



# COUNTY OF SAN DIEGO

## LAND USE AGENDA ITEM

### BOARD OF SUPERVISORS

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**DATE:** May 24, 2023

**04**

**TO:** Board of Supervisors

### **SUBJECT**

**APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, & 5)**

### **OVERVIEW**

State law (Health and Safety Code, Chapter 765, Sections 115875 - 115915) provides a program for beach water quality testing and public notification when test results indicate an increased risk of illness during water contact. The law establishes criteria to identify the beach locations and frequency of monitoring for water quality and the process for providing information to the public on beach water quality conditions and closing beaches for sewage impacts. The criteria identifies beaches: 1) with storm drains that discharge to the beach during dry weather and 2) that are visited by more than 50,000 people per year. Beaches that meet these criteria are mandated to be monitored at least weekly from April 1 through October 31, the “dry weather” period when beaches are most accessed for recreation, by the local health officer or director of environmental health during a fiscal year in which the Legislature has appropriated sufficient funds for local agencies to cover the costs associated with the performance of these duties. The appropriated funds are distributed through State revenue agreements. The revenue agreement with the State Water Resources Control Board (SWRCB) for Fiscal Year 2022-23 is the subject of this Board letter.

Since 1999, the Department of Environmental Health and Quality (DEHQ) has annually entered into a revenue agreement with the State to receive funds to implement the State-mandated dry weather Beach and Bay Water Quality Monitoring Program (Program). This Program collects samples and tests ocean water, conducts public education and outreach, posts signs warning of contaminated water at public beaches when samples exceed State health standards, and closes beaches impacted by sewage or chemical spills. Up-to-date beach water quality information is also made available to the public at [sdbeachinfo.com](http://sdbeachinfo.com) so that beach users can make informed decisions as to when and where to enter the water.

In addition to the funding received through the revenue agreement with the SWRCB, the County of San Diego (County) also receives 1991 Health Realignment revenue from the State which is used to support the Program costs. The 1991 Health Realignment revenue is dedicated State funding provided to counties to cover costs associated with public health, mental health, and social services program responsibilities transferred from the State to counties.

**SUBJECT: APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, & 5)**

The total cost of the Program for Fiscal Year 2022-23 is anticipated to be approximately \$796,790. The revenue agreement with the SWRCB will fund \$354,539, which consists of federal (\$189,114) and State (\$165,425) funding made available through the Public Beach Safety Grant Program. Since this revenue agreement is funded by both federal and State monies, there are two different performance periods for funding reimbursement because the agencies operate under different fiscal year cycles. The performance period for the State-funded portion will reimburse expenses incurred from July 1, 2022 to June 30, 2023, while the federally funded portion will reimburse expenses incurred from October 1, 2022 to August 15, 2023.

Additionally, DEHQ will use \$33,455 in General Fund fund balance and \$408,796 of 1991 Health Realignment revenue for the Beach and Bay Water Quality Monitoring Program. This accounts for expenditures not allowable under the revenue agreement, such as monitoring during wet weather months, from November 1 to March 30. Monitoring in wet weather months is needed as beaches in our region are used year-round. The 1991 Health Realignment revenue also funds County support costs such as overhead and facilities costs, which are capped to 20% of State funding and 10% of federal funding under the revenue agreement. A waiver of Board Policy B-29: *Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery*, is requested in the amount of \$442,251 for program costs not covered by the revenue agreement and to implement a year-round Beach and Bay Water Quality Monitoring Program throughout the coastal shoreline. In addition, ratification is requested, as delayed receipt of the State agreement prevented DEHQ from bringing this agreement to the Board at least 60 days before the effective date of the agreement, and work began before the agreement was in place, as required by Board Policy B-29. The County received a final revenue agreement from the SWRCB on March 13, 2023.

If approved by the Board of Supervisors, these recommendations also authorize the DEHQ Director, or their designee, to execute a revenue agreement with the SWRCB in the amount of \$354,539 for the period of July 1, 2022 through August 15, 2023 to fund the Beach and Bay Water Quality Monitoring Program, and adopt a resolution authorizing DEHQ to receive the funds.

**RECOMMENDATION(S)**

**CHIEF ADMINISTRATIVE OFFICER**

1. In accordance with Section 15061(b)(3) of the State of California Environmental Quality Act (CEQA) Guidelines, find that it can be seen with certainty that there is no possibility this project may have a significant effect on the environment and that it is therefore exempt from CEQA.
2. Waive Board Policy B-29: *Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery*, which requires full cost recovery for revenue contracts as well as docketing revenue contracts with the Board at least 60 days prior to the effective date of the contract.
3. Ratify acceptance and authorize the Director, Department of Environmental Health and Quality, or their designee, to execute a revenue agreement with the State Water Resources Control Board to fund beach and bay water quality monitoring, in the amount of \$354,539 for the period July 1, 2022 through August 15, 2023.

**SUBJECT:** APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, & 5)

4. Adopt a Resolution entitled: RESOLUTION AUTHORIZING EXECUTION OF A REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM FOR FISCAL YEAR 2022-23
5. Authorize the Director, Department of Environmental Health and Quality, or their designee, to execute any extensions, amendments, or revisions thereof that do not materially impact or alter either the program or funding level.

### **EQUITY IMPACT STATEMENT**

The Department of Environmental Health and Quality protects and promotes a healthy environment for the residents and visitors of the region by ensuring safe, sustainable communities, and preserving and enhancing the natural environment in which people live. The funding received through the revenue agreement with the State Water Resources Control Board for the Beach and Bay Water Quality Monitoring Program will ensure that the public is informed of potential health risks related to water contact when testing indicates that bacteria levels exceed State health standards.

Funding from the revenue agreement is provided to equitably monitor ocean water quality in all areas of the county with storm drains that discharge to the beach during dry weather and beaches that are visited by more than 50,000 people per year.

### **SUSTAINABILITY IMPACT STATEMENT**

The Beach and Bay Water Quality Monitoring Program contributes to many of the County of San Diego's Sustainability Goals: protect health and wellbeing; engage the community; and protect ecosystems, habitats, and biodiversity. Ensuring that the public is informed of potential health risks related to water contact will allow residents and visitors to make informed decisions about whether or not to enter the water while enjoying the natural resources found in the 70 miles of coastline with the region. Safe access to beaches promotes exercise and positive physical and mental health. Poor water quality at beaches not only threatens the health of swimmers and beachgoers but also hurts our ocean-dependent economy, such as tourism and recreation. Additionally, education and outreach efforts lead to strong connections between people and beaches. These benefits impact beach visitors of all ages, abilities and financial resources.

### **FISCAL IMPACT**

Funds for this request are included in the Fiscal Year 2022-23 Operational Plan in the Department of Environmental Health and Quality (DEHQ). If approved, this request will result in current year program costs and revenue of \$796,790. The funding sources are a revenue agreement with the State Water Resources Control Board (\$354,539), General Fund fund balance (\$33,455) and 1991 Health Realignment revenue from the State (\$408,796). The County of San Diego receives a fixed amount of ongoing 1991 Health Realignment revenue for the costs of operating various State mandated public health officer programs, one of which is the Beach and Bay Water Quality Monitoring Program. A waiver of Board Policy B-29: *Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery*, is requested in the amount of \$442,251 for program costs not covered by the revenue agreement, including County support costs which are capped

**SUBJECT: APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, & 5)**

under the State revenue agreement, and for wet weather monitoring. Subsequent year costs and revenues will be included in future year Operational Plans for DEHQ. There will be no change in net General Fund cost and no additional staff years.

**BUSINESS IMPACT STATEMENT**

Water quality testing needs to be conducted in a timely manner to ensure the protection of public health and to monitor for water quality impacts at public beaches and bays. When bacteria levels in the water at beaches and bays exceed State health standards, business, tourism and recreational activities in the county can be negatively affected due to a decline in beachgoers recreating and frequenting businesses.

**ADVISORY BOARD STATEMENT**

On February 22, 2023 the Environmental Health and Quality Advisory Board voted to unanimously support the Beach and Bay Water Quality Monitoring Program's proposed agreement with the California Department of Public Health.

**BACKGROUND**

**Beach and Bay Water Quality Monitoring Program**

State law (Health and Safety Code Chapter 765, Sections 115875 - 115915) provides a program for beach water quality testing and public notification when test results indicate an increased risk of illness during water contact. The law establishes criteria to identify the beach locations and frequency of monitoring for water quality and the process for providing information to the public on beach water quality conditions and closing beaches for sewage impacts. The criteria are beaches: 1) with storm drains that discharge to the beach during dry weather and 2) that are visited by more than 50,000 people per year. Beaches that meet these criteria are mandated to be monitored at least weekly from April 1 through October 31 by the local health officer or director of environmental health. Beginning in 1999, State of California (State) regulations implementing AB 411 required local officials to post warning signs at beaches when bacteria levels exceed State health standards. Funding is made available by the State Water Resources Control Board (SWRCB) through its Public Beach Safety Grant Program, which consists of State and federal monies distributed across the State. Since 1999, the Department of Environmental Health and Quality (DEHQ) has annually entered into a revenue agreement with the State to receive funds to implement the Beach and Bay Water Quality Monitoring Program (Program).

This Program protects the health of millions of residents and visitors each year who recreate at beaches throughout the region. The Program consists of three primary categories of activities: 1) sampling, testing, monitoring and data analysis; 2) risk analysis/mitigation; and 3) communication/collaboration. The Program consists of approximately 6,000 ocean water samples at up to 99 beach locations per year, public education, and outreach. Additionally, the Program posts beach advisories which inform the public to avoid water contact when water quality monitoring results do not meet State health standards and, when necessary, issues beach closures when sewage or other contamination may impact water recreation.

**SUBJECT:     APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE  
AGREEMENT WITH THE STATE WATER RESOURCES CONTROL  
BOARD FOR BEACH AND BAY WATER QUALITY MONITORING  
PROGRAM (DISTRICTS: 1, 3, & 5)**

*Sampling/Testing/Monitoring/Data Analysis*

The Program has two sampling periods referred to as “dry weather” and “wet weather” with different levels of testing and monitoring to protect public health.

The “dry weather” sampling period is from April 1- October 31 when the weather is warmer and there is an increase in public use of beaches and bays. During these months, DEHQ samples 45 locations per week. The “wet weather” sampling period is from November 1- March 31. During these months, DEHQ reduces monitoring to 33 locations, but maintains weekly sampling near river or lagoon outlets and at beaches with higher public use during the “wet weather” period. Water monitoring test results are received within 8 hours of sampling. This program of sampling, testing, data analysis, and public information is conducted throughout the year by DEHQ with the goal to protect and inform the public when it is safe to enter the water.

DEHQ also incorporates year-round beach monitoring data provided by municipal wastewater and stormwater agencies into the Program by reviewing to State standards and providing public notification when needed. These partner agencies sample, on average, an additional 54 beach locations, most of which are monitored at least weekly. Sample location sites can change year to year depending on issues such as frequency of beach use, notification of a beach not on the current sampling inventory list, and local stormwater/water agencies requesting more monitoring for a particular location. In total there are approximately 99 locations monitored during the “dry weather” months and 83 locations monitored during the “wet weather” months throughout the region’s shoreline.

*Risk Analysis/Mitigation*

Consistent with State law, DEHQ takes a risk-based approach in evaluating which beaches to monitor each year. Consideration is given to beaches near known sources of pollution, such as storm drains, creeks, lagoons and river outlets, and areas of high public use. Special consideration is given to areas frequented by children or with a history of contamination, such as the Children’s Pool in La Jolla, which becomes contaminated with the appearance of seals in the area. DEHQ posts advisory signs when the bacteria levels exceed health standards established in State law and continues to take additional samples until water quality test results show health standards are met. California regulations contain seven recreational water standards and use indicator organisms, total coliforms, fecal coliforms, E. coli and enterococci, that when present in water at certain levels correlate to an increased risk of gastrointestinal illness.

In the event of sewage spills that reach recreational waters adjacent to public beaches and pose a potential risk to public health, State law requires DEHQ take action to protect public health by posting closure signs, communicating closure information to the public, and taking samples until water quality test results show State health standards are met. As an example, cross-border sewage releases resulted in closure of the Tijuana River shoreline area, from the border north to the south end of Seacoast Drive in Imperial Beach, for a total of 365 days in 2022.

**SUBJECT: APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE  
AGREEMENT WITH THE STATE WATER RESOURCES CONTROL  
BOARD FOR BEACH AND BAY WATER QUALITY MONITORING  
PROGRAM (DISTRICTS: 1, 3, & 5)**

*Communication/Collaboration*

Public notification of beach and bay water quality includes a telephone hotline, dedicated website (sdbeachinfo.com), the use of social media, email and press releases when needed. The website provides the public current beach water quality information that is reliable, understandable, and available on multiple devices (i.e. smart phone, tablet or computer). Additionally, the website features an online translation tool that allows visitors to access the information in multiple languages beyond our threshold languages.

DEHQ also conducts public outreach to both residents and visitors of San Diego county beaches through its “Check In Before You Get In” education campaign, a multifaceted media effort that includes the production and distribution of informational brochures, business cards and beach signage that encourages beachgoers to check the water quality at local beaches and bays. Informational brochures in nine languages (Arabic, Chinese, English, Filipino, Korean, Persian, Somali, Spanish, and Vietnamese) are available on the website and are also distributed with the business cards to businesses in coastal areas, including hotels, visitor centers, rental shops and other establishments frequented by ocean users to educate the public. Beach signage, which points visitors to the website for more information and educational resources, are placed at beaches that are routinely monitored under this Program. DEHQ also shares information and works with County of San Diego (County) and municipal stormwater programs to identify sources of beach water quality contamination to reduce the sources of pollution in urban runoff within their jurisdiction.

**South County Enhanced Beach Water Monitoring Program**

The shoreline and beaches in the southern parts of the region have been disproportionately impacted with poor water quality and beach water closures as a result of cross-border sewage and pollution. In 2022, the Tijuana River shoreline was closed for 365 days, the Imperial Beach shoreline was closed for 166 days, the Silver Strand shoreline was closed for 90 days, and the Coronado shoreline was closed for 35 days, mainly due to sewage flows from the Tijuana River.

In Fiscal Year (FY) 2018-19, DEHQ received one-time funds to implement a South County Enhanced Beach Water Monitoring Program (South County Enhanced Program), which is separate from the Beach and Bay Water Quality Monitoring Program. The South County Enhanced Program was established to assess potential cross-border sewage impacts to south county beaches due to increased reports of sewage odors in south county beaches and the frequency of sewage spills entering the United States (U.S.) from Mexico. The South County Enhanced Program increased the number of sampling locations from two to four, increased the frequency of sampling from once per week to twice per week, and increased communication with U.S. and Mexico partners, agencies, stakeholders, and nonprofit organizations. This enhanced program includes sampling at beaches that do not meet the criteria for State funding.

The FY 2019-20 Operational Plan included \$289,000 for DEHQ to continue, and to expand the South County Enhanced Program by increasing the number of sampling locations from four to nine at a sampling frequency of twice per week year-round and implementing a fecal indicator

**SUBJECT: APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, & 5)**

bacteria test method to identify within 24 hours the potential of cross-border sewage impacts at south county beaches.

In FY 2020-21 the South County Enhanced Program was expanded to increase the sampling frequency at nine locations from twice to six times per week year-round, which combined with the City of San Diego's once a week sampling in south county, achieves a daily sampling frequency. The FY 2021-22 Operational Plan was increased to \$502,220 and included an additional 1.0 FTE, and the FY 2022-23 Operational Plan was increased to \$522,750, to continue daily monitoring at south county beaches. It is anticipated that funding to achieve a daily monitoring frequency will continue to be included in future Operational Plans as efforts to improve conditions impacting the south county are implemented. The data from the increased sampling in the south county provides enhanced awareness to the public.

**Agreement with the State Water Resources Control Board**

State law mandates that the local health officer monitor beaches during the "dry weather" season from April 1- October 31 if the State Legislature has appropriated funds for that fiscal year. The State Legislature had appropriated funds for FY 2022-23 and beach water monitoring was necessary beginning July 1, 2022 even though the SWRCB did not complete the revenue agreement process to make funds available for FY 2022-23 until after the start of the revenue agreement year. The final revenue agreement documents from the State were received by DEHQ on March 13, 2023. Funds from this revenue agreement will support work completed since July 1, 2022, prior to execution of the agreement.

As was the case in previous years, the State provided informal assurances to staff that funding in an amount similar to the prior revenue agreement would be offered for work as of July 1, 2022. State revenue from the 1991 Health Realignment was approved for this program in the FY 2022-23 Operational Plan in DEHQ. This enabled DEHQ to cover its costs for implementing the program from July 1, 2022 to the present. The Program was continued in anticipation of State funding based on the mandated State law imposed on the local health officer and on the importance of the program to public health.

The total cost of the proposed Beach and Bay Water Quality Monitoring Program for Fiscal Year 2022-23 is anticipated to be approximately \$796,790. The revenue agreement will fund \$354,539 made available through the SWRCB Public Beach Safety Grant Program, which consists of \$165,425 State and \$189,114 federal pass-through funds. A waiver of Board Policy B-29: *Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery*, is requested in the amount of \$442,251 for program costs not covered by the revenue agreement, including County support costs which are capped under the State agreement, and for wet weather monitoring. These costs will be funded with General Fund fund balance and State revenue from the 1991 Health Realignment. In addition, ratification is requested as delayed receipt of the State agreement prevented DEHQ from bringing this agreement to the Board at least 60 days before the effective date of the agreement, as required by Board Policy B-29.

**SUBJECT:** APPROVE AND RATIFY FISCAL YEAR 2022-23 REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR BEACH AND BAY WATER QUALITY MONITORING PROGRAM (DISTRICTS: 1, 3, & 5)

Today's requests to the Board of Supervisors are to waive Board Policy B-29, ratify the acceptance of the revenue agreement and authorize the DEHQ Director, or their designee, to execute a revenue agreement with the SWRCB in the amount of \$354,539 for the period of July 1, 2022 through August 15, 2023 to fund the Beach and Bay Water Quality Monitoring Program, and to adopt a resolution authorizing DEHQ to receive the funds.

**ENVIRONMENTAL STATEMENT**

This funding supports water quality testing but does not support any activity that alters the environment. Therefore, in accordance with Section 15061(b)(3), of the State of California Environmental Quality Act (CEQA) Guidelines, it can be seen with certainty that there is no possibility this project may have a significant effect on the environment and that it is therefore exempt from CEQA.

**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's proposed actions support the Sustainability Strategic Initiative in the County of San Diego's 2023-2028 Strategic Plan by helping to cultivate a natural environment for residents, visitors and future generations to enjoy. This program helps fulfill this initiative by protecting public health through monitoring beach water quality and informing the public of potential health risks related to recreational water activities when testing indicates that bacteria levels exceed State health standards.

Respectfully submitted,



SARAH E. AGHASSI  
Deputy Chief Administrative Officer

**ATTACHMENT(S)**

Attachment A - RESOLUTION AUTHORIZING EXECUTION OF A REVENUE AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD FOR THE BEACH AND BAY WATER QUALITY MONITORING PROGRAM FOR FISCAL YEAR 2022-23