

1-1 By: Hinojosa, et al. (Senate Sponsor - Eckhardt) H.B. No. 3893
 1-2 (In the Senate - Received from the House May 5, 2021;
 1-3 May 10, 2021, read first time and referred to Committee on
 1-4 Transportation; May 17, 2021, reported favorably by the following
 1-5 vote: Yeas 8, Nays 0; May 17, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9			X	
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the modification of a 99-year lease of certain state
 1-20 property to the City of Austin and the grant of a 99-year lease of
 1-21 certain state property and certain easements to the Capital
 1-22 Metropolitan Transportation Authority.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Sections 2B(a) and (b), Chapter 34 (H.B. 215),
 1-25 General Laws, Acts of the 33rd Legislature, Regular Session, 1913,
 1-26 are amended to read as follows:

1-27 (a) The leasehold interest granted by the state under
 1-28 Sections 2 and 2A(a)(2) of this Act shall be limited to only the
 1-29 surface of the property described in Sections 1 and 2A(a)(2) of this
 1-30 Act and shall be subject and subordinate to those rights and
 1-31 interests granted to the Capital Metropolitan Transportation
 1-32 Authority pursuant to Section 3 of this Act, provided however that
 1-33 the Capital Metropolitan Transportation Authority shall exercise
 1-34 those rights and interests so as to reasonably accommodate the
 1-35 public park uses authorized by Sections 2 and 2A of this Act. The
 1-36 state does not by this Act part with any title, color of title or
 1-37 interest which it now owns in the property described in this Act,
 1-38 except as granted herein.

1-39 (b) In the event, however, the City of Austin should fail to
 1-40 use the property described in Section 1 or 2A(a)(1) or (2) of this
 1-41 Act for the purpose or purposes designated, that property shall
 1-42 revert to the State as upon breach of condition subsequent,
 1-43 provided, however, that if the exercise of the rights and interests
 1-44 granted to the Capital Metropolitan Transportation Authority under
 1-45 Section 3 of this Act prevents the use of the property for a purpose
 1-46 designated for any period of time during the lease, such failure
 1-47 shall not be a breach of conditions.

1-48 SECTION 2. Chapter 34 (H.B. 215), General Laws, Acts of the
 1-49 33rd Legislature, Regular Session, 1913, is amended by adding
 1-50 Section 3 to read as follows:

1-51 Sec. 3. (a) Notwithstanding any other provision of this
 1-52 Act, the State of Texas hereby cedes and grants to the Capital
 1-53 Metropolitan Transportation Authority for a period of 99 years
 1-54 beginning on the effective date of this Act a lease of all of the
 1-55 subsurface strata below the surface of the property described only
 1-56 in Sections 1 and 2A(a)(2) of this Act and the streets abutting such
 1-57 property to the center of such streets.

1-58 (b) The Capital Metropolitan Transportation Authority may
 1-59 use the subsurface of the property described in Subsection (a) of
 1-60 this section only for public transportation, a subway or
 1-61 underground railway station, tunnel, or terminal, and

2-1 transportation facilities, including any related retail,
 2-2 commercial, public performance and exhibition, and public amenity
 2-3 purposes. In any location and at any depth below the surface of the
 2-4 property described in Subsection (a) of this section, the Capital
 2-5 Metropolitan Transportation Authority may construct, operate,
 2-6 repair, maintain, replace, and remove the following transportation
 2-7 facilities:

2-8 (1) public transportation facilities, including
 2-9 subway and railway tunnels, stations, tracks, and related
 2-10 improvements;

2-11 (2) common areas and facilities designated for the
 2-12 general use and convenience of any subtenants, passengers,
 2-13 visitors, and occupants of the transportation facilities,
 2-14 including concourses, tunnels, piers, boarding areas, stages,
 2-15 exhibition and performance areas, seating areas, elevators, moving
 2-16 walkways, sidewalks, stairways, escalators, pedestrian entrances,
 2-17 station portals, air intakes or exits, loading zones, landscaping,
 2-18 and any related facilities or improvements;

2-19 (3) shops, stores, booths, stands, spaces, and related
 2-20 facilities used for any commercial, retail, market, or restaurant
 2-21 uses;

2-22 (4) billboards and any advertising or promotional
 2-23 signs or displays; and

2-24 (5) improvements, utilities, and related
 2-25 infrastructure and public amenities related to the provision and
 2-26 development of services and facilities described by Subdivisions
 2-27 (1), (2), (3), and (4) of this subsection.

2-28 (c) Notwithstanding any other provision of this Act, the
 2-29 State of Texas hereby cedes and grants to the Capital Metropolitan
 2-30 Transportation Authority for a period of 99 years beginning on the
 2-31 effective date of this Act the following easements on the surface of
 2-32 the property described only in Sections 1 and 2A(a)(2) of this Act
 2-33 and the streets abutting such property to the center of such
 2-34 streets:

2-35 (1) a temporary nonexclusive construction easement to
 2-36 use the minimum amount of the surface of the property as the Capital
 2-37 Metropolitan Transportation Authority may reasonably consider
 2-38 necessary:

2-39 (A) for a period not to exceed five years from the
 2-40 commencement of construction in connection with the installation of
 2-41 the transportation facilities described by Subsection (b) of this
 2-42 section or the surface ancillary amenities described by Subdivision
 2-43 (5) of this subsection; and

2-44 (B) from time to time after the period described
 2-45 by Paragraph (A) of this subdivision for the purpose of renovating,
 2-46 maintaining, repairing, replacing, relocating, or removing all or
 2-47 any part of the transportation facilities described by Subsection
 2-48 (b) of this section or the surface ancillary amenities described by
 2-49 Subdivision (5) of this subsection;

2-50 (2) a nonexclusive access easement for maintenance
 2-51 vehicle and pedestrian ingress, egress, and access to and from the
 2-52 transportation facilities described by Subsection (b) of this
 2-53 section on, over, and across the surface of the property, whether on
 2-54 existing roadways, sidewalks, or walkways located on the property
 2-55 or otherwise over the surface ancillary amenities described by
 2-56 Subdivision (5) of this subsection as the Capital Metropolitan
 2-57 Transportation Authority may install from time to time;

2-58 (3) a nonexclusive easement over the property for
 2-59 audio, visual, view, reflective light, shadow flicker, glimmer,
 2-60 noise, shadow, glare, and any other effects attributable to the
 2-61 transportation facilities described by Subsection (b) of this
 2-62 section located under or on the property and on property adjacent to
 2-63 that property;

2-64 (4) a nonexclusive easement over the surface of the
 2-65 property for the purpose of installing, maintaining, repairing,
 2-66 replacing, relocating, or removing from time to time any:

2-67 (A) power transmission lines:

2-68 (i) including overhead and underground
 2-69 transmission lines, poles, anchors, conduits, support structures,

3-1 cables, distribution and interconnection facilities, and related
3-2 utility facilities, infrastructure, and equipment; and
3-3 (ii) excluding any substation;
3-4 (B) telecommunication and data lines, including
3-5 overhead and underground transmission lines, poles, anchors,
3-6 conduits, support structures, cables, and related utility
3-7 facilities, infrastructure, and equipment;
3-8 (C) water, drainage, waste and sewer lines,
3-9 conduits, support structures, and related utility facilities,
3-10 infrastructure, and equipment; and
3-11 (D) other utility facilities, infrastructure,
3-12 and equipment as the Capital Metropolitan Transportation Authority
3-13 may consider necessary or desirable in connection with the
3-14 development, operation, and maintenance of the transportation
3-15 facilities described by Subsection (b) of this section or the
3-16 surface ancillary amenities described by Subdivision (5) of this
3-17 subsection; and
3-18 (5) an encroachment easement for the Capital
3-19 Metropolitan Transportation Authority to install over the surface
3-20 of the property, for the purpose of providing access to the
3-21 transportation facilities described by Subsection (b) of this
3-22 section, surface ancillary amenities compatible with public park
3-23 uses as follows:
3-24 (A) for a period not to exceed five years from the
3-25 commencement of construction in connection with the installation of
3-26 the transportation facilities described by Subsection (b) of this
3-27 section, the right to construct and install aboveground signage,
3-28 booths, walkways, sidewalks, elevators, stairwells, escalators,
3-29 awnings, entryways, exits, fences, landscaping, air intakes or
3-30 exits, trash receptacles, and other public amenities; and
3-31 (B) from time to time after the period described
3-32 by Paragraph (A) of this subdivision, the right to:
3-33 (i) maintain, repair, replace, or remove a
3-34 surface ancillary amenity listed in Paragraph (A) of this
3-35 subdivision; and
3-36 (ii) construct or install fences,
3-37 landscaping, trash receptacles, and surface ancillary amenities
3-38 that are wayfinding in nature, including aboveground signage,
3-39 booths, and awnings.
3-40 (d) The Capital Metropolitan Transportation Authority
3-41 shall, in exercising the Capital Metropolitan Transportation
3-42 Authority's rights and interests on the surface of the property:
3-43 (1) to mitigate and minimize harm to the public park
3-44 uses, take measures that, at a minimum, comply with 49 U.S.C.
3-45 Section 303 and 23 U.S.C. Section 138; and
3-46 (2) use best efforts to preserve and protect any
3-47 existing trees that are 24 caliper inches or larger.
3-48 (e) Each easement granted to the Capital Metropolitan
3-49 Transportation Authority under Subsection (c) of this section shall
3-50 be appurtenant to the leasehold interest granted to the Capital
3-51 Metropolitan Transportation Authority under Subsection (a) of this
3-52 section, shall run with the property described in Subsections (a)
3-53 and (c) of this section, and shall inure to the benefit of the
3-54 Capital Metropolitan Transportation Authority. Nonuse of an
3-55 easement or right granted under Subsection (c) of this section does
3-56 not constitute abandonment or surrender and does not preclude the
3-57 use of the entire scope of the easement or right by the Capital
3-58 Metropolitan Transportation Authority at any time or from time to
3-59 time.
3-60 (f) The state acknowledges and agrees that the Capital
3-61 Metropolitan Transportation Authority shall be the sole and
3-62 exclusive owner of all transportation facilities described by
3-63 Subsection (b) of this section and surface ancillary amenities
3-64 described by Subsection (c)(5) of this section installed under this
3-65 section, and the Capital Metropolitan Transportation Authority may
3-66 convey or remove the same at any time or from time to time. The
3-67 state hereby waives any lien rights, whether statutory or
3-68 otherwise, the state has or may have to the transportation
3-69 facilities described by Subsection (b) of this section or the

4-1 surface ancillary amenities described by Subsection (c)(5) of this
4-2 section.

4-3 (g) The Capital Metropolitan Transportation Authority shall
4-4 have the right at any time and from time to time to assign,
4-5 encumber, hypothecate, mortgage, or pledge any right, title, or
4-6 interest granted to the Capital Metropolitan Transportation
4-7 Authority under this section, including, without limitation, any of
4-8 its right, title, or interest in and to the transportation
4-9 facilities described by Subsection (b) of this section or the
4-10 surface ancillary amenities described by Subsection (c)(5) of this
4-11 section. Moreover, the Capital Metropolitan Transportation
4-12 Authority is hereby authorized to grant such subleases, easements,
4-13 and licenses over, across, through, or under the property described
4-14 in Subsections (a) and (c) of this section as the Capital
4-15 Metropolitan Transportation Authority may consider necessary or
4-16 desirable in connection with the development, operation, or
4-17 maintenance of the transportation facilities described by
4-18 Subsection (b) of this section or the surface ancillary amenities
4-19 described by Subsection (c)(5) of this section.

4-20 (h) The State of Texas does not by this Act part with any
4-21 title, color of title, or interest which it now owns in the property
4-22 described in this section, except as granted in this section.

4-23 SECTION 3. This Act takes effect immediately if it receives
4-24 a vote of two-thirds of all the members elected to each house, as
4-25 provided by Section 39, Article III, Texas Constitution. If this
4-26 Act does not receive the vote necessary for immediate effect, this
4-27 Act takes effect September 1, 2021.

4-28 * * * * *