

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 12-0109**

---

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  
Committee Report: Favorable  
Council action: Amended, with a floor amendment, and adopted  
Read second time: October 15, 2012

---

**AN ORDINANCE CONCERNING**

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

FOR the purpose of granting 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; and providing for a special effective date.

BY authority of  
Article VIII - Franchises  
Baltimore City Charter  
(1996 Edition)

**Recitals**

Ordinance 937 of 1987 granted permission and authority to PKLB Limited Partnership, a limited partnership formed under the laws of the State of Maryland, its successors and assigns, to maintain and operate at its own cost and expense for a period not exceeding 25 years, existing and enclosed bridgeways above and across, and existing tunnels under and across portions of 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 to the premises referred to as 301-303-305-307-309 West Lexington Street now known as 300-306 West Fayette Street and 118 North Howard Street, respectively. The existing structures are an enclosed bridgeway 6-stories high, a second enclosed bridgeway 7-stories high, an approximately 20 foot long by 27 feet wide by 24.5 feet high tunnel, and an approximately 20 foot long by 15 foot wide by 7 foot high tunnel.

**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 12-0109**

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

4 Portions of the private bridgeways and tunnels will continue to be located above  
5 and under the public right-of-way. CB Fayette Street Baltimore, LLC, is  
6 requesting to renew the franchise for an additional 25 years.

7 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That a  
8 franchise or right is granted to CB Fayette Street Baltimore, LLC, its tenants, successors, and  
9 assigns (collectively, the “Grantee”) to use and maintain, at Grantee’s own cost and expense, and  
10 subject to the terms and conditions of this Ordinance, the following described existing structures  
11 in, over or under the bed of Marion Street.

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

19 (b) An existing enclosed bridgeway, 7-stories high, adjoining the west wall of the above  
20 6-story bridgeway, above and across the bed of Marion Street, to connect the rear of  
21 the premises known as 300-306 West Fayette Street with the rear of the premises  
22 known as 118 North Howard Street, upon the following terms and conditions: that  
23 the lowest part of the bridgeway is not less than 14 feet above the surface of Marion  
24 Street, and the first 6 stories of the bridgeway are approximately 20 feet long and 40  
25 feet 3 inches wide, and the 7<sup>th</sup> floor of the bridgeway is approximately 20 feet long  
26 and 22 feet 9 inches wide. The center line of the bridgeway is located approximately  
27 157 feet west of the west building line of North Howard Street.

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

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

## Council Bill 12-0109

1       **SECTION 2. AND BE IT FURTHER ORDAINED**, That to become effective, the franchise or right  
2 granted by this Ordinance (the “Franchise”) must be executed and enjoyed by the Grantee within  
3 6 months after the effective date of this Ordinance.

4       **SECTION 3. AND BE IT FURTHER ORDAINED**, That as compensation for the Franchise, the  
5 Grantee shall pay to the Mayor and City Council of Baltimore a franchise charge of \$98,000 a  
6 year, subject to increase or decrease as provided in Section 5 of this Ordinance. The franchise  
7 charge must be paid annually, at least 30 days before the initial and each renewal term of the  
8 Franchise.

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

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

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

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

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

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

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

## Council Bill 12-0109

1       **SECTION 8. AND BE IT FURTHER ORDAINED**, That at the option of the Mayor and City  
2 Council of Baltimore, acting by and through the Director of General Services, the Grantee's  
3 failure to comply with any term or condition of this Ordinance constitutes a forfeiture of the  
4 Franchise. Immediately on written notice to the Grantee of the exercise of this option, the  
5 Franchise terminates. Once so terminated, only an ordinance of the Mayor and City Council of  
6 Baltimore may waive the forfeiture or otherwise reinstate the Franchise.

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

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

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

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

**Council Bill 12-0109**

Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City