

**CITY OF BALTIMORE
COUNCIL BILL 19-0341
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Transportation)
Introduced and read first time: February 25, 2019
Assigned to: Land Use and Transportation Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Transportation, Planning Commission, Baltimore City Parking Authority Board, Department of Housing and Community Development, Department of Real Estate, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 style="text-align:center">**Franchise – Baltimore Region Rapid Transit System**
3 style="text-align:center">**Sections A and C**

4 FOR the purpose of granting a franchise to the Maryland Transit Administration (“MTA”),
5 formerly known as the Mass Transit Administration, of the Department of Transportation of
6 the State of Maryland to use and maintain the existing Baltimore Region Rapid Transit
7 System Sections A and C, located within the boundaries of the City of Baltimore, as shown
8 on the documents entitled “Baltimore Region Rapid Transit System Phase 1, Section A Route
9 Map”, dated September, 1976 and filed in the Department of Public Works on October 1,
10 1976, and “Baltimore Region Rapid Transit System Section C Route Map”, dated April 1,
11 1988 and filed in the Department of Public Works on April 15, 1988, subject to certain terms,
12 conditions, and reservations; and providing for a special effective date.

13 BY authority of
14 Article VIII - Franchises
15 Baltimore City Charter
16 (1996 Edition)

17 style="text-align:center">**Recitals**

18 Ordinance 76-188 granted permission and authority to the Mass Transit
19 Administration of the Department of Transportation of the State of Maryland for
20 the location, construction, operation, and maintenance of the Baltimore Region
21 Rapid Transit System Section A within the boundaries of the City of Baltimore for
22 a period not exceeding 25 years.

23 Ordinance 89-348 granted permission and authority to the Mass Transit
24 Administration of the Department of Transportation of the State of Maryland for
25 the location, construction, operation, and maintenance of the Baltimore Region
26 Rapid Transit System Section C within the boundaries of the City of Baltimore for
27 a period not exceeding 25 years.

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

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1 These original franchises have expired, and the MTA of the Department of
2 Transportation of the State of Maryland requests that the franchises be
3 reestablished for an additional 25 years.

4 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a
5 franchise or right is granted to the MTA of the Department of Transportation of the State of
6 Maryland, its tenants, successors, and assigns (collectively, the “Grantee”) to operate and
7 maintain, at Grantee’s own cost and expense, and subject to the terms and conditions of this
8 Ordinance, the Baltimore Region Rapid Transit System, Sections A and C, within the boundaries
9 of the City of Baltimore (collectively, the “Grantor”), as shown on the documents entitled
10 “Baltimore Region Rapid Transit System Phase 1, Section A Route Map”, dated September,
11 1976 and filed in the Department of Public Works on October 1, 1976, and “Baltimore Region
12 Rapid Transit System, Section C Route Map”, dated April 1, 1988 and filed in the Department of
13 Public Works on April 15, 1988, with both plats now being filed in the Department of
14 Transportation of the City of Baltimore.

15 The Grantee shall operate and maintain, in good condition, Section A and Section C of the
16 Baltimore Region Rapid Transit System with one or more tracks, with switches, turnouts,
17 sidings, stations, station public entrances and appurtenant facilities, depots sewers for drainage,
18 shafts for ventilation, overhead structures and other appurtenances, as it may deem necessary for
19 the operation and maintenance of the Baltimore Region Rapid Transit System and the
20 accommodation of the traffic of the same in, upon, over, under, or across the highways, streets,
21 lanes, alleys, land under water, water front, public landings, wharf property, wharves and docks,
22 parks and sidewalks of the Grantor (hereinafter sometimes called “Public Property or Places”),
23 and shall maintain in good condition and repair all such structures, tracks, stations, station public
24 entrances and appurtenances herein mentioned at the sole cost and expense of the Grantee. The
25 Grantee, its successors and assigns, shall comply with at all times all the ordinances of the
26 Grantor providing for condemnation, maintenance and repair of all facilities, both public and
27 private, within such Public Property and Places.

28 The Grantee shall not in any manner injure or displace any structure or other property of the
29 Grantor on, above, within, or below the public right-of-way herein above mentioned without
30 either restoring, relocating, replacing, repaving, refilling or repairing the structures and property
31 at its expense, or paying to the Grantor all expenses and costs in connection therewith, in
32 accordance with and to the extent permitted by Maryland law and subject to an appropriation,
33 the requirements and provisions of the General Agreement between the Grantee and Grantor for
34 Section A of the Baltimore Metro, dated June 18, 1976, and Section C of the Baltimore Metro,
35 dated June 14, 1989, and amended by that First Amendment dated June 20, 2018.

36 The Grantee shall promptly, at its own expense, repave in good order and make appropriate
37 and necessary surface restoration of each such Public Property or Place as the Grantee may find it
38 necessary to dig, impair or unpave for the purpose of maintaining the aforesaid rapid transit
39 facilities.

40 If the Grantee shall omit or neglect to repair or repave or make such appropriate and
41 necessary surface restoration of any such Public Property or Place, or any part thereof, after
42 receipt of reasonable notice from the Grantor, the Grantee shall, for each such omission or
43 neglect, forfeit and pay, to the extent permitted by Maryland law and subject to an appropriation,
44 to the use of the Grantee such sum as the Director of Transportation shall adjudge to be

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1 reasonable and proper under the circumstances, subject to a review on the record by a court of
2 competent jurisdiction.

3 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the refilling, repairing, repaving,
4 replacing, relocating, and restoring required to be done by the provisions of Section 1 shall be
5 subject to the approval of the Director of Transportation, or his/her duly authorized
6 representative, and if, through omission or neglect, or any cause, an emergency condition shall
7 arise or obtain, which, in the judgement of the Director of Transportation, jeopardizes the health,
8 welfare, or safety of the community, the Director of Transportation may cause such repairing,
9 repaving, replacing, relocating, and restoring to be done so as to end the emergency condition in
10 cooperation with the Grantee.

11 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the Grantee shall continue to maintain, in
12 good condition, transit stations for Sections A and C of the Baltimore Region Rapid Transit
13 System and shall also continue to maintain, in good condition, public entrance plazas adjacent to
14 and around the locations of public entrances to the stations on land specifically acquired by the
15 Grantee for such purpose, including permanent plaza surface treatments, signs and kiosks,
16 seating, decorative planting area and landscaping elements, civic or artistic embellishments, and
17 lighting as necessary for the functioning of the entrance plazas and for the enjoyment of the
18 public that utilizes them.

19 **SECTION 4. AND BE IT FURTHER ORDAINED,** That whenever private entrance connections are
20 to be constructed between private properties and structures, whether existing or to be constructed,
21 and adjacent rapid transit station structures, where such private constructions are to be located
22 and constructed over, across, in, or under the Public Property or Places of the Grantor, that the
23 location, design and construction of such private entrance connections shall be subject to the
24 approval of the Grantor.

25 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the initial term of the Franchise is one (1)
26 year, commencing on the effective date of this Ordinance. Unless sooner terminated as provided
27 in this Ordinance, the Franchise will automatically renew, without any action by either the
28 Grantor or the Grantee, for twenty-four (24) consecutive one (1) year renewal terms. Except as
29 otherwise provided in this Ordinance, each renewal term will be on the same terms and
30 conditions as the initial term. The maximum duration for which the Franchise may operate,
31 including the initial and all renewal terms, is twenty-five (25) years.

32 **SECTION 6. AND BE IT FURTHER ORDAINED,** That the Grantor expressly reserves the right at
33 all times to exercise, in the interest of the public, full municipal superintendence, regulation, and
34 control over and in respect to all matters connected with the Franchise and not inconsistent with
35 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 the Grantor, 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 Grantor's
40 Commissioner of Housing and Community Development and the Director of Transportation. If
41 any structure for which the Franchise is granted must be readjusted, relocated, protected, or
42 supported to accommodate a public improvement, the Grantee shall pay all costs and expenses,
43 to the extent permitted by Maryland law and subject to appropriation, in connection with the
44 readjustment, relocation, protection, or support.

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1 **SECTION 8. AND BE IT FURTHER ORDAINED,** That the provisions of this ordinance are hereby
2 declared to be severable. If any word, phrase, clause, sentence, paragraph, section or part in or of
3 this ordinance, or the application thereof to any person or circumstance, is declared invalid, the
4 remaining provisions and circumstances the applications of such provisions to other persons or
5 circumstances shall not be affected thereby but shall remain in full force and effect, the Grantor
6 hereby declaring that they would have ordained the remaining provisions of this ordinance
7 without the word, phrase, clause, sentence, paragraph, section or part, or the application thereof,
8 so held invalid.

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