

RESOLUTION NO. 2025-58

A Resolution authorizing the City Manager to execute a settlement agreement with all parties submitting claims to disputed funds erroneously paid to Fackler Construction.

RECITALS:

Whereas, the final payment owed to Fackler Construction for the AnyDoor Place Navigation Center project was part of a negotiated payment by two-party checks directly to two subcontractors; and

Whereas, those funds were mistakenly issued to Fackler Construction who wrongfully deposited the checks; and

Whereas, on June 27, 2025, with Resolution No. 2025-35, the City Council authorized action to secure the misappropriated funds; and

Whereas, since that time, parties have negotiated in an attempt to obviate litigation, which included settlement with one subcontractor through payment by the Surety holding the project's payment bond; and

Whereas, parties have reached a tentative settlement with the bank holding the funds wherein the bank will keep \$30,000 of the total, which cost will be covered in a reduced claim by \$15,000 by the remaining claiming subcontractor, a reduced claim by \$7,500 by the Surety, and \$7,500 to be contributed by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMinnville, OREGON, as follows:

1. The City Manager or a designee is authorized to execute a settlement agreement, in a form acceptable to legal counsel, with regard to the \$181,179.99 in disputed funds erroneously paid to Fackler Construction.
2. Payment of \$7,500 toward settlement in conjunction with such agreement is authorized.
3. That this resolution shall take effect immediately upon passage and shall continue in full force and effect until modified, revoked, or replaced.

Adopted by the Common Council of the City of McMinnville at a regular meeting held the 23rd day of September 2025 by the following votes:

Ayes: Cunningham, Tucholsky, Chenoweth, Geary, Peralta

Nays: _____

Approved this 23rd day of September 2025.



MAYOR

Approved as to form:

Attest:

Tyler C. Freeman-Millette
City Attorney



City Recorder