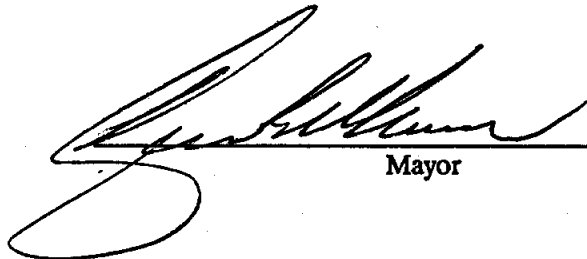


RESOLUTION NO. 3367

WHEREAS, the City of Albany and the State of Oregon, acting through its Department of Transportation desire to enter into Local Agency Fund Exchange Agreement No. 12,724, in order to exchange federal money for state money to be used for street overlay projects.

NOW, THEREFORE, the Albany City Council does hereby approve the Local Agency Fund Exchange Agreement and authorizes the Mayor and City Recorder to sign Agreement No. 12,724 on their behalf.

DATED this 8th day of June 1994.



Mayor

ATTEST:



City Recorder

Approved: ODOT Staff
May 23, 1994

Miscellaneous Contracts & Agreements
No. 12,724

LOCAL AGENCY
FUND EXCHANGE AGREEMENT

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and the CITY of ALBANY, acting by and through its Elected Officials, hereinafter referred to as "Agency".

1. By the authority granted in ORS 366.770 and 366.775, State may enter into cooperative agreements with counties and cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. State and Agency have determined that it is advantageous to both parties and in the public's interest to enter into this agreement.
3. Agency has submitted a completed and signed Part 1 of the Project Prospectus outlining the schedule and costs associated with all phases of the 34th AVENUE (PACIFIC - LYONS) and QUEEN AVENUE (PACIFIC - BROADWAY) overlays, hereinafter referred to as "project".
4. To assist in funding the project, Agency has requested State to exchange Federal funds which have been allocated to Agency, for State funds based on the following ratio:

\$94 State for \$100 Federal

Based on this ratio, Agency wishes to trade \$177,939 Federal funds for \$167,263 State funds.

5. State has reviewed Agency's prospectus, considered Agency's request for the fund exchange, and has determined that Agency's project is eligible for the exchange funds.
6. The parties hereto agree that the exchange is subject to the following conditions:
 - A. The federal funds transferred to State may be used by State at its discretion.
 - B. State dollars transferred to Agency must be used for the above-named project. This fund exchange is to provide funding for specific roadway projects, and is not intended for maintenance.
 - C. State funds may be used for all phases of the project, including preliminary engineering, right-of-way, utility relocations, and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible for accounting for expenditure of State funds.

N. This contract may be terminated by mutual consent of State and Agency or by either party upon 30 days' written notice, delivered by certified mail or in person.

O. State and Agency hereto agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

7. Agency shall authorize execution of this agreement during a duly authorized session of its City Council.

The fund exchange program was approved by the Oregon Transportation Commission on July 21, 1992, at which time the State Highway Engineer was authorized to sign the necessary agreements for and on behalf of the Commission. By Subdelegation Order HWY-6, Paragraph 11, the State Highway Engineer further delegated the signing authority to the Program Section Manager.

By delegated authority, the Program Section Manager approved this project on May 5, 1994.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

All agreement provisions were approved as to legal sufficiency on July 2, 1992, by Dale K. Hormann, Assistant Attorney General.

APPROVAL RECOMMENDED

By Donald R. Wagner
Region Manager

Date 5-25-94

STATE OF OREGON, by and through its
Department of Transportation

By _____
Program Services Section Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Agency Attorney

CITY of ALBANY, by and through its Elected
Officials

By _____

By _____

Date _____

Agency Contact:
Michael Faught, Street Maintenance Supervisor
PO Box 490
Albany, OR 97321