File No. 120717 Committee Item No. 2
Board Item No. 2

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** July 30, 2012

Board of Supervisors Meeting **Date** September 4, 2012

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☒	☒	Environmental Review Determination, dtd 7/5/12
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Completed by: Alisa Miller **Date** July 27, 2012
Completed by: Alisa Miller **Date** August 7, 2012

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Health, Business and Tax Regulations Codes - On-Site Water Reuse for Commercial, Multi-Family, and Mixed-Use Developments]

Ordinance amending the San Francisco Health Code by adding Article 12C and amending the Business and Tax Regulations Code by adding Section 249.24 to: 1) establish permitting requirements for the use of alternate water sources for nonpotable applications; 2) setting permit and annual fees; and 3) making environmental findings.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120717 and is incorporated herein by reference.

Section 2. The San Francisco Health Code is hereby amended by adding Article 12C, Sections 850 - 861, to read as follows:

SEC 850. PURPOSE AND FINDINGS.

The Board of Supervisors finds that:

(a) All California water users are responsible for making effective use of the available water resources.

(b) The development of alternate water source systems will assist in meeting future water requirements of the City and lessen the impacts of new developments on the City's sewer system.

(c) Establishing a regulatory structure that provides adminstrative efficiency and a streamlined project approval process will assist developers who opt to ~~for~~ *design*~~ing~~, *install*~~ing~~, *operate*~~ing~~, *and maintain*~~ing~~ *alternate water source systems* ~~will provide administrative efficiency and streamline the project approval process~~.

(d) Adoption of this ordinance by the Board of Supervisors and adoption of rules and regulations by the Department of Public Health will help achieve the City's goals for water supply use and preservation by:

(1) Promoting the values and benefits of non-potable water use while recognizing the need to invest water and other resources as efficiently as possible;

(2) Encouraging the use of non-potable water for non-potable applications.

SEC. 851. DEFINITIONS.

The terms used in this Article have the meaning set forth below:

(a) Alternate Water Source: a source of nonpotable water that includes graywater, on-site treated nonpotable water, rainwater, and any other source approved by the Director.

(b) Black water: wastewater containing bodily or other biological wastes, as from toilets, dishwashers, kitchen sinks and utility sinks.

(c) City: the City and County of San Francisco.

(d) Director: the Director of Public Health or any individual designated by the Director to act on his or her behalf.

(e) First certificate of occupancy: either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109A, whichever is issued first.

(f) Foundation Drainage: nuisance groundwater that is extracted to maintain a building's or facility's structural integrity and would otherwise be discharged to the City's sewer system. Foundation drainage does not include non-potable groundwater extracted for a beneficial use that is subject to City groundwater well regulations.

(g) General Manager: the General Manager of the San Francisco Public Utilities Commission, or any individual designated by the General Manager to act on his or her behalf.

(h) Graywater: untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom sinks, lavatories, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.

(i) Multi-Family Residential Building: A building that contains three or more dwelling units.

(j) Non-potable Water Engineering Report: Report submitted by project applicant to the Director describing the alternate water source system in accordance with the rules and regulations adopted by the Department of Public Health.

(k) Non-residential: A building that contains occupancies other than dwelling units.

(l) On-Site Treated Non-Potable Water: Non-potable water collected from alternate water sources, treated, and intended to be used on the Project Applicant's site and is suitable for direct beneficial use.

(m) NSF 350 System: Any treatment system certified by NSF International to meet NSF/ANSI Standard 350 for Onsite Residential and Commercial Reuse Treatment Systems, as amended from time to time.

(n) Permittee: owner or operator of an on-site treated non-potable water system.

(o) Project Applicant: the person or entity applying for authorization to install and use an alternate water source project.

(p) Rainwater: precipitation collected from roof surfaces or other manmade, aboveground collection surfaces.

(q) Small Residential Building: A building that contains no more than two dwelling units.

(r) Stormwater: Precipitation collected from at-grade or below grade surfaces.

(s) Water Budget Documentation: An in-depth assessment of the permittee's nonpotable water use, including survey information, water meter readings, water service billing information, and any other information deemed necessary by the General Manager.

SEC. 852. APPLICABILITY.

This Article shall apply to the installation and operation of the alternate water source systems at sites containing multi-family and non-residential buildings. This Article does not apply to:

(a) Systems at small residential occupancies.

(b) Graywater systems where graywater is collected solely for subsurface irrigation and does not require disinfection, as determined by the Director.

(c) Rainwater systems where rainwater is collected solely for subsurface irrigation, drip irrigation, or non-sprinkled surface applications and does not require disinfection, as determined by the Director.

SEC. 853. REGULATION OF ALTERNATE WATER SOURCES.

(a) Any person or entity who installs and operates an alternate water source system shall comply with this Article, the rules and regulations adopted by the Department of Public Health, and all applicable local, state, and federal laws.

(b) Within 90 days after passage of this ordinance, the Director shall issue rules and regulations regarding the operation of alternate water source systems necessary to effectuate the

purposes of the Article and to protect public health and safety. These regulations shall address, at a minimum:

(1) Water quality criteria;

(2) Monitoring and reporting content and frequencies; and

(3) Operation and maintenance requirements.

(c) The Director shall review applications for alternative water sources systems and may issue or deny such applications, in accordance with applicable laws and regulations.

(d) The Department of Building Inspection shall review plans and issue or deny plumbing permits for the construction, installation, or modification of alternate water source systems, in accordance with applicable laws and regulations.

SEC 854. PROJECT APPLICANT AND/OR PERMITTEE DESIGN AND CONSTRUCTION REQUIREMENTS.

(a) Prior to initiating installation of any alternate water source project, project applicants shall submit to the Director an application for permits to operate alternate water source systems. Such applications shall comply with the requirements of this Article and any regulations the Director has issued. Project applicants shall pay a non-refundable permit application fee to cover the costs of investigation and processing the application and issuing the permit. Each project application submitted to the Director shall include a Non-Potable Engineering Report that provides project information the Director determines to be necessary for complete review of the proposed project. City departments may not approve or issue permits for any site installing an alternate water source system unless and until the Director has approved the Non-Potable Engineering Report.

*(b) **System Design**. All alternate water source systems shall include:*

(1) A flow meter on the alternate water source system to account for nonpotable water use;

(2) A reduced pressure backflow assembly (RP) within 25 feet of the downstream side of the point of connection or meter to protect the City's public water and/or recycled water system;

(3) Signage that state law and the Department of Public Health's rules and regulations require;

(4) Cross connection control in accordance with California Code of Regulations Titles 17 and 22 and the San Francisco Public Utilities Commission's Cross Connection Control Program; and

(5) Any other requirements the Director determines is necessary to protect public health.

(c) ***Water budget documentation.*** *Upon submitting a project application to the Director, a project applicant shall also submit Water Budget Documentation to the General Manager for review. Water Budget Documentation shall include a description of the proposed alternate water source system, the project's water budget, and other applicable information as determined by the General Manager. City departments may not issue a site permit or plumbing permit, or approve an alternate water source project application unless and until the General Manager has reviewed the Water Budget Documentation.*

(d) ***Plumbing Permit.*** *A project applicant shall obtain from the Department of Building Inspection an appropriate plumbing permit and any other building or installation permit required to construct, install, alter, an alternate water source system.*

(e) ***Construction Certification Letter.*** *Project applicants shall certify to the Director that alternate water source system construction is complete and consistent with the approved Non-Potable Engineering Report in accordance with the provisions of this Article 12C and any implementing rules and regulations. City departments may not approve or issue a first certificate of occupancy or approval for any alternate water source system until the Director has reviewed and verified the Construction Certification Letter.*

SEC. 855. FEES.

(a) The non-refundable application fees for alternative source water system permits are:

(1) Rainwater	*$1,544.00*
(2) NSF 350 systems	*$2,688.00*
(3) Foundation Drainage	*$5,032.00*
(4) Graywater	*$5,032.00*
(5) Black water	*$9,034.00*
(6) Transfer of any permit	*$ 229.00*

(b) The fees set forth in this Section may be adjusted each year, without further action by the Board of Supervisors.

Not later than April 1, the Director shall report to the Controller the revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as well as any other information that the Controller determines appropriate to the performance of the duties set forth in this Section.

Not later than May 15, the Controller shall determine whether the current fees produce, or are projected to produce, revenues sufficient to support the costs of providing the services for which the fees are assessed and that the fees will not produce revenue significantly exceed more than the costs of providing the services for which the fees are assessed.

The Controller shall if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to ensure that the program recovers the costs of operation without producing revenue which is significantly more than such costs. The adjusted rates shall become operative on July 1.

(c) Every permit holder shall also pay an annual license fee as provided in the Businsess and Taxation Code Section 249.24.

SEC. 856. OPERATING REQUIREMENTS.

When the Director determines the applicant has satisfied all the requirements of this Article, the Director may issue an operations permit for an alternative water source system. Permittees shall timely submit all water quality monitoring information required by the provisions of this Article 12C and the Department of Public Health's rules and regulations. Permittees shall conduct ongoing backflow prevention and cross connection testing in accordance with this Article, the rules and regulations of the Department of Public Health, and all applicable local, state, and federal laws.

SEC. 857. NON-POTABLE WATER USE AUDITS.

When required by General Manager, the permittee or property owner, shall conduct a non-potable water use audit describing the extent of non-potable water use in accordance with requirements provided by the General Manager.

SEC. 858. SALE OR TRANSFER OF PERMITS.

(a) Permittees shall notify the Director of any intent to sell or transfer the building or facility containing an alternate water source system 30 days prior to the sale or transfer of property, in accordance with regulations adopted by the Director.

(b) Any subsequent owner shall submit documentation to the Director establishing their ability to own, operate and maintain the alternate water source system in accordance with this Article, the rules and regulations adopted by the Department of Public Health, and all applicable local, state, and federal laws, within 90 days of transfer of the property and prior to commencement of operations of the alternate water supply system.

(c) The Director may approve or deny the transfer of the permit to operate to any subsequent owner, in accordance with the requirements of the Article and applicable regulations.

SEC. 859. INSPECTION AND NOTICES OF VIOLATION.

The Director may inspect any alternate water source system subject to the requirements of this Article to determine compliance with the provisions of this Article and applicable regulations.

SEC. 860. VIOLATION AND PENALTIES.

The Director may impose administrative penalties on any permittee, or person otherwise subject to the requirements of this Article, who violates any provision of this Article or any applicable rule or regulation shall be subject to enforcement in accordance with Chapter 100 of the San Francisco Administrative Code with respect to administrative penalties, and may pursue any other available legal remedies for such violations.

SEC. 861. REVOCATION AND SUSPENSION OF PERMIT.

The Director may order a permittee to cease operation of an alternate water source system, or may revoke or suspend the permit to operate if the Director determines that:

(a) The manager, operator or any employee has violated any provision of the Article or any regulation issued pursuant to this Article;

(b) The alternate water source system is being operated or maintained in a manner threatening the public health or health of patrons and/or residents; or

(c) The owner or operator has refused to allow any duly authorized City official to inspect the premises or the operations of the alternate water source system.

Section 3. The San Francisco Business and Taxation Code is hereby amended by adding Section 249.24, to read as follows:

SEC 249.24. NON-POTABLE WATER SYSTEMS.

Every person, firm or corporation engaged in operating an alternate water source system that requires a permit from the San Francisco Department of Public Health shall pay an annual license fee to the Tax Collector in the amount listed below. For the purpose of this Section, the term " alternate water source systems" shall have the same meaning as that in Article 12C of the San Francisco Health Code.

a) Rainwater	*$ 472.00*
b) NSF 350 systems	*$ 929.00*
c) Foundation Drainage	*$1,387.00*
d) Graywater	*$1,387.00*
e) Black water	*$1,844.00*

The license fee set forth above shall be paid annually on or before March 31, in accordance with the provisions of Section 76.1 of the Business and Tax Regulations Code.

Section 4. This ordinance shall become effective 30 days from the date of passage.

Section 5. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Health Code or Business and Taxation Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

Section 6. By adopting this Article, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation or duty for breach of which it is liable in money damages or any other relief to any person who claims that such a breach proximately caused injury or damages.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
VIRGINIA DARIO ELIZONDO
Deputy City Attorney

FILE NO. 120717

LEGISLATIVE DIGEST

[Health Code, Business and Tax Regulations Code - On-site Water Reuse for Commercial, Multi-Family, and Mixed-Use Developments]

Ordinance amending the San Francisco Health Code by adding Article 12C and amending the Business and Tax Regulations Code by adding Section 249.24 to: 1) establish permitting requirements for the use of alternate water sources for nonpotable applications; 2) setting permit and annual fees; and 3) making environmental findings.

Existing Law

Under section 4.110 of the Charter, the Health Commission and the Department of Public Health ("Department") are generally authorized to provide for the preservation, promotion and protection of the physical and mental health of the inhabitants of the City and County. The Charter also provides that the Commission and the Department may also determine the nature and character of public nuisances and provide for their abatement.

Amendments to Current Law

The proposed ordinance adds Article 12C to the San Francisco Health Code, which contains laws that implement the Commission and the Department's authority to provide for the preservation, promotion and protection of the physical and mental health of the inhabitants of the City and County. The ordinance requires that persons desiring to implement alternative source water systems obtain permission to construct and operate such systems, in accordance with rules and regulations established by the Department that define appropriate water quality standards, monitoring criteria and other requirements for such systems. The ordinance also directs the Department of Building Inspection to review plans and to issue plumbing permits for on-site alternative source water systems.

The ordinance applies to and authorizes the installation and operation of the alternate water source systems at sites containing multi-family and non-residential buildings. The ordinance requirements do not apply to systems at small residential occupancies, graywater systems where graywater is collected solely for subsurface irrigation and does not require disinfection, as determined by the Director, and rainwater systems where rainwater is collected solely for subsurface irrigation, drip irrigation, or non-sprinkled surface applications and does not require disinfection, as determined by the Director.

The ordinance requires a project applicant to submit an engineering report to the Department that describes the design of the proposed alternative source water system and clearly indicates the means for compliance with the Department's rules and regulations. The Department will review the engineering report and issue a permit to operate the system, if the system complies with the applicable rules and regulations.

Under the ordinance, the Department of Building Inspection will provide final inspection and sign-off to ensure that appropriate bypass and cross-connection control elements as part of construction. The ordinance also provides authority to perform water use audits, approve permit transfers on point of sale of the property, suspend or revoke permits, and to abate violations, including the imposition of penalties pursuant to Administrative Code chapter 100.

The ordinance also provides for the payment of fees to cover the Department's costs for administering the program, and, by adding section 249.24 to the Business and Taxation Code, for the payment of an annual license fee to the Tax Collector.

Background Information

The Department, San Francisco Public Utilities Commission, and the Department of Building Inspection have jointly developed the City's Non-Potable Water Program. The purpose of this program is to create a streamlined process for new large developments in San Francisco to collect, treat, and use non-potable water on-site for toilet flushing, irrigation and other non-potable applications. Non-potable is a term that refers to water that is not of drinking water quality, but can be used for other productive uses such as toilet flushing and irrigation, in compliance with applicable City, State and Federal laws. Currently, the City has no integrated process for reviewing, approving and monitoring such projects.

According to the SFPUC, non-potable water is used across the nation to reduce the pressure on natural water resources. Treated non-potable water can be used for a number of beneficial purposes including irrigation, toilet flushing, decorative fountains, dust control and cooling applications. Capturing and treating rainwater, foundation drainage, and graywater—and then reusing the water for toilet flushing and irrigation—would result in a dramatic reduction in the overall water footprint of a building. Furthermore, using on-site sources may reduce the volume of flows into the sewer. Reducing the volume of stormwater, especially during the rainy season, can prevent combined sewer discharges.

Under this program, several types of alternate water sources generated on-site can be collected and treated, including:

Rainwater – precipitation collected from roof surfaces.

Graywater – wastewater from bathtubs, showers, bathroom, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks, toilets or dishwashers.

Foundation Drainage – nuisance groundwater that is dewatered to maintain a building's structural integrity and would otherwise be discharged to the City's sewer system. Foundation drainage is not the same as non-potable groundwater, which requires a production well and is already regulated by City ordinance.

Stormwater – precipitation that has contacted a surface at grade or below grade and has not been put to beneficial use.

Black water - wastewater from toilets, dishwashers, kitchen sinks and utility sinks.

Non-potable water cannot be used for drinking, washing or bathing, washing of clothing, washing of food, washing of cooking or eating utensils, washing of food preparation or processing premises, or other personal service rooms. However, rainwater is often allowed for clothes washing and recycled water is allowed for commercial laundries. The City's Non-Potable Water Program is designed for new, large scale commercial, mixed-use, and multi-family residential developments installing on-site systems to capture, treat, and reuse water for toilet flushing, irrigation and other non-potable applications. Single-family residential properties are the focus of already existing SFPUC programs, namely the Laundry-to-Landscape Pilot Graywater Program, the Graywater Permit Rebate Program, and the Discounted Rain Barrel and Cistern Program, and are therefore not included in this Non-potable Water Program.

Typical elements of an alternative water source system may include:

- **Collection**: Plumbing used to collect on-site supplies, such as graywater, and convey it to a treatment system.
- **Storage (Collection)**: Storage tank used to equalize collection flows prior to treatment.
- **Treatment System**: A system that process untreated water with filtration, disinfection, and/or other processes to achieve acceptable water quality results.
- **Treated water storage**: Storage tank used to store treated graywater, rainwater, or foundation drainage water after treatment and before distribution.
- **Distribution system (pumps and piping)**: Distribution pumps convey water from the treated storage tank to designated fixtures in the building via nonpotable distribution plumbing. Distribution system piping is completely separate from other piping in a building and is used to convey the treated nonpotable supplies to specific uses such as toilet flushing.

Under this ordinance, an alternative water source project developer will:

- Inform SFPUC of potable and non-potable demands;
- Submit an engineering report describing in detail the on-site collection and treatment system to the Department;
- Obtain a plumbing permit and all other necessary approvals from the Department of Building Inspection; and
- Obtain a permit to operate the on-site treatment system from the Department.

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

July 2, 2012

File No. 120717

Bill Wycko
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko:

On June 19, 2012, Supervisor Chiu introduced the following proposed legislation:

File No. 120717

Ordinance amending the San Francisco Health Code by adding Article 12C and amending the Business and Tax Regulations Code by adding Section 249.24 to: 1) establish permitting requirements for the use of alternate water sources for nonpotable applications; 2) setting permit and annual fees; and 3) making environmental findings.

This legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Joy Navarrete, Environmental Planning

Statutory Exemption
CEQA Section 15273
Rates, Tolls, Fares, and Charges
July 5, 2012

Re: minor amendment to non potable water - file no 120717

Virginia Dario Elizondo to: Alisa Miller 07/30/2012 04:15 PM

Cc: Judson True, Catherine Rauschuber, "Fox, Radhika", June Weintraub, Cheryl Adams

Alisa, that's correct, this was a minor change of wording and doesn't affect the leg digest.

Virginia

Virginia Dario Elizondo
Deputy City Attorney
Office of the City Attorney
1390 Market Street, 5th Floor
San Francisco, CA 94102
Tel: (415) 554-3808
Fax: (415) 557-6746
E-mail: virginia.dario.elizondo@sfgov.org

Alisa Miller	Virgina, I assume the legislative digest does not...	07/30/2012 03:24:03 PM

From: Alisa Miller/BOS/SFGOV@SFGOV
To: Virginia Dario Elizondo/CTYATT@CTYATT
Cc: Judson True/BOS/SFGOV@SFGOV, Catherine Rauschuber/BOS/SFGOV@SFGOV, "Fox, Radhika" <RFox@sfwater.org>, June Weintraub <juneweintraub.sfdph@gmail.com>, Cheryl Adams/CTYATT@CTYATT
Date: 07/30/2012 03:24 PM
Subject: Re: minor amendment to non potable water - file no 120717

Virgina,

I assume the legislative digest does not need to be updated. Can you please confirm?

Alisa Miller
Assistant Clerk
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-4447 | Fax: (415) 554-7714
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Complete a Board of Supervisors Customer Satisfaction form by clicking the following link: http://www.sfbos.org/index.aspx?page=104.

Virginia Dario Elizondo	Judson, here is the amended ordinance: We...	07/30/2012 02:59:49 PM

From: Virginia Dario Elizondo/CTYATT@CTYATT
To: Judson True/BOS/SFGOV@SFGOV,
Cc: Alisa Miller/BOS/SFGOV@SFGOV, Catherine Rauschuber/BOS/SFGOV@SFGOV, "Fox, Radhika" <RFox@sfwater.org>, June Weintraub <juneweintraub.sfdph@gmail.com>, Cheryl Adams/CTYATT@CTYATT
Date: 07/30/2012 02:59 PM

Subject: Re: minor amendment to non potable water - file no 120717

Judson, here is the amended ordinance:

[attachment "00780193.doc" deleted by Alisa Miller/BOS/SFGOV]

We will send you a new original.

Virginia

Virginia Dario Elizondo
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Judson True	Hi Virginia - Can you please make the below a...	07/30/2012 01:58:05 PM

From: Judson True/BOS/SFGOV@SFGOV
To: Virginia Dario Elizondo/CTYATT@CTYATT
Cc: Alisa Miller/BOS/SFGOV@SFGOV, Catherine Rauschuber/BOS/SFGOV@SFGOV, "Fox, Radhika" <RFox@sfwater.org>
Date: 07/30/2012 01:58 PM
Subject: minor amendment to non potable water - file no 120717

Hi Virginia -

Can you please make the below amendment and send the amended version to everyone cc'd here?

This amendment was approved in Land Use today and the item was forwarded to the full Board with recommendation for 9/4.

Thanks,
Judson

Purpose and Findings (page 2)

New version:

(c) Establishing a regulatory structure that provides administrative efficiency and a streamlined project approval process will assist developers who opt to design, install, operate, and maintain alternate water source systems.

Judson True
Office of Supervisor David Chiu
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San Francisco, CA 94102
415.554.7451 desk
415.554.7454 fax