

**CITY OF BALTIMORE
COUNCIL BILL 19-0439
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Department of Transportation)

Introduced and read first time: September 9, 2019

Assigned to: Housing and Urban Affairs Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Planning, Department of Housing and Community Development, Housing Authority Board, Department of Transportation, Fire Department, Department of Public Works, Board of Estimates

A BILL ENTITLED

1 AN ORDINANCE concerning

2
3 **Franchise – Installation of 3 Private Water Pipes in**
4 **the Bed of the 1000 Block of McCulloh Street**

5 FOR the purpose of granting a franchise to the Housing Authority of Baltimore City to construct,
6 use, and maintain 3 private underground pipelines in the bed of the 1000 block of McCulloh
7 Street, between West Hoffman Street and West Preston Street, subject to certain terms,
8 conditions, and reservations; and providing for a special effective date.

9 BY authority of
10 Article VIII - Franchises
11 Baltimore City Charter
12 (1996 Edition)

13 **Recitals**

14 The Housing Authority of Baltimore City operates 2 buildings on the northeast
15 and southwest side of McCulloh Street. The underground pipelines will connect
16 to the boilers in each building for a period not exceeding 25 years.

17 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
18 franchise or right is granted to the Housing Authority of Baltimore City, its tenants, successors,
19 and assigns (collectively, the “Grantee”) to construct, use, and maintain, at Grantee’s own cost
20 and expense, and subject to the terms and conditions of this Ordinance, 3 private underground
21 pipelines consisting of a 4" hot water supply, a 4" cold water supply, and a 3" hot water return in
22 the bed of the 1000 block of McCulloh Street, the location of the pipelines described as follows:

23 Beginning at a point on the southwest side of McCulloh Street, 60 feet wide, the
24 point of beginning being 56.70 feet from the southeast side of W. Hoffman Street,
25 60 feet wide; thence binding on the southwest side of McCulloh Street,
26 Southeasterly 5 feet; thence crossing McCulloh Street, Northeasterly 60 feet to a
27 point on the northeast side of McCulloh Street; thence binding on the northeast

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 side of McCulloh Street, Northwesterly 5 feet; thence crossing McCulloh Street,
2 Southwesterly 60 feet to the place of beginning.

3 Containing 300 square feet, more or less, as delineated on an approved developer
4 agreement plan, number (DA) 1620, and filed in the office of the Right of Way
5 Services Division of the Department of Transportation.

6 **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right
7 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
8 6 months after the effective date of this Ordinance.

9 **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the
10 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$_____ a
11 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
12 charge must be paid annually, at least 30 days before the initial and each renewal term of the
13 Franchise.

14 **SECTION 4. AND BE IT FURTHER ORDAINED**, That:

15 (a) The initial term of the Franchise is 1 year, commencing on the effective date of this
16 Ordinance. Unless sooner terminated as provided in this Ordinance, the Franchise will
17 automatically renew, without any action by either the Mayor and City Council of Baltimore or
18 the Grantee, for 24 consecutive 1-year renewal terms. Except as otherwise provided in this
19 Ordinance, each renewal term will be on the same terms and conditions as the initial term. The
20 maximum duration for which the Franchise may operate, including the initial and all renewal
21 terms, is 25 years.

22 (b) Either the Mayor and City Council of Baltimore, acting by and through the Director of
23 Transportation, or the Grantee may cancel the Franchise as at the end of the initial or any renewal
24 term by giving written notice of cancellation to the other at least 90 days before the end of that
25 term.

26 **SECTION 5. AND BE IT FURTHER ORDAINED**, That the Mayor and City Council of Baltimore,
27 acting by and through the Board of Estimates, may increase or decrease the annual franchise
28 charge by giving written notice of the increase or decrease to the Grantee at least 150 days before
29 the end of the original or renewal term immediately preceding the renewal term to which the
30 increase or decrease will first apply. The new franchise charge will apply to all subsequent
31 annual renewal terms, unless again increased or decreased in accordance with this section.

32 **SECTION 6. AND BE IT FURTHER ORDAINED**, That the Mayor and City Council of Baltimore
33 expressly reserves the right at all times to exercise, in the interest of the public, full municipal
34 superintendence, regulation, and control over and in respect to all matters connected with the
35 Franchise and not inconsistent with the terms of this Ordinance.

36 **SECTION 7. AND BE IT FURTHER ORDAINED**, That the Grantee, at its own cost and expense,
37 shall maintain in good condition and in compliance with all applicable laws and regulations of
38 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
39 structures shall be at all times subject to the regulation and control of the Department of
40 Transportation. If any structure for which the Franchise is granted must be readjusted, relocated,

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1 protected, or supported to accommodate a public improvement, the Grantee shall pay all costs
2 and expenses in connection with the readjustment, relocation, protection, or support.

3 **SECTION 8. AND BE IT FURTHER ORDAINED,** That at the option of the Mayor and City
4 Council of Baltimore, acting by and through the Department of Transportation, the Grantee's
5 failure to comply with any term or condition of this Ordinance constitutes a forfeiture of the
6 Franchise. Immediately on written notice to the Grantee of the exercise of this option, the
7 Franchise terminates. Once so terminated, only an ordinance of the Mayor and City Council of
8 Baltimore may waive the forfeiture or otherwise reinstate the Franchise.

9 **SECTION 9. AND BE IT FURTHER ORDAINED,** That at any time and without prior notice, the
10 Mayor of Baltimore City may revoke the Franchise if, in the Mayor's judgment, the public
11 interest, welfare, safety, or convenience so requires. Immediately on written notice to the
12 Grantee of the exercise of this right, the Franchise terminates.

13 **SECTION 10. AND BE IT FURTHER ORDAINED,** That on cancellation, expiration, forfeiture,
14 revocation, or other termination of the Franchise for any reason, the Grantee shall remove all
15 structures for which the Franchise is granted. The removal of these structures shall be
16 (i) undertaken at the cost and expense of the Grantee, without any compensation from the Mayor
17 and City Council of Baltimore, (ii) made in a manner satisfactory to the Department of
18 Transportation, and (iii) completed within the time specified in writing by the Department of
19 Transportation.

20 **SECTION 11. AND BE IT FURTHER ORDAINED,** That subject to any limitations imposed by
21 law, the Mayor and City Council of Baltimore and the Grantee shall each be responsible for its
22 own actions and omissions, pursuant to the performance of the Franchise, and neither party shall
23 try to hold the other party liable with respect to any matter not arising from the other party's
24 actions or omissions. Furthermore, the liability of the Mayor and City Council of Baltimore and
25 the Housing Authority of Baltimore City shall be governed by the terms and provisions of the
26 applicable Local Government Tort Claims Act and applicable Federal regulations.

27 **SECTION 12. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
28 is enacted.