

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 14-0319

Introduced by: The Council President
At the request of: The Administration (Department of Transportation)
Introduced and read first time: February 3, 2014
Assigned to: Housing and Community Development Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: September 8, 201

AN ORDINANCE CONCERNING

Franchise – Baltimore Red Line

1
2 FOR the purpose of granting franchise rights to the Mass Transit Administration of the
3 Department of Transportation of the State of Maryland for the location, construction,
4 operation, and maintenance in good condition of a Red Line Light Rail System within the
5 boundaries of the City of Baltimore; setting the terms, conditions, and requirements of the
6 Mayor and City Council pertaining to the location, construction, operation, and maintenance
7 in good condition; authorizing the Mass Transit Administration to make use of streets and
8 other public areas within the City of Baltimore for these purposes, in accordance with the
9 attached plat dated December 2013, as prepared by the Mass Transit Administration of the
10 Department of Transportation of the State of Maryland and filed with the Department of
11 Transportation of the City of Baltimore on January 13, 2014; and providing for a special
12 effective date.

Recitals

13
14 **WHEREAS**, Pursuant to the Transportation Article § 7-208 of the Annotated
15 Code of Maryland, the Maryland Transit Administration of the Department of
16 Transportation of the State of Maryland is authorized to plan, design, develop,
17 finance, and maintain a light rail system serving the Baltimore Metropolitan Area;
18 and

19 **WHEREAS**, The Maryland Transit Administration of the Department of
20 Transportation of the State of Maryland is developing the Red Line Light Rail
21 Transit Project, a 14-mile project with major project elements including a an
22 approximately dedicated guideway, 19 stations, and an operations and
23 maintenance facility; and

24 **WHEREAS**, The Red Line Light Rail Transit Project will provide connectivity
25 lacking in Baltimore’s current transit system, which will provide high quality
26 transportation for City residents and visitors needing access to education, housing,
27 and jobs; and

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 **WHEREAS**, The planned Baltimore Red Line Light Rail Transit Project lies
2 partially within the boundaries of the City of Baltimore; and

3 **WHEREAS**, Section 7-701 of the Transportation Article of the Maryland
4 Annotated Code requires the Maryland Transit Administration to comply with the
5 laws, ordinances, and regulations of the City of Baltimore with respect to zoning,
6 signs, and buildings, with respect to traffic control and regulation, and with
7 respect to the use of streets, highways, and all other vehicular facilities, in
8 connection with portions of the Baltimore Red Line Light Rail Transit Project,
9 and further provides that the Maryland Transit Administration may not locate,
10 construct, and maintain any of its transit and related facilities in, upon, over,
11 under, or across the highways, streets, lanes, alleys, land under water, waterfront,
12 public landings, wharf property, wharves and docks, parks, and sidewalks of the
13 City of Baltimore without the consent of, and except upon the terms and
14 conditions required by the Mayor and City Council of the City of Baltimore; and

15 **WHEREAS**, The Mayor and City Council of Baltimore, a municipal
16 corporation of the State of Maryland, and the Maryland Department of
17 Transportation, acting by and through its Maryland Transit Administration, have
18 further entered into a Memorandum of Understanding regarding Baltimore Red
19 Line, dated October 12, 2012, which outlines the roles, responsibilities, and
20 commitments of both parties regarding the Baltimore Red Light Rail Transit
21 Project; and

22 **WHEREAS**, The Maryland Transit Administration has requested from the
23 Mayor and City Council of Baltimore franchise rights for the construction and
24 operation of the Baltimore Red Line Light Rail Transit Project within the City of
25 Baltimore; now, therefore,

26 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE**, That the
27 consent of the Mayor and City Council is hereby given to the Maryland Transit Administration of
28 the Department of Transportation of the State of Maryland, its successors and assigns (hereinafter
29 “MTA”) for the construction of the Baltimore Red Line Light Rail Transit Project (hereinafter
30 “Red Line”) within the limits of the City of Baltimore, in accordance with the plat dated
31 December 2013 thereof as prepared by the MTA, and filed and available to be viewed in the
32 Department of Transportation of the City of Baltimore ~~on January 13, 2014~~. The MTA is hereby
33 authorized to build, locate, construct, maintain in good condition and operate a Red Line with
34 one or more tracks, with such switches, turnouts, sidings, median opening modifications,
35 stations, station platforms with amenities, station public entrances and appurtenant facilities,
36 operations and maintenance facilities, construction staging areas, storage areas, depots, drainage
37 and stormwater management systems, utility systems, overhead structures and catenary systems,
38 signals, underground stations with street level access points, bridge structures, traction power
39 substations, tunnels, tunnel support facilities, ventilation structures, and other appurtenances, as
40 it may deem necessary for the proper design, construction, operation, and maintenance in good
41 condition of the Red Line and the accommodation of the traffic of the same in, upon, over, under,
42 or across the highways, streets, lanes, alleys, medians, land under water, waterfront, public
43 landings, wharf property, wharves and docks, parks, sidewalks, curbs, utilities, conduits, and
44 other infrastructure belonging to or under the control of the City of Baltimore (hereinafter
45 “Public Property or Places”) and to maintain in good condition and repair all such structures,

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1 tracks, stations, station public entrances and appurtenances herein above mentioned at the sole
2 cost and expense of the MTA. The MTA shall comply at all times with all of the ordinances of
3 the City of Baltimore providing for condemnation, construction, maintenance, and repair of all
4 facilities, both public and private, within such public property and places.

5 The MTA shall not in any manner injure or displace any structure or other property of the
6 City of Baltimore on, above, within, or below the public right-of-way herein above mentioned
7 without restoring, relocating, replacing, repaving, milling, resurfacing, refilling, or repairing the
8 structures and property at its entire expense and in accordance with all City and Americans with
9 Disabilities Act standards, or paying to the City all expenses and cost in connection therewith, in
10 accordance with the requirements and provisions of the Memorandum of Understanding
11 regarding Baltimore Red Line, dated October 12, 2012, and any future agreements concerning the
12 Red Line by and between the Mayor and City Council of Baltimore and the MTA.

13 The Mayor and City Council acknowledges that the MTA is the recipient of a Federal grant
14 through the United States Department of Transportation, Federal Transit Administration, which
15 funds, in part, the design and construction of the Red Line. The Mayor and City Council also
16 acknowledges that pursuant to grant requirements, the MTA must demonstrate and retain
17 satisfactory continuing control over rights-of-way upon which the Red Line operates, and that the
18 City will not exercise any right of entry or other rights in a manner that compromises the MTA's
19 commitments under Federal grant terms.

20 The MTA shall promptly, and at its own expense, mill and resurface in good order, improve
21 concrete amenities, and make appropriate and necessary surface restoration of each such public
22 property and place as the MTA may find necessary to dig, impair or remove pavement for the
23 purpose of constructing or maintaining the Baltimore Red Line transit facilities.

24 If the MTA omits or neglects to repair or repave or make the appropriate and necessary
25 further restoration of any such public property or place, or any part thereof, within a reasonable
26 period of time after completion of its necessary construction activities, as provided for by the
27 Director of Transportation of the City of Baltimore in his notice, the MTA shall, for each such
28 omission, or neglect, forfeit and pay to the use of the City of Baltimore such sum as the Director
29 of Transportation adjudges to be reasonable and proper under the circumstances, subject to a
30 review on the record by a court of competent jurisdiction.

31 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the refilling, repairing, repaving,
32 replacing, relocating, and restoring required to be done by the provisions of the preceding
33 section, shall be subject to the approval by the Director of Transportation of the City of
34 Baltimore, or his fully authorized representative, and if, through omission or neglect, or any
35 cause, as emergency condition may arise or obtain, which, in the judgment of the Director,
36 jeopardizes the health, welfare, or safety of the community, the Director may cause the repairing,
37 repaving, replacing, relocating, and restoring to be done so as to end the emergency condition.
38

39 The Director of Transportation may file suit in the name of the Mayor and City Council of the
40 City of Baltimore against the MTA to recover the expense of repairing, repaving, replacing,
41 relocating, and restoring as necessitated by the emergency.

42 **SECTION 3. AND BE IT FURTHER ORDAINED,** That, unless otherwise approved by the Board
43 of Estimates, the MTA shall, in its construction of the Red Line, provide for, construct, and
44 maintain in good condition public entrance plazas adjacent to and around the locations of public

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1 entrances to the stations, on land specifically acquired by the MTA for that purpose, including
2 permanent plaza surface treatments, signs and kiosks, seating, decorative planting area and
3 landscaping elements, civic or artistic embellishments, lighting, and any other items necessary
4 for the functioning of the entrance plazas and the enjoyment of the public utilizing them.

5 **SECTION 4. AND BE IT FURTHER ORDAINED,** That, unless otherwise approved by the Board
6 of Estimates, the MTA is liable for and shall indemnify and save harmless the Mayor and City
7 Council of Baltimore against all suits, losses, costs, claims, damages, or expenses to which the
8 Mayor and City Council of Baltimore is at any time subjected on account of, or in any way
9 resulting from MTA’s failure to construct, and maintain in good condition public entrance plazas
10 adjacent to and around the locations of public entrances to the stations, on land specifically
11 acquired by the MTA for that purpose, including permanent plaza surface treatments, signs and
12 kiosks, seating, decorative planting area, landscaping elements, civic or artistic embellishments,
13 lighting, and any other items made necessary for the functioning of the entrance plazas and the
14 enjoyment of the public utilizing them as provided in Section 3.

15 **SECTION 4 5. AND BE IT FURTHER ORDAINED,** That wherever private entrance connections
16 are to be constructed between private properties and structures, whether existing or to be
17 constructed, and adjacent Red Line structures, where such private attractions are to be located
18 and constructed over, across, in, or under the public property or places of the City of Baltimore,
19 that the location, design and construction of the private entrance connections shall be subject to
20 the approval of the City of Baltimore.

21 **SECTION 6. AND BE IT FURTHER ORDAINED,** That as compensation for the Franchise, the
22 MTA shall pay to the Mayor and City Council of Baltimore a franchise charge of \$0.00 a year.
23 The franchise charge must be paid annually. The term of the Franchise is 25 years, commencing
24 on the effective date of this Ordinance.

25 **SECTION 5 7. AND BE IT FURTHER ORDAINED,** That the provisions of this ordinance are
26 severable. If any term, phrase, clause, sentence, paragraph, section of part in or of this ordinance,
27 or the application thereof to any person or circumstance, is declared invalid, the remaining
28 provisions and the applications of such provisions or circumstances shall not be affected thereby
29 but shall remain in full force and effect, the Mayor and City Council of Baltimore hereby
30 declaring that they would have ordained the remaining provisions of this ordinance without the
31 term, phrase, clause, sentence, paragraph, section or part, or the application thereof, so held
32 invalid.

33 **SECTION 6 8. AND BE IT FURTHER ORDAINED,** That when the conditions imposed by any
34 provision of this ordinance are either more restrictive or less restrictive than comparable
35 conditions imposed by any other law, ordinance, resolution, rule, regulation or agreement of any
36 kind of the Mayor and City Council of Baltimore, the conditions that are more restrictive shall
37 govern.

38 **SECTION 7 9. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
39 is enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City