

IN THE BOARD OF COUNTY COMMISSIONERS  
OF LANE COUNTY, OREGON

Order No: 04-2-25-10            )     In the Matter of  
  )     Ratifying and Approving  
  )     Settlement of the Claims of  
  )     Delhur Industries, Inc.

WHEREAS, Delhur Industries, Inc. was awarded a contract on its bid for \$3.9 million to construct improvements at the Short Mountain Landfill project known as the Phase IVa Improvements Contract;

WHEREAS, all of Delhur's required work has been performed on the contract;

WHEREAS, Delhur submitted its final contract payment request for \$235,348.51, but withdrew the request due to the pendency of two claims for additional compensation;

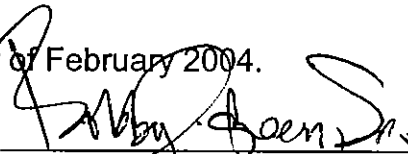
WHEREAS, the two claims for additional compensation involved the combined amount of approximately \$204,000;

WHEREAS Delhur and Lane County agreed, through mediation conducted on February 18, 2004 to resolve the two claims by payment of the sum of \$60,000; and

WHEREAS, the total amount to be paid on the contract does not exceed the original bid amount;

IT IS HEREBY ORDERED that the settlement agreement attached hereto as Exhibit A is hereby ratified and approved. The County Administrator or County Counsel or the designee of either is hereby authorized to execute such additional documents, if any, as may be necessary to implement the settlement agreement.

Dated this 25<sup>th</sup> day of February 2004.

  
\_\_\_\_\_  
Bobby Green, Sr., Chair  
Lane County Board of Commissioners



**LANE COUNTY OFFICE OF LEGAL COUNSEL**

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February 19, 2004

Tony Sample  
Delhur Industries, Inc.  
4333 Tumwater Access Road  
Port Angeles, WA 98362

Re: Short Mountain Landfill  
Phase IVa Improvements Contract--Settlement

Dear Mr. Sample:

This letter reflects the settlement agreement reached in Eugene yesterday with the assistance of Dick Alexander as mediator. Please return a signed copy to me for our records. This letter, with your signature or the signature of the appropriate representative from Delhur if that is not you, will constitute the written record of the settlement agreement. The terms agreed upon are as follows:

1. Lane County will pay request no. 7 in the amount of \$235,348.51. Processing of the paper work will begin immediately and payment should be made to Delhur within two weeks.
2. In addition to the amount stated above, and subject to paragraph 5 below, County will pay Delhur a total of \$60,000 in full settlement of Delhur's two claims related to (a) interface angle friction tests and (b) unsuitable material/borrow.
3. Subject to the County's making the payments specified by paragraphs 1 and 2, and except as otherwise specifically provided below, the parties mutually release any and all claims arising out of the contract referred to above.
4. Any contractual warranties as to latent defects shall survive. Lane County presently knows of no defect.
5. Paragraph 2 above is subject to approval or ratification by County's Board of Commissioners. Ratification or approval will be recommended to the Board by Mr. Snowden and county counsel. The Board's decision to ratify or approve should be


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obtained not later than February 23, 2004. Payment of the \$60,000 shall be made promptly upon Board ratification or approval.

6. Delhur's signature below reflects that it has had a reasonable time before signing to choose whether to review this agreement with its counsel.

Sincerely,

LANE COUNTY OFFICE OF LEGAL COUNSEL

By   
David B. Williams  
Assistant County Counsel

AGREED:  
DELHUR INDUSTRIES, INC.

By \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_

cc: Dick Alexander