

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT
BETWEEN THE CITY OF GARLAND AND WELLS FARGO BANK, NA

This **ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT** ("Agreement") is made by and between the **City of Garland**, a Texas home-rule municipality ("City"), and **Wells Fargo Bank, NA**, a South Dakota corporate fiduciary ("Developer"), acting by and through their respective authorized officers.

RECITALS:

Developer and the City each acknowledge and agree that the following recitals are true and correct and that the same is a material part of this Agreement:

WHEREAS, the City desires to further the public interest and welfare and to induce the investment of private resources in productive business enterprises located within the City that will increase tax revenue and promote or develop new business enterprises through Economic Development Agreements as authorized by Chapter 380 of the Texas Local Government Code;

WHEREAS, the Developer and City agree that the Developer shall acquire a leasehold interest in and develop 178,762 square feet as a qualified occupant of a facility at 1505 Ferris Road to be called the Digital Realty Garland Data Center (the "Development"); that shall include significant amounts of new business personal property ("BPP") installed;

WHEREAS, the Developer agrees to make an initial Capital investment of approximately \$150 million into the Development;

WHEREAS, the Development will have a direct and positive economic benefit to the City;

WHEREAS, the Developer has advised the City that a contributing factor of inducing the Developer to further improve the land is an agreement by the City to provide an Economic Development grant to the Developer as set forth herein;

WHEREAS, the City is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code to provide an economic development program, which may include certain grants of public funds, to stimulate business and commercial activity within the City;

WHEREAS, City hereby finds that this Agreement promotes economic development in the City and, as such, meets the requisites under Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code and qualifies for an Economic Development Program, and further, is in the best interests of the City;

WHEREAS, the City wishes to provide an Economic Development grant to the Developer to assist in the economic development of the City by reimbursing the Developer up to forty percent (40%) of BPP taxes and forty percent (40%) of Sales tax paid by the Developer within the City of

Garland, exclusive of sales tax for electrical utility service, for the Development as set out by phases of development below; and

WHEREAS, the City has determined, based on information presented to it by the Developer, that making an Economic Development grant to the Developer as set forth in this Agreement is matching the City's Economic Development goals and will: (i) help accomplish the objectives of the City; (ii) benefit the City and the City's inhabitants; and (iii) promote local economic development and stimulate business and commercial activity in the City;

NOW, THEREFORE, the Developer and the City make and enter into this Agreement in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by both the Developer and the City, and agree as follows:

Section 1. Definitions:

"Letter of Completion" means a letter issued by the City to the Developer upon the determination made by the City Building Official that the core and shell of real property improvements on the Property have been completed in compliance with applicable local, state, and federal law and regulations, including, but not limited to plumbing, electrical, mechanical, energy-related components, sidewalks, landscaping, parking lots, drainage, water, sewer, screening walls, fire hydrants, and lanes, and approved by applicable City officials.

"DCAD" means the Dallas Central Appraisal District or its successor.

"Development" has meaning described within the Recitals of this Agreement.

"Incentive" means the City's reimbursement, upon certain conditions, of up to forty percent (40%) of the BPP taxes and forty percent (40%) of the Sales taxes paid by the Developer for this Development to the City.

"Party" means either the City or the Developer, and "Parties" means, collectively, the City and the Developer.

"Program" means the Economic Development Program for this Development as established by the City according to Texas Local Government Code Chapter 380 and this Agreement to promote local economic development and stimulate business and commercial activity within the City.

"Property" means the 178,762 square foot leasehold location at 1505 Ferris Road in the City of Garland, Dallas County, Texas, and more particularly described and referenced in this Agreement as "Exhibit A," and attached to this Agreement.

"Target Assessed Value" is the minimum tax valuation, as established by the Dallas Central Appraisal District, to receive full Incentives under this Agreement as follows:

- For each phase, I through III, respectively: not less than Seventy-Five Million Dollars and Zero Cents (\$75,000,000.00) new and separate total market value in

aggregate for BPP as the initial investment for the respective phase and year one value, as determined by the Dallas Central Appraisal District through a separate and distinct DCAD account number for each respective phase. Developer and City recognize that the assessed BPP value will depreciate following year one of its installation. To remain the Target Assessed Value to receive full Incentives hereunder, during any subsequent year to year one of any phase, the value shall not fall below the standard depreciation value.

“Term” has the meaning given such term in Section 2 of this Agreement.

Section 2. Term. This Agreement shall, unless extended or terminated in writing by a mutual agreement executed by both parties, or as otherwise provided in this Agreement of the Parties, terminate either upon the complete performance by the Parties of all obligations and conditions within this Agreement or on December 31, 2036 subject to Section 3(A)(the “Termination Date”).

This Agreement shall be effective (“Effective Date”) as of the date of the last Party to execute this Agreement.

Section 3. Developer’s Obligations.

(A) Developer shall construct the Development on the Property, which is anticipated to be completed in three phases; and upon completion of each phase of the Development, the Developer must achieve the Target Assessed Value for the Development, as defined in Section 1 of this Agreement.

(B) Developer shall construct its leased space for the Development and have received a Certificate of Occupancy for Phase I on or before **December 31, 2025, or else this Agreement automatically terminates.**

(C) It is expected that Developer shall have completed the permitting process on the Development for Phase I by December 31, 2024.

(D) Developer shall submit to the Economic Development Director of the City the following documentation, as a condition precedent to qualify for the reimbursement portions of the Incentive related to the completed phase:

(1) a copy of Certificate of Occupancy issued by the City having a date issued for space leased by Developer that is on or before December 31, 2025, which is the date the Developer is required to obtain the Certificate of Occupancy;

(2) a copy of the receipt for payment, a unique sales tax permit number with report of quarterly payments, or other evidence suitable to the City establishing that the Developer paid at least One Million Six Hundred Fifty Thousand Dollars and Zero Cents (\$1,650,000.00) in total sales tax in the City of Garland during each respective calendar year of 2025 through 2028, excluding any sales tax paid on electrical charges to the City of Garland, of the Development and related thereof; and

(3) a certified valuation from DCAD establishing that the taxable non-exempt assessed value for the BPP meets or exceeds the Target Assessed Value.

If Developer meets or exceeds the Target Assessed Value for BPP in each four-year phase, it shall be entitled to a rebate of forty percent (40%) of the BPP tax paid for up to the subsequent four years, up to the Termination Date of this Agreement. The following chart is provided by way of example only; the starting tax year of any respective phase shall be upon the provision by Developer to City of the DCAD valuation under a new and unique account number of at least Seventy-Five Million Dollars (\$75,000,000.00) of BPP valuation:

Sample BPP Tax Rebate Schedule and Valuation				
Tax Year	BPP #1	BPP #2	BPP #3	Percent Rebate
2025	\$ 75,000,000.00			40% BPP#1
2026	\$ 67,500,000.00			40% BPP#1
2027	\$ 65,250,000.00			40% BPP#1
2028	\$ 64,500,000.00	\$ 75,000,000.00		40% BPP#1 40% BPP#2
2029	\$ 58,500,000.00	\$ 67,500,000.00		40% BPP#2
2030	\$ 54,000,000.00	\$ 65,250,000.00	\$ 75,000,000.00	40% BPP#2 40% BPP#3
2031	\$ 50,250,000.00	\$ 64,500,000.00	\$ 67,500,000.00	40% BPP#2 40% BPP#3
2032	\$ 46,500,000.00	\$ 58,500,000.00	\$ 65,250,000.00	40% BPP#3
2033	\$ 41,250,000.00	\$ 54,000,000.00	\$ 64,500,000.00	40% BPP#3
2034	\$ 37,500,000.00	\$ 50,250,000.00	\$ 58,500,000.00	
2035	\$ 34,500,000.00	\$ 46,500,000.00	\$ 54,000,000.00	

Notwithstanding anything to the contrary, if Developer begins Phase II or III within four (4) years of the Termination Date of this Agreement, this Agreement shall not be automatically extended, and City is only obligated to provide any incentive through the Termination Date. Nothing herein shall automatically extend the Termination Date of this Agreement.

Section 4. City's Obligations.

(A) As specified in Section 3 above, Developer shall construct the Development on the Property, and must achieve the Target Assessed Value for the BPP, as defined in Section 1 of this Agreement.

- (i) Contingent upon the completion of the Developer's obligations set forth in Section 3 of this Agreement, by the deadlines listed for therein, and the payment by Developer of at least One Million Six Hundred Fifty Thousand Dollars and Zero

Cents (\$1,650,000.00) in total sales tax in the City of Garland during each calendar year 2025 through 2028, excluding any sales tax paid on electrical charges to the City of Garland, the City shall pay as a rebate to Developer the amount of forty percent (40%) of the actual amount of sales tax paid within each respective calendar year in the City of Garland, excluding any sales tax paid on electrical charges to the City of Garland, ninety (90) days after receipt of the aforementioned documentation.

- (ii) Further, upon completion of the Developer's obligations set forth in Section 3 of this Agreement, by the deadlines listed for therein, and receipt of the DCAD valuation showing a starting BPP value of at least Seventy-Five Million Dollars and Zero Cents (\$75,000,000.00) new and separate total market value in aggregate for BPP, the City shall pay as a rebate to Developer the amount of forty percent (40%) of the BPP tax paid within a given year within ninety (90) days after receipt of aforementioned documentation for up to four (4) years from the initial tax year of the respective phase. Nothing in this Agreement shall extend any City obligation to Developer beyond the Termination Date of this Agreement.

Section 5. Source of Funds. The monetary portion of the Incentive shall be paid only from the Sales tax revenue and BPP tax revenue, respectively, actually received in hand by the City from the Developer. Notwithstanding any other provision contained herein to the contrary, the City shall not owe Developer any amount or other thing of value in excess of forty percent (40%) of either the Sales tax revenue or of the BPP tax revenue received in hand by the City and paid by the Developer for this Development. No other source of funds shall be provided for the payment of the Incentive.

Section 6. Valuation Assessment. Developer agrees that by submitting to the City a request for the payment of any of the Incentive under this Agreement, the Developer has (i) fully and finally agreed to the final DCAD assessed tax values and the City's tax rate and procedures on which the assessed value of the Development is or will be based without protest or challenge from Developer; (ii) will not make any claim for a refund, repayment, or reduction of those taxes from any source, including the City; and (iii) will not claim or accept any exemption from ad valorem taxes, prior to the date of termination of this Agreement.

Section 7. Rules of Construction. The capitalized terms listed in this Agreement shall have the meanings set forth herein whenever the terms appear in this Agreement, whether in the singular or the plural or in the present or past tense. Other terms used in this Agreement shall have meanings as commonly used in the English language. Words not otherwise defined herein that have well-known and generally accepted technical or trade meanings are used herein per such recognized meanings. In addition, the following rules of interpretation shall apply:

- (A) References to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or exhibits of this Agreement.

(B) The Exhibits attached hereto are incorporated in and are intended to be part of this Agreement; provided that in the event of a conflict between the terms of any Exhibit and the terms of this Agreement, the terms of this Agreement shall take precedence.

(C) This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

(D) Unless expressly provided otherwise in this Agreement, (a) where the Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, and (b) wherever the Agreement gives a Party a right to determine, require, specify, or take similar action concerning a matter, such determination, requirement, specification, or similar action shall be reasonable.

(F) Use of the words “include” or “including” or similar words shall be interpreted as “including but not limited to” or “including, without limitation.”

(G) The recitals to this Agreement are incorporated herein.

Section 8. Dispute Resolution and Step Negotiations. The Parties shall attempt in good faith to resolve all disputes arising out of or relating to this Agreement or any of the transactions contemplated hereby promptly by negotiation, as follows:

(A) Either Party may give the other Party written notice of any such dispute not resolved in the normal course of business. Representatives of each of the Parties shall meet at a mutually acceptable time and place within ten days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (“30”) days from the referral of the dispute to such representatives, or if no meeting of such representatives has taken place within fifteen (“15”) days after such referral, either Party may initiate mediation as provided hereinafter. If a Party intends to be accompanied at a meeting by an attorney, the other Party shall be given at least three business days’ notice of such intention and may also be accompanied by an attorney. All negotiations according to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and State Rules of Evidence. Each Party will bear its own costs for this dispute resolution phase.

(B) If any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby is not resolved by the procedures set forth in Section 8 (A), such dispute shall be submitted to non-binding mediation to a person mutually agreed by the Parties. The mediation may take place at a mutually agreed upon location. If the mediation process has not resolved the dispute within thirty days of the submission of the matter to mediation or within such a longer period as the Parties may agree to, either Party may exercise all remedies available at law or in equity under this Agreement, including the initiation of court proceedings. Each Party will bear its own costs, and share equally in the costs of mediators, for this dispute resolution phase.

(C) Nothing in this Section shall preclude, or be construed to preclude, the resort by either Party to a court of competent jurisdiction solely to secure a temporary or preliminary injunction or other relief to preserve the status quo or avoid irreparable harm.

Section 9. Jurisdiction and Venue. City and Developer, to the fullest extent permitted by applicable law, irrevocably (i) submit to the exclusive jurisdiction of the district courts located in Dallas County, Texas, and any appellate court thereof; (ii) waive any objection which either may have to the laying of the venue of any proceeding brought in any such court and (iii) waive any claim that such proceedings have been brought in an inconvenient forum. Nothing in this provision shall prohibit a Party from bringing an action to enforce a money judgment in any other jurisdiction where the courts of such jurisdiction have jurisdiction over the other Party.

Section 10. Accommodation of Financing Parties. To facilitate the Developer's obtaining of financing to construct and operate the Development, City shall make governmentally reasonable efforts to provide such consents to assignments, certifications, representations, information, estoppels, or other documents as may be reasonably requested by the Developer or the Developer's financing parties in connection with the financing of the Development; provided that in responding to any such request, the City shall have no obligation to provide any consent, certification, representation, information, estoppel, or other documents, or enter into any agreement, that materially adversely affects, or could reasonably be expected to have or result in a material adverse effect on, any of City's rights, benefits, risks, or obligations under this Agreement. Developer shall reimburse, or shall cause the financing parties to reimburse, the City for the incremental, direct, and documented out-of-pocket third party expenses (including, without limitation, the reasonable fees and expenses of outside counsel) incurred by the City in the preparation, negotiation, execution, or delivery of any documents requested by Developer or the financing parties.

Section 11. Entire Agreement. This Agreement and its Exhibits constitute the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment.

Section 12. Binding Effect; Successors and Assigns. The terms and conditions of this Agreement are binding upon the successors and assigns of the parties hereto. This Agreement, or the right to receive payments, pursuant to this Agreement, may not be assigned, in whole or in part, without the express written consent of the City.

Section 13. Amendments. No modifications or amendments to this Agreement shall be valid unless in writing and signed by a duly authorized signatory of each Party.

Section 14. Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

Section 15. Notices. All notices required to be given under this Agreement shall be in writing and shall be given by either Party or its counsel in person, via express mail service, courier, or receipted facsimile transmission (but only if duplicate notice is also given via express mail service, courier or certified mail) or certified mail, return receipt requested, to the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby). All notices given according to this paragraph shall be deemed effective, as applicable, on the date such notice may be given in person or next business day following the date on which such communication is transferred via facsimile transmission, or as applicable, when deposited with the express mail service, courier, or in the United States mails. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.

If to City:

City of Garland
200 N. Fifth Street
P.O. Box 469002
Garland Texas 75046-9002
Attn: City Manager
Phone: (972) 205-2000
Fax: (972) 205-2504

If to Developer:

Wells Fargo Bank, NA
1755 Grant St.
Concord, CA 94520
Attn: Fabrizio Galli
Phone: 972-303-8741

With a required copies to:

City Attorney
200 N. Fifth Street
P.O. Box 469002
Garland, Texas 75046-9002
Phone: (972) 205-2380
Fax: (972) 205-2389

Economic Development Director
P.O. Box 469002
Garland, Texas 75046-9002
Phone: (972) 205-3800
Fax: (972) 205-3801

Section 16. Employment of Undocumented Workers. During the Term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Developer shall repay the amount of the Incentive paid to and received by Developer from and by the City as of the date of such violation within 120 business days after the date the Developer is notified by the City of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. The Developer is not liable for a violation of this Section concerning any workers employed by a subsidiary, affiliate, or franchisee of the Developer or by a person with whom the Developer contracts.

Section 17. Non-Collusion. Developer represents and warrants that neither Developer nor any representative of Developer has given, made, promised, or paid, nor offered to give, make, promise, or pay any gift, bonus, commission, money, or other consideration to any employee, agent, representative, or official of the City as an inducement to or to obtain the benefits to be provided by the City under this Agreement.

Section 18. Time of the Essence. Time is of the essence in the performance of this Agreement. If any deadline contained herein ends on a Saturday, Sunday, or a legal holiday generally recognized by banks in the State of Texas, such deadline shall automatically be extended to the next day that is not a Saturday, Sunday, or legal holiday.

Section 19. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall have the force and effect of any original, as of the Effective Date.

Section 20. No Recording. The Parties agree that neither this Agreement nor any memorandum of this Agreement will be recorded in the real property records of Dallas County, Texas, though any deeds and Right of First Refusals contemplated herein shall be.

EXECUTED and EFFECTIVE as of the ____ day of _____, 2024.

DEVELOPER

**Wells Fargo Bank, NA,
a South Dakota corporate fiduciary**

By: Fabrizio Galli
Fabrizio Galli
Tax Senior Manager
Date Executed: 5/9/2024

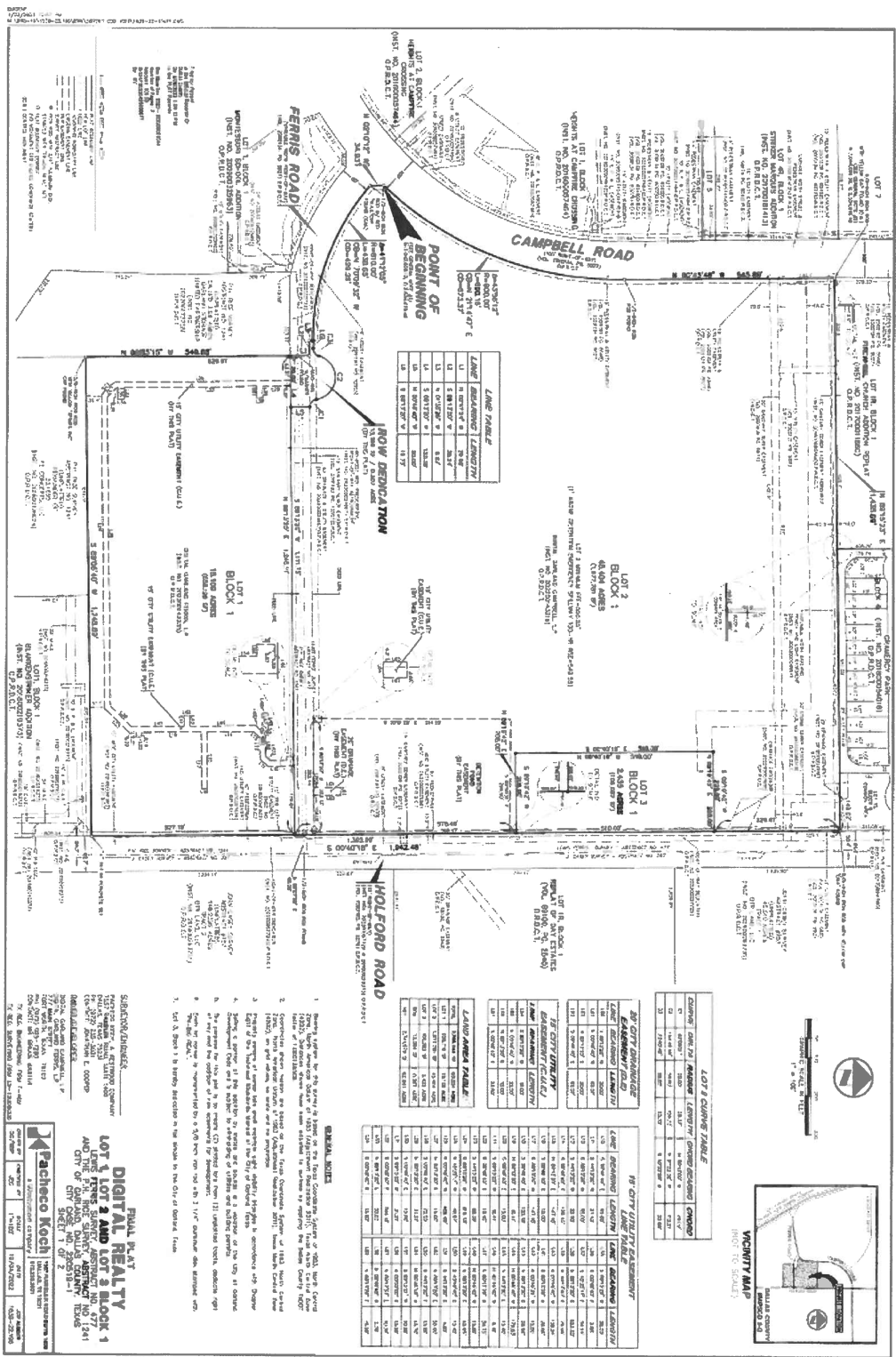
CITY

City of Garland, a Texas home-rule municipality

By: Judson Rex
Judson Rex
City Manager
Date Executed: 6/12/2024

EXHIBIT "A"
Property Legal Description

Being a 178,762 square foot leasehold estate situated within Lot 1, Block 1, of Digital Realty, an Addition to the City of Garland, Texas, as recorded in County Clerk Instrument No. 202300081044, of the Official Public Records of Dallas County, Texas




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Commercial Account #26141650010010000

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Location (Current 2024)

Address: 1505 FERRIS RD

Market Area: 0

Mapsc0: 9-U (DALLAS)

DCAD Property Map

View Photo

2024 Current Appraisal Notice

uFile Online Protest

Electronic Documents (ENS)



Print Homestead Exemption Form



Print/Mail Account Protest Form

Owner (Current 2024)

DDI GARLAND LLC
2323 BRYAN ST STE 1800
DALLAS, TEXAS 752012607

Multi-Owner (Current 2024)

Owner Name	Ownership %
DDI GARLAND LLC	100%

Legal Desc (Current 2024)

- 1: DIGITAL REALTY
 - 2: BLK 1 LT 1 ACS 15.109
 - 3:
 - 4: INT202400042351 DD03012024 CO-DC
 - 5: 1416500100100 2CG14165001
- Deed Transfer Date: 3/1/2024

Value

2024 Proposed Values	
Improvement:	\$15,840,500
Land:	+ \$4,771,570
Market Value:	= \$20,612,070
Revaluation Year:	2024
Previous Revaluation Year:	2023