

By: Eckhardt

S.B. No. 1838

A BILL TO BE ENTITLED

AN ACT

1
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
10 of 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 passage, 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
16 improvements related thereto;

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

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

1 restaurant uses;

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

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

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

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

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

1 as the Capital Metropolitan Transportation Authority may
2 install from time to time;

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

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

1 maintenance of the Transportation Facilities and the Surface
2 Ancillary Amenities; and,

3 (5) an encroachment easement and right to construct,
4 maintain, repair, replace, relocate and remove such
5 above-ground signage, booths, walkways, sidewalks,
6 elevators, stairwells, escalators, awnings, entryways,
7 exits, fences, landscaping, air intakes/exits, trash
8 receptacles and other public amenities (collectively, the
9 "Surface Ancillary Amenities") as the Capital Metropolitan
10 Transportation Authority may deem necessary or desirable to
11 install over the surface of the property described in Section
12 3(c) of this Act.

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

25 (e) The State acknowledges and agrees that the Capital
26 Metropolitan Transportation Authority shall be the sole and
27 exclusive owner of any Transportation Facilities and Surface

1 Ancillary Amenities installed pursuant to Section 3 of this Act,
2 and the Capital Metropolitan Transportation Authority may remove
3 the same at any time from time to time. The State hereby waives any
4 lien rights, whether statutory or otherwise, the State has or may
5 have to the Transportation Facilities and Surface Ancillary
6 Amenities.

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

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

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

S.B. No. 1838

1 Act takes effect September 1, 2021.