

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 19-0341

Introduced by: The Council President
At the request of: The Administration (Department of Transportation)
Introduced and read first time: February 25, 2019
Assigned to: Transportation Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: December 5, 2019

AN ORDINANCE CONCERNING

**Franchise – Baltimore Region Rapid Transit System
Sections A and C**

FOR the purpose of granting a franchise to the Maryland Transit Administration (“MTA”), formerly known as the Mass Transit Administration, of the Department of Transportation of the State of Maryland to use and maintain the existing Baltimore Region Rapid Transit System Sections A and C, located within the boundaries of the City of Baltimore, as shown on the documents entitled “Baltimore Region Rapid Transit System Phase 1, Section A Route Map”, dated September, 1976 and filed in the Department of Public Works on October 1, 1976, and “Baltimore Region Rapid Transit System Section C Route Map”, dated April 1, 1988 and filed in the Department of Public Works on April 15, 1988, 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

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

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

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.

Council Bill 19-0341

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 Grantor’s Director of Transportation shall adjudge to be

Council Bill 19-0341

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 Grantor's 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 Grantor's Director of Transportation, jeopardizes
8 the health, welfare, or safety of the community, the Grantor's Director of Transportation may
9 cause such repairing, repaving, replacing, relocating, and restoring to be done so as to end the
10 emergency condition in 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 as compensation for the Franchise, the
26 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$ _____ a
27 year. The franchise charge must be paid annually, at least 30 days before the initial and each
28 renewal term of the Franchise.

29 **SECTION 5 6. AND BE IT FURTHER ORDAINED**, That the initial term of the Franchise is one
30 (1) year, commencing on the effective date of this Ordinance. Unless sooner terminated as
31 provided in this Ordinance, the Franchise will automatically renew, without any action by either
32 the Grantor or the Grantee, for twenty-four (24) consecutive one (1) year renewal terms. Except
33 as otherwise provided in this Ordinance, each renewal term will be on the same terms and
34 conditions as the initial term. The maximum duration for which the Franchise may operate,
35 including the initial and all renewal terms, is twenty-five (25) years.

36 **SECTION 6 7. AND BE IT FURTHER ORDAINED**, That the Grantor expressly reserves the right
37 at all times to exercise, in the interest of the public, full municipal superintendence, regulation,
38 and control over and in respect to all matters connected with the Franchise and not inconsistent
39 with the terms of this Ordinance.

40 **SECTION 7 8. AND BE IT FURTHER ORDAINED**, That the Grantee, at its own cost and expense,
41 shall maintain in good condition and in compliance with all applicable laws and regulations of
42 the Grantor, all structures for which the Franchise is granted. The maintenance of these
43 structures shall be at all times subject to the regulation and control of the Grantor's

Council Bill 19-0341

1 Commissioner of Housing and Community Development and the Grantor's Director of
2 Transportation. If any structure for which the Franchise is granted must be readjusted, relocated,
3 protected, or supported to accommodate a public improvement, the Grantee shall pay all costs
4 and expenses, to the extent permitted by Maryland law and subject to appropriation, in
5 connection with the readjustment, relocation, protection, or support.

6 **SECTION 9. AND BE IT FURTHER ORDAINED,** That on or before June 30th of each year, the
7 Grantee shall submit to the Mayor and to the City Council of Baltimore a letter reporting the state
8 of good repair conditions for all assets within the Franchise area as reported by the Grantee to the
9 Federal Transit Administration under Federal reporting requirements. The Grantee shall provide
10 a list and schedule, for the coming 24 months, of all planned repairs, which may cause disruption
11 to service or impede other services or access, such as pedestrian access, motor vehicle
12 intersections, utilities operations, or maintenance, to assets in the Franchise area.

13 **SECTION 8 10. AND BE IT FURTHER ORDAINED,** That the provisions of this ordinance are
14 hereby declared to be severable. If any word, phrase, clause, sentence, paragraph, section or part
15 in or of this ordinance, or the application thereof to any person or circumstance, is declared
16 invalid, the remaining provisions and circumstances the applications of such provisions to other
17 persons or circumstances shall not be affected thereby but shall remain in full force and effect,
18 the Grantor hereby declaring that they would have ordained the remaining provisions of this
19 ordinance without the word, phrase, clause, sentence, paragraph, section or part, or the
20 application thereof, so held invalid.

21 **SECTION 9 11. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date
22 it is enacted.

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

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City