ORDINANCE NO. ______________

AN ORDINANCE GRANTING A FRANCHISE TO THE ARKANSAS RIVERVIEW DEVELOPMENT, LLC, FOR A TEMPORARY CONSTRUCTION EASEMENT TO CONSTRUCT AND FRANCHISE RIGHTS TO ACCESS AND MAINTAIN CERTAIN STRUCTURAL PIERS THAT ARE EXISTING ON OR TO BE ADDED TO CITY PROPERTY (COLLECTIVELY, THE “BENEFICIAL PIERS”), INCLUDING THE INSTALLATION OF A SUMP PUMP UPON CITY PROPERTY; AUTHORIZING THE CITY TO ENTER INTO A STRUCTURAL PIER AND SUMP PUMP FRANCHISE AGREEMENT WITH ARKANSAS RIVERVIEW DEVELOPMENT, LLC; AND FOR OTHER PURPOSES.

WHEREAS, the Arkansas Riverview Development, LLC, an Arkansas Limited Liability Company (“ARD”), owns Lots 2 and 3, Vison Plaza, an Addition to the City of Little Rock, Pulaski County, Arkansas (the “ARD Property”), and

WHEREAS, The City of Little Rock, Arkansas, is a city of the First-Class and an Arkansas Municipal Corporation (herein referred to as the “City”) owns Lots 1 and 4, Vison Plaza, an addition to the City of Little Rock, Pulaski County, Arkansas (“the City Property”), and

WHEREAS, the City and ARD entered into a Bill of Assurance dated June 13, 2007, filed and recorded as Instrument No. 2007047322, dated June 15, 2007, which contemplated a South Building expansion, and

WHEREAS, the City and ARD need to amend the Bill of Assurance, and to grant a franchise to allow for the South Building construction,

WHEREAS, the City is willing to grant, a Temporary Construction Easement to construct and franchise rights to access and maintain certain structural piers that are existing on or to be added to the City Property (collectively, the “Beneficial Piers”) in accordance with plans described in and attached hereto as “Exhibit A”, and

WHEREAS, the City is willing to grant franchise rights to install a sump pump onto City Property in accordance with plans described in and attached hereto as “Exhibit A”, and

WHEREAS, the Little Rock Board of Directors desires to grant the franchises to ARD, its successors and assigns, for so long as the structural piers and the sump pump shall be constructed, operated, used and maintained in compliance with City Codes and Ordinances, and specifically ensuring sump pump is maintained to ensure good working order.
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF
LITTLE ROCK, ARKANSAS:

Section 1. The Little Rock Board of Directors approves and grants a franchise to ARD, its successors and
assigns, in perpetuity, a Temporary Construction Easement to construct and franchise rights to access and
maintain certain structural piers that are existing on or to be added to the City Property (collectively, the
“Beneficial Piers”) in accordance with plans described in and attached hereto as “Exhibit A”, and

Section 2. To grant franchise rights to install a sump pump onto City Property in accordance with plans
described in and attached hereto as “Exhibit A”, and

Section 3. The Beneficial Piers permitted by this franchise shall be constructed, operated, used and
maintained in compliance with City Codes and Ordinances for the life of the franchise or franchise may be
revoked by City.

Section 4. The franchise rights to install a sump pump onto City property shall be maintained in a good
working order or the Franchise may be revoked by City.

Section 5. The franchises granted by this ordinance shall not include the right to close the parking garage
at any time. If the parking garage must be closed for construction, ARD must obtain consent from the City and
a determination will be made as to compensation for the loss of revenue due to the closing of the parking
garage.

Section 6. The City Manager is hereby authorized to execute the Structural Pier Franchise Agreement in a
form to be approved by the City Attorney in substantially the form attached to this ordinance as Exhibit “B.”

Section 7. The franchise granted by this ordinance shall not include the right to close the parking garage at
any time. If the parking garage must be closed for construction, ARD must obtain consent from the City and a
determination will be made as to compensation for the loss of revenue due to the closing of the parking garage.

Section 8. This ordinance shall be in full force and effect from and after its passage and it shall benefit
and run in favor of future owners of the property and successors and assigns until such time as the skywalk or
the parking deck are demolished and removed.

Section 9. Severability. In the event any section, paragraph, item, sentence, clause, phrase, or word of
this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall
not affect the remaining portions or the ordinance which shall remain in full force and effect as if the portion so
declared or adjudged invalid or unconstitutional was not originally part of the ordinance.

Section 10. Repealer. All laws, ordinances, resolutions, or parts of the same, that are inconsistent with
the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

PASSED: March 21, 2017
ATTEST:                        APPROVED:

_______________________________ ______                ____________________________________
Susan Langley, City Clerk                                            Mark Stodola, Mayor

APPROVED AS TO LEGAL FORM:

______________________________ _______
Thomas M. Carpenter, City Attorney
October 18, 2016

Mr. Bill Gray
Taggart Architects
4500 Burrow Drive
North Little Rock, AR 72118

RE: Brad Canada Plaza Expansion
Little Rock, Arkansas

Mr. Gray:

I'm writing this letter to compare the new loadings for the additions to the as built capacity of the existing columns. We have existing columns at grids Q 10, Q 9, and N 10, N 9. We are proposing adding new columns at Grids K 5 10 and K 5 9. On the original Construction Documents Labeled B1/B2 the Proposed total loading on the foundations are provided as well as the contributing load from the Garage which are part of the total load. A partial copy of that drawing is added below:

Figure 1: Partial foundation plan

Note that only Bar Association load is assumed to be on this column. Capacity = 1 100K
For your convenience I've retyped the loading indicated on the drawing for better visibility and I've also listed our new loading which includes all live and dead load reactions at columns. Obviously when we add our new reactions to the garage loading it comes in significantly lower than the original total design loading. There are a couple of reasons for this:

- Original Drawing C-6 lists the design loading for the upper floor as 375 psf (triple stack books). I've included a live load of 80 psf + a partition load of 15 psf for potential office loading. This is a significant decrease in floor loading.
- Even with triple stack loading it appears that the original designers had assumed several more floors associated with this building at these columns. For whatever reason the as-built design was significantly less than what the foundation designers had assumed.

Also, note I've kept the BA nomenclature to be consistent with the original nomenclature.

If you have any questions or comments, please do not hesitate to call.

Best Regards,

Todd Robbins, P.E

[Stamp]

10/18/2016
EXHIBIT B

STRUCTURAL PIER AND SUMP PUMP FRANCHISE AGREEMENT

THIS AGREEMENT made on this _____ day of ____________, 2017, by and between the CITY OF LITTLE ROCK, a municipal corporation of the state of Arkansas (hereinafter referred to as “City”), and ARKANSAS RIVerview DEVELOPMENT, LLC, an Arkansas limited liability company organized under the laws of the state of Arkansas and authorized to do business in the state of Arkansas, (hereinafter referred to as “Franchisee”).

WITNESSETH:

FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS, UNDERTAKINGS AND GRANTS OF USE BY THE PARTIES TO THIS AGREEMENT, THE CITY AND FRANCHISEE HEREBY COVENANT AND AGREE AS FOLLOWS:

1. PURPOSE. The purpose of this Franchise Agreement (the “Franchise”) is to grant the Franchisee a temporary construction easement to construct and franchise rights to access and maintain certain structural piers that are existing on or to be added to the City Property (collectively the “Beneficial Piers”) in accordance with the plans attached hereto as “Attachment A”. This Franchise shall also allow Franchisee to install and maintain a Sump Pump onto City Property in accordance with the plans attached hereto as “Exhibit A”.

2. DEFINITIONS.
   a. “City Manager” means the City Manager of Little Rock or a duly authorized representative.
   b. “City” means the City of Little Rock.
   c. “Board” means the Board of Directors of the City of Little Rock.
   d. “Franchise” means and includes any authorization granted hereunder in terms of a franchise, privilege, license or otherwise to access and maintain Beneficial Structural Piers including a franchise to install and maintain a sump pump onto City Property.
   e. “Franchisee” means the person, firm or corporation to which this franchise is granted by the Board under the ordinance approving this franchise, and the successors and assigns of Franchisee.
   f. “City Property” means Lots 1 and 4, Vinson Plaza, an Addition to the City of Little Rock, Pulaski County, Arkansas.
   g. “Franchisee Property” means Lots 2 and 3, Vinson Plaza, an Addition to the City of Little Rock, Pulaski County, Arkansas.
   h. “Beneficial Piers” means those structural piers that are existing on or to be added to the City Property in accordance with the plans attached hereto as “Exhibit A” (the “Plans”).
3. TEMPORARY CONSTRUCTION EASEMENT.
   a. The City shall grant to Franchisee and its successors and assigns, a Temporary Construction and Access Easement (the “Construction Easement”) on, under, over, and across the City Property, for reasonable access needed to construct or fortify, as applicable, the Beneficial Piers in accordance with the plans attached hereto as “Exhibit A”. This Construction Easement shall be in addition to the easement granted in Section 3.2(b) of the Bill of Assurance recorded as Instrument Number 2007047322 (the “Bill of Assurance”).
   b. The Temporary Construction Easement shall terminate on December 31, 2017 or until it is revoked by the Board under the terms as provided for below.
   c. This Temporary Construction Easement does not grant the Franchisee the authority to close down the parking garage at any time. If the parking garage must be closed for construction, Franchisee must receive consent from the City and a determination will be made as to compensation for the loss of revenue due to the closing of the parking garage.

4. SUMP PUMP.
   a. Franchisee shall have the right to install and access rights to maintain a sump pump onto City Property in accordance with plans described in and attached hereto as “Exhibit A”.
   b. Franchisee shall not move, alter or change the location of the sump pump without City approval.
   c. Franchisee shall maintain the sump pump in a good mechanical condition.
   d. Franchisee shall indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including attorney’s fees, arising out of or resulting from the installation, maintenance, or operation, of the sump pump.

5. BENEFICIAL PIERS
   a. The City does hereby grant Franchisee, including its successors and assigns a nonexclusive perpetual franchise to the Beneficial Piers and across City property to the extent reasonably necessary to access and maintain the Beneficial Piers in accordance with the plans attached hereto as “Exhibit A”.
   b. Franchisee shall not erect or install, move, alter or change the location of the Beneficial Piers without City approval.
   c. This franchise does not include the right of the Franchisee to close the parking garage at any time during construction without the approval of the City.
   d. This franchise does not include the right of Franchisee to take parking spaces from City property. If Franchisee determines it needs to install additional structural piers inside parking garage it must do so by the consent of the City.

6. HOLD HARMLESS AND INDEMNITY. Franchisee shall indemnify and hold harmless the City and its officers, agents and employees from all suits, actions, or claims of any character, style, and description
brought for or on account of any injuries or damages, including death, received or sustained by any person or any property occasioned by, arising out of, or in connection with, the grossly negligent acts or omission of Franchisee including structural loads on Beneficial Piers, South Building expansion and construction, and sump pump installation and maintenance.

7. **SPECIFIC RIGHTS AND REMEDIES.**

A. **Events of Default.**

Franchisee agrees that an Event of Default shall include, but shall not be limited to, the following acts or failures to act by Franchisee or its assigns:

1. Failure to obtain any applicable permits from the City before commencing construction of the expansion.
2. Failure to maintain the sump pump in good operable condition.
3. Taking any parking spaces without City approval.
4. Closing the parking garage at any time without City approval.

B. **City Action Upon Occurrence of an Event of Default.**

Upon the occurrence of an Event of Default (after the lapse of the cure periods described below in section 7.C), the City may (a) require Franchisee to take such actions necessary to cure the Event of Default; or if the Event of Default is incapable of cure, as determined by the City, (b) revoke the Franchise.

C. **Procedure to Follow Upon Breach.**

The City shall exercise the rights set forth in this section in accordance with the following procedures:

1. The City Manager shall notify Franchisee in writing of an alleged Event of Default. This written notice shall set forth with reasonable specificity the facts the City believes are the basis for declaring that an Event of Default has occurred. Franchisee shall, within thirty (30) business days of the date the notice is personally delivered or sent by overnight courier, or such additional time as the City Manager may specify in the notice, cure the alleged Event of Default or in writing, present for review by the City Manager a reasonable time frame and method to cure the Event of Default. Franchisee, in lieu of the cure of the Event of Default, may present written facts and arguments as to why Franchisee disagrees that an Event of Default has occurred.
2. If Franchisee presents a written response that challenges whether an Event of Default has occurred, the City Manager shall, within ten (10) days, review the submitted materials and determine again whether an Event of Default has occurred. If the City Manager reaffirms that an Event of Default has occurred, Franchisee shall be notified in writing of the decision and shall within thirty (30) days cure the alleged Event of Default.
3. If Franchisee fails to cure the Event of Default so declared pursuant to this section within the time permitted by the City Manager, the City Manager shall prepare a written report to the Board of Directors
and shall recommend action to be taken. If the Board, after consideration of this report, agrees that an Event of
Default has occurred, it may order the appropriate remedies set forth in this Agreement.

8. MISCELLANEOUS.
   a. **Current Enforceability of Agreement.** The City and Franchisee agree that the
      execution of this Franchise and the terms and conditions hereof, are valid in their entirety.
   b. **Controlling Law.** This Franchise shall be determined in accordance with the laws of the
      state of Arkansas.
   c. **Captions.** The captions given to various provisions of this Franchise Agreement are for
      purposes of convenience only and shall have no impact upon the interpretation of any such provision.
   d. **Entire Agreement.** This Franchise, together with its exhibits, comprises the entire agreement
      between the City and Franchisee for purposes of this Franchise; provided, however, that other than with regard
      to a direct conflict as provided in subsection 8(m), this Franchise shall be in addition to the rights and
      obligations included in the Bill of Assurance.
   e. **Burden of Proof.** In any disagreement of the terms and conditions of this Franchise, Franchisee shall bear the burden of demonstrating its compliance with the terms and conditions of this
      Agreement for all purposes.
   f. **No Coercion.** Franchisee and the City enter into this Franchise willingly and without
      coercion, undue influence or duress.
   g. **Notice.** Any notice or communication required in the administration and enforcement of this
      Franchise shall be sent by any method that serves overnight delivery and shall be addressed as follows:

      **To the City:**
      
      City Manager
      City Hall
      Room 203
      500 West Markham
      Little Rock, Arkansas 72201
      Tel: (501) 371-4510

      with a complimentary copy, the delivery of which is not required in order for notice to be accomplished to:

      City Attorney’s Office
      City Hall
      Suite 310
      500 West Markham
      Little Rock, Arkansas 72201

      **To Franchisee:**
      
      Arkansas Riverview Development, LLC
      Attn: Brad Canada, Managing Member
or to such other address as Franchisee and City may, in writing, designate from time to time provided that notice is accomplished by overnight delivery to only one of the designated persons for either the City or Franchisee.

h. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute on and the same instrument.

i. **Severability.** If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

j. **Further Assurances.** The parties agree to execute and deliver such further instruments, and to take such further actions, as may be reasonably necessary or proper to effectuate and carry out the transactions and purposes contemplated in this Agreement.

k. **Covenants Running With the Land.** This Franchise right is perpetual, and both the Franchise Right and Construction Easement shall run with the land and shall bind and benefit the City and the Franchisee and their respective successors, heirs, and assigns, and all parties hereafter having any interest in the City Property or the Franchisee Property.

l. **Modification in Writing.** Neither this Agreement, nor any rights, benefits, duties, or obligations created or established herein, can be released, terminated, modified, supplemented, amended, or waived except pursuant to an instrument in writing executed by all of the Parties or their respective successors and assigns.

m. **Conflict with Bill of Assurance.** To the extent any rights granted herein directly conflict with the Bill of Assurance, this Agreement shall control. Without limiting the generality of the foregoing, the terms “existing supporting piers” and “existing supporting columns” as used in paragraph 1.3 of the Bill of Assurance and “existing supporting pillars” as used in paragraph 3.2 (b) of the Bill of Assurance shall be deemed to include the Beneficial Piers.