

By: Hinojosa

H.B. No. 3893

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the modification of a 99-year lease of certain state  
3 property.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 34 (H.B. 215), General Laws, Acts of the  
6 33rd Legislature, Regular Session, 1913, is amended by deleting  
7 Section 2B.(a) in its entirety and in lieu thereof substituting the  
8 following:

9 Sec. 2B. (a) The leasehold interest granted by the State of  
10 Texas pursuant to Sections 2 and Section 2A of this Act shall be  
11 limited to only the surface of the property described in Sections 1,  
12 2A(a)1, and 2A(a)(2) of this Act, and shall be subject and  
13 subordinate to those rights and interests granted to the Capital  
14 Metropolitan Transportation Authority pursuant to Section 3  
15 hereof. The State of Texas does not by this Act part with any title,  
16 color of title or interest which it now owns in the property  
17 described in this Act, except as granted herein.

18 SECTION 2. Chapter 34 (H.B. 215), General Laws, Acts of the  
19 33rd Legislature, Regular Session, 1913, is amended by adding  
20 Section 3 to read as follows:

21 Sec. 3. (a) Notwithstanding any other provision of this  
22 Act, the State of Texas hereby cedes and grants to the Capital  
23 Metropolitan Transportation Authority for a period of 99 years  
24 beginning on the effective date of this Act, a lease of all of the

1 subsurface strata below the surface of the property described in  
2 Sections 1 and 2A.(a)(2) of this Act, and the streets abutting such  
3 property to the center of such streets.

4 (b) The Capital Metropolitan Transportation Authority may  
5 use the subsurface of the property described in Section 3(a) of this  
6 Act for public transportation, subway and/or underground railway  
7 station, tunnel and/or terminal, and any retail, commercial, public  
8 performances and exhibitions, and public amenity purposes. In any  
9 location and at any depth below the surface of the property  
10 described in Section 3(a) of this Act, The Capital Metropolitan  
11 Transportation Authority may construct, operate, repair, maintain,  
12 replace and remove (collectively, the "Transportation  
13 Facilities"):

14 (1) public transportation facilities, including,  
15 subway and railway tunnels, stations, tracks, and improvements  
16 related thereto;

17 (2) common areas and facilities designated for the  
18 general use and convenience of any subtenants, passengers, visitors  
19 and occupants of the Transportation Facilities, including  
20 concourses, tunnels, piers, boarding areas, stages, exhibitions  
21 and performance areas, seating areas, elevators, moving walkways,  
22 sidewalks, stairways, escalators, pedestrian entrances, station  
23 portals, air intakes/exits, loading zones, landscaping and any  
24 facilities and improvements related thereto;

25 (3) shops, stores, booths, stands, spaces and related  
26 facilities used for any commercial, retail, market and restaurant  
27 uses;

1           (4) billboards, and any advertising and/or  
2 promotional signs and/or displays, and,

3           (5) improvements, utilities and related  
4 infrastructure and public amenities related to the provision and  
5 development of all of the foregoing.

6           (c) Notwithstanding any other provision of this Act, the  
7 State of Texas hereby cedes and grants to the Capital Metropolitan  
8 Transportation Authority for a period of 99 years beginning on the  
9 effective date of this Act, the following easements on the surface  
10 of the property described in Sections 1 and 2A.(a)(2) of this Act,  
11 and the streets abutting such property to the center of such  
12 streets:

13           (1) a temporary non-exclusive construction easement  
14 to use as much of the surface of the property described in Section  
15 3(c) of this Act as the Capital Metropolitan Transportation  
16 Authority may deem necessary from time to time for the purpose of  
17 constructing, maintaining, repairing, replacing, relocating and  
18 removing all or any part of the Transportation Facilities or the  
19 Surface Ancillary Amenities (as defined in Section 3(c)(5) below);

20           (2) a non-exclusive access easement for vehicular and  
21 pedestrian ingress, egress, and access to and from the  
22 Transportation Facilities on, over and across the surface of the  
23 property described in Section 3(c) of this Act, whether on  
24 roadways, sidewalks or walkways located thereon if existing, or  
25 otherwise over such Surface Ancillary Amenities as the Capital  
26 Metropolitan Transportation Authority may install from time to  
27 time;

1           (3) a non-exclusive easement over the property  
2 described in Section 3(c) of this Act for audio, visual, view,  
3 reflective light, shadow flicker, glimmer, noise, shadow, glare and  
4 any other effects attributable to the Transportation Facilities  
5 located under or on the property described in Section 3(c) of this  
6 Act and/or on property adjacent thereto;

7           (4) a non-exclusive easement over the surface of the  
8 property described in Section 3(c) of this Act, for the purpose of  
9 installing, maintaining, repairing, replacing, relocating, and  
10 removing from time to time any (i) power transmission lines,  
11 including overhead and underground transmission lines, poles,  
12 anchors, conduits, support structures, cables, distribution and  
13 interconnection facilities, and related utility facilities,  
14 infrastructure, and equipment, (ii) telecommunication and data  
15 lines, including overhead and underground transmission lines,  
16 poles, anchors, conduits, support structures, cables, and related  
17 utility facilities, infrastructure, and equipment, (iii) water,  
18 drainage, waste and sewer lines, conduits, support structures, and  
19 related utility facilities, infrastructure, and equipment, and  
20 (iv) any other utility facilities, infrastructure and equipment as  
21 the Capital Metropolitan Transportation Authority may deem  
22 necessary or desirable in connection with the development,  
23 operation and maintenance of the Transportation Facilities and the  
24 Surface Ancillary Amenities; and,

25           (5) an encroachment easement and right to construct,  
26 maintain, repair, replace, relocate and remove such aboveground  
27 signage, booths, walkways, sidewalks, elevators, stairwells,

1 escalators, awnings, entryways, exits, fences, landscaping, air  
2 intakes/exits, trash receptacles and other public amenities  
3 (collectively, the "Surface Ancillary Amenities") as the Capital  
4 Metropolitan Transportation Authority may deem necessary or  
5 desirable to install over the surface of the property described in  
6 Section 3(c) of this Act.

7 (d) Each easement granted to the Capital Metropolitan  
8 Transportation Authority pursuant to Section 3(c)(1) - (5) of this  
9 Act shall be appurtenant to the leasehold interest granted to the  
10 Capital Metropolitan Transportation Authority pursuant to Section  
11 3(a) of this Act, shall run with the property described in Sections  
12 3(a) and 3(c) of this Act, and shall inure to the benefit of the  
13 Capital Metropolitan Transportation Authority. Nonuse of the  
14 easements or rights granted pursuant to Section 3(c) of this Act  
15 shall not constitute abandonment or surrender, nor shall it  
16 preclude the use of the entire scope thereof by Capital  
17 Metropolitan Transportation Authority at any time from time to  
18 time.

19 (e) The State acknowledges and agrees that the Capital  
20 Metropolitan Transportation Authority shall be the sole and  
21 exclusive owner of any Transportation Facilities and Surface  
22 Ancillary Amenities installed pursuant to Section 3 of this Act,  
23 and the Capital Metropolitan Transportation Authority may remove  
24 the same at any time from time to time. The State hereby waives any  
25 lien rights, whether statutory or otherwise, the State has or may  
26 have to the Transportation Facilities and Surface Ancillary  
27 Amenities.

1       (f) The Capital Metropolitan Transportation Authority shall  
2 have the right at any time and from time to time to assign,  
3 encumber, hypothecate, mortgage or pledge any of its right, title,  
4 or interest granted to the Capital Metropolitan Transportation  
5 Authority pursuant to Section 3 of this Act, including, without  
6 limitation, any of its right, title and interest in and to the  
7 Transportation Facilities and the Surface Ancillary Amenities.  
8 Moreover, the Capital Metropolitan Transportation Authority is  
9 hereby authorized to grant such subleases, easements, and/or  
10 licenses over, across, through or under the property described in  
11 Sections 3(a) and 3(c) of this Act as the Capital Metropolitan  
12 Transportation Authority may deem necessary or desirable in  
13 connection with the development, operation and maintenance of the  
14 Transportation Facilities and the Surface Ancillary Amenities.

15       (g) The State of Texas does not by this Act part with any  
16 title, color of title or interest which it now owns in the property  
17 described in Section 3 of this Act, except as granted herein.

18       SECTION 3. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2021.