

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Port Director

RESOLUTION 25-039

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA
APPROVING A SUBLEASE BETWEEN HAPPY FACE LLC AND
SOUTHWEST ALASKA PILOTS ASSOCIATION OCCUPYING 3,696
SQUARE FEET IN THE BUILDING LOCATED ON THE PROPERTY
ENTITLED T 7S R 13W SEC 1 SEWARD MERIDIAN HM 0890034
HOMER SPIT AMENDED LOT 32, AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, Happy Face LLC is the tenant in good standing of a ground lease for the
property at 4400 Homer Spit Road entitled T 7S R 13W Sec 1 Seward Meridian HM 0890034
Homer Spit Amended Lot 32; and

WHEREAS, Under HCC 18.08.140, subleases on City Property leases require approval of
City Council; and

WHEREAS, Southwest Alaska Pilots Association submitted a complete application to
sublease from Happy Face LLC; and

WHEREAS, The proposed business aligns with the purpose in the prime lease, the
business qualifications are sufficient, and the proposed use is in line with Marine Commercial
zoning.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby
approves a sublease between Happy Face LLC and Southwest Alaska Pilots Association
occupying 3,696 square feet in the building located on the property entitled T 7S R 13W SEC 1
Seward Meridian HM 0890034 Homer Spit Amended Lot 32, and authorizes the City Manager to
negotiate and execute the appropriate documents.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this 28th day of April, 2025.



CITY OF HOMER

RACHEL LORD, MAYOR

43 ATTEST:

44 *Renee Krause*

46 RENEE KRAUSE, MMC, CITY CLERK

47

48 Fiscal Note: See Memorandum CC-25-118 Revenue \$500 annually 400-0600-4650

49



MEMORANDUM

Resolution 25-039, A Resolution of the City Council of Homer, Alaska, Approving a Sub-Lease between Happy Face, LLC and Southwest Alaska Pilots Association Occupying 3,696 Square Feet in the building located on the Property identified as T7S R13W Section 1 Seward Meridian HM0890034, Homer Spit Amended Lot 32 and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager/Port Director.

Item Type: Back-Up Memorandum
Prepared For: Mayor Lord and Homer City Council
Date: April 17, 2025
From: Mark Bowman, Port Property Associate
Through: Melissa Jacobsen, City Manager

Happy Face LLC has a lease with the City for the property located at 4400 Homer Spit Road, also identified as Homer Spit Amended Lot 32.

Happy Face LLC and Southwest Alaska Pilots Association (SWAPA) have requested that the City consent to a sublease allowing SWAPA to use office space and space for the marine pilots to stay and rest while they are awaiting their next assignment. The portion space for the pilot's includes rooms arranged for sleeping, bathrooms and a day room for relaxing.

Both Tenants and Subtenants understand that there is a proposed \$500.00 annual fee payable to the City of Homer, Port and Harbor as part of the Sublease. If that fee is approved by Council at a later date, the Fiscal Note for this sublease will be \$500 of annual revenue to 400-0600-4650. Otherwise there is no Fiscal Note.

An application, along with the required supporting documentation, was submitted and reviewed by the City Staff in Planning, Port & Harbor, and Public Works. The application is complete and staff recommend approving this lease application.

Recommendation:

Approve Resolution 25-039

Attachments:

Southwest Alaska Pilots Association (SWAPA) Checklist
SWAPA Sublease Application
SWAPA Executed Lease with Happy Face LLC
SWAPA Articles of Incorporation
SWAPA Business License
SWAPA Professional License



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road

Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Sublease Application - Staff Review Checklist

Applicant (Primary Lease Holder) Information

Lessee Name: Happy Face LLC

Sublessee Information

Business Name: Southwest Alaska Pilots Association (SWAPA) Primary Contact: Jenni Sitton
swapa@swpilots.net,
907-235-8783

Sublease Information

Comments regarding description of the subleased premises:

The space planned for sublease to SWAPA is adequate for the intended use. 3,696 square feet of space is divided between office space for SWAPA and accommodation for State licensed Marine pilots and employees.

Authorized use is consistent with the authorized purpose in the primary lease: Yes ☒ No ☐ Comments:

The applicant's experience in the proposed business or venture is adequate: Yes ☒ No ☐ Comments:
The association of more than ten marine pilots is well established and has been in operation for 50 years, including operation in the City of Homer.

Is information supporting the financial capability adequate? Yes ☒ No ☐ Comments:

Sublease contains an agreement to the terms and conditions of the primary lease. Yes ☒ No ☐ Comment:
Section thirty six (36) of the SWAPA's lease with Happy Face LLC contains this provision. A Sublease Agreement with the City is also pending.

Sublease includes a requirement that sublessee agrees to maintain insurance for sublessee's leasehold in the manner and form required under the primary lease and names the City of Homer as an additional insured.
Yes ☒ No ☐ Comment: Lease with Happy Face LLC, Section thirty six (36).

The following documents (mark with Y, N or NA) have been provided:
Business licenses (Y), KPB Tax Compliance Certification (NA), Articles of Incorporation (Y), DEC (NA),
Permits (List) _____, Other City, KPB and State required documents (List):

Port and Harbor Staff Comments: SWAPA is well established and will provide a needed service to the Association's marine pilots.

City Planning Comments: After consultation with Ed Gross, City Planning, Associate Planner, information regarding signage and contact information for City Planning was provided to Happy Face LLC to share with their tenants.

Community Development Comments: No comments.

City Manager Comments: No Objection

Recommended Action to City Council -Recommend approval

☐ N/A

City Manager Signature: Melissa Jacobsen **Print Name:** Melissa Jacobsen **Date:** April 18, 2025



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Port and Harbor

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Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Sublease Application

Applicant (Primary Lease Holder) Information

Lessee Name: HAPPY FACE LLC

Mailing Address: P.O. Box 3147, HOMER, AK 99603

Phone Number(s): 907-235-8783

Email Address(es): swapa@supilots.net or support@supilots.net

Sublessee Information

Business Name: SOUTHWEST ALASKA PILOTS ASSOCIATION Primary Contact: JENNI SITTON

Mailing Address: P.O. Box 977, HOMER, AK 99603

Phone number(s): 907-235-8783

Email Address(es): swapa@supilots.net or support@supilots.net

Sublease Information

Description of the subleased premises: 4400 HOMER SAT RD
Sq ft: 3696 Description: UPPER FLOOR OF MAIN BUILDING LOCATED AT HOMER, AK 99603

Authorized use: (Must be consistent with authorized purpose in the primary lease.)
OFFICES AND ACCOMMODATIONS FOR STATE LICENSED MARINE PILOTS AND EMPLOYEES.

What is the applicant's experience in the proposed business or venture?
SWAPA HAS BEEN IN THE BUSINESS OF MARINE PILOTAGE FOR 50 YEARS WITH A PRESENCE IN HOMER FOR THE SAME TIME

What property improvements are planned as part of this sublease? (At least 30 days prior to construction, plans must be submitted to the Landlord for approval, and often an as-built is required once the work is complete. See your lease for additional requirements and details.)

N/A

Information supporting the financial capability or backing including a credit history, prior lease history, and assets that will be used to support the proposed business: (Attach supporting documents.)



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Sublease includes a statement that the sublease is subject to all of the terms and conditions of the primary lease.

Initial: [Signature] Sublease Section #: 36 (Attach sublease.)

Sublease includes a requirement that sublessee agrees to maintain insurance for sublessee's leasehold in the manner and form required under the primary lease and names the City of Homer as an additional insured.

Initial: [Signature] Sublease Section #: 36

Business licenses, Permits, Articles of Incorporation, KPB Tax Compliance Certification and other documents providing evidence of compliance with City, Kenai Peninsula Borough and State of Alaska laws.

Initial: [Signature] (Attach supporting documents.)

Additional Notes:

Sublease Application Signature Page

Primary Lease Holder Signature:

I hereby attest that, to the best of my knowledge, the information contained in this document is accurate, complete, and true.

Signed by: [Signature]
Signature: [Signature]

Print Name: JOHN STEWART

Date: 4/8/2025

Title: PRESIDENT

LEASE AGREEMENT

This Lease Agreement is made and entered into by and between **Happy Face LLC**, (hereinafter referred to as “Lessor”), and **Southwest Alaska Pilots Association** (hereinafter referred to as “Lessee”). ***This Lease Agreement replaces the former Lease Agreement effective the 15th day of June 2024 between Berth II, Inc. and Southwest Alaska Pilots Association. This is pursuant to the simple title transfer of property from Berth II, Inc. to Happy Face LLC effective the 1st day of January 2025.***

1. **PREMISES.** Lessor, for and in consideration of the rent, covenants and conditions set forth in this Lease to be kept, performed and observed by Lessee, leases to Lessee, and Lessee hereby leases from Lessor the 384 sq. ft. storage shed and the entire upper level, consisting of 3,696 sq. ft., of the following described property situated in the Homer Recording District, Third Judicial District, State of Alaska, located at 4400 Homer Spit Road, Unit LH02, Homer, Alaska, 99603, and more particularly described as follows:

**Upper Level & Storage Shed,
T 7S R 13W Sec 1 Seward Meridian HM 0890034 LSEHLD
Lot Thirty-two (32) Homer Spit AMD, according to the official
Plat thereof, books of records of the Homer Recording District, Third
Judicial District, State of Alaska;**

2. **COMMON AREAS.** If the premises are part of a building occupied by other tenants, Lessee agrees to conform to Lessor’s rules and regulations pertaining to the parts of the building that are in common use by tenants.

3. **TERM.** The term of this Lease shall be **five (5) years commencing on the 15th day of January 2025 and ending on the 15th day of June 2029.**

4. **RENT.** Lessee covenants and agrees to pay to Lessor as monthly rent, the sum of **Ten thousand and 00/100 Dollars (\$10,000.00)** payable in advance on the 15th day of each and every month. This amount includes sales tax. A late charge in the amount of **(\$0.)** shall be assessed against any rental payment not paid within ten (10) days of its due date. Should there presently be in effect or should there be enacted during the term of this Lease Agreement any law, statute, or ordinance levying any tax upon rents, Lessee shall pay such tax or shall reimburse Lessor on demand for any such taxes paid by Lessor. Such taxes shall not include income taxes.

5. **PURPOSE.** The leased premises are to be used for the following purposes only: office and operating a business. The leased premises shall be used for no other purpose without prior written consent of Lessor in each instance first obtained.

6. **LESSEE’S OBLIGATIONS.** Lessee shall: (1) keep the premises in a clean and sanitary condition; (2) properly dispose of all rubbish, garbage and waste in a clean and sanitary manner at all reasonable and regular intervals; (3) properly use and operate the electrical heating, plumbing and other fixtures and appliances; (4) not intentionally or negligently destroy, deface, damage, impair or remove a part of the leased premises, or any property of Lessor, nor permit any employee, agent, family member, invitee, licensee or other person acting under its control to do the same; (5) not permit a nuisance or common waste; (6) except for the roof, exterior walls and foundation, which are the responsibility of the Lessor, Lessee shall make such repairs as

necessary to maintain the premises in as good condition as they now are, reasonable use and wear and damage by fire and other casualty excepted; and (7) Lessee shall maintain and be solely responsible for the cost of liability and fire/hazard insurance on the rented premises and for Lessee's personal and business property.

7. **NO SMOKING.** No smoking will be allowed inside the lease space or in the common areas. A designated smoking area may be designated on the exterior of the premises. Lessee will be responsible for cleanup of cigarette trash.

8. **LESSOR'S OBLIGATIONS.** Lessor shall: (1) immediately notify Lessee, as provided herein, of any changes as to the person or address of Lessor; (2) maintain all structural components in good repair.

9. **INDEMNITY; LESSOR LIABILITY.**

(a) Except for claims attributable to Lessor's willful misconduct, Lessee hereby agrees to and shall indemnify Lessor and save Lessor harmless from, and defend Lessor against, suits, actions, claims, damages, liability (including strict liability), costs, and expenses (including attorney fees) in connection with loss of fire, bodily or personal injury or property damage arising from or out of any occurrence in, upon, at, or from the leased premises, or the occupancy or use by Lessee of the leased premises, or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, servants, invitees, licensees or concessionaires.

(b) Lessee shall store its property on and shall occupy the leased premises at its own risk, and releases Lessor to the fullest extent permitted by law from all claims of every kind resulting in loss of life, personal or bodily injury or property damage, except to the extent that Lessor has engaged in willful misconduct.

(c) Lessor shall not be responsible or liable at any time for any loss or damage to Lessee's equipment, fixtures or other personal property to Lessee, except to the extent attributable to Lessor's willful misconduct.

(d) Lessor shall not be responsible or liable for injury, loss or damage to any person or to any property of Lessee or for any other person caused by or resulting from bursting, breaking, breakage or by or from leakage, steam or snow or ice running or the overflow of water or sewage in any part of the leased premises, or for any injury or damage caused by or resulting from acts of God or the elements or for any injury or damage caused by or resulting from any defect attributable to the leased premises, except to the extent attributable to Lessor's willful misconduct.

(e) Lessee shall give prompt notice to Lessor in case of fire or accidents in the leased premises.

(f) In case Lessor shall be made a party to any litigation commenced by or against Lessee, Lessee shall protect and hold Lessor harmless and shall pay all costs, expenses and attorney's fees incurred in resisting or defending such litigation or proceeding.

10. **CONDITION OF PROPERTY.** Lessee hereby accepts the existing condition, at the time of the commencement of the term hereof, of the leased premises, together with all improvements thereon. No representation, statement or warranty, expressed or implied, has been

made by or on behalf of Lessor as to said condition or as to the use that may be made of said property. Lessee acknowledges that the leased premises may not be suitable for its intended purposes. In no event shall Lessor be held liable for any defect in said property or for any limitation on its use. Lessee understands that the personal property being conveyed in an "As-Is" condition.

11. **USE OF PREMISES.**

(a) Lessee shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter enacted which in any manner affect the leased premises, whether or not any such laws, ordinances or regulations which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same. Lessee further agrees it will not permit any unlawful occupation, business or trade to be conducted on the leased premises or any use to be made thereof contrary to any law, ordinance or regulation.

(b) Lessee shall use the leased premises in such a manner, both with regard to noise and other nuisances, as will not interfere with, annoy or disturb individuals and businesses in the areas surrounding the leased premises or Lessor in the management of the lease premises.

(c) Lessee shall not keep within the leased premises any article of dangerous, inflammable or explosive character which would increase the damage of fire upon the leased premises, or which would be deemed "hazardous" or "extra-hazardous" by any responsible insurance company.

12. **SIGNS.** All signs or symbols placed by Lessee in the windows, doors, and outside signpost of the premises, shall be subject to Lessor's prior written approval. Cost of any sign or symbols will be the responsibility of the Lessee. At the termination of the Lease, Lessee will remove all signs placed by it upon the premises and will repair any damage caused by such removal. All signs must comply with sign ordinances and be placed in accordance with required permits.

13. **UTILITIES.** Utilities, including light, heat, water, sewer, refuse pick-up, snow plowing and sanding of the parking lot are included in the rent set forth above. All other items including telephone service, janitorial services, license fees and other governmental charges levied on the operation of Lessee's business on the premises will be paid directly by, or the responsibility of, the Lessee.

14. **TAXES.** Lessor shall pay all real property taxes and assessments against the Property. Lessee shall be responsible for and pay all personal property taxes and sales tax assessed for or during the term of the lease against and on any of the property and improvements including personal, trade or business fixtures in possession of Lessee and for services of the Lessee.

15. **COVENANT OF QUIET ENJOYMENT.** Lessee, upon payment of the rent provided for herein and upon performance of all the terms, conditions and covenants of this Lease, shall, at all times during the term of this Lease and during any renewal term or holdover of this Lease, peaceably and quietly enjoy the leased premises without any disturbance from the

Lessor or from any other person claiming through the Lessor.

16. **ALTERATIONS AND ADDITIONS.** Lessee shall make no alterations or additions to the leased premises without the prior written consent of the Lessor. If consent for alterations is given, these alterations shall be the responsibility and expense of the Lessee. Nothing herein contained shall be deemed to require Lessee to pay or discharge any liens or mortgages of any character whatsoever which may heretofore or hereafter be placed upon the leased premises by the affirmative act of Lessor.

17. **LESSOR'S RIGHT OF ENTRY.** Lessee shall, at any time during the term, renewed term, or holdover of this Lease, permit inspection of the leased premises during reasonable hours by Lessor, Lessor's agents or representatives, and by or on behalf of prospective purchasers or lessees. Lessor shall have full and unrestricted access to all utility installations servicing the leased premises.

18. **PROHIBITION OF LIENS.** Lessee shall not do or suffer anything to be done which causes the leased premises to be encumbered by liens of any nature, and shall, whenever and as often as any lien is recorded against said property purporting to be for labor and materials furnished or to be furnished to Lessee, discharge the same of record within ten (10) days after the date of filing.

19. **NOTICE OF NONRESPONSIBILITY.** Notice is hereby given that Lessor shall not be liable for any labor or materials furnished or to be furnished to Lessee upon credit, and that no lien of any nature or type shall be attached to or affect the reservation or other estate of Lessor in or to the leased premises. At least twenty (20) working days before commencing any work that is or may be the subject of a lien for work done or materials furnished to the leased premises, Lessee shall notify Lessor of such work in writing to allow Lessor if desired, to post and record notices of nonresponsibility and to take any other steps Lessor deems appropriate to protect its interest. Except as hereinabove provided, the provisions in this section do not eliminate the requirement for written consent of Lessor as contemplated in Section 16 Alterations and Additions, of this Lease.

20. **ASSIGNMENTS AND SUBLETTING.** Lessee shall not assign or sublease their whole or any part interest in the leasehold, or assign this Lease without the consent of Lessor, which consent will not be unreasonably withheld.

21. **SURRENDER OF PREMISES.** At the termination of this lease, Lessee shall deliver possession of the premises and any improvements to Lessor, including all keys and methods of access, and vacate the premises and improvements in good and clean condition and repair, reasonable wear and tear excepted. Lessee shall have the right to remove trade fixtures, but to the extent the removal of such fixtures causes damage to the property such as holes in walls, roofs, disconnected plumbing, et cetera, these items will be repaired in good, workmanlike fashion at Lessee's expense prior to the date of termination.

22. **EMINENT DOMAIN.** If the whole or any part of the leased premises shall be taken for any public or quasi-public use under any statute, by right of eminent domain or by

private purchase in lieu thereof by a public body vested with the power of eminent domain, then, when possession shall be taken there under of the leased premises or a declaration of taking issued, this lease shall terminate. In the event of the condemnation or taking of the leased premises, Lessee shall not be entitled to, and expressly waives all claims to, any condemnation award for any taking, whether whole or partial, except Lessee shall have the right to claim from the condemnor, but not from the Lessor, such compensation as may be recoverable by Lessee in its own right for damage to Lessee's fixtures and improvements installed by Lessee at its expense.

23. **DEFAULT OF LEASE.** Each of the following, but not limited thereto, shall be deemed a default by Lessee and a breach of this Lease:

- (a) Failure of Lessee to perform any of the requirements, covenants, conditions or provisions of this Lease.
- (b) Failure by Lessee to make any payment of rent, adjustments, charges, or any other payment required to be made by Lessee under this Lease when due.
- (c) The vacating or abandonment of the leased premises by Lessee.

24. **REMEDIES OF LESSOR.** In the event of any default by Lessee, Lessor shall have the following rights and remedies, which are cumulative and not exclusive, in addition to any rights and remedies that may be given to Lessor by statute or otherwise:

- (a) Re-enter the leased premises and take possession thereof. Lessor shall have a lien for security for the rent, adjustments, charges or other payment required to be made by Lessee under this Lease, on all of Lessee's goods, chattels, fixtures, furniture, tools, equipment, and other personal property which may be placed on the leased premises by Lessee, and which remains there at the time Lessor repossesses the leased premises.
- (b) Re-lease the leased premises, in whole or in part, for a period equal to, or greater or lessor than, the remainder of the term of this lease, for any sum which may be deemed reasonable.
- (c) Declare the lease term ended.
- (d) Recover from Lessee such damages as are attributable to Lessee's default from the date of such breach.
- (e) Apply all or part of Lessee's security deposit to cure the default.
- (f) In the event of any default, Lessor shall give Lessee ten (10) days written notice to cure said default, during which time Lessor may not exercise the remedies set out herein. Lessor may exercise such remedies if the default is not cured within the ten (10) days after receipt of said notice.

Lessee hereby agrees to pay Lessor all Lessor's costs incurred in enforcing this Lease Agreement, including but not limited to, Lessor's reasonable Attorneys' fees. This duty to pay Lessor's costs shall apply whether or not suit is brought by Lessor against Lessee, and shall specifically apply to, but not limited to, suits by Lessor for an unlawful detainer of the leased premises, for the recovery of any rent due under the provisions of this Lease Agreement, or for any obligation of Lessee arising under this Lease Agreement or by the law.

25. **INSURANCE.**

(a) Lessee shall maintain coverage in an amount Lessee deems necessary for fire, extended loss, and other usual perils on Lessee's leasehold improvements, inventory, supplies, fixtures, furnishings, to the full amount of any anticipated loss, and provide loss payee riders to Lessee's creditors having a security interest in the property. Lessee shall maintain business interruption insurance if Lessee seeks protection against fire or other casualty interrupting the income of Lessee, and indemnify Lessor against any claim for such business interruption notwithstanding the interruption may have been by gross negligence of Lessor. Lessee shall indemnify and defend Lessor at Lessee's expense against any claim or loss to these items, except for loss caused by Lessor's willful misconduct.

(b) Lessee shall, at all times during the term of this Lease, maintain general liability insurance, with an all risk endorsement providing coverage of injuries to persons or damage to property arising out of the use of the premises or its improvements. The insurance shall be carried with companies authorized to write such insurance in Alaska. The minimum policy limits shall be not less than \$500,000.00 for one person and \$1,000,000.00 for each accident involving personal injury, and \$100,000.00 for property damage. All Insurance shall name Lessor and Lessee as insured, and a certificate of insurance shall be delivered to Lessor within one (1) week of the commencement of the lease term so that it may be assured at all times during the term of this Lease that the insurance is in effect under this provision.

26. **DESTRUCTION OF THE PREMISES.** In the event the leased premises are destroyed or damaged by fire, earthquake or other casualty to such an extent as to render the same unusable in whole or any substantial part thereof, either party shall have the option to terminate this Lease. If either party elects to terminate this Lease, it shall notify the other, in writing, of its intention to terminate the Lease within ten (10) days after said fire or other casualty and said Lease shall then terminate and be of no further force and effect and any advanced rentals not earned shall be returned to Lessee. Lessor shall be under no obligation to rebuild the premises for the benefit of Lessee. In the event that Lessor does not elect, within ten (10) days, to rebuild, then Lessee may cancel this Lease within fifteen (15) days. In the event the leased premises are not rebuilt within sixty (60) days, Lessee may cancel this Lease with fifteen (15) days' written notice. The monthly lease payment shall be held in abeyance during the construction period.

27. **WAIVER OF BREACH.** No failure by Lessor to insist upon the strict performance of any term or condition of this Lease, or to exercise any right or remedy available on a breach thereof, and no acceptance of whole or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term or condition or the right to declare this Lease terminated. No term or condition of this Lease required to be performed by Lessee, and no breach thereof, shall be waived, altered or modified, except by a written instrument executed by Lessor. No waiver of any breach shall affect or alter any term or condition of this Lease, and each such term or condition shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

28. **SUBORDINATION OF LEASE.** This lease shall be subject and subordinate at all times to liens of existing mortgages, deeds of trust or other underlying obligations, and to liens, mortgages, deeds of trust or other obligations which hereafter may be made a lien or encumbrance on the leased premises by the Lessor. Although no instrument or act on the part of Lessee shall be necessary to effectuate such subordination, Lessee will, nevertheless, execute and deliver such further instruments subordinating this Lease to the lien of any such mortgages, deeds of trust or other obligations as may be desired by Lessor. Lessee hereby appoints Lessor its attorney-in-fact, irrevocably, to execute and deliver such instrument or instruments for Lessee.

29. **ENTIRE AGREEMENT; MODIFICATION.** This Lease contains the entire agreement between Lessee and Lessor and supersedes all and any other prior agreements and understandings between the parties, and any executory agreement hereafter made shall not be effective to change, modify or discharge any part of this agreement unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.

30. **NOTICES.** Any notice or demand which, under the terms of this Lease or any statute, may or must be given or made by the parties hereto shall be sufficient when given in writing and hand-delivered or mailed by certified mail, addressed to the other party as follows:

Lessor: **Happy Face LLC
P.O. Box 3147
Homer, Alaska 99603**

Lessee: **Southwest Alaska Pilots Association
P.O. Box 977
Homer, Alaska 99603**

Either party may, however, designate in writing such new or other address to which said notice or demand shall thereafter be so given, made or mailed. Any notice given hereunder by mail shall be deemed delivered when deposited in the United States general or branch post office, enclosed in a certified, prepaid envelope, addressed as set forth above.

31. **TIME IS OF THE ESSENCE.** Time is of the essence of each and every term, condition, provision and covenant of this Lease.

32. **BINDING EFFECT.** This Lease shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, successors, heirs and assigns. This provision, however, shall not affect any other provision in this Lease with respect to restrictions on assignments or default of Lessee.

33. **EXCUSE FOR NONPERFORMANCE.** Either party to this Lease shall be excused from performing any or all of its obligations under this Lease with respect to any repair, improvement and construction work required under the terms of this Lease for such times as the performance of any such obligation is prevented or delayed by an act of God, floods, explosions,


elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure labor, equipment, facilities, material or supplies in the open market, failure of transportation, strikes, walk-outs, action by labor unions or laws or governmental agencies or for any other cause, whether similar or dissimilar to the foregoing, which is not within the reasonable control of such party.

34. **INVALID PROVISIONS.** If any provision of this Lease is found to be invalid or prohibited by law, such invalidity shall not effect the remaining provisions of this Lease and the remaining provisions shall continue in full force and effect.

35. **CHOICE OF LAW.** The parties to this Agreement expressly agree that the laws of the State of Alaska shall govern the validity, construction, interpretation, and effect of this Lease.


IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement the day and year set opposite their respective signatures.

Dated: January 1, 2025

by: 

Its: President
"Lessor"

Dated: January 1, 2025

Southwest Alaska Pilots Association
by: 

Its: President
"Lessee"

LEASE AGREEMENT

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Happy Face LLC

ARTICLES OF ASSOCIATION

OF

SOUTHWEST ALASKA PILOTS ASSOCIATION

To further common purposes, the members of SOUTHWEST ALASKA PILOTS ASSOCIATION agree to revise and reconstitute the Articles of Association of the SOUTHWEST ALASKA PILOTS ASSOCIATION.

ARTICLE I

NAME

The name of this association shall be SOUTHWEST ALASKA PILOTS ASSOCIATION.

ARTICLE II

PRINCIPAL OFFICE AND AGENT FOR SERVICE

The principal office of the Association shall be in Homer, Alaska, with a mailing address as follows:

Post Office Box 977
Homer, Alaska 99603

The agent for service of process at such address shall be Connie Cavasos. The Association may have such other offices as from time to time are designated by its members or its Board of Directors.

ARTICLE III

PURPOSES

The purposes of this Association shall be:

a. To comply with all applicable federal, state and local laws; and to conduct its business activities in a nondiscriminatory and otherwise lawful manner.

b. To serve as a dispatching, income collection, expense paying and income distribution agency for independent contractor marine pilots who are doing business individually or through solely owned corporations in the region in which the Association is recognized by the Alaska Board of Marine Pilots.

c. To promote the safety of the environment along Alaska inland and coastal waters, to protect life and property thereon, to advance the profession of pilotage in Alaska and to advance the common purposes of the members of the Association.

d. To operate or participate in a training program for marine pilots and deputy pilots as approved by the Alaska Board of Marine Pilots in the region in which the Association is recognized.

e. To do all of the purposes listed above without profit to the Association and to conduct training and continuing education programs for its members as approved by the Alaska Board of Marine Pilots.

f. To cooperate with and assist the Board of Marine Pilots by implementing a safe and reliable marine pilotage in the region in which the Association is recognized by the Alaska Board of Marine Pilots.

g. To adopt and revise tariffs on behalf of its members in accordance with AS 08.62.045.

h. To provide opportunities for the continuing education of its members.

ARTICLE IV

POWERS AND DUTIES

a. **POWERS:** In furtherance of the objects described above, but not in limitation thereof, the Association shall have the power to collect and disseminate statistics and other information, to conduct investigations, to engage in various funding and fund raising activities, to conduct promotional activities, including advertising and publicity, in or by any suitable manner or media, to hold such property as is necessary to effectuate its purposes. The Association, furthermore, shall have the power to (1) adopt tariffs under the Alaska Marine Pilotage Act and bind all of its members thereto; (2) to provide for the pooling of income and expenses of its members; (3) to provide for a rotation and dispatching system of assignments for pilotage service performed by each individual member as an independent contractor; and (4) provide a training and continuing education program for its members on a uniform and nondiscriminatory basis.

b. **DUTIES:** The Association:

- (1) shall comply with all applicable federal, state and local laws;
- (2) shall conduct its business activities in a nondiscriminatory and otherwise lawful manner;
- (3) shall adopt and revise tariffs on behalf of its members in accordance with AS 08.62.045;
- (4) shall provide opportunities for the continuing education of its members;
- (5) shall maintain a system that enables the organization to obtain on a timely basis all necessary information and directives issued by government agencies having jurisdiction over pilotage;
- (6) shall maintain a process for responding to all appropriate inquiries and requests of the Board (Alaska Board of Marine Pilots) or the marine pilot coordinator;
- (7) shall cooperate with and require its members to cooperate with investigations and audits by or on behalf of the Board;
- (8) acknowledges the right of the Board for cause and after a hearing to suspend or revoke the recognition of the organization;
- (9) shall bring to the attention of the Board any credible information regarding a member of the organization that may require the Board to act under AS 08.62.150 -- 08.62.155;

- (10) shall maintain relationships with other pilot organizations that furthers the purposes of the Alaska Marine Pilotage Act; and
- (11) shall comply with all other requirements of the Alaska Marine Pilotage Act and regulations promulgated thereunder.

ARTICLE V

MEMBERSHIP

a. Individual Membership. Individuals possessing the qualifications hereinafter set forth are eligible for membership in this Association under the terms and conditions hereinafter set forth.

b. Corporate Membership. A corporation is eligible for membership in the Association under the terms and conditions hereinafter set forth:

1. The corporation must be organized and existing under the laws of the State of Alaska;

2. The corporation must be one hundred (100%) percent owned by an individual who is otherwise eligible for membership in the Association as an individual;

3. The corporation must maintain a legally enforceable prohibition in either or both their Articles of Incorporation and Bylaws against the employment by the corporation of any person other than either the one hundred (100%) percent owner thereof, or an otherwise qualified individual member of the Association as hereinafter provided, as an employee to render pilotage services contracted for by the corporation.

c. Individual Qualifications. Individual membership shall be open to all persons licensed under the Alaska Marine Pilotage Act to pilot vessels in the pilotage region in which SWAPA is recognized.

d. Corporate Qualifications. No corporate person, otherwise eligible under Article V, Section b above, is eligible for membership in this

Association, unless the owner thereof meets the qualifications stated for individual persons in Article V, Section c above.

e. *Automatic Membership.* The signatories to these Articles, both individual and corporate, shall be automatically admitted to full membership in this Association by way of a continuation of their existing membership as individuals, or by way of converting their prior individual membership to a corporate membership, as the case may be.

Each corporate applicant and each corporate signature member to the Articles of Association, shall file with the Secretary of the Association simultaneously with its application, or upon execution of the Articles, as the case may be, a copy of its Articles of Incorporation certified as being true and correct by the Commissioner of Commerce for the State of Alaska, a current Certificate of Good Standing for said Corporation issued by said Commissioner, and a copy of its Bylaws certified as being true and correct and in full force and effect by the Secretary of said Corporation. At the close of each corporate member's fiscal year, said member shall cause a copy of its annual report, as filed with the State of Alaska, certified by the Secretary of the Corporation as being true and correct and on file with the State of Alaska, to be filed with the Secretary of the Association. The Secretary of the Association shall be entitled at any time to demand and receive from the corporate member updated documentation with regard to the member's Articles, Bylaws, and Certificate of Good Standing. A certified (notarized) copy of each member's federal and state pilot license shall be submitted to the Association on January 1 of each year or whenever there are additions or deletions to his license.

f. *Additional Members.* Additional members shall be taken into the Association upon application as follows:

1. The application must be in writing, and shall include a statement of the applicant's, education, job history, license, pilotage endorsement, and pilotage experience; or, as to corporate applicants, a similar statements as to the owner thereof. The application shall state that the applicant (or, as to corporate applicants, the applicant and the owner thereof) agrees to subscribe to, and abide by, the

Articles, Bylaws, and Operating Rules of the Association upon admission to membership in the Association.

2. Upon verification of the applicant's qualification to pilot vessels in the pilotage region in which SWAPA is recognized under the Alaska Marine Pilotage Act, the applicant shall be accepted as member of SWAPA, subject to SWAPA Articles, Bylaws and Operating Rules.

g. Conversion to Corporate Membership. Any individual member of the Association shall be entitled to convert his individual membership to a corporate membership so long as the corporation meets the eligibility requirements of Article V, Section b of the Articles and by filing with the Secretary of the Association a certified copy of its Articles of Incorporation certified as being true and correct by the Commissioner of Commerce for the State of Alaska, a current Certificate of Good Standing for said corporation issued by the Secretary of said Corporation. Upon any such conversion, the Board of Directors shall direct the transfer of the individual member's capital account to the substituted corporate member.

h. Conversion to Individual Memberships. Any corporate member of the Association shall be entitled to convert its corporate membership to an individual membership in the name of the one hundred (100%) percent owner of said corporation, so long as said corporation's membership is in good standing, and the owner thereof meets the qualifications set forth in Article V of these Articles at the time a request to so convert is made to the Board of Directors. Upon any such conversion, the Board of Directors shall direct the transfer of the corporate member's capital account to the substituted individual member. Following any such conversion, the retiring corporate member shall remain bound by all non-competition covenants coupled to termination of membership under these Articles and Bylaws of the Association.

i. Transfer of Membership. Except as otherwise stated in Article V, Section g and Article V, Section h of these Articles of Association, membership in the Association is nontransferable by act of the membership, operation of law, or otherwise.

j. Members are Independent Contractors, Not Employees. Each individual member of the Association shall pursue his profession as a pilot

as an independent contractor, and not as an agent or employee of the Association. Each corporate member of the Association shall pursue its business of rendering pilotage through its owner as an independent contractor, and not as an agent or employee of the Association. The owner of the corporate member shall pursue his profession as a pilot as an employee of the corporate member, and not as an agent or employee of the Association. The Association may not engage in the pilotage business in any manner except for arranging dispatching and a pooling of pilots' fees and expenses.

ARTICLE VI

MEMBERSHIP FEES AND CHARGES

The Association shall set and determine by Bylaw, membership fees, charges, working capital needs and contributions, and expense contributions of the membership to the Association.

ARTICLE VII

MEETINGS

a. Meetings of the membership may be held at such place, either within or outside the State of Alaska, as may be provided in the Bylaws. In the absence of such provisions, all meetings shall be held at the principal office of the Association;

b. Meetings of the Board of Directors of the Association, regular or special, may be held either within or outside the State of Alaska; and,

c. Except as otherwise stated herein, and except as may be otherwise stated in the Bylaws, a majority of the membership shall constitute a quorum at a meeting of the membership, and a majority of the Board of Directors shall constitute a quorum at the meeting of the Board of Directors, and the act of the majority in attendance at any such meeting at which a quorum is present shall constitute the affirmative act of the membership or of the Board of Directors, as the case may be.

ARTICLE VIII

DIRECTORS AND OFFICERS

a. The business of the Association shall be conducted by the Board of Directors consisting of a total of seven (7) individual members and corporate members (acting through their respective owners) of the Association. Members of the Board of Directors shall serve a term of one (1) year, or until their successors are elected.


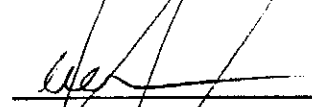
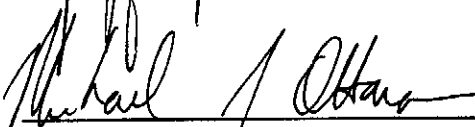
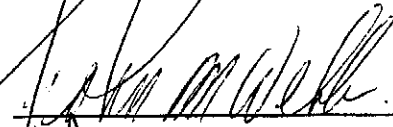
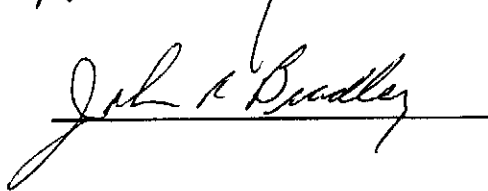
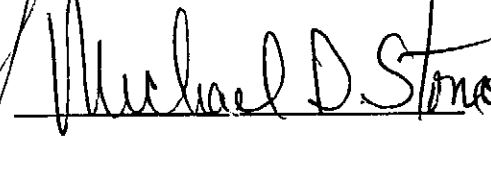
b. Officers of the Association shall consist of a President, Vice President and Secretary-Treasurer, to be elected by the membership from the Board of Directors, for a term of one (1) year.

ARTICLE IX

AMENDMENTS TO THE ARTICLES

These Articles may be amended or repealed, in whole or in part, by a two-thirds (2/3) affirmative vote of the membership of this Association. Such amendment or repeal shall be subject to approval by the Alaska Board of Marine Pilots.

IN WITNESS WHEREOF, the following, constituting not less than a two-thirds (2/3) affirmative vote of the membership of the Association, have hereunto set their names and seals this 4th day of March, 1992.

 _____ (SEAL)	 _____ (SEAL)
 _____ (SEAL)	 _____ (SEAL)
 _____ (SEAL)	 _____ (SEAL)

Robert L. Harris (SEAL)

James F. Egan (SEAL)

Jim Christy (SEAL)

_____ (SEAL)

G. J. Johnson (SEAL)

_____ (SEAL)

James J. [unclear] (SEAL)

_____ (SEAL)

H. T. Peck (SEAL)

_____ (SEAL)

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing

PO Box 110806, Juneau, AK 99811-0806

This is to certify that

SOUTHWEST ALASKA PILOTS ASSOCIATION

PO BOX 977, HOMER, AK 99603

owned by

SOUTHWEST ALASKA PILOTS ASSOCIATION

is licensed by the department to conduct business for the period

October 7, 2024 to December 31, 2025
for the following line(s) of business:

56 - Administrative, Support, Waste Management and Remediation Services



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Sande
Commissioner

SOUTHWEST ALASKA PILOTS ASSOCIATION
PO BOX 977
HOMER, AK 99603

Department of Commerce, Community, and Economic Development
DIVISION OF CORPORATIONS, BUSINESS AND
PROFESSIONAL LICENSING

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BOARD OF MARINE PILOTS

Pilot Organizations

Applicants for training programs, or licensure as a marine pilot or deputy marine pilot, must be a member of an Alaska pilot association. The following associations are recognized by the Board of Marine Pilots.

Alaska Marine Pilots, LLC

3705 Arctic Blvd., #107
Anchorage, Alaska 99503
Telephone: (907) 581-1240
E-mail: amp@ampilots.com

Southeast Alaska Pilots' Association

1621 Tongass Avenue, Suite 300
Ketchikan, AK 99901-6074
Telephone: (907) 225-9696
Website: www.seapa.com
E-mail: pilots@seapa.com

Southwest Alaska Pilots Association

P.O. Box 977
Homer, AK 99603-0977
Telephone: (907) 235-8783
Website: www.swpilots.com
Email: swpilots@ak.net

Mission Statement

Ensure that competent, professional and regulated commercial services are available to Alaska consumers.

Anchorage

Mailing/Physical Address

550 W 7th AVE, STE 1500
Anchorage, AK 99501-3567

Phone: (907) 269-8160
Fax: (907) 269-8196