



## Legislation Details (With Text)

**File #:** 13485      **Version:** 1      **Name:** 4114 Lease Amendment Madison Kipp Corporation  
**Type:** Resolution      **Status:** Passed  
**File created:** 1/27/2009      **In control:** BOARD OF ESTIMATES (ended 4/2017)  
**On agenda:** 3/17/2009      **Final action:** 3/17/2009  
**Enactment date:** 3/18/2009      **Enactment #:** RES-09-00243

**Title:** Authorizing an amendment to the lease between the City and the Madison-Kipp Corporation (MKC) within the East Rail Transportation Corridor that will reduce the area of the leased premises with a corresponding decrease in the annual rent and also provide for an offset of costs to construct a sound reducing fence against the annual rent.

**Sponsors:** Marsha A. Rummel

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A 4114.pdf

Date	Ver.	Action By	Action	Result
3/17/2009	1	COMMON COUNCIL	Adopt	Pass
3/9/2009	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
2/25/2009	1	PEDESTRIAN/BICYCLE/MOTOR VEHICLE COMMISSION (ended 6/2018)	Return to Lead with the Recommendation for Approval	Pass
2/18/2009	1	BOARD OF PUBLIC WORKS	Return to Lead with the Recommendation for Approval	Pass
2/3/2009	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
2/3/2009	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
2/3/2009	1	COMMON COUNCIL	Referred	
1/27/2009	1	Community and Economic Development Unit	Referred for Introduction	

### Fiscal Note

The current annual rent payment by Madison Kipp Corp (MKC) to the City is \$5,964. The existing reduction of the leased premises shall permanently reduce the annual rent by \$900 effective January 1, 2009. The verified construction cost of a planned perimeter fence shall be permitted to reduce the annual rent by 100% beginning at such time that such fence construction is completed, and the 100% annual rent reduction shall continue until such annual rent reduction equals only the verified fence construction cost. The current estimate for the cost of a perimeter fence is \$60,000. Under this agreement, therefore, it is anticipated that MKC's rent payments would be suspended for a period of approximately 12 years, depending on the final costs for a perimeter fence, if constructed.

### Title

Authorizing an amendment to the lease between the City and the Madison-Kipp Corporation (MKC) within the East Rail Transportation Corridor that will reduce the area of the leased premises with a corresponding decrease in the annual rent and also provide for an offset of costs to construct a sound reducing fence against the annual rent.

## Body

During the time of the recent construction of the new Goodman Community Center at 149 Waubesa Street, the City of Madison constructed a storm water management surface water retention facility adjacent to the East Rail Corridor Bike Path. The facility was constructed in a portion of the leased premises that the City leased to the Madison-Kipp Corporation (MKC) beginning in 1998. In order to correct the situation, it is necessary to amend the lease to remove that portion of the leased premises that the City reoccupied. The portion contains approximately 2,100 square feet and its removal equates to a permanent reduction of the annual rent of \$900. During this same time period, the City also created the public street right of way now known as Waubesa Court, a necessary action to facilitate the legal land division required to create the Goodman Community Center site. However, it is not possible for MKC to use the court as a conventional public street access. Also the ongoing issue of plant noise has prompted MKC and the residential neighbors to pursue the feasibility of MKC constructing a sound-blocking wooden fence along portions of MKC's northerly and easterly property lines. In order to facilitate construction of an approved fence, City administration and City staff have proposed abating 100% of MKC's annual rent beginning if and when MKC completes construction of an approved fence. The abatement of the annual rent payments would continue until such time as the sum of the periodic annual rent payments equals the verified construction cost of the fence. Only the verified construction costs of the fence would be the subject of the proposed rent abatement. A map depicting the portion of the leased premises that is to be removed and the location of the wooden fence along portions of MKC's northerly and easterly perimeter is attached and marked as Exhibit A

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are authorized to execute an amendment to the lease (the "Lease") executed between the City of Madison and the Madison-Kipp Corporation effective January 1, 1998, that will amend the terms and conditions of the Lease as follows:

- 1) The legal description of the Leased Premises defined in the existing Lease recorded in the Office of the Dane County Register of Deeds as Document No. 3218002, shall be revised as described in the attached Exhibit A.
- 2) The annual rent shall be permanently reduced by \$900.00 effective January 1, 2009.
- 3) At such time that Madison-Kipp Corporation completes the construction of a wooden fence approved by the City along portions of Madison-Kipp Corporation's northerly and easterly perimeter property line, as depicted in the attached Exhibit A, the City shall abate 100% of the annual rent payments called for in the Lease during the period required for the sum of the annual rent payments to equal the verified amount of the costs to construct such fence, excluding, however, the wages of any of Madison-Kipp Corporation's regular employees used for such construction work.

BE IT FURTHER RESOLVED that all other terms and conditions in the Lease shall remain unchanged and are in full force and effect.