

File No. 240836

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date September 25, 2024

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Brent Jalipa

Date September 19, 2024

Completed by: Brent Jalipa

Date _____

1 [Accept and Expend In-Kind Gift - Deloitte Tax LLP - Climate Tax Advisory Services -
2 Estimated up to \$112,089]

3 **Resolution authorizing the Department of the Environment to accept and expend an in-**
4 **kind gift of pro bono tax services, with an estimated value of \$112,089 for a term of**
5 **engagement effective upon approval of this Resolution through May 31, 2025, provided**
6 **by Deloitte Tax LLP, to help the City identify opportunities to obtain federal tax credits**
7 **for qualifying sustainability activities, and authorizing the Director of the Environment**
8 **Department or the Director’s designee, to enter into and execute the agreement, and**
9 **amendments thereto, consistent with the proposal and necessary to carry out the**
10 **purpose of the agreement or this Resolution, as defined herein.**

11
12 WHEREAS, The Inflation Reduction Act of 2022 (IRA) is a comprehensive federal
13 legislative package designed to significantly enhance the United States’s (U.S.) ability to fight
14 climate change, and represents the largest federal investment in climate and clean energy to-
15 date; and

16 WHEREAS, The IRA aims to cut greenhouse gas emissions 40% by 2030 by building
17 on prior city progress and supporting climate justice communities; and

18 WHEREAS, The IRA dedicates \$369 billion to climate and energy initiatives and
19 includes grant funding and incentives for electric vehicles, building efficiency, appliance
20 electrification, and pollution reduction rebates; and

21 WHEREAS, The IRA is poised to support San Francisco in achieving its ambitious net-
22 zero emissions target by 2040 through greenhouse gas reductions, the creation of healthier
23 living environments, and job growth; and

1 WHEREAS, The Department of the Environment (“Environment Department”) has
2 already secured three federal grants since 2023 for approximately \$2,000,000, some of which
3 is sourced from the IRA; and

4 WHEREAS, The Environment Department has been facilitating efforts to enable the
5 City to benefit from non-grant IRA funds available to incentivize governments to electrify, use
6 renewable energy, decarbonize buildings and fleets, and improve energy efficiency; and

7 WHEREAS, City government projects and purchases are eligible to tap into a newly
8 available pool of federal funds made possible by the IRA’s “Elective Pay”, or “Direct Pay”
9 provisions; and

10 WHEREAS, The Internal Revenue Service (IRS) describes Elective Pay as allowing
11 “applicable entities (as defined), including tax-exempt and governmental entities that would
12 otherwise be unable to claim these credits because they do not owe federal income tax, to
13 benefit from some clean energy tax credits by treating the amount of the credit as a payment
14 of tax;” and

15 WHEREAS, Deloitte Tax LLP (“Deloitte”) will provide the City with ad hoc tax consulting
16 and advice on what sustainability projects or programs qualify for “Direct Pay,” but will not
17 provide legal advice or receive any confidential information in the course of the project; and

18 WHEREAS, Deloitte services may include the following: 1) Education - educate City
19 personnel and partners through ad hoc trainings and workshops related to tax credits and
20 incentives; 2) Planning and Project Scope - work with City personnel to assist in planning and
21 general tax guidance related to state and federal tax credits, incentives, and grants that may
22 be available for each capital expenditure project, with a focus on tax credits that qualify for
23 “Direct Pay” under Section 6417 of the Internal Revenue Code; and 3) Strategic Analysis –
24 evaluate San Francisco's ownership of qualifying renewable energy assets, consider tax
25

1 structuring options, gather requirements to qualify for increased credit amounts under the IRA
2 for each project, and offer support to address potential barriers to maximizing benefits; and

3 WHEREAS, At the end of the Strategic Analysis phase, Deloitte will summarize the
4 findings regarding the potential considerations, opportunities, and benefits identified and
5 present a summary to the City and County of San Francisco; and

6 WHEREAS, The gift does not require an ASO amendment; and

7 WHEREAS, No indirect costs are included by the Environment Department to
8 maximize the value of the pro bono legal services; now, therefore, be it

9 RESOLVED, That the Board of Supervisors hereby waives inclusion of indirect costs in
10 the gift budget; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors approves the acceptance and
12 use of an in-kind gift of pro bono tax advisory services, with a value estimated up to \$112,089
13 provided by Deloitte to support the City and County of San Francisco in identifying and
14 obtaining tax credits and incentives related to qualifying sustainability activities; and, be it

15 FURTHER RESOLVED, That the Director of the Environment Department or the
16 Director's designee is authorized to enter into and execute the engagement letter agreement
17 with Deloitte ("Agreement"), an unexecuted draft of which is included in the official file for this
18 Resolution, including a provision that authorizes Deloitte and its affiliates to use the
19 Environment Department and/or City's name as part of a general client list, and in other
20 publicity, advertising and promotional materials, a draft of which Agreement is included in the
21 official file for this Resolution; and, be it

22 FURTHER RESOLVED, That within thirty (30) days of the Agreement being fully
23 executed by all parties, the Environment Department shall provide a copy of the executed
24 Agreement to the Clerk of the Board of Supervisors for inclusion in the official file for this
25 Resolution.

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Recommended:

Approved: /s/

Mayor

 /s/

Approved: /s/

Department of the Environment
Department Head

Controller

File Number: 240836
(Provided by Clerk of Board of Supervisors)

Gift/Grant Resolution Information Form
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant/gifts funds.

The following describes the grant referred to in the accompanying resolution:

1. Gift Title: **In-kind gift of pro bono tax services**
2. Department: **(ENV) Environment Department**
3. Contact Person: **Charles Sheehan** Telephone: **415.781.9142**
4. Gift Approval Status (check one):
 Approved by funding agency Not yet approved
5. Amount of Gift Funding Approved or Applied for: In-kind services of up to \$112,089.
6. a. Matching Funds Required: **None**
b. Source(s) of matching funds (if applicable):
7. a. Grant Source Agency: **Not Applicable**
b. Grant Pass-Through Agency (if applicable):
8. Proposed Gift Project Summary:
The initiative between the Environment Department and Deloitte, in the form of in-kind gift of pro bono tax services, provided by Deloitte Tax LLP., will help the City identify opportunities to obtain federal tax credits in the form of direct payments from the federal government to the City, for qualifying sustainable activities. Deloitte, with the Department's assistance, will assess City projects, programs, and purchases to determine what is eligible for direct payments from the federal government.
9. Gift Project Schedule, as allowed in approval documents, or as proposed:
Start-Date: **Upon BOS approval** End-Date: **May 31, 2025**
10. a. Amount budgeted for contractual services:
b. Will contractual services be put out to bid? **No**
c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? **NA**
d. Is this likely to be a one-time or ongoing request for contracting out? **NA**
11. a. Does the budget include indirect costs?
 Yes No
b. 1. If yes, how much? \$
b. 2. How was the amount calculated?
c. 1. If no, why are indirect costs not included?
 Not allowed by granting agency To maximize use of grant funds on direct services
 Other (please explain): **This is an in-kind gift for consulting services.**

c. 2. If no indirect costs are included, what would have been the indirect costs?
If calculated at 10% of the estimated in-kind gift value, the indirect costs would have been approximately \$11, 208.90

12. Any other significant gift requirements or comments:

****Disability Access Checklist***(Department must forward a copy of all completed Grant Information Forms to the Mayor’s Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- | | | |
|------------------------------------------------|-----------------------------------------------------|------------------------------------------------------------------|
| <input type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s) | <input type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s) | <input type="checkbox"/> Rehabilitated Structure(s) | <input checked="" type="checkbox"/> New Program(s) or Service(s) |
| <input type="checkbox"/> New Site(s) | <input type="checkbox"/> New Structure(s) | |

14. The Departmental ADA Coordinator or the Mayor’s Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor’s Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments:

Departmental ADA Coordinator or Mayor’s Office of Disability Reviewer:

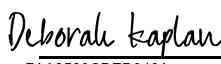
Deborah Kaplan

(Name)

Deputy Director for Programmatic Access

(Title)

Date Reviewed: 9/3/2024

DocuSigned by:

 (Signature Required)

Department Head or Designee Approval of Grant Information Form:

Tyrone Jue

(Name)

Director

(Title)

Date Reviewed: 8/26/2024

A handwritten signature in black ink, appearing to be "Dyana D.", written above a horizontal line.

(Signature Required)



[MONTH], [DATE], 2024

Cyndy Comerford
City and County of San Francisco
1155 Market St 3rd Floor
San Francisco, CA 94103

Dear Cyndy:

On behalf of Deloitte Tax, LLP (“Deloitte Tax”, “we” or “our”), we are pleased to submit this engagement letter to provide the City and County of San Francisco (“City of San Francisco” or “Client”) with tax advisory services (“Services”) related to federal and state tax incentives. This engagement letter sets forth the scope of the services, the engagement team, and certain engagement administration matters.

Services to Be Provided

The scope of the Services is established based on discussions with Client. In addition, the scope of the Services may be changed or modified by mutual agreement between Client and Deloitte Tax if, for example, unforeseen circumstances arise. Deloitte Tax will promptly discuss any such circumstances it notes with Client and, likewise, Client agrees to promptly notify Deloitte Tax if Client believes that modifications to the scope of the Services are necessary.

Client has requested Deloitte Tax to assist in connection with its plans to identify and obtain Tax Credits and Incentives (“C&I”, “incentives”) in connection with Client’s qualifying activities, including but not limited to capital investments, job creation / retention, energy, and sustainability investments.

There will be no attorney-client relationship between Deloitte Tax and Client, and Deloitte Tax’s provision of Services to Client will not create any attorney-client relationship between Deloitte Tax and Client. Communications between Deloitte Tax and Client in relation to the Services will not be attorney-client privileged.

Phase I – Education

During Education, Deloitte Tax will be available to provide Client with ad hoc tax consulting services related to the various sustainability credits and incentives. Deloitte Tax will assist Client with its internal discussions on an as-requested basis and advise Client as it seeks to pursue various sustainable credits and incentives. These services may include the following:

- Educate Client personnel and partners through ad hoc trainings and workshops related to Tax Credits and Incentives, including qualifications and monetization structures.
- Provide Client with education and guidance surrounding prevailing wage and apprenticeship, domestic content, energy communities, and low-income community (collectively “credit adders”) provisions as part of the Inflation Reduction Act (“IRA”);
- Present information, as requested, to Client’s stakeholders;

- Review relevant documents and provide tax comments and observations to Client, as needed; and
- Arrange and attend meetings with Client representatives to initiate incentives discussions and address any follow-up items.

Phase II – Planning and Project Scoping

Deloitte Tax will work with Client personnel to assist in education, planning and general tax guidance related to material state and federal tax credits, incentives, and grants, that may be available for a specified category of capital expenditure project (“Project”), with a focus on tax credits which qualify for direct pay under section 6417 of the Internal Revenue Code (“IRC”) and other tax credit, incentive, or grant programs available to tax-exempt entities (“C&I”). Client will only provide Deloitte Tax with information and documents that are disclosable to the general public. Client will not provide Deloitte Tax with any information regarding past, current, or anticipated future projects that is not available to the general public.

C&I reviewed for each Project may include, but are not limited to, the following provisions in the IRC, or any successor thereto:

- IRC Section 30C - Alternative fuel vehicle refueling property credit.
- IRC Section 45 - Renewable electricity production tax credit.
- IRC Section 45Y - Electricity production credit.
- IRC Section 45W - Qualified commercial vehicle.
- IRC Section 48 - Energy investment tax credit.
- IRC Section 48E - Clean electricity investment credit.
- IRC Section 179D – Energy efficient commercial building property deduction.
- State and local incentives based on Jurisdiction of Project(s).

To the extent applicable for the C&I identified for each Project, Consultant will analyze the applicability of the following items relevant to each Project:

- A high-level analysis of Client’s fact pattern and discussion of tax structuring considerations related to ownership of qualifying renewable energy assets;
- A high-level analysis of various additional requirements for Client to qualify for increased credit amount(s) under IRA related to each project;
- Reporting opportunities and obligations; and
- Identification of potential barriers to information or achieving benefits and potential opportunities.

At the end of the Strategic Analysis phase, Deloitte Tax will summarize the findings regarding the potential considerations, opportunities, and potential benefits identified and present a summary of Services to Client. Client and Deloitte Tax personnel will discuss the relevant findings and potential additional Services contemplated. At that time, Client will decide whether additional analysis should be performed. Any additional Services will be the subject of either an addendum to this Engagement Letter or a subsequent Engagement Letter. Services do not include preparation of non-tax compliance filings, and any services not described above are not included within the scope of this Engagement Letter.

Estimated Timing for Services and Deliverables (if any):

The timing of the Deloitte Tax Services is dependent upon timely responses to our requests for information, interviews, and/or documentation. Deloitte Tax is prepared to begin and deliver the Services involving the

Scope of services at mutually agreeable dates upon execution of this Engagement Letter. Additional Services to be performed, including the relevant terms, agreed-upon timing and deliverables will be mutually agreed upon between Client and Deloitte Tax, as evidenced by an Addendum to this Engagement Letter, prior to commencement of those Services.

Timing, Fees and Expenses

The terms of this engagement will be effective through May 31, 2025. We are prepared to commence the Services promptly upon our receipt of your written authorization to proceed and of the requested information and documents. Our hourly rates and fees reflect the complex, technical nature of the work to be performed and the need for experienced and highly specialized resources to effectively perform this work.

The professional fees for the Services are estimated to be \$112,089. However, we will perform the Services on a pro bono basis, and Client will not be charged any fees for the Services.

We expect to assist with the activities as outlined herein up to the Maximum Hours of the Services of 340 hours, amounting to a value of \$112,089 ("Maximum Hours"). Deloitte Tax agrees to work diligently to assist with the activities outlined above. Client acknowledges that it may not be possible to complete all of these activities or related Deliverables within the Maximum Hours.

During the performance of the Services, if we anticipate that the overall time and effort will exceed this fee range, we will work closely with you to establish the additional level of effort and associated cost.

Level	Hourly Rates
Principal / Managing Director	\$861
Senior Manager	\$732
Manager	\$627
Senior Consultant	\$489
Consultant	\$369

We will submit progress invoices to you showing a single amount for the Services that reflect the actual work performed and a separate amount for expenses incurred.

CONSENT FOR DISCLOSURE AND USE OF TAX RETURN INFORMATION

Client authorizes that any and all information (i) furnished to Deloitte Tax for or in connection with the Services under this Engagement Letter, (ii) derived or generated by Deloitte Tax from the information described in (i) above, or (iii) associated with prior years' tax return information in the possession of Deloitte Tax may, for a period of up to eight (8) years from the end of the tax year to which the information relates, be disclosed to and considered and used by any Deloitte Tax affiliate, related entity (or its affiliate) or subcontractor, in each case, whether located within or outside the United States, engaged directly or indirectly in providing Services under this Engagement Letter, tax planning or preparation of tax returns, audited financial statements, or

other financial statements or financial information as required by a government authority, municipality or regulatory body. Disclosures under this paragraph may consist of all information contained in Client's tax returns; if Client wishes to request a more limited disclosure of tax return information, Client must inform Deloitte Tax. Client acknowledges that Client's tax return information may be disclosed to Deloitte Tax affiliates, related entities (or their affiliates) or subcontractors located outside of the United States.

Your signature constitutes Client's consent to disclosure and use of Client's tax return information in the manner described above.

Very truly yours,

DELOITTE TAX LLP

By: _____
Christine Brynaert
Tax Partner

AGREED AND ACCEPTED

City and County of San Francisco

By: _____
Cyndy Comerford

Title: Climate Program Manager, San Francisco
Department of the Environment

Date: _____

APPROVED AS TO FORM

David Chiu
San Francisco City Attorney

By: _____
Sarah Crowley

Title: Deputy City Attorney

DELOITTE TAX LLP GENERAL BUSINESS TERMS

1. Services. It is understood and agreed that Deloitte Tax's services (the "Services") under the engagement letter to which these terms are attached as well as any appendices and exhibits (the "Engagement Letter") may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, the Client. "Client" shall mean the entity specified in the Engagement Letter and shall include such of the Client's subsidiaries and/or affiliates as identified in the Engagement Letter. The Client represents and warrants that it has the power and authority to (i) sign the Engagement Letter, and (ii) to bind, itself.

2. Term. Unless terminated sooner in accordance with its terms, this engagement shall terminate on the earlier of the completion of the Services or May 31, 2025. Notwithstanding the foregoing, Deloitte Tax shall have no obligation to continue providing Services if the actual work effort exceeds the Maximum Hours. This engagement may be terminated by either party at any time, with cause, by giving written notice to the other party not less than thirty (30) days before the effective date of termination, provided that, in the event of a termination for cause, the breaching party shall have the right to cure the breach within the notice period. This engagement may be terminated without cause (i) immediately by Deloitte Tax at any time by giving written notice to the Client or (ii) by the Client at any time by giving written notice to Deloitte Tax not less than thirty (30) days before the effective date of termination. In addition, Deloitte Tax may terminate this engagement, if it determines that (a) a governmental, regulatory, or professional entity (including, without limitation, the American Institute of Certified Public Accountants, the Public Company Accounting Oversight Board, or the Securities and Exchange Commission), or an entity having the force of law has introduced a new, or modified an existing, law, rule, regulation, interpretation, or decision, the result of which would render Deloitte Tax's performance of any part of the engagement illegal or otherwise unlawful or in conflict with independence or professional rules, or (b) circumstances change (including, without limitation, changes in ownership of the Client or any of its affiliates) such that Deloitte Tax's performance of any part of the engagement would be illegal or otherwise unlawful or in conflict with independence or professional rules.

3. Ownership of Deloitte Tax Property. To the extent that Deloitte Tax utilizes any of its property (whether tangible or intangible) in connection with this engagement, such property shall remain the property of Deloitte Tax, and the Client shall not acquire any right or interest in such property. Deloitte Tax shall have ownership (including, without limitation, copyright ownership) and all rights to use and disclose its ideas, concepts, know-how, methods, techniques, processes and skills, and adaptations thereof in conducting its business, and the Client shall not assert or cause to be asserted against Deloitte Tax or its personnel any prohibition or restraint from so doing. In the course of performing the Services, Deloitte Tax may provide to Client, solely for its convenience, spread sheets, models or other software tools. Such items are provided to the Client in "as is" condition without warranty of any kind and Deloitte Tax assumes no responsibility for results obtained by anyone other than Deloitte Tax from the use of such items.

4. Limitation on Warranties. THIS IS A SERVICES ENGAGEMENT. DELOITTE TAX DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. Limitation on Damages. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ENGAGEMENT LETTER, DELOITTE TAX'S MAXIMUM LIABILITY UNDER THIS ENGAGEMENT LETTER, SHALL BE LIMITED TO SEVENTY-FIVE THOUSAND DOLLARS (\$75,000). DELOITTE TAX'S LIABILITY LIMIT SET FORTH HEREIN SHALL NOT APPLY TO (1) DAMAGES CAUSED BY DELOITTE TAX'S GROSS NEGLIGENCE (FOR PURPOSES OF THIS SECTION "GROSS NEGLIGENCE" SHALL MEAN A WANT OF EVEN SCANT CARE OR EXTREME DEPARTURE FROM THE ORDINARY STANDARD OF CONDUCT) OR WILLFUL MISCONDUCT, (2) DELOITTE TAX'S OBLIGATION TO INDEMNIFY AND DEFEND CLIENT PURSUANT TO PARAGRAPH 12 (INDEMNIFICATION). NOTWITHSTANDING ANY OTHER PROVISION OF THIS ENGAGEMENT LETTER, IN NO EVENT SHALL DELOITTE TAX BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS ENGAGEMENT LETTER OR THE SERVICES PERFORMED IN CONNECTION WITH THIS ENGAGEMENT LETTER.

6. Responsibilities of the Client and of Deloitte Tax.

(a) Responsibilities of the Client

(i) The Client shall cooperate with Deloitte Tax in the performance by Deloitte Tax of the Services, including, without limitation, providing Deloitte Tax with reasonable facilities and timely access to data, information and personnel of the Client. The Client shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of all data and information provided to Deloitte Tax for purposes of the performance by Deloitte Tax of the Services. The Client acknowledges and agrees that Deloitte Tax's performance is dependent upon the timely and effective satisfaction of the Client's responsibilities hereunder and timely decisions and approvals of the Client in connection with the Services. Deloitte Tax shall be entitled to rely on all decisions and approvals of the Client in providing Services. With respect to the data and information provided by Client to Deloitte Tax or its subcontractors for the performance of the Services, Client shall have the rights required to provide such data and information, and shall do so only in accordance with applicable law and with any procedures agreed upon in writing.

(i) The Client shall be solely responsible for, among other things: (a) making all management decisions and performing all management functions; (b) designating an individual who possesses suitable skill, knowledge, and/or experience, preferably within senior management, to oversee the Services (c) evaluating the adequacy and results of the Services performed; (d) accepting responsibility for the results of the Services; and (e) establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities.

(b) Responsibilities of Deloitte Tax

(i) The Services provided are not binding on tax or other governmental or regulatory authorities or the courts and do not constitute a representation, warranty, or guarantee that the tax or other governmental or regulatory authorities or the courts will concur with any advice. Any Services provided by or on behalf of Deloitte Tax will be based upon the law, regulations, cases, rulings, and other tax authority in effect at the time the specific Services are provided. Subsequent changes in or to the foregoing (for which Deloitte Tax shall have no responsibility to advise the Client) may result in the Services provided by or on behalf of Deloitte Tax being rendered invalid.

(ii) Except as specifically agreed to in writing, Deloitte Tax shall not provide advice regarding the financial accounting treatment of any transaction implemented from the Services and will not assume any responsibility for any financial reporting with respect to the Services. Deloitte Tax shall have no responsibility to address any legal matters or questions of law other than tax law in relation to the Services.

(iii) In formulating any advice as part of the Services, Deloitte Tax may discuss ideas with the Client orally or show the Client drafts of such advice. To the extent that the content of drafts or oral advice are expected to be finalized and confirmed to the Client in writing, such confirmed advice shall supersede any previous drafts or oral advice and Deloitte Tax shall not be responsible if the Client or others choose to rely on, act or refrain from acting on the basis of any drafts or oral advice.

(iv) Deloitte Tax will use its reasonable endeavors, acting in a commercially prudent manner, to carry out the Services in accordance with any timetable specified in the Engagement Letter. However, it is agreed that any dates specified in the Engagement Letter for the performance of any part of the Services, including delivery of any advice, are estimated dates for planning purposes only. Deloitte Tax will notify the Client promptly if it expects or encounters any significant delays which will materially affect achievement of any timetable for delivery of the Services.

(v) Unless expressly agreed otherwise in writing, each item of advice will be deemed accepted (and the Services or relevant part completed) when such advice has been delivered in its final form and no material objection to the advice or its content is notified by the Client to Deloitte Tax in writing within fourteen (14) days of delivery or when first use of the advice is made by or on behalf of the Client, whichever occurs first.

7. Force Majeure. Neither party shall be liable for any delays or nonperformance resulting from circumstances or causes beyond its reasonable control, including, without limitation, acts or omissions or the failure to cooperate

by the other party (including, without limitation, entities or individuals under its control, or any of their respective officers, directors, employees, other personnel and agents), fire or other casualty, act of God, epidemic, strike or labor dispute, war or other violence, or any law, order, or requirement of any governmental agency or authority.

8. Independent Contractor. It is understood and agreed that each party hereto is an independent contractor and that neither party is, nor shall be considered to be, the other's agent, distributor, partner, fiduciary, joint venturer, co-owner, or representative. Neither party shall act or represent itself, directly or by implication, in any such capacity or in any manner assume or create any obligation on behalf of, or in the name of, the other.

9. Confidentiality. Client and Deloitte Tax do not intend for Deloitte Tax to receive any proprietary or confidential information of the Client in connection with this engagement. To the extent that, in connection with this engagement, Deloitte Tax comes into possession of any tax return information, trade secrets or other proprietary or confidential information of the Client, Deloitte Tax will not disclose such information to any third party without the Client's consent. The Client hereby consents to Deloitte Tax disclosing such information (a) to contractors providing administrative, infrastructure and other support services to Deloitte Tax and subcontractors providing services in connection with this engagement, in each case, whether located within or outside of the United States, provided that such contractors and subcontractors have agreed to be bound by confidentiality obligations similar to those in this paragraph 9; (b) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards, or in connection with litigation pertaining hereto, or (c) to the extent such information (i) shall have otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as the result of a disclosure by Deloitte Tax in breach hereof, (ii) becomes available to Deloitte Tax on a nonconfidential basis from a source other than the Client which Deloitte Tax believes is not prohibited from disclosing such information to Deloitte Tax by obligation to the Client, (iii) is known by Deloitte Tax prior to its receipt from the Client without any obligation of confidentiality with respect thereto, or (iv) is developed by Deloitte Tax independently of any disclosures made by the Client to Deloitte Tax of such information. In satisfying its obligations under this paragraph, Deloitte Tax shall maintain the Client's trade secrets and proprietary or confidential information in confidence using at least the same degree of care as it employs in maintaining in confidence its own trade secrets and proprietary or confidential information, but in no event less than a reasonable degree of care. Notwithstanding anything to the contrary herein, the Client acknowledges that Deloitte Tax, in connection with performing the Services, may develop or acquire experience, skills, knowledge, and ideas that are retained in the unaided memory of its personnel. The Client acknowledges and agrees that Deloitte Tax may use and disclose such experience, skills, knowledge, and ideas. In addition, if the Client in the future becomes an attest client of any affiliate or related entity of Deloitte Tax, the Client acknowledges and agrees that any such information that comes to the attention of Deloitte Tax in the course of performing this engagement may be considered and used by such affiliate or related entity of Deloitte Tax in the context of responding to its professional obligations as the independent accountants for the Client.

10. Survival and Interpretation. Any provisions of this Engagement Letter which either expressly or by their nature extend beyond the expiration or termination of this Engagement Letter shall survive such expiration or termination. For purposes of these terms Deloitte Tax shall mean Deloitte Tax LLP and Deloitte Tax Products Company LLC, one of its subsidiaries. The Client acknowledges and agrees that no affiliated or related entity of Deloitte Tax, whether or not acting as a subcontractor, or such entity's personnel shall have any liability hereunder to the Client or any other person and the Client will not bring any action against any such affiliated or related entity of Deloitte Tax or such entity's personnel in connection with this engagement. Without limiting the foregoing, affiliated and related entities of Deloitte Tax are intended third-party beneficiaries of these terms. Any affiliated or related entity of Deloitte Tax may in its own right enforce such terms, agreements and undertakings. **The provisions of the Engagement Letter shall apply to the fullest extent of the law, whether in contract, statute, tort (such as *negligence*), or otherwise, notwithstanding the failure of the essential purpose of any remedy.**

11. Assignment and Subcontracting. Neither party may assign or otherwise transfer this Engagement Letter without the prior express written consent of the other, except that Deloitte Tax may assign any of its rights or obligations hereunder to any affiliate of Deloitte Tax and to any successor to its business. Neither party will directly or indirectly agree to assign or transfer to a third party any Claim against the other party arising out of this Engagement Letter.

12. Indemnification.

(a) Deloitte Tax shall indemnify and hold harmless Client and its officers, agents and employees from, and, if requested, shall defend them from and against any and all third party claims for liabilities, losses, damages, costs, expenses, or claims (collectively, "Claims") for injury to or death of a person, including employees of Client or Deloitte Tax or loss of or damage to tangible property arising directly or indirectly from Deloitte Tax's performance of the Engagement Letter, except to the extent such indemnity is void or otherwise unenforceable under applicable law, and except where such Claims are the result of the active negligence or willful misconduct of Client and are not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on, Deloitte Tax, its subcontractors, or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants, experts, and related third-party costs that Client necessarily incurs.

(b) In addition to Deloitte Tax's obligation to indemnify Client, Deloitte Tax specifically acknowledges and agrees that it has an immediate and independent obligation to defend Client from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such Claim is tendered to Deloitte Tax by Client and continues at all times thereafter while such claim is in effect.

(c) Under no circumstances will Client indemnify or hold harmless Deloitte Tax.

13. Governing Law, Venue, Jurisdiction, and Severability. These terms, the Engagement Letter, including exhibits and all matters relating to this engagement shall be governed by, and construed in accordance with, the laws of the State of California. In the event of a dispute, the parties shall comply with Paragraph 24. (**Dispute Resolution Procedures; Negotiation; Non-Binding Alternative Dispute Resolution**).

14. Information and Data. Deloitte Tax shall be entitled to assume, without independent verification, the accuracy of all representations, assumptions, information and data that the Client and its representatives provide to Deloitte Tax. All assumptions, representations, information and data to be supplied by the Client and its representatives will be complete and accurate to the best of the Client's knowledge. Deloitte Tax may use information and data furnished by others; however, Deloitte Tax shall not be responsible for, and Deloitte Tax shall provide no assurance regarding, the accuracy of any such information or data. Except as specifically agreed to in writing, Deloitte Tax shall not provide advice regarding the financial accounting treatment of any transaction implemented from the Services and will not assume any responsibility for any financial reporting with respect to the Services. The Client shall be responsible for all financial information and statements provided by or on behalf of the Client with respect to any of the Services. Deloitte Tax shall have no responsibility to address any legal matters or questions of law, other than tax law.

15. Third Parties and Internal Use. Deloitte Tax acknowledges that Deloitte Tax has not placed any limitations on the Client's disclosure of the tax treatment or tax structure associated with the tax Services or transactions described in the Engagement Letter. Nothing in this paragraph shall be construed as limiting or restricting disclosure of the tax treatment or tax structure of the transaction as described in Rule 3501(c)(i) of PCAOB Release 2005-014, or Internal Revenue Code ("IRC") sections 6011 and 6111 and related Internal Revenue Service ("IRS") guidance. The Client acknowledges that none of its other advisors have imposed or will impose any conditions of confidentiality with respect to the tax treatment or tax structure associated with the tax Services or transactions described in the Engagement Letter. All Services shall be solely for the Client's informational purposes and internal use, and this engagement does not create privity between Deloitte Tax and any person or party other than the Client ("third party"). This engagement is not intended for the express or implied benefit of any third party. Unless otherwise agreed to in writing by Deloitte Tax, no third party is entitled to rely, in any manner or for any purpose, on the advice, opinions, reports, or other Services of Deloitte Tax.

16. Certain Tax Disclosures and Reporting. In accordance with IRC sections 6111 and 6112, Deloitte Tax may be required to report to the IRS or certain state tax authorities the Services including without limitation any related tax transaction(s) described in the Engagement Letter as well as the Client's participation therein. In addition, separate and apart from any reporting by Deloitte Tax, the Client, in accordance with IRC section 6011,

may also be required to disclose to a taxing authority its participation in one or more transactions which are the subject of this Engagement Letter. The determination of whether, when and to what extent Deloitte Tax and the Client should comply with their respective federal or state “tax shelter” reporting requirements will be made exclusively and respectively by Deloitte Tax and the Client. Deloitte Tax and the Client further agree that (i) any liability for fines or penalties or any other consequences resulting from non-compliance by one party with applicable tax disclosure or reporting rules will be borne or incurred exclusively by the non-compliant party, and (ii) any request by the Client of Deloitte Tax for services in identifying or otherwise consulting on transactions subject to IRC section 6011 or corresponding state law and the reporting or disclosing thereof will be the subject of a separate engagement letter.

17. Publicity. As an inducement for Deloitte Tax to perform the Services without payment of professional fees and expenses, Deloitte Tax or its affiliates may use Client’s name as part of a general client list, in other publicity, advertising and promotional materials, and in connection with a description of the Services.

18. Electronic Communications.

(a) Except as instructed otherwise in writing, Deloitte Tax, its subcontractors and the Client are authorized to receive properly addressed fax, e-mail (including e-mails exchanged via Internet media) and voicemail communication for both sensitive and non-sensitive documents and other communications concerning this engagement, as well as other means of communication used or accepted by the other. Deloitte Tax may also communicate electronically with tax and other authorities.

(b) It is recognized that the internet is inherently insecure and that data can become corrupted, communications are not always delivered promptly (or at all) and that other methods of communication may be appropriate. Electronic communications are also prone to contamination by viruses. Each party will be responsible for protecting its own systems and interests and, to the fullest extent permitted by law, will not be responsible to the other on any basis (contract, tort or otherwise) for any loss, damage or omission in any way arising from the use of the internet or from access by any Deloitte Tax personnel to networks, applications, electronic data or other systems of the Client.

19. Other Clients.

Nothing in this Engagement Letter will prevent or restrict Deloitte Tax and its subcontractors from providing services to other clients (including services which are the same or similar to the Services) or using or sharing for any purpose any knowledge, experience or skills used in, gained or arising from performing the Services subject to the obligations of confidentiality set out in paragraph 9 even if those other clients’ interests are in competition with the Client. Also, to the extent that Deloitte Tax possesses information obtained under an obligation of confidentiality to another client or other third party, Deloitte Tax is not obliged to disclose it to any member of the Client, or use it for the benefit of the Client, however relevant it may be to the Services.

20. Staff.

Deloitte Tax and the Client each agree not to directly or indirectly solicit, employ or engage any personnel of the other party who within six (6) months of such action has been involved directly with the provision of the Services or otherwise directly connected with this Engagement Letter, except where an individual responds directly to a general recruitment campaign.

21. Destruction of Working Papers.

Deloitte Tax may retain copies of documents and files provided by the Client in connection with the Services for purposes of compliance with professional standards and internal retention policies. Any documents and files retained by Deloitte Tax on completion of the Services (including documents legally belonging to the Client) may routinely be destroyed in accordance with Deloitte Tax policies applying from time to time.

22. Spreadsheets, Models and Tools.

In the course of providing the Services, Deloitte Tax may make reference to spreadsheets, models or tools (together “Models”) that the Client provides to Deloitte Tax or requests Deloitte Tax to rely upon (“Client Models”) or that Deloitte Tax otherwise uses in connection with the Services (“Deloitte Tax Models”). All Models have limitations and may not produce valid results for all possible combinations of input data with the result that actual and potential errors are not detected. Unless otherwise expressly agreed in the Engagement Letter: (i) Deloitte Tax will not be responsible for reviewing, testing or detecting any errors in any Client Models; (ii) no Deloitte Tax Model will be provided or treated as advice; and (iii) where Deloitte Tax provides any Deloitte Tax Model by way of explanation or illustration of any advice, Deloitte Tax makes no representation, warranty or undertaking (express or implied) of any kind about the accuracy, suitability or adequacy of any such Deloitte Tax Model for the Client’s own needs.

23. Entire Agreement, Modification and Effectiveness.

Nothing discussed prior to execution of the Engagement Letter induced, nor forms part of, the Engagement Letter except to the extent repeated in this Engagement Letter. This Engagement Letter supersedes any previous agreement, understanding or communication, written or oral, relating to its subject matter. No variation to the Engagement Letter shall be effective unless it is documented in writing and signed by authorized representatives of both parties, provided, however, that the scope of the Services may be changed by agreement of the parties in writing, including by e-mail or fax. If Deloitte Tax has already started work (e.g., by gathering information, project planning or giving initial advice) at the request of the Client then the Client agrees that this Engagement Letter is effective from the start of such work.

24. Dispute Resolution Procedures; Negotiation; Non-Binding Alternative Dispute Resolution. The parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance or receipt of services under this Engagement Letter, including those related to non-payment or disputed invoices, (“Disputes”) in accordance with the following escalation process. Upon written notice by a party to the other party of a Dispute (“Dispute Notice”), such Dispute shall first be referred to Deloitte Tax’s lead engagement partner or, principal, or managing director (or designee) and Client’s Contract Administrator (or designee). If they are unable to resolve the Dispute within fifteen (15) days of the Dispute Notice, the Dispute will be escalated to Deloitte Tax’s lead client service partner (or designee) and the Director of the San Francisco Department of the Environment (or designee). If the parties are still unable to resolve the dispute within fifteen (15) additional days, then each party may resort to the formal dispute resolution procedure set forth in subsection (a) or, pursuant to San Francisco Administrative Code Section 21.36, Deloitte Tax may submit to the Contracting Officer a written request for administrative review and documentation of the Deloitte Tax’s claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Deloitte Tax of its right to judicial review.

(a) After the parties have exhausted the informal dispute resolution process outlined above, then, if agreed by both parties in writing, disputes may be resolved by a mutually agreed-upon non-binding alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either party may pursue any remedy available under California law.

(b) The status of any Dispute or controversy notwithstanding, Deloitte Tax shall proceed diligently with the performance of its obligations under this Engagement Letter in accordance with the Engagement Letter and the written directions of the Client. Neither Party will be entitled to legal fees or costs for matters resolved under this Section.



August 30, 2024

Angela Calvillo, Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place,
Room 244 San Francisco, CA 94102

Dear Ms. Calvillo:

Attached please find the necessary documents for a Department submission of a proposed gift acceptance resolution for Board of Supervisors approval.

This resolution would authorize the Environment Department to accept and expend an in-kind gift of pro bono tax services, provided by Deloitte Tax LLP. The collaboration between the Department and Deloitte will help the City identify opportunities to obtain federal tax credits in the form of direct payments from the federal government, for qualifying sustainable activities. Deloitte, with the Department's assistance, will assess City projects, programs, and purchases to determine what is eligible for direct payments. We anticipate the contract to commence once the Board approval process concludes. Upon approval, the engagement term is effective through May 31, 2025, with an in-kind amount of up to \$112,089.

Relevant City codes include:

- SEC. 10.100-305
- For more information about Direct Pay, please visit, [Direct Pay | Clean Energy | The White House](#)

The following is a list of accompanying documents:

- Proposed Resolution (Word document)
- Proposed Resolution with CON and MAYOR signatures (PDF)
- City of San Francisco_Deloitte Tax ProBono Engagement Letter_Clean draft 8.23.24
- Cover letter on Department Letterhead (pdf)
- Gift Resolution Information Form (pdf)

The following person may be contacted regarding this matter: Charles Sheehan, Chief Policy & Public Affairs Officer, for the Environment Department – 415.781.9142, charles.sheehan@sfgov.org.

Sincerely,

Tyrone Jue, Director, San Francisco Environment Department