
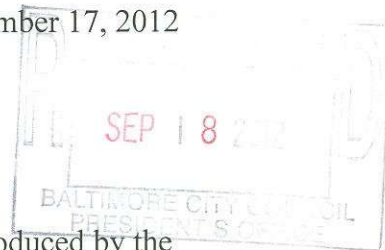


<b>FROM</b>	NAME & TITLE	Theodore Atwood, Director	CITY of <b>BALTIMORE</b> <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Department of General Services 800 Abel Wolman Municipal Building		
	SUBJECT	<b>CITY COUNCIL BILL 12-0109 – REVISED REPORT</b>		

**TO**

DATE:  
September 17, 2012

The Honorable President and Members  
of the Baltimore City Council  
c/o Karen Randle  
Room 400 – City Hall



I am herein submitting a revised report on City Council Bill 12-0109 introduced by the Council President on behalf of the Administration (Department of General Services).

The purpose of the Bill is to grant a franchise to CB Fayette Street Baltimore, LLC, to use and maintain two existing private pedestrian bridgeways above and across and two existing private tunnels under and across a portion of Marion Street right-of-way, subject to certain terms, conditions, and reservations.

Ordinance 937 of 1987 gave permission and authority to PKLB Limited Partnership, and its successors and assigns, to maintain and operate two existing and enclosed bridgeways and two existing subterranean tunnels within Marion Street right-of-way, between Howard Street and Kimmel Alley. The bridgeways and tunnels connect the premises referred to in the franchise as 302-306 West Fayette Street and 301-303-305-307-309 West Lexington Street. These properties are now known as 300-306 West Fayette Street and 118 North Howard Street, respectively. The term of the franchise was 25 years. The franchise fee established in 1987 was negotiated down from the scheduled fee of approximately \$98,000 to a fee of \$8,000. The basis for the negotiated fee was a Land Disposition Agreement (LDA) that the Mayor and City Council entered into with the franchisee in 1986. The LDA imposed certain covenants, conditions, easements and restrictions on the properties.

CB Fayette Street Baltimore, LLC is the current owner of the premises and is the successor in interest to the rights of PKLB Limited Partnership as the Grantee under Ordinance 937 of 1987. The new owner intends to maintain and operate the bridgeways and tunnels and wishes to renew the franchise for an additional 25 years.

In accordance with the Minor Privilege Schedule of Charges and Regulations as established and set by the Board of Estimates, an annual franchise fee of \$142,141.80 was the original recommendation for the four existing encroachments into the Marion Street public right-of-way, a 17-fold increase over the 1987 established fee. At the August 9, 2012 City Council hearing before the Housing and Community Development Committee, an attorney representing the property owner urged the City to charge a more equitable fee.

The matter subsequently was reviewed. The current Schedule of Charges began to increase after a study in year 2000 recommended that all City fees be increased 100 percent. The City implemented a 50 percent increase which occurred over a five year period. It was concluded that an equitable fee for the property would take into account

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that: (1) the fee was originally negotiated; (2) the property is currently subject to an LDA to which the City is a party; and (3) a 17-fold increase is overly steep when no other property requesting a franchise renewal is subject to a similar steep increase in price. Consequently, it was concluded a fee of \$98,000 would be appropriate under the unique, historical circumstances of this franchise.

Based on these findings, the Department of General Services supports passage of City Council Bill 12-0109 and that a franchise fee of \$98,000 be recommended to the Board of Estimates.

A handwritten signature in black ink, appearing to read 'Theodore Atwood', with a large, stylized flourish at the end.

Theodore Atwood  
Director

TA/MMC:ela