

PUBLIC CONTRACT FOR SERVICES

THIS PUBLIC CONTRACT FOR SERVICES (the “Contract”) is made and entered into this 25th day of January 2022, by and between the **BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO** (the “County”), and **Miller/Wenhold Capitol Strategies, LLC** authorized to do business in Colorado (the “Consultant”).

RECITALS

WHEREAS, the County is undertaking certain activities developing and implementing federal legislative and regulatory affairs goals; and

WHEREAS, the County desires to engage the Consultant to render certain professional services and assistance in connection with such undertakings of the County; and

WHEREAS, the Consultant has the ability to assist the County through its professional expertise, knowledge, and experience and is ready, willing and able to provide such services, subject to the conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties agree as follows:

1. LINE OF AUTHORITY: Wendy M. Holmes, Communications & Public Affairs Director, (the “Authorized Representative”), is designated as Authorized Representative of the County for the purpose of administering, coordinating and approving the work performed by the Consultant under this Contract.

2. SCOPE OF SERVICES: All services described in Exhibit A, attached hereto and incorporated herein, shall be performed by Consultant.

The County may, from time to time, request changes to the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant’s compensation, which are mutually agreed upon between the County and Consultant, shall be in writing and shall become part of this Contract upon execution.

The Consultant agrees to diligently and professionally perform all the services described herein in a manner satisfactory to the Authorized Representative. It is also understood and agreed that the Consultant shall not, in performing services hereunder, undertake any action or activity prohibited by the terms of any lease, permit, license or other agreement in effect during the term hereof between the Consultant and the County for the use and occupancy by the Consultant of any County facilities or space.

3. COMPENSATION: Subject to the maximum contract liability and all other provisions of this Contract, the County agrees to pay to the Consultant, and the Consultant agrees to accept payment as described in Exhibit B, attached hereto and incorporated herein, during the term hereof, in accordance with the terms set forth herein.

4. MAXIMUM CONTRACT EXPENDITURE: Any other provision of this Contract notwithstanding and pursuant to Section 29-1-110, C.R.S., the amount of funds appropriated for this Contract is One Hundred Ten Thousand Dollars (\$110,000.00) for fiscal year 2022. In no event shall the County be liable for payment under this Contract for any amount in excess thereof. The County is not under obligation to make any future apportionment or allocation to this Contract nor is anything set forth herein a limitation of liability for Consultant. Any potential expenditure for this Contract outside the current fiscal year is subject to future annual appropriation of funds for any such proposed expenditure.

5. TERM: It is mutually agreed by the parties that the term of this Contract shall commence as of 12:01 a.m. on January 1, 2022 and terminate at 12:00 a.m. on December 31, 2022. This Contract and/or any extension of its original term shall be contingent upon annual funding being appropriated, budgeted and otherwise made available for such purposes and subject to the County's satisfaction with all products and services received during the preceding term.

6. INVOICING PROCEDURES: Payments shall be made to the Consultant based upon invoices submitted by the Consultant, provided such invoices have been approved by the Authorized Representative. Payments will be made to the Consultant within thirty (30) days, or within a mutually agreed upon period after County has received complete invoices from the Consultant. The County reserves the right to require such additional documentation, including monthly activity reports detailing the Consultant's activities and services rendered, as the County deems appropriate to support the payments to the Consultant. The signature of an officer of the Consultant shall appear on all invoices certifying that the invoice has been examined and found to be correct.

7. CONFLICT OF INTEREST: The Consultant agrees that no official, officer or employee of the County shall have any personal or beneficial interest whatsoever in the services or property described herein, and the Consultant further agrees not to hire, pay, or contract for services of any official, officer or employee of the County. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Consultant by placing the Consultant's own interests, or the interest of any party with whom the Consultant has a contractual arrangement, in conflict with those of County.

8a. INDEMNIFICATION-GENERAL: The County cannot and by this Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Consultant shall defend, indemnify and hold harmless the County, its commissioners, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including Workers' Compensation claims, in any way resulting from or arising from the services rendered under this Contract; provided, however, that the Consultant need not indemnify or save harmless the County, its officers, agents and employees from damages resulting from the negligence of the County's commissioners, officials, officers, directors, agents and employees.

8b. INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE: The Consultant shall indemnify and hold harmless the County and any of its commissioners, officials, officers, directors, agents and employees from and against damages, liability, losses, costs and expenses, including reasonable attorney's fees, but only to the extent caused by the negligent acts, errors or omissions of the Consultant, its employees, agents or subcontractors, or others for whom the Consultant is legally liable, in the performance of professional services under this Contract. The Consultant is not obligated under this sub-section 8b to indemnify the County for the negligent acts of the County or any of its commissioners, officials, officers, directors, agents and employees.

9. INDEPENDENT CONTRACTOR: The Consultant is an independent contractor and is free to perform services for other clients. Notwithstanding any provision of this Contract, all personnel assigned by the Consultant to perform work under this Contract shall be and remain at all times, employees of the Consultant for all purposes. **THE INDEPENDENT CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION OR UNEMPLOYMENT BENEFITS THROUGH THE COUNTY AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONIES EARNED PURSUANT TO THE CONTRACT RELATIONSHIP.**

10. ILLEGAL ALIENS: If Consultant has any employees or subcontractors, the Consultant shall comply with §§ 8-17.5-101, *et seq.*, C.R.S., regarding Illegal Aliens - Public Contracts for Services, and this Contract. By execution of this Contract, the Consultant certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that the Consultant will participate in either the E-Verify Program or Department Program in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Contract.

A. Consultant shall not:

- (i) Knowingly employ or contract with an illegal alien to perform work under this Contract; or
- (ii) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.

B. The Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under this Contract through participation in either the E-Verify Program or Department Program.

C. The Consultant shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while this Contract is in effect.

D. If the Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall:

- (i) Notify the subcontractor and the County within three (3) days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- (ii) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to the preceding sub-subparagraph of this subparagraph, the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

E. The Consultant shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in § 8-17.5-102(5), C.R.S.

F. If the Consultant violates this provision of this Contract, the County may terminate the Contract for a breach of contract. If the Contract is so terminated, the Consultant shall be liable for actual and consequential damages to the County as required by law.

G. The County will notify the Office of the Secretary of State if the Consultant violates this provision of this Contract and the County terminates the Contract for such breach.

11. NO WAIVER OF GOVERNMENTAL IMMUNITY ACT: The parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Contract, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the County.

12. ASSIGNMENT: The Consultant covenants and agrees that it will not assign or transfer its rights hereunder, or subcontract any work hereunder, either in whole or in part without the prior written approval of the Authorized Representative. Any attempt by the Consultant to assign or transfer its rights hereunder shall, at the option of the Authorized Representative, void the assignment or automatically terminate this Contract and all rights of the Consultant hereunder.

13. COUNTY REVIEW OF RECORDS: The Consultant agrees that, upon request of the Authorized Representative, at any time during the term of this Contract, or three (3) years thereafter, it will make full disclosure to the County and make available for inspection and audit upon request by the Authorized Representative, the County Director of Finance, or any of their authorized representatives, all of its records associated with work performed under this Contract for the purpose of making an audit, examination or excerpts. The Consultant shall maintain such records until the expiration of three (3) years following the end of the term of this Contract.

14. OWNERSHIP OF DOCUMENTS: Drawings, specifications, guidelines and any other documents prepared by the Consultant in connection with this Contract shall be the property of the County.

15. ASSIGNMENT OF COPYRIGHTS: The Consultant assigns to the County the copyrights to all works prepared, developed, or created pursuant to this Contract, including the right to: 1) reproduce the work; 2) prepare derivative works; 3) distribute copies to the public by sale, rental, lease, or lending; 4) perform the works publicly; and 5) to display the work publicly. The Consultant waives its rights to claim authorship of the works, to prevent its name from being used wrongly in connection with the works, and to prevent distortion of the works.

16. TERMINATION: The County shall have the right to terminate this Contract, with or without cause, by giving written notice to the Consultant of such termination and specifying the effective date thereof, which notice shall be given at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies and reports prepared by the Consultant pursuant to this Contract shall become the County's property. The Consultant shall be entitled to receive compensation in accordance with this Contract for any satisfactory work completed pursuant to the terms of this Contract prior to the date of notice of termination. Notwithstanding the above, the Consultant shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Consultant.

17. NOTICES: Notices concerning termination of this Contract, notices of alleged or actual violations of the terms or provisions of this Contract, and all other notices shall be made as follows:

by the Consultant to: Douglas County Government
Wendy M. Holmes, Communications & Public
Affairs Director
100 Third Street
Castle Rock, CO 80104
303-660-7401
wholmes@douglas.co.us

with a copy to: Douglas County Attorney's Office
100 Third Street
Castle Rock, CO 80104
(303) 660-7414

and by the County to: Miller / Wenhold Capitol Strategies
10430 Democracy Lane, Suite 300
Fairfax, VA 22030
Attn: Paul Miller
Phone: 703-383-1330
Email: nsmith@mwcapitol.com

Said notices shall be delivered personally during normal business hours to the appropriate office above, or by prepaid first-class U.S. mail, via facsimile, or other method authorized in writing by the Authorized Representative. Mailed notices shall be deemed effective upon receipt or three (3) days after the date of mailing, whichever is earlier. The parties may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification.

18. NONDISCRIMINATION: In connection with the performance of work under this Contract, the Consultant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

19. GOVERNING LAW; VENUE: This Contract shall be deemed to have been made in, and construed in accordance with the laws of the State of Colorado. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado. The Consultant expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.

20. COMPLIANCE WITH ALL LAWS AND REGULATIONS: All of the work performed under this Contract by the Consultant shall comply with all applicable laws, rules, regulations and codes of the United States and the State of Colorado. The Consultant shall also comply with all applicable ordinances, regulations, and resolutions of the County and shall commit no trespass on any public or private property in the performance of any of the work embraced by this Contract.

21. SEVERABILITY: In the event any of the provisions of this Contract are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected. Should either party fail to enforce a specific term of this Contract it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

22. NO THIRD-PARTY BENEFICIARIES: The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement, shall be strictly reserved to the County and the Consultant, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person under such Contract.

23. ADVERTISING AND PUBLIC DISCLOSURE: The Consultant shall not include any reference to this Contract or services performed pursuant to this Contract in any of Consultant's advertising or public relations materials without first obtaining the written approval of the Douglas County Public Affairs Director. Nothing herein, however, shall preclude the transmittal of any information to officials of the County, including without limitation, the County Manager, Assistant County Manager, and the Board of County Commissioners.

24. PRIORITY OF PROVISIONS: In the event that any terms of this Contract and any Exhibit, attachment, or other referenced document are inconsistent, the following order of priority shall control:

- 1st This Contract, Sections 1 through 29
- 2nd Request for Proposal (if applicable)
- 3rd Exhibit C- Insurance Requirements
- 4th Exhibit A- Scope of Services
- 5th Exhibit B- Method of Payment
- 6th Response to Request for Proposal (if applicable).

25. HEADINGS; RECITALS: The headings contained in this Contract are for reference purposes only and shall not in any way affect the meaning or interpretation of this Contract. The Recitals to this Contract are incorporated herein.

26. ENTIRE AGREEMENT: The parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any commissioner, official, officer, director, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this Contract, except those which are expressly reserved herein to the Authorized Representative, shall be valid unless they are contained in writing and executed by all the parties with the same formality as this Contract.

27. INSURANCE: The Consultant shall be required to maintain the insurance requirements provided in Exhibit C, attached hereto and incorporated herein by reference. The Consultant shall provide evidence that such requirements have been met and shall provide updated information to the County in the event any changes are made to the Consultant's insurance coverage during the term of this Contract.

28. COUNTY EXECUTION OF AGREEMENT: This Contract is expressly subject to, and shall not be or become effective or binding on the County, until execution by all signatories of the County.

29. FORCE MAJEURE: No party shall be liable for failure to perform hereunder if such failure is the result of *force majeure*. Any time limit shall be extended for the period of any delay resulting from any *force majeure*, or this Contract may be terminated if such delay makes performance of the Contract impossible or impracticable. *Force majeure* shall mean causes beyond the reasonable control of a party such as, but not limited to, weather conditions, acts of God, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty or action of government authorities.

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Exhibit A
SCOPE OF SERVICES

Miller/Wenhold Capitol Strategies, LLC shall provide advice, information, and counsel to the County in overall strategy development and implementation of federal legislative and regulatory affairs goals as established by the County. The Consultant will provide a monthly report, the content of which will illustrate actions associated with the following goals identified for this contract period:

TRANSPORTATION FUNDING

- A. Monitor closely the actions and agendas of the House Transportation and Infrastructure Committee, the Senate Environment and Public Works Committee, the House Appropriations Committee and the Senate Appropriations Committee, and any new applicable committees with respect to public works, transportation infrastructure, other public works infrastructure, and environmental issues. Maintain close communication with the leadership of those committees, with select members of the Colorado Congressional delegation, and with pertinent grant program administrators of *U.S. Department of Transportation Grant programs* initiated by the White House. Assist Douglas County with Transportation Funding Strategies.
- B. Work with Douglas County promoting awareness of prioritized transportation project needs in Douglas County Colorado, among the Colorado Congressional delegation, key Committee Members, Department of Transportation administrators, and the White House.
- C. Support the County in the development and implementation of strategies in pursuit of specific *Congressionally directed funding opportunities* for targeted transportation improvements and other community infrastructure projects that can be implemented within the next two to six years.

WILDFIRE MITIGATION STRATEGIES

- D. Work with the appropriate House and Senate Committees, key members of these committees, and the Colorado Congressional delegation to identify opportunities through funding, regulatory changes, and legislation.

MENTAL HEALTH AND SUICIDE PREVENTION

- E. - **National Suicide Hotline Designation Act** -- Monitor and maintain proactive awareness of the implementation of the Suicide Prevention Hotline (988).

BROADBAND FUNDING – Seeking matching funds to leverage Douglas County’s American Rescue Program Act funds.

- F. Monitor closely the actions and agendas of the House Transportation and Infrastructure Committee, the Senate Environment and Public Works Committee, the House Appropriations Committee and the Senate Appropriations Committee, and any new applicable committees with respect to public works, transportation infrastructure, other public works infrastructure, and environmental issues. Maintain close communication with the leadership of those committees, with select members of the Colorado Congressional delegation, and with pertinent grant program administrators of *U.S. Department of Transportation Grant programs* initiated by the White House. Assist Douglas County with Broadband Funding Strategies.

WATER & WASTEWATER FUNDING – Seeking matching funds to leverage Douglas County’s American Rescue Program Act funds.

- G. Monitor closely the actions and agendas of the House Transportation and Infrastructure Committee, the Senate Environment and Public Works Committee, the House Appropriations Committee and the Senate Appropriations Committee, and any new applicable committees with respect to public works, transportation infrastructure, other public works infrastructure, and environmental issues. Maintain close communication with the leadership of those committees, with select members of the Colorado Congressional delegation, and with pertinent grant program administrators of *U.S. Department of Transportation Grant programs* initiated by the White House. Assist Douglas County with Water & Wastewater Funding Strategies.

Exhibit B
METHOD OF PAYMENT

Miller/Wenhold Capitol Strategies, LLC shall be compensated at a fixed price of \$9,166.66 per month, for scope of service defined in Exhibit A, items A-G.

The maximum contract expenditures for any and all fees and expenses shall not exceed \$110,000.00 per Section 4 of this Contract.

Invoices shall be submitted on the first day of each month, to the Authorized Representative, including a summary of services provided and the hours dedicated to each service.

In accordance with Section 6 of this Contract, payments shall be made to the Consultant based upon invoices submitted by the Consultant, provided such invoices have been approved by the Authorized Representative. Invoices shall be due and payable upon receipt within thirty (30) days.

The County is not under obligation to make any future apportionment or allocation to this agreement.

Exhibit C
INSURANCE REQUIREMENTS

Insurance.

1. The Consultant agrees to procure and maintain with insurers with an A- or better rating as determined by Best's Key Rating Guide, at its own expense, the following policies of insurance:

(a) Workers' Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Contract, and Employers' Liability insurance with the following limits:

Workers' Compensation:	Statutory
Employers' Liability:	\$1,000,000

(b) Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy will be applicable to all premises and operations. The policy will include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy will include coverage for explosion, collapse and underground hazards. The policy will contain a severability of interests provision.

(c) Commercial Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence with respect to each of Consultant's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy will contain a severability of interests provision.

(d) Professional Liability Insurance Coverage in an amount not less than One Million Dollars (\$1,000,000.00), and Consultant shall maintain such coverage for at least two (2) years from the termination of this Contract.

2. The required Commercial General Liability and Commercial Automobile Liability policies will be endorsed to include Douglas County as a Certificate Holder and name Douglas County, its officers and employees as additional insureds. The required Workers' Compensation policy will be endorsed to include Douglas County as a Certificate Holder. Douglas County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

3. The certificates of insurance will be attached to this Contract as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The completed certificates of insurance and any notices, within 20 days of cancellation, termination, or material change will be sent to:

Megan Datwyler
Douglas County
Risk Management
100 Third Street
Castle Rock, Colorado 80104

4. The Consultant will not be relieved of any liability, claims, demands, or other obligations assumed by its failure to procure or maintain insurance, or its failure to procure or maintain insurance in sufficient amounts, durations, or types.

5. Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits will constitute a material breach of contract upon which Douglas County may immediately terminate this Contract.

6. The parties hereto understand and agree that Douglas County is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations (presently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to Douglas County, its officers, or its employees.

IN WITNESS WHEREOF, the County and the Consultant have executed this Contract as of the above date.

BY: _____

ATTEST: (if a corporation)

Printed Name _____

Title: _____

Title: _____

DATE: _____

Signature of Notary Public Required:

STATE OF _____)

)

ss.

COUNTY OF _____)

)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____.

Witness my hand and official seal

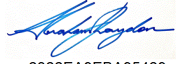
Notary Public

My commission expires: _____

INSTRUCTIONS

Print out this page and then attach the signed and notarized page to this attachment icon.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

DocuSigned by:

By: _____
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Abe Laydon, Chair

Douglas County Commissioners

ATTEST:

DocuSigned by:

By: _____
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Kristin Randlett

Clerk to the Board


APPROVED AS TO CONTENT:

By: _____
n/a

DATE: _____


DocuSigned by:


APPROVED AS TO CONTENT:

DocuSigned by:

By: _____
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Doug DeBord
County Manager

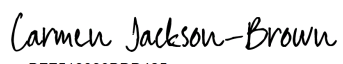
DATE: **3/8/2022**

APPROVED AS TO FISCAL CONTENT:

DocuSigned by:

By: _____
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Andrew Copland
Director of Finance

DATE: **3/8/2022**

APPROVED AS TO LEGAL FORM:

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By: _____
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Carmen Jackson-Brown
Sr Assistant County Attorney

DATE: **3/8/2022**

APPROVED AS TO INSURANCE REQUIREMENTS:

DocuSigned by:

By: _____
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Megan Datwyler
Risk Manager

DATE: **3/8/2022**

IN WITNESS WHEREOF, the County and the Consultant have executed this Contract as of the above date.

Miller/Wenhold Capital Strategies LLC

BY: [Signature]

ATTEST: (if a corporation)

Printed Name Paul A. Miller

Title: CEO

Title: _____

DATE: 3-2-22

Signature of Notary Public Required:

STATE OF Virginia)

COUNTY OF Fairfax)

ss.



The foregoing instrument was acknowledged before me this 2 day of March, 2022, by Paul A. Miller.

Witness my hand and official seal

[Signature]
Notary Public

My commission expires: 12/31/24

INSTRUCTIONS

Print out this page and then attach the signed and notarized page to this attachment icon.