By:  Hinojosa H.B. No. 3893

A BILL TO BE ENTITLED

AN ACT

relating to the modification of a 99-year lease of certain state property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5)  an encroachment easement and right to construct, maintain, repair, replace, relocate and remove such aboveground signage, booths, walkways, sidewalks, elevators, stairwells, escalators, awnings, entryways, exits, fences, landscaping, air intakes/exits, trash receptacles and other public amenities (collectively, the "Surface Ancillary Amenities") as the Capital Metropolitan Transportation Authority my deem necessary or desirable to install over the surface of the property described in Section 3(c) of this Act.

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

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

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

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

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