



City of Grand Island

Tuesday, December 17, 2002

Council Session

Item I1

#2002-394 - Approving Memorandum of Understanding with New Holland (CNH)

BACKGROUND

In early 2000, the corporate executives for one of Grand Island's major employers, New Holland (CNH), undertook an evaluation, targeting 20% of the company's plants worldwide for sale, consolidations and closure. As you will recall, there had been much discussion and concern that the Grand Island plant would be closed and operations moved to Moline, Illinois where CNH had a factory that produced Case combines, cotton pickers and corn heads.

As a result of tremendous community support, a financial assistance/training package to assist the Grand Island CNH manufacturing facility in its efforts to become a combine manufacturing plant was developed. Partners committed to providing assistance include: area foundations, financing institutions, Nebraska Department of Economic Development, Central Community College Foundation, Northwestern Public Service, St. Francis Medical Center, Central Community College, City of Grand Island, and Grand Island Area Economic Development Corporation. While details of Grand Island's financial assistance package were not made public for fear the content would find it's way to Moline and undermine our chances to effectively compete, focused discussions were held to ensure Grand Island submitted a strong proposal that could meet or exceed that forwarded by Moline. The City Council held a special meeting in June 2000 to discuss, in executive session, contract negotiations relating to an economic development proposal for New Holland.

July 8, 2000 was a red-letter day for the employees of CNH, and City and community leaders as CNH announced that the company planned to consolidate production of combines at the Grand Island plant, resulting in the retention of over 600 jobs. CNH's decision to move forage equipment manufacturing from Grand Island to Pennsylvania and production of Case IH and New Holland combines at the Grand Island plant was attributed to strong employee support, work ethic and productivity, as well as community support.

DISCUSSION

CNH company officials have been working with City staff, the Economic Development Corporation and local banks to develop a Memorandum of Understanding (MOU) that sets forth the terms, conditions, and commitments of the respective parties to assist CNH with the re-tooling of the facility to a combine manufacturing facility only. The MOU reflects, for the most part, the proposal presented to the Council in 2000. Because corporate and City review

and approval process for the MOU took several months, minor modifications have been made relative to the implementation dates for specific expenditures and performance issues.

The City is participating in the incentive program in a couple of ways. First, funding through the Community Development Block Grant Revolving Loan Fund is available. \$150,000 has been requested to assist with the purchase of a laser. The laser will be used to fabricate metal for the combine operation. The application for CDBG funds has been received (November 19, 2002) and City staff will begin the processes required for determination of eligibility for CDBG funds. The City may also participate in buying down the interest on one of the loans offered by a consortium of community banks. No specific information is available on the interest buy down at this time.

CNH is an excellent corporate citizen. We are pleased that CNH has chosen to invest in Grand Island and are relieved that over 600 well-paying jobs will be retained. Our participation in the financial incentive package, while just a small component, demonstrates our support and commitment to CNH, but, more importantly, to the employees, supporting companies/vendors, and to the community at large. We believe the growth of CNH will help stimulate economic development, increase the local tax base and promote the creation of well paying jobs. These by-products benefit all of Grand Island.

Approval of the MOU is recommended.

Staff Contact: Marlan Ferguson

MEMORANDUM OF UNDERSTANDING (MOU)
Mutual Agreement for Inducement Loans and Benefits

THIS MEMORANDUM OF UNDERSTANDING is approved and executed on _____, 2002, by **New Holland North America, Inc., a Corporation (CNH), the City of Grand Island, Nebraska, a Municipal Corporation (City), Grand Island Area Economic Corporation, a Corporation (EDC), and Wells Fargo Bank Nebraska, a Corporation**, as lead lender of **Grand Island Partners (GIP)**.

1. **PROJECT DESCRIPTION.** The purpose of this Memorandum of Understanding (MOU) is to generally state the terms, conditions, and commitments of the respective parties to lend funds to CNH to be utilized for equipment purchases to be used in the operation of the Grand Island Manufacturing facility. The loans shall be made in consideration of CNH utilizing the loan proceeds to purchase equipment for the Grand Island Manufacturing facility and meeting certain employment goals more specifically described in this MOU. Further, this MOU states the commitment of the City to charge CNH with the lowest authorized rates for various utility services and reimburse CNH for certain costs associated with equipment installations increasing natural gas consumption. It is the intent of the City, GIAEDC and GIP to provide certain inducements in support of the development of the Grand Island Manufacturing facility to stimulate economic development, increase the local tax base and promote the creation of well paying employment opportunities for residents of south central Nebraska. Conversely, it is the intent of CNH to develop and profitably operate a modern harvesting machinery manufacturing facility in Grand Island.

DEFINITIONS

2. **DEFINITIONS.** The following terms are defined for purposes of this MOU:

Forgivable Loan (FL): The forgivable loan represents a loan of program income from the City to CNH.

Full Time Equivalent Employee (FTE): Full-time equivalent employees will be defined as all active employees of CNH working at the Grand Island manufacturing facility, whether on temporary furlough or working at the plant. They may be employed as full-time or part-time employees. FTE will include, but not be exclusive to all employees being paid under the CNH Pay Continuation Plan (PCP). Temporary employees or contract employees of an employee-staffing agency will not be included in calculating FTE's.

Grand Island Manufacturing facility: The Grand Island manufacturing facility is the plant located at 3445 West Stolley Park Road, Grand Island, Hall County, Nebraska, which is currently configured to manufacture New Holland hay equipment and combines and intended to be reconfigured for the manufacture of Case IH and New Holland combines.

Grand Island Partners (GIP): Grand Island Partners is a consortium of banks in the Grand Island area of which Wells Fargo Bank Nebraska is the designated lead lender with authority to negotiate the terms of and execute this MOU on behalf of its partners.

Grand Island Partners Loan (GIPL): The Grand Island Partners loans are loans of funds from GIP to CNH.

Job Maintenance Period: The job maintenance period is a term of 84 consecutive months with the employment count commencing *March 31, 2003* and ending *March 30, 2010*.

Low to Moderate Income (LMI): A low to moderate income person is one for whom the total income of the family is equal to or less than the income limits for their resident county as published in the most recent guidelines for economic development applications under the Community Development Block Grant Program of the Nebraska Department of Economic Development.

Program Income: Program income includes but is not limited to: (1) payments of principal and interest on loans made using Community Development Block Grant (CDBG) funds; (2) proceeds from the lease or disposition of real or personal property acquired with CDBG funds; (3) interest earned on CDBG funds held in a revolving fund account; (4) interest earned on any program income pending disposition of such income; and, (5) loans receivable.

Project Administrator: The Project Administrator is the City of Grand Island acting through the certified CDBG administrators of the Community Development Division of the Community Projects Department, 100 East First Street, P.O. Box 1968, Grand Island, Nebraska, 68802-1968.

Relocation Period: The relocation period is a term of 84 consecutive months commencing *March 31, 2003* and ending *March 30, 2010*., during which CNH shall fully satisfy the job maintenance requirements set out in this MOU.

GRAND ISLAND PARTNERS LOAN

3. **GRAND ISLAND PARTNERS LOAN No. 1 (GIPL #1).** The Grand Island Partners will make a loan to New Holland North America, Inc., in the amount of \$1,500,000.00 bearing interest at a rate of 1% per annum with quarterly interest payments and annual payments of principal amortized over seven years. CNH will use the loan proceeds for equipment purchases. CNH Global, N.V. will unconditionally guarantee the loan. The GIPL shall be subject to certain job performance targets, relocation constraints and funding commitments of CNH. Loan proceeds will be available to CNH from Wells Fargo Bank Nebraska (as lead lender of GIP) as reimbursement for new equipment purchased and installed on or after *January 1, 2001* upon presentation of the paid invoice(s). No GIPL #1 funds will be drawn down until the job performance target is met.

4. **JOB PERFORMANCE TARGETS.** GIPL #1 is made contingent upon CNH achieving and maintaining an average employment of not less than 400 FTE employees during the job maintenance period, with the employee count beginning on *March 31, 2003*. In the event the average CNH employee count falls below 400 FTE, the interest rate on the GIPL #1 will be adjusted to the prevailing New York prime interest rate retroactively to the dates on which the various loan disbursements were made.

The number of annual average FTE's shall be calculated by determining the total hours of wage and salary compensation paid to all active plant employees and those direct employees receiving compensation through the CNH Pay Continuation Program (PCP) divided by 2,080 hours. In this calculation, salaried employees are assumed to be paid for 2,080 hours per year. Employees paid under the PCP will be counted in total hours paid up to a maximum of 520 furlough hours per PCP employee. The average number of employees will represent the nearest whole number, with any partial number being rounded downward as in the following example:

EXAMPLE: Assume plant production employee hours paid are 832,000, PCP employee furlough hours are 26,000 (50 @13 weeks x 40 hours), salaried employees hours are 208,000 (100 @ 2,080 hours) for a total of 1,066,000 paid hours divided by 2,080 hours = 512.5 FTE's rounded to 512 FTE's.

The average hourly wage paid by CNH to employees at the Grand Island manufacturing facility shall be calculated by determining the total wage and salary compensation paid to all active plant employees divided by the total hours paid for those employees.

5. **RELOCATION CONSTRAINTS.** GIPL #1 and GIPL #2 are made contingent upon CNH continuing to operate the Grand Island manufacturing facility during the relocation period. In the event CNH relocates combine production from the Grand Island manufacturing facility to another locality during the relocation period, this shall be deemed a default under the MOU.

6. **NOTIFICATION AND CONSEQUENCES OF DEFAULT.** In the event CNH fails to meet the job performance targets, relocation constraints, funding commitments or commits an act of default as stated hereafter in connection with GIPL #1, the procedure for providing notice of default and correcting defaults shall conform to the provisions set forth in the default conditions of this MOU.

7. **CONDITIONS PRECEDENT TO DRAW DOWN GIPL #1 or GIPL #2 FUNDS.** GIPL #1 shall be made by GIP and may be drawn down by CNH following compliance with the following conditions precedent:

- a. CNH shall be in conformity with the terms and conditions of this MOU and the loan documents for the GIPL #1.
- b. To enable draw down of GIPL #1, CNH will provide the lead lender for GIP with a copy of a paid invoice(s) for the new equipment purchased for the Grand Island manufacturing facility
- c. CNH will provide an original copy of a duly executed corporate borrowing resolution identifying the corporate officials who are authorized to contract and borrow funds from the GIP.
- d. The participants in this MOU will execute the MOU and supporting loan documents as may be appropriate. These documents will be in a form acceptable to GIP and CNH officials.

8. **GRAND ISLAND PARTNERS LOAN NO. 2 (GIPL #2).** In the event CNH fully complies with the terms and conditions of GIPL #1, Grand Island Partners will lend CNH an additional \$1,000,000.00 for equipment purchases bearing interest at a rate of 1% per annum with quarterly interest payments and annual principal payments amortized over five years. The loan shall be available on or after *January 3, 2005*, provided CNH has and maintains an average employment of not less than 800 FTE employees at the Grand Island Manufacturing facility. CNH Global, N.V. will unconditionally guarantee GIPL #2. In the event CNH fails to meet the job performance targets during the term of GIPL #2, the interest rate will be adjusted to the prevailing New York prime interest rate retroactively to the dates of the various loan disbursements.

CITY OF GRAND ISLAND LOAN

9. **CITY OF GRAND ISLAND LOAN.** The City of Grand Island will make a forgivable loan of program income to CNH in the amount of \$150,000.00 bearing interest at the rate of 1% over the prevailing New York prime interest rate. No payment of interest or principal will be due during the job maintenance and relocation periods. Should CNH fully satisfy certain job performance targets and not relocate the Grand Island manufacturing facility during the relocation period, the loan will be deemed wholly satisfied and forgiven. The FL will be unsecured except to the extent the FL is guaranteed by CNH.

10. **QUALIFICATION AND EMPLOYEE SURVEY.** The FL will be qualified by the retention of eight (8) FTE positions that are held by low to moderate income persons. Through the employee survey process, CNH will have each employee certify their earned family income as of the time they are furloughed. CNH employees shall utilize the most current income limits for Community Development Block Grants to register their income status. The survey format shall be as shown on Exhibit A attached hereto and made a part hereof by reference. All employee surveys will be completed and forwarded to the Project Administrator by *November 29, 2002*.

11. **JOB PERFORMANCE TARGETS.** The FL is made contingent upon CNH achieving and maintaining an average employment of not less than 400 FTE employees during the job maintenance period. The number of FTE's shall be calculated as stated in paragraph 4 above.

Should there be any turnover in employment during the first three years of the job maintenance period, CNH agrees to use a "first consideration basis" in attempting to hire LMI employees to replace the positions that are vacated. A first consideration basis requires CNH to utilize the employee survey form (Exhibit A) to determine who is LMI prior to making their hiring decision. CNH (or its authorized representative) will either interview the LMI persons first, or hire LMI persons in order to meet this requirement. This requirement will not constrain CNH from hiring the most qualified employees. All positions qualifying the FL will be personnel working in the Grand Island manufacturing facility.

12. **RELOCATION CONSTRAINTS.** The FL is made contingent upon CNH continuing to operate the Grand Island manufacturing facility during the relocation period. In the event CNH relocates combine production from the Grand Island manufacturing facility to another locality during the relocation period, this shall be deemed a default under the MOU.

13. **CONDITIONS PRECEDENT TO DRAW DOWN FL FUNDS.** The FL shall be made using program income of the City and may be drawn down by CNH following compliance with the following conditions precedent:

- a. FL funds shall not be disbursed prior to initiating the GIPL #1 disbursements, but may be drawn down simultaneously and in proportion with GIPL #1
- b. CNH will demonstrate to the City that they have satisfactorily completed an environmental assessment process in compliance with NEPA requirements, and resulting in a finding of no significant impact (FONSI).
- c. To enable drawdown, CNH will provide the City with a copy of a paid invoice for the new equipment purchased for the Grand Island manufacturing facility.
- d. CNH will provide an authenticated copy of the duly executed corporate borrowing resolution identifying the corporate officials who are authorized to contract and borrow funds from the City.
- e. The participants in this MOU will execute the MOU and supporting loan documents as may be appropriate. These documents will be in a form acceptable to City and CNH officials.
- f. The City will be in receipt of written funding commitments from CNH and the banks comprising the Grand Island Partners.
- g. CNH will cooperate with the City in satisfying the Davis-Bacon Wage Standards pertaining to the contracting of outside labor in the installation of new equipment at the Grand Island manufacturing facility.

14. **DUTIES OF THE PROJECT ADMINISTRATOR.** The Project Administrator shall prepare the FL documents in a form that is mutually acceptable to CNH and the City. The Project Administrator will cooperate with CNH to facilitate drawdown of FL proceeds, to secure annual employment records, and generally satisfying the administrator requirements associated with the FL.

15. **NOTIFICATION AND CONSEQUENCES OF DEFAULT.** In the event CNH fails to meet the job performance targets, relocation constraints or commits an act of default as stated hereafter in connection with the FL, the procedure for providing notice of default and correcting defaults shall conform to the provisions set forth in the default conditions of this MOU.

OTHER CITY BENEFITS

16. **COMMITMENTS REGARDING UTILITY RATES.** The City will make available to CNH at the Grand Island manufacturing facility the lowest authorized rates for electric, water and sanitary sewer service, treating the reconfiguration of the Grand Island manufacturing facility for the manufacture of Case IH and New Holland combines as a new facility in accordance with Section 15-67 of the Grand Island City Code (1988 Ed.). Based on

your actual usage, the demand charge for your electrical service will be waived for a twelve month period commencing upon receipt of notification from CNH of reconfiguration of the Grand Island manufacturing facility in accordance with Chapter 15 of the Grand Island City Code (1988 Ed.). A copy of Section 15-67 of the Grand Island City Code (1988 Ed.) is attached hereto as Exhibit B and made a part hereof by reference.

17. **ACCESS STREET CONSTRUCTION.** The City shall construct a new city street at a mutually agreeable time from U.S. Highway 281 extending westerly approximately one-fourth mile to the southeast corner of the Grand Island manufacturing facility. The street construction will be built with no assessment to the real estate currently owned by CNH at the Grand Island manufacturing facility.

18. **NATURAL GAS EQUIPMENT REIMBURSEMENT.** The City will reimburse CNH for equipment purchases and installation, modification, or rearrangement costs incurred at the Grand Island manufacturing facility for the calendar years 2002 through 2004 relating to additional consumption of natural gas by CNH at its plant. Reimbursements will be limited to not more than \$52,500.00 in total and may be requested in such amounts and at such time as CNH in its discretion chooses during the period stated above, subject to review and approval by a local review committee and the Mayor and City Council. CNH will complete an application and a letter each year describing the expenses incurred and providing a paid invoice for the reimbursable costs to enable disbursement of funds.

NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT BENEFITS

19. **NEBRASKA JOB TRAINING CONTRACT.** The parties agree and acknowledge that as an incentive for CNH to remain in Grand Island, the Nebraska Manufacturing Extension Partnership/Nebraska Department of Economic Development has entered into a job training contract with CNH prior to the execution of this MOU. The contract granted CNH up to \$1,850,000.00, including \$350,000.00 previously committed as a loan from the Nebraska Department of Economic Development, for training of employees at the Grand Island manufacturing facility for up to 345 new employees and 460 existing employees during the period from *December 1, 2000*, through *November 30, 2004*, unless the Department of Economic Development grants an extension to CNH in writing. The terms and conditions of the Nebraska Job Training contract are more specifically stated in an agreement between CNH and the Nebraska Department of Economic Development separate from this MOU.

EDC JOB CREATION AND TRAINING BENEFITS

20. **JOB TRAINING INCENTIVE FOR CURRENT EMPLOYEES.** The Grand Island Area Economic Development Corporation (EDC) will grant CNH up to \$90,000.00 to provide training at the Grand Island manufacturing facility for existing employees based on a 1:1 match from CNH. The grant will be payable in installments of \$45,000.00 on *December 2, 2002* and \$45,000.00 on *December 1, 2003*. Any incentive grants paid to CNH under the terms of this provision will be repayable in full to EDC immediately in the event CNH relocates combine production from the Grand Island manufacturing facility to another locality during the "relocation period".

21. BASIC AND ENHANCED JOB TRAINING INCENTIVE FOR NEW EMPLOYEES.

(a) The EDC will grant to CNH \$250.00 per year for a period of three years for each new FTE employee to provide basic training at the Grand Island manufacturing facility. The basic training benefit shall be based upon CNH hiring up to 150 new employees in excess of the current baseline of 630 FTE employees and CNH paying an average wage of \$12.50 per hour or more to all its employees at the Grand Island manufacturing facility. Upon CNH providing EDC with proof of the hiring of new employees and compliance with the wage terms of this paragraph, grant payments by the EDC shall commence on *December 1, 2004*, in an amount to not exceed \$37,500.00 per year or \$112,500.00 in total during the 36 month period beginning *December 1, 2004*. Each annual payment shall be based upon the average number of FTE's in the previous twelve month period from November through October with FTE's calculated as stated in paragraph 4 above. Any incentive grants paid to CNH under the terms of this provision will be repayable in full to EDC immediately in the event CNH relocates combine production from the Grand Island manufacturing facility to another locality during the "relocation period".

(b) Provided the City of Grand Island has a successful election for an additional one-half cent sales tax and an LB840 economic development plan at the *May 14, 2002* statewide primary election, EDC will grant to CNH \$250.00 for each new FTE employee to provide enhanced training at the Grand Island manufacturing facility. The enhanced training benefit shall be based upon CNH hiring up to 750 new employees in excess of the current baseline of 630 FTE employees and CNH paying an average wage of \$12.50 per hour or more to all its employees at the Grand Island manufacturing facility. Upon CNH providing EDC with proof of the hiring of new employees and compliance with the wage terms of this paragraph, grant payments by the EDC shall commence on *December 1, 2004* in an amount not to exceed \$150,000.00 for year one and \$187,500.00 for years two and three or \$525,000.00 in total during the 36 month period beginning *December 1, 2004*. Each annual payment shall be based upon the average number of FTE's in the previous twelve month period from November through October with FTE's calculated as stated in paragraph 4 above. Any incentive grants paid to CNH under the terms of this provision will be repayable in full to EDC immediately in the event CNH relocates combine production from the Grand Island manufacturing facility to another locality during the "relocation period".

22. NEW JOB CREATION INCENTIVE. Provided the City of Grand Island has a successful election for an additional one-half cent sales tax and an LB840 economic development plan at the *May 14, 2002* statewide primary election, EDC will grant to CNH \$400.00 for each new FTE employee as a new job creation benefit at the Grand Island manufacturing facility. The new job creation benefit shall be based upon CNH hiring up to 600 new employees in excess of the current baseline of 630 FTE employees and CNH paying an average wage of \$12.50 per hour or more to all its employees at the Grand Island manufacturing facility. Upon CNH providing EDC with proof of the hiring of additional employees and compliance with the wage terms of this paragraph, grant payments by the EDC, based upon the average number of FTE's in the previous twelve months, shall commence on *December 1, 2004*, in an amount not to exceed \$240,000.00 per annum for a three year period. Each annual payment shall be based upon the average number of FTE's in the previous twelve month period from November through October with FTE's calculated as stated in paragraph 4 above. Any incentive grants paid to CNH under the terms of this provision will be repayable in full to EDC

immediately in the event CNH relocates combine production from the Grand Island manufacturing facility to another locality during the “relocation period”.

23. **CENTRAL COMMUNITY COLLEGE TRAINING INCENTIVE.** The parties acknowledge that certain local foundations and Central Community College have formed a partnership and committed funds and facilities to provide training to add value to the already productive work force in the Grand Island area in the latest manufacturing technologies in areas such as industrial painting technologies, laser cutting and robotics welding. The partnership will include a committee consisting of three CNH employees and three persons representing a business and industry from the community to make investment decisions for the training program. The partners will provide approximately \$1,225,000.00 to Central Community College for funding this incentive.

DEFAULT CONDITIONS

24. **ACTS CONSTITUTING DEFAULT.** CNH will be deemed in default of the GIPL and FL if any one or more of the following occurs:

- a. CNH fails to satisfy the employee qualification and job performance targets for the respective loans set out in paragraphs 4, 8, 10 and 11.
- b. The majority stockholder(s) sell the controlling interest in CNH stock and the new controlling stockholder(s) reduce their commitment to the Grand Island manufacturing facility in terms of investment and employment; provided, however, that this provision shall not preclude any reorganization or merger of CNH with its present subsidiaries or affiliated companies.
- c. CNH relocates combine production from the Grand Island manufacturing facility to another locality during the relocation period.
- d. CNH fails to provide in a timely manner required financial statements, employee reports, employee surveys or other administrative documentation identified by this MOU.
- e. CNH becomes bankrupt or insolvent.
- f. CNH officers or employees engage in fraud, misrepresentation, misappropriation or unauthorized use of GIPL and/or FL proceeds.
- g. CNH fails to comply with the terms and conditions of this MOU or any related loan document.

25. **LEGAL NOTICE AND CORRECTION OF DEFAULT.** The City will notify CNH in writing if it deems that there is a default of any of the above conditions. CNH will have 30 days from the receipt of the notice to correct the condition creating the default. If the conditions creating the default are not removed then the City will notify CNH that it and/or Grand Island Partners are accelerating payment of the FL and GIPL, including any interest

accrued. The City and/or GIP may exercise any legal rights under the law to collect payments which may be due them.

26. **DEFAULT COSTS.** Any legal costs incurred in the collection of the FL or GIPL by the City or GIP may, at the sole discretion of the lender, be added to the outstanding balance of principal and accrued interest. These costs shall become the responsibility of CNH and its guarantor.

GENERAL CONDITIONS

27. **CONFIDENTIAL COMMERCIAL AND PROPRIETOR INFORMATION.** The parties agree and acknowledge that all payroll and employment information prepared and provided by CNH in furtherance of the terms and conditions of this agreement is proprietary and commercial information which if released may give advantage to business competitors and serve no public purpose. Accordingly the respective parties covenant and agree that all such information shall be deemed confidential and each shall endeavor to protect the confidentiality and prevent any dissemination of such information beyond the persons responsible for carrying out the terms and conditions of this MOU.

28. **COVENANTS OF PARTIES.** Each of the parties covenants that it is duly organized and existing in conformity with the laws of its respective place of origin, is authorized to do business in the State of Nebraska and has the authority to lawfully enter into this MOU and all of the associated transactions envisioned hereunder with the various parties. The parties to this MOU covenant that each refrain from any act or failure to act which would render this MOU and the associated transactions, in whole or in part, void or illegal.

29. **FINANCIAL REPORTING.** CNH will provide the Project Administrator audited financial statements within 180 days after the close of each fiscal year end. These may be the same statements offered to the stockholder(s) of CNH, or submitted to the Securities and Exchange Commission.

30. **NO MATERIAL CHANGE.** The financial information of CNH and all other features of the transactions in connection with GIPL #1, GIPL #2 and FL will be accurately represented by CNH without material change or non-disclosure of material facts.

31. **WARRANTY OF REPRESENTATION.** CNH warrants that the loan proceeds will be used as set forth in the MOU. CNH further warrants that the information contained in the application for the City of Grand Island loan including the commitment to give first consideration in hiring LMI individuals, listing by job title those employees to be retained the commitment that training will be provided for jobs requiring special skills or education and the description of the first consideration process is accurate and will be fulfilled by CNH.

32. **NO LEGAL SUITS AND PAYMENT OF TAXES.** CNH warrants that there are no legal actions, suits, or proceedings pending or, to its knowledge are threatened against CNH or investors before any court or administrative agency, which, if determined adversely to CNH, would have a material adverse effect on the financial condition of CNH, nor is there any evidence that would suggest CNH or its investors are in violation of any federal, state or local regulations, ordinances or laws that might increase the opportunity for failure of this project.

33. **LOAN DOCUMENTATION & COSTS.** All the costs of preparing the FL documents will be at the expense of the City.

34. **JURISDICTION.** This agreement and any future lending agreement grievances, conflicts, or legal proceedings shall be governed by Nebraska law and regulation, and subject to its legal venue in any settlement thereof.

35. **FUTURE AMENDMENTS.** From time to time, the undersigned may jointly desire to amend the terms of this MOU, or any future lending agreement and supporting loan documentation. Such consent shall not be unreasonably withheld, but must be acknowledged in writing by all the original parties to this MOU before going into effect.

36. **SEVERABILITY.** Nothing contained in this MOU shall be construed to require the commission of any act contrary to law. Should any court of competent jurisdiction find there is any conflict between any provision here and any present or future law, the provision of this agreement affected thereby shall be curtailed and limited to the extent necessary to bring it into conformity with the requirements and the remaining provisions of this MOU shall remain in full force and effect.

37. **WARRANTIES AND REPRESENTATIONS.** CNH certifies that the corporate official(s) named in the corporate borrowing resolution have been given the legal capacity to contract with the City, enter into any legal agreements with the City, and have accurately and fully disclosed the information required in this project which may be relied upon by the undersigned in their lending agreements.

38. **NOTICES.** All notices issued in furtherance of this agreement shall be in writing and sent to all parties by first class, U.S. mail, postage prepaid, to the following addresses:

New Holland North America, Inc.	City of Grand Island, Nebraska
c/o CNH Global, N.V.	Attn: Mayor
Attn: Debra Kuper	100 East First Street
100 Saunders Road	P.O. Box 1968
Lake Forrest, IL 60045	Grand Island, NE 68802

Wells Fargo Bank, Nebraska	Grand Island Area Economic Development Corp.
Attn: Kurt Haecker	Attn: President
304 West Third Street	P.O. Box 1151
Grand Island, NE 68801	206 North Locust Street
	Grand Island, NE 68802

39. **ASSIGNMENT BY CNH.** Because of the unique nature of this agreement, the parties agree that this agreement and any rights or obligations hereunder shall not be assigned; provided, however that CNH shall have the right to assign the agreement to affiliates, subsidiaries or successors without prior approval of the parties; provided written notice of the assignment and the terms thereof is sent to the parties to this MOU not less than ten (10) days prior to the effective date of the assignment.

40. **TIME LINE ILLUSTRATION.** Attached hereto is Exhibit C for informational purposes only, is a document showing the time lines for the various events stated and described in this MOU.

DATED this _____ day of _____, 2002.

CITY OF GRAND ISLAND, NEBRASKA,
A Municipal Corporation,

NEW HOLLAND NORTH AMERICA,
INC., A Corporation

By: _____
Ken Gnadt, Mayor

By: _____
Alberto Fornare, Treasurer, Vice President

ATTEST:

RaNae Edwards, City Clerk

WELLS FARGO BANK NEBRASKA,
A Corporation, as lead lender for **GRAND**
ISLAND PARTNERS,

GRAND ISLAND AREA ECONOMIC
DEVELOPMENT CORPORATION,
A Corporation,

By: _____
Kurt A. Haecker
Community Banking President

By: _____
Kurt A. Haecker, Chairman

RESOLUTION 2002-394

WHEREAS, during the summer of 2000, CNH Global, the parent company of the local New Holland manufacturing plant, announced that it was closing 20 percent of its manufacturing plants worldwide and reduce its workforce by approximately 20 percent; and

WHEREAS, as an incentive to keep the local manufacturing plant in operation, City officials, the State of Nebraska and various local agencies and lending institutions partnered together to formulate a plan to assist New Holland in its efforts to remain in the Grand Island area; and

WHEREAS, it was determined that the Grand Island New Holland facility would be used exclusively for the production of modern harvesting machinery; and

WHEREAS, a proposed Memorandum of Understanding Mutual Agreement for Inducement Loans and Benefits has been prepared to provide incentives to New Holland for remaining in the community.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Memorandum of Understanding Mutual Agreement for Inducement Loans and Benefits is hereby approved by and between New Holland North America, Inc., the City of Grand Island, the Grand Island Area Economic Development Corporation, and Wells Fargo Bank Nebraska as lead lender of Grand Island Partners which sets out the terms, conditions, and commitments of the respective parties to lend funds and provide inducements in support of the operation of the Grand Island manufacturing facility.

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Adopted by the City Council of the City of Grand Island, Nebraska on December 17, 2002.

RaNae Edwards, City Clerk

Approved as to Form ? _____ December 12, 2002 ? City Attorney
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