February 10, 1987

TO: Distribution

FROM: Linda Wesley
      IAO Beatrice T. Rodriquez

RE: RESOLUTION NO. 87-17

Due to a typographical error on Resolution No. 87-17, a revised copy reflecting the new number, 87-16 is attached.
A RESOLUTION

AUTHORIZING AND DIRECTING THE GENERAL MANAGER TO EXECUTE AND DELIVER AN AGREEMENT TERMINATING THE SAFE HARBOR LEASE BETWEEN METRO AND MCCLESKEY MILLS, INC.; AND MAKING FINDINGS AND PROVISIONS RELATIVE TO THE SUBJECT.

WHEREAS, METRO and McCleskey Mills, Inc. ("MMI") entered into a safe harbor lease agreement dated January 31, 1986; and

WHEREAS, MMI is altering its corporate structure in such a manner that it no longer wishes to participate in the safe harbor lease agreement; and

WHEREAS, MMI is willing to relinquish to METRO, the federal tax ownership of the buses subject to the agreement; and

WHEREAS, METRO will retain the amount paid by MMI to METRO for the tax benefits transferred under the safe harbor lease;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN TRANSIT AUTHORITY THAT:

Section 1. The General Manager be and he is hereby authorized and directed to execute and deliver an agreement to terminate the safe harbor lease entered into by METRO and McCleskey Mills, Inc. The agreement shall be essentially in the form as attached hereto as Exhibit "A".

Section 2. This resolution is effective immediately upon passage.

PASSED this 27th day of January, 1987.
APPROVED this 27th day of January, 1987.

ATTEST:

[Signatures]

Assistant Secretary

[Signature]

Gunter Koetter
A RESOLUTION

AUTHORIZING AND DIRECTING THE GENERAL MANAGER TO EXECUTE AND DELIVER AN AGREEMENT TERMINATING THE SAFE HARBOR LEASE BETWEEN METRO AND MCCLESKEY MILLS, INC.; AND MAKING FINDINGS AND PROVISIONS RELATIVE TO THE SUBJECT.

WHEREAS, METRO and McCleskey Mills, Inc. ("MMI") entered into a safe harbor lease agreement dated January 31, 1986; and

WHEREAS, MMI is altering its corporate structure in such a manner that it no longer wishes to participate in the safe harbor lease agreement; and

WHEREAS, MMI is willing to relinquish to METRO, the federal tax ownership of the buses subject to the agreement; and

WHEREAS, METRO will retain the amount paid by MMI to METRO for the tax benefits transferred under the safe harbor lease;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN TRANSIT AUTHORITY THAT:

Section 1. The General Manager be and he is hereby authorized and directed to execute and deliver an agreement to terminate the safe harbor lease entered into by METRO and McCleskey Mills, Inc. The agreement shall be essentially in the form as attached hereto as Exhibit "A".

Section 2. This resolution is effective immediately upon passage.

PASSED this 27th day of January, 1987.
APPROVED this 27th day of January, 1987.

ATTEST:

[Signatures]
TERMINATION AGREEMENT

THIS TERMINATION AGREEMENT ("Agreement"), dated January ___, 1987, is by and between Metropolitan Transit Authority of Harris County, Texas, a public body corporate and politic duly organized and validly existing under the Constitution and laws of the State of Texas, ("Metro"), and McCleskey Mills, Incorporated, a Georgia corporation ("MMI").

WHEREAS, Metro and MMI entered into a safe harbor lease agreement dated January 31, 1986 (the "Lease Agreement");

WHEREAS, MMI has determined that it wants to terminate the Lease Agreement and relinquish to Metro the Federal income tax ownership of the property subject to the Agreement;

NOW, THEREFORE, it is agreed:

1. Sale of Vehicles. For the sum of one dollar ($1.00), MMI hereby sells to Metro the Federal income tax ownership of the mass commuting vehicles described in Exhibit A, attached hereto, (the "Vehicles"). In connection with the sale of the Vehicles, Metro agrees to forgive the outstanding balance due under the Installment Loan (as that term is defined in the Lease Agreement) with respect to the Vehicles and MMI shall not have any obligation to make any payments under the Installment Loan. MMI agrees to terminate the lease of the Vehicles to Metro such Metro shall not have any obligation to make payments of Rent (as that term is defined in the Lease Agreement) with respect to the Vehicles.
Notwithstanding any provision of the Lease Agreement to the contrary, the sale of the Vehicles by MMI to Metro shall not constitute a "Termination Occurrence" (as that term is defined in the Lease Agreement) and Metro shall not be obligated to pay the Termination Value (as that term is defined in the Lease Agreement) with respect to the Vehicles or return to MMI any portion of the Cash Payment (as that term is defined in the Lease Agreement). After the date of this Agreement, Metro can sell, lease, exchange and otherwise deal with the Vehicles in any manner it chooses without incurring any obligation or liability to MMI.

2. **Indemnity.** The indemnity of MMI by Metro pursuant to Section 8 of the Lease Agreement shall be limited to any Loss (as that term is defined in the Lease Agreement) which occurs up to the date of this Agreement but a Loss shall not be deemed to arise as a result of the consequences of the transactions described in Section 1 of this Agreement.

3. **Miscellaneous.**

   (a) This Agreement shall be binding on and inure to the benefit of any successors or assigns of the respective parties hereto.

   (b) Each party agrees to pay itself all expenses incurred by it in connection with the preparation, execution and delivery of this Agreement and the consummation of the transactions contemplated herein.
(c) The obligations and liabilities of the parties arising under this Agreement shall continue in full force and effect, notwithstanding the expiration or other termination of this Agreement, until all such obligations have been met and such liabilities have been paid in full.

(d) MMI and Metro each agree that it will promptly and duly execute and deliver to the other such further documents and assurances and take such further action (including without limitation any filing, recording and registration) as the other may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect Metro's ownership of the Vehicles and the rights and remedies created or intended to be created for the parties hereto.

(e) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

(f) The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.
(g) This Agreement shall not be terminated or amended without the written consent of the parties hereto, and shall be governed by and construed under the laws of the State of Texas.

(h) All notices required or permitted hereunder shall be in writing and shall be delivered to the addressee at its address specified below:

For MMI: McCleskey Mills, Incorporated
P. O. Box 98
Rhodes Street
Smithville, Georgia 31787
Attention: Billy Marshall

For Metro: Metropolitan Transit Authority
of Harris County, Texas
P. O. Box 61429
Houston, Texas 77208
Attention: Larry Williamson

All such notices may be delivered in person or sent by U.S. mail, postpaid, to the address set out above. Any party may change its address for receiving notices hereunder by written notice to the other party hereto. Notices hereunder shall be deemed properly given only when actually received by the addressee.

(i) This Agreement sets forth the entire agreement between the parties relating to the subject matter hereof, and there are no other understandings or agreements except as herein set forth.
(j) This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one document.

IN WITNESS WHEREOF, the parties have duly executed duplicate originals of this Agreement as of the date first above written.

McCLESKEY MILLS, INCORPORATED

By:______________________________

METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY, TEXAS

By:______________________________

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