

**Carey Affirmation**  
**Exhibit B**  
**County Resolution No 58-1985**

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## RESOLUTION 57 - 1985

RESOLVED, by the County Board of Legislators of the County of Westchester, that Local Records Disposition Request List No. 235-G-5 and Records Retention and Disposition Schedule No. 25-CPO-1 issued pursuant to Section 65-b of the Public Officers Law and Part 185, Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York and containing legal minimum retention periods for records, is hereby adopted for use by the Westchester County Planning Commissioner; and is further

RESOLVED, that the Westchester County Board of Legislators hereby authorizes the disposition of records by the Department of Planning in accordance with the legal minimum retention periods set forth in Local Records Disposition Request List No. 235-G-5 Item Numbers 48, 25, 127, 59, 153, 128; and be it further

RESOLVED, that the Westchester County Board of Legislators hereby authorizes the disposition of records by the Department of Planning in accordance with the legal minimum retention periods as set forth in Records Retention and Disposition Schedule No. 25-CPO-1; and be it further

RESOLVED, that the Clerk of the Westchester County Board of Legislators shall furnish a certified copy of this Resolution to County Commissioner of Planning for transmittal to the New York State Commissioner of Education.

RESOLUTION 58 - 1985: COMMITTEE ON BUDGET & APPROPRIATIONS: LEGISLATION REGARDING THE SETTLEMENT OF THE "MIDWAY CASE": AUTHORIZING STIPULATIONS, SETTLEMENT AND DISMISSAL.

Mr. Spano presented the following resolution and moved its adoption, which was declared adopted by the following vote:

AYE - Legislators: Hand, Galef, Albanese, Carey, Davis, DeMarco, Feiner, Hazard, Hochberg, Keane, Pierro, Spano, Tenore, Chairman - 14.

NAY - None.  
(Mr. O'Leary was not present when the vote was taken.)

## RESOLUTION NO. 58 - 1985

WHEREAS, in December, 1983, the County Board of Legislators undertook the establishment of a Statement of Policy concerning the future operation, use and development of the Westchester County Airport, which Statement was to have included a determination of the Airport Terminal's capacity to handle airline traffic and which Statement was also to have established an Airline Access Policy, and

WHEREAS, pending the research, preparation and passage of the aforesaid Policy Statement and the determination of the Airport's ability to accommodate airlines, the County temporarily withheld the final processing of then pending applications by airlines seeking access to the Airport, and

WHEREAS, Midway Airlines, Inc. brought a legal proceeding against the County in the United States District Court for the Southern District of New York seeking to force the County to grant it immediate access to the Airport, and

WHEREAS, on April 19, 1984 Midway's Motion for preliminary injunctive relief against the County was denied by the Honorable Edward Weinfeld, U.S.D.J., S.D.N.Y. in a decision in which the County was granted an opportunity to determine the terminal's capacity and to develop and promulgate a mechanism for the allocation of the Airport's terminal and related ramp capacity to airlines seeking to serve the Airport, and

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WHEREAS, on June 4, 1984, the County Board of Legislators passed Resolution 95/1984 in which it determined the capacity of the resources at the Airport available for the handling of airlines and in which it promulgated an Access Plan for airlines seeking to serve the Airport, and

WHEREAS, subsequent to the passage of said Resolution, the United States, Midway Airlines, the Regional Airline Association and the thirty four other airline parties to the aforesaid lawsuit announced their intention to challenge the County's assertion of its rights as Airport proprietor, to challenge the County's right to establish an airline access mechanism and to challenge the particular access mechanism promulgated by the County, and

WHEREAS, the County made it clear and emphatic that it intended to establish its rights as Airport proprietor, including its right to establish a mechanism to allocate access to airlines, and that it would, if necessary, avail itself of all available judicial options and opportunities to vindicate and establish those rights, and

WHEREAS, the County also made it clear, including in Resolution 95/1984, that it sought input from those affected to insure that the County's ultimate Airline Access Plan not only recognized all County rights but also, to the extent possible, dealt with the legitimate operational needs and concerns of the industry, and

WHEREAS, the parties to the aforesaid lawsuit thereafter sought an opportunity to suspend pre-trial proceedings and to confer with the County concerning a possible settlement of the lawsuit, which discussions led to a period of intensive negotiations between and among the parties, and

WHEREAS, as a result of these negotiations a proposed Stipulation of Partial Settlement and Dismissal has been prepared which would:

A. Recognize the role of Westchester County Airport as primarily serving general aviation and corporate aviation, now and for the foreseeable future, and of having only a limited commercial service function.

B. Recognize the fact that the Airport is limited in its ability to accommodate airline traffic and establish a finite number on that limit in terms of passengers per half hour and in terms of ramp positions available for airlines.

C. Recognize the fact that the County, as owner of the Airport, has the right to control the development and enhancement of the Airport by determining what facilities, if any, should be constructed or upgraded.

D. Recognize the fact that the County, as Airport proprietor, has the right to establish an airline access plan.

E. Modify the Airline Access Plan originally promulgated by the County Board, so as to alleviate certain items which caused operational and other difficulties for the plaintiff parties, but which modifications in no way adversely affect any County interest or compromise any County right. Essentially the modifications involve the grandfathering of incumbents, switching from an auction to a Lottery and the revision of related technical provisions.

F. Result in the Dismissal of the aforesaid lawsuit entitled Midway Airlines, Inc., et. al. -v- The County of Westchester et. al., and

WHEREAS, the County Board of Legislators has been advised by Special Counsel to the County Attorney that the proposed Stipulation of Partial Settlement and Dismissal, and a forthcoming Stipulation of Partial Dismissal provide the County all that might be expected to be achieved by way of a trial of the lawsuit, and, in significant respects, more than might be achieved by such a trial even in the event

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the County were fully successful in Court, and that the Stipulations would accomplish this result without the risks and costs attendant to such a trial, NOW THEREFORE BE IT

RESOLVED, that the County Attorney and Special Counsel to the County Attorney are hereby authorized to:

1. Enter into the annexed Stipulation of Partial Settlement and Dismissal and to enter into a separate Stipulation of Partial Dismissal, without prejudice, with those parties not signatory to the annexed Stipulation of Partial Settlement and Dismissal, it being agreed that all parties to the suit shall enter into one or the other of the two said Stipulations before either shall be deemed effective or submitted to the Court.
2. Make such technical, non-substantive, changes and corrections to the proposed Stipulations as may be required.
3. Take all such steps and execute all such documents in the United States District Court for the Southern District of New York as may be necessary or appropriate to carry out the purposes and intent of this Resolution.

Dated: February 23, 1965  
White Plains, New York

Leonard N. Spano  
Edward J. Brady  
Sandra R. Galef  
John E. Hand  
Diane A. Keane  
Ernest D. Davis

COMMITTEE ON BUDGET AND APPROPRIATIONS

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MIDWAY AIRLINES, INC.

Plaintiff,

UNITED STATES OF AMERICA, ELIZABETH HANFORD DOLE, Secretary of Transportation, DONALD D. ENGEN, Administrator of the Federal Aviation Administration, NEW YORK AIRLINES, INC. (d/b/a NEW YORK AIR), REGIONAL AIRLINE ASSOCIATION ANA LIMITED (d/b/a BROCKWAY AIR), ATLANTIC AIR INC (d/b/a BUSINESS EXPRESS), CLINTON AERO CORP. (d/b/a BROCKWAY AIR), COLGAN AIRWAYS CORPORATION, COMMAND AIRWAYS, INC., EMPIRE AIRLINES, INC., MALL AIRWAYS INC., PRECISION AIRLINES, INC., RANSOME AIRLINES, INC., AIR ONE, INC., ALASKA AIRLINES, INC., ALOHA AIRLINES, INC., BEST AIRLINES, INC., BRANIFF, INC., CAPITAL AIR, INC., CONTINENTAL AIRLINES, INC., DELTA AIR LINES, INC., EASTERN AIR LINES, INC., EVERGREEN INTERNATIONAL AIRLINES, INC., FEDERAL EXPRESS CORPORATION, FRONTIER AIRLINES, INC., HAWAIIAN AIRLINES, INC., JET AMERICA AIRLINES, INC., MUSE AIR CORPORATION, OZARK AIR LINES, INC., TRANS WORLD AIRLINES, INC., USAIR INC., UNITED PARCEL SERVICE, INC., WESTERN AIR LINES, INC., WIEN AIR ALASKA, INC. and SOUTHWEST AIRLINES CO.,

Plaintiffs-Intervenors

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-against-

COUNTY OF WESTCHESTER, NEW YORK, ANDREW P. O'ROURKE, County  
Executive, and WESTCHESTER COUNTY BOARD OF LEGISLATORS,

Defendants,

NATIONAL BUSINESS AIRCRAFT ASSOCIATION,

Defendant-Intervenor.

84 Civ. 2229 (EW)

## STIPULATION AND ORDER OF PARTIAL SETTLEMENT AND DISMISSAL

WHEREAS, on April 19, 1984, the Honorable Edward Weinfeld, U.S.D.J., S.D.N.Y., issued an order denying plaintiff Midway's application for preliminary injunctive relief but directing that the County promulgate a plan for the allocation of access to Westchester County Airport (hereinafter "Airport" or "H.P.N.") to and among airlines conducting operations pursuant to Part 121 of the Federal Aviation Regulations; and,

WHEREAS, on June 8, 1984, in response to the aforesaid Order, the County Board of Legislators issued Resolution #95/1984, which resolution established an allocation mechanism to be applied to all airlines seeking to conduct operations at the said airport; and,

WHEREAS, the Parties who have signed this stipulation have discussed the issues pending before the Court with a view towards achieving an accommodation and settlement of the action; and

WHEREAS, the parties are entering into this settlement agreement for the sole purpose of settling the litigation entitled Midway Airlines, et al. v. County of Westchester, et al.; and

WHEREAS, the United States of America, Elizabeth Hanford Dole, Secretary of Transportation, and Donald D. Engen, Administrator of the Federal Aviation Administration (collectively the "Federal Plaintiff-Intervenor") are charged with the duty of administering and enforcing the laws of the United States, as they may be enacted, adopted and amended from time to time; and

WHEREAS, the parties acknowledge the duties of the Federal Plaintiff-Intervenor and agree that nothing herein is intended or shall be construed to limit the authority or ability of the United States of America or of any of its officers or agencies to administer and enforce the laws of the United States, as they may be enacted, adopted or amended from time to time, or to enact or adopt or amend any law otherwise within their authority; and

WHEREAS, in entering into the following stipulation the parties have particularly considered those operational and other factors applicable to Westchester County Airport, which factors may or may not be applicable to any other airport, and agree that this stipulation is site specific to Westchester County Airport and shall not be deemed as having any applicability to any other airport or aviation allocation circumstance; and,

WHEREAS, with respect to the allocation mechanism set forth herein the Parties signatory hereto acknowledge that while other mechanisms might also be suit-

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able for H.P.N. or elsewhere, the mechanism set forth has been agreed upon on the basis of discussion and negotiation; accordingly, therefore, it is hereby,

STIPULATED AND AGREED, by and among the parties signatory hereto, as follows:

1. The County and the United States agree that the Westchester County Airport, (hereinafter "Airport" or "H.P.N.") is a public use airport serving general aviation and commercial service aviation needs within a service area comprised primarily of Westchester County and nearby adjoining areas. They further agree that the Airport's principal function at present and in the foreseeable future is one of accommodating general aviation with an emphasis on business use; by comparison its commercial service function is relatively modest.

2. The County and United States agree that the nature and extent of facilities at the Airport are reasonably consistent with its current use. They further agree that determinations concerning new or enhanced facilities, if any, will be made by the County on the basis of the Airport's aforesated role, with due consideration for the concerns and the needs of those who might be affected, and in accordance with an airport layout plan.

3. The capacity of the existing terminal at H.P.N. has been reviewed by the County and the United States, to determine its ability to handle the processing of airlines passengers. It is agreed that the normal operating capacity of the existing terminal will be 240 passengers per half hour, assuming an almost even division between arriving (deplaning) and departing (enplaning) passengers and assuming an almost uniform flow of passengers throughout the period.

4. The County has developed the mechanisms herein to allocate the Airport's terminal capacity among scheduled airlines presently serving H.P.N. and those scheduled airlines expressing a desire to provide such service according to the following criteria:

A. It should provide some recognition for incumbents and for the time, effort and expense that many incumbent airlines have expended in establishing markets and serving the public at H.P.N.

B. It should be definitive, predictable and of sufficient duration so as to permit rational planning by prospective users and the County alike.

C. It should provide a reasonable opportunity for prospective new entrants and for incumbents seeking additional capacity, consistent with the limits of both the terminal's capacity and Airport's technical specifications necessary to comply with Federal Aviation Regulations and the Airport's physical limitations. (A copy of the County's current Technical Specifications for the Airport is appended hereto.)

D. It should provide for a periodic review to insure that airlines do not over-utilize their allocations and to re-allocate unused capacity to scheduled airlines having a need for it.

5. In order to reasonably and equitably allocate the Airport's terminal and ramp capacity, consistent with the above criteria, it is agreed that the County will amend Resolution 95/1984 in conformity with the following provisions.

A. Any airline which conducted scheduled operations at the Airport during the months of November and/or December, 1984, and which did so pursuant to an Operating Agreement with the County or an extension thereof, shall be defined as an Incumbent Airline for the purposes of this Stipulation.

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B. An Incumbent Airline may, for the term set forth in Paragraph 5I. below and subject to the conditions set forth below, continue to operate the schedule of flights it operated during the months of November and/or December, 1984. For these purposes the schedule of flights shall only refer to flight times and frequencies and shall not refer to city pairs.

C. Each Incumbent Airline shall be assigned an Incumbent Allocation for each such flight, which allocation shall be equal to the average number of passengers actually enplaned and deplaned, on a per flight basis, for the period July 1, 1984 through December 31, 1984, for the days each such flight was actually flown. If any flight was operated for only a portion of such period, the allocation shall be such average passenger load for the period of service or thirty percent of the passenger capacity of the aircraft regularly scheduled to be utilized on such flight, whichever is greater.

D. In addition to the provisions of Par. 5B and 5C, Atlantic Air shall be granted a seasonable Incumbent Allocation with respect to its seasonal service during the period of May through October, based on its average actual passenger load, enplaned and deplaned, for that period during 1984. Midway Airlines shall be granted incumbency with respect to its revised, six operations per day, schedule in effect on February 15, 1985.

E. After establishing Incumbent Airline Allocations the County shall establish a list of available terminal and ramp capacities, on a half-hourly basis, by subtracting the Incumbent Allocations and ramp use for each half hour from the total capacity set forth in Paragraph 3 above and the ramp capacity set forth in the annexed Technical Specifications. The County shall disseminate such list on February 28, 1985. By the last business day of every third month thereafter the County shall determine then available terminal and ramp capacity by subtracting all Incumbent and all other Allocations from total capacity and shall make such determinations available to interested airlines. By no later than March 15, 1985 and the 15th day of each third month thereafter, any scheduled airline seeking an allocation of such available capacity shall submit a request to the County on forms provided or approved by the County. On March 29, 1985 and on the last business day of each third month thereafter, the County shall allocate available capacity as follows:

i. In all half hour periods in which sufficient terminal and ramp capacity is available to meet the requests of all qualified airlines, such requested capacity shall be allocated directly to such airlines. A qualified airline shall be any scheduled airline which shall, at the time the application is made, hold a valid operating certificate and scheduled operation specifications from the Federal Aviation Administration and a fitness determination from the United States Department of Transportation for the type of service to be provided and who shall also have, or have immediate and demonstrable access to, sufficient aircraft and operating personnel to provide the requested service and who shall furnish a certification of financial responsibility and requisite insurance.

ii. For all other time periods, the allocation shall be by means of the Lottery mechanism set forth in Paragraph 7 below.

F. Routing, selection of aircraft and the like shall be the determination of the airline. All airlines operating at H.P.N. shall at all times be in compliance with all applicable and lawful airport rules and regulations including the Technical Specifications referenced above, with the applicable Operating Agreements and with this Stipulation. No such rule, regulation or Technical Specification will be amended to decrease the capacity of the Airport. Any airline violating or causing the violation of such rules, regulations or said Technical Specifications shall cure such violation

within fifteen (15) days of being so notified by the County. Failure to so cure shall result in the cancellation of the appropriate flight or flights upon fifteen (15) days' written notice by the County. An airline obtaining an Allocation, by whatever means, should, in so far as practicable, utilize the allocation in such a manner that there shall be a relatively even distribution of passengers enplaned and deplaned and a relatively uniform flow of passengers through each half-hourly period.

G. In the event that during any three month period an airline has not actually utilized 85% of its total allocation on any flight, based on its average loads for the period, then its allocation for the next three month period shall be reduced to 115% of such average loads. The review made pursuant to this paragraph shall be made for successive, and not for overlapping, three month periods.

H. If at any time an airline's calendar month average load on any flight(s) should exceed its Allocation(s), but if at such time there exists allocable capacity in such half hour time period(s), whether by means of the application of Paragraph 5G hereof to another airline, or otherwise, the such airline's allocation shall be adjusted to such average load figure or such portion thereof as the allocable capacity may allow. If, at any time an airline's calendar month average load on any flight(s) should exceed such airline's Allocation(s) for such flight(s), and if at such time there is no additional capacity during such time period which may be allocated to such airline for such purpose, then the County shall issue a written notice of violation to such airline, and the airline shall, within fifteen days from the receipt of such notice, reduce its usage to comply with its Allocation(s) or, if possible, obtain sufficient Allocations to cover its actual average usage. Should any airline fail to comply with the allocation limits within such fifteen day period then:

i. On the sixteenth day following the receipt of the above set forth notice, such airline's then current Allocation(s) with respect to such flight(s) shall be REDUCED by an amount equal to the amount that the airline's average loads for the thirty days preceding such notice exceeded the airline's Allocation(s) for such flight(s). The airline shall thereupon be required to comply with the new reduced Allocation; and

ii. The Airline shall also lose the privilege of participating, either directly or by assignment, in the next periodic allocation of access privileges.

iii. Should such airline not achieve compliance with its new, reduced Allocation within the next calendar month after such revised Allocation is established, on the basis of calendar month average load figures, then, in such event, the County may terminate such airline's privilege to thereafter conduct such flight(s) by providing such airline with twenty days' written notice of such termination.

I. For purposes of determining whether an airline is over utilizing its Allocation(s) under Paragraph 5H the County shall employ a calendar month average. For the purposes of determining whether an Airline should have its allocation adjusted pursuant to Paragraph 5G the County shall employ a three-month average. In calculating such averages the denominator shall be the number of such operations actually flown during that calendar month period and the numerator shall be the number of passengers enplaned and deplaned on all such operations during that period. In calculating such averages, the County shall not include, either in the numerator or the denominator, data concerning flights flown during the following holiday periods:

i. Christmas/New Years from December 20 through January 5.



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ii. The President's Birthday holiday from three (3) days before Washington's Birthday through three (3) days following Washington's Birthday.

iii. Easter from five (5) days prior to Easter through the fifth day following Easter.

iv. Memorial Day from three (3) days before Memorial Day through three (3) days after Memorial Day.

v. July 4, from July 1 through July 7.

vi. Labor Day, from three (3) days prior to Labor Day through (3) days after Labor Day.

vii. Thanksgiving from five (5) days prior to Thanksgiving through five (5) days after Thanksgiving.

J. Airlines operating at H.P.N. shall certify actual passenger loads, on a per flight, per day, enplaned, deplaned, basis to the County weekly by the following Thursday for the preceding calendar week, Monday through Sunday.

K. All airlines obtaining allocations at H.P.N. must initiate service within 60 days from the date of such award and must provide such service on at least a five day per week basis, with aircraft capable of utilizing the entire Allocation, or must arrange with another airline or airlines to provide a combined service utilizing such Allocation, on at least a five day per week basis. Should any airline fail to initiate service within such sixty (60) day period, such airline shall, on the sixty-first day, lose such Allocation and such airline shall also lose the privilege of participating, either directly or by assignment, in the next periodic allocation of access privileges. Notwithstanding the foregoing, any airline may, within ten (10) days of any periodic allocation, surrender any Allocation(s) or portions thereof obtained in such periodic allocation to the County without any penalty.

L. Incumbent Scheduled Airlines may, subject to the terms and conditions hereof and of the applicable Operating Permits, continue to operate the flights and seasonal flights described in Paragraphs 5A, B and D hereof until April 30, 1988 and their Operating Agreements shall be amended in conformity with this Stipulation. Additional airlines securing access pursuant to this allocation mechanism shall be granted operating privileges, pursuant to the County's standard form Operating Agreement and the provisions hereof, until April 30, 1988. On or before December 31, 1987 the parties hereto, and non-party airlines then conducting operations at H.P.N., shall attempt to agree, as set forth next below, on the basis of the experience by then acquired in allocating resources to airlines at H.P.N. and consistent with the criteria set forth in Paragraph 4 hereof, on any changes to the procedures and mechanisms to be implemented on and after May 1, 1988. For the purpose of this paragraph, it shall be deemed that an agreement has been reached if the County, the United States and a majority of the remaining parties to this stipulation and other airlines then conducting operations at H.P.N. shall be in accord, but in no other event. In the event the foregoing are not able to achieve such agreement by December 31, 1987 then the allocation mechanisms set forth herein shall be renewed for a two-year period commencing May 1, 1988. The parties and the scheduled airlines then operating at the Airport may then, by an agreement as defined above, modify this Stipulation on or before December 31, 1989, such modifications, if any, shall become effective on May 1, 1990. In the event no such agreement as defined above is reached on or before 1989 the Stipulation and Order shall terminate on April 30, 1990. Should this Stipulation and Order be so terminated, the County shall then be free to implement such allocation mechanism and such procedures as it may then deem appropriate.

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and the other parties hereto shall have the right to interpose such opposition or make such legal challenge to such mechanisms and procedures, if any, as they or any of them may deem necessary and proper, the dismissal of the action herein with prejudice notwithstanding. During any renewal period the County shall continue to make reviews and readjustments consistent with Paragraphs 9G, H, I, J, & K and Paragraph 6 hereof unless this Stipulation be otherwise modified.

6. The Airline parties and the County agree that, subsequent to the date of the first allocation set forth in Paragraph 5E, and in addition to the Incumbent Airline Allocations and the Allocations established pursuant to Paragraphs 5E (i) & (ii), airlines may, upon two (2) weeks prior written notice to the County, exchange Allocations with other airlines provided such transferor airlines(s) has operated flight(s) under such allocation(s), employing aircraft capable of utilizing the entire allocation(s), for thirty (30) days on at least a 5-day per week basis. Additionally, subsequent to the date of such first allocation, airlines may move their Allocations from one time period into another time period. Notwithstanding the foregoing, no such exchanged or moved allocations shall be allowed which would result in allocations and ramp use in excess of capacity for any half-hour time period.

7. The Lottery mechanism to be utilized, in the event required pursuant to Paragraph 5E ii, shall be as follows:

A. The County shall, by no later than seven days prior to each periodic allocation, publish a list of those half hourly time periods in which a Lottery must be employed pursuant to the requirements of Paragraph 5.E.ii hereof, together with a list of the qualified applicant airlines eligible to participate in the lottery for such half hourly allocations.

B. On the date fixed for each such periodic allocation the County shall conduct the Lottery for the subject half hourly periods.

C. At the commencement of the Lottery all qualified airlines, by their designated representatives there present, shall draw numbers to establish their order of selection in the first round of the Lottery. Upon such establishment each scheduled airline, in its order of selection, may, consistent with its application and up to the available terminal and/or ramp capacity, whichever may first be reached, draw an Allocation for up to a total of four operations to take place in up to four half-hourly periods. Notwithstanding the sentence next above, in the first round of the first Lottery to be conducted pursuant to this Stipulation, Midway Airlines shall only draw an allocation for up to two operations based on its order of selection, but may draw all allocation for up to two additional operations after all other airlines have drawn allocations in such first round of the first Lottery. An operation shall be either an arrival or a departure. At the conclusion of the first round of the Lottery, should any terminal and ramp capacity remain in any half hourly periods the process shall be repeated, with the same order of selection, for such number of additional rounds as may be required. To enable the County to determine the effect of any Allocation, whether by means of the Lottery or otherwise, on ramp capacity, each airline submitting an application shall designate, on the aforesaid forms to be provided or approved by the County, the type and number of aircraft to be utilized in each half hourly time period for the allocation being sought.

8. It is agreed that the provisions of this Stipulation shall be modified from time to time as may become necessary to comply with applicable federal law.

9. In consideration of the commitments of the County contained herein, the other parties signing this Stipulation shall discontinue, with prejudice the captioned actions on the date this Stipulation is implemented by the County by amending Resolution 95/1984 as provided in Paragraph 5 hereof, each party to bear its own costs and expenses.

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10. To aid the County in the implementation of this Stipulation, the parties agree to establish a Task Force which shall meet with a representative of the County, on a monthly basis, or as needed, to provide advisory input concerning procedures and practices relating to the aforesaid airline access and allocation mechanism.

11. This Stipulation shall be enforceable by an action for specific performance in the United States District Court for the Southern District of New York. Further, any party may, for good cause shown and upon a demonstration of changed underlying circumstances, apply to this Court for such modification of, or relief from, this Stipulation as the Court may deem just and proper.

Dated: February 1985  
New York, New York

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By: \_\_\_\_\_  
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DOLE, Secretary of Transportation, DONALD D.  
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Of Counsel

Attorney for:

COUNTY OF WESTCHESTER, NEW YORK  
Andrew P. O'Rourke, County Executive  
WESTCHESTER COUNTY BOARD OF  
LEGISLATORS

SO ORDERED:

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EDWARD WEINFELD  
United States District Judge  
Southern District, New York

## TECHNICAL SPECIFICATIONS FOR AIRLINES AT H.P.N.:

## I. Aircraft Parking Apron Limits.

A. Aircraft, with a wingspan of greater than 75 feet, must be able to maneuver into and out of the designated parking areas within a maximum 112 feet wide diameter circle.

B. Aircraft, with a wingspan of less than or equal to 75 feet, must be able to maneuver into and out of the designated parking areas within a maximum 108 feet wide diameter circle.

C. No more than two aircraft, with wingspans greater than 75 feet operating within the above parameters, may be scheduled to occupy the ramp simultaneously.

D. A maximum of four aircraft may be scheduled to use the ramp at any given time provided that no more than two airplanes have a wingspan of greater than 75 feet. However, operators must note that H.P.N. does not have any suitable space to stack aircraft that may be waiting to get to the ramp without interrupting airport operations. Thus, arrivals and departures of aircraft must be scheduled so as to avoid having aircraft stacked up waiting for access to ramp.

E. Due to Tower closure during hours of 2300 through 0600 and the need of operational surveillance, ramp position No. 3 (for aircraft with a wingspan in excess of 75 feet) and ramp positions Nos. 1 and 4 (for aircraft with a wingspan under 75 feet) are not available during nighttime for R.O.N.

F. Subject to the use of the ramp by others who have Terminal Access Privileges during such time periods and subject to the ramp's overall constraints, the airport will attempt to accommodate airlines seeking to park on the ramp for limited periods, for an R.O.N. or when scheduled arrival and departure of a particular aircraft may be separated by another Terminal Access Period.

G. Whether the terminal ramp can properly accommodate scheduled operations by rotary wing aircraft has not yet been determined.

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## II. Crash Fire Rescue Limits.

Airlines must observe the airport's Crash Fire Rescue (CFR) capability and responsibility. The airport's CFR capability is Index B as provided in Federal Air Regulations (FAR) Part 139. Thus, among other factors, aircraft length may not exceed 125 feet.

## III. Runway/Taxiway Limits.

Aircraft may not exceed 120,000 lbs. maximum gross takeoff weight with dual main landing gear.

**RESOLUTION 99 - 1985: COMMITTEE ON BUDGET & APPROPRIATIONS: LEGISLATION REGARDING THE SETTLEMENT OF THE "MIDWAY CASE"; (A) REPEALING RESOLUTION 95 - 1984 AND (B) AUTHORIZING A REPLACEMENT MECHANISM FOR THE ALLOCATION OF THE AIRPORT'S LIMITED RESOURCES.**

Mr. Spano presented the following resolution and moved its adoption, which was declared adopted by the following vote:

**AYE** - Legislators: Hand, Galef, Albanese, Carey, Davis, DeMarco, Feiner, Hazzard, Hochberg, Keane, Pierro, Spano, Tenore, Chairman - 14;

**NAY** - None.

(Mr. O'Leary was not present when the vote was taken.)

### RESOLUTION NO. 99 - 1985

WHEREAS, on June 8, 1984, the County Board of Legislators adopted Resolution 95/1984 in response to a decision of the Honorable Edward Weinfeld, United States District Judge, Southern District of New York, which decision was issued on April 18, 1984 in a case entitled Midway Airlines, Inc. et. al. -v- The County of Westchester et. al., and

WHEREAS, said Resolution 95/1984 set forth the County's Policy with respect to the future use and operation of the Westchester County Airport, set forth the County's Policy concerning access to the Airport by airlines, established the Airport Terminal's capacity to accommodate airlines and adopted a mechanism for allocating said capacity among airlines seeking access, and

WHEREAS, the United States and the airline parties to the said lawsuit expressed their intention to challenge the County's assertion of rights as Airport proprietor, to challenge the ability of the County to establish a mechanism for allocating airline access and to challenge the particular mechanism adopted by the County, and

WHEREAS, the County made manifest to the parties its intention to obtain a judicial determination of its right as Airport proprietor to control and regulate the Airport, including the regulation of access to the Airport by airlines, but

WHEREAS, the County also expressed its intention to seek input from the parties to determine whether adjustments could be made to the County's access plan that would accommodate the reasonable operational concerns of the Plaintiffs while providing full recognition of the rights of the County with regard to the future use, development and operation of the Airport including the right of the County to adopt an allocation mechanism for airlines seeking to utilize the Airport's limited resources, and