

NO: R033

COUNCIL DATE: March 6, 2023

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **March 2, 2023**

FROM: **General Manager, Engineering
General Manager, Finance
General Manager, Corporate Services**

FILE: **0930-30/255**

SUBJECT: **Fraser Valley Heritage Railway Lease and Operational Cost Funding**

RECOMMENDATION

The Engineering Department, Finance Department, and Corporate Services Department recommend that Council:

1. Receive this report for information; and
2. Direct staff to negotiate a new lease agreement with Fraser Valley Heritage Railway Society to include the terms and conditions set out in this report and detailed in the attached Appendix "I".

INTENT

The purpose of this report is to provide Mayor and Council background information on the Surrey Heritage Railway ("Heritage Rail") and its operation by Fraser Valley Heritage Railway Society ("FVHRS") and to negotiate a new lease agreement in order for the annual operational funding of Heritage Rail to be administered by FVHRS for consistency with similar agreements with other not-for-profit leases by the City.

DISCUSSION

FVHRS is the operator of Heritage Rail which runs restored Interurban Passenger railcars on the Southern Railway ("SRY") track from Cloverdale to Sullivan. The location of Heritage Rail can be found in the attached Appendix "II" and further information on Heritage Rail can be found in the attached Appendix "III".

Since 2003, the City has provided over \$6 million in financial assistance to FVHRS, whether it was for grants in-lieu of rent, liability insurance, SRY licensing fees, and other operating costs or capital projects such as rail car refurbishments, building facility improvements, and spur line additions.

In 2012, the City and FVHRS entered a 10-year lease agreement (five-year term with five-year renewal option). In addition to the lease agreement, the City entered:

1. A multi-year license agreement with BC Hydro, who owns the rail corridor; and
2. A tri-party City-FVHRS-SRY multi-year agreement pertaining to railway maintenance, operations, safety, upgrades and indemnity.

All three agreements related to FVHRS expired following the 2022 season.

In 2014, through Corporate Report No. R145; 2014, attached as Appendix “IV”, Council directed staff to inform FVHRS that the City is not able to expand its role beyond providing annual grant for rent and the required insurance, and that FVHRS will need to receive their operating and capital funding from other sources.

FVHRS is seeking to renew the three agreements related to their operations, as they desire recommencing seasonal Heritage Rail service in May 2023. At the same time, staff are seeking to amend the terms and conditions of the agreements to:

- Reflect the previous direction from Mayor and Council as part of Corporate Report R145; 2014 (Appendix “IV”);
- Be consistent with all other grants in-lieu provided to not-for-profit organizations; and
- Ensure the safety and liability terms are fair and do not pose undue burden on the City.

Staff recommend amended terms and conditions of these three agreements, which are outlined in the attached Appendix “I”.

Based on internal rental valuation of the City-owned Heritage Rail land and building located at 5554 – 176 Street, the annual rent for FVHRS is \$188,424 per year. Since the 2023 Grants Budget has already been approved, the 2023 lease rate will be \$112,000, consistent with 2022, and then \$188,424 for the remaining years. More details on the lease terms can also be found in Appendix “I”.

CONCLUSION

The Heritage Rail has been operated by the FVHRS since 2012. Their current lease and operating agreements have expired, and they are seeking a renewal agreement. It is recommended that the terms and conditions of the agreements be amended prior to renewal and prior to continued operation of Heritage Rail.

Scott Neuman, P.Eng.
General Manager,
Engineering

Kam Grewal, CPA, CMA
General Manager,
Finance

Rob Costanzo
General Manager,
Corporate Services

KW/kd/cc

Appendix “I” – Summary of Agreement Terms & Conditions

Appendix “II” - Site Map of 5554 – 176 Street

Appendix “III” - Background Information Pertaining to Surrey Heritage Rail

Appendix “IV” – Corporate Report No. R145; 2014

FVHRS Agreement Terms

Lease Agreement

The current lease of the City property at 5554 – 176 Street with FVHRS expired on July 31, 2022 and has since been month to month.

Staff recommend re-negotiating the lease on the following terms, with an “*” denoting amendments to the previous agreement:

- | | |
|--------------------------|--|
| 1. Lessor: | City of Surrey |
| 2. Lessee: | Fraser Valley Heritage Railway Society |
| 3. Site Area: | 5554 – 176 Street (3,083.7 m ²) |
| 4. Building Area: | 972.5 m ² |
| 5. Term (*): | 4 years (May 1, 2023 – April 30, 2027) with no renewal option |
| 6. Lease Rate (*): | \$112,000 for 2023, \$188,424 for remaining term |
| 7. Maintenance (*): | FVHRS responsibility |
| 8. Utilities (*): | FVHRS responsibility |
| 9. Insurance (*): | (i) Building (by City) and Contents (by FVHRS)
(ii) General Commercial Liability (FVHRS with policy to name City as additional insured) |
| 10. Cancellation Clause: | City or FVHRS may cancel with 3-months notice |

Rather than the previous term of a five-year lease with a five-year renewal option at an annual rate of \$112,000, staff are recommending the term be amended to a four-year cycle with no renewal option and the annual lease rate be updated for the 2024 budget cycle to reflect current market rates.

Staff recommend amendments to clarify FVHRS is responsible for property maintenance, utilities, and applicable insurance. These amendments are consistent with other grants in-lieu for not-for-profits and other City property leases.

The previous lease agreement did not reference the BC Hydro Corridor nor Southern Rail Operating Agreements, as discussed below, both of which assign:

- a) Railway operating and capital expenditures onto the City rather than the railway operator (FVHRS); and
- b) Liability and indemnity onto the City.

The Corporate Services (Legal Services), Engineering, and Finance (Risk Management) Departments recommend the terms of those agreements be modified, as discussed below, and referenced in the related lease agreement.

Expansion of the FVHRS is beyond the terms and conditions of this lease agreement and related operating and capital costs are to be borne by FVHRS per previous direction from Council in 2014.

BC Hydro/City of Surrey/SRY/FVHRS - Corridor Consent Agreement

The Corridor Consent Agreement between BC Hydro, City of Surrey and FVHRS expired November 15, 2022. BC Hydro owns the former BC Electric Railway corridor that runs from the Fraser River Railway Bridge to Chilliwack. BC Hydro has a long-term agreement with SRY to allow SRY to operate freight rail on the corridor. BC Hydro requires a Corridor Consent Agreement to allow FVHRS to operate heritage rail service on BC Hydro lands. This agreement sets out the terms and conditions required by BC Hydro, and renewal of this agreement is required before FVHRS can operate during 2023.

The main terms BC Hydro is seeking in this agreement are as follows:

1. Term: 4 years, to align with Lease Agreement duration
2. Annual Fee: Nil
3. Early Termination: Any party can cancel agreement with 180 days notice
4. Insurance Requirements: CGL in the amount of \$25,000,000 (cost ±\$38,000/yr)
5. Indemnity: BC Hydro and SRY to be held harmless from all actions, liabilities, damages, etc. arising out of heritage railway.
6. Cost Obligations: If BC Hydro determines safety equipment is required to be installed on the property, then BC Hydro will require the City/FVHRS complete the work, or charge for such works to be completed.

BC Hydro and SRY's preference is for the primary terms of insurance, indemnity, and cost to be agreed upon by the City rather than FVHRS because FVHRS is not-for-profit and may not have sufficient resources. Staff do not recommend the City accept these terms and conditions, solely on behalf of the FVHRS, as it exposes the City to undue liability and financial risk.

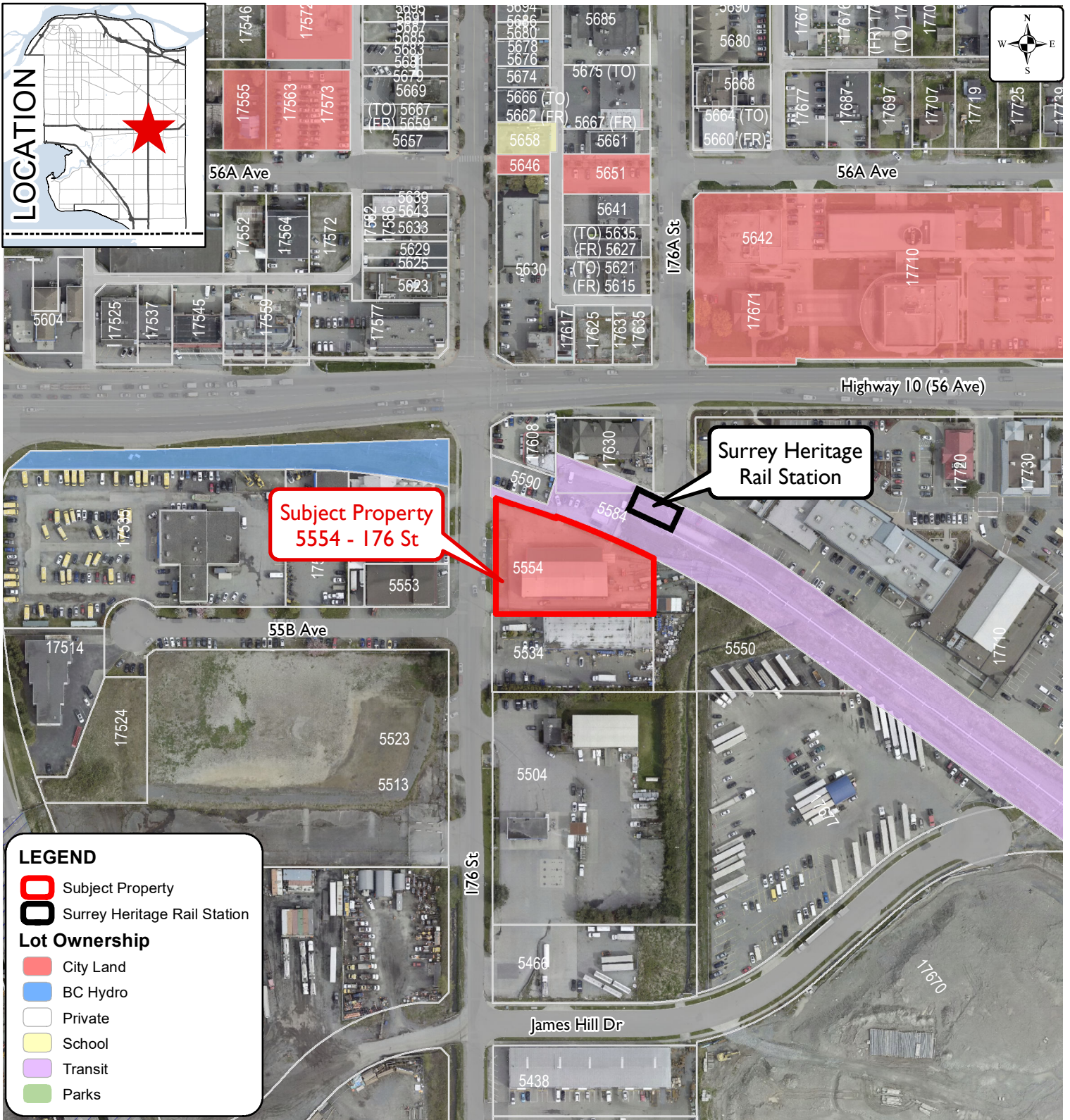
Southern Railway of BC/City of Surrey/FVHRS –Heritage Rail Operating Agreement

The Operating Agreement between SRY expires April 17, 2023 and will require renewal prior to FVHRS operating for the 2023 season. This agreement sets out the terms required by SRY to allow Heritage Rail to operate on the railway that SRY has running rights. SRY is seeking similar terms and conditions to align with BC Hydro's Consent Agreement, in addition to the following cost recovery obligations:

1. Cost Obligations: SRY requires reimbursement of all costs they may incur in connection with the operation of the heritage railway, including but not limited to:
 - a) Providing rail traffic control;
 - b) Training and instructing heritage rail crews; and
 - c) Costs of all repair and maintenance of the rail line as a result of the operation of the Heritage Rail service.

Costs sought by SRY pertain to FVHRS operating costs. Per City Policy and Practices, not-for-profits are responsible for their operating expenditures and such expenditures are not eligible under City lease grants in-lieu nor Council Initiatives Fund. Staff recommend the SRY agreement be amend to clarify FVHRS' responsibility for these cost obligations.

AERIAL PHOTOGRAPH OF SITE APPENDIX "II"



Produced by GIS Section: 15-Feb-2023

Date of Aerial Photograph: 2022

Scale: 1:2,500 0 20 M



Subject Property 5554 - 176 Street

ENGINEERING DEPARTMENT

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey.
This information is provided for information and convenience purposes only.
Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office.

Source: G:\MAPPING\GIS\Maps\CorporateReps\Realty\JX_5554 176 St_AP.mxd

Background Information Pertaining to Surrey Heritage Rail

The former BC Electric Railway (“BCER”) Interurban line was built in 1910 for passenger rail service in the Lower Fraser Valley. The passenger service was suspended in 1950. Southern Rail of BC (“Southern Rail”) now operates ‘only freight’ service on the former Interurban rail line. In 2001, a volunteer led, non-profit group (FVHRS) was established with the goal of restoring and operating heritage Interurban cars on the Interurban line through Surrey and across the Fraser Valley.

The process to enable the operations of Heritage Rail took about 14 years to develop. The various measures Council authorized to enable the land requirements and Heritage Rail vehicle restorations are outlined below:

- 2000 – Initiation of Heritage Rail Project
 - [CR2000:R250 Surrey Interurban Heritage Rail Revitalization Tourism Initiative](#)
- 2002 - Grant Lease of City Owned Property at 6330 – 152 Street for Sullivan Station
 - [CR 2002: R158 Lease of City Land at 6330 – 152 Street \(Fraser Valley Heritage Railway Society \(Page 74\)\)](#)
- 2004 - \$500,000 local funding contribution for Federal-Provincial Infrastructure Programs
 - [CR 2004: R295 Fraser Valley Heritage Railway and Federal Infrastructure Program](#)
- 2011 - Approval of Relocation to Cloverdale (Alternative Four)
 - [CR 2011: R007 Heritage Rail Car Barn Location Alternatives – Request from the Fraser Valley Heritage Rail Society](#)
- 2012 - Approval of \$2.9 million in funding for the Car Barn Relocation
 - [FR 2012:F004 2012 Five-Year \(2012-2016\) Financial Plan – Capital Program](#)
- 2012 - Approval of an additional \$1.175 million for unexpected out of scope requirements
 - [CR2012:R025 Heritage Rail Demonstration Project – Additional Funding](#)
- 2012 – Lease agreement for the Car Barn at \$112,000 per year
 - [CR 2012:R216 Proposed Lease Agreement with the Fraser Valley Heritage Railway Society for the City Property Located at 5554 – 176 Street](#)
- 2014 – Approval of \$395,000 funding for the construction of rail siding by-pass
 - [CR2014: R145 Heritage Rail Demonstration Project – Additional Funding](#)

Operation of the Heritage Rail began in 2012. To support Heritage Rail operations, City staff have worked closely with BC Hydro, who own the railway corridor and Southern Rail, who have the rail rights on the corridor.

CORPORATE REPORT

NO: *R145*

COUNCIL DATE: *July 21, 2014*

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **July 16, 2014**

FROM: **Acting General Manager, Engineering
General Manager, Finance and Technology**

FILE: **8710-20(heritage)**

SUBJECT: **Heritage Rail Demonstration Project – Additional Funding**

RECOMMENDATION

The Engineering Department and Finance and Technology Department recommend that Council:

1. Receive this report as Information;
2. Approve the allocation of up to a maximum of \$395,000.00 including taxes to the Heritage Rail Demonstration Project (the "Project") as the City's contribution towards the construction of a siding bypass, subject to the execution of a satisfactory access agreement with Southern Railway and BC Hydro granting full rights of usage and passage and matching contributions from the Fraser Valley Heritage Railway Society;
3. Direct the Fraser Valley Heritage Railway Society (the "Society") to focus its efforts on raising funds from sources other than the City of Surrey for the remaining funding required for the siding bypass and any further changes or enhancements to the scope of their operations.

INTENT

The purpose of this report is to provide an update on the Heritage Rail Demonstration Project being undertaken by the Society and based on their delegation of June 23, 2014 to obtain Council approval for a contribution of up to \$395,000.00 toward building a rail spur bypass to ensure unrestricted access to the mainline.

BACKGROUND

The Heritage Rail Demonstration Project undertaken by the Fraser Valley Heritage Railway Society has reached a number of important milestones since the last report to Council:

- A new Car barn was completed in Cloverdale and operations were moved from Sullivan to the new facility;
- A replica Cloverdale Station was constructed and landscaped after extensive fundraising from the Society and top-up funding from the City;
- The restoration of Interurban Car 1225 was completed;
- Testing and operator training has been undertaken; and
- Revenue operations began in June 2013.

The summer of 2013 was the first year of operations for the Project which saw over five thousand (5,000) passengers carried. There was extensive positive media coverage of all aspects of the construction, move and service launch. Anecdotal feedback indicates that the Project has generated significant goodwill with the public and has reinforced Cloverdale as a heritage destination.

During the inaugural year the Project conducted passenger operations over sixteen (16) weekends for a total of thirty-two (32) possible operating days. Unfortunately, there were a total of twelve (12) days (38% of the possible days) when passenger operations were cancelled due to Southern Railway's (SRY) commercial customer doing business on the weekend and blocking access from the Cloverdale Station to the mainline.

Year to date in 2014 there have been eight (8) cancellations out of a possible fourteen (14) trips (57% of the possible days), with only six (6) days when service was able to run. SRY's commercial customer has confirmed access as late as the morning of operations. The sporadic timing of these cancellations and their last minute nature has proven difficult for the Society to manage, and impacts the public's ability to plan ahead for a ride on the train.

The Society has indicated that the service has been of interest to both locals and tourists based on informal conversations with visitors, though currently there is no information available on any corresponding impact to tourism, hotel stays, etc. Marketing and promotion of the Project beyond the Society's webpage has been suspended until the access issue is resolved. The Society plans to undertake a formal survey to help quantify benefits once the access issues are resolved and marketing has resumed.

Funding History

Early Society estimates to develop the service from Cloverdale to Brownsville near the Scott Road SkyTrain station were \$5 million in total. In July 2009 the Society estimated that if a reduced Heritage Rail Demonstration Project from Sullivan to Cloverdale was approved then it would cost \$0.8 million and begin operations in May 2010, though funding was not approved at that time.

In January 2011 Council approved funding of \$2.9 million for a much revised Project which included an expanded scope with a move to Cloverdale, the purchase of land, and a new Car barn. The rationale was that the new location would allow for synergies and increased economic development opportunities with Cloverdale's existing heritage resources. A further \$1.175 million was approved in February 2012 due to increased scope and unforeseen costs. The scope of the Heritage Rail Demonstration Project was to run Car 1225 between Cloverdale and Sullivan.

To date the City has invested just over \$4 million in the Project and just over \$4.8 million in total for all Society endeavours at both Sullivan and Cloverdale including land, buildings, interurban car refurbishment, rent, watering and lawn maintenance at the car barn, insurance, a temporary project manager to explore funding opportunities, and administration not including permanent staff hours. The City also provides an annual grant of approximately \$65,000.00 which covers the cost of liability insurance.

The Society has generally matched the City's contribution with volunteer hours and in kind donations of materials and reduced rates from corporate sponsors. Beyond the funding provided by the City, the Society generates additional funds from ticket sales, which have been affected by the service cancellations, selling Society memberships and direct donations.

DISCUSSION

Siding Bypass

The City and the Society have examined a number of options for improving access to the mainline and concluded that a new third spur to bypass the commercial customer is the best option. The City has been supportive of this change in order to fully leverage our substantial investment to date in the Project. The bypass will ensure unimpeded access and allow for certainty in the scheduling and promotion of passengers operations.

A number of actions are underway to enable the siding bypass to move forward. An access agreement which provides the Society assurance of uninterrupted access over the long term is expected to be executed shortly between the City, Society, SRY and BC Hydro. Approval of additional funding is contingent on the execution of this agreement. BC Hydro has also provided a quote and design for the works necessary to move the existing Hydro poles which currently impede the bypass ROW. Designs have been developed to extend the drainage culvert under the rail bed to accommodate the siding bypass, as well as for the bypass itself.

Current Funding Request

As a delegation to the June 23 Council in Committee meeting, the Society requested that the City provide \$318,830.00 plus tax for a total of just under \$360,000.00 to build the siding bypass. This report fulfills that request and includes an additional \$35,000 for a number of elements missing from the Society request. With the construction of the bypass, all the core components will be completed to operate a successful Heritage Railway Demonstration Project over the term of the 5 year Operating Agreement.

The Society also presented other anticipated funding requests that go beyond the scope of the Heritage Rail Demonstration Project over the next three years, including:

- Completing Restoration of Car 1304;
- Rail connection from the spur to the second car barn bay;
- Generator and cart for Car 1304;
- Traction motor refurbishment for Car 1304;
- Car barn expansion to accommodate the freight motor recently acquired from Edmonton
- Restoration of the freight locomotive (costs unknown at this time);
- Siding bypass in Sullivan and move of Sullivan Station to allow two cars to operate the full service from Cloverdale to Newton once Car 1304 is restored and operating (costs unknown at this time); and
- Station and pedestrian improvements in Newton (costs unknown at this time).

These funding requests are outlined in the table attached as Appendix I to this report, and total \$1.7 million over the 2014-2016 three (3) year period.

FUNDING CONSIDERATIONS AND RECOMMENDATION

The Society has indicated that Project operations cost them approximately \$25,000.00 per year, and that they intend to keep a bank balance equal to 4-5 years of operating costs, plus \$100,000.00 set aside for future maintenance of Car 1225. The Society also paid approximately \$25,000.00 this spring to transport a former BC Electric Railway freight motor donated from Edmonton Radial Railroad to Cloverdale, though this engine is not part of the Project.

According to the financial statements released at their AGM, as of February 28, 2014, the Society had just over \$230,000.00 in current assets, including \$100,000.00 in a GIC and \$93,000.00 in a general bank account. In 2013 the Society's funding came from City grants approved by Council, \$5,304.00 from memberships, \$41,021.00 from ticket sales, and a nominal amount from direct donations.

With regards to the siding bypass, the Society has been successful in obtaining a substantial quantity of in-kind donations including:

- \$280,000.00 from SRY for labour, track design and materials, including used track and switches;
- \$85,000.00 from PNR Railworks for labour and used ties; and
- \$57,000.00 from RDM for labour, machine time and materials.

The total cost of the spur is estimated as \$817,000.00 and the value of the donations is approximately \$422,000.00, with the remaining portion requiring approximately \$395,000.00 from the City. As noted the Society has requested that the City undertake the funding of the new siding bypass to resolve the access issue, as well as additional items not related to the Heritage Rail Demonstration Project outlined in Appendix I.

The City's capital program for 2014 to 2018 is fully committed at this time and any additions require "reprioritization" of that plan as capital funds for the near future are very limited. The City's limited funding indicates that the most prudent option is to provide up to \$395,000.00 of the total value of the siding bypass subject to the execution of a satisfactory access agreement with Southern Railway and BC Hydro, with the balance of funding coming from the Society.

Alternatively, Council could direct that the HRDP continue with the sub-optimal access while the Society undertakes fundraising to achieve the additional funds needed to complete the third rail spur bypass without City funding.

As noted in the table of anticipated funding requests which total \$1.7 million and attached as Appendix I, the Society has a second heritage rail car (BCER 1304), which they are in the midst of refurbishing. The recommendation of this report does not include funding to finish the restoration of Car 1304. Similarly the recommendation does not include any funding for the acquisition of a generator and cart for Car 1304, an addition to the Cloverdale carbarn, or any other items related to the expansion of the Society's mandate beyond operating the Heritage Rail Demonstration Project with Car 1225 between Cloverdale and Sullivan.

In relation to these and other possible further enhancements, it is recommended that Council instruct staff to advise the Society that the City is not able to expand its role beyond providing the annual grant for rent and insurance. For all future needs the Society will need to receive their funding from other sources.

SUSTAINABILITY CONSIDERATIONS

The ongoing operation of the Heritage Rail Demonstration Project will assist in achieving the objectives of the City's Sustainability Charter, including:

- Developing a sense of place and belonging for the community through the introduction of heritage rail facilities into Cloverdale;
- Preserving significant heritage assets;
- Educating the public about the City's history; and
- Encouraging tourism and economic development opportunities.

In particular, The Project supports the following Sustainability Charter scope actions:

- SC10: Historical and Heritage Assets
- EC1: Corporate Economic Sustainability

CONCLUSION

Based on the above discussion, it is recommended that Council:

1. Approve the allocation of up to a maximum of \$395,000.00 including taxes to the Heritage Rail Demonstration Project (the "Project") as the City's contribution towards the construction of a siding bypass, subject to the execution of a satisfactory access agreement with Southern Railway and BC Hydro granting full rights of usage and passage and matching contributions from the Fraser Valley Heritage Railway Society;
2. Direct the Fraser Valley Heritage Railway Society (the "Society") to focus its efforts on raising funds from sources other than the City of Surrey for the remaining funding required for the siding bypass and any further changes or enhancements to the scope of their operations.



Gerry McKinnon
Acting General Manager, Engineering



Vivienne Wilke
General Manager Finance and Technology

Appendix I – Fraser Valley Heritage Railway Society Anticipated Funding Requests

GMC/JB/DB/ras

Note: Appendix available upon request