



## Legislation Details (With Text)

**File #:** 16709      **Version:** 2      **Name:** SUBSTITUTE 4114 Kipp Lse - 2nd Amendment  
**Type:** Resolution      **Status:** Passed  
**File created:** 11/23/2009      **In control:** PLAN COMMISSION  
**On agenda:** 2/2/2010      **Final action:** 2/23/2010  
**Enactment date:** 2/26/2010      **Enactment #:** RES-10-00138  
**Title:** SUBSTITUTE Authorizing a second amendment to the lease between the City of Madison and Madison-Kipp Corporation within the East Rail Transportation Corridor.  
**Sponsors:** Marsha A. Rummel  
**Indexes:**  
**Code sections:**

**Attachments:** 1. 4114 Amendment 2.pdf, 2. Add Comments 011110.pdf, 3. 4114 Kipp Lse Master version 1.pdf

| Date       | Ver. | Action By  | Action   | Result |
|------------|------|--|--|--------|
| 2/23/2010  | 2    | COMMON COUNCIL   | Adopt  | Pass   |
| 2/3/2010   | 2    | BOARD OF PUBLIC WORKS  | RECOMMEND TO COUNCIL TO ADOPT<br>- REPORT OF OFFICER   | Pass   |
| 1/26/2010  | 2    | PEDESTRIAN/BICYCLE/MOTOR<br>VEHICLE COMMISSION (ended<br>6/2018) | Return to Lead with the Recommendation<br>for Approval | Pass   |
| 1/25/2010  | 2    | PLAN COMMISSION  | Return to Lead with the Recommendation<br>for Approval | Pass   |
| 1/19/2010  | 1    | COMMON COUNCIL   | Re-refer for Recessed Public Hearing                   | Pass   |
| 1/11/2010  | 1    | PLAN COMMISSION  | Re-refer   | Pass   |
| 12/16/2009 | 1    | BOARD OF PUBLIC WORKS  | Refer  |        |
| 12/16/2009 | 1    | BOARD OF PUBLIC WORKS  | Refer  |        |
| 12/15/2009 | 1    | COMMON COUNCIL   | Referred   |        |
| 12/14/2009 | 1    | PLAN COMMISSION  | Re-refer   | Pass   |
| 11/23/2009 | 1    | Community and Economic<br>Development Unit                       | Referred for Introduction                              |        |

### Fiscal Note

No budgetary impact.

### Title

SUBSTITUTE Authorizing a second amendment to the lease between the City of Madison and Madison-Kipp Corporation within the East Rail Transportation Corridor.

### Body

The Common Council adopted a resolution (Resolution No. 54,717 ID No. 22,421) on December 2, 1997 that authorized the execution of a lease (the "Lease") between the City of Madison and Madison-Kipp Corporation ("MKC") to provide access and parking to MKC within the East Rail Transportation Corridor. The Common Council adopted a resolution (Enactment No. RES-09-00243, File ID 13485) on March 17, 2009 that authorized the execution of a First Amendment to the Lease that reduced the leased area, with a corresponding decrease in the annual rent, and provided for an offset of the costs to construct a fence within the leased area against the annual rent. MKC has requested that the lease be amended again to increase the

minimum written notice of lease termination from the City from 180 days to 1 year and to limit the discretion of the City to terminate the lease for any public use or purpose to public transportation purposes.

NOW THEREFORE BE IT RESOLVED that the Common Council authorizes the execution of a second amendment to the lease ("Lease") executed between the City of Madison and Madison-Kipp Corporation on May 18, 2000, as amended on March 17, 2009, amending the Lease as follows:

1. Paragraph 16.a.(4) of the Lease, which addresses the City's right to terminate the Lease for any public use or purpose, shall be modified to provide that the City shall have to right to terminate the Lease "[b]y giving the Lessee a minimum of one (1) year's written notice of termination in the event the Leased Premises, in the sole discretion of the governing body of the City of Madison, are desired for transportation purposes. Transportation purposes include, without limitation because of enumeration, public alleys, streets, highways, bike paths, sidewalks, and facilities for the development, improvement and use of public mass transportation systems. In the event of termination under this Subparagraph, any rent that has been prepaid for the period following the date of the Lessee's vacation of the Leased Premises shall be prorated on a per diem basis and refunded to the Lessee."

2. Paragraphs 3 and 4 of the Lease, which address the City's agreement to abate rent in an amount equal to the Lessee's verified construction cost for an approved sound-blocking wooden fence, shall be modified to provide that such verified construction costs may also include any costs or expenses incurred by the Lessee in researching the types of fences that could effectively reduce noise.

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