



REVOCABLE PERMIT

for

SELF HELP FOR THE ELDERLY

at the

West Portal Clubhouse

San Francisco, California

Commissioner MARK BUELL *President*
Commissioner ALLAN LOW *Vice President*
Commissioner GLORIA BONILLA
Commissioner TOM HARRISON
Commissioner MEAGAN LEVITAN
Commissioner ERIC MCDONNELL

SAN FRANCISCO RECREATION AND PARK DEPARTMENT
CITY and COUNTY of SAN FRANCISCO
McLaren Lodge, Golden Gate Park
San Francisco, California 94117

PHILIP A. GINSBURG, *General Manager*

EDWIN M. LEE, *Mayor*

TABLE of CONTENTS

1.	License.....	1
2.	Use of Permit Area.....	2
3.	Execution of Permitted Activity.	3
4.	Restrictions on Use.....	4
5.	Term of Permit.	6
6.	Fees.....	6
7.	Utilities.	7
8.	Days and Hours of Occupancy and Use.....	7
9.	Insurance.	7
10.	Security Deposit.	8
11.	Compliance with Laws.	9
12.	Covenant to Maintain Permit Area.....	9
13.	Surrender.....	9
14.	Repair of Damage.	26
15.	City's Right to Cure Defaults by Permittee.	26
16.	No Costs to City.....	26
17.	Indemnity.....	27
18.	Waiver of Claims.....	28
19.	As Is Condition of Permit Area; Disclaimer of Representations.....	29
20.	No Assignment.....	29
21.	Cessation of Use.....	30
22.	No Joint Ventures or Partnership; No Authorization.	30
23.	MacBride Principles - Northern Ireland.	30
24.	Non-Discrimination.....	30
25.	Tropical Hardwoods and Virgin Redwood Ban.....	31
26.	Taxes, Assessments, Licenses, Permit Fees and Liens.....	31
27.	Notices.	32
28.	No Tobacco Advertising.	32
29.	Americans with Disabilities Act.....	32
30.	Destruction of Permit Area.	33
31.	Conflict of Interest.	33
32.	No Obligation to Prevent Criminal Activity.....	33
33.	Pesticide Prohibition.....	33
34.	Food Service Water Reduction.....	17
35.	Counterparts.....	17
36.	General Provisions.	17
37.	Disclosure.....	35

Exhibit A Permit Area

Exhibit B Plan of Operations

SAN FRANCISCO RECREATION AND PARK DEPARTMENT REVOCABLE PERMIT

THIS REVOCABLE PERMIT ("Permit"), dated for reference purposes only as of January 5th 1st 2015 is made by and between the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Recreation and Park Department ("Department"), and **SELF HELP FOR THE ELDERLY** ("Permittee"), a California Limited Liability Company.

City and Permittee agree as follows:

1. Permit.

City confers to Permittee a revocable privilege that is, for real estate purposes, personal, non-exclusive and non-possessory to enter upon and use portions of that certain real property owned by City situated in the City and County of San Francisco, State of California, commonly known as West Portal Clubhouse ("**Clubhouse**"), located at Ulloa and Lenox Street, San Francisco, CA 94116 as further shown on the map attached hereto as Exhibit A, ("**Permit Area**"), for the limited purpose and subject to the terms, conditions and restrictions set forth below. Nothing in this Permit nor any use hereunder shall be deemed to grant, convey, create or vest in Permittee a real property interest in any portion of any City property including, but not limited to, any fee or leasehold interest in any land, easement or franchise, except that nothing herein shall affect any possible liability for possessory interest tax pursuant to Section 28 below. The Permit is not exclusive and the City reserves the right to use or permit others to use any part of the Permit Area for any purpose.

2. Use of Permit Area.

Permittee understands and agrees that the area surrounding the Permit Area is a public playground and shall remain open to the public at all times. Permittee may enter and use the Permit Area for the sole purpose of operating An Educational and Recreational Porgram for Seniors and Adults of all ages as per Exhibit B "Program Plan for West Portal" in the Permit Area, in strict accordance with Section 3 hereof and for no other purpose whatsoever. The Permitted Activity shall be open to all eligible members of the public on an equal, "first-come, first-served" basis until maximum enrollment is reached. The City shall retain the right to use the Permit Area and to grant others the right to use the Permit Area on the days and during all hours that the Permittee's programs are not in session.

3. Execution of Permitted Activity.

Permittee may perform the Permitted Activity on the Permit Area on the following conditions, which are for the sole benefit of City.

(A) **Modification of the Permitted Activity.** The nature and scope of the Permitted Activity may not be revised or amended except upon the prior written approval of the City.

(B) **Permits and Approvals.** Before beginning any Permitted Activity in the Permit Area, Permittee shall obtain any and all permits, licenses and approvals (collectively, "approvals") of all regulatory agencies and other third parties that are required to commence and complete the Permitted Activity. Promptly upon receipt of such approvals, Permittee shall deliver copies to City. Permittee recognizes and agrees that no approval by City for purposes of Permittee's Activity hereunder shall be deemed to constitute the approval of any federal, state or local regulatory authority with jurisdiction, and nothing herein shall limit Permittee's obligation to obtain all such regulatory approvals, at Permittee's sole cost.

(C) **Plan of Operations.** Permittee has attached as part of this Permit, incorporated and made a part herein and referred to as Exhibit B, Plan of Operations, which further describes Permittee's use of the Permit Area and provides additional information to citizens concerning programs and activities. Said Plan of Operations may be modified or expanded by Permittee during the term hereof as required in Permittee's best business judgment, provided the changes do not violate the licensed use as set forth in Section 2 above.

4. **Restrictions on Use.**

Permittee agrees that, by way of example only and without limitation, the following uses of the Permit Area by Permittee, or any other person claiming by or through Permittee, are inconsistent with the limited purpose of this Permit and are strictly prohibited as provided below:

(A) **Improvements.** Permittee shall not construct or place any temporary or permanent structures or improvements in, on, under or about the Permit Area, nor shall Permittee make any alterations or additions to any of existing structures or improvements on the Permit Area, unless Permittee first obtains City's prior written consent, which City may give or withhold in its sole and absolute discretion. Any improvements constructed on or affixed to the Permit Area by or on behalf of Permittee shall be and remain Permittee's property during the term of this Permit. Upon the Expiration Date or any earlier termination of this Permit, Permittee shall, upon City's request, remove all such improvements, including but not limited to the room located in the southeast corner of the Clubhouse and the storage shed outdoors, from Permit Area in accordance with the provisions of Section 15 below, unless City, at its sole option and without limiting any of the provisions of this section, specifies that such improvements shall remain on the Permit Area and shall become the City's property.

(B) **Dumping.** Permittee shall not cause or permit the dumping or other disposal on, under or about the Permit Area of landfill, refuse, Hazardous Material (as defined below) or any other materials that are unsightly or could pose a hazard to the human health or safety, native vegetation or wildlife, or the environment. The Permit Area shall be maintained to a present clean, neat and orderly appearance by Permittee and Permittee shall dispose of refuse resulting from its use, including waste material, garbage and rubbish of all kinds as required by City.

(C) **Hazardous Material.** Permittee shall not cause, nor shall Permittee allow any of its Agents or Invitees (as such terms are defined below) to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated or disposed of in, on or about the Permit Area, or transported to or from the Permit Area. Permittee shall immediately notify City when Permittee learns of, or has reason to believe that, a release of Hazardous Material has occurred in, on or about the Permit Area. Permittee shall further comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event that Permittee or its Agents or Invitees cause a release of Hazardous Material, Permittee shall, without cost to City and in accordance with all laws and regulations, return the Permit Area to the condition immediately prior to the release. In connection therewith, Permittee shall afford City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material. For purposes hereof, "**Hazardous Material**" means material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to public health, welfare or the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*, or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the Permit Area or are naturally occurring substances in the Permit Area, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "**release**" or "**threatened release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Permit Area.

(D) **Nuisances.** Permittee shall not conduct any activities on or about the Permit Area that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public.

(E) **Damage.** Permittee shall use, and shall cause its Agents (as defined below) to use, due care at all times to avoid any damage to property of the City or the Permit Area and Permittee shall not do anything about the Permit Area that could cause damage to the Permit Area or any City property located thereon.

(F) **Use of Adjoining Land.** Permittee acknowledges that the privilege given under this Permit shall be limited strictly to the Permit Area. Permittee shall not use any adjoining lands of City except as approved under Section 2D above.

5. Term of Permit.

The privilege conferred to Permittee pursuant to this Permit shall commence on **January 5th 2015** (“Commencement Date”) upon approval and authorization of Permit by the Department and shall expire at midnight on **December 31st 2015**, or upon earlier termination under the terms of this Permit (“Expiration Date”). Under no circumstances shall Permittee enroll clients or take reservations for the enrollment of clients for participation in the Permitted Activity at the Permit Area beyond the Expiration Date without the express written consent of the City. City may at its sole option freely revoke this Permit at any time without cause and without any obligation to pay any consideration to Permittee. Should Permittee find another facility for its program prior to the Expiration Date of this Permit, Permittee shall provide City a thirty (30) day written notice of intent to vacate Permit Area and terminate Permit. Such a request shall not be unreasonably denied.

6. Fees. Beginning on January 5th, 2015, Permittee shall pay a monthly fee of Eight hundred (\$800.00) in consideration of Permittee’s use of the Permit Area. Said fee shall be due and payable on the 1st day of each month. In subsequent years of this permit, the monthly fee will be subject to applicable CPI increases. The Department shall notify Permittee of any such increases by March 31st of each year for the following school year.

Permittee hereby acknowledges that late payment by Permittee to City of the use permit fees or other sums due hereunder will cause City to incur costs not contemplated by this Permit, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any fee amount when due from Permittee is not received by City, Permittee shall pay to City an additional sum of five percent (5%) of the monthly fees as a late charge. Failure to pay any amounts due the City within 21 days from a written request by the City shall result in automatic termination of this agreement and may result in the forfeiture of any deposits. Acceptance of any late charge shall not constitute a waiver of Permittee’s default with respect to the overdue amount, or prevent City from exercising any of the other rights and remedies available to City. Fees not paid when due shall bear interest from the date due until paid at one-percent (1%) per month. City reserves the right to direct Permittee, upon 30 days’ written notice, to pay all fees and to make all other future payments required by this Permit by wire transfer.

If the Permittee occupies the Permit Area for a portion of a month, the rental amount shall equal the number of days of occupancy times the daily rate. The daily rate shall be factored by multiplying the appropriate monthly rate times twelve months and dividing by 365.

7. Utilities.

City hereby agrees to provide and pay for gas,electricity, water, sewer and garbage with respect to the Permit Area as defined under the terms of this Permit. Permittee hereby acknowledges City has incorporated in the monthly permit fee, as stipulated in Section 6, an amount to help defray such utility costs incurred by Permittee’s use of the Permit Area. Permittee acknowledges and hereby agrees to provide and pay for any and all other utilities necessary and required for the occupancy and use of the Permit Area, including the cost of bringing any new utilities to the location where needed or required

8. Days and Hours of Occupancy and Use:

Regular Hours and Minimum Required Program Hours. Permittee shall have sole possession of the Premises during the Dates and Hours set forth below. However in the event of an early release day by the West Portal Elementary School, Permittee agrees to end their program one hour prior to the early release. If Permittee desires to use the Premises outside of the Regular Hours, such use shall be subject to Permittee's compliance with the Department's standard permit and reservations procedures, unless the Department, in its sole discretion, approves such additional hours in writing, in which event Lessee's use during such additional hours shall be subject to such terms and conditions as the Department may impose in connection with such extra use. Permittee acknowledges that Permittee's agreement to open the Premises and provide programming in the Premises is a material consideration for this Permit. Accordingly, Permittee agrees that Permittee shall provide a minimum of fifteen (15) hours of programming in the Premises each calendar week of the Term (the "Minimum Required Program Hours"), unless the Department, in its sole discretion, approves fewer hours in writing.

January 5th – June 14th 2015

Regular Hours Monday through Friday, 8:30 AM – 2:30 PM

August 8th – December 31st 2015

Regular Hours Monday through Friday, 8:30 AM – 2:30 PM

9. Insurance.

(A) Permittee shall procure and keep in effect at all times during the term of this Permit, at Permittee's expense, insurance as follows:

- (i) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Contractors, and Products Liability Coverages.
- (ii) Business Automobile Liability Insurance with limits not less than \$1,000,000 per each occurrence, Combined Single Limit for Bodily Injury and Property Damage, including coverages for Owned and Non-owned and hired auto coverage, as applicable.
- (iii) Workers' Compensation Insurance with Employer's Liability Coverage with limits of not less than \$1,000,000 each accident.

(B) All liability policies required hereunder shall provide for the following:

- (i) Name as additional insureds the City and County of San Francisco, its Recreation and Park Commission and Recreation and Park Department, and their officers, agents and employees; and
- (ii) Specify that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Permit and that insurance applies separately to each insured against whom claim is made or suit is brought.

(C) All policies shall be endorsed to provide thirty (30) days prior written notice of cancellation, to City.

(D) Prior to the commencement date of this Permit, Permittee shall deliver to City certificates of insurance in form and with insurers satisfactory to City, evidencing the coverages required hereunder, together with complete copies of the policies at City's request. In the event Permittee shall fail to procure such insurance, or to deliver such policies or certificates, City may immediately terminate this Permit and all rights granted to Permittee herein.

(E) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified above.

(F) Should any of the required insurance be provided under a claims-made form, Permittee shall maintain such coverage continuously throughout the term of this Permit and, without lapse, for a period of three (3) years beyond the Permit expiration, to the effect that, should any occurrences during the Permit term give rise to claims made after expiration of the Permit, such claims shall be covered by such claims-made policies.

(G) Upon City's request, Permittee and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Permittee for risks comparable to those associated with the Permit Areas, then City in its sole discretion may require Permittee to increase the amounts or coverage carried by Permittee hereunder to conform to such general commercial practice.

(H) Permittee's compliance with the provisions of this Section shall in no way relieve or decrease Permittee's indemnification obligations under this Permit or any of Permittee's other obligations hereunder. Notwithstanding anything to the contrary in this Permit, this Permit shall terminate immediately, upon the lapse of any required insurance coverage. Permittee shall be responsible, at its expense, for separately insuring Permittee's personal property.

10. Security Deposit.

At or before the commencement of the first year of the term of this Permit, Permittee shall deposit with City a sum equal to the monthly rent as indicated in Section 6, to secure Permittee's

faithful performance of all terms and conditions of this Permit, including, without limitation, its obligation to surrender the Permit Area in the condition required by this Permit. Such deposit shall be in the form of a check. City may, at its sole option, retain, use, or apply all or part of the security deposit to pay any sum due hereunder which is not paid when due, and to recover any loss and pay any amount that city may expend as a result of Permittee's failure to fulfill its obligations under this Permit. City's obligations with respect to the security deposit are solely that of debtor and not trustee. City shall not be required to keep the security deposit separate from its general funds, and Permittee shall not be entitled to interest on the security deposit. The amount of the security deposit shall not limit Permittee's obligations under this Permit. In lieu of such cash security deposit, Permittee may deliver to City a valid surety bond or irrevocable letter of credit in the sum equal to amount specified, issued by a surety company or financial institution and in a form acceptable to City. Permittee shall keep such surety bond or letter of credit, at its expense, in full force and effect until the thirtieth (30th) day after the expiration or sooner termination of this Permit, to ensure the faithful performance by Permittee of all of the covenants, terms and conditions of this Permit. In the event that the City uses, applies, or draws upon all or any portion of the security deposit, Permittee will restore the security deposit to its original amount within ten (10) days following written demand from City. Failure to do so within 14 days of written request by the City shall result in automatic termination of this Permit.

11. Compliance with Laws.

Permittee shall, at its expense, conduct and cause to be conducted all activities on the Permit Area allowed hereunder in a safe and reasonable manner and in compliance with all laws, regulations, ordinances and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act and any and all day care or nursery school licensing regulations) whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. Permittee shall, at its sole expense, procure and maintain in force at all times during its use of the Permit Area any and all business and other licenses or approvals necessary to conduct the activities allowed hereunder. Permittee understands and agrees that City is entering into this Permit in its capacity as a property owner with a proprietary interest in the Permit Area and not as a regulatory agency with police powers. Permittee further understands and agrees that no approval by City for purposes of this Permit shall be deemed to constitute approval of any federal, state, City or other local regulatory authority with jurisdiction, and nothing herein shall limit Permittee's obligation to obtain all such regulatory approvals at Permittee's sole cost or limit in any way City's exercise of its police powers.

12. Covenant to Maintain Permit Area.

In connection with its use hereunder, Permittee shall at all times, at its sole cost, maintain the Permit Area in a good, clean, safe, secure, sanitary and sightly condition, so far as the Permit Area may be affected by Permittee's activities hereunder.

13. Surrender.

Upon the expiration of this Permit or within ten (10) days after any sooner revocation or other termination of this Permit, Permittee shall surrender the Permit Area in the same condition as received, free from hazards, broom clean, and clear of all debris. At such time, Permittee shall remove all of its property from the Permit Area, any signs, and, upon City's request, other structures or improvements permitted hereunder, including, without limitation, the Buildings, and all debris associated therewith and shall repair, at its cost, any damage to the Permit Area caused by such removal or Permittee's use hereunder. Permittee's obligations under this Section shall survive any termination of this Permit.

14. Repair of Damage.

If any portion of the Permit Area or any property of City located on or about the Permit Area is damaged or threatened by any of the activities conducted by Permittee or anyone acting by or through Permittee hereunder, Permittee shall immediately, notify City of such damage or threat. City may, but shall not be obligated to, remedy such damage or threat at Permittee's sole cost, or City may elect to witness Permittee's repair work. In the event City elects not to remedy such damage or threat, Permittee shall repair any and all such damage and restore the Permit Area or property to its previous condition subject to City's inspection, review and approval.

15. City's Right to Cure Defaults by Permittee.

If Permittee fails to perform any of its obligations under this Permit to restore the Permit Area, remove or alter facilities or repair damage, or if Permittee defaults in the performance of any of its other obligations under this Permit, then City may, at its sole option, remedy such failure for Permittee's account and at Permittee's expense by providing Permittee with three (3) days' prior written or oral notice of City's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by City). Such action by City shall not be construed as a waiver of any rights or remedies of City under this Permit, and nothing herein shall imply any duty of City to do any act that Permittee is obligated to perform. Permittee shall pay to City upon demand, all costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. Permittee's obligations under this Section shall survive the termination of this Permit.

16. No Costs to City.

Permittee shall bear all costs or expenses of any kind or nature in connection with its use of the Permit Area, and shall keep the Permit Area free and clear of any liens or claims of lien arising out of or in any way connected with its use of the Permit Area.

17. Rent Credit for Certain Improvements. Permittee may, with the express advance written approval of the General Manager, which may be withheld in the sole discretion of the General Manager, obtain reimbursement by means of a rent credit for part or all of the reasonable cost of certain Improvements or Alterations to the Premises paid by Permittee that the General Manager determines will provide a substantial benefit to the City at the expiration of the Term. The amount of rent credit that the General Manager agrees in writing will be applicable and is actually payable hereunder is referred to herein as the "Improvement Credit." The General Manager may at his or her sole election impose terms, conditions, limits and caps on the payment

of the Improvement Credit, such as bidding requirements and the delivery of budgets for the proposed work. Without limiting the foregoing, Lessee shall keep accurate books and records of all costs incurred in connection with Alterations or Improvements for which an Improvement Credit will be payable, in accordance with accounting principles generally accepted in the construction industry, and shall deliver to City an itemized statement of the actual costs expended by Permittee on such Alterations or Improvements, accompanied by documentation substantiating such expenditures. City shall have the right on written notice to Permittee to audit Permittee's books and records with respect to the Alterations and Improvements for which an Improvement Credit is payable. In no event the Improvement Credit applicable during any calendar month exceed the monthly Fee scheduled under this Permit for such calendar month

17. Indemnity.

Permittee shall indemnify, defend and hold harmless City, its officers, agents, employees and contractors, and each of them, from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind ("Claims"), arising in any manner out of:

(A) Any injury to or death of any person or damage to or destruction of any property occurring in, on or about the Permit Area, or any part thereof, whether the person or property of Permittee, its officers, employees, agents, contractors or subcontractors (collectively, "Agents"), its invitees, guests or business visitors (collectively, "Invitees"), or third persons, relating to any use or activity under this Permit,

(B) Any failure by Permittee to faithfully observe or perform any of the terms, covenants or conditions of this Permit,

(C) The use of the Permit Areas or any activities conducted thereon by Permittee, its Agents or Invitees,

(D) Any release or discharge, or threatened release or discharge, of any Hazardous Material caused or allowed by Permittee, its Agents or Invitees, on, in, under or about the Permit Area, any improvements or into the environment, or

(E) Any failure by Permittee to faithfully observe or perform any terms, covenants or conditions of the Permit to the extent that such terms, covenants or conditions relate to or are triggered by the Permitted Activity to be performed or the facilities to be installed pursuant to this Permit; except solely to the extent of Claims resulting directly from the willful misconduct of City or City's authorized representatives. In addition to Permittee's obligation to indemnify City, Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim that actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Permittee by City and continues at all times thereafter. The foregoing indemnity shall include, without limitation, reasonable attorneys' and consultants' fees, investigation and remediation costs and all other reasonable costs and expenses incurred by the indemnified parties, including, without limitation, damages for decrease in the value of the Permit Area and

claims for damages or decreases in the value of adjoining property, relating to any use or activity by Permittee under this permit. Permittee's obligations under this Section shall survive the expiration or other termination of this Permit.

18. Waiver of Claims.

(A) Neither City nor any of its commissions, Departments, boards, officers, agents or employees shall be liable for any damage to the property of Permittee, its officers, Agents, Invitees employees, contractors or subcontractors, or their employees, or for any bodily injury or death to such persons, resulting or arising from the condition of the Permit Area or its use by Permittee.

(B) Permittee acknowledges that this Permit is freely revocable by City and in view of such fact, Permittee expressly assumes the risk of making any expenditures in connection with this Permit, even if such expenditures are substantial. Without limiting any indemnification obligations of Permittee or other waivers contained in this Permit and as a material part of the consideration for this Permit, Permittee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its Departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, including, but not limited to, any claim for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that City exercises its right to revoke or terminate this Permit.

(C) Permittee acknowledges that it will not be a displaced person at the time this Permit is terminated or revoked or expires by its own terms, and Permittee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City, its Departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any present or future laws, statutes, or regulations, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws.

(D) Permittee expressly acknowledges and agrees that the fees payable hereunder do not take into account any potential liability of City for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to the facilities or Permittee's uses hereunder. City would not be willing to give this Permit in the absence of a waiver of liability for consequential or incidental damages due to the acts or omissions of City or its Agents, and Permittee expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Permittee or other waivers contained in this Permit and as a material part of the consideration for this Permit, Permittee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against City for consequential and incidental damages (including without limitation, lost profits), and covenants not to sue for such damages, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, arising out of this Permit or the uses authorized hereunder, including, without limitation, any interference with uses conducted by Permittee pursuant to this Permit, regardless of the cause, and whether or not due to the negligence of City or its Agents, except for the gross negligence and willful misconduct of City or its Agent.

In connection with the foregoing releases, Permittee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

Permittee acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Permittee realizes and acknowledges that it has agreed upon this Permit in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Permit.

(E) As part of Permittee’s agreement to accept the Permit Area in its “As Is” condition as provided above, and without limited such agreement, Permittee on behalf of itself and its successors and assigns, waives its right to recover from, and forever releases and discharges, City and its Agents, and their respective heirs, successors, administrators, personal representatives and assigns, from any and all Claims, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Permit Area and any related improvements or any law or regulation applicable thereto or the suitability of the Permit Area for Permittee’s intended use.

19. As Is Condition of Permit Area; Disclaimer of Representations.

Permittee accepts the Permit Area in its "AS IS" condition, without representation or warranty of any kind by City, its officers, agents or employees, including, without limitation, the suitability, safety, or duration of availability of the Permit Area or any facilities on the Permit Area for Permittee's use. Without limiting the foregoing, this Permit is made subject to all applicable laws, rules and ordinances governing the use of the Permit Area, and to any and all covenants, conditions, restrictions, easements, encumbrances, claims of title and other title matters affecting the Permit Area, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey. It is Permittee's sole obligation to conduct an independent investigation of the Permit Area and all matters relating to its use of the Permit Area hereunder, including, without limitation, the suitability of the Permit Area for such uses. Permittee, at its own expense, shall obtain such permission or other approvals from any third parties with existing rights as may be necessary for Permittee to make use of the Permit Area in the manner contemplated hereby.

20. No Assignment.

This Permit is personal to Permittee and shall not be assigned, conveyed or otherwise transferred by Permittee under any circumstances. Any attempt to assign, convey or otherwise transfer this Permit shall be null and void and cause the immediate termination and revocation of this Permit.

21. Cessation of Use.

Permittee will not terminate its activities on the Permit Area pursuant hereto without prior written notice to City.

22. No Joint Ventures or Partnership; No Authorization.

This Permit does not create a partnership or joint venture between City and Permittee as to any activity conducted by Permittee on, in or relating to the Permit Area. Permittee is not a state actor with respect to any activity conducted by Permittee on, in, or under the Permit Area. The giving of this Permit by City does not constitute authorization or approval by City of any activity conducted by Permittee on, in or relating to the Permit Area.

23. MacBride Principles - Northern Ireland.

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Permittee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

24. Non-Discrimination.

(A) **Covenant Not to Discriminate.** In the performance of this Permit, Permittee agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Permittee, in any of Permittee's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Permittee.

(B) **Subcontracts.** Permittee shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-12B.2(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Permittee's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(C) **Non-Discrimination in Benefits.** Permittee does not as of the date of this Permit and will not during the term of this Agreement, in any of its operations within the United States, discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12.2(b) of the San Francisco Administrative Code.

(D) **Condition to Contract.** As a condition precedent to this Agreement, Permittee shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (FORM HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission. The form is attached to this Permit as Exhibit D.

(E) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated by reference and made a part of this Agreement as though fully set forth herein. Permittee shall comply fully with and be bound by all of the provisions that apply to this Permit under such Chapters 12B and 12C of the Administrative Code, including, but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Permittee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Permit may be assessed against Permittee and/or deducted from any payments due Permittee.

25. Tropical Hardwoods and Virgin Redwood Ban.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood product.

26. Taxes, Assessments, Licenses, Permit Fees and Liens.

(A) Permittee recognizes and understands that this Permit may create a possessory interest subject to property taxation and that Permittee may be subject to the payment of property taxes levied on such interest. Permittee further recognizes and understands that any transfer or assignment permitted under this Permit and any exercise of any option to renew or extend this Permit may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder.

(B) Permittee agrees to pay taxes of any kind, including, but not limited to, possessory interest taxes, that may be lawfully assessed on the interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Permittee's usage of the Permit Area that may be imposed upon Permittee by law, all of which shall be paid when the same become due and payable and before delinquency.

(C) Permittee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Permit Area or upon any equipment or property located thereon without promptly discharging the same, provided that Permittee, if so desiring, may have reasonable opportunity to contest the validity of the same.

(D) San Francisco Administrative Code Sections 23.6-1 and 23.6-2 require that the City and County of San Francisco report certain information relating to this Permit, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction, and that Permittee report certain information relating to any assignment of or transfer under this Permit to the County Assessor within sixty (60) days after such assignment or transfer

transaction. Permittee agrees to provide such information as may be requested by the City to enable the City to comply with this requirement.

27. Notices.

Except as otherwise expressly provided herein, any notices given under this Permit shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail with a return receipt requested or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

City or Department: Property Management Unit
Recreation and Park Department
McLaren Lodge Annex
501 Stanyan Street
San Francisco, CA 94117

Permittee: Self Help for the Elderly
731 Sansome Street Suite 100
San Francisco, CA 94111

Key Contact for the City: Jeff Suess
Jeff.Suess@sfgov.org
415-831-2727

Key Contact for Permittee Anni Chung
Annic@SelfHelpfortheElderly.org

Notices herein shall be deemed given two (2) days after the date when they shall have been mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is made.

28. No Tobacco Advertising.

Permittee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the property which is the subject of this Permit. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

29. Americans with Disabilities Act.

Permittee acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Permittee shall provide the services specified in this Permit in a manner that complies with the ADA and any and all other

applicable federal, state and local disability rights legislation. Permittee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Permit and further agrees that any violation of this prohibition on the part of Permittee, its employees, agents or assigns shall constitute a material breach of this Permit.

30. Destruction of Permit Area.

In the event of the destruction of the Permit Area, or any part thereof, in which the operation is situated so as to make the service untenable, the rights and privileges granted hereunder may be terminated by City and City shall be under no legal obligation to Permittee by reason of said termination.

31. Conflict of Interest.

Permittee states that it is familiar with the provisions of Section C8.105 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Permittee further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interest, direct or indirect, which Permittee believes any officer or employee of the City presently has or will have in this Permit or in the performance thereof or in any portion of the profits thereof.

32. No Obligation to Prevent Criminal Activity.

City shall have no liability to Permittee for any criminal activity in, on or about the Permit Area.

33. Pesticide Prohibition.

As of January 1, 1998, Permittee shall comply with the provisions of Section 39.9 of Chapter 39 of the San Francisco Administrative code (the "Pesticide Ordinance") with (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Permittee to submit to the Department an integrated pest management ("IPM") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Permittee may need to apply to the Permit Area during the term of this Lease, (b) describes the steps Permittee or Third Party Operator will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as the Permittee's or Third Party's Operator primary IPM contact person with the City. In addition, Permittee shall comply with the requirements of Sections 39.4(a) and 39.4(b) of the Pesticide Ordinance as of January 1, 1999 and January 1, 2000, respectively. Nothing herein shall prevent Permittee, through the Department, from seeking a determination from the Commission on the Environment that it is exempt from complying with certain portions of the Pesticide ordinance as provided in Section 39.8 thereof.

34. Food Service Water Reduction.

Permittee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions

of Chapter 16 are incorporated herein by reference and made a part of this Permit as though fully set forth herein. This provision is a material term of this Permit. By entering into this Permit, Permittee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Permittee agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Permit was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Permittee's failure to comply with this provision.

35. Counterparts

This Permit may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

36. General Provisions.

(A) This Permit may be amended or modified only by a writing signed by the City and Permittee.

(B) No waiver by any party of any of the provisions of this Permit shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver.

(C) Unless otherwise specifically provided, all approvals and determinations of City requested, required or permitted hereunder may be made, in writing, in the sole and absolute discretion of the General Manager of the Recreation and Park Department.

(D) This instrument, including the exhibits hereto, contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

(E) The section and other headings of this Permit are for convenience of reference only and shall be disregarded in the interpretation of this Permit.

(F) Time is of the essence.

(G) This Permit shall be governed by California law and City's Charter.

(H) If either party commences an action against the other or a dispute arises under this Permit, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience.

(I) If Permittee consists of more than one person then the obligations of each person shall be joint and several.

(J) Permittee may not record this Permit or any memorandum hereof.

(K) Subject to the prohibition against assignments or other transfers by Permittee hereunder, this Permit shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

(L) Any sale or conveyance of the property burdened by this Permit by City shall automatically revoke this Permit.

(M) Notwithstanding anything to the contrary contained in this Permit, Permittee acknowledges and agrees that no officer or employee of City has authority to commit City to this Permit unless and until a resolution of City's Recreation and Park Commission shall have been duly adopted approving this Permit and authorizing the transaction contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon enactment of such a resolution, and this Permit shall be null and void if City's Recreation and Park Commission does not approve this Permit, in its sole discretion.

37. Disclosure.

Permittee understands and agrees that under the City's Sunshine Ordinance (S.F. Administrative Code Chapter 67) and the State Public Records Law (Government Code Section 6250 et seq.), apply to this Permit and any and all records, information, and materials submitted to the City in connection with this Permit. Accordingly, any and all such records, information and materials may be subject to public disclosure in accordance with the City's Sunshine Ordinance and the State Public Records Law. Permittee hereby authorizes the City to disclose any records, information and materials submitted to the City in connection with this Permit.

PERMITTEE REPRESENTS AND WARRANTS TO CITY THAT IT HAS READ AND UNDERSTANDS THE CONTENTS OF THIS PERMIT, HAS HAD AN OPPORTUNITY TO REVIEW AND DISCUSS IT WITH COUNSEL OF ITS CHOOSING, AND AGREES TO COMPLY WITH AND BE BOUND BY ALL OF ITS PROVISIONS.

CITY:

Recreation and Parks Department

By: _____

Philip A. Ginsburg,
General Manager

Date: _____

PERMITTEE:

Self Help for the Elderly

By: _____

Anni Chung
President and CEO

Date: _____

Exhibit A "Permit Area"



The permit area as outlined above is further defined as follows:

- 1). The public restrooms within the building are to be jointly shared with the public at all times
- 2). The office, will be shared as mutually agreed
- 3). Permittee is allocated on set of cupboards in the recreation room as well as sufficient room for the equipment in the storage room as mutually agreed.
- 4). Permittee will not use the refrigerator in the kitchen, however may bring in and install a smaller refrigerator, the placement of which to be mutually agreed upon.

Exhibit B

Operational Policies for Self-Help for the Elderly's Meal program and Community Services program at West Portal Clubhouse:

Programs offered at West Portal Clubhouse:

1. Days and Time of Operation: Monday to Friday, 9am to 2pm. With approval from Dept of Recreation and Parks, occasional use of the site for weekends.
2. Staffing: There will be one (1) Primary Staff, Center Coordinator, assigned to oversee the operation of the Clubhouse; one (1) meal site worker, assigned to assist in operating the meal program; one (1) program assistant, assigned to assist in implementing program activities and community services.
3. Programs/Services offered: This Clubhouse will be Self-Help for the Elderly's designated location for the congregated meal service and community services. The Center's Mission is to promote active and healthy aging.
4. Supervision: All the staffs will be supervised by the Program Manager of the Nutrition & Senior Center Programs at Self-Help for the Elderly.
5. Equipment: There will be a list of equipment to support our programs. These equipments will be supervised by the staffs and/or volunteers at all times. All the equipment that belongs to Self-Help for the Elderly can only be used by Self-Help's staffs and volunteers during Self-Help's hours of operation. Self-Help will provide Department with a specific list of equipment and will provide a means for securing that equipment.
6. Since this site will be used by both Recreation & Park personnel and Self-Help for the Elderly's personnel, both parties will share in the responsibility of keeping the space clean, safe and functional. Each party will leave the space clean after its use of the space. Both parties will meet regularly to ensure program success for both operations.
7. For all emergencies, please contact Caroline Ng, Office Director of Self-Help for the Elderly at the Main Office, located at 731 Sansome Street, Suite 100 SF, CA. 94111 and phone number: 415-677-7600.

January 5, 2015, 2010