



CITY OF FRAMINGHAM

OFFICE OF THE MAYOR

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Framingham, MA 01702

Thatcher W. Kezer III
Chief Operating Officer

November 16, 2020

301287

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings Surface
Transportation Board
395 E Street, S.W. Washington, D. C. 20423

ENTERED
Office of Proceedings
November 16, 2020
Part of
Public Record

**RE: Docket No. AB-565 (Sub-No. 1X), New York Central Lines, LLC–
Abandonment Exemption–in Middlesex County, MA–Request for
Extension of time until December 1, 2021 to negotiate an interim trail
use/rail banking agreement with CSX Transportation, Inc. (“CSXT”)
and Request for Waiver of Filing Fee**

Dear Ms. Brown:

The City of Framingham, Massachusetts (“City” or “Framingham”) hereby requests that the Surface Transportation Board (the “Board” or “STB”) grant a one-year extension of time until December 1, 2021 to negotiate an interim trail use/rail banking agreement with CSX Transportation, Inc. (“CSXT”), the successor by merger to New York Central Lines, LLC, over approximately 3.40 miles of CSXT rail line in Framingham the from milepost QBS 0.00, to approximately milepost QBS 3.40, of the former Penn Central Transportation Company line. The City further requests that the filing fee for this extension request be waived pursuant to 49 CFR 1002(e)(1) because the City is a local government entity. The reasons for this request are set forth below.

Basis for Extension:

Three principal reasons support Framingham’s request for a one year, extension as follows:

1. In its Decision under Docket No. AB 565 (Sub-No. 1X) decided December 23, 2019, STB determined that the final rule in Docket No. EP 749 (Sub- No. 1) does not apply to Sudbury and Framingham’s last extension request because the final rule did not become effective until February 2, 2020. Thus, the current request for an extension is the first extension request made by the City under the new rule limiting extension requests and should be allowed accordingly.
2. The voters of the Town of Sudbury, Massachusetts (“the Town” or “Sudbury”) recently passed a ballot question allowing the Town to enter into an agreement with CSXT to acquire the 1.40 miles of rail corridor located in Sudbury, and to take out a loan for over \$800,000 to be repaid over 10 years to finance such acquisition, thus making it much more likely that CSXT and Framingham will be able to reach agreement to convey the 3.40 miles of rail corridor located in Framingham because the rail corridor will be contiguous with the anticipated rail corridor to be purchased by Sudbury.

FILING FEE WAIVED



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3. The voters of Framingham recently accepted the Massachusetts Community Preservation Act, which allows the City to collect an additional 1% surcharge of the annual property tax assessed on real property beginning in FY 2022 (July 1, 2021), and by annual distributions made by the state from a trust fund created by the Act, to establish a dedicated source of funding to acquire open space, potentially including land for park and recreational uses such as the contemplated multi-use rail trail that is the subject of the current negotiations between Framingham and Sudbury with CSXT.

Background and Analysis

Since 2001, the Town of Sudbury, Massachusetts ("Sudbury" or "Town") and Framingham have been working cooperatively to pursue the acquisition of the final portions of the CSXT line needed to complete a continuous multiuse path known as the Bruce Freeman Rail Trail that follows a 25-mile route of the former New Haven Railroad Framingham & Lowell rail line that would link the communities of Lowell, Chelmsford, Westford, Carlisle, Acton, Concord, Sudbury, and Framingham. Prior to this year, CSXT was reluctant to convey the 3.40-mile section of rail corridor to Framingham until Sudbury could acquire the contiguous portion located in the Town.

On November 2, 2020, Sudbury provided notice to the STB that the Town and CSXT had executed a written agreement for the sale of a 1.40-mile portion of the rail line proposed for abandonment in the above-entitled proceeding between milepost QBS 3.40 (at the Framingham border) and milepost QBS 4.80 contingent upon the completion of due diligence to the Town's satisfaction. On November 3, 2020, Sudbury passed a ballot initiative that empowered the Board of Selectmen to proceed with the acquisition and authorized the Selectmen to borrow money for such acquisition. More particularly, Question 3, which passed by a vote of 8229-3351, gave approval to the Selectmen to purchase a 1.4 mile CSX corridor of land running north-south from Station Road in Sudbury to the Framingham line. The cost of the purchase is \$1,145,000. The state Department of Conservation and Recreation will provide \$400,000 in two grants; and Question 3 authorized the Selectmen to borrow the remaining \$820,500 as a debt exclusion, to be repaid over ten years. If the due diligence is completed to the Town's satisfaction, Sudbury expects to close on the acquisition of the Line for interim trail use and rail banking shortly in the Spring of 2021.

Additionally, on November 3, 2020, the voters of Framingham accepted the Massachusetts Community Preservation Act, which allows the City to collect an additional 1% surcharge of the annual property tax assessed on real property beginning in FY 2022 (July 1, 2021), and to obtain annual distributions made by the state from a trust fund created by the Act, to establish a dedicated source of funding to acquire open space, potentially including land for park and recreational uses such as the Bruce Freeman Rail Trail. The Framingham voters specifically accepted Sections 3 to 7 of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act (Act), which establishes a dedicated funding source to enable cities and towns to (1) acquire open space, which includes land for park and recreational uses and the protection of public drinking water well fields, aquifers and recharge areas, wetlands, farm land, forests, marshes, beaches, scenic areas, wildlife preserves and other conservation areas,



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(2) acquire and restore historic buildings and sites, and (3) create affordable housing.

Because the City is now able to move forward with negotiations and pursuit of funding to acquire the final segment of the CSXT rail line to complete the Bruce Freeman Rail Trail, Framingham respectfully requests a one-year extension until December 1, 2021 pursuant to the rules adopted by the Board in *Limiting Extensions of Trail Use Negotiating Periods*, Docket No. EP 749 (Sub-No. 1) et al. (served December 4, 2019), slip op. at 11, which provided “Parties in negotiations under existing CITUs or NITUs on the effective date of these rules who wish to extend their negotiating period will be required to seek extensions of one year, rather than 180 days as is the current common practice (or any other duration).” This request for a one-year extension is proper under the Board’s transitional rule, which provides “as a transitional measure, parties engaged in negotiations under an existing CITU or NITU that was originally issued before February 2, 2017, may request one additional extension of one year, beyond the four-year anniversary of the issuance of the CITU or NITU, without showing extraordinary circumstances.” *Id.* See *CSX Transportation, Inc.-Abandonment Exemption-in Logan County, W. Va.*, Docket No. AB 55 (Sub-No. 763X) (served October 14, 2020), slip op. at 2. Sudbury was granted a Notice of Interim Trail Use on October 12, 2001, in *New York Central Lines, LLC—Abandonment Exemption—In Middlesex County, MA*, STB Docket No. AB-565 (Sub-No. 1X) (served October 12, 2001).

If you have any questions or need any further information to respond to this request, please do not hesitate to contact me.

I certify that a copy of this request for an extension of time has been served on the parties of record to this proceeding by first class mail postage pre-paid or by e-mail.

Sincerely,

A handwritten signature in blue ink that reads "Yvonne M. Spicer".

Dr. Yvonne M. Spicer, Mayor