



Purchasing Department

PROCUREMENT DIVISION
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August 3, 2022

Via email: ben@madroomhospitality.com

Mr. Ben Bush
Mad Room Hospitality, LLC
2030 SW 37th Avenue, Suite 108
Coral Gables, FL 33134

Re: **RFP No. 21-22-206 JG Operation of the Sunset Lounge (the "RFP")**
WPB File No. 27570

Mr. Bush:

It has been brought to my attention that Mad Room Hospitality, LLC, violated the terms and conditions of the RFP and the City Code of Ordinances by contact with the Mayor and a City Commissioner.

On Tuesday, June 27, 2022, after the City Commission meeting, Zack Bush sent an email to the Mayor. On June 28, 2022, Zack Bush sent an email to Commissioner Peduzzi. It is noted that these emails were sent after the CRA Board selected another firm as the operator of the Sunset Lounge, and were a mere courtesy contact and not an attempt to influence the selection. Nevertheless, such contact is a technical violation of the rules and Code.

The RFP included the following restrictions on contact, set forth on pages 22 and 26 of the RFP:

NO LOBBYING:

CONTACT BY A PROPOSER (OR ANYONE REPRESENTING A PROPOSER) WITH THE MAYOR, ANY CITY COMMISSIONER, OFFICER, AGENCY OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY, CITY OR CRA EMPLOYEE (OTHER THAN AN EMPLOYEE OF THE WEST PALMBEACH PROCUREMENT DIVISION OR OFFICE OF ECONOMIC OPPORTUNITY), REGARDING THIS RFP, IS GROUNDS FOR DISQUALIFICATION. Contact with the Procurement Division shall be for clarification purposes only. Contact with the Office of Equal Opportunity shall be for equal opportunity purposes only.

Lobbying Prohibited. As to any matter relating to this RFP,

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contact by a Proposer, or anyone representing a Proposer, with the Mayor, any City Commissioner, officer, CRA employee, CRA contractor or consultant, City employee or any City representative or contractor, or any other person working on behalf of the CRA or City on any matter related to or involved with this RFP, other than an employee of the West Palm Beach Procurement Division or Office of Small and Minority Business Programs is grounds for disqualification. For purposes of clarification, a team's representatives shall include, but not be limited to, the Proposer, the Proposer's employees, partners, attorneys, officers, directors, contractors, lobbyists, or any actual or potential contractor or subcontractor of the Proposer or the Proposer's team. All oral or written inquiries are to be directed to the Procurement Division staff. Any violation of this condition may result in rejection and/or disqualification of the Proposer. **The "No- Lobbying" condition is in effect from the date of publication of this RFP and shall remain in effect until the CRA executes a contract, or otherwise takes action, which ends the solicitation process for the services under this RFP.**

The Section 66-8 of the City Code reads as follows:

Sec. 66-8. – Prohibited lobbying.

No person, firm, corporation, or others representing such person, firm, or corporation shall contact or lobby the mayor, the city commissioner, city staff, or evaluation committee member in person, by telephone, in writing, by e-mail, or any other means of communication, regarding the procurement of goods, services, or construction from the time the intent to procure such goods, services, or construction is advertised to the time of completed procurement. The only permissible contact regarding a procurement solicitation shall be with the procurement official or with the evaluation committee at a duly noticed public meeting. Lobbying and lobbyist shall have the same meaning as provided in subsection 2-581(a) of the city's ethics code.

The RFP and City Code prohibit any contact with the Mayor or any Commissioner by a proposer until a contract is executed or the solicitation process is ended.

It is noted that Mad Room Hospitality's contact is a technical violation and is distinguishable from and is not equivalent to disqualification for lobbying. It should also be noted that Mayor James' response to the June 27, 2022 email from Mr. Bush was an appropriate response to Mr. Bush's outreach.

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Nevertheless, I find that Mad Room Hospitality has committed a technical violation of the "no lobbying/contact" provisions of the RFP and City Code by making a courtesy contact with the Mayor and a Commissioner during the prohibited contact period. Pursuant to the authority provided by Section 66-121 of the City Code, Mad Room Hospitality, LLC, is disqualified from participation in the RFP and no further negotiations will be conducted with its team.

 8/3/2022

Paul Bassar, Procurement Official

Att.

cc: Mayor Keith A. James
Commissioner Christy Fox
Commissioner Joseph Peduzzi
Commissioner Christine Lambert
Commissioner Shalonda Warren
Commissioner Cathleen Ward
Christopher Roog, CRA Executive Director
Procurement File

Willissa McKinzie

From: Keith James
Sent: Tuesday, June 28, 2022 11:00 AM
To: Zack Bush
Cc: Christopher Roog
Subject: RE: Thank You (Sunset Lounge)

Mr. Bush,

Thanks so much for the kind email. I still believe your company was the best fit for the project. I firmly believed that your efforts would elevate the Sunset Lounge brand.

I hope that you don't give up on our City. If you are still interested in West Palm Beach, you might want to look into the NoRa project that is under development. Located in an old warehouse district, it is similar to the early stages of Wynnewood. (In fact, one of the founders of Wynnewood is on the NoRa team.) You should check it out.

If you are interested, contact Chris Roog (who I have copied on this email). He can put you in touch with the developers.

Thank you again for your kind words. I hope our paths cross again soon.

Yours in service,

Keith A. James
Mayor

-----Original Message-----

From: Zack Bush <zack@madroomhospitality.com>
Sent: Monday, June 27, 2022 11:15 PM
To: Keith James <KJames@wpb.org>
Subject: Thank You (Sunset Lounge)

Dear Mayor James,

My name is Zack Bush and I am one of the owners of Mad Room Hospitality--the group that lost tonight reference The Sunset Lounge.

I wanted to write you an email and personally thank you for your support and for your vote this evening.

Even though we lost, I know that you voted for Mad Room because you felt our operation of The Sunset Lounge would have been best for the community.

While of course we believe Mad Room was best suited for the operation, we understand that we were not selected. That being said, we also understand just how important this project is to the entire City and specifically the Northwest District. Please know that even from the sidelines we still very much want to see the community and Sunset Lounge flourish.

I was extremely impressed with both your openness and your candor this evening. I wish there were more people like you in politics.

Please know that you have a friend in Mad Room Hospitality for life and if there is ever anything we can do for you please do not hesitate to contact me.

Regards,

Zack Bush

Kimberly Rothenburg

From: Zack Bush <zack@madroomhospitality.com>
Sent: Tuesday, June 28, 2022 9:04 PM
To: Joseph Peduzzi
Subject: Sunset Lounge (Thank You)

Dear Commissioner Peduzzi,

My name is Zack Bush and I am one of the owners of Mad Room Hospitality--the group that lost last night reference The Sunset Lounge.

I wanted to write you an email and personally thank you for your support and for your vote yesterday.

Even though we lost, I know that you voted for Mad Room because you felt our operation of The Sunset Lounge would have been best for the community.

While of course we believe Mad Room was certainly best suited for the operation, we understand that we were not selected.

That being said, we also understand just how important this project is to the entire City and specifically the Northwest District. Please know that even from the sidelines we still very much want to see the community and Sunset Lounge flourish.

While I am disappointed with the results from the Commission vote, please know that you have a friend in Mad Room Hospitality for life and if there is ever anything we can do for you --please do not hesitate to contact me personally.

Regards,

Zack Bush