

**CITY OF BALTIMORE
COUNCIL BILL 22-0217
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Department of Recreation and Parks)

Introduced and read first time: April 4, 2022

Assigned to: Economic and Community Development Committee

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

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Franchise – Storm Drain Outfall**

3 FOR the purpose of granting a franchise to 701 Caton, LLC to construct, use, and maintain the
4 storm drain outfall located in the City’s Lower Gwynns Falls Park, adjacent to 707 South
5 Caton Avenue, Baltimore, Maryland 21229, subject to certain terms, conditions, and
6 reservations; and providing for a special effective date.

7 BY authority of

8 Article VIII - Franchises

9 Baltimore City Charter

10 (1996 Edition)

11 **Recitals**

12 This project proposes the construction, use, and maintenance of this storm drain outfall
13 for the service and benefit of 701 Caton LLC known as 701 - 707 South Caton Avenue.

14 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE**, That a
15 franchise or right is granted to 701 Caton, LLC, its tenants, successors, and assigns (collectively,
16 the “Grantee”) to construct, use, and maintain, at Grantee’s own cost and expense, and subject to
17 the terms and conditions of this Ordinance, the storm drain outfall at the City’s Lower Gwynns
18 Falls Park, the location being described as follows:

19 Beginning for the Same at a point along the fourth or North 70° 14' 47" East
20 203.15 foot line of that parcel described in conveyance to Mayor and City Council
21 of Baltimore, dated February 2 1977 and recorded among the Land Records of
22 Baltimore City in Liber 3441, Folio 33, 18.73' from the end thereof, thence
23 running for new lines of division through the property of Mayor and City Council
24 of Baltimore the three following courses, as now surveyed with all bearings being
25 referred to the Baltimore City grid meridian:

26 (1) South 57° 37' 48" East 27.13 Feet to a point; thence

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

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- 1 (2) South 22° 23' 49" East 11.42 Feet to a point; thence
- 2 (3) South 53° 26' 32" West 38.71 Feet to intersect the ninth line in aforesaid Deed Liber
- 3 3441/33 at a point, thence binding on part of said ninth line and on part of the tenth
- 4 line of aforesaid Deed the two following courses
- 5 (4) North 46° 29' 29" West 13.51 Feet to a point; thence
- 6 (5) South 78° 53' 00" West 6.59 Feet to a point; thence running for a new of division
- 7 through the property of Mayor and City Council
- 8 (6) North 39° 01' 59" West 32.82 Feet to intersect the aforementioned fourth line in
- 9 aforesaid Deed Liber 3441/33 at a point; thence binding on part of said fourth line
- 10 (7) North 70° 16' 18" East 43.30 Feet to the Point of Beginning.

11 Containing 1,835 Square Feet or 0.0421 Acres more or less as shown on plat number
12 RW 20-36347.

13 Being part of that same property described in conveyance to Mayor and City Council
14 of Baltimore, dated February 2, 1977 and recorded among the Land Records of Baltimore
15 City, Maryland in Liber 3441, Folio 33.

16 **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right
17 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within
18 6 months after the effective date of this Ordinance.

19 **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the
20 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$ _____ a
21 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise
22 charge must be paid annually, at least 30 days before the initial and each renewal term of the
23 Franchise. If the installation of the storm drain outfall provided by this Ordinance predates the
24 effective date of this Ordinance, the parties agree that the annual franchise fee established
25 pursuant to this Section 3 shall be deemed an amount owed to the Mayor and City Council of
26 Baltimore beginning the year in which the installation occurred, which shall be collected as part
27 of the first payment made to the Mayor and City Council of Baltimore pursuant to this Section 3.

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

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

36 (b) Either the Mayor and City Council of Baltimore, acting by and through the Director of
37 Public Works, or the Grantee may cancel the Franchise as at the end of the initial or any renewal

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1 term by giving written notice of cancellation to the other at least 90 days before the end of that
2 term.

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

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

13 **SECTION 7. AND BE IT FURTHER ORDAINED,** That the Grantee, at its own cost and expense,
14 shall maintain in good condition and in compliance with all applicable laws and regulations of
15 Baltimore City, all structures for which the Franchise is granted. The maintenance of these
16 structures shall be at all times subject to the regulation and control of the Commissioner of
17 Housing and Community Development and the Director of Public Works. If any structure for
18 which the Franchise is granted must be readjusted, relocated, protected, or supported to
19 accommodate a public improvement, the Grantee shall pay all costs and expenses in connection
20 with the readjustment, relocation, protection, or support.

21 **SECTION 8. AND BE IT FURTHER ORDAINED,** That at the option of the Mayor and City
22 Council of Baltimore, acting by and through the Director of Public Works, the Grantee's failure
23 to comply with any term or condition of this Ordinance constitutes a forfeiture of the Franchise.
24 Immediately on written notice to the Grantee of the exercise of this option, the Franchise
25 terminates. Once so terminated, only an ordinance of the Mayor and City Council of Baltimore
26 may waive the forfeiture or otherwise reinstate the Franchise.

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

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

38 **SECTION 11. AND BE IT FURTHER ORDAINED,** That the Grantee is liable for and shall
39 indemnify and save harmless the Mayor and City Council of Baltimore against all suits, losses,
40 costs, claims, damages, or expenses to which the Mayor and City Council of Baltimore is at any
41 time subjected on account of, or in any way resulting from, (i) the presence, construction, use,
42 operation, maintenance, alteration, repair, location, relocation, or removal of any of the structures
43 for which the Franchise is granted, or (ii) any failure of the Grantee, its officers, employees, or

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1 agents, to perform promptly and properly any duty or obligation imposed on the Grantee by this
2 Ordinance.

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