

J. DAVID FOLDS, SHAREHOLDER  
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January 2, 2015

**Via Hand Delivery and Electronic Mail (pshifflet@gocho.com)**

Penny D. Shifflett  
Director of Finance  
Charlottesville Albemarle Airport  
100 Bowen Loop, Suite 200  
Charlottesville, VA 22911

RE: **“CHO Airport 2014 RFP  
Restaurant/General Retail/Vending Concession – Bid Protest”**

Dear Ms. Shifflett:

This firm represents Faber, Coe & Gregg of Florida, Inc. ("Faber") which participated as an actual bidder in the Charlottesville-Albemarle Airport Authority's ("Authority") Request for Proposals ("RFP") for a restaurant/general retail/vending concession within the Air Carrier Terminal Building of the Charlottesville-Albemarle Airport ("Airport"). Faber is an aggrieved party in connection with the pending award of the concession contract. Faber seeks review of the award notification process and a meeting with the Authority to discuss resolution of this dispute. Additionally, Faber hereby demands a stay of the award of any contract related to the RFP pursuant to Virginia Code § 2.2-4362. Finally, Faber demands that the recommendation announced by the Authority to award the concession contract to Tailwind MC, LLC ("Tailwind") be reversed and the contract be awarded to Faber or, alternatively, that the solicitation is canceled and re-bid.

Because Faber has been denied access to information contained in the public records pertaining to the procurement transaction that are subject to inspection under Virginia Code § 2.2-4303, Faber reserves the right to supplement its protest with grounds related to the process by which Tailwind was selected as the recommended awardee.

***Timeliness***

Faber learned of the Authority's recommendation that the contract be awarded to Tailwind on December 30, 2014, after a Faber representative, Burt Friedman, e-mailed Penny D. Shifflett, Director of Finance for the Authority, that day to inquire as to the status of the impending award. Mr. Shifflett

ALABAMA FLORIDA GEORGIA LOUISIANA MISSISSIPPI TENNESSEE TEXAS WASHINGTON, DC

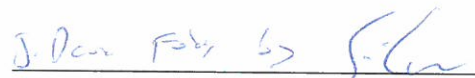
responded to Mr. Friedman's e-mail, notifying him that the Authority had posted the Notice of Intent to Award on its website on December 22, 2014, and directing him to that website. A copy of this e-mail exchange is attached as Exhibit A. Significantly, Ms. Shifflett had contacted Mr. Friedman, along with Tailwind's representative, on December 18, 2014, affirmatively stating that the Authority "will be contacting you early next week with a Notice of Intent to Award. . . ." A copy of this e-mail from Ms. Shifflett is attached as Exhibit B. Further, the Authority had previously notified the offerors of the recommendation to award the concession contract to Tailwind on October 10, 2014. See e-mail from Penny Shifflett to offerors' representatives, attached as Exhibit C. Despite the Authority's prior course of conduct in notifying offerors of the Notice of Intent to Award and its December 18, 2014 representation that it would provide such notice again, Ms. Shifflett did not notify Mr. Friedman of the Notice of Intent to Award until he made inquiry of her, eight days after the Notice of Intent to Award had been posted to its website.

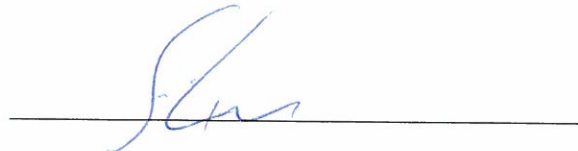
After learning of the award to Tailwind, Faber's Mr. Friedman immediately requested the scoring and evaluation data on December 30, 2014, still within the ten-day protest period under Virginia Code § 2.2-4360. A copy of Faber's request is attached as Exhibit D. Faber's request went unanswered.

On January 2, 2015, Faber's attorney, Sean Gregg, visited the Authority's office in person and asked to inspect the procurement records. The Authority was open for business on January 2, 2015. However, Mr. Gregg was told that the procurement records were unavailable. Although the Authority's Executive Director Melinda Crawford told Mr. Gregg that the Authority would consider his appearance to constitute a protest on behalf of Faber, Faber followed Mr. Gregg's appearance with this formal, written bid protest, delivered to the Authority in person and via electronic mail. Since the procurement records have not been made available for inspection by Faber, the ten-day protest period under Virginia Code § 2.2-4360 will not begin to run until Faber has been provided such access.<sup>1</sup> Faber therefore reserves and retains the right to supplement this protest with additional grounds for protest obtained from the information in the procurement records.

Because Faber's protest is timely filed in accordance with Virginia Code § 2.2-4362, a stay of the award is mandatory pursuant to Virginia Code § 2.2-4362.

Very truly yours,

  
\_\_\_\_\_  
J. David Folds (Vir. Bar No. 44068)

  
\_\_\_\_\_

<sup>1</sup> Faber's protest is timely in any event because it is submitted within ten days of the December 22, 2014 notice of intent to award the concession contract to Tailwind; since the last day of that ten day period, January 1, 2015, was a county holiday, submission of the bid protest on January 2, 2015 is timely.

Sean Gregg (Vir. Bar No. 31785)  
The Law Offices of Sean D. Gregg, P.L.C.  
111 East Main Street  
Post Office Box 1300  
Orange, VA 22960  
(540) 672-7070  
[sdgregg@sdgregglaw.com](mailto:sdgregg@sdgregglaw.com)

*Attorneys for Faber, Coe & Gregg of Florida, Inc.*

Begin forwarded message:

**From:** Penny Shifflett <[pshifflett@gocho.com](mailto:pshifflett@gocho.com)>  
**Date:** December 30, 2014 at 11:35:16 AM EST  
**To:** Burt Friedman <[bfriedman@faber-intl.com](mailto:bfriedman@faber-intl.com)>  
**Cc:** Walter Janokowicz <[wjanokowicz@faber-intl.com](mailto:wjanokowicz@faber-intl.com)>, Melinda Crawford <[mcrawford@gocho.com](mailto:mcrawford@gocho.com)>, "robertsonl@charlottesville.org" <[robertsonl@charlottesville.org](mailto:robertsonl@charlottesville.org)>, "gorea@charlottesville.org" <[gorea@charlottesville.org](mailto:gorea@charlottesville.org)>  
**Subject:** RE: Status

Burt,

We posted the Notice of Intent to Award on our website on December 22, 2014.

The following is a link to our website:

<http://www.gocho.com/index.php/community/news-item/notice-of-intent-to-award>

Thank you for participating in this RFP process.

Penny

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

**From:** Burt Friedman [<mailto:bfriedman@faber-intl.com>]  
**Sent:** Tuesday, December 30, 2014 10:26 AM  
**To:** Penny Shifflett  
**Cc:** Walter Janokowicz  
**Subject:** Status

Penny:

What is the status on selection of the new operator?

Burt

Sent from my iPad

BURTON FRIEDMAN, CPA  
Chief Financial Officer  
Faber, Coe & Gregg Inc.

732-221-9794

# REDACTED


**From:** Penny Shifflett <[pshifflett@gocho.com](mailto:pshifflett@gocho.com)>  
**Date:** December 18, 2014 at 12:46:32 PM EST  
**To:** Burt Friedman <[bfriedman@faber-intl.com](mailto:bfriedman@faber-intl.com)>, "[alang@tailwindconcessions.com](mailto:alang@tailwindconcessions.com)"  
<[alang@tailwindconcessions.com](mailto:alang@tailwindconcessions.com)>  
**Cc:** Melinda Crawford <[mcrawford@gocho.com](mailto:mcrawford@gocho.com)>  
**Subject:** RFP

Burt and Alan,

I wanted to let you know that we will be contacting you early next week with a Notice of an Intent to Award and we intend to take that to our Board at their January 21, 2015 meeting.

Thank you for your patience during this process.

Penny



Penny D. Shifflett  
Director of Finance  
Charlottesville Albemarle Airport  
100 Bowen Loop Suite 200  
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[pshifflett@gocho.com](mailto:pshifflett@gocho.com)  
(434)973-8342 x113

Melinda,

In order to better understand where we fell short. Is it possible to obtain a copy of the winning proposal? Please let us know if there are any fees and we will send a check.

Thanks

Wally

**From:** Penny Shifflett [mailto:pshifflett@gocho.com]  
**Sent:** Friday, October 10, 2014 5:38 PM  
**To:** taylorc@tigerfuel.com; alang@tailwindconcessions.com; Walter Janokowicz; cf  
**Cc:** Melinda Crawford  
**Subject:** RFP Recommendation

We want to thank you for your outstanding proposals and please know that we appreciate all of the hard work that went into compiling that information. Your proposals were evaluated by 5 individuals using the criteria outlined in the RFP. Based on the results of the evaluations and individual discussions with our board members, we will be recommending at the October 22 meeting that the Board award the Concession Agreement to Tailwind MC, LLC upon FAA approval.

If you have any questions, you can contact myself or Melinda Crawford.

Thank you,  
Penny

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Penny D. Shifflett  
Director of Finance  
Charlottesville Albemarle Airport  
100 Bowen Loop Suite 200  
Charlottesville, VA 22911  
pshifflett@gocho.com  
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