

**CITY OF BALTIMORE  
COUNCIL BILL 12-0109  
(First Reader)**

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Introduced by: The Council President  
At the request of: The Administration (Department of General Services)  
Introduced and read first time: July 16, 2012

Assigned to: Housing and Community Development Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planning Commission, Department of Housing and Community Development, Department of General Services, Department of Transportation, Fire Department, Board of Estimates

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Private Pedestrian Bridgeways Above and Across and**  
3 **Private Tunnels Under and Across a Portion of Marion Street Right-of-way**

4 FOR the purpose of granting a franchise to CB Fayette Street Baltimore, LLC, to use and maintain  
5 two existing private pedestrian bridgeways above and across and two existing private tunnels  
6 under and across a portion of Marion Street right-of-way, subject to certain terms, conditions,  
7 and reservations; and providing for a special effective date.

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

12 **Recitals**

13 Ordinance 937 of 1987 granted permission and authority to PKLB Limited  
14 Partnership, a limited partnership formed under the laws of the State of Maryland,  
15 its successors and assigns, to maintain and operate at its own cost and expense for a  
16 period not exceeding 25 years, existing and enclosed bridgeways above and across,  
17 and existing tunnels under and across portions of Marion Street right-of-way,  
18 between Howard Street and Kimmel Alley.

19 The bridgeways and tunnels connect the premises referred to in the franchise as  
20 302-306 West Fayette Street to the premises referred to as 301-303-305-307-309  
21 West Lexington Street now known as 300-306 West Fayette Street and 118 North  
22 Howard Street, respectively. The existing structures are an enclosed bridgeway 6-  
23 stories high, a second enclosed bridgeway 7-stories high, an approximately 20 foot  
24 long by 27 feet wide by 24.5 feet high tunnel, and an approximately 20 foot long by  
25 15 foot wide by 7 foot high tunnel.

26 CB Fayette Street Baltimore, LLC, a Delaware limited liability company, the  
27 current owner of the premises, is the successor in interest to the rights of PKLB  
28 Limited Partnership as Grantee under Ordinance 937 of 1987.

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

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1 Portions of the private bridgeways and tunnels will continue to be located above  
2 and under the public right-of-way. CB Fayette Street Baltimore, LLC, is requesting  
3 to renew the franchise 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 CB Fayette Street Baltimore, LLC, its tenants, successors, and  
6 assigns (collectively, the “Grantee”) to use and maintain, at Grantee’s own cost and expense, and  
7 subject to the terms and conditions of this Ordinance, the following described existing structures in,  
8 over or under the bed of Marion Street.

9 (a) An existing enclosed bridgeway, 6-stories high, above and across the bed of Marion  
10 Street, to connect the rear of the premises known as 300-306 West Fayette Street, with  
11 the rear of the premises known as 118 North Howard Street; that the lowest part of the  
12 bridgeway is not less than 14 feet above the surface of Marion Street, and that the  
13 bridgeway is approximately 20 feet long, 62 feet 9 ¾ inches wide, and 6-stories high.  
14 The center line of the bridgeway is located approximately 105 feet west of the west  
15 building line of North Howard Street.

16 (b) An existing enclosed bridgeway, 7-stories high, adjoining the west wall of the above 6-  
17 story bridgeway, above and across the bed of Marion Street, to connect the rear of the  
18 premises known as 300-306 West Fayette Street with the rear of the premises known as  
19 118 North Howard Street, upon the following terms and conditions: that the lowest  
20 part of the bridgeway is not less than 14 feet above the surface of Marion Street, and  
21 the first 6 stories of the bridgeway are approximately 20 feet long and 40 feet 3 inches  
22 wide, and the 7<sup>th</sup> floor of the bridgeway is approximately 20 feet long and 22 feet 9  
23 inches wide. The center line of the bridgeway is located approximately 157 feet west  
24 of the west building line of North Howard Street.

25 (c) An existing tunnel in and under the bed of Marion Street, to connect the rear of the  
26 premises known as 300-306 West Fayette Street with the rear of the premises known as  
27 118 North Howard Street, upon the following terms and conditions: that the tunnel  
28 connects the basement of the building known as 300-306 West Fayette Street with the  
29 basement of the building known as 118 North Howard Street; the tunnel’s inside  
30 measurements are approximately 20 feet long, 27 feet wide, and 24 feet 6 inches high;  
31 and the west wall of the tunnel is located approximately 112 feet west of the west  
32 building line of North Howard Street.

33 (d) An existing tunnel in and under the bed of Marion Street, to connect the rear of the  
34 premises known as 300-306 West Fayette Street with the rear of the premises known as  
35 118 North Howard Street, upon the following terms and conditions: that the tunnel  
36 connects the basement of the building known as 300-306 West Fayette Street with the  
37 first floor of the building known as 118 North Howard Street; and the tunnel is  
38 approximately 20 feet long, 15 feet wide, and 7 feet high. The center line of the tunnel  
39 is located approximately 163 feet west of the west building line of North Howard  
40 Street.

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

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

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

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

14          (b) The Mayor and City Council of Baltimore, acting by and through the Director of  
15          General Services, when, in the Director’s reasonable judgment, the public welfare or  
16          safety so requires, may cancel the Franchise at the end of the initial or any renewal  
17          term by giving written notice of cancellation to the Grantee at least 90 days before the  
18          end of that term.

19          (c) The Grantee may cancel the Franchise as of the end of the initial or any renewal term  
20          by giving written notice of cancellation to the Mayor and City Council at least 90 days  
21          before the end of that term.

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

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

32       **SECTION 7. AND BE IT FURTHER ORDAINED**, That the Grantee, at its own cost and expense,  
33       shall maintain in good condition and in compliance with all applicable laws and regulations of  
34       Baltimore City, all structures for which the Franchise is granted. The maintenance of these  
35       structures shall be at all times subject to the regulation and control of the Commissioner of  
36       Housing and Community Development and the Director of General Services. If any structure for  
37       which the Franchise is granted must be readjusted, relocated, protected, or supported to  
38       accommodate a public improvement, the Grantee shall pay all costs and expenses in connection  
39       with the readjustment, relocation, protection, or support.

40       **SECTION 8. AND BE IT FURTHER ORDAINED**, That at the option of the Mayor and City Council  
41       of Baltimore, acting by and through the Director of General Services, the Grantee’s failure to  
42       comply with any term or condition of this Ordinance constitutes a forfeiture of the Franchise.  
43       Immediately on written notice to the Grantee of the exercise of this option, the Franchise

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1 terminates. Once so terminated, only an ordinance of the Mayor and City Council of Baltimore  
2 may waive the forfeiture or otherwise reinstate the Franchise.

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

7 **SECTION 10. AND BE IT FURTHER ORDAINED,** That on cancellation, expiration, forfeiture,  
8 revocation, or other termination of the Franchise for any reason, the Grantee shall remove all  
9 structures for which the Franchise is granted. The removal of these structures shall be  
10 (i) undertaken at the cost and expense of the Grantee, without any compensation from the Mayor  
11 and City Council of Baltimore, (ii) made in a manner satisfactory to the Commissioner of Housing  
12 and Community Development and the Director of General Services, and (iii) completed within the  
13 time specified in writing by the Director of General Services.

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

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