

# TODD COUNTY BOARD OF COMMISSIONERS

*Minutes of the Meeting of the Todd County Board of Commissioners held on  
February 1, 2011*

## **Call to Order**

The Todd County Board of Commissioners met in the Commissioner's Board Room in the City of Long Prairie, MN on the 1st day of February, 2011 at 9:00 A.M. The meeting was called to order by Chairperson Blessing with all members present. The meeting was opened with the Pledge of Allegiance.

## **Approval of Agenda**

On motion by Ruda and second by Kneisl, the following motion was introduced and adopted by unanimous vote to approve the agenda as amended with the following changes:

1. Adding Planning Commission Resolution

## **Routine Business**

On motion by Neumann and seconded by Kircher, the following motion was introduced and adopted by unanimous vote: To approve the January 18, 2011 minutes without changes.

On motion by Ruda and seconded by Kneisl, the following motion was introduced and adopted by unanimous vote: To approve the Commissioner Warrants # 26956 thru 27116 in the amount of \$316,056.74.

On motion by Kneisl and seconded by Kircher, the following motion was introduced and adopted by unanimous vote: To reappoint Jerome Koehn - District #4, Shawn Roe - District #2, Jay Noska - District #3 to the 2011 Livestock Advisory Board.

Todd County Recorder, Cheryl Perish gave the year end report for 2010.

On motion by Ruda and seconded by Neumann, the following motion was introduced and adopted by unanimous vote: To approve appointment of Mike Goff to the EMS Advisory Board Commission and Ron Stokes as Alternate.

## **Todd County Transfer Station**

On motion by Kneisl and seconded by Ruda, the following resolution was introduced and adopted by unanimous vote:

### **A RESOLUTION ESTABLISHING A TIPPING FEE FOR SOLID WASTE HAULERS LICENSED BY TODD COUNTY AT THE TODD COUNTY TRANSFER STATION**

WHEREAS, the Todd County Board of Commissioners is responsible for setting fees at the Todd County Transfer Station, and;

WHEREAS, the Todd County Board of Commissioners has engaged in an agreement which requires that Todd County dispose of a certain volume of solid waste at the Perham Resource Recovery Facility;

WHEREAS, Todd County's cost to dispose of waste at the Perham Resource Recovery Facility is increasing to \$77.00 (seventy seven dollars) per ton.

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NOW, THEREFORE BE IT RESOLVED, that the Todd County Board of Commissioners establishes the tipping fee for solid waste haulers licensed by Todd County at the Todd County Transfer Station at a rate of \$65.00 (sixty five dollars) per ton.

On motion by Kneisl and seconded by Ruda, the following resolution was introduced: Curbside Recycling Subsidy Resolution was tabled until March 1, 2011. Kneisl and Ruda withdrew their motions.

## Closed Session

On motion by Kircher and seconded by Ruda, the Todd County Commissioners' Meeting was recessed and went into closed session with Tom Sellnow, Attorney to discuss the purchase of the NJPA Building in Staples.

On motion by Neumann and second by Kneisl, the Todd County Commissioners Meeting was resumed.

## Todd County Public Works

On motion by Kircher and seconded by Neumann, the following motion was introduced and adopted by unanimous vote: To approve the County Engineer to sign the attached purchase agreements for the purchase of the following items: 2 - 2011 Caterpillars 120M Motor grader from Ziegler Equipment of Brainerd, Minnesota for \$271,035.00, 2 - 2011 GMC Sierra 1500 Pickups from Nelson Auto Center of Fergus Falls, Minnesota for \$49,396.81 and 1 - 2011 GMC Sierra 2500 Pickup from Nelson Auto Center of Fergus Falls, Minnesota for \$23,187.86 (Purchase agreement on file in the Todd County Administrator's Office.)

On motion by Kircher and seconded by Ruda, the following resolution was introduced and adopted by unanimous vote:

## **A RESOLUTION RELATING TO FINANCING OF CERTAIN PROPOSED PROJECTS TO BE UNDERTAKEN BY THE COUNTY; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE**

BE IT RESOLVED by the Board of Commissioners of Todd County, Minnesota (the "County"), as follows:

1. Recitals.

(a) The Internal Revenue Service has issued Section 1.150-2 of the Income Tax Regulations (the "Regulations") dealing with the issuance of bonds, all or a portion of the proceeds of which are to be used to reimburse the County for project expenditures made by the County prior to the date of issuance.

(b) The Regulations generally require that the County make a declaration of its official intent to reimburse itself for such prior expenditures out of the proceeds of a subsequently issued series of bonds within 60 days after payment of the expenditures, that the bonds be issued and the reimbursement allocation be made from the proceeds of

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such bonds within the reimbursement period (as defined in the Regulations), and that the expenditures reimbursed be capital expenditures or costs of issuance of the bonds.

(c) The County desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

## 2. Official Intent Declaration.

(a) The County proposes to undertake the following project or projects and to make original expenditures with respect thereto prior to the issuance of reimbursement bonds, and reasonably expects to issue reimbursement bonds for such project or projects in the maximum principal amounts shown below:

<u>Project</u>	<u>Maximum to be Financed</u>
2- 2011 Caterpillar 120M Motor grader	\$272,000
2 - 2011 GMC Sierra 1500 Pickups	\$47,000
1 - 2011 GMC Sierra 2500 Pickup	\$22,000

(b) Other than (i) de minimis amounts permitted to be reimbursed pursuant to Section 1.150-2(f) (1) of the Regulations or (ii) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f) (2) of the Regulations, the County will not seek reimbursement for any original expenditures with respect to the foregoing projects paid more than 60 days prior to the date of adoption of this resolution. All original expenditures for which reimbursement is sought will be capital expenditures or costs of issuance of the reimbursement bonds.

3. Budgetary Matters. As of the date hereof, there are no County funds reserved, pledged, allocated on a long term basis or otherwise set aside (or reasonably expected to be reserved, pledged, allocated on a long term basis or otherwise set aside) to provide permanent financing for the original expenditures related to the projects, other than pursuant to the issuance of the reimbursement bonds. Consequently, it is not expected that the issuance of the reimbursement bonds will result in the creation of any replacement proceeds.

4. Reimbursement Allocations. The County Administrator shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the reimbursement bonds to reimburse the source of temporary financing used by the County to make payment of the original expenditures relating to the projects. Each reimbursement allocation shall be made within 30 days of the date of issuance of the reimbursement bonds, shall be evidenced by an entry on the official books and records of the County maintained for the reimbursement bonds and shall specifically identify the original expenditures being reimbursed.

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## Todd County Public Health

On motion by Kneisl and seconded by Neumann, the following motion was introduced and adopted by unanimous vote: To approve the grant agreement between Todd County Public Health and the MN Organization on Fetal Alcohol Syndrome, effective dates January 1, 2011- June 30, 2012.

## Todd County Planning Commission

On motion by Neumann and seconded by Ruda, the following resolution was introduced and adopted by unanimous vote:

### **A RESOLUTION MAKING APPOINTMENTS TO THE TODD COUNTY PLANNING COMMISSION**

WHEREAS, the County Board is responsible for making appointments to the Todd County Planning Commission.

NOW, THEREFORE BE IT RESOLVED, that the Todd County Board of Commissioners make the following appointment to the Todd County Planning Commission to serve four year terms, from January 1, 2011 until December 31, 2014: District 5 Alternate Scott VanNorman.

## Todd County Development Corporation

Rick Utech, from the Todd County Development Corporation gave the Quarterly Report.

## Todd County Administration

On motion by Kneisl and seconded by Ruda, the following motion was introduced and adopted by unanimous vote: To approve the 2011 Fairgrounds Storage and Rental Fees. Kneisl moved to leave the current rates the same as last year and only increase the deposit amount. (Current fee schedule on file at the Todd County Administrator's Office.)

On motion by Ruda and second by Kneisl, the following resolution was introduced and adopted by unanimous vote:

### **A RESOLUTION ESTABLISHING TAX COMPLIANCE PROCEDURES RELATING TO TAX-EXEMPT BONDS AND "BUILD AMERICA BONDS"**

WHEREAS, the Todd County Board of Commissioners has authorized the issuance of Build America Bonds, and;

WHEREAS, it is a requirement for usage of said bonds to establish tax compliance procedures.

NOW, THEREFORE BE IT RESOLVED, that all Todd County Departments adopts the following procedure for Tax Exempt and Build America Bonds:

#### **I. Purpose:**

To ensure (1) that interest on tax-exempt bonds (or "TEBs") of Todd County (the "Issuer") remains excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and (2) that bonds of the Issuer, the

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interest on which would otherwise be excludable from gross income under Section 103 of Code, intended to be issued as Build America Bonds (Direct Payment) under Section 54AA of the Code (or “BABs”), including recovery zone economic development bonds, will be qualified, and will continue to be qualified, as such, with the result that the Issuer shall be entitled to the credit provided in Section 6431 of the Code.

These written procedures are intended to formally memorialize certain practices and procedures of the Issuer previously adopted or followed in connection with its issuance of the Issuer’s TEBs or BABs (collectively, “Bonds”). These procedures are not intended to replace or override the provisions of any resolution or tax or other closing certificate prepared in connection with a particular series of Bonds, but are intended to summarize the salient provisions of the Issuer’s procedures with respect to Bond issuance and post-issuance compliance.

The Issuer’s procedures for compliance are as follows:

## **II. BAB Designations & Elections:**

- A. BAB “Bond Resolution” (which term shall include an Indenture of Trust in respect of Bonds, where applicable), or a certificate of an authorized officer of the Issuer dated and executed not later than the date of issue of the BABs, shall irrevocably designate the BABs as such and irrevocably elect to have Section 54AA(g) of the Code apply to the BABs. In the case of BABs which are recovery zone economic development bonds, the County shall irrevocably designate such Bonds as “Recovery Zone Economic Development Bonds” under Section 1400U-2 of the Code.
- B. Where the federal tax credit is pledged to pay debt service on BABs, the Issuer shall, by the Bond Resolution, covenant and agree with the registered owners from time to time of the BABs that it will not take or permit to be taken by any of its officers, employees or C. agents, any action which would cause the BABs to lose their status as such under the Code and applicable Treasury Regulations, and shall covenant to take any and all actions within the Issuer’s powers to ensure that the BABs will remain such under the Code and Treasury Regulations.
- C. In an Official Statement for BABs, the Issuer shall state that (i) interest on the BABs is includible in gross income for federal income tax purposes (or they are “taxable”), (ii) the BABs are “direct payment,” and (iii) holders of the BABs are not entitled to a tax credit as a result of ownership of the BABs.

## **III. BABs *De Minimis* Premium and Yield Calculation:**

- A. Each Notice/Terms of Sale distributed for BABs shall clearly state that: (i) the prospective purchaser must specify the expected reoffering price of the BABs for each maturity, (ii) each such reoffering price cannot exceed the par amount of the maturity by more than 0.25% multiplied by the number of complete years to the earlier of the

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maturity date or the first optional redemption date for the maturity of the BABs, and (iii) in the initial offering, no BABs may be sold for a price in excess of such limit unless the Internal Revenue Service provides authoritative guidance to the contrary.

- B. Each Notice/Terms of Sale distributed for BABs shall list the maximum permitted reoffering price for each maturity of BABs.
- C. Prior to acceptance of a proposal for the purchase of BABs, the Issuer's financial advisor shall be responsible for computations to verify that the expected reoffering price, as certified by the purchaser, does not exceed the par amount of the maturity by more than 0.25% multiplied by the number of complete years to the earlier of the maturity date (or, in the case of term bonds, the weighted average maturity thereof, rounded down to the number of complete years) or the first optional redemption date for the maturity of the BABs.
- D. The Certificate of Purchaser shall include certifications that: (i) the Bonds of each maturity were initially reoffered to the public at the prices shown therein or in the final Official Statement, and (ii) as of the date of sale of the Bonds, the purchaser reasonably expected that at least 10% of each maturity of the Bonds would be sold to members of the public (other than bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at said public offering prices.
- E. The Certificate of Purchaser shall provide a certification that, as of the date of issue of the Bonds, the purchaser has actually sold at least 10% of each maturity of the Bonds to members of the public at or below the public offering prices expected as of the date of sale, provided, however, that if the purchaser will not provide this certification, the Issuer's representative or bond counsel shall inquire as to the circumstances preventing sales at such prices or why otherwise such certification will not be made.
- F. The Issuer's Tax Certificate for BABs shall certify that the "issue price" of the BABs is the initial reoffering price of the BABs to the public and, as shown in the Certificate of Purchaser, the issue price of the BABs does not include more than a *de minimis* amount of premium within the meaning of Section 54AA(d)(2)(C) of the Code.
- G. The Issuer's financial advisor shall review records available through EMMA (or through other readily accessible and available sources) of the secondary market trading activity for Bonds between the sale date and the date of issue of the Bonds to determine if there is reason to question the reasonableness of the expectations of the purchaser as of the date of sale of the Bonds.
- H. The Issuer's financial advisor shall be advised that the yield on BABs is to be computed in accordance with Section 148 of the Code and reduced as required by Section 6431(c) of the Code to reflect the federal credit allowed to the Issuer.

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- I. The Issuer's financial advisor shall certify to the Issuer that the offer accepted by the Issuer for the purchase of Bonds is a reasonable offer under customary standards applicable in the municipal bond market for similar Bonds.

## **IV. Expenditure/Use of Proceeds:**

- A. Expenditure of Bond proceeds will be reviewed by the Issuer's Auditor-Treasurer Department.
- B. The Issuer has separately established procedures for preparation and review of requisitions of Bond proceeds, through the accounting system of the Issuer.
- C. Requisitions must identify the Bond-financed property in conformity with the Issuer's Tax Certificate executed at closing of the Bonds, including certifications as to the character and average economic life of the financed property.
- D. None of the proceeds of Bonds will be used to reimburse the Issuer for costs of a capital project paid prior to the date of issuance of the Bonds unless the Issuer shall have fully complied with the provisions of Section 1.150-2 of the Treasury Regulations, and for BABs, the Act, with respect to such reimbursed amounts.
- E. "Available Project Proceeds" for a BAB issue shall be calculated as (i) the excess of the proceeds from the sale of the issue, over the issuance costs financed by the issue (which issuance costs may not exceed 2 percent of such proceeds), and (ii) the proceeds from any investment of the excess described in (i).
- F. 100% of the Available Project Proceeds for a BAB issue, less an amount in a reasonably required reserve fund with respect to such issue, will be used for capital expenditures. No portion of any proceeds will be used for working capital.
- G. The Issuer shall acknowledge in its Tax Certificate that a failure to use proceeds of the BABs for purposes specified in such certificate may result in the retroactive loss of the federal tax credit that the Issuer otherwise would be entitled to receive.
- H. Requisitions will be summarized in a "final allocation" of Bond proceeds to uses not later than 18 months after the in-service date of the financed property (and in any event not later than 5 years and 60 days after the issuance of the Bonds or not later than 60 days after earlier retirement of issue) in a manner consistent with allocations made to determine compliance with arbitrage yield restriction and rebate requirements.
- I. Expenditure of proceeds of Bonds will be measured against the Issuer's Tax Certificate expectation to proceed with due diligence to complete the capital project and fully spend the net sale and investment proceeds within three years.

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- J. If there are any TEB proceeds remaining in the project or construction fund established pursuant to the Bond Resolution after completion of any authorized project, such proceeds shall be applied to payment of principal and interest due the TEBs.
- K. If there are any BAB proceeds remaining in the project or construction fund established pursuant to the Bond Resolution after completion of of any authorized project, such proceeds shall be applied to defease the BABs.
- L. The Issuer's Tax Certificate for BABs shall provide, and the Auditor-Treasurer's Department shall ensure, that no more than 65% (or such other percentage as is arrived at by subtracting from 100 the percentage of any federal credit allowable) of any interest payment on BABs shall be funded with proceeds of such BABs.

## **V. Use of Financed Property:**

- A. Use of financed property when completed and placed in service will be reviewed by the Auditor-Treasurer's Department.
- B. Upon issuance of Bonds, there shall be no expectation that the Bond-financed property will be sold or otherwise disposed of by the Issuer during the term of the Bonds.
- C. Appropriate department managers shall be advised in writing concerning restrictions on the use of the Bond proceeds and the facilities financed thereby and instructed to consult with the Auditor-Treasurer's Department and bond counsel regarding any third-party contract concerning use of the facilities, including without limitation leases, use, management or service contracts, and research contracts.
- D. Agreements with business users for lease, use, management, or any other service with respect to, or non-governmental use of, Bond-financed property will be reviewed prior to execution for compliance with the Code. Such agreements will be approved by the Auditor-Treasurer's Department in consultation with bond counsel, who will be responsible for determining whether the proposed agreement (i) results in private business use of the facilities, and (ii) if applicable, meets the compensation, term and other requirements under Revenue Procedures 97-13 and 2007-47.
- E. No item of financed property will be sold or transferred by the Issuer without approval of the Issuer's Auditor-Treasurer's Department upon advice of bond counsel or advance arrangement of a "remedial action" under the applicable Treasury Regulations.

## **VI. Investments:**

- A. Investment of Bond proceeds in compliance with the arbitrage and rebate requirements of the Code and applicable Treasury Regulations will be supervised by the Issuer's Auditor-Treasurer's Department.

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- B. At closing, the Issuer may consult with its financial advisor to determine an estimate of the reasonably expected investment earnings on the sale proceeds of the BABs, and such estimate shall be included in the Issuer's Tax Certificate.
- C. Investment of the gross proceeds of BABs prior to expenditure thereof will be made only as permitted by the Bond Resolution and Tax Certificate, and all investments will be purchased only at fair market value, as determined under applicable Treasury Regulations.
- D. Guaranteed investment contracts ("GICs"), federal securities and other investments will be purchased only according to applicable Treasury Regulations, including bid requirements and fee limitations.
- E. Calculations of rebate liability will be performed by outside consultants and reviewed by the County Auditor-Treasurer of the Issuer. Such calculations shall be made, as necessary, prior to each 5 year anniversary of the date of issue of the Bonds.
- F. Upon final expenditure of the gross proceeds of Bonds, and in any event promptly following the fifth anniversary of the date of issuance of the Bonds or earlier retirement of the Bonds, the Chief Financial Officer / County Administrator will consult a qualified professional to prepare a spending exception report or an arbitrage rebate computation (as applicable) for the issue of Bonds.
- G. Rebate payments, as necessary based upon the advice of a qualified professional, will be made with Form 8038-T no later than 60 days after (i) each fifth anniversary of the date of issuance of the Bonds and (ii) the final retirement of the Bond issue.

## **VII. Requests for Credit for BABs:**

- A. Requests for the refundable credit for BABs, including the calculation of the credit payable and timely filing of requests for payment pursuant to Form 8038-CP and in accordance with the closing letter of bond counsel, shall be the responsibility of the County Auditor-Treasurer, who shall verify eligibility for the credit and sign such form.
- B. For fixed rate BABs, interest payments calculated by the purchaser shall be verified by the Chief Financial Officer / County Administrator or the Issuer's financial advisor.
- C. For variable rate BABs, interest payments shall be as calculated pursuant to the Bond Resolution and shall be verified by the Chief Financial Officer / County Administrator or the Issuer's financial advisor.
- D. Payment of the credit shall be directed to the Issuer or to such other party as provided in the Bond Resolution.

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## **VIII. Record Management and Retention:**

- A. Management and retention of records related to Bond issues will be supervised by the Chief Financial Officer / County Administrator.
- B. Records for Bonds will be retained for the life of the Bonds, plus any refunding Bonds, plus three years. Such records may be in the form of documents or electronic copies of documents, appropriately indexed to specific Bond issues and compliance functions.
- C. Retainable records pertaining to Bond issuance shall include a transcript of documents executed in connection with the issuance of the Bonds and any amendments; copies of requests for refundable credits for BABs; and copies of rebate calculations and records of payments, including Forms 8038-T.
- D. Retainable records pertaining to expenditures of Bond proceeds include requisitions; trustee statements, if applicable, and final allocation of proceeds.
- E. Retainable records pertaining to use of Bond-financed property include all third-party contracts concerning use of the facilities, including (without limitation) leases, use, management or service contracts, and research contracts.
- F. Retainable records pertaining to investments include GIC documents under the Treasury Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

## **IX. Overall Responsibility:**

- A. Overall administration and coordination of these procedures is the responsibility of the Chief Financial Officer / County Administrator of the Issuer.
- B. Review of compliance with these procedures shall be undertaken periodically, and in any event, not less than annually.
- C. The Issuer understands that failure to comply with the provisions of the Code and Treasury Regulations reflected in these policies and procedures could result in the retroactive loss of (i) the exclusion of interest on TEBs from federal gross and Minnesota taxable net income, and (ii) the federal tax credit with respect to BABs; and, thus, it would be advisable to consult with bond counsel in advance regarding deviations from the facts and expectations as set forth in the closing certifications relating to any issue of Bonds.

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- D. Any violations or potential violations of federal tax requirements shall promptly be reported to the Chief Financial Officer / County Administrator, and such officer will engage qualified consultants and bond counsel to further investigate potential violations or recommend appropriate remedial actions.

On motion by Kircher and seconded by Ruda, the following motion was introduced and adopted by unanimous vote: To authorize the County Administrator to solicit bids for equipment in the Todd County Historic Courthouse, with all sales subject to County Board approval.

On motion by Kneisl and seconded by Ruda, the following motion was introduced and adopted by unanimous vote: To appoint Commissioner Kircher and Commissioner Neumann to the Hazard Mitigation Planning Team.

On motion by Ruda and seconded by Kneisl, the following motion was introduced and adopted by majority vote with Neumann voting against: To approve the labor agreement for 2011 - 2013 with AFSCME - Public Works, Social Service and Public Health.

On motion by Kircher and seconded by Kneisl, the following motion was introduced and adopted by unanimous vote: To approve the establishment and charge of a committee to review Todd County's records retention policies. Commissioner Ruda volunteered to be on the committee.

## **Todd County Historic Courthouse**

A presentation was given by the Contegrity and Collaborative Design Group with the updates on the Historic Courthouse renovation. On motion by Kircher and seconded by Ruda, the following motion was introduced and adopted by unanimous vote: To proceed with the project.

## **Recess**

The Todd County Board of Commissioners' Meeting will resume at 1:00 at the Staples City Hall.

## **Community Services**

Blessing called the meeting back to order at 1:00 pm in the Staples City Hall.

The County Board received a report on a project titled "Building Foundation for Reform of Health and Human Services".

## **Adjourn**

Meeting was adjourned.

### **COMMISSIONER WARRANTS**

VENDOR NAME	AMOUNT
CPS TECHNOLOGY SOLUTIONS	2,136.00
DELL MARKETING	4,993.50
DEPT OF EMPLOYMENT ECO DEV	5,283.00
FLEET SERVICES DIVISION	6,788.68

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HOLY TRINITY CATHOLIC SCHOOL	4,850.00
KRIS ENGINEERING	11,172.27
LAKEWOOD HEALTH SYSTEMS	2,426.00
LINDBERGH ELEMENTARY	3,155.59
LITTLE FALLS COMM HIGH SCHOOL	2,296.00
LITTLE FALLS MACHINE INC	2,077.86
MARY OF LOURDES ELEM SCHOOL	2,350.38
MARY OF LOURDES MIDDLE SCHOOL	2,050.38
MCIU	8,333.50
MIDSTATES EQUIP AND SUPPLY	49,286.48
MORTON SALT	142,406.20
PIONEER ELEMENTARY	4,477.45
REGENTS OF THE UNIV OF MN	9,575.33
SWANVILLE PUBLIC SCHOOLS	4,674.00
UPSALA AREA SCHOOLS	4,675.00
WOLTERS BODY SHOP	3,177.03
YIPA	2,141.00
ZIEGLER INC	3,489.28
139 PAYMENTS LESS THAN \$2000	34,241.81
FINAL TOTAL.....	\$316,056.74