

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
FREMONT COUNTY AND THE CITY OF CAÑON CITY REGARDING USE OF  
ASPHALT EMUSION OIL FOR TRANSPORTATION DEPARTMENT ACTIVITIES**

**THIS AGREEMENT**, made this 4<sup>th</sup> day of March, 2024, by and between the City of Cañon City, (hereinafter, “City”), and Fremont County, (hereinafter, “County”), hereinafter referred to jointly as the Parties (“Parties”); and

**WHEREAS**, the provisions of Article XIV, Section 18(2)(a) of the Colorado Constitution, and Section 29-1-203, C.R.S., establish means whereby governmental units may cooperate or contract with one another to make the most efficient and effective use of their powers and responsibilities; and

**WHEREAS**, the County has previously donated to the City a 1996 Dura Patcher Model #87DJ VIN #1424 which the City deems to be useful in the maintenance of City roads; and

**WHEREAS**, the County maintains a supply of asphalt emulsion for use in County road maintenance; and

**WHEREAS**, the City does not maintain a supply of asphalt emulsion, a necessary component of asphalt patching operations/repair, which the Dura Patcher is designed to apply; and

**WHEREAS**, the Parties deem that it would be beneficial to both parties and would be an effective and efficient use of local government resources for the County to supply asphalt emulsion to the City at cost; and

**WHEREAS**, the City and County wish to enter into this Agreement (IGA) setting forth the mutual benefits and obligations of the Parties:

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein and the recitals as set forth above, the Parties hereby agree as follows:

**1. RECITALS.**

The foregoing recitals are incorporated herein as affirmative and material representations and acknowledgements of the parties.

**2. FREMONT COUNTY DEPARTMENT OF TRANSPORTATION OBLIGATIONS.**

The County agrees to provide the following equipment and services to the City:

- A. County has donated one used Dura Patcher Patching Machine to City, the receipt of which is hereby acknowledged.
- B. County will store asphalt emulsion at its usual County storage locations. City may purchase the stored emulsion for the same cost that County paid for the material and pick up the purchased emulsion at the storage location. This commitment is subject to general availability of asphalt emulsion to County, and is subject to general availability after County needs are met.

**3. CITY OF CAÑON CITY OBLIGATIONS.**

The City shall pay any invoices for product purchased pursuant to this Agreement within 30 days of receipt.

**4. WAIVER.**

Notwithstanding any other provision of this IGA, no term or condition of this IGA shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as now existing or hereafter amended (the "CGIA"). The parties understand and agree that liability for claims or injuries to persons or property arising out of negligence of a Party afforded protections by the CGIA, its departments, agencies, boards, officials or employees is controlled and limited by the provisions of the CGIA, as now existing and hereafter amended.

**5. PARTICIPATION.**

Participation in this IGA is voluntary. No Party shall be liable to the other Party, or be considered to be in breach of or default under this IGA on account of any delay in or failure to perform any obligation under this IGA, except as to make payment if applicable.

**6. TERM OF AGREEMENT AND TERMINATION.**

The effective date of this IGA shall be the last date of acceptance and/or adoption by either the City or the County. This IGA will be for a period of five (5) years. Either Party may terminate this IGA prior to the expiration of the term by providing

90 days' notice, prior to the expiration of the calendar year, thereby allowing ample time to the non-terminating Party to prepare for any expenses incurred as the result of termination in the budget for the subsequent year. If timely notice of termination is not provided, this IGA shall continue to the end of the next calendar year.

## **7. NOTICE**

Any and all notice shall be given, in writing, at the following addresses:

### **To Cañon City:**

City of Cañon City  
City Administrator  
128 Main Street  
Cañon City, CO 81212

### **To Fremont County**

Fremont County Administrator  
615 Macon Ave.  
Cañon City, CO 81212  
719.276.7300

### **To Fremont County Department of Transportation**

FCDOT Director  
1170 Red Canyon Road  
Cañon City, CO 81212  
719.276.7430

## **8. APPLICABLE LAW**

The Parties agree to comply with applicable federal, state and local statutes, charter provisions, ordinances, rules, regulations and standards as are in effect at the time this IGA is executed and as they may change from time to time. Any disputes arising under this IGA shall be brought exclusively in Fremont County District Court in the State of Colorado.

The Parties acknowledge that this IGA has been drafted with the input from all Parties and therefore, will not under any circumstances be construed against any Party as the drafter of the document.

## **9. SEVERABILITY**

Should any provision(s) of this IGA be determined to be illegal or unenforceable, such provision shall be modified to make it legal and enforceable to the fullest extent of the law. In the event modification would not make the provision legal and enforceable, such provision shall be deleted from this IGA and all remaining provisions of this IGA shall remain fully enforceable. Provided, however, with respect to the deleted provisions, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term that will achieve the original intent of the Parties hereunder.

## **10. AMENDMENT**

This IGA may be amended, modified, or changed, in whole or in part, only by written agreement executed by the Parties hereto.

## **11. ASSIGNABILITY**

The Parties shall not assign its rights or delegate its duties under the IGA without prior written consent of the other Party.

## **12. THIRD PARTY BENEFICIARIES.**

The Parties do not intend by the IGA to assume any contractual obligations to anyone other than the Parties and do not intend that there be any third-party beneficiary to this IGA.

## **13. ENTIRE AGREEMENT.**

This IGA constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior agreements or understandings.

## **14. NO PARTNERSHIP.**

This IGA shall not be interpreted or construed to create an association, joint venture or partnership among the Parties or to impose any partnership obligation or liability upon any Party. Further, no Party shall have any authority to act on behalf of or as an agent for or to otherwise bind the other Party.

## **15. EXECUTION.**

This IGA may be executed in counterparts.

**THEREFORE, IN WITNESS WHEREOF,** the Parties hereto have executed this IGA the day and year first above written.

**CITY OF CAÑON CITY:**

BY: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: Preston Troutman

TITLE: Mayor

**ATTEST:**

BY: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: Cindy Foster Owens

TITLE: City Clerk

**FREMONT COUNTY:**

BY: Dwayne McFall Date: 3-6-24

NAME: Dwayne McFall

TITLE: Chair, Board of County Commissioners

**ATTEST:**

BY: Justin D. Grantham Date: 3/7/2024

NAME: Justin D. Grantham

TITLE: Fremont County Clerk and Recorder



