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June 14, 2004

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Gabino Cuevas
Chief Executive Officer
Cherokee Enterprises, Inc.
7975 N.W. 154th Street
Suite 310A
Miami Lakes, FL 33016

RE: REQUEST FOR ADVISORY OPINION 04-114

Dear Mr. Cuevas:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 10, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts of interest related to serving as Program Management Consultant for the People's Transportation Plan.

Miami-Dade County recently issued a Notice to Professional Consultants for a Program Management Consultant for the People's Transportation Plan. The Program Management Consultant (PMC) will hold a non-exclusive seven-year contract with Miami-Dade County to manage, with the support and supervision of Transit and Public Works staff, the various phases of implementing the People's Transportation Plan. Specifically, the Scope of Services requires the PMC to be responsible for short and long-range transit planning, facilities planning, feasibility studies, oversight of construction, engineering and inspection consultants and design criteria and standards. As noted in

the NTPC and our review of this matter, it is the intention of the County that the Program Management Consultant act as County staff in the areas for which the Consultant will provide staff and technical assistance.

The People's Transportation Plan consists of several projects including highway and road improvements, bus service improvements and neighborhood improvements. The heart of the project is several rapid transit improvements including:

- The North Corridor- The North Corridor will run from the Dr. Martin Luther King Jr. Metrorail Station (N.W. 27th Avenue and 62nd Street) along N.W. 27th Avenue to 215th Street.
- The East West-Corridor- The East-West Corridor consists of two segments from the Florida Turnpike east to the Palmetto Expressway and from the Palmetto through Miami International Airport and Downtown Miami and to the Port of Miami-Dade
- Baylink- A corridor between downtown Miami and Miami Beach
- Kendall Corridor- A corridor with east-west and north-south elements

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County. The analysis of potential conflicts, in this case, is generally limited to the requestor's contracts with Miami-Dade Transit and does

not analyze potential conflicts with contracts with other agencies.

Cherokee Enterprises is currently providing services as Prime Consultant to the Department of Environmental Resources (DERM). Under the contract, Cherokee is performing environmental clean-up of various county-owned facilities including transit facilities and areas related to the People's Transportation Plan.

The Ethics Commission found that Cherokee may serve as a member of the Program Management Consultant team for the People's Transportation Plan. However, Cherokee may not work on any projects related to the People's Transportation Plan under other county contracts while serving as a member of the Program Management Consultant team.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director

cc: Pam Paulk, CICC
Christopher Mazzella, Inspector General