

SCOTT ELLIS, in his official capacity as
Brevard County Clerk of the Circuit Court,

Plaintiff,

v.

ECONOMIC DEVELOPMENT
COMMISSION OF FLORIDA'S SPACE
COAST, INC., a Florida non-profit
corporation,

Defendant.

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT IN
AND FOR BREVARD COUNTY,
FLORIDA

CASE NO.: 05-2013-CA-069095-XXXX-XX

MEDIATED SETTLEMENT AGREEMENT

Plaintiff, Scott Ellis, in his official capacity as the Brevard County Clerk of the Circuit Court (the "Clerk") and Defendant, the Economic Development Commission of Florida's Space Coast ("EDC") (collectively, the "Parties"), through counsel, having appeared for mediation on March 2 and 3, 2016, before Ted B. Edwards, intending to be legally bound, agree as follows to resolve any and all claims which were raised in the case styled above or could have been raised by the Parties against one another concerning the Clerk's Requests for Public Records (the "Records Requests") to require the EDC to disclose its records related to BlueWare, Inc., and affiliated persons or entities (collectively "BlueWare").

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, the Parties hereto, intending to be legally bound, agree as follows:

1. At the time the Clerk made his public records requests seeking production of the EDC's BlueWare files, the EDC was subject to the Public Records Act related to the requirements of paragraph 5 of the Agreement between the EDC and Brevard County, dated August 21, 2012.

2. The EDC shall produce to the Clerk all records that are responsive to the Clerk's record requests, excepting those records that have been previously produced, within forty-five (45) days of the execution of this Mediated Settlement Agreement; subject to paragraph 3, below. Such records shall include documents in the EDC's possession or control related to Project Fates, BlueWare, BlueGem, RoseWare, or related companies, including internal memoranda, talking points, emails, letters, correspondence, agreements, or other documents or communications.

3. If the EDC contends that any responsive records are subject to one or more exemptions under the Public Records Act, the EDC may produce such records to the Court for *in camera* inspection. If the EDC seeks *in camera* inspection by the Court, it shall also provide the Clerk a privilege log identifying such records with sufficient particularity for the Clerk to determine the applicability of the exemption. The privilege log shall also identify the basis for the asserted exemption and cite the specific section of the Public Records Act applicable to each document submitted for *in camera* inspection. If the EDC elects to submit documents for *in camera* inspection, the submission to the Court, and service of the privilege log on the Clerk, shall occur on or before the deadline for production established in paragraph 2 above.

4. This Agreement is limited solely to the Records Requests made by the Clerk related to BlueWare and the related entities.

5. Either party may submit this Settlement Agreement to the Court for adoption and approval, or for enforcement.

6. Dismissal of Suit with Prejudice. This case shall be dismissed with prejudice forty-five (45) days after the Court's *in camera* inspection, resolution of any pending motion, compliance with any Order resulting therefrom, the EDC's full compliance with paragraph 2 above, and certification by EDC that all documents have been produced.

7. Retention of Jurisdiction. The Clerk and the EDC will jointly request the Court to retain jurisdiction to enforce the terms of this Mediated Settlement Agreement. The Court may enter orders compelling compliance with this Mediated Settlement Agreement or other orders as the Court deems appropriate.

8. Authority to Execute.

a. The Clerk is authorized to execute this Mediated Settlement Agreement and to take all actions necessary to implement the terms and conditions of this Mediated Settlement Agreement.

b. Lynda Weatherman is authorized to execute this Mediated Settlement Agreement and to take all actions necessary to implement the terms and conditions of this Mediated Settlement Agreement.

9. Acknowledgement. The Parties acknowledge that they have read this Mediated Settlement Agreement, understand each term, and have consulted with their respective attorneys before executing the Agreement. The Parties accept the terms of this Mediated Settlement Agreement, and have agreed to its terms solely for their own convenience, without admitting liability or wrongdoing.

10. Complete Settlement.

a. This Mediated Settlement Agreement represents the full and complete agreement of the Parties to resolve the above-captioned action and any and all issues and claims in the action between them, including any and all claims made or described in, or which could have been made or described in, or which could have been inferred from, allegations of fact or statements made by any party in the action, are resolved and settled in full, except any issues and claims arising as a result of a breach of this Mediated Settlement Agreement.

b. The Parties acknowledge that there has been no influence to enter into this Mediated Settlement Agreement in any manner, nor has any party relied upon any verbal warranties or representations not set forth in this Mediated Settlement Agreement. This Mediated Settlement Agreement constitutes the sole and entire agreement between the Parties and no modification hereof shall be binding unless attached hereto and signed by all parties to this Mediated Settlement Agreement. All prior and contemporaneous conversation, negotiation, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein.

11. Attorneys' Fees and Costs. The Parties agree to bear their own respective attorneys' fees, consultant fees, and costs.

12. Mediator's Fee. The Parties agree to split equally the mediator's fee except the first one-half hour.

13. Mutual Drafting. If any dispute arises concerning the meaning or construction of any term or terms of this Mediated Settlement Agreement, no part or term of this Mediated Settlement Agreement shall be construed for or against any party as the drafting party. The

Parties hereto recognize that the drafting of this Mediated Settlement Agreement was the joint effort of counsel of the respective Parties.

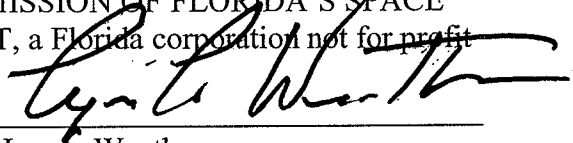
14. Choice of Forum and of Law. In any litigation to enforce this Mediated Settlement Agreement, Florida law shall govern all issues. The exclusive forum for enforcement of this Mediated Settlement Agreement shall be in the Circuit Court for Brevard County, Florida.

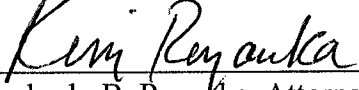
15. Effective Date. This Mediated Settlement Agreement shall be effective immediately upon its full execution by the Parties.

16. Time of the Essence. Time is of the essence for the performance of each and every provision contained herein.


IN WITNESS WHEREOF, the undersigned have executed this Mediated Settlement Agreement as of the date first written above on March 3, 2016.

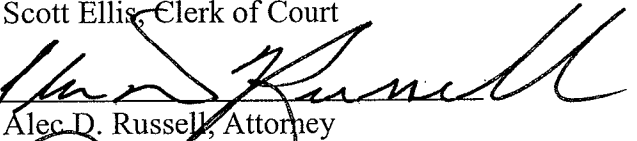
ECONOMIC DEVELOPMENT
COMMISSION OF FLORIDA'S SPACE
COAST, a Florida corporation not for profit

By: 
Lynda Weatherman
Chief Executive Officer

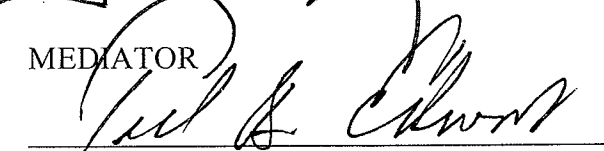
By: 
Kimberly B. Rezanika, Attorney

CLERK OF COURT, BREVARD
COUNTY, FLORIDA

By: 
Scott Ellis, Clerk of Court

By: 
Alec D. Russell, Attorney

MEDIATOR


Edward ("Ted") B. Edwards