



Managing the Risks of Redeveloping Impaired Marine Properties

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Key Concepts...

- Redevelopment: Unlocking value through the entitlement and marketing of a subject property
- Impairment: Property with environmental concerns that impact redevelopment and/or market valuations
- Partnered approach to address environmental liability and achieve redevelopment goals

Public/Private Partnership Options

- Public-Private Partnership: contractual agreement between a public agency and a private sector entity
 - Public agency can be federal, state or local
 - Sharing of resources, skills, and assets
 - Sharing of the risks and rewards potential in the delivery of the service

Key Agreements

- Liability Transfer Agreement
- Manuscripted Insurance Policies
- Access Agreement(s)
- Consent Agreement(s)
- Financial Assurance, Trust/Escrow Documents
- Redevelopment Agreements
- Purchase and Sale Agreements

Public/Private Partnership Examples

- Build/Operate/Transfer (BOT)
- Build/Own/Operate
- Contract Services (O&M)
- Design/Build/Operate
- Enhanced Use Leasing
- Sale/Leaseback

Redevelopment Integration Options

- Private partner can combine remediation, construction, and redevelopment into an integrated solution
- Disposition services and options:
 - Direct investment or investment sourcing
 - Development coordination
 - Property marketing
 - “Highest and best use” market analysis
 - Divestiture transaction management

Redevelopment Process

- Property Analysis – Evaluate redevelopment potential
 - Assess market potential of property
 - Highest and best use analysis
- Real estate market analysis
 - Financial viability – potential investment return and ability to self-fund through phasing
- Evaluate investment timing

Redevelopment Process

- Identify/evaluate investment sources
 - Client funding, sweat equity, cash
- Identify potential development partners or property purchasers
- Negotiate development or purchase and sale agreement
- Implement the program – private partner should be willing to assume title if it facilitates the deal

Redevelopment Benefits

- Strong risk-management tool
- Generate revenue and tax relief from a non-performing asset
- Eliminate management and oversight costs associated with remediation
- Remediation price certainty
- Enhanced public image
- Catalyst for risk-based remediation
- Removes liability from the balance sheet

Remediation Options

- Performance Based Contracting
- Guaranteed Fixed Price
Remediation w/Insurance
- Environmental Liability Transfer
- Environmental Liability Transfer
with Redevelopment
- Environmental Liability Transfer
with Redevelopment and Property
Transfer

Environmental Liability Buy-out

- Partnering Approach
 - Open book approach with pre-established metrics
 - Shared risk/reward, if appropriate
 - Efficiencies from integrated remediation and redevelopment
- Complete transfer of liability
 - Monetary/terminal limits
 - In perpetuity

Liability Buy-out Benefits

- Removes liability and reserve requirements from balance sheet
- Eliminates management and oversight costs associated with clean-up
- Provides remediation price certainty
- Funding can be guaranteed through trust agreements with insurance carriers
- Future liabilities secured by insurance

Liability Buy-out Process

- Risk quantification
- Insurance Underwriting
- Transaction Development
- Transaction Resolutions
- Keys To Success

Risk Quantification

- Analyze environmental exposures including long-term O&M requirements
- Evaluate risk-based remedial alternatives
- Examine redevelopment options
- Conduct sensitivity analysis to measure civic, regulatory and other influences
- Assess legal implications – including Natural Resource Damages, Toxic Torts
- Model cost alternatives to develop lowest defensible remedial program

Insurance Underwriting

- Carriers should be engaged through knowledgeable broker
- Partnered Approach – both parties disclose all cost models/assumptions
- Clearly articulate coverage specifications for all program risks/requirements
- Insurance as an “enabler” not a “driver”

Transaction Development

- Site must have characterization data to credibly quantify risk
 - RI/FS/RAP not required
- Partner takes complete control of:
 - Remediation regulatory negotiations
 - Responsibility for compliance with orders
 - Remediation schedule
- Remedial schedule drives structure
 - Direct Liability Transfer
 - Finite Deal

Transaction Resolutions

- Develop customized solutions – “black box” approach may result in gaps
- Remediation strategy must work with reuse/redevelopment alternatives
- Make the cost of insurance worth the investment
- Environmental Risk Quantification - understanding “soft” risk is key
- Financial Assurance

Keys to Partnership Success

- Unique approach to each project, matched to Partner-specific business objectives
- Not a “black box” – open-book, partnered approach works best
- Collaboration between the parties - shared risk/ reward structure can resolve uncertainty
- Political leadership and sustained public sector involvement is key

Keys to Partnership Success

- Partnership selection is critical - “low bid” is often not the best choice
- Prepare a defensible remedial and feasible redevelopment approach
- Insurance as “enabler” not “driver”
- Strong regulatory relationships
- Emphasis on redevelopment potential
- Realistic expectations