measure would be inadequate, it must offer some
9 evidence to support its contention. *See id.*, 573 U.S. at 494 (“In short, the Commonwealth has not
10 shown that it seriously undertook to address the problem with less intrusive tools readily available to
11 it.”). CCC 16.13.030 banned all stopping and all activities encouraging people to stop all the time on
12 all pedestrian bridges within the Resort Corridor. There are obvious, less burdensome alternative
13 measures that the County had its disposal to address the harms it believed were occurring on the
14 bridges, and the County cannot show that these measures would have been inadequate.

15 First, the County had anti-obstruction ordinances already on the books. *See* CCC 16.11.040
16 (banning obstructions on public sidewalks). The County appears to rely on Dr. Sousa’s report to
17 claim that these ordinances were inadequate to address its concerns related to the bridges, but Dr.
18 Sousa admits he had no evidence to support his claim that these ordinances were inadequate. (Ex. 18,
19 Sousa Deposition at 234:17–235:8.)

20 Second, the County could have imposed time-based or bridge-specific restrictions rather than
21 bans imposed all the time on every bridge. According to the most recent data available from the 2022
22 Pedestrian Study related to pedestrian traffic, congestion, and people stopping on the pedestrian
23 bridges in the Resort Corridor, high levels of congestion only occur on three bridges over limited
24 periods of time. And while it does not do so on the pedestrian bridges, the County actually implements
25

1 time-based restrictions on portions of the grade-level sidewalks in the Resort Corridor. (Ex. 1,
2 Yazdani 30(b)(6) Deposition at 187:10–189:7). The County has no data that a stopping ban in effect
3 during specific times or on specific bridges would have been ineffective in addressing its concerns.
4 (Ex. 3, Frierson 30(b)(6) Deposition at 241:6–13 (no data on bridge-specific restrictions), 244:16–
5 245:8 (only information on time-based restrictions from Metro presentation); *see* Ex. 19, Walsh
6 Deposition at 131:7–19 (the County never asked LVMPD about the effect of time- or bridge- based
7 restrictions)).

8 Finally, the County could have carved out an exception for First Amendment activities as it
9 has done in other ordinances. *See* CCC 16.11.020(e)(1) (only considering certain activities
10 obstructive if they are not otherwise protected by the First Amendment). The County has no evidence
11 that it could have achieved the goals of CCC 16.13.030 while exempting First Amendment activities
12 from the prohibition on stopping or encouraging other people to stop. (Ex. 3, Frierson 30(b)(6)
13 Deposition at 152:4–154:3.)

14 **B. Plaintiffs are also entitled to summary judgment on their as-applied challenge.**

15 Under the First Amendment plaintiffs may pair facial challenges with as-applied challenges.
16 *Real v. City of Long Beach*, 852 F.3d 929, 933 (9th Cir. 2017). To succeed with an as-applied
17 challenge, a plaintiff must only show that the government unconstitutionally regulates their own
18 speech. *Italian Colors Rest. v. Becerra*, 878 F.3d 1165, 1175 (9th Cir. 2018). As applied to Plaintiffs
19 Summers and Polovina, CCC 16.13.030 obviously impacts their First Amendment activities.
20 Summers has always played his violin standing still, as is typical for violinists, and Polovina cannot
21 move and play his cello at the same time. Both use small amplifiers while playing that neither
22 performer can use while moving. Both solicit with signs asking people for tips, and it is not practical
23 for either to solicit, perform, and move at the same time. As for the prohibition on encouragement,
24 Summers and Polovina play to attract an audience – they want people to listen to their music – and
25

1 for people passing by to stop to drop money into their tip jars. They are deterred from their First
2 Amendment activities for fear of prosecution under the ordinance.

3 As discussed above, the County cannot show that CCC 16.13.030 has been narrowly tailored.
4 The County has no evidence that stopping or standing causes any harm on the pedestrian bridges or
5 that the harms it passed CCC 16.13.030 to address are more than speculative. The County also failed
6 to consider many reasonable, less burdensome alternatives that would have allowed Plaintiffs
7 Summers and Polovina to continue performing on the bridges: exempting First Amendment activities
8 from the no stopping ban, enforcing the preexisting anti-obstruction ordinances, or passing time- or
9 bridge-based restrictions rather than a blanket ban on all bridges at all times.

10 **C. Plaintiffs are entitled to summary judgment for their First and Second Causes**
11 **of Action pursuant to the Fourteenth Amendment and Article 1, Section 8 of the**
12 **Nevada Constitution.**

13 The Fourteenth Amendment to the United States Constitution states that “No State shall [. . .]
14 deprive any person of life, liberty, or property, without due process of law.” U.S. Const. Amend. XIV.
15 Article 1, Section 8(2) of the Nevada Constitution similarly states, “No person shall be deprived of
16 life, liberty, or property, without due process of law.” Nev. Const. art. 1, § 8(2). Nevada’s due process
17 clause is coextensive with the due process clause found in the United States Constitution. *Hernandez*
18 *v. Bennett-Haron*, 128 Nev. 580, 587, 287 P.3d 305, 310 (2012) (“[T]he similarities between the due
19 process clauses contained in the United States and Nevada Constitutions permit us to look to federal
20 precedent for guidance.”).

21 “The fundamental rationale underlying the vagueness doctrine is that due process requires a
22 statute to give adequate notice of its scope.” *Botosan v. Paul McNally Realty*, 216 F.3d 827, 836 (9th
23 Cir. 2000) (citing *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972)). “A statute is vague not
24 when it prohibits conduct according ‘to an imprecise but comprehensible normative standard, but
25 rather in the sense that no standard of conduct is specified at all.’” *Id.* (quoting *Coates v. City of*

1 *Cincinnati*, 402 U.S. 611, 614 (1971)). “[V]agueness concerns are more acute when a law implicates
2 First Amendment rights, and, therefore, vagueness scrutiny is more stringent.” *Butcher v. Knudson*,
3 38 F.4th 1163, 1169 (9th Cir. 2022) (citing *Cal. Teachers Ass’n v. State Bd. of Educ.*, 271 F.3d 1141,
4 1150 (9th Cir. 2001)). A criminal regulation is unconstitutionally vague if the regulation “fails to
5 provide a person of ordinary intelligence fair notice of what is prohibited” or is “so standardless that
6 it authorizes or encourages seriously discriminatory enforcement.” *Id.* (quoting *FCC v. Fox*
7 *Television Stations, Inc.*, 567 U.S. 239, 254 (2012)). If the regulation fails to satisfy either standard,
8 it is unconstitutional. *Id.*

9 As discussed above, Plaintiffs have established their initial burden to show that CCC
10 16.13.030 encompasses a substantial amount of constitutionally protected activity in relation to its
11 legitimate scope. According to its plain text, its ban on stopping *de facto* prohibits any protected that
12 activity that requires someone to stop such as playing instruments, using amplified sound, or engaging
13 in one-on-one conversation, and its ban on encouraging other people to stop effectively prohibits any
14 First Amendment that either intends to draw an audience or encourages people to stop to engage with
15 a message such as solicitation or vending. The County’s own studies show that these concerns are
16 not theoretical; according to the County’s available pedestrian traffic data, the people who stopped
17 on a bridge did so to engage in protected activity.

18 Turning to the vagueness standard, CCC 16.13.030 is so standardless that it authorizes or
19 encourages seriously discriminatory enforcement. Thus it no surprise that LVMPD openly admits
20 that it engages in discriminatory enforcement, ignoring whole categories of people who stop for
21 “incidental viewing purposes” on the bridges as a matter of policy while continuing to enforce the
22 ordinance against people who engage street performing, soliciting, and other activities protected by
23 the First Amendment. According to LVMPD, it does not base its “incidental stop” policy on how
24 long someone stops but rather what people are doing, *per se* exempting people stopping to take
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1 photographs or to take in a view of the Strip from CCC 16.13.030’s prohibition. (Ex. 19, Walsh
2 Deposition at 37:16–37:19, 37:20–38:13, 50:3–51:5.)

3 LVMPD is a separate government entity from the County, but its discriminatory enforcement
4 is a function of the County’s language in CCC 16.13.010 and the County’s representations when
5 CCC 16.13 was passed. The County also issued guidance through its official social media account
6 that aligns with LVMPD’s discriminatory policy. (Ex. 2.) As the County encourages and authorizes
7 LVMPD to discriminate in enforcing the bans imposed on the pedestrian bridges, CCC 16.13.030 is
8 unconstitutionally vague.

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1 **V. CONCLUSION**

2 Plaintiffs have satisfied their burden and Defendants cannot meet their burdens. Thus,
3 Plaintiffs are entitled to summary judgment for their First Amendment, Fourteenth Amendment, and
4 related Nevada state constitutional law claims. CCC 16.13.030 impacts a significant amount of
5 activity protected by the First Amendment in relation to its legitimate sweep. In turn, the County
6 cannot show that the restriction imposed is narrowly tailored, rendering the provision unconstitutional
7 under the First Amendment. The ordinance is also unconstitutional as applied to Plaintiffs.
8 Furthermore, that CCC 16.13.030 allows for discriminatory enforcement restricting activity protected
9 by the First Amendment while giving other, unprotected activities carte blanche renders it violative
10 of the Fourteenth Amendment. As such, Plaintiffs request that this Court grant summary judgment in
11 their favor.

12
13 Dated: December 18, 2025

14 /s/ Christopher Peterson
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