

# CLARK COUNTY BOARD OF COMMISSIONERS

## AGENDA ITEM

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**Petitioner:** Denis Cederburg, Director of Public Works

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**Recommendation:**

**Approve and authorize the Chair to sign a Settlement Agreement and Mutual Release between Clark County and Ames Construction, Inc. (“Ames”) (Raymond G. Ames, President/Chief Executive) for a negotiated settlement in the lawsuit, Ames Construction, Inc. v. Clark County, Case No. 2:18-cv-00299-JCM-EJY, relating to the construction of a portion of the Las Vegas Wash from Nellis Boulevard to Stewart Avenue, including a pedestrian bridge and walking trail (Bid No. 603740-15). (For possible action)**

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**FISCAL IMPACT:**

Fund #:	4990.992	Fund Name:	Public Works Regional Improvements/RFCD
Fund Center:	1260110001	Funded PGM/Grant:	PW.FCLA15E
Amount:	\$6,011,006.51		
Description:	Settlement of lawsuit relating to Las Vegas Wash - Nellis to Stewart and (Pedestrian Bridge & Trail) City of Las Vegas Trail and Bridge		
Additional Comments:	The settlement amount includes contract retention in the amount of \$511,006.51, which is held by the County under the Project contract.		

**BACKGROUND:**

On or about September 22, 2015, the County and Ames entered into a public works contract for the Las Vegas Wash between Nellis Boulevard and Stewart Avenue, Pedestrian Bridge & Trail Project (Bid No. 603740-15) ("Project"). Disputes between the County and Ames arose as a result of multiple flood events that occurred during construction. Ames alleges that the bid documents failed to notify and misled bidders regarding flood risks, and the County contends that bid documents placed bidders on notice of flood risks. Ames filed suit against the County on February 16, 2018, in United States District Court for the District of Nevada, claiming approximately \$18,456,782 in damages and unpaid retention in the amount of \$511,006.51. The County counterclaimed seeking \$324,000 in liquidated damages for delay.

This agreement would settle the disputes between the County and Ames relating to the Project. The County would pay Ames \$6,011,006.51 (inclusive of contract retention held by the County) in exchange for the irrevocable and unconditional release and discharge of all claims between the parties. Each party is responsible for its own costs and attorney fees.

This settlement eliminates the risk of potentially greater liability to the County for Ames' costs and fees that could result from a trial.

The District Attorney's Office has reviewed and approved the settlement agreement.

Cleared for Agenda

**05/04/2021**

File ID#

**21-622**