



**Pat Moeller**

Mayor

**Carla Fiehrer** Vice Mayor

**Matthew Von Stein** Council Member

**Kathleen Klink** Council Member

**Rob Wile** Council Member

**Robert Brown** Council Member

**Timothy Naab** Council Member

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**Call to Order**

**Offering of Prayer** – Council Member Timothy Naab

**Pledge of Allegiance**

**Special Presentations by City Council or the City Manager/ Proclamations/ Verbal Reports**

1. Home and Garden Awards presented by Ann Coombs
2. Operation Pumpkin Recognition
3. Young Marines Proclamation

**Audience of Citizens**

Individuals who wish to make comments regarding items scheduled on the Agenda may speak during this part of the agenda or may reserve the right to speak specifically when that item is up for a vote on Council floor. Individuals who wish to speak regarding items not specifically scheduled may by do so at this time. All individuals who intend to address City Council are required to sign in at the table in the back of the room. Each speaker is allowed 5 minutes.

**Consent Agenda**

The Consent Agenda is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Agenda. Anyone may request an item on this calendar to be "pulled" off the Consent Agenda and considered separately. Agenda items pulled from the Consent Agenda will be considered separately under Pulled Consent Items.

- Approval of Minutes
- All Staff Reports
- Receive and File
- Committee of the Whole Report (Includes all Caucus Reports)
- Informational Report – Regarding the September 2016 Financial Report
- Informational Report – Regarding the September 2016 Investment Report

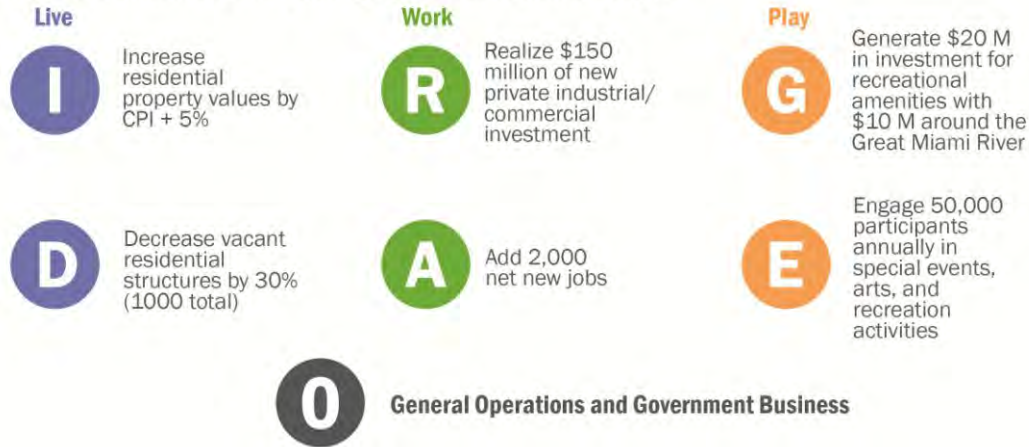
**Caucus Agenda October 26, 2016**

1. [Recommendation Relative to the Application for a Liquor Permit Transfer from Lobill Foods LLC to Marsh Supermarkets LLC dba Marsh Supermarket 338, 1500 Plaza Dr., Hamilton, Ohio 45013.](#)
2. [Recommendation Relative to the Issuance of a New Liquor Permit for Arada Properties & Investments LLC dba Dream, 2536 Dixie Hwy., Unit R, Hamilton, OH 45015.](#)





**These icons illustrate which strategic goals Council Actions align to**



**Council Actions Pertaining to Legislative Items:**

**Pending Legislation:**











4. [An ordinance amending Zoning Ordinance No. 7503 by changing the zoning of the property located at 759 Park Avenue \(City Lot No. 6531\), located in the City of Hamilton, First Ward North Side, from R-1 Single Family Residential District to R-2A Two Family Residence District. \(Laming Properties, Applicant/Owner\). \(Second Reading\).](#) ①
5. [An ordinance amending and supplementing Schedule “A” of the City’s Classification and Compensation Plan, as set forth in Emergency Ordinance No. EOR2016-1-4, adopted January 13, 2016, and as amended from time to time, relative to the new classification of Customer Service Superintendent. \(Second Reading\).](#) ①
6. [An ordinance authorizing and ratifying the purchase of 21 South C Street, Hamilton, OH 45013. \(Vintage Homes of Ohio, LTD, Owner\). \(Second Reading\).](#) ① ②

**New Legislation:**

7. [An ordinance amending subparagraphs \(a-e\) and \(i\) of Section 1733.01 of the Codified Ordinances of the City of Hamilton, Ohio, relative to license fees for certain food establishments and food service operations, and tattoo and body piercing services, and repealing said existing subparagraphs \(a-e\) and \(i\) thereof. \(First Reading\).](#) ①
8. [An ordinance amending and supplementing Schedule “A” of the City’s Classification and Compensation Plan, as set forth in Emergency Ordinance No. EOR2016-1-4, adopted January 13, 2016, to add the new classifications of Assistant Law Director – Labor and Employment Counsel and Human Resources Generalist. \(First Reading\).](#) ①
9. [An Emergency Ordinance amending and supplementing the Codified Ordinances of the City of Hamilton, Ohio by adding thereto new Subparagraph 931.031\(d\), relative to sanitary sewer lateral basement check valve installation financial assistance. \(Two Readings\).](#) ①





10. [A resolution authorizing and directing the City Manager to execute an Intergovernmental Agreement for the sale of road salt to the Hamilton City School District for the 2016-2017 Winter Season.](#) 
11. [A final resolution confirming cooperation of the City of Hamilton, Ohio, as the designated Local Public Agency \(LPA\), with the Ohio Department of Transportation \(ODOT\) relative to the rehabilitation of Bridge BUT-128-0856 \(Columbia Bridge over The Great Miami River\) and Bridge BUT-129-14.78 \(Witt Way over SR129\) \(ODOT PID No.21758\).](#) 
12. [A resolution accepting the recommendations of the continuation of current Tax Increment Financing Agreements, Enterprise Zone Agreements, and Community Investment Area Agreements with one modification, as heretofore granted by the City of Hamilton, Ohio to various organizations doing business in the City.](#)   
13. [A resolution authorizing the amendment of a Job Creation and Tax Credit Agreement with Valeo Climate Control Corp. specifying the conditions of a nonrefundable credit against on income earned by said company.](#)  
14. [A resolution approving the terms and conditions of a successor collective bargaining agreement negotiated between the City of Hamilton, Ohio and The Office and Professional Employees International Union \(OPEIU\), Local 98 authorizing and directing the execution of said collective bargaining agreement.](#) 
15. [A resolution authorizing and directing the City Manager to execute the Final Claim Resolution Agreement and Release between the City of Hamilton, Ohio and S.J. Louis Construction, Inc. for the City's Interceptor Project, Contract Number 13-02.](#) 
16. [A resolution for the issuance and authorization to file Conclusions of Fact denying a Conditional Use application to allow for an automobile sales facility on the property zoned B-2 Community Business District located at 2128 & 2204 Dixie Highway, Hamilton, Ohio.](#) 

**Audience of the City Manager**

**Audience of City Council**

**Executive Session**

**Adjournment**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Michael R. Perry, Director of Project Implementation

**Agenda Item:** SJL Final Claim Resolution Agreement

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>R</b> Realize new investments <input type="checkbox"/> <b>A</b> Add new jobs <input type="checkbox"/> <b>I</b> Increase property values <input type="checkbox"/> <b>D</b> Decrease vacant structures <input type="checkbox"/> <b>G</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Resolution</i></p>	<p>1<sup>st</sup> Reading Date: 10/26/16            2<sup>nd</sup> Reading Date:            Public Hearing Date:</p>	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b></p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$14,023,082            Expenditure: \$13,912,060            Source Funds: Wastewater Construction Fund</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation approving the final Claim Resolution Agreement and Release to close-out the contract with **S.J. Louis Construction, Inc.** for the City’s Interceptor Project, Contract #13-02, and authorizing the City Manager to execute said Agreement?

**Policy Alternative(s)**

If City Council does not adopt legislation approving the Claim Resolution Agreement and Release, the City may choose to litigate this claim.

**Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation to approve the final Claim Resolution Agreement and Release and to close-out the contract for **S.J. Louis Construction, Inc.** for City’s Interceptor Project, Contract #13-02, and authorize the City Manager to execute said Agreement.



## Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

## Fiscal Impact Summary

The proposed final Claim Resolution Agreement and Release amount is less than the total S.J. Louis Construction, Inc., contract price. As explained below, the City will receive a deduct from S.J. Louis from the contracted amount of approximately \$111,021

## Background Information

As a result of the competitive bidding process, the City's Interceptor Project, Contract #13-02, was awarded to S.J. Louis Construction, Inc. in or about March 2013 in the amount of \$11,864,600, including a contingency of \$1,000,000. The second lowest bidder was Smith Contractors, Inc. in the amount of \$16,936,530, with a contingency of \$1,000,000.

During the Project, S.J. Louis submitted a number of claims to the City, which S.J. Louis described as differing or unforeseen site conditions. Initially, the City resolved various claims submitted by S.J. Louis in Change Order No. 1 in October 2014. Change Order No. 1, increased the Contract Sum of \$11,864,600 by approximately \$3,154,709 to \$15,019,309. The remaining portion of the contingency in the amount of \$996,227 was deducted. The net revised Contract Sum was therefore increased to \$14,023,082. The unpaid portion of the Contract Sum is approximately \$3,636,021.71

Subsequent to Change Order No. 1, S.J. Louis submitted additional claims on the Project. The City also asserted claims against S.J. Louis in relation to liquidated damages, costs to repair the hill slide between MH 12 and MH 13, and other costs incurred by the City as a result of the work performed by S.J. Louis.

City Administration and S.J. Louis attempted to resolve the various claims through mediation. During the mediation process, S.J. Louis agreed to accept final payment from the City in the amount of \$3,525,000 to close-out the Project. Accordingly, S.J. Louis' final contract amount will be \$13,912,060.29. This is a net deduct in the amount of approximately \$111,021 from S.J. Louis's contract with the City.

## Attached Information

N/A

## Copies Provided to:

City of Hamilton Public Utilities Commission



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE THE FINAL CLAIM RESOLUTION AGREEMENT AND RELEASE BETWEEN THE CITY OF HAMILTON, OHIO AND S.J. LOUIS CONSTRUCTION, INC. FOR THE CITY'S INTERCEPTOR PROJECT, CONTRACT NUMBER 13-02.**

WHEREAS, the Administration of the City of Hamilton, Ohio has been in discussion with S.J. Louis Construction, Inc. regarding a settlement of the contract for work performed for the City's Interceptor Project; and

WHEREAS, as a result of the competitive bidding process, the City's Interceptor Project, Contract #13-02, was awarded to S.J. Louis Construction, Inc. in or about March 2013 in the amount of \$11,864,600.00, including a contingency of \$1,000,000.00. The second lowest bidder was Smith Contractors, Inc. in the amount of \$16,936,530.00, including a contingency of \$1,000,000.00; and

WHEREAS, during the Project, S.J. Louis Construction, Inc. submitted a number of claims to the City, which S.J. Louis Construction, Inc. described as differing or unforeseen site conditions. Initially, the City resolved various claims submitted by S.J. Louis Construction, Inc. in Change Order Number No.1 in October 2014. Change Order No.1, increased the contract sum of \$11,864,600.00 by approximately \$3,154,709.00 to \$15,019,309.00. The remaining portion of the contingency in the amount of \$996,227.00 was deducted. The net revised Contract Sum was therefore increased to \$14,023,082.00. The unpaid portion of the contract sum is approximately \$3,636,021.71; and

WHEREAS, subsequent to Change Order No.1, S.J. Louis Construction, Inc. submitted additional claims on the Project. The City also asserted claims against S.J. Louis Construction, Inc. in relation to liquidated damages, costs to repair the hill slide between MH 12 and MH 13, and other costs incurred by the City as a result of the work performed by S.J. Louis Construction, Inc.; and

WHEREAS, City Administration and S.J. Louis Construction, Inc. participated in mediation in an attempt to resolve the various claims brought forth. During the mediation process, S.J. Louis Construction, Inc. agreed to accept final payment from the City in the amount of \$3,525,000.00 to close-out of the Project. Accordingly, S.J. Louis Construction, Inc. will have a final contract amount \$13,912,060.29. This is a net deduct in the amount of approximately \$111,021.00 from the S.J. Louis Construction, Inc. contract with the City; and

WHEREAS, this Council desires to authorize and direct the City Manager to execute the Final Claim Resolution Agreement and Release between the City of Hamilton, Ohio and S.J. Louis Construction, Inc. for said purposes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hamilton, Ohio:

SECTION I: That the City Manager is hereby authorized and directed to execute the Final Claim Resolution Agreement and Release relative to the City's Interceptor Project, Contract Number 13-02 and take the necessary steps to fulfill the City's obligations under the agreement and release. Said agreement shall be and read substantially in the form of Exhibit No. 1, attached hereto, made a part hereof and incorporated herein by reference.

SECTION II: This resolution shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

Resolution No. \_\_\_\_\_ (cont'd)

**CERTIFICATE**

I, Nick Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Resolution No. \_\_\_\_\_ was duly published as provided in Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in each fire station within the City for a period of ten days. POSTED: \_\_\_\_\_

\_\_\_\_\_  
**Nick Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**