



CITY OF ONEIDA
MEETING OF THE COMMON COUNCIL
109 N. MAIN ST., ONEIDA, NY 13421

AGENDA

Date:	February 7, 2023	Presiding:	Helen B. Acker, Mayor
Time:	6:30 p.m.	Clerk:	Sandy LaPera, City Clerk
Location:	Common Council Chambers	Meeting Type:	Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

PUBLIC COMMENT: Limited to 3 minutes

OLD BUSINESS:

Approval of the Minutes: January 17, 2023

Approval of Warrant: 3

Item	Title	Facilitator
1.	FINAL ASSESSMENT ROLL: receive and place on file the Final Assessment Roll for the 2022 Sidewalk Replacement Program and schedule a Public Hearing for Tuesday, February 21, 2023, at 6:30 p.m. in Common Council Chambers, 109 N. Main Street, Oneida	ROWE
2.	MADISON COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN: approve the 2022 Madison County Multi-Jurisdictional Hazard Mitigation Plan	MAYOR
3.	BOND RESOLUTION: authorize the purchase of a 2024 Freightliner Plow Truck, in and for the City of Oneida, Madison County, NY, at a maximum estimated cost of \$319,832 and authorizing the issuance of not exceeding \$319,832 bonds of said City for the cost thereof. This represents an increase to Resolution 22-52 (Bonding-2023 Freightliner Plow Truck) approved on March 15, 2022, for \$307,602	WELLS
4.	CAPITAL PROJECT 22-5: approve an increase of \$12,230 to Capital Project 22-5 (Freightliner Plow Truck) to a maximum not to exceed \$319,832 due to material surcharges since the original approval on March 15, 2022, for \$307,602 (Resolution 22-52)	WELLS/ROWE
5.	BUDGET TRANSFERS/AMENDMENTS: approve the budget transfers and amendments as outlined by the Comptroller	WELLS

NEW BUSINESS

**MINUTES OF THE COMMON COUNCIL
REGULAR MEETING
FEBRUARY 7, 2023**

A meeting of the Common Council of the City of Oneida, NY was held on the seventh day of February 2023 at 6:30 pm at the City of Oneida Common Council Chambers, 109 N. Main Street, Oneida NY 13421.

The meeting was called to order by Mayor Helen Acker

<u>Attendees</u>	Present	Absent	Arrived Late
Mayor Acker	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Szczerba	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Laureti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Rossi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Kinville	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Pagano	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Simchik	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

Also Present

City Attorney Nadine Bell	<input type="checkbox"/>	Fire Chief Dennis Fields	<input type="checkbox"/>
City Clerk Sandy LaPera	<input type="checkbox"/>	Police Chief John Little	<input type="checkbox"/>
City Engineer Jeff Rowe	<input type="checkbox"/>	Public Safety Com. Kevin Salerno	<input type="checkbox"/>
Codes Director Bob Burnett	<input type="checkbox"/>	Other _____	<input type="checkbox"/>
Comptroller Lee Ann Wells	<input type="checkbox"/>	Other _____	<input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

PUBLIC COMMENT:

OLD BUSINESS:

APPROVAL OF MINUTES

Moved by Councilor
Seconded by Councilor

RESOLVED, that the minutes of the regular meeting of January 17, 2023, are hereby approved as presented.

Ayes:

Nays:

MOTION CARRIED

APPROVAL OF WARRANT

Moved by Councilor
Seconded by Councilor

RESOLVED, that Warrant No. 3, checks and ACH payments in the amount of \$4,782,213.59 as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes:

Nays:

Absent: 1 (Kinville)

MOTION CARRIED

WARRANT	3
DATE:	February 7, 2023

FUND		PAYMENT NUMBER (S)	AMOUNT
Capital	4786		\$ 722,682.22
Library Fund	025	1010	\$ 40,802.31
Fund	027		
ARPA Fund	030		\$ -
Current Funds		71223-71350	\$ 3,975,181.23
ACH			\$ 43,547.83

WARRANT #1 TOTAL	\$ 4,782,213.59
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1. FINAL ASSESSMENT ROLL FOR 2022 SIDEWALK REPLACEMENT PROGRAM

RESOLUTION 23-

Moved by Councilor
Seconded by Councilor

RESOLVED, that the final Assessment Roll for the 2022 Sidewalk Replacement Program, is hereby received and placed on file; **and be it further**

RESOLVED, that the Public Hearing regarding said Assessment Roll will be held on Tuesday, February 21, 2023, at 6:30 p.m. in the Common Council Chambers at 109 N. Main Street, Oneida, NY 13421.

Ayes:

Nays:

Absent: 1 (Kinville)

MOTION CARRIED

ASSESSMENT ROLL-SIDEWALK REPLACEMENT PROGRAM

SBL	Address Number	Street Name	Covered under tree upheaval	Total Number of Flags to Replace	Flags covered under 50/50 program	Sgarlata's cost Measurement	Total 50/50 Bill Amount
	280	Belmont	4	4	0	\$1,587.00	\$0.00
38.24-2-1	301	Broad	4	27	23	\$9,384.00	\$3,996.89
38.24-2-13	329	Broad	0	6	6	\$2,208.00	\$1,104.00
38.24-2-15	335	Broad	0	8	8	\$2,760.00	\$1,380.00
38.32-2-1	341	Broad	0	12	12	\$4,347.00	\$2,173.50
38.32-1-26	350	Broad	12	18	6	\$6,210.00	\$1,035.00
	520	Broad	8	8	0	\$1,552.50	\$0.00
38.49-1-1	541	Broad	0	5	5	\$1,587.00	\$793.50
	208	Brook	3	3	0	\$717.60	\$0.00
38.40-2-42	210	Cottage	7	14	7	\$6,727.50	\$1,681.88
	114	E Walnut	4	4	0	\$1,380.00	\$0.00
38.25-1-30	227	E Walnut	7	12	3	\$4,416.00	\$552.00
38.25-1-33	241	E Walnut	2	22	20	\$7,141.50	\$3,246.14
	249	E Walnut	4	4	0	\$1,380.00	\$0.00
38.25-1-44	256	E Walnut	0	20	20	\$7,245.00	\$3,622.50
	342	E Walnut	6	6	0	\$2,070.00	\$0.00
	410	E Walnut	6	6	0	\$2,070.00	\$0.00
	416	E Walnut	8	8	0	\$2,925.60	\$0.00
38.41-1-57	106	E. Sands	0	2	2	\$690.00	\$345.00
38.41-1-55	112	E. Sands	0	4	4	\$1,449.00	\$724.50
38.31-1-24	326	Earl	3	5	2	\$2,139.00	\$427.80
38.31-1-63	327	Earl	0	3	3	\$1,104.00	\$552.00
38.31-1-36	372	Earl	0	6	6	\$2,254.00	\$1,127.00
	447	Elizabeth	5	5	0	\$1,725.00	\$0.00
	449	Elizabeth	4	4	0	\$1,380.00	\$0.00
	461	Elizabeth	4	4	0	\$1,035.00	\$0.00
	471	Elizabeth	10	10	0	\$2,967.00	\$0.00
	478	Elizabeth	5	5	0	\$1,559.40	\$0.00
	479	Elizabeth	9	9	0	\$3,381.00	\$0.00
	547	Elizabeth	3	3	0	\$1,035.00	\$0.00
38.31-2-38	421	Franklin	0	5	5	\$1,766.40	\$883.20
	227	Lexington	13	13	0	\$4,968.00	\$0.00
38.22-2-40	230	Loucks	3	3	0	\$910.80	\$0.00
	413	Main	4	4	0	\$1,725.00	\$0.00
38.33-1-22.1	459	Main	5	39	34	\$13,524.00	\$5,895.08
	517	Main	4	4	0	\$1,725.00	\$0.00
38.49-1-36	539	Main	6	27	21	\$9,453.00	\$3,676.17
38.49-1-31	566	Main	1	24	23	\$8,211.00	\$3,934.44
38.24-2-46	333	Main	4	16	12	\$6,465.30	\$2,424.49
	348	Maple	11	11	0	\$3,657.00	\$0.00
38.47-1-17	540	Seneca	0	2	2	\$1,104.00	\$552.00
38.49-1-25	114	Shattuck	2	11	9	\$3,933.00	\$1,608.95
38.22-2-55	406	Stone	0	4	4	\$1,380.00	\$690.00
38.30-2-4	439	Stone	1	3	2	\$1,380.00	\$460.00
38.30-2-1	451	Stone	0	10	10	\$2,760.00	\$1,380.00

ASSESSMENT ROLL-SIDEWALK REPLACEMENT PROGRAM

38.23-1-47	379	Washington	0	11	11	\$3,898.50	\$1,949.25
38.22-2-18	432	Washington	0	2	2	\$690.00	\$345.00

Billing Amounts				
Total Sgarlata Bill	ADA Ramp Replacement	50/50 Sidewalk Bill		Replacement due to City Trees
		Residents	City	
\$180,750.00	\$24,980.25	\$46,560.27	\$46,560.27	\$60,857.55

2. ADOPT THE 2022 MADISON COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

RESOLUTION 23-

Moved by Councilor
Seconded by Councilor

WHEREAS, the City of Oneida recognizes the threat that natural hazards pose to people and property within the City of Oneida; **and**

WHEREAS, the Madison County Office of Emergency Management (OEM) has prepared a multi-hazard mitigation plan, hereby known as the 2022 Madison County Multi-Jurisdictional Hazard Mitigation Plan (Plan), which is an update to the Madison County's 2017 Hazard Mitigation Plan, in accordance with the Disaster Mitigation Act of 2000; **and**

WHEREAS, the 2022 Madison County Multi-Jurisdictional Hazard Mitigation Plan identifies mitigation goals and actions to reduce or eliminate long-term risk to people and property in Madison County, including the City of Oneida, from the impacts of future hazards and disasters; **and**

WHEREAS, adoption by the City of Oneida Common Council demonstrates the City of Oneida's commitment to hazard mitigation and achieving the goals outlined in the 2022 Madison County Multi-Jurisdictional Hazard Mitigation Plan.

NOW THEREFORE, BE IT

RESOLVED, that the City of Oneida Common Council does hereby adopt the 2022 Madison County Multi-Jurisdictional Hazard Mitigation Plan; **be it further**

RESOLVED, that this Plan, approved by the City of Oneida, may be edited or amended after submission for review, without any obligation to re-adopt further iterations; however, it is acknowledged that consistent with federal requirements under the Disaster Mitigation Act of 2000, the Plan must be updated every five (5) years to remain current.

Ayes:

Nays:

MOTION CARRIED

3. A RESOLUTION AUTHORIZING THE PURCHASE OF A 2024 FREIGHTLINER PLOW TRUCK, IN AND FOR THE CITY OF ONEIDA, MADISON COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$319,832, AND AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$319,832 BONDS OF SAID CITY TO PAY THE COST THEREOF.

RESOLUTION 23-

WHEREAS, the Common Council of the City of Oneida, Madison County, New York, has heretofore pursuant to a bond resolution duly adopted by said Common Council on March 15, 2022, authorized financing for the purchase of a 2023 Freightliner Plow Truck for the Department of Public Works in and for said City, and

WHEREAS, it has now been determined that a 2024 truck will be required; NOW, THEREFOR,

BE IT RESOLVED by the affirmative vote of not less than two-thirds of the total voting strength of the Common Council of the City of Oneida, Madison County, New York, as follows:

Section 1. The bond resolution heretofore mentioned above is hereby repealed.

Section 2. The purchase of a 2024 Freightliner Plow Truck for the Department of Public Works, in and for the City of Oneida, Madison County, New York, is hereby authorized at a maximum estimated cost of \$319,832.

Section 3. The plan for the financing of such maximum estimated cost is by the issuance of not to exceed \$319,832 bonds of said City hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 4. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen years, pursuant to subdivision 28 of paragraph a of Section 11.00 of the Local Finance Law.

Section 5. The faith and credit of said City of Oneida, Madison County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to

pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 7. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Comptroller, the chief fiscal officer of such City. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the City Comptroller shall determine consistent with the provisions of the Local Finance Law.

Section 8. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 11. This resolution, which takes effect immediately upon the final passage thereof, shall be published in summary form in the official newspaper of said City for such purpose, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Councilor James Szczerba	VOTING	_____
Councilor Stephen Laureti	VOTING	_____
Councilor Richard Rossi	VOTING	_____
Councilor Michelle Kinville	VOTING	_____
Councilor William Pagano	VOTING	_____
Councilor Thomas Simchik	VOTING	_____

The Resolution was thereupon declared duly adopted.

SALES ORDER

Date 1/28/23
 Purchaser CITY OF ONEIDA (REVISED)
 Address 109 NORTH MAIN STREET
 City ONEIDA State NY Zip Code 13421
 County MADISON Phone 315-363-2022
 Contact Name JEFFREY ROWE Cust No. _____



6803 Manlius Center Rd., East Syracuse NY 13057

Tracey Road Equipment Facility Numbers:

- Syracuse (HQ): 4340816 (315) 437-1471
- Albany: 7076202 (518) 438-1100
- Binghamton: 7079332 (607) 776-5010
- Queensbury: 7122340 (518) 793-9688
- Rochester: 7101647 (585) 334-5120
- Utica: 7125311 (315) 765-8746
- Watertown: 7083886 (315) 788-0200

THE PURCHASER OFFERS TO PURCHASE FROM THE DEALER/SELLER FOR THE STATED PRICE THE VEHICLE AND/OR EQUIPMENT AS DESCRIBED BELOW

PO # P003322	TERMS OF SALE: NET 30 DAYS	FOB: ONEIDA, NY	STANDARD WARRANTY: FREIGHTLINER LEVEL II	SALESMAN # J.RODEN
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INVENTORY #	DESCRIPTION	PRICE
	ONE (1) NEW 2024 FREIGHTLINER MODEL 114SD SBA CAB & CHASSIS EQUIPPED PER THE ATTACHED SPECIFICATION SHEETS PURCHASED VIA ONONDAGA COUNTY HEAVY DUTY CLASS 8 CONTRACT # 8996 PLUS THE FOLLOWING: EW-4 5 YEAR/100,000 MILE ENGINE EXTENDED WARRANTY ALLISON 5 YEAR/UNLIMITED MILES TRANSMISSION EXTENDED WARRANTY	\$130,431.44
	ONE (1) NEW EVEREST SINGLE WING PLOW PACKAGE, FORCE AMERICA HYDRAULICS AND CONTROLS, CRYSTEEL DUMP BODY, HIGHWAY SANDER AND VARITEC PRE-WET TANK SYSTEM	\$189,400.00

THE MILEAGE ON THE ODOMETER IS _____ AND / IS NOT ACCURATE, REFER TO THE FEDERAL MILEAGE STATEMENT FOR DISCLOSURE
 IF THIS MOTOR VEHICLE IS CLASSIFIED AS A USED MOTOR VEHICLE, THE DEALER NAMED ABOVE CERTIFIES THAT THE ENTIRE VEHICLE IS IN CONDITION AND REPAIR TO RENDER, UNDER NORMAL USE, SATISFACTORY AND ADEQUATE SERVICE UPON THE PUBLIC HIGHWAY AT TIME OF DELIVERY.

Purchaser Accepts Optional EQUIPMENT SERVICE CONTRACT
 PowerTrain \$ _____
 PowerTrain Plus Hydraulics \$ _____
 Full Machine \$ _____
 Terms and Conditions per the attached contract.
 PURCHASER'S INITIALS _____

Purchaser Declines Optional EQUIPMENT SERVICE CONTRACT
 PURCHASER'S INITIALS _____

TRADE-IN ALLOWANCE:				SUBTOTAL	\$319,831.44
BALANCE OWED TO:				NET TRADE-IN ALLOWANCE	
NET TRADE ALLOWANCE (EQUITY)				(EXEMPT) SALES TAX	EXEMPT
TRADE: YEAR _____ MAKE _____ MODEL _____	TRADE INV. # _____			FEDERAL EXCISE TAX	EXEMPT
ENG. _____ SERIAL # _____				WASTE MANAGEMENT TIRE TAX	EXEMPT
SERVICE METER READING (If applicable) _____				TOTAL PRICE	\$319,831.44
THE MILEAGE ON THE ODOMETER IS _____ AND IS/IS NOT ACCURATE, REFER TO THE FEDERAL MILEAGE STATEMENT FOR FULL DISCLOSURE.				RECEIPT NO.	DEPOSIT
CONDITION OF TRADE _____				BALANCE DUE	\$319,831.44
PURCHASER'S SIGNATURE _____					

ONLY THE MANUFACTURER OR SUPPLIER AND NOT TRACEY ROAD EQUIPMENT, INC. (DEALER/SELLER) SHALL BE LIABLE FOR PERFORMANCE UNDER ANY AND ALL WARRANTIES MADE BY SUCH MANUFACTURER OR SUPPLIER, UNLESS DEALER/SELLER, ON ITS OWN BEHALF, FURNISHES PURCHASER WITH A SEPARATE WRITTEN WARRANTY, OR ENTERS INTO A SERVICE CONTRACT WITH PURCHASER. DEALER/SELLER HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE ON ALL GOODS AND SERVICES, AND ALL USED CONSTRUCTION EQUIPMENT SOLD BY DEALER/SELLER, WHICH PURCHASER UNDERSTANDS AND AGREES IS BEING SOLD BY DEALER/SELLER "AS IS - NOT EXPRESSLY WARRANTED OR GUARANTEED".

IF THIS ORDER IS FOR A USED VEHICLE THAT BY LAW REQUIRES A FEDERAL TRADE COMMISSION WINDOW FORM, THE INFORMATION YOU SEE ON THE WINDOW FORM IS PART OF THIS ORDER. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISION IN THE CONTRACT OF SALE.

The front and back of this Order, the attached Written Warranty/Coverage Acknowledgement (the "Acknowledgement"), if signed by Purchaser and Dealer or Seller, and/or any financing and security agreement (a "Financing Agreement") entered into by Purchaser in connection with this Order comprise the entire agreement affecting this purchase and no other agreement or understanding of any nature concerning Financing Agreement and any other agreement specified in this Order shall be referred to herein as the "Order". Purchaser hereby certifies that no credit has been extended to him/her for the purchase of the motor vehicle(s) or construction equipment described in this Order except as is stated in this Order. Purchaser hereby acknowledges that he/she has read the Terms and Conditions that are printed on the back of this Order and agrees that said Terms and Conditions are part of this Order the same as if they were printed on the front hereof above Purchaser's signature. Purchaser or, if purchaser is not an individual, Purchaser's representative, hereby certifies that he/she is of legal age and acknowledges that he/she has received a copy of this Order and all other documents referred to in this Order.

PURCHASER CITY OF ONEIDA DPW SALESMAN J.RODEN
 BY PURCHASE ORDER # P003322 ACCEPTED BY SALES MANAGER _____

TERMS AND CONDITIONS OF SALE

- These Terms and Conditions of Sale (these "Terms"), together with the Sales Order (the "Order") (including any applicable documents or agreements referenced in the Order), are the exclusive terms and conditions that apply to any Order made by the Purchaser identified on the Order ("Buyer") and Tracey Road Equipment, Inc. ("Seller").
1. The Order (and any modification thereto) shall not become binding upon the parties hereto until and upon such time as both Seller and an authorized Sales Manager or Officer of Seller indicates in writing the approval and acceptance of the Order on behalf of Seller. Once accepted, the Order shall become a binding contract between the parties. Seller shall not be obligated to accept any Orders.
 2. All sales by Seller to Buyer with respect to Orders approved by Seller are expressly limited to the terms set forth on the Order (including any applicable documents or agreements referenced in the Order) and these Terms. Any additional, different or conflicting terms or conditions contained in Buyer's standard terms and conditions of purchase, procurement documents, purchase orders, acknowledgements, or other instruments or instructions requesting quotes or to order products, or other responses hereto are hereby objected to and rejected by Seller without need of further notice of objection or rejection and shall be of no effect and not binding on Seller in any circumstances unless and only to the extent accepted in writing by Seller. Buyer will be deemed to have assented to these Terms by submitting an Order or otherwise agreeing to purchase vehicles and/or equipment (collectively "Vehicles"), unless otherwise agreed in writing by the parties. The Order (including any applicable documents or agreements referenced in the Order) and these Terms constitute the entire and only agreement between the parties hereto; and any representation (oral or in writing), affirmation of fact, course of prior dealings or performance, promise or condition in connection therewith or usage of trade not expressly incorporated herein shall not be binding on either party.
 3. Seller's prices are subject to change at any time without notice except to the extent set forth in an Order accepted by Seller. Prices are exclusive of any property, sales, use, excise, and value-added taxes, insurance, shipping, handling, special packaging instructions, fuel surcharges, charges and import and export duties, all of which shall be the responsibility of Buyer. Any taxes and duties, when applicable, shall be paid by Buyer unless Buyer supplies an acceptable exemption certificate.
 4. Unless otherwise agreed in the Order or in writing by Seller, payment for all Vehicles is due at time of delivery. Payments shall be made in U.S. Dollars without setoff or deduction. All past due amounts are subject to a late charge equal to the lesser of 1.5% per month or the maximum amount allowable under law. Accrued collection costs, such as legal fees and expenses, are payable by Buyer as accrued.
 5. The title and right of possession to any Vehicles set forth in an Order shall remain vested in Seller until all sums due or that become due from Buyer and all indebtedness of Buyer to Seller, no matter how evidenced, has been fully paid to Seller. Upon payment in full, ownership of such Vehicles shall transfer to Buyer. In the event Buyer breaches the Order or these Terms, including, but not limited to, the obligation to make timely payment of the purchase price and all other amounts that are or may become due to Seller, Seller may accelerate the payment and declare the whole amount of the purchase price, together with all other amounts to which Seller is or may be entitled, immediately due and payable in full. In addition, and without limiting any of Seller's other rights or remedies, upon Buyer's breach, or if Seller at any time deems itself insecure, unsafe or at risk with respect to Buyer's payment or other obligations, Buyer agrees to promptly cause Seller and/or its representative(s) to have access to, and agrees that Seller and/or its representatives may enter, the premises where the Vehicle is located, take possession of and/or remove such Vehicles, and sell the same at public or private sale, retaining from the proceeds all amounts then due and owing by Buyer to Seller, together with any and all costs and expenses of repossession and sale, including, but not limited to, attorneys' fees, and Seller agrees to pay over any excess, if any, to Buyer. If the proceeds from the sale fail to satisfy the amount due, interest, expenses and any other amounts to which Seller is entitled under these Terms or applicable law, Buyer shall remain responsible for and shall pay to Seller the deficiency on demand of Seller. Seller may bid on and/or purchase the Vehicles at any sale held under this provision.
 6. In addition to Seller's rights and remedies as otherwise described herein, upon any breach or default by Buyer of the Order or these Terms, Seller shall be entitled to exercise any or all remedies available to it under these Terms and under applicable law, including, but not limited to: (a) suspending performance of the subject Order or any other order by Buyer and/or its affiliated and/or related persons or entities; (b) canceling pending orders and refusing to accept future orders from Buyer and/or its affiliated and/or related persons or entities; (c) acceleration of any amounts due by Buyer to Seller; (d) recovering damages, including, but not limited to, consequential and incidental damages; (e) exercising all rights and remedies available to it under the Uniform Commercial Code ("UCC") and other applicable law; and (f) being entitled to indemnification from Buyer for any claims, damages, losses, liabilities, and costs and expenses (including reasonable attorneys' fees).
 7. Until such time as title to said Vehicle shall pass to Buyer, Buyer agrees to maintain insurance on said Vehicle against all hazards in an amount not less than the unpaid balance of the purchase price, and to provide public liability insurance in an amount which may reasonably be required by Seller. Such insurance must name Seller as a party in interest/additional insured and be available for examination by Seller upon demand.
 8. Buyer hereby grants to Seller a first-priority security interest in all Vehicles purchased by Buyer which shall continue until the Vehicles are paid for in full. Buyer agrees that Seller may execute and file one or more Financing Statements under the UCC or other similar laws, in any and all relevant jurisdictions, without Buyer's signature thereon to evidence its security interest.
 9. Unless otherwise agreed in writing, Vehicles to be shipped by Seller will be shipped FOB Seller's warehouse by transportation mode selected by Seller and using packaging, if applicable, selected by Seller. Risk of loss or damage passes to Buyer upon tender of the Vehicles to the carrier. Claims for products damaged or lost in transit after risk of loss or damage has transferred are to be made by Buyer directly with carrier. Buyer shall remain responsible for payment in full notwithstanding any loss or damage once risk of loss or damage has transferred. All shipping dates are approximate unless Seller has agreed to a guaranteed shipping date in writing. Seller shall not be liable for any delays in shipment or early shipment, however caused, provided that Seller has used reasonable efforts to provide for timely delivery. Seller reserves the right to make deliveries in installments and to modify orders based on product availability.
 10. Buyer shall notify Seller in writing of any visible defects, quantity shortages or incorrect product shipments prior to first use of the applicable Vehicle and in any event no later than (5) days from Buyer's receipt of shipment. Thereafter, Buyer shall have no right to reject the products for any reason or revoke acceptance, and shall be deemed to have conclusively accepted the products.
 11. Seller shall not be liable or responsible for any claims, losses, liabilities or damages, including, but not limited to, personal injuries or property damage, suffered or sustained in the operation or use of the Vehicles purchased by Buyer under the Order regardless of the nature of the claim, loss, liability or damage, nor for any damages by reason of any delays or any alleged failure of said Vehicles to operate. The liability of Seller, if any, shall be limited to the standard warranty offered by the manufacturer, if any. TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER MAKES NO, AND EXPRESSLY DISCLAIMS ALL, EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO ANY VEHICLE OR EQUIPMENT OR ITS USE OR OPERATION, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Seller shall not be bound by any representations, warranties or other terms made by any agent relative to the transactions contemplated under the Order unless the same are expressly included in these Terms. Buyer acknowledges that the manufacturer's warranty, if any, does not obligate the manufacturer or Seller to bear the cost of the labor or other similar costs or expenses necessary to repair or replace any defective parts.
 12. Buyer shall not use or operate any Vehicle which is considered to be defective, without first notifying Seller in writing of its intention to do so, and any such use or operation by Buyer will be at Buyer's sole risk and liability, whether before or after notifying Seller of its intent to use or operate the same.
 13. Buyer agrees that this Order and these Terms shall not be countermanded by Buyer, and when the Order is accepted by Seller in writing, it will apply with respect to all agreements between the parties relative to the transactions contemplated under the Order, except as the same may be amended or supplemented by the terms of a written Security Agreement, if any.
 14. For any and all vehicles or equipment traded-in by Buyer, Buyer represents and warrants that (a) it owns such vehicles and/or equipment being transferred to Seller, (b) the vehicles and/or equipment are free and clear from all liens, claims and encumbrances, and (c) the vehicles and/or equipment are in good working order and Buyer is aware of no defects, faults or damage with respect to the same not disclosed in writing to Seller. Buyer agrees to indemnify, defend and hold harmless Seller from and against any breach or inaccuracy by Buyer of the foregoing.
 15. SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF GOOD WILL, ARISING OUT OF THE PURCHASE FROM SELLER OF ANY VEHICLE OR ITS USE OR OPERATION, EVEN IF SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF FOR ANY REASON THE ABOVE DISCLAIMER OF CLAIMS, LOSSES, LIABILITIES OR DAMAGES IS DEEMED UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION, BUYER AGREES THAT AS A MATERIAL INDUCEMENT TO SELLER TO SELL THE VEHICLES TO BUYER, THAT UNDER NO CIRCUMSTANCES SHALL SELLER'S TOTAL, AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE SALE, USE OR OPERATION OF THE VEHICLES OR THE ORDER OR THESE TERMS, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO, CLAIMS BASED UPON BREACH OF WARRANTY), EXCEED THE TOTAL AMOUNT PAID BY BUYER TO SELLER FOR THE VEHICLE AND/OR EQUIPMENT THAT GAVE RISE TO THE CLAIM.
 16. Seller shall be entitled to offset any amounts owed by it to Buyer against any payment or compensation that is owing and unpaid by Buyer to Seller.
 17. The Order and these Terms, and the underlying obligations of the parties relating to the sale of Vehicles to Buyer, shall be governed by and construed in accordance with the laws of New York State, without regard to conflicts of laws. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to any sale of Vehicles by Seller to Buyer. Any dispute regarding any Order or these Terms shall be resolved in a court located within Onondaga County, New York, and Buyer consents to the personal jurisdiction of any such court. THE PARTIES WAIVE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY RIGHT TO A JURY TRIAL WITH RESPECT TO ANY LEGAL DISPUTE.
 18. Buyer shall be liable for any and all costs and expenses, including attorneys' fees and disbursements, incurred by Seller in the exercise of any right or remedy granted or mentioned herein or otherwise available to Seller under applicable law.
 19. Seller shall not be liable for any failure or delay in the performance of any of its obligations or any damages resulting therefrom, if such delay or failure is caused by act of God, embargo, governmental action or regulation, fire, strike, lockout or other labor strife, war, riot, terrorism (or threat thereof), accident, equipment failure, delay in the manufacture, transportation or delivery of materials, shortage and/or increase in prices of raw materials or supplies, communications failures, and other any other causes beyond the reasonable control of Seller.
 20. Buyer agrees, to the maximum extent permitted by law, that any claim Buyer may have against Seller or any of its directors, officers, agents or employees must be filed within one (1) year of the date on which the claim arose.
 21. In addition to all other remedies available to Seller under these Terms, at law or in equity, Seller shall be entitled to seek injunctive relief without the posting of any bond or security to obtain the entry of temporary and permanent injunctions and orders of specific performance enforcing these Terms. Buyer acknowledges that failure to comply with these Terms will result in irreparable harm to Seller.
 22. The relationship of Seller and Buyer as created by the Order and these Terms is that of independent contractors. Neither party shall have, or hold itself out as having, the power or authority to bind or create liability for the other party.
 23. No waiver, alteration, or modification of any of the provisions of the Order or these Terms shall be binding unless in writing and signed by Seller. No delay or failure by Seller in exercising any right, privilege, remedy or option hereunder shall operate as a waiver of such or of any right, privilege, remedy or option.
 24. If any provision of the Order or these Terms is determined to be invalid or unenforceable, such provision shall be invalid or unenforceable only to the minimum extent required, and all other provisions shall remain in force and effect.
 25. The Order and these Terms are not intended to benefit any third party.
 26. Buyer shall not delegate any rights or claims under the Order or these Terms without Seller's written consent. Any attempted or purported delegation or assignment by Buyer in violation of the foregoing is void.
 27. If applicable, the Equal Employment Opportunity and Affirmative Action Clause, as set forth by the Department of Labor, 41 C.F.R. Sections 60-1.4(a) is hereby incorporated by reference herein insofar as it is required by such regulations and unless exempted by applicable statutes, rules, regulations or orders. Buyer agrees, unless exempted, to incorporate by reference and abide by Executive Order 11246. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
 28. The provisions of these Terms which by their nature should survive shall remain in effect and survive any termination or completion of any order.

4. CAPITAL PROJECT 22-5 (FREIGHTLINER PLOW TRUCK) – APPROVE INCREASE IN BOND AMOUNT

RESOLUTION 23-

Moved by Councilor
Seconded by Councilor

WHEREAS, on March 15, 2022, Resolution 22-52, Bonding for 2023 Freightliner Plow Truck, was approved by the City of Oneida Common Council for \$307,602; **and**

WHEREAS, the price of said Freightliner truck from Tracey Road Equipment Facility, 6803 Manlius Center Rd., East Syracuse, NY 13057 increased to \$319,832 due to material surcharges since the original proposal, which reflects a \$12,230 increase;

NOW THEREFORE BE IT

RESOLVED, to approve an increase to Capital Project 22-5 to a maximum not to exceed \$319,832.

Ayes:

Nays:

MOTION CARRIED

5. BUDGET TRANSFERS/AMENDMENTS

RESOLUTION 23-

Moved by Councilor
Seconded by Councilor

	<u>To</u>	<u>From</u>
2023 Budget Adjustments		
\$10,000.00	030.3410.0402.0000 ARPA Fire Equipment Maintenance	030.0030.0912.0000 ARPA Fund Balance

To allocate funds for repair to Engine 3-It is currently inoperable.

2022 Budget Adjustments

Ayes:

Nays:

MOTION CARRIED

NEW BUSINESS

Motion to adjourn by Councilor
Seconded by Councilor

Ayes:

Nays:

MOTION CARRIED

The regular meeting is hereby adjourned at _____ p.m.

CITY OF ONEIDA

Sandra LaPera, City Clerk