



December 1, 2020

VIA EMAIL

City Council
City of Commerce City
7887 East 60th Avenue
Commerce City, Colorado 80022
Attn: Robert Sheesley, Esq.
(rsheesley@c3gov.com)

Re: Nexus North at DIA Metropolitan District: Request to Consent to Inclusion of Property

Dear City Council Members:

McGeady Becher P.C. represents Nexus North at DIA Metropolitan District ("**Nexus North MD**"), and DIATC Metropolitan District ("**DIATC MD**", and collectively with Nexus North at DIA MD, the "**Districts**") both of which are located wholly within the City of Commerce City (the "**City**"). Nexus North MD operates pursuant to its Service Plan approved by the City Council of Commerce City ("**City Council**") on April 1, 2019 (the "**Nexus North MD Service Plan**"). DIATC MD operates pursuant to its Service Plan approved by the City Council on December 19, 2011 (the "**DIATC MD Service Plan**").

Both Districts comprise solely commercial property. Certain property currently located within the boundaries of DIATC MD (the "**12-Acre Parcel**") and all of the property located within the boundaries of Nexus North MD (the "**158-Acre Parcel**", and collectively with the 12-Acre Parcel, the "**Sale Property**") was recently purchased by a single purchaser. As part of the development of the Sale Property, a commercial building (the "**Subject Building**") is anticipated to be built spanning across both the 12-Acre Parcel and a portion of the 158-Acre Parcel, due to certain topographical matters, including the location of a high-pressure gas line.

Without the inclusion/exclusion process detailed herein, the Subject Building would be located in both the Nexus North MD and the DIATC MD. Therefore, in order to accommodate the Subject Building and the development of the Sale Property, the Districts have been asked to cooperate to process an exclusion of the 12-Acre Parcel from DIATC MD and a subsequent inclusion of the 12-Acre Parcel into the boundaries of Nexus North MD. The legal description for the 12-Acre Parcel is attached hereto as **Exhibit A** and incorporated herein by reference. A map showing the current boundaries of DIATC MD is attached hereto as **Exhibit B** and incorporated herein by reference.

Section V.A.12 of the Nexus North MD Service Plan requires that Nexus North MD shall not include within Nexus North MD any property outside the Nexus North MD boundaries without the prior written consent of the City Council. A map showing the current boundaries of the Nexus North MD is attached hereto as **Exhibit C** and incorporated herein by reference.

The 12-Acre Parcel is outside of the boundaries of Nexus North MD. We are writing to you to respectfully request City Council's consent to the inclusion of the 12-Acre Parcel into the boundaries of Nexus North MD subsequent to the effectuation of the exclusion of the 12-Acre Parcel from the DIATC MD and provide the following background and information regarding same. *Please Note: The DIATC MD Service Plan does not require City Council consent to exclusion of property, and therefore, such consent is not being requested.*

Exclusion/Inclusion Process. DIATC MD anticipates receipt of a Petition for Exclusion from the fee owner or owners of one hundred percent (100%) of the 12-Acre Parcel as provided in Section 32-1-501(1) (the "**Exclusion Petition**"). Upon receipt of the Exclusion Petition, the DIATC MD Board of Directors (the "**DIATC Board**") shall hear the Exclusion Petition subject to the provisions of Section 32-1-501, C.R.S., et seq. If the DIATC Board determines that the 12-Acre Parcel should be excluded from DIATC MD, it shall adopt a resolution approving the Exclusion Petition (the "**Exclusion Resolution**") and subsequently file a Motion in the District Court, requesting the District Court to enter an Exclusion Order.

Upon receipt of a Petition for Inclusion from the fee owner or owners of one hundred percent (100%) of the 12-Acre Parcel as provided in Section 32-1-401(1)(a) (the "**Inclusion Petition**"), the Nexus North MD Board of Directors (the "**Nexus North Board**") shall hear the Inclusion Petition subject to the provisions of Section 32-1-401, et seq. If the Nexus North Board determines that the 12-Acre Parcel should be included into the Nexus North MD, it shall adopt a resolution approving the Inclusion Petition (the "**Inclusion Resolution**") and subsequently file a Motion in the District Court, requesting the District Court to enter an Inclusion Order.

DIATC MD Mill Levies. DIATC MD issued its \$20,580,000 General Obligation Limited Tax Refunding and Improvement Bonds, Series 2019 on September 10, 2019 (the "**2019 DIATC MD Bonds**"). **Pursuant to Section 32-1-503, C.R.S., the 12-Acre parcel shall remain obligated to the same extent as all other properties within DIATC MD for the purpose of retiring the 2019 DIATC MD Bonds and the interest thereon.** Exclusion of the 12-Acre Parcel is not expected to impact DIATC MD's ability to retire the 2019 DIATC MD Bonds as scheduled. The 12-Acre Parcel shall not be subject to any property tax levied by DIATC MD for operating costs or any bonded indebtedness (excluding refundings of the 2019 DIATC MD Bonds) created after the effective date of the Exclusion Order. Exclusion of the 12-Acre Parcel is not anticipated to impact the operations ability of DIATC MD.

For tax collection year 2020, all property located within the DIATC MD boundaries is subject to an ad valorem property tax for debt service to repay the 2019 DIATC MD Bonds in the amount of 50.000 mills, and an ad valorem property tax for operations and maintenance of 7.500 mills.

Nexus North MD Mill Levies. Upon inclusion into the boundaries of the Nexus North MD, the 12-Acre Parcel will be subject to any bonded indebtedness of the Nexus North MD created after the effective date of the Inclusion Order, unless otherwise agreed to at the time of issuing such bonded indebtedness. The 12-Acre Parcel will also be subject to any property tax levied, and fees imposed, by Nexus North MD for operating costs.

For tax collection year 2020, the property within the Nexus North MD was not under development, and therefore Nexus North MD did not impose ad valorem property taxes for debt service or operations and maintenance. The Nexus North MD is in the process of scheduling its 2021 Budget Hearing and can provide updated information as to ad valorem property tax impositions for tax collection 2021 following that hearing.

District Request. Based upon all of the information provided above, please allow this letter to serve as Nexus North MD's request, in conformance with Section V.A.12 of the Nexus North MD Service Plan, for City Council's written consent to the requested Inclusion. In the best interest of the Sale Property, the best interest of the Districts, the best interests of the City, and in compliance with Section V.A.12 of the Nexus North MD Service Plan, the Nexus North MD hereby seeks written consent from City Council to the inclusion of the 12-Acre Parcel.

Please note that the Board of Directors of the Nexus North MD anticipates engaging Icenogle Seaver Pogue, P.C. for general counsel services (Tamara Seaver and Shannon Smith Johnson). I will continue to keep you posted as to this transition and will provide contact information for both Ms. Seaver and Ms. Johnson upon the confirmation of the approved engagement.

Thank you for your time and for your consideration.

Very truly yours,

McGEADY BECHER P.C.

A handwritten signature in black ink, reading "Elisabeth A. Cortese". The signature is fluid and cursive, with the first name "Elisabeth" and last name "Cortese" clearly distinguishable.

Elisabeth A. Cortese

Enclosures

EXHIBIT A

Legal Description of 12 Acre Parcel

EXHIBIT

SOUTHWEST QUARTER, SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,
CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH P.M., BEING ASSUMED TO BEAR N 89°31'42" E, FROM THE WEST QUARTER CORNER OF SAID SECTION 28, BEING MONUMENTED BY A REBAR WITH A 3-1/4 INCH ALUMINUM CAP STAMPED "PLS 14630", TO THE CENTER QUARTER CORNER OF SAID SECTION 28, BEING MONUMENTED BY A REBAR WITH A 3-1/4 INCH ALUMINUM CAP, STAMPED "PLS 38151", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 28, THENCE N 89°31'42" E, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28, A DISTANCE OF 30.00 FEET TO A POINT ON THE EAST LINE OF THE BUCKLEY ROAD RIGHT-OF-WAY AND THE POINT OF BEGINNING;

THENCE N 89°31'42" E, CONTINUING ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28, A DISTANCE OF 1191.67 FEET TO A POINT ON THE WEST LINE OF THE QUINTERO STREET RIGHT-OF-WAY, AS DEDICATED BY DIA TECH CENTER FILING NO. 8, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2018000095989, IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE;

THENCE S 00°16'43" E, ALONG THE WEST LINE OF SAID QUINTERO STREET RIGHT-OF-WAY, A DISTANCE OF 442.41 FEET TO THE NORTHEAST CORNER OF LOT 1, DIA TECH CENTER FILING NO. 6, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2018000017866, SAID ADAMS COUNTY RECORDS;

THENCE S 89°33'29" W, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 1189.77 FEET TO THE NORTHWEST CORNER OF SAID LOT 1, BEING 30.00 FEET EAST OF THE WEST LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 28, ALSO BEING A POINT ON THE EAST LINE OF SAID BUCKLEY ROAD RIGHT-OF-WAY;

THENCE N 00°31'31" W, ALONG SAID EAST LINE OF THE BUCKLEY ROAD RIGHT-OF-WAY BEING 30.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 28, A DISTANCE OF 441.79 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 526,417 SQUARE FEET OR 12.085 ACRES, MORE OR LESS.

THOMAS M. GIRARD
COLORADO PLS 38151
FOR AND ON BEHALF OF
CORE CONSULTANTS, INC.



NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY.
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 11013
DATE: 07/03/2019
SHEET 1 OF 2

DR: J. ANTON
DS: J. ANTON
P.M. T. GIRARD



CORE
CONSULTANTS

CIVIL ENGINEERING
DEVELOPMENT CONSULTING
NATURAL RESOURCES
LAND SUBDIVISION
303.705.4444
1850 W. Lincoln Blvd., Ste. 109
Littleton, CO 80120

EXHIBIT

SOUTHWEST QUARTER, SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,
CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO

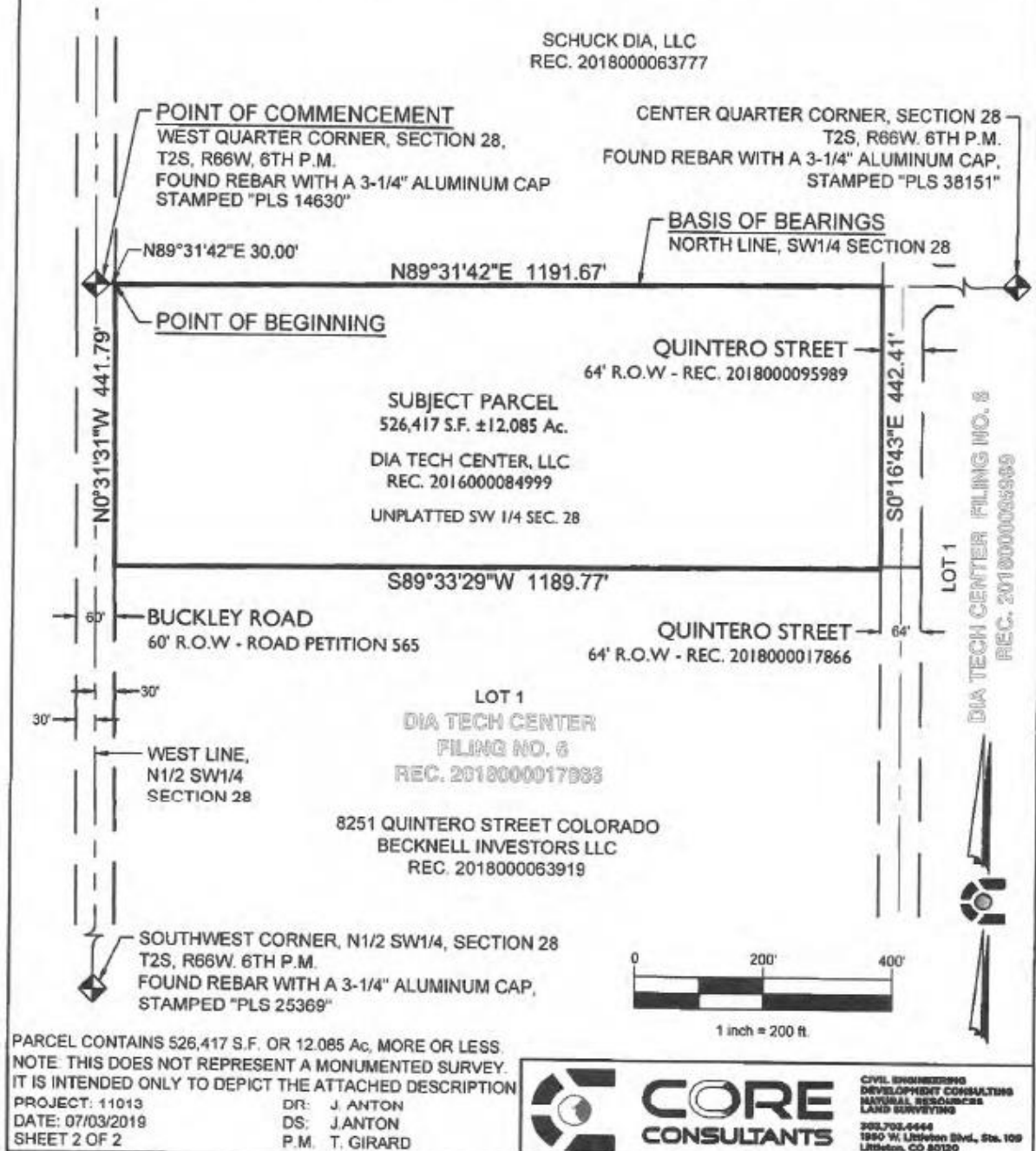
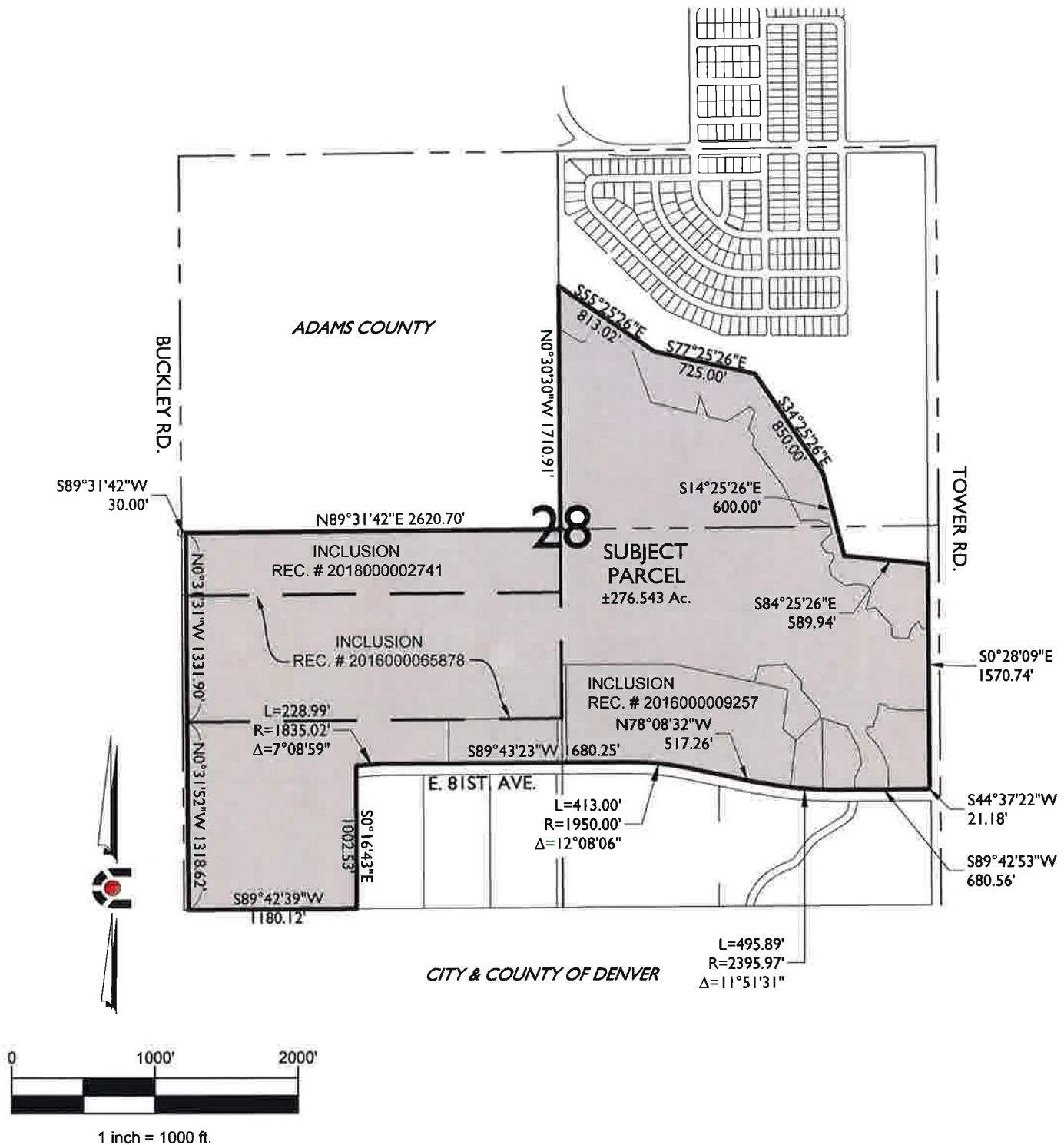


EXHIBIT B

DIATC MD Boundary Map

DIATC METROPOLITAN DISTRICT BOUNDARY

SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,
CITY OF COMMERCE CITY, ADAMS COUNTY, COLORADO
LGID NO. 66355



PARCEL CONTAINS 276.543 ACRES, MORE OR LESS.

NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY.
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

PROJECT: 11-013

DATE: 01/12/17

SHEET 1 OF 1

DR: J. ANTON
DS: T. GIRARD
P.M. B. CALVERT



CORE
CONSULTANTS

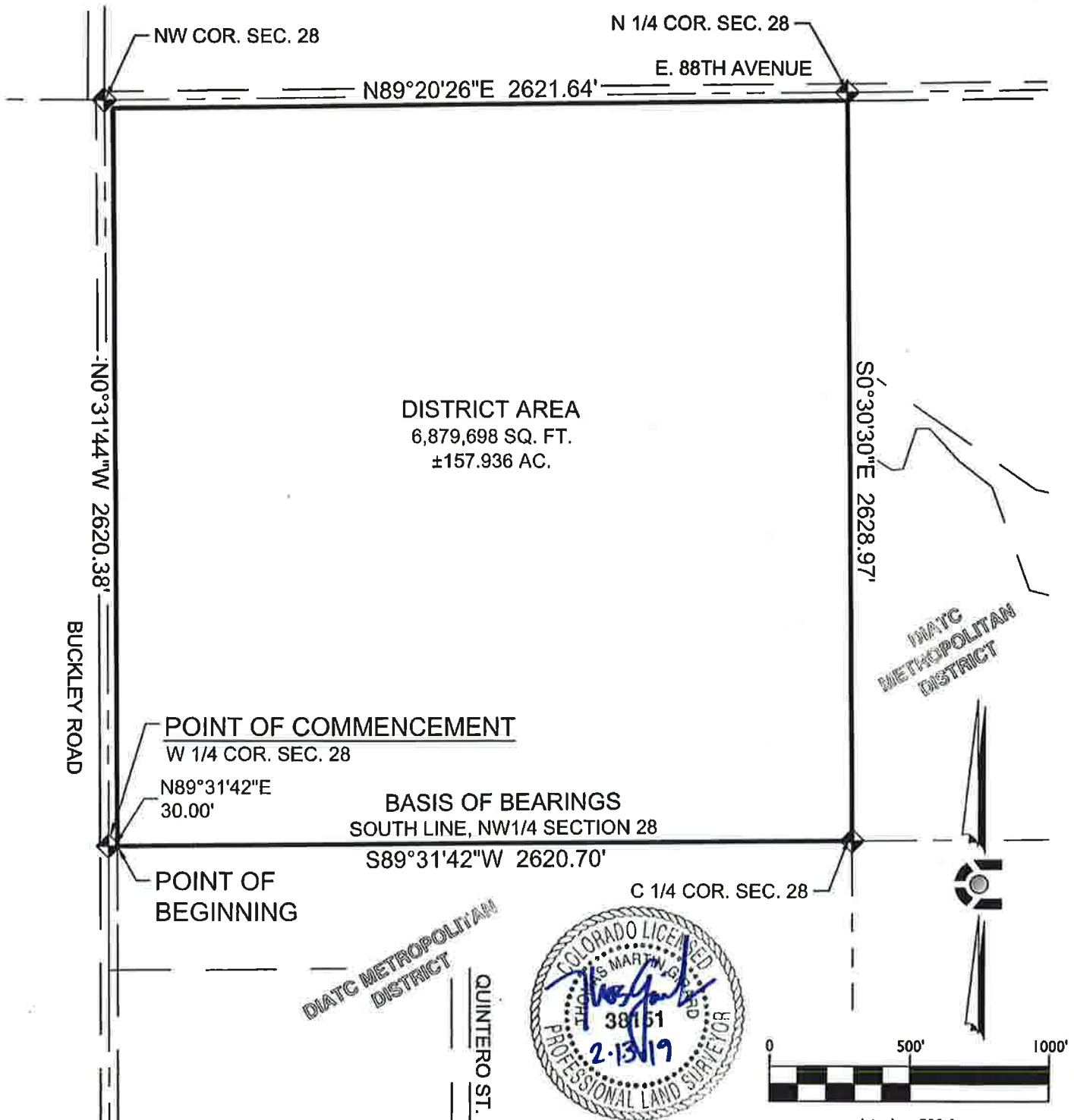
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303.703.4444
1950 W. Littleton Blvd., Ste. 109
Littleton, CO 80120

EXHIBIT C

Nexus North MD Boundary Map

NEXUS NORTH AT DIA METROPOLITAN DISTRICT

NORTHWEST QUARTER, SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,
CITY OF COMMERCE CITY, COUNTY OF ADAMS, COLORADO



NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY.
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 11-013
DATE: 06/26/18
SHEET 1 OF 1

DR: J. ANTON
DS: T. GIRARD
P.M. D. FORBES



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