Legislation Details (With Text)

File #:	21435	**Version:**	1	**Name:**	839 Yahara Assoc. Lease First Amendment
Type:	Resolution			**Status:**	Passed
File created:	2/16/2011			**In control:**	BOARD OF ESTIMATES (ended 4/2017)
On agenda:	3/15/2011			**Final action:**	3/15/2011
Enactment date:	3/16/2011			**Enactment #:**	RES-11-00219

Title: Authorizing a first amendment to the lease between the City of Madison and Yahara Square Associates, LLP within the East Rail Transportation Corridor.

Sponsors: Marsha A. Rummel

Indexes:

Code sections:

Attachments: 1. 839 Lse Amend Exhibit 2.15.11.pdf

Date	Ver.	Action By	Action	Result
3/15/2011	1	COMMON COUNCIL	Adopt	Pass
3/7/2011	1	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
3/7/2011	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
3/2/2011	1	BOARD OF PUBLIC WORKS	Return to Lead with the Recommendation for Approval	Pass
2/22/2011	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
2/22/2011	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
2/22/2011	1	COMMON COUNCIL	Referred	
2/16/2011	1	Economic Development Division	Referred for Introduction	

Fiscal Note

No expenditure is required.

Title

Authorizing a first amendment to the lease between the City of Madison and Yahara Square Associates, LLP within the East Rail Transportation Corridor.

Body

On March 15, 1994 the Common Council adopted a resolution (Resolution No. 50,930 ID No. 14,717) authorizing the execution of a lease (the “Lease”) between the City of Madison and Marquip, Inc. for the construction, maintenance and operation of a parking lot within the East Rail Transportation Corridor (shown on the attached exhibit as “Leased Premises”), which use was ancillary to Marquip, Inc.’s business operations at 1245 East Washington Avenue. On August 8, 2001 the City consented to the assignment of the Lease to Yahara Square Associates, LLP (the “Lessee”), the current owner of the property at 1245 East Washington Avenue. The Lessee has requested that the Lease be amended to: (1) change the Lease term, which currently is on a year-to-year basis, to a five (5) year term with the option to renew the Lease for two (2) successive two (2) year terms; (2) increase the minimum written notice of Lease termination from the City from one hundred eighty (180) days to one (1) year; and (3) limit the discretion of the City to terminate the Lease for any public use or purpose to public transportation purposes. The Lease will also be amended to replace existing clauses with current City Indemnification and Insurance and Lessee Waivers of Eminent Domain

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Benefits clauses. All other terms and condition of the Lease will remain in full force and effect.

NOW THEREFORE BE IT RESOLVED that the Common Council authorizes the execution of a first amendment to the lease (the "Lease") between the City of Madison and Yahara Square Associates, LLP, as assigned on August 8, 2001, amending the Lease as follows:

1. Paragraph 2. Term of the Lease shall be amended such that the term of the Lease shall be five (5) years commencing upon such date as agreed to by the parties.

2. Paragraph 5. Renewal shall be amended to provide that the Lease may be renewed for two (2) successive two (2) year terms. .

3. Paragraph 26. Termination shall be amended such that the first paragraph of subparagraph b. shall be deleted in its entirety and replaced with the following: "By giving the Lessee one (1) year written notice in the event that the Leased Premises, in the sole discretion of the Common Council of the City of Madison, are desired for transportation purposes which 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 purposes."

4. Paragraph 20. Lessee Waivers shall be amended such that subparagraph b. shall be deleted in its entirety and replaced with the following: "In the event the Leased Premises or any part thereof shall be needed either permanently or temporarily for any public or quasi-public use or purposes by any authority in appropriation proceedings or by any right of eminent domain, the entire compensation award therefor, including but not limited to, all damages and compensation for diminution of value of the leasehold, reversion and fee, shall belong to the City without any deduction therefrom for any present or future estate of the Lessee, and the Lessee hereby assigns to the City all of its right, title and interest to any such award. However, the Lessee shall have the right to recover from any condemning authority, other than the City, such compensation as may be separately awarded to the Lessee for moving and relocation expenses."

5. Paragraph 21. Indemnification and Insurance shall be amended such that the current language shall be deleted in its entirety and replaced with the following: "The Lessee shall be liable to and agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Lessee, or its officers, officials, officers, agents, employees, assigns, guests, invitees, sublessees or subcontractors, in the performance of this Lease, whether caused by or contributed to by the negligence of the City, its officers, agents, or employees. Additionally, the Lessee shall carry commercial general liability insurance including contractual liability with no less than the following limits of liability, as may be adjusted, from time to time, by the City's Risk Manager; bodily injury, death and property damage of $1,000,000 per occurrence. The policy or policies shall name the City as an additional insured. As evidence of this coverage, the Lessee shall furnish to the City a certificate of insurance on a form provided by the City."

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

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