

CITY OF MADISON, WISCONSIN

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**REPORT OF THE CITY ATTORNEY**

AUTHOR: Michael P. May, City Attorney

DATED: October 24, 2012

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TO THE MAYOR AND COMMON COUNCIL:

RE: Enactment No. ORD-12-00112. Amended Third Alternate - Amending Sections 12.915(8)(a) and (b) and Section 11.06(3)(r) of the Madison General Ordinances to prohibit taxicabs waiting for passengers on State Street and permit them to provide service on State Street between the hours of 10:00 p.m. and 4:00 a.m.

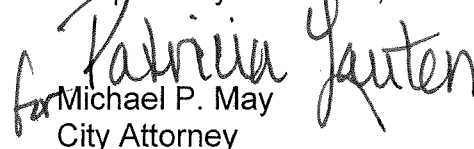
The above ordinance was adopted by the Common Council on September 18, 2012. The ordinance contained a delayed effective date which reads as follows:

*This ordinance shall take effect fourteen (14) days after the City receives confirmation from the Federal Transit Administration (FTA) of its concurrence in this minor change in use of the fixed guideway on State Street. The City Attorney will report to the Council as soon as such concurrence is received. The City Attorney will also report to the Council if such concurrence is not received within sixty (60) days of passage.*

Metro Transit General Manager Chuck Kamp submitted a written request to FTA Region V on September 27, 2012 (letter attached) for FTA's concurrence in the City's request for the incidental use of State Street specified in the adopted ordinance. On October 24, 2012, Metro Transit received confirmation of FTA's concurrence. (FTA letter dated October 23, 2012 attached.)

The OCA has calculated the effective date, communicated that to the City Clerk and the City Clerk concurs. The ordinance becomes effective on Wednesday, November 7, 2012.

Respectfully submitted,

  
for Michael P. May  
City Attorney

cc: Mayor Paul Soglin  
Attachments



## **Metro Transit**

Chuck Kamp, Transit General Manager

Suite 201  
1245 East Washington Avenue  
Madison, Wisconsin 53703  
Administrative Office: 608 266 4904  
Customer Information: 608 266 4466  
[www.mymetrobus.com](http://www.mymetrobus.com)

September 27, 2012

Lisa Joiner, Transportation Program Specialist  
Federal Transit Administration, Region V  
200 W. Adams Street  
Suite 320  
Chicago, IL 60606

Ms. Joiner,

Pursuant to FTA guidance, this letter is to request FTA concurrence regarding a modest change to an existing incidental use of State Street, one of Metro Transit's fixed guideway segments. Attached to this letter is information documenting the City of Madison's deliberation on easing the restrictions for allowing taxis on State Street during certain hours. This decision allows taxis to be on State Street between 10:00 PM and 4:00 AM in response to safety concerns for people needing transportation late at night.

Metro Transit represents that its request meets the criteria in Circular FTA C 5010.1D. Specifically that this use does not interfere with the City's use of State Street as a fixed guideway or its public transportation operations. The remaining criteria do not apply to this request, as there are no additional costs related to this incidental use by taxis during the hours specified or applicable excise taxes on fuel. Metro Transit believes this is a workable compromise that will not affect late night schedule adherence, especially compared to the original proposal of allowing taxis on State Street beginning at 7:00 PM which would interfere with early evening transit service. Metro will collect data to monitor this situation; however, we do not believe it will negatively impact our schedule adherence.

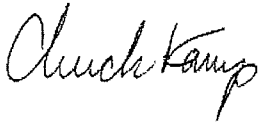
The attached document shows the ordinance as adopted and the deliberations of the Transit and Parking Commission, Downtown Coordinating Committee, the Common Council and others on this issue. We believe this documentation supports our request, reflects a reasonable compromise that will not interfere with transit operations or the State Street's continued status as a fixed guideway, and harmonizes the many competing interests served by this unique Street.

The adopted ordinance with the expanded late night hours for taxis has a delayed effective date contingent on the FTA's approval of this change to the usage of this fixed guideway segment. This letter seeks that approval.

October 24, 2012

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Sincerely,



Chuck Kamp  
Transit General Manager

Concurrence

Yes \_\_\_\_\_

No \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Date

Cc: Mayor Paul Soglin  
Michal May, City Attorney  
Common Council  
Transit and Parking Commission



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

REGION V  
Illinois, Indiana,  
Michigan, Minnesota,  
Ohio, Wisconsin

200 West Adams Street  
Suite 320  
Chicago, IL 60606-5253  
312-353-2789  
312-886-0351 (fax)

**October 23, 2012**

Chuck Kamp  
Transit General Manager  
Madison Metro  
1245 East Washington, Suite 201  
Madison, WI 53703

Re: Incidental Use of State Street

Dear Mr. Kamp:

The Federal Transit Administration (FTA) has reviewed your request for the incidental use of the right-of-way constructed on State Street which was funded under FTA grant number WI-03-0017. State Street continues to operate under the original purpose of the grant. In addition to its current use, Madison Metro would like to allow taxis on State Street between 10:00pm and 4:00am to address safety concerns.

Under FTA Circular 5010.1D, incidental use is permitted under the following circumstances:

- (a) The incidental use does not interfere with the grantee's project or public transportation operations;
- (b) The grantee fully recaptures all costs related to the incidental use from the non-transit public entity or private entity, including all applicable excise taxes on fuel for fueling facilities and wear and tear to capital improvements;
- (c) The grantee uses revenues received from the incidental use for capital and/or operating expenses that were or will be incurred to provide the public transportation; and
- (d) Private entities pay all applicable excise taxes on fuel.

According to your letter, the taxis use of State Street will not interfere with Madison Metro's use of State Street as a fixed guide way or its public transportation operations. The remaining criterion above does not apply since there are no additional costs related to this incidental use.

Based on the information provided, FTA concurs in Madison Metro's request for the incidental use of State Street. If you have further questions, you may contact Lisa Joiner or me at 312-353-2791.

Sincerely,

Dominick J. Gatto, P.E.  
Director, Office of Program Management and Oversight

Cc: Ann Schroeder  
Administrative Services Coordinator