

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

CASE NO.: 05-2013-CA-033457-XXXX-XX

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

Plaintiff,

vs.

BLUEGEM, LLC, a Florida limited liability
company,

Defendant.

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO PLAINTIFF

Plaintiff SCOTT ELLIS in his official capacity as Brevard County Clerk of the Circuit Court, through undersigned counsel, hereby requests that the Defendant BLUEGEM, LLC produce for inspection and photocopying at the offices of the undersigned, within 30 days, the documents and things set forth below.

DEFINITIONS

The following terms have the meaning hereafter set forth in this Request for Production:

1. The terms "document" and "documentation" mean any writing of any type, kind or nature, whether an original, facsimile, electronic document, extract of a copy, carbon copy, photostatic or photographic copy, or other copy, including, by way of example but not by way of limitation: ledgers, books, diaries, records, letters, papers, correspondence, messages, memoranda, including any memoranda or transcripts of oral communications, pamphlets, lists, reports, contracts, agreements, notes, statements, bills, checks, claims, telephone logs, correspondence logs, accounts, books of account, studies, working papers, photographs, computer programs, computer printouts, commentaries, files, file memoranda, notebooks, forms, certificates, notices, telegrams, telexes, emails, text messages, notations, minutes, resolutions, motions, contracts, summaries, business records of any type or kind (whether on microfilm or stored in computer data banks or tapes), or other written, recorded, typewritten or imprinted item of any type of kind, having corporeal or electronic existence, and in any language, including mathematical symbols, in the possession, custody or control of the Defendant.

2. The term "action" shall mean the above-styled action bearing Case No. 05-2013-CA-033457-XXXX-XX.

3. The term "Complaint" as used hereafter shall mean, unless otherwise specifically noted, the Complaint filed by the Plaintiff in the above-styled action.

4. The term "Answer" as used hereafter shall mean, unless otherwise specifically noted, the Answer and Affirmative Defenses filed by the Defendant in the above-styled action.

5. The term "Defendant" as used hereafter shall mean BLUEGEM, LLC together with all its employees, agents and/or anyone acting on its behalf.

6. The term "Affiliates" as used hereafter shall mean any of Defendant, BLUEGEM, LLC's affiliated organizations, subsidiaries and/or other organizations of which Rose Harr is a corporate officer, shareholder, member, and/or manager including without limitation RoseWare, LLC, BlueWare, LLC, BlueWare Cloud, LLC, BlueZen, LLC, BlueWare Land, LLC, BlueWare DOD, LLC, BlueScan, LLC, BlueWare Eire, LLC, BlueWare, Inc., and BlueWare International, Inc., together with all employees, agents and/or anyone acting on behalf of one or more of these organizations.

7. The term "Plaintiff" as used hereafter shall mean SCOTT ELLIS in his official capacity as Brevard County Clerk of the Circuit Court.

8. The term "Clerk's Office" shall mean the Brevard County Clerk of the Circuit Court as a corporate body together with all its employees, agents and/or anyone acting on its behalf.

9. The term "Scanning Contract" shall mean the written contract for scanning services executed by BlueGEM and the Clerk's Office and attached to the Complaint as Exhibit "M."

10. "Person" or "persons" includes any natural person, proprietorship or partnership and any organization, including any private, public or municipal corporation, and federal, state or local government entity.

11. "Communication" means any verbal or written contact with another person, including, but not limited to, any conversation, correspondence, interview or interrogation.

INSTRUCTIONS

1. This Request for Production covers all information and documents in the possession, custody and/or control of the Defendant, its predecessors or successors in interest, its former and present agents, employees, servants or representatives, and unless privileged, their attorneys. Reference to "you" or "your" includes a reference to each person and entity referenced in this paragraph. This Request for Production shall be read together with the definitions set forth above.

2. Defendant shall provide the documents requested within thirty (30) days after service hereof, unless an extension of time is requested and granted, or otherwise in accordance with any applicable order of the Court.

DOCUMENTS REQUESTED

1. Any and all documents reflecting communications between Defendant and any of its Affiliates regarding or related to the Clerk's Office and/or any of the allegations in the Complaint from 2010 to present.
2. The Articles of Incorporation and Annual Reports for the years 2010, 2011, 2012 and 2013 for the Defendant and all of its Affiliates.
3. Any and all documents that reflect the number of employees employed by Defendant for the years 2010 through present.
4. Any and all documents that reflect any and all scanning equipment or equipment that could be utilized for a scanning operation owned, leased or otherwise under the control of Defendant for the years 2010 through present.
5. Any and all documents reflecting communication between Defendant and/or any of its Affiliates and the Clerk's Office that occurred before March 20, 2012.
6. Any and all documents reflecting communications between former Clerk Mitch Needelman and Defendant's employee Matt Dupree that occurred before March 20, 2012.
7. Any and all proposals, offers, presentations, responses to invitations to negotiate and/or other public bid requests, contracts or agreements reflecting scanning operations of any kind performed or offered to be performed by Defendant and any of its Affiliates for the years 2010, 2011 and 2012.
8. Any and all documents related to the invoice from Defendant to the Clerk's Office dated March 20, 2012 and/or the Clerk's Office's payment thereof, including without limitation any and all communications between Defendant and/or any of its Affiliates concerning this invoice or between Defendant and any of its Affiliates and the Clerk's Office regarding this invoice.
9. Any and all documents reflecting work done, goods sold and/or services performed by Defendant for which Defendant submitted the March 20, 2012 invoice to the Clerk's Office for \$10,000.
10. Any and all documents reflecting or tending to show the reason Defendant charged the Clerk's Office \$10,000 as set out in the March 20, 2012 invoice, including without limitation any documents reflecting how Defendant arrived at this particular figure.
11. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding the purpose of and/or payment for the March 20, 2012 invoice.
12. Any and all documents reflecting Defendant's receipt of the \$10,000 referenced in the March 20, 2012 invoice.

13. Any and all documents reflecting communications of any kind relating to the Invitation to Negotiate issued by the Clerk's Office on May 3, 2012 (the "Invitation to Negotiate"), including without limitation communications regarding any legal obligation to issue the Invitation to Negotiate, the drafting and/or preparation of the Invitation to Negotiate and revisions to any invitation to negotiate.
14. Any and all requests for bids, requests for proposals or invitations to negotiate and/or drafts or templates thereof that Defendant provided to the Clerk's Office for any reason prior to May 3, 2012.
15. Any and all draft and/or proposed contract(s) and/or agreement(s) provided to the Clerk's Office by Defendant or any of its Affiliates prior to May 3, 2012.
16. Any and all documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf regarding Defendant's response to the Invitation to Negotiate.
17. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding Defendant's response to the Invitation to Negotiate.
18. Any and all documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf regarding or relating to bids submitted by organizations other than Defendant in response to the Invitation to Negotiate.
19. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding or relating to bids submitted by organizations other than Defendant in response to the Invitation to Negotiate.
20. Any and all documents to support the basis for Defendant's proposed contract price, \$8.64 million, submitted in response to the Invitation to Negotiate.
21. Any and all documents relating to any internal audit or appraisal conducted by Defendant to determine if Defendant had the ability to perform the services requested by the Clerk's Office in the Invitation to Negotiate.
22. Any and all contracts or other agreements between Defendant or any of its Affiliates and any other individual or organization, other than the Clerk's Office, for the use and/or right to use "Digital Pen."
23. Any and all documents regarding the ownership of the "Digital Pen" software for the years 2010, 2011, 2012 and 2013.
24. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding changes and/or amendments to the proposed contract attached to Defendant's response to the Invitation to Negotiate.

25. Any and all documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf regarding changes and/or amendments to the proposed contract attached to Defendant's response to the Invitation to Negotiate.
26. Any and all documents, including without limitation documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf, relating to the selection by the Clerk's Office of Defendant's response to the Invitation to Negotiate.
27. Any and all documents, including without limitation documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf, referencing and/or regarding the June 3, 2012 memorandum prepared by Merrily Longacre and attached to the Complaint as Exhibit "L."
28. Any and all documents related to the invoices from Defendant to the Clerk's Office dated May 23, 2012 and/or the Clerk's Office's payment thereof, including without limitation any and all communications between Defendant and/or any of its Affiliates concerning these invoices or between Defendant and any of its Affiliates and the Clerk's Office regarding these invoices.
29. Any and all documents reflecting work done, goods sold and/or services performed by Defendant for which Defendant submitted the May 23, 2012 invoices to the Clerk's Office for \$510,000.
30. Any and all documents reflecting or tending to show the reason Defendant charged the Clerk's Office \$510,000 as set out in the May 23, 2012 invoices, including without limitation any documents reflecting how Defendant arrived at this particular figure.
31. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding the purpose of and/or payment for the May 23, 2012 invoices.
32. Any and all documents reflecting Defendant's receipt of the \$510,000 referenced in the May 23, 2012 invoices.
33. Any and all documents, including without limitation documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf, reflecting any other potential, proposed and/or considered prices for Defendant's scanning services to the Clerk's Office that were less than the \$8.64 million price ultimately reflected in the Scanning Contract.
34. Any and all documents, including without limitation documents reflecting communications between BlueGEM's employees, agents and/or anyone acting on its behalf, relating to Defendant's execution of the Scanning Contract.

35. Any and all documents related to Invoice No. 999102, dated June 29, 2012, from Defendant to the Clerk's Office and/or the Clerk's Office's payment thereof, including without limitation any and all communications between Defendant and/or any of its Affiliates concerning this invoice or between Defendant and any of its Affiliates and the Clerk's Office regarding this invoice.
36. Any and all documents reflecting work done, goods sold and/or services performed by Defendant for which Defendant submitted Invoice No. 999102 to the Clerk's Office for \$50,000.
37. Any and all documents reflecting or tending to show the reason Defendant charged the Clerk's Office \$50,000 as set out in Invoice No. 999102, including without limitation any documents reflecting how Defendant arrived at this particular figure.
38. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding the purpose of and/or payment for Invoice No. 999102.
39. Any and all documents reflecting Defendant's receipt of the \$50,000 referenced in Invoice No. 999102.
40. Any and all documents related to Invoice No. 999103, dated June 29, 2012, from Defendant to the Clerk's Office and/or the Clerk's Office's payment thereof, including without limitation any and all communications between Defendant and/or any of its Affiliates concerning this invoice or between Defendant and any of its Affiliates and the Clerk's Office regarding this invoice.
41. Any and all documents reflecting work done, goods sold and/or services performed by Defendant for which Defendant submitted Invoice No. 999103 to the Clerk's Office for \$40,000.
42. Any and all documents reflecting or tending to show the reason Defendant charged the Clerk's Office \$40,000 as set out in Invoice No. 999103, including without limitation any documents reflecting how Defendant arrived at this particular figure.
43. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding the purpose of and/or payment for Invoice No. 999103.
44. Any and all documents reflecting Defendant's receipt of the \$40,000 referenced in Invoice No. 999103.
45. Any and all documents related to Invoice No. 999105, dated June 29, 2012, from Defendant to the Clerk's Office and/or the Clerk's Office's payment thereof, including without limitation any and all communications between Defendant and/or any of its Affiliates concerning this invoice or between Defendant and any of its Affiliates and the Clerk's Office regarding this invoice.

46. Any and all documents reflecting work done, goods sold and/or services performed by Defendant for which Defendant submitted Invoice No. 999105 to the Clerk's Office for \$40,000.
47. Any and all documents reflecting or tending to show the reason Defendant charged the Clerk's Office \$40,000 as set out in Invoice No. 999105, including without limitation any documents reflecting how Defendant arrived at this particular figure.
48. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding the purpose of and/or payment for Invoice No. 999105.
49. Any and all documents reflecting Defendant's receipt of the \$40,000 referenced in Invoice No. 999105.
50. Any and all documents that describe or explain the "Digital Pen Pilot Project."
51. Any and all documents reflecting communications between BlueGEM's employees, agents, anyone acting on its behalf and/or its Affiliates regarding the "Digital Pen Pilot Project."
52. Any and all documents reflecting Defendant's receipt of payments from or on behalf of the Clerk's Office pursuant to the Scanning Contract.
53. Any and all documents reflecting or otherwise showing work done, goods sold and/or services performed by or on behalf of Defendant pursuant to the Scanning Contract.
54. Any and all documents provided by Defendant to the Clerk's Office that were required to be provided to the Clerk's Office pursuant to the Scanning Contract.
55. Any and all documents reflecting communications between BlueGEM's employees, agents, anyone acting on its behalf and/or its Affiliates regarding documents to be provided to the Clerk's Office pursuant to the Scanning Contract.
56. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding documents to be provided to the Clerk's Office pursuant to the Scanning Contract.
57. Any and all documents reflecting communications between BlueGEM's employees, agents, anyone acting on its behalf and/or its Affiliates regarding the Amendment to the Scanning Contract ("Amendment"), a copy of which was attached to the Complaint as Exhibit "R."
58. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office regarding any amendment to the Scanning Contract.

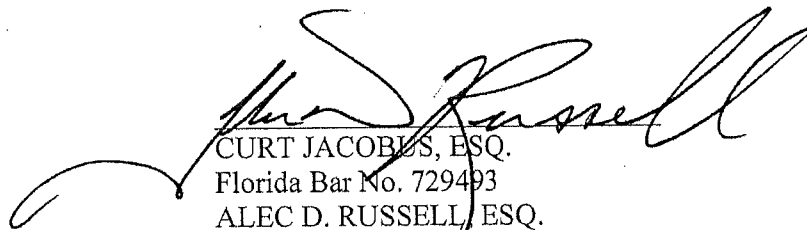
59. Any and all documents reflecting communications between Defendant or any of its affiliates and former Clerk Mitch Needelman, in his individual capacity, or anyone acting on former Clerk Mitch Needleman's behalf and/or at his direction relating to the Scanning Contract and/or the Amendment.
60. Any and all documents reflecting communications between Defendant or any of its affiliates and former Clerk Mitch Needelman, in his individual capacity, or anyone acting on former Clerk Mitch Needleman's behalf and/or at his direction relating to any of the allegations in the Complaint with the exception of communications relating to the Scanning Contract and/or the Amendment.
61. Any and all documents other than communications relating to the drafting of, preparation of and/or revisions to the Amendment.
62. Any and all documents reflecting communications between Defendant or any of its Affiliates and Hewlett Packard Financial Services ("H-P") regarding the Scanning Contract with the Clerk's Office and/or payment on behalf of the Clerk's Office.
63. Any and all documents reflecting communications between Defendant or any of its Affiliates and the Clerk's Office relating to a loan from H-P to the Clerk's Office.
64. Any and all documents reflecting communications between BlueGEM's employees, agents, anyone acting on its behalf and/or its Affiliates relating to a loan from H-P to the Clerk's Office.
65. Any and all documents, including without limitation documents reflecting communications, regarding to Defendant's application to the Economic Development Commission for Brevard County (the "EDC") and/or Defendant's receipt of any benefits from the EDC.
66. Any and all documents reflecting communication between Defendant and the Clerk's Office regarding benefits received by Defendant from the EDC.
67. Any and all documents reflecting Defendant's document retention policy and its position regarding electronic document retention, if separate.
68. Any and all documents, including without limitation written or electronic communications, Defendant sent to or received from any governmental entity other than the Clerk's Office between January 1, 2010 and January 7, 2013.
69. Any and all documents, including without limitation written or electronic communications, Defendant sent to or received from any elected official other than former Clerk Mitch Needelman between January 1, 2010 and January 7, 2013.

(Signature Page Follows)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via E-Service to Michael Gay, Esq., Foley & Lardner LLP, Attorneys for Defendant/Counter-Plaintiff: mgay@foley.com and rrightmyer@foley.com this 28th day of August, 2013.

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