

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.

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**PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS TO DEFENDANT**

Plaintiff, SCOTT ELLIS, in his official capacity as Brevard County Clerk of the Circuit Court ("Plaintiff"), through undersigned counsel and pursuant to the Florida Rules of Civil Procedure, hereby request that the Defendant, BLUEGEM, LLC, admit the following Requests, in writing, within thirty (30) days. If you fail to respond to these Requests within the time permitted by the applicable Rules, they will be deemed admitted.

**DEFINITIONS**

1. The term "Complaint" as used hereafter shall mean, unless otherwise specifically noted, the Complaint filed by the Plaintiff in the above-styled action.
2. 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.
3. The term "Defendant" as used hereafter shall mean BLUEGEM, LLC together with all its employees, agents and/or anyone acting on its behalf.

4. The term "Affiliates" as used hereafter shall mean any of Defendant's, BLUEGEM, LLC, 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.

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

6. 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.

7. 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."

### REQUEST FOR ADMISSIONS

1. Admit that at the time Defendant contacted the Clerk's Office regarding scanning services, Defendant did not have the manpower or equipment to undertake an operation to scan millions of pages of documents.
2. Admit that Defendant's employee Matt Dupree and former Clerk Mitch Needelman had a business, professional and/or social relationship prior to Defendant contacting the Clerk's Office to perform or offer to perform any work.
3. Admit that the Clerk's Office paid Defendant \$10,000 prior to the execution of the Scanning Contract and as reflected in an invoice dated March 20, 2012.
4. Admit that this \$10,000 payment from the Clerk's Office to Defendant was later included or otherwise reflected in later Scanning Contract invoices.
5. Admit that Defendant was involved in the drafting or preparation of the Invitation to Negotiate issued by the Clerk's Office on May 3, 2012.
6. Admit that Defendant or someone acting on Defendant's behalf or at Defendant's direction provided at least one "example" invitation to negotiate to the Clerk's Office so that the Clerk's Office could base the construction of its Invitation to Negotiate off of that document.
7. Admit that Defendant sent sample, draft or proposed scanning contracts or agreements to the Clerk's Office prior to the Invitation to Negotiate issued by the Clerk's Office on May 3, 2012 (the "Invitation to Negotiate") being made publicly available.
8. Admit that the Invitation to Negotiate was premised in whole or in part upon the services Defendant offered to provide to the Clerk's Office.
9. Admit that the Invitation to Negotiate was insufficiently detailed to permit a reasonable evaluation of the services the Clerk's Office was requesting thereby.
10. Admit that Defendant helped the Clerk's Office design the Invitation to Negotiate to ensure that Defendant would be the successful bidder.
11. Admit that Defendant received inquiries from other potential bidders on the Invitation to Negotiate through the Clerk's Office and provided the Clerk's Office with proposed responses to such inquiries.
12. Admit that Defendant was involved in the evaluation and selection process undertaken by the Clerk's Office after the Clerk's Office received responses to its Invitation to Negotiate.
13. Admit that Defendant was selected as the successful bidder for the Invitation to Negotiate despite the fact that Defendant's contract price was the highest of all of the bids received.

14. Admit that Defendant initially considered or discussed a contract price for the scanning services requested by the Clerk's Office that was less than one million dollars (\$1,000,000).

15. Admit that Defendant was in communication with the Clerk's Office throughout the preparation of the Invitation to Negotiate and throughout the selection process related thereto.

16. Admit that Defendant suggested or made changes to the proposed scanning contract it attached to its response to the Invitation to Negotiate after Defendant's response was submitted but before the Clerk's Office selected a winning bidder.

17. Admit that Defendant sent invoices dated May 23, 2012 and totaling \$510,000 to the Clerk's Office prior to the execution of the Scanning Contract.

18. Admit that the Clerk's Office paid the Defendant at least \$510,000 prior to the execution of the Scanning Contract.

19. Admit that Defendant was involved in the preparation of the Amendment to the Scanning Contract (the "Amendment"), a copy of which is attached to the Complaint as Exhibit "R."

20. Admit that Defendant was involved in the Clerk's Office's interaction with Hewlett Packard Financial Services ("H-P") to obtain a loan to pay off the balance of the sums due Defendant under the Scanning Contract.

21. Admit that Defendant was aware that at the time the Amendment was prepared that former Clerk Mitch Needelman had already lost his bid for re-election as Brevard County Clerk of the Circuit Court.

22. Admit that Defendant was aware that at the time the Amendment was executed that former Clerk Mitch Needelman had already lost his bid for re-election as Brevard County Clerk of the Circuit Court.

23. Admit that the purpose of the Amendment and the loan from H-P to the Clerk's Office was to ensure that Defendant received full payment under the Scanning Contract before former Clerk Mitch Needelman was to leave office in January, 2013.

24. Admit that Defendant has never provided a "Project Plan" to the Clerk's Office as required by the Scanning Contract.

25. Admit that Defendant did not provide monthly status reports to the Clerk's Office as required by the Scanning Contract.

26. Admit that Defendant did not deliver "ten digital pens" to the Clerk's Office for use in the "Digital Pen Pilot Program."

27. Admit that the Clerk's Office has notified Defendant that it has issues with or is otherwise dissatisfied with the redaction services being provided by a third party as it pertains to the documents to be scanned by Defendant.

28. Admit that Defendant purchased equipment necessary to complete its obligations under the Scanning Contract with funds received from the Clerk's Office.

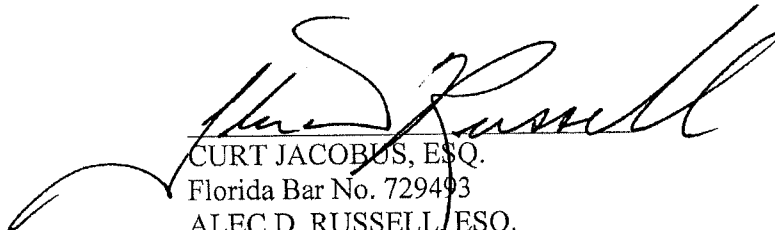
29. Admit that at the time the Scanning Contract was executed, Defendant did not have sufficient manpower or equipment to fully and timely carry out its obligations under the Scanning Contract.

30. Admit that Defendant had already been selected by the Clerk's Office to perform the services enumerated in the Invitation to Negotiate prior to the creation and issuance of the Invitation to Negotiate.

### 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](mailto:mgay@foley.com) and [rightmyer@foley.com](mailto:rightmyer@foley.com) this 28<sup>th</sup> day of August, 2013.

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