



City of Grand Island

Tuesday, June 10, 2003

Council Session

Item G28

#2003-168 - Approving Supplemental Funding Agreement with Economic Development Corporation (EDC) Regarding 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 included: 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.

DISCUSSION

At the December 17, 2002 regular meeting, City Council approved Resolution #2002-394 approving the Memorandum of Understanding Mutual Agreement for Inducement Loans and Benefits between New Holland North America, Inc., the City of Grand Island, the Grand Island Area Economic Development Corporation, and Wells Fargo Bank Nebraska.

The City is participating in the incentive 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 equipment. The City may also participate in buying down the interest on one of the loans offered by a consortium of community banks, which is outlined in the Supplemental Funding Agreement before you now. Staff recommends approval.

Staff Contact: Marlan Ferguson

SUPPLEMENTAL FUNDING AGREEMENT

THIS AGREEMENT is approved and executed on _____, 2003, by the **City of Grand Island, a Municipal Corporation (City), Grand Island Area Economic Development Corporation, a Corporation (EDC), and Wells Fargo Bank Nebraska, a Corporation, as lead lender and acting on behalf of Grand Island Partners, a Consortium of Financial Institutions (GIP).**

1. **STATEMENT OF PURPOSE.** The parties acknowledge and agree that this agreement is made in furtherance of the provisions relating to the Grand Island Partners Loans set out in the Memorandum of Understanding – Mutual Agreement for Inducement Loans and Benefits (MOU) previously approved and executed by and between CNH, the City, EDC, and GIP. The purpose of this agreement is to state the terms and conditions under which GIP and EDC will participate in a joint and mutual program to partially fund the effective interest rates to be charged by GIP for two potential loans to New Holland North America, a Corporation (CNH), which are generally described in the MOU, and the City will increase its annual funding to EDC to replace promotion program funds.

2. **DUTIES OF GIP CONSORTIUM.** In the event the GIP and CNH enter into agreements for the first or both of the loans to CNH described generally in the MOU, the interest rate to be charged to CNH by GIP shall be 1% per annum. The total interest rate to be paid to GIP on the outstanding balance of principal shall be the lenders' prime rate, to be adjusted prospectively quarterly on the date interest payments are due in accordance with paragraphs 3 and 8 of the MOU. The difference between the interest to be paid by CNH (1%) and the total interest to be received by GIP (prime rate) shall be funded by the EDC quarterly on the same date interest payments from CNH are due.

3. **DUTIES OF EDC.** EDC shall fund on the GIP loan(s) the difference between the 1% rate to be charged by GIP to CNH and the publicly quoted New York prime rate in order to reduce the effective interest rate as part of the package of economic incentives which induced CNH to develop and operate a modern harvesting machinery manufacturing facility in Grand Island. The funds of the EDC to be used for the foregoing purposes shall be those which would ordinarily be budgeted and expended as part of the EDC programs for encouraging new industries, investment, and publicity campaigns promoting the resources and services of Grand Island, but received from sources other than the City.

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4. **DUTIES OF THE CITY.** In order for the EDC to continue its current programs on behalf of the City for encouraging new industries, investment, and publicity campaigns promoting the resources and services of Grand Island, the City shall increase its annual budgeted appropriation to the EDC in an amount sufficient to replace the program funds expended in buying down the interest rate(s) of the GIP loans to CNH. The annual appropriation budgeted for the foregoing expenditure shall be payable as part of the City's regular payments to the EDC, and disbursements shall be calculated according to the quarterly prospective interest rate adjustment described in paragraph 2 above.

5. **CNH LOAN PERFORMANCE.** The parties agree that the duty of each party to perform their respective duties under this agreement shall be based on strict compliance by CNH with the repayment schedule, job performance targets, relocation constraints, funding commitments and default provisions of the MOU. Under no circumstance shall the EDC or City be obligated to pay more money in furtherance of this agreement than would have been payable in the event the GIP loans were wholly performed and repaid timely.

In the event any act of default by CNH of the terms and conditions of the MOU or the GIP loan(s) becomes known to any party to this agreement, all known information relating to the act of default shall be provided to other parties and the City shall immediately notify CNH of the condition creating the default and shall send copies of the notice to the EDC and GIP as provided by paragraphs 25 and 38 of the MOU.

6. **SEVERABILITY OPTION.** The parties agree that the duty of each party to perform under this agreement is dependent on complete performance by all other parties. In the event any provision of this agreement is found to be unlawful, is enjoined or otherwise barred by an order of a court with proper jurisdiction, the remaining provisions shall remain in full force and effect and the parties shall endeavor to amend this agreement to comply with the order of the court in order to accomplish the mutual purposes of the parties and prevent financial expense other than the interest rate buy down described above.

7. **GUARANTEE DISCLAIMER.** The parties acknowledge and agree that this agreement and negotiations in the course of making this agreement do not constitute in any manner a guarantee of repayment or collateralization of the GIP loan(s) or fixation of interest rates. GIP accepts the responsibility and risk for making the loan agreements with CNH and obtaining such security as it collectively deems prudent and advisable. The EDC and City accept the responsibility and risk associated with potential variability of prime interest rates.

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8. **SCOPE OF AGREEMENT.** The parties to this agreement understand and agree that the scope of this agreement is limited to the terms and conditions specifically stated herein and acknowledge that other documents, agreements, policies and business practices may govern related issues not mentioned in this consortium agreement.

9. **APPLICABLE LAWS.** This agreement shall be governed by and construed in accordance with the laws of the State of Nebraska and the United States of America.

10. **EFFECTIVE DATE.** This agreement shall be effective on the date the last party executes this document.

**CITY OF GRAND ISLAND, NEBRASKA,
A Municipal Corporation,**

Dated: _____, 2003

By: _____
Mayor Jay Vavricek

**GRAND ISLAND AREA ECONOMIC
DEVELOPMENT CORPORATION, A
Corporation,**

Dated: _____, 2003

By: _____
Chairman of the Board, Mike Gloor

**GRAND ISLAND PARTNERS, By
WELLS FARGO BANK NEBRASKA, A
Corporation and Lead Lender,**

Dated: _____, 2003

By: _____
Kurt A. Haecker, President

RESOLUTION 2003-168

WHEREAS, on December 17, 2002, by Resolution 2002-394, the City of Grand Island approved the Memorandum of Understanding Mutual Agreement for Inducement Loans and Benefits 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 to lend funds and provide inducements in support of the operation of the Grand Island manufacturing facility; and

WHEREAS, the Memorandum of Understanding provided that the parties would participate in a joint and mutual program to buy down the effective interest rates to be charged by the Grand Island Partners (GIP), a consortium of financial institutions, for two potential loans to New Holland North America which are generally described in such Memorandum of Understanding; and

WHEREAS, a CNH Interest Buydown Agreement has been drafted to accomplish this provision of the Memorandum of Understanding; and

WHEREAS, according to the CNH Interest Buydown Agreement, the City would be obligated to increase its annual budgeted appropriation to the Economic Development Corporation in an amount sufficient to replace the program funds expending in buying down the interest rate(s) of the GIP loans to Case New Holland; and

WHEREAS, a proposed CNH Interest Buydown Agreement has been reviewed and approved by the City Attorney.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the CNH Interest Buydown Agreement between the City, the Grand Island Area Economic Development Corporation, and Wells Fargo Bank Nebraska as lead lender and acting on behalf of the Grand Island Partners, a Consortium of Financial Institutions is hereby approved; and the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, June 10, 2003.

RaNae Edwards, City Clerk

Approved as to Form	<input type="checkbox"/>	_____
June 6, 2003	<input type="checkbox"/>	City Attorney