

HEARNE TYPE B (4B) ECONOMIC DEVELOPMENT CORPORATION BOARD

210 CEDAR STREET, HEARNE, TEXAS 77859      Tel 361-550-7775

March 21, 2017

Ross Bush, President, BBJL Hearne, and Individually  
P.O. Box 208  
Franklin, Texas 77856

Re:    NOTICE OF BREACH and  
         OPPORTUNITY TO CURE

Dear Mr. Bush:

I am the President of the Hearne Type B Economic Development Board a/k/a Hearne 4B Sales Tax Board ("Board"). This Letter serves as the Board's notice of breach in relation to your Performance agreement for BBJL Hearne, LLC and Ross Bush, Individually, dated March 4, 2015.

The Board has determined that you are in breach of provision 8 in that you failed to provide evidence of capital investment, number of jobs created, and annual payroll under the agreement at the first anniversary of the agreement which would have been March 4, 2016 and 2017.

In addition, the Board finds that you have defaulted under Section 3 in that during year one and two of the agreement you did not have at least 3 jobs, which the board considers to be 3 full time employees, or three full time equivalent employees and that you did not have an annual payroll of \$50,000.00 during the first or second year of the agreement.

At this time, the Board has opted to give you a period of sixty (60) days to cure your breach under Section 4 of the agreement. This will require that you cure

your defaults of not having 3 employees and that you cure not having an annual payroll of \$50,000.00.

In addition, the Board requires evidence of the capital investment of approximately \$1,000,000.00 during the first and second year, including expenditures for the land and buildings, improvements, furniture, fixtures, equipment, and other expenditures for the beginning of operation of a business for an Extended Stay Hotel on the Property.

Please advise the Board within (60) days of the date of this letter of your status regarding cure and the Board can place this issue on an agenda for further consideration.

Compliance with this notice does not alleviate the need to comply with all other terms of the agreement.

Please feel free to contact me with any questions.

REVIEWED AND APPROVED BY CITY COUNCIL DATE \_\_\_\_\_

Thank You

  
Virgil J. Blankenship

President Type B Board

Cc: John Naron, Interim City Manager  
City Council Members

**Performance Agreement for Loan to Business**  
**(Hearne 4B and BBJL Hearne, LLC and Ross Bush, Individually)**

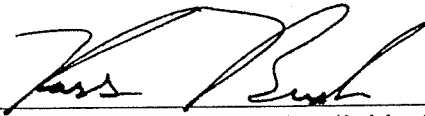
HEARNE 4B SALES TAX BOARD ("Hearne 4B") and BBJL Hearne, LLC and Ross Bush, Individually ("Business") agree to this performance agreement pursuant to the Development Corporation Act including Texas Local Government Code Section 505.

1. The real property subject to this agreement ("Property") is fully described in the Exhibits attached hereto for all purposes ("Property").
2. Hearne 4B agrees and certifies that the Board of Directors of Hearne 4B has found that the expenditures to construct parking and roads and to promote new business development, to wit: an Extended Stay Hotel and improvements required or suitable for the Extended Stay Hotel business on the property for the creation of primary jobs.
3. Business agrees to the following schedule of additional payroll or jobs to be created, annual payroll and estimated capital investment:  
At least 3 jobs for a minimum of 3 years;  
At least an annual payroll of \$50,000.00 for a minimum of 3 years;  
At least an estimated capital investment of \$1,000,000.00 including all expenditures for the land and buildings, improvements, furniture, fixtures, equipment, and other expenditures for the beginning of operation of a business for an Extended Stay Hotel on the Property. Additionally, the business agrees that no less than forty percent (40%) of all gross revenue will be charged a Hotel Occupancy Tax. However, if the percentage of the revenue to which Hotel Occupancy Tax applies is greater than forty percent (40%) of the gross revenue, then the business will pay the Hotel Occupancy Tax on the greater amount of gross revenue.
4. Business agrees to repay the incentive loaned to Business, if Business fails to perform the terms of this agreement. Hearne 4B shall give Business written notice of any breach of the agreement and a reasonable opportunity to cure the breach.
5. Hearne 4B agrees to loan to Business the sum of \$42,500.00 pursuant to this agreement and for Business' expenditures for the construction of a parking lot and roadway on, at, in or for the Property to promote new business development, to wit: an Extended Stay Hotel and for the creation of primary jobs.
6. Hearne 4B shall loan to Business the funds pursuant to this agreement upon expenditures having been made by Business and written documentation certified by Business to Hearne 4B of the expenditures allowable under Section 505 of the Development Corporation Act, including expenditures for the construction of roads and a parking lot on, at, in or for the Property to promote new business development, to wit: an Extended Stay Hotel on the Property and for the creation of primary jobs.

7. The funds pursuant to this agreement shall be disbursed upon review and approval of the receipts for the expenditure of funds allowable under Section 505 of the Development Corporation Act for the construction of parking and roadways on the property for the promotion of the new business, to wit: an Extended Stay Hotel and the creation of primary jobs.
8. At the first, second, and third anniversary of the loan, Business will provide Hearne 4B evidence of the capital investment, number of jobs created, and annual payroll. Upon evidence of compliance with this agreement at the first, second, and third anniversary of the loan, Hearne 4B will forgive 1/3 of the loan if the Business has complied with the agreement for the first year of the loan, and 1/3 of the loan if the Business has complied with the agreement for the second year of the loan, and 1/3 of the loan if the Business has complied with the agreement for the third year of the loan.
9. Business does not and will not knowingly employ an undocumented worker. Repayment of the subsidy with interest at the Texas judgment interest rate from the date of notice if the business is convicted of federal immigration violations under 8 U.S. Code Section 1324a(f), not later than the 120th day after receiving notice of the violation from HEARNE 4B SALES TAX BOARD.
10. Any approved funds not expended within one year of the date of the resolution that approved this agreement are deobligated.
11. Time is of the essence.
12. This agreement is effective upon approval by the City Council of the City of Hearne, Texas, and upon approval by Hearne 4B as required by law; and approval by Business.

Signed effective March 4, 2015.

Business:  
BBJL Hearne, LLC and Ross Bush, Individually

By:   
\_\_\_\_\_  
Ross Bush, President and Individually  
P.O. Box 208  
Franklin, Texas 77856

Hearne 4B:  
Hearne 4B Sales Tax Board

By:   
Bart Lockhart  
Chairman

**APPROVAL OF CITY COUNCIL**

The City Council of the City of Hearne, Texas at its meeting on December 19, 2014 approved the Performance Agreement above and authorizes and approves the expenditures to be paid pursuant to the agreement.

Signed March 4, 2015.

City of Hearne, Texas

By:   
Pee Wee Drake, City Manager