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EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 03/06/2019 02:36 PM PG: 1 OF 14

Anita B. Mauro, Esq.
c/o Thompson Coburn LLP
55 E. Monroe Street, 37th Floor
Chicago, Illinois 60603

**PROPERTY TAX ASSESSMENT CLASSIFICATION AGREEMENT
BETWEEN THE VILLAGE OF FRANKLIN PARK
AND DIGITAL GRAND AVENUE 2, LLC
(9401 GRAND AVENUE)**

THIS PROPERTY TAX ASSESSMENT CLASSIFICATION AGREEMENT ("Agreement") is made this 29th day of January, 2019 ("Execution Date"), by and between the **Village of Franklin Park**, an Illinois municipal corporation ("Village"), and **Digital Grand Avenue 2, LLC**, an Illinois limited liability corporation ("Owner").

RECITALS

WHEREAS, the President and Board of Commissioners of the County of Cook have prior hereto enacted an ordinance known as the Cook County Real Property Assessment Classification Ordinance, as amended from time to time ("**Classification Ordinance**"), which provides for a tax assessment incentive classification designed to encourage industrial development throughout Cook County by offering a real estate tax incentive for the development of new industrial facilities, the rehabilitation of existing industrial structures and the utilization of abandoned industrial buildings in order to create employment opportunities and expand the tax base; and

WHEREAS, the Owner is the contract purchaser of several parcels constituting the real property generally located at 9401 Grand Avenue, Franklin Park, Illinois, and 2721 Edgington Street, Franklin Park, Illinois, both as legally described on Exhibit A ("**Property**"); and

WHEREAS, Owner petitioned the Village for a resolution of support and consent for a Cook County Class 6B Real Estate Tax Assessment Classification, as said term is defined in the Classification Ordinance, ("**Cook County Class 6B Real Estate Tax Assessment Classification**") for the Property with said resolution stating that the Cook County Class 6B Real Estate Tax Assessment Classification is necessary for development to occur on the Property; and

WHEREAS, the adoption of a resolution by the Village is required and must be filed by Owner with the County of Cook application in order for the Property to secure said Cook County Class 6B Tax Real Estate Assessment Classification; and

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OK BY Joseph Alvarez

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WHEREAS, upon purchase of the Property, Owner shall remediate all identifiable environmental conditions, and, thereafter, construct a data center facility containing four suites with not less than 390,000 square footage under roof and landscaping around the Property, all as depicted on Exhibit B (the "**Site Plans**"), with the completion of the shell and landscaping prior to any tenant buildout (the "**Initial Project**"), and Owner shall spend a total estimated cost of \$225,000,000.00, for the Initial Project, the Powered Base Building space buildout and data center equipment (together with the Initial Project, the "**Total Project**"); and

WHEREAS, without the Cook County Class 6B Tax Real Estate Assessment Classification for the Property, the Total Project would not reasonably be anticipated to proceed; and

WHEREAS, in order to induce the Village to adopt the aforesaid resolution, Owner and Village desire to enter into this Agreement and to be bound by terms and conditions as more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable considerations, the sufficiency of which is hereby acknowledged, Village and Owner agree as follows:

Section 1. Incorporation. The representation and recitations hereinabove set forth in the recitals are hereby incorporated into this Agreement as if fully stated herein.

Section 2. Term of Agreement. The term of this Agreement and the obligations of Village and Owner hereunder shall commence upon the Execution Date and shall expire upon the expiration of the Cook County Class 6B Real Estate Tax Assessment Classification for the Property or the termination of this Agreement pursuant to section 6 hereof, whichever occurs first ("**Term**").

Section 3. Covenants of the Village. In return for the representations and covenants of the Owner, all as contained herein, the Village covenants with and to the Owner as follows:

- a. Village shall approve a resolution setting forth its consent and support of Owner's activation of the Cook County Class 6B Tax Real Estate Assessment Classification for the Property, which will take effect upon execution of this Agreement (the "**Resolution**"). During the Term and except as provided herein, the Village shall not take any action to revoke, rescind or otherwise dispute the Cook County Class 6B Tax Real Estate Assessment Classification for the Property.
- b. Village shall have no obligation to issue the Resolution to Owner until both of the following have occurred: (i) Owner has obtained fee simple title to the Property; and (ii) Owner has caused this Agreement to be recorded as contemplated under Section 8(f) herein.

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Section 4. Covenants of the Owner. In return for the representations and covenants of the Village, all as contained herein, the Owner, and its successors or assigns, covenants with and to the Village as follows:

- a. Owner shall pay or cause to be paid when due all real estate property taxes relating to the Property or the operations on the Property, which are assessed or imposed upon the Property, or which become due and payable. Owner shall have the right to challenge real estate property taxes applicable to the Property; provided, that such real estate property taxes must be paid in full when due.
- b. Owner shall redevelop the Property and cause the Total Project to be constructed in a first-class manner (similar to the data center facilities previously constructed or currently under construction by Owner in the Village) and in accordance with this Agreement, the Site Plan, and any and all federal, state and local laws, ordinances, rules, regulations, orders, codes and ordinances applicable to the Property, the Total Project and/or the Owner. Owner shall substantially complete the Initial Project, subject to delays from Force Majeure (defined below), on or before July 1, 2020 (the "**Substantial Completion Date**"), or such other date mutually agreed to by the Owner and the Village in writing. For purposes of this Agreement, "Force Majeure" shall mean an act of God, storm, fire, flood, earthquake, labor disturbance (including strikes, boycotts, lockouts etc), war, civil commotion, shortages or unavailability of labor, present or future governmental law, ordinance, rule, order or regulation, inaction or delay on the part of any governmental authority, or other cause beyond the reasonable control of Owner, as applicable. In no event shall a delay resulting from economic hardship, commercial or economic frustration of purpose constitute an event caused by Force Majeure.
- c. Notwithstanding anything contained herein to the contrary, while the Cook County Class 6B Real Estate Tax Assessment Classification for the Property is active, pursuant to the rules and regulations of the Cook County Assessors' Office, the Owner shall have the right, subject to the conditions set forth herein, to temporarily deactivate the Cook County Class 6B Real Estate Tax Assessment Classification for the Property based on the Property being substantially vacant. Prior to petitioning the Cook County Assessor's Office as contemplated in this Section 4(c), Owner shall provide the Village with thirty (30) day prior written notice thereof together with documentation supporting the asserted substantial vacancy.
- d. After the Substantial Completion Date, tenant build-out and within 5 years after the Owner has applied for the Cook County Class 6B Real Estate Tax Assessment Classification to be applied to the Property (the "FTE Fulfillment Date"), Owner shall cause and ensure that the following minimum employment numbers are created and maintained at the Property during the

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Term of this Agreement: twelve (12) FTEs (defined below). An FTE shall mean a permanent full-time employee of the Owner, the Owner's affiliates, or tenants of the Owner, a subcontractor hired by the Owner or its affiliates, principally employed at the Property and employed to work a total of not less than 35 hours per week. Owner shall maintain an annual average of at least ninety percent (90%) of the 12 FTE jobs at the Property after the FTE Fulfillment Date ("**Job Retention Covenant**").

- i. On or before January 15 of each calendar year during the Term which follows the Substantial Completion Date, Owner shall submit an annual jobs certificate to the Village certifying and evidencing Owner's compliance with Section 4(d) for the preceding calendar year, or portion thereof as the case may be ("**Jobs Certificate**"). The Jobs Certificate shall include: (i) employee identifiers and titles as of the end of the applicable calendar year, (ii) documentation sufficient to support, to Village's reasonable satisfaction, each claimed employee, and (iii) certify compliance with the Cook County Living Wage Ordinance, Chapter 74, Article II, Division 2, Section 74-60, for each such employee for the applicable 12-month reporting period.

Section 5. Event of Default.

- a. The following shall constitute an event of default ("**Event of Default**") by the Owner hereunder:
 - i. The failure of the Owner to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Owner under this Agreement;
 - ii. The making or furnishing by the Owner to the Village of any representation, warranty, certificate, or report within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
 - iii. The filing by Owner of any petitions or proceedings under applicable state or federal bankruptcy or insolvency law or statute which petition or proceeding has not been dismissed or stayed;
 - iv. The initiation against Owner by any creditor of an involuntary petition or proceeding under any state or federal bankruptcy or insolvency law or statute, which petition or proceeding is not dismissed or stayed within forty-five (45) days after the date of filing; and
 - v. The material violation or breach by Owner of any law, statute, rule or regulation of a governmental or administrative entity relating to the

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operation of the Property.

- b. The following shall constitute an Event of Default by the Village hereunder:
 - i. The failure of the Village to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Village under this Agreement.

Section 6. Remedies. Except as otherwise set forth herein, upon an Event of Default by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within ninety (90) days after receipt of notice, cure or remedy such default or breach ("**Cure Period**"). In case the Event of Default shall not be cured or remedied prior to the end of the Cure Period, the remedy to the aggrieved party shall, in addition to any other remedies provided for in this Agreement, be as set forth below:

- a. In the Event of Default by the Owner, and after the expiration of all applicable cure periods, the Village shall have the following rights and remedies:
 - i. Village shall have the following rights and remedies, in addition to any other remedies provided in this Agreement: to terminate this Agreement and the Cook County Class 6B Real Estate Tax Assessment Classification on the Property. Notwithstanding the foregoing and absent fraud by the Owner, the Village shall not have the right to recover any property tax savings the Owner received as a result of the Cook County Class 6B Real Estate Tax Assessment Classification on the Property for property tax years occurring prior to the Event of Default.
 - ii. Within ten (10) business days of written demand from Village (the "**Demand Notice**"), Owner covenants that it shall file all requisite documentation with the Cook County Assessor's Office relinquishing and/or voiding the Cook County Class 6B Real Estate Tax Assessment Classification for the Property and shall concurrently provide the Village with written notice of relinquishment together with all relevant documentation. Owner's covenants and obligations under this Section 6 shall survive the termination or expiration of the Agreement. If Owner fails to comply with any written demand provided pursuant to this Section 6(a)(ii), Village, in addition to any and all other remedies, shall have the right to secure the specific performance of the obligation hereunder, and the right to recover the aggregate of any property tax savings the Owner received as a result of the Cook County Class 6B Real Estate Tax Assessment Classification on the Property occurring after the issuance of the Demand Notice.
- b. Upon the occurrence of an Event of Default by the Village, and after the expiration of all applicable cure periods, the Owner shall have the following

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as its sole and exclusive rights and remedies: (i) to pursue and secure, in any court of competent jurisdiction by any action or proceeding at law or in equity, injunctive relief or the specific performance of the obligations contained herein.

- c. Unless otherwise provided, the rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy.

Section 7. Assignment.

- a. Prior to the Substantial Completion Date, Owner shall not sell, assign, transfer or otherwise dispose of its interest in the Initial Project under any circumstances, except to an entity directly controlling, controlled by or under common control with Owner (“Affiliate”), without the written prior approval of the Village. After the Substantial Completion Date and so long as there exists no uncured Event of Default, Owner shall be permitted to sell, assign, transfer or otherwise dispose of its interests in the Initial Project. Prior to exercising rights hereunder, any such proposed transferee or assignee under this Section 7(a) shall expressly assume all of the obligations of Owner under this Agreement as it relates to the Total Project, and shall agree to be subject to all the conditions and restrictions to which Owner is subject by executing and recording on the Property an assumption, as reasonably approved by the Village (the “Assumption”). Upon receipt of the fully executed Assumption by the Village, Owner shall be released from any obligation or responsibility under this Agreement.
- b. Any assignment or transfer in violation of this Section 7 shall not relieve Owner or any other party from any obligations under this Agreement, and any such transferee or assignee shall not be entitled to the rights and benefits provided for herein.

Section 8. Miscellaneous.

- a. Each party shall, at the request of the other, execute and/or deliver any further documents and do all acts as each party may reasonably require to carry-out the intent and meaning of this Agreement.
- b. No waiver of any term or condition of this Agreement shall be binding or effective for any purpose unless expressed in writing and signed by the party making the waiver, and then shall be effective only in the specific instances and for the purpose given.
- c. This Agreement represents the entire Agreement between the Village and the Owner. No amendment, waiver or modification of any term or condition of this Agreement shall be binding or effective for any purpose unless expressed in writing and adopted by each of the parties as required by law.

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Attention: Mayor
Phone: 847-671-4800

With a copy to: Montana & Welch, LLC
11950 S. Harlem Avenue, Suite 102
Palos Heights, Illinois 60463
Attention: Matthew M. Welch
Phone: 708-448-7005

If to Owner: Digital Grand Avenue 2, LLC
9355 Grand Avenue
Franklin Park, Illinois 60131
Attention: Asset Manager
Phone: (415) 848-9287

With a copy to: Thompson Coburn LLP
55 E. Monroe Street, 37th Floor
Chicago, Illinois 60603
Attention: Anita B. Mauro
Phone: (312) 346-7500

- b. Any notice, demand, request or other communication required or permitted hereunder may be made only upon a party's attorney, which shall be effective for all purposes.
- c. For all purposes of this Agreement, a "business day" shall refer to all Mondays, Tuesdays, Wednesdays, Thursdays and Fridays with the exception of United States and State of Illinois legal holidays.

[EXECUTION PAGE FOLLOWS]

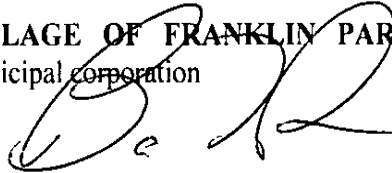
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IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first hereinabove written.

VILLAGE:

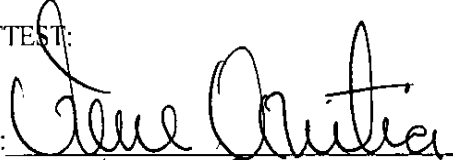
VILLAGE OF FRANKLIN PARK, an Illinois municipal corporation



By: Barrett F. Pedersen

Its: Mayor / Village President

ATTEST:



By: Anne Antia

Its: Village Clerk

OWNER:

DIGITAL GRAND AVENUE 2, LLC, a Delaware limited liability corporation

By: Digital Realty Trust, L.P.,
Its: Member

By: Digital Realty Trust, Inc.,
Its: General Partner

By: Rafal Rak
Name: RAFAL RAK
Title: VP OF PORTFOLIO MGMT

ATTEST:

By: Judith B. Mauro
Its: Attorney

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EXHIBIT A

Legal Description

Real property in the Village of Franklin Park, County of Cook, State of Illinois, described as follows:

PARCEL 1

LOT 1 IN WEST GRAND AVENUE SUBDIVISION RECORDED ON JULY 31, 1997 AS DOCUMENT NUMBER 97557554 OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS; EXCEPT FROM PARCEL ONE THAT LAND TAKEN BY THE GRAND AVENUE RAILROAD RELOCATION AUTHORITY, A UNIT OF LOCAL GOVERNMENT, PURSUANT TO CASE 03-L-050830, ORDER VESTING TITLE RECORDED MARCH 25, 2004 AS DOCUMENT 0408503023, DESCRIBED AS FOLLOWS:

THAT PART OF LOT 1 IN WEST GRAND AVENUE SUBDIVISION RECORDED ON JULY 31, 1997 AS DOCUMENT NUMBER 97557554 OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE ON AN ASSUMED BEARING SOUTH 01 DEGREE 13 MINUTES 42 SECONDS WEST, ON THE EAST LINE OF SAID LOT, 52.98 FEET; THENCE NORTH 50 DEGREES 09 MINUTES 47 SECONDS WEST, 62.88 FEET; THENCE NORTH 77 DEGREES 29 MINUTES 19 SECONDS WEST, 67.71 FEET; THENCE NORTHWESTERLY 261.30 FEET ON A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 5674.98 FEET, THE CHORD OF SAID CURVE BEARS NORTH 78 DEGREES 48 MINUTES 10 SECONDS WEST, 261.28 FEET; THENCE NORTH 77 DEGREES 09 MINUTES 48 SECONDS WEST, 69.27 FEET TO THE NORTH LINE OF SAID LOT; THENCE SOUTH 81 DEGREES 10 MINUTES 54 SECONDS EAST ON SAID NORTH LINE 431.15 FEET; THENCE SOUTHEASTERLY 14.07 FEET ON SAID NORTH LINE BEING A CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 9582.30 FEET, THE CHORD OF SAID CURVE BEARS SOUTH 81 DEGREES 13 MINUTES 26 SECONDS EAST, 14.07 FEET TO THE POINT OF BEGINNING.

Street address of Property: 9401 West Grand Avenue, Franklin Park, Illinois
Permanent tax number: 12-27-300-051

PARCEL 2

LOT 2 IN WEST GRAND AVENUE SUBDIVISION RECORDED ON JULY 31, 1997 AS DOCUMENT NUMBER 97557554 OF PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4

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OF SECTION 27 TOWNSHIP 40 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Street address of Property: 2721 Edgington Street, Franklin Park, Illinois
Permanent tax number: 12-27-300-052

Property of Cook County Clerk's Office

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

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EXHIBIT B

**Site Plan
(see attached)**

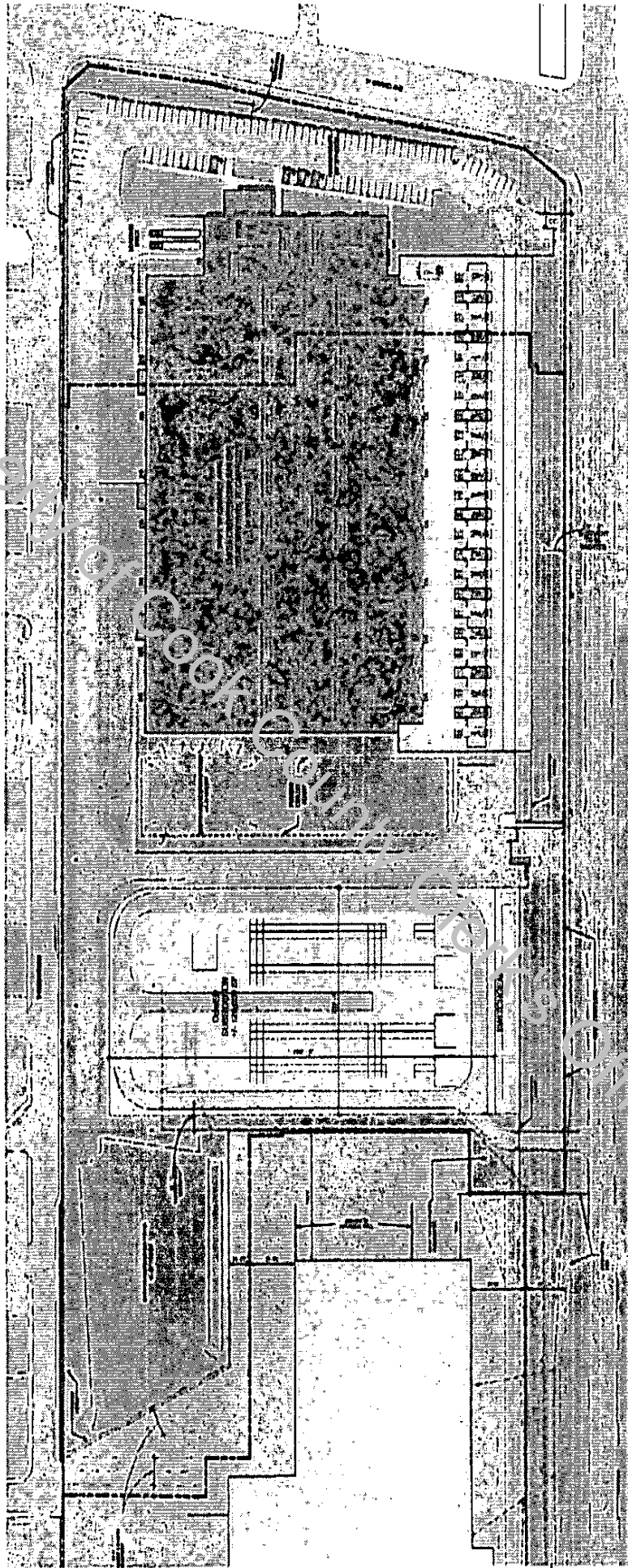
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**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

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SITE DATA

GENERAL: COMMERCIAL INDUSTRIAL	EXCLUDED OFF-Road AREAS
SITE AREA: 11.25 ACRES	11.25 ACRES
NET DEVELOPABLE AREA: 10.00 ACRES	10.00 ACRES
TOTAL GARAGE CAPACITY: 1000	1000
RECOMMENDED PARKING: 1000	1000
OFFICE AND BUSINESS PARKING (PER 607) - OF SPACES	OF SPACES
TOTAL:	TOTAL:

SITE PLAN
DATE: 11/11/11

DIGITAL REALTY
9401 W GRAND AVE FRANKLIN PARK, IL

ARCHIDEAS
ARCHITECTS

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