

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 21-0123

Introduced by: The Council President
At the request of: The Administration (Department of Transportation)
Introduced and read first time: September 13, 2021
Assigned to: Economic and Community Development
Committee Report: Favorable, with Amendments
Council action:
Read second time: January 10, 2022

AN ORDINANCE CONCERNING

Franchise – Underground Conduit and Fiber Optic Cable

FOR the purpose of granting a franchise to the State of Maryland (Maryland Transit Administration) to construct, use, and maintain an underground conduit and fiber optic cable, subject to certain terms, conditions, and reservations; and providing for a special effective date.

BY authority of
Article VIII - Franchises
Baltimore City Charter
(1996 Edition)

Recitals

This project will provide 6000 Metro Drive with a new conduit path to existing Maryland Transit Administration infrastructure along the west side of Metro Drive (Existing MTA Hand Hole), as shown on Developer’s Agreement No. ~~1646~~ 1676 on file in the Department of Transportation.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That a franchise or right is granted to the State of Maryland (Maryland Transit Administration), the “Grantee”, to construct, use, and maintain, at Grantee’s own cost and expense, and subject to the terms and conditions of this Ordinance, a fiber optic line in Metro Drive, described as follows:

Beginning for the same along the west side of Metro Drive, 172 feet south of the east entrance to 5900 Metro Drive (Ward 28, Section 02, Block 4283, Lot 019A) which Cable route proceeds north for 968 feet along the west side of Metro Drive Cable route remains within Baltimore City Right-of-Way and then enters onto private property at 6000 Metro Drive (Ward 28, Section 02, Block 4385, Lot 014) 22 feet south of the north entrance to the private property the following 17 courses and distances:

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 1. Existing MTA vault Lat: 39.345518, Long: -76.707630 (Maryland State Plane
2 NAD -83) North 611,558.14, East 1,395,020.75 thence;
- 3 2. North 19° 05' 52" West 5.4 feet to a point thence;
- 4 3. North 09° 11' 22" West 121.1 feet, to a point thence;
- 5 4. North 09° 58' 15" West 96.2 feet, to a point thence;
- 6 5. Radius 202.65 feet, arc length of 43.77, having a chord bearing North 19° 00' 31"
7 West a distance 43.68 feet, to a point thence;
- 8 6. Radius 49.75 feet, arc length of 39.97 feet, having a chord bearing North 47° 40'
9 30" West and a chord distance of 38.91 feet, to a point thence;
- 10 7. Radius 4 feet, arc length of 4.84 feet, having a chord bearing of South 36° 01' 01"
11 East and a chord distance of 4.55 feet, to a point thence;
- 12 8. North 01° 20' 25" West 90.83 feet, to a point thence;
- 13 9. Radius 12 feet, arc length of 6.20 feet, having a chord bearing South 13° 28' 11"
14 West and a chord distance of 6.14 feet, to a point thence;
- 15 10. North 28° 16' 46" East 2.13 feet, to a point thence;
- 16 11. New MTA vault Latitude: 39.346595, Longitude: -76.707918 to a point thence;
- 17 12. Radius 93.31 feet, arc length of 55.36 feet, having a chord bearing of North 11°
18 00' 54" East and a chord distance of 54.55 feet, to a point thence;
- 19 13. North 09° 14' 49" West 365.44 feet, to a point thence;
- 20 14. Radius 586.44 feet, arc length of 117.31 feet, having a chord bearing of North 14°
21 40' 12" West and a chord distance of 117.11 feet, to a point thence;
- 22 15. North 20° 05' 03" West 12.53 feet, to a point thence;
- 23 16. Existing MTA vault Lat: 39.348084, Long: -76.708202 (Maryland State Plane)
24 North 612,494.07, East 1,394,857.64 and thence;
- 25 17. North 74° 14' 34" West 1.50 feet into private property. To the end thereof, all as
26 shown on Developer's Agreement No. ~~1646~~ 1676 on file with the Department of
27 Transportation

28 **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right
29 granted by this Ordinance (the "Franchise") must be executed and enjoyed by the Grantee within
30 6 months after the effective date of this Ordinance.

31 **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the
32 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$ _____ a

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1 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
2 charge must be paid annually, at least 30 days before the initial and each renewal term of the
3 Franchise.

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

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

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

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

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

26 SECTION 7. AND BE IT FURTHER ORDAINED, That the Grantee, at its own cost and expense,
27 shall maintain in good condition and in compliance with all applicable laws and regulations of
28 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
29 structures shall be at all times subject to the regulation and control of the Director of
30 Transportation. If any structure for which the Franchise is granted must be readjusted, relocated,
31 protected, or supported to accommodate a public improvement, the Grantee shall pay all costs
32 and expenses in connection with the readjustment, relocation, protection, or support.

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

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

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

8 **SECTION 11. AND BE IT FURTHER ORDAINED,** That the Grantee is liable for and shall
9 indemnify and save harmless the Mayor and City Council of Baltimore against all suits, losses,
10 costs, claims, damages, or expenses to which the Mayor and City Council of Baltimore is at any
11 time subjected on account of, or in any way resulting from, (i) the presence, construction, use,
12 operation, maintenance, alteration, repair, location, relocation, or removal of any of the structures
13 for which the Franchise is granted, or (ii) any failure of the Grantee, its officers, employees, or
14 agents, to perform promptly and properly any duty or obligation imposed on the Grantee by this
15 Ordinance.

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

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Certified as duly passed this 10 day of January, 2022



President, Baltimore City Council


Certified as duly delivered to His Honor, the Mayor,

this 10 day of January, 2022



Chief Clerk

Approved this 22nd day of February, 2022



Mayor, Baltimore City

Approved for Form and Legal Sufficiency
This 11th Day of January, 2022.

Elena R DiPietro

Chief Solicitor