

NOTE 17 – LEGAL MATTERS, CONTINGENT LIABILITIES, AND OTHER COMMITMENTS

Primary Government

There is no litigation or claim currently pending against King County in which to our knowledge the likelihood of an unfavorable outcome with material damages assessed against the County is considered "probable."

The following litigation, or potential litigation, may involve claims for material damages against King County for which the County is unable to provide an opinion as to the ultimate outcome or the amount of damages that may be found:

- A lawsuit filed by a private transportation operator seeking damages in the amount of \$13.4 million. Plaintiff claims that County transit service violates its rights, under a Certificate of Public Convenience and Necessity, to be sole provider of direct airporter service between downtown Seattle and Sea-Tac International Airport. Although the case has been dismissed in Snohomish Superior Court, plaintiff has elevated appeal to the State Supreme Court.
- Claims for unspecified damages filed by two sewer districts who allege that certain expenditures of the King County Wastewater Treatment Division (WTD) constitute a breach of contract and a violation of the King County Charter and a local government accounting statute. The County is vigorously defending the claim.
- An appeal of an administrative decision of the Washington State Department of Retirement Systems ruling that settlement payments on two earlier class action lawsuits were properly not reported to the State Retirement System by the County as "compensation earnable." The County is vigorously defending against all claims.
- An administrative order from the Environmental Protection Agency (EPA) requiring the County, the City of Seattle, the Boeing Company, and the Port of Seattle to conduct a feasibility study that will determine the nature and extent of the contamination in the Lower Duwamish Waterway. Potentially, upon completion of the studies, additional administrative or judicial orders may require remediation.
- A potential requirement for additional cleanup in the area contaminated when the Denny Way combined sewer outflow was replaced in 2005. The WTD has already performed interim cleanup costing \$3.6 million to comply with a formal agreement with Washington State Department of Ecology (DOE). Monitoring is being enforced with DOE reserving its rights to require additional remedial actions.
- A formal agreement with the DOE to help fund the investigation and potential cleanup of the North Boeing Field/Georgetown Steam Plant and flume site. King County International Airport, the City of Seattle, and the Boeing Company have agreed to share the cost of the work to determine the extent of pollution, to draft a cleanup action plan, and to perform required interim cleanups. The estimated cost of investigation and assessment is \$2.5 million to be shared equally by the three named parties. Other potential costs have yet to be determined.
- Potential claims for past and future cleanup costs at the Harbor Island Superfund Site. Certain removal costs already incurred by the Port of Seattle are expected to be defrayed by the County and the City of Seattle. The parties have also agreed to share the cost of a supplemental investigation and feasibility study required by the EPA. The agreement states that the WTD has a one-third *pro rata* share of the study costs but this can still be reallocated among the several potentially responsible parties. Further remediation costs cannot be reasonably estimated until the studies are completed.

NOTE 17 – CONTINUED

- A complaint filed by the City of Seattle against the Boeing Company with King County as a third-party defendant. The complaint seeks to recover remediation costs, under the Model Toxic Control Act, in the North Boeing Field/Georgetown Steam Plant and Slip 4 sites. It is likely that through this litigation the County can recover some of the costs of investigating and remediating the two mentioned sites. Recovery, however, may potentially be offset by the repayment of state grants and the cost of litigation.
- A complaint filed by the City of Seattle against a private company with the County as a third-party defendant. The complaint seeks to recover remediation costs, under the Model Toxic Control Act, for the cleanup in an area along the Lower Duwamish Waterway that is now the site of Port of Seattle's Terminal 117. The original defendants allege that petroleum-based pollutants were released during the 1960s when the County or its contractor allegedly transported and disposed of waste pavement materials from King County International Airport onto the above referenced site. An additional claim alleges that the County released waste oil containing PCBs onto streets near the site as part of maintenance of those streets. The County denies all claims.

Contingent Liabilities

King County has entered into several contingent loan agreements totaling \$172.0 million with the King County Housing Authority (KCHA) and other owners/developers of affordable housing. The County has provided credit support for certain bonds issued by the KCHA. All projects are currently self-supporting and the County has not made any loans pursuant to these agreements.

Other Commitments

The Solid Waste Enterprise paid the County General Fund \$7.9 million for annual rent on the Cedar Hills landfill site in 2008. Solid Waste is committed to pay rent as long as the Cedar Hills site continues to accept waste.

Component Unit – Harborview Medical Center

Harborview Medical Center (HMC) is involved in litigation arising in the course of business. It is HMC management's opinion that these matters will be resolved without material adverse effect to HMC's future financial position or results of operations.

The current regulatory environment in the healthcare industry is one of increasing governmental activity with respect to investigations and allegations concerning possible violations of regulations by healthcare providers that could result in the imposition of significant fines and penalties, including substantial repayments of patient services previously billed. HMC believes that it complies with fraud and abuse regulations, as well as with other laws and regulations. Compliance with such laws and regulations can be subject to future governmental review and interpretation and regulatory actions unknown or unasserted at this time.

HMC is operated by the University of Washington under a management and operations contract with King County. In this contract the University of Washington agrees to defend, indemnify, and "save harmless" King County, its elected and appointed officials, employees, and agents, from and against any damage, cost, claim, or liability arising out of the negligent acts or omissions of the University, its employees or agents, or arising out of the activities or operations of the medical center.