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Raymond

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 to the City of Austin and the grant of a 99-year lease of
4 certain state property and certain easements to the Capital
5 Metropolitan Transportation Authority.

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

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

10 (a) The leasehold interest granted by the state under
11 Sections 2 and 2A(a)(2) of this Act shall be limited to only the
12 surface of the property described in Sections 1 and 2A(a)(2) of this
13 Act and shall be subject and subordinate to those rights and
14 interests granted to the Capital Metropolitan Transportation
15 Authority pursuant to Section 3 of this Act, provided however that
16 the Capital Metropolitan Transportation Authority shall exercise
17 those rights and interests so as to reasonably accommodate the
18 public park uses authorized by Sections 2 and 2A of this Act. The
19 state does not by this Act part with any title, color of title or
20 interest which it now owns in the property described in this Act,
21 except as granted herein.

22 (b) In the event, however, the City of Austin should fail to
23 use the property described in Section 1 or 2A(a)(1) or (2) of this
24 Act for the purpose or purposes designated, that property shall

1 revert to the State as upon breach of condition subsequent,
2 provided, however, that if the exercise of the rights and interests
3 granted to the Capital Metropolitan Transportation Authority under
4 Section 3 of this Act prevents the use of the property for a purpose
5 designated for any period of time during the lease, such failure
6 shall not be a breach of conditions.

7 SECTION 2. Chapter 34 (H.B. 215), General Laws, Acts of the
8 33rd Legislature, Regular Session, 1913, is amended by adding
9 Section 3 to read as follows:

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

17 (b) The Capital Metropolitan Transportation Authority may
18 use the subsurface of the property described in Subsection (a) of
19 this section only for public transportation, a subway or
20 underground railway station, tunnel, or terminal, and
21 transportation facilities, including any related retail,
22 commercial, public performance and exhibition, and public amenity
23 purposes. In any location and at any depth below the surface of the
24 property described in Subsection (a) of this section, the Capital
25 Metropolitan Transportation Authority may construct, operate,
26 repair, maintain, replace, and remove the following transportation
27 facilities:

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

4 (2) common areas and facilities designated for the
5 general use and convenience of any subtenants, passengers,
6 visitors, and occupants of the transportation facilities,
7 including concourses, tunnels, piers, boarding areas, stages,
8 exhibition and performance areas, seating areas, elevators, moving
9 walkways, sidewalks, stairways, escalators, pedestrian entrances,
10 station portals, air intakes or exits, loading zones, landscaping,
11 and any related facilities or improvements;

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

15 (4) billboards and any advertising or promotional
16 signs or displays; and

17 (5) improvements, utilities, and related
18 infrastructure and public amenities related to the provision and
19 development of services and facilities described by Subdivisions
20 (1), (2), (3), and (4) of this subsection.

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

1 (1) a temporary nonexclusive construction easement to
2 use the minimum amount of the surface of the property as the Capital
3 Metropolitan Transportation Authority may reasonably consider
4 necessary:

5 (A) for a period not to exceed five years from the
6 commencement of construction in connection with the installation of
7 the transportation facilities described by Subsection (b) of this
8 section or the surface ancillary amenities described by Subdivision
9 (5) of this subsection; and

10 (B) from time to time after the period described
11 by Paragraph (A) of this subdivision for the purpose of renovating,
12 maintaining, repairing, replacing, relocating, or removing all or
13 any part of the transportation facilities described by Subsection
14 (b) of this section or the surface ancillary amenities described by
15 Subdivision (5) of this subsection;

16 (2) a nonexclusive access easement for maintenance
17 vehicle and pedestrian ingress, egress, and access to and from the
18 transportation facilities described by Subsection (b) of this
19 section on, over, and across the surface of the property, whether on
20 existing roadways, sidewalks, or walkways located on the property
21 or otherwise over the surface ancillary amenities described by
22 Subdivision (5) of this subsection as the Capital Metropolitan
23 Transportation Authority may install from time to time;

24 (3) a nonexclusive easement over the property for
25 audio, visual, view, reflective light, shadow flicker, glimmer,
26 noise, shadow, glare, and any other effects attributable to the
27 transportation facilities described by Subsection (b) of this

1 section located under or on the property and on property adjacent to
2 that property;

3 (4) a nonexclusive easement over the surface of the
4 property for the purpose of installing, maintaining, repairing,
5 replacing, relocating, or removing from time to time any:

6 (A) power transmission lines:

7 (i) including overhead and underground
8 transmission lines, poles, anchors, conduits, support structures,
9 cables, distribution and interconnection facilities, and related
10 utility facilities, infrastructure, and equipment; and

11 (ii) excluding any substation;

12 (B) telecommunication and data lines, including
13 overhead and underground transmission lines, poles, anchors,
14 conduits, support structures, cables, and related utility
15 facilities, infrastructure, and equipment;

16 (C) water, drainage, waste and sewer lines,
17 conduits, support structures, and related utility facilities,
18 infrastructure, and equipment; and

19 (D) other utility facilities, infrastructure,
20 and equipment as the Capital Metropolitan Transportation Authority
21 may consider necessary or desirable in connection with the
22 development, operation, and maintenance of the transportation
23 facilities described by Subsection (b) of this section or the
24 surface ancillary amenities described by Subdivision (5) of this
25 subsection; and

26 (5) an encroachment easement for the Capital
27 Metropolitan Transportation Authority to install over the surface

1 of the property, for the purpose of providing access to the
2 transportation facilities described by Subsection (b) of this
3 section, surface ancillary amenities compatible with public park
4 uses as follows:

5 (A) for a period not to exceed five years from the
6 commencement of construction in connection with the installation of
7 the transportation facilities described by Subsection (b) of this
8 section, the right to construct and install aboveground signage,
9 booths, walkways, sidewalks, elevators, stairwells, escalators,
10 awnings, entryways, exits, fences, landscaping, air intakes or
11 exits, trash receptacles, and other public amenities; and

12 (B) from time to time after the period described
13 by Paragraph (A) of this subdivision, the right to:

14 (i) maintain, repair, replace, or remove a
15 surface ancillary amenity listed in Paragraph (A) of this
16 subdivision; and

17 (ii) construct or install fences,
18 landscaping, trash receptacles, and surface ancillary amenities
19 that are wayfinding in nature, including aboveground signage,
20 booths, and awnings.

21 (d) The Capital Metropolitan Transportation Authority
22 shall, in exercising the Capital Metropolitan Transportation
23 Authority's rights and interests on the surface of the property:

24 (1) to mitigate and minimize harm to the public park
25 uses, take measures that, at a minimum, comply with 49 U.S.C.
26 Section 303 and 23 U.S.C. Section 138; and

27 (2) use best efforts to preserve and protect any

1 existing trees that are 24 caliper inches or larger.

2 (e) Each easement granted to the Capital Metropolitan
3 Transportation Authority under Subsection (c) of this section shall
4 be appurtenant to the leasehold interest granted to the Capital
5 Metropolitan Transportation Authority under Subsection (a) of this
6 section, shall run with the property described in Subsections (a)
7 and (c) of this section, and shall inure to the benefit of the
8 Capital Metropolitan Transportation Authority. Nonuse of an
9 easement or right granted under Subsection (c) of this section does
10 not constitute abandonment or surrender and does not preclude the
11 use of the entire scope of the easement or right by the Capital
12 Metropolitan Transportation Authority at any time or from time to
13 time.

14 (f) The state acknowledges and agrees that the Capital
15 Metropolitan Transportation Authority shall be the sole and
16 exclusive owner of all transportation facilities described by
17 Subsection (b) of this section and surface ancillary amenities
18 described by Subsection (c)(5) of this section installed under this
19 section, and the Capital Metropolitan Transportation Authority may
20 convey or remove the same at any time or from time to time. The
21 state hereby waives any lien rights, whether statutory or
22 otherwise, the state has or may have to the transportation
23 facilities described by Subsection (b) of this section or the
24 surface ancillary amenities described by Subsection (c)(5) of this
25 section.

26 (g) The Capital Metropolitan Transportation Authority shall
27 have the right at any time and from time to time to assign,

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

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

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