

## ENVIRONMENTAL INSURANCE AND PUBLIC SECTOR ENTITIES

Local governments and municipalities face a troubling range of environmental exposures through the services they provide and the facilities they own or operate:

- Current and former landfills, waste treatment and transfer facilities, storm water drainage and sewer systems all carry broad pollution risks.
- Cities are required by the Clean Water Act to prevent industry from polluting water and storm sewer systems and they are legally liable if they fail to do so.
- Underground storage tank (UST) systems owned by many municipalities are common sources of pollution.
- Many cities or municipalities own land or facilities with a long industrial history. These sites are ticking environmental timebombs for which the city will typically have responsibility until the property is cleaned up or transferred to a private party.

Most sobering of all, these risks are typically not covered under most Property and Casualty insurance programs.

What can be done to limit environmental exposures and protect taxpayers? The answer: a comprehensive environmental

risk management plan and risk management strategy. However, local governments and municipalities must understand their exposures.

### AN EXPENSIVE EXAMPLE: GONE BUT NOT FORGOTTEN

A city in the Southeast has been forced to undertake a multimillion dollar cleanup of contaminated soil around thousands of city homes, schools and businesses. The soil was contaminated with ash from old city-run incinerators that have long since closed.

The ash contains lead, arsenic, dioxins and other toxins harmful to human health. The city may face bodily injury claims from exposed individuals and/or claims from residents alleging that the value of their property has been reduced by the contamination. The cleanup exercise will take many years and may necessitate the relocation of facilities. The remediation costs have been exacerbated by the need to minimize disturbance and damage to existing structures.

### KEY EXPOSURES FOR LOCAL GOVERNMENT OPERATIONS

- Ownership/occupation/management of real estate
  - Contaminated or brownfield properties

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- Lead/asbestos
- Mold /Legionella
- Underground /above ground storage tanks
- Construction management
  - Construction site fill
  - Run off from construction sites
  - Old electrical equipment – PCBs
- Wastewater management
  - Storm water and sewer systems
  - Chemical storage and process
  - Piping and tanks
- Public safety
  - Fire response and suppression materials
  - Mercury batteries and thermometers
- Pesticide application operations
  - Chemical storage and application
- Vehicle/equipment maintenance
  - Fueling operations – storage tanks
  - Automotive fluids/hydraulic lifts
- Waste disposal/recycling activities
  - Municipal/County owned landfills
  - Recycling Centers
  - Non- Owned Disposal Site exposures

The consequences of an environmental loss can include:

- **DIRECT LOSSES** Legal defense costs add up quickly; so can unexpected cleanup expenses and damage payments to third parties.
- **INDIRECT LOSSES** Pollution events can trigger a variety of consequential losses; for example, contamination can render facilities unusable, causing business interruption losses, loss in rental income and costs associated with relocation.
- **PROPERTY DEVALUATION** Environmental liabilities can dramatically impact the overall value of land or property.

Environmental insurance policies are readily available to address the varied pollution risk exposures faced by cities and municipalities. As General Liability and Property policies typically exclude most pollution exposures, Environmental policies are designed to fill that gap. Environmental policies specifically designed for public sector entities typically include coverage for:

- Both primary and ancillary facilities
- On- and off-site cleanup of new and pre-existing pollution conditions
- Business interruption resulting from pollution conditions
- Both gradual and sudden and accidental pollution releases

## AN EXPENSIVE EXAMPLE: SLIP-SLIDING ALONG

An oil company sued a city and one of the city's contractor to recover lost production costs after an excavator ruptured an oil pipeline during work on the city sewer system. The resulting oil spill forced dozens of people from their homes and polluted the nearby shoreline, causing millions in damages and cleanup costs. The oil company sought damages for the cost of cleaning up the oil spill and loss of business while its wharf and terminal facilities were shut down. Numerous residents affected by the oil spill also filed lawsuits.

- Third-party claims for bodily injury, property damage and diminution in property value
- Defense of third-party claims
- Transportation pollution exposures
- Mold and Legionella exposures
- Contracting exposures

Policies are more flexible than ever. An experienced environmental broker can also obtain coverage enhancements tailored to the history, operational risks and liability concerns of specific entities or municipalities, as well as help to address pollution liabilities associated with contracted activities.

## CONTACT

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