



CITY OF CONCORD

REPORT TO MAYOR AND THE CITY COUNCIL

FROM: Beth Fenstermacher, Director of Special Projects and Strategic Initiatives

DATE: June 30, 2025

SUBJECT: Acquisition of Real Estate from Boston and Maine Corporation (CSX Transportation, Inc.) for the Merrimack River Greenway Trail (CIP #543)

Recommendation:

- 1) Accept the following report; and,
- 2) Set the attached resolution authorizing the City Manager to execute Purchase and Sales Agreement with the Boston and Maine Corporation, a subsidiary of CSX Transportation, Inc., concerning the acquisition of portions of the Northern Main Line to support the Merrimack River Greenway Trail (CIP #543) and appropriated \$143,000, including \$105,000 in General Fund supported bonds and notes, and \$38,000 from the Recreation Impact Fee Reserve, for that purpose, for public hearing on August 11, 2025.

Background:

- 1) Merrimack River Greenway Trail (MRGT):

The MRGT is a regional multi-use rail. Several years ago, the City created CIP #543 “Merrimack River Greenway Trail” within the City’s Capital Improvement Program for the purposes of facilitating the development of a 12.7-mile multi-use trail through Concord (see Figure 1 below). When completed, the MRGT will create significant benefits for Concord residents, including, but not limited to, improved livability, quality of life, intermodal connectivity of neighborhoods, as well as preservation and access to open space. In addition, the trail will likely result in new economic development opportunities for the community.

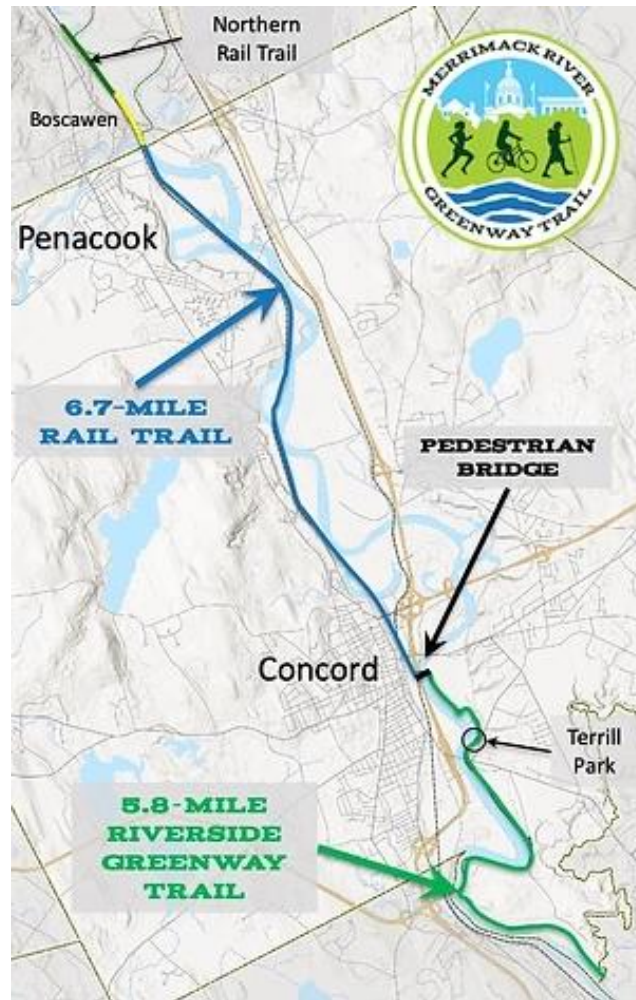


Figure 1. Map of proposed Merrimack River Greenway Trail

In order to bring the MRGT to fruition, the City, working with others, will need to acquire various properties, or easements thereon. The majority of property required is associated with the Boston and Maine Northern Main Line railroad, which is a subsidiary of CSX Transportation, Inc. (formerly Pan Am Systems, Inc.).

Over the past decade or so, the City, working with the Friends of the MRGT (FMRGT), has secured grant funds to design and construct limited portions of the trail:

- In Fall 2020, the City completed construction of Phase 1, which is an approximately 0.75-mile trail in Terrill Park, utilizing Land and Water Conservation Funds (LWCF) and donations through FMRGT.
- In 2021, NH Department of Transportation (NHDOT) approved a \$1.7 million Transportation Alternatives Program (TAP) grant to construct the rail trail portion of the MRGT between Sewalls Falls Road and the Boscawen town line, pending acquisition of the property.
- In 2024, the City completed construction of Phase 2, which has an approximately 0.8-mile paved trail along the Gully Hill Road agricultural fields utilizing Land and Water Conservation Funds (LWCF) and donations through FMRGT.

Additionally, the City, through its development permitting processes, has secured easements over private property at 11 Stickney Avenue and has an agreement with the developers at Black Hill Road to facilitate future construction of the MRGT. An easement at 6 Loudon

Road to connect the Gully Hill Road trail to Loudon Road is currently being negotiated. The City is also in the process of adding a 14' wide expansion of the Loudon Road Bridge across the Merrimack River to connect the MRGT from Gully Hill Road to future segments to be developed in the Downtown area. Further, the City is working with the NHDOT to construct those portions of the MRGT between the Merrimack River, Downtown, and Horseshoe Pond as part of the forthcoming I-93 Bow-Concord Project.

2) Acquisition of Northern Main Line Railroad (Pan Am Systems):

On March 22, 2017, the segments of the Northern Main Line located north of Horseshoe Pond Lane were formally discontinued by the U.S. Surface Transportation Board at the request of Pan Am Systems. Although discontinued, this portion of the Northern Main Line remains part of Boston to Montreal High Speed Rail Corridor, as previously designated by the Federal Railroad Administration in October 2000.

In 2018, Pan Am Systems commissioned a real estate appraisal of the discontinued portions of the Northern Main Line located in Concord and Boscawen to assist with preparation of the property for divestment.

In April 2019, the City began formal negotiations with Pan Am to acquire the discontinued portion of the Northern Railroad located between Horseshoe Pond Lane and the Contoocook River to facilitate development of the Merrimack River Greenway Trail. Simultaneously, the Friends of the Northern Rail Trail entered into negotiations with Pan Am Systems to acquire those portions of the Northern Main Line located in Boscawen.

On June 14, 2021, the City Council approved Resolution #9379, which authorized the City Manager to enter into a Purchase and Sale Agreement to acquire a 5.7-mile segment of the Northern Main Line located between Horseshoe Pond Lane and the Contoocook River from Pan Am for the sum of \$431,500 for the purposes of extending the MRGT. The Resolution included authorization to enter into an Agreement for the acquisition of appportion of the Concord to Claremont Line for construction of a portion of the Concord-Lake Sunapee Rail Trail. However, during due diligence review, it was determined that the Concord-Lake Sunapee property had significant title issues; therefore, that portion of the project was abandoned and the funds appropriated for that purpose were returned to the Conservation Trust Fund.

The Purchase and Sales Agreement for the Northern Main Line, which was signed on July 7, 2021 by the City and Pan Am, was expressly subject to the State of New Hampshire's Right of First Refusal (ROFR) for the property, in accordance with RSA 228:60-a. On October 18, 2021, the NH Department of Transportation, in accordance with RSA 228:60-a, invoked its ROFR to acquire the 5.7-mile segment on of the Northern Main Line in Concord to protect the State's long-term interests relative to potential future high-speed rail. The State's actions automatically terminated the City's Purchase and Sale Agreement with Pan Am.

Immediately following the State's decision to enact its ROFR, the City and NHDOT entered into negotiations to establish a partnership, as permitted by RSA 228:60-b, II, to acquire that portion of the Northern Main Line corridor located between Horseshoe Pond Lane and the Contoocook River. These negotiations were successful and resulted in a Memorandum of Agreement. However, prior to the final execution of the MOA and finalization of the Purchase and Sales Agreement, CSX Transportation, Inc. acquired all of the Pan Am

Systems, Inc. New England holdings, which ultimately halted all pending real estate transactions related to the rail corridor.

Discussion:

1) Purchase and Sales Agreement for Acquisition of the Northern Main Line Railroad (CSX Transportation)

Following the sale of Pan Am to CSX, the City and NHDOT worked diligently to commence negotiations with CSX to acquire the 5.7-mile segment of the Northern Main Line in Concord between Horseshoe Pond and the Contoocook River. After a period of time, CSX agreed to engaged in negotiations pending an updated appraisal, completed survey work, and title opinion. After consultation with the NHDOT, the NHDOT acquiesced to the City leading the efforts on updated appraisals, boundary survey and title items, as well as the negotiation of a Purchase and Sales Agreement with CSX.

Negotiations were successful, and, subject to final review and approval, CSX has agreed to convey the 81.73 acre / 5.73-mile segment of the Northern Rail Trail between Horseshoe Pond and the Contoocook River to the City for the sum of \$535,000. Closing shall occur no later than 180 days from date of execution. As a condition of purchase, the City will be limited to using the property for a recreational trail and utilities. Presuming execution in August, closing would occur no later than on or about end of February 2026.

A copy of the draft Purchase and Sales Agreement is attached.

2) Acquisition Budget & Supplemental Appropriation:

On June 14, 2021, the City Council approved Resolution #9380, which appropriated the sum of \$600,000 to finance acquisition of this segment of the Northern Main Line, and related expenses. To date, funds have been expended for due diligence items included title opinion, Phase 1 Environmental Site Assessments, updated real estate appraisals, and boundary surveys. Currently \$477,168+/- remains available.

The updated appraisal increased the purchase price by \$103,500 from \$431,500 to \$535,000. In addition, the City incurred additional expenses for the CSX negotiations, including an expedited appraisal, complicated title work and survey.

As a result, a supplemental appropriation in the amount of \$143,000 is required to complete this purchase. Staff recommends the supplemental appropriation be supported using a combination of General Obligation Bonds and Recreational Impact Fees. Please see the attached resolution for more information.

3) Important Items: The following is a summary of important items and issues associated with the acquisition.

a. NH Department of Transportation:

The new Agreement will be subject to the State of New Hampshire's Right of First Refusal (ROFR) for the property, in accordance with RSA 228:60-a. The City and NHDOT have been in communication throughout the negotiation process with CSX, and further delays are not anticipated.

- b. Highspeed Rail Corridor Designation: In November 2000, the Federal Railroad Administration designated portions of the Northern Main Line to be part of the Northern New England Corridor, a highspeed rail corridor intended to stretch from Boston to Montreal. Although the Northern Main Line has been discontinued north of Horseshoe Pond Lane, the line remains subject to this designation and could be re-activated in the future for highspeed rail service.

There are significant engineering and financial challenges negatively influencing the viability of restoring highspeed rail service within the historic Northern Main Line corridor. That said, if highspeed rail were to be established in the future, it is presently unclear how the City's potential investments in these properties, or the associated rail trails, would be affected. However, recognizing the immense popularity of the Merrimack River Greenway / Northern Rail Trail and its State-wide importance for recreation and tourism, coupled with extensive permitting processes that would be required to reactivate the corridor for highspeed rail, it would be surprising if the rail trail would be fully terminated (rather than relocated) by the State / Federal government as part of any reactivation of rail service in the future.

c. Environmental Considerations:

- i. Phase I Environmental Site Assessment (ESA): During prior negotiations with Pan Am Systems, the City conducted a Phase I Environmental Site Assessment (ESA). While that effort included a visual inspection of the properties, as well as review of available databases and historical records, Pan Am prohibited the City from conducting any soil and groundwater sampling at these properties prior to closing. Given the history of the property, the potential exists that the property is contaminated with a variety of hazardous substances, including, but not limited to, coal ash (PAHs), creosote (a chemical used to preserve wooden railroad ties), and petroleum products.

In the updated Purchase and Sales Agreement, CSX will require soil sampling to determine the nature and extent of any hazardous substances; however, CSX will not be liable for any clean-up costs. The cost for soil sampling is included in the updated budget.

The City has engaged in discussions with NH Department of Environmental Services (NHDES) to determine potential concerns with development of the trail. NHDES considers the anticipated contaminants of concern as "background" for rail corridors and, therefore, do not regulate these contaminants. NHDES provides best management practices to follow, including capping the material with the trail surface, and methods during construction to limit exposure. If the soil sampling identifies contaminants of concern above the NHDES background levels, the City will be required to comply with any reporting and clean-up requirements imposed by NHDES regulations.

- d. Existing Leases, Licenses, and Agreements: The property is reportedly subject to numerous easements, licenses, and other agreements.

In addition, the Northern Main Line is subject to lease with the Scenic Rail Riders, Inc. concerning a pedal car operation near Sewalls Falls Road. Staff has yet to see a copy of this agreement; however, it is understood that the original

lease expired and the current operation is under a month-to-month agreement with CSX.

CSX has declined to share the details of all such agreements until the P&S Agreements are executed. Once the P&S Agreement is executed, these documents shall be provided to the City for review during the due diligence period.

All such agreements, and revenues associated therewith (if any), shall accrue to the City at closing. Staff shall inform the City Council of any agreements which might require the City Council to make a policy decision regarding management, renewal, or extension thereof, as well as potential use of revenues associated therewith.

- e. CSX's Salvage Rights: In accordance with the terms and conditions of the attached P&S Agreement, CSX has the right to salvage steel rails, as well as abandon existing ties located at the premises within one year of closing.
- 2) Benefits of Proposed Acquisitions: City Administration believes that the community will receive following benefits from this acquisition:
- a. Acquisition of this railroad corridor will help facilitate connectivity with, and access to, 395+/- acres of conservation land, 330+/- acres of City owned property (including the Beaver Meadow Golf Course), as well as 339+/- acres of other State-owned property. Please see the attached locus map for more information.
- Relative to Beaver Meadow Golf Course, acquisition of the corridor could foster winter cross country skiing activities.
- b. The purchase of this corridor (81.73 acres / 5.73 miles) and subsequent development of the rail trail, will provide intermodal connectivity between Downtown Concord, Penacook Village and the Heights.
 - c. The purchase and future development of the Merrimack River Greenway Trail will expand recreational opportunities for all City residents.
 - d. The City has received a \$1.7 million NHDOT TAP Grant, and will be able to proceed with design of that section of the MRGT near Second Street and Sewalls Falls Road immediately following closing.
 - e. Acquisition of this property will provide the potential opportunities for new utility corridors to connect future potable water supplies associated with the Merrimack River to the rest of the potable water system, as well as opportunities to connect municipal sewer system in Penacook Village to the Hall Street Waste Water Treatment Plant.
 - f. Important economic and community development benefits associated with the acquisition of this 5.73-mile property, and subsequent development of the respective rail trail, will accrue to Concord.

Tangible benefits will likely include tax base expansion associated with potential growth of property values for those parcels and neighborhoods with convenient access to the rail trail.

Additionally, potential limited commercial enterprises such as cafes or trail focused cottage industries like bicycle rental or cross-country ski rental shops, may develop near key intersections or trail heads along the Merrimack River Greenway Trail. Such activity could result in tax base expansion, job creation, and expanded community vitality.

Because rail trails provide important quality of life amenities for the community, it is also anticipated that acquisition of this property and subsequent development of a 5.73-mile section of the MRGT will generate less tangible, but very important, economic and community development benefits. For example, such amenities are often cited as being beneficial for employers looking to attract or retain employees in the regional labor market. In addition, the rail trails will be one more important public amenity which will serve to make Concord that much more desirable among consumers of commercial and residential real estate.

For these reasons, City Administration believes that this acquisition, and the subsequent development of the associated 5.73-mile section of the Merrimack River Greenway Trail, will further enhance the City's standing of being one of the premiere communities in New England in which to live, work, and play.