

NO: R157

COUNCIL DATE: July 22, 2019

## REGULAR COUNCIL

TO: **Mayor & Council** DATE: **July 18, 2019**  
FROM: **Acting General Manager, Engineering** FILE: **8740-40**  
SUBJECT: **Surrey-Langley SkyTrain Project – Partnership Agreement Framework and Memorandum of Understanding**

## RECOMMENDATION

The Engineering Department recommends that Council:

1. Receive this report for information;
2. Approve the Memorandum of Understanding with TransLink for the advancement of the Surrey-Langley SkyTrain project, which is attached to this report as Appendix "I";
3. Authorize staff to take the necessary steps to finalize the Memorandum of Understanding, subject to the Mayors' Council approval of TransLink proceeding with the finalizing and submitting the Surrey-Langley SkyTrain business case; and
4. Authorize the Mayor and City Clerk to execute the finalized Memorandum of Understanding, provided it is substantially the same as that included in Appendix "I".

## INTENT

The purpose of this report is to seek Council's authority to enter into a Memorandum of Understanding ("MOU") for the Surrey-Langley SkyTrain ("SLS") project, as developed jointly by TransLink and City of Surrey staff, in advance of the upcoming July 25, 2019 Mayors' Council meeting, at which it is anticipated the Mayors' Council will consider directing TransLink to proceed with the next steps of the SLS Work Plan for completion and submission of a reference design and business case.

## BACKGROUND

At its inaugural meeting on November 5, 2018, City Council passed a motion to:

- *Direct staff stop all work on the SNG-LRT project and immediately start working with TransLink on a SkyTrain extension from the existing King George SkyTrain Station to Langley City;*
- *Request the Mayors' Council and the TransLink Board to cancel the SNG-LRT Project and immediately initiate a new SkyTrain Extension Project along Fraser Highway by changing the technology originally proposed in the Phase Two Investment Plan to SkyTrain, and re-allocating all available funds in the Phase Two Plan dedicated for rapid transit in Surrey and Langley to start the SkyTrain extension towards Langley as soon as possible; and*

- *Request the Mayors' Council to seek the required funding for the Phase Three Plan of the 10-Year Vision as soon as possible, to complete all 27 km of rapid transit in Surrey and Langley.*

Following the City's inaugural meeting, the Mayors' Council on Regional Transportation (the "Mayors' Council") endorsed TransLink's decision to suspend the Surrey Newton Guildford Light Rail Transit ("SNG-LRT") Project and agreed to carry forward the region's 10-Year Vision as the basis for 27 kilometres of rapid transit planning South of the Fraser. The 10-Year Vision included the \$1.6 billion of approved funding currently allocated (Phase Two Investment Plan) and the financial framework for the remaining unsecured \$1.9 billion (in the Phase Three Plan), for a combined total of \$3.5 billion funding envelope committed to 27 kilometres of rapid transit South of the Fraser.

In the Fall of 2018, TransLink and the Mayors' Council passed the following resolutions:

1. *Endorse TransLink's decision to suspend the Surrey-Newton-Guildford LRT Project, stopping all expenditures of money and resources on the project, based on the request from the City of Surrey;*
2. *Use the 10-Year Vision as the basis for South of Fraser rapid transit planning, recognizing the City of Surrey request to change the technology and timing of the Fraser Highway project from LRT to SkyTrain, and draw only on the available funding currently allocated for South of Fraser rapid transit in the Phase Two Plan, and the financial framework for the Phase Three Plan; and*
3. *Subject to the City of Surrey's specific agreement to pay compensation, no later than upon signing the MOU, for all work plan costs unnecessarily expended to date, endorse the work plan that will have TransLink proceed immediately with planning and project development work for a SkyTrain on Fraser Highway project.*

TransLink and City staff have been working collaboratively on delivering TransLink's SLS Work Plan, including preliminary design, ridership forecasts, cost estimates and a preliminary benefit-to-cost ratio. This work is on schedule to be brought forward to the Mayors' Council on July 25, 2019 for their consideration and approval to proceed with the SLS reference design and business case submission to the Federal and Provincial treasury boards in Spring 2020.

It is the expectation of the Mayors' Council that, prior to the SLS Project proceeding to issuance of formal a business case, TransLink and the City will enter into a MOU which will establish project objectives, scope and SNG-LRT reimbursement.

## **DISCUSSION**

### **Project Partnership Agreement Framework**

In collaboration with the Mayors' Council, TransLink has established a three-phased partnership agreement framework, consistent with the Mayors' Council Vision and previous TransLink dialogue, involving TransLink and the host municipality, be developed for the delivery of major capital projects, such as the SLS project, which involve significant cost and risk.

The successive framework for major rapid transit projects typically includes three corresponding sub-agreements. For the SLS project, a fourth agreement, the Reimbursement Agreement, is envisioned in response to the Mayors' Council's resolution on December 13, 2018 that the City of Surrey reimburse TransLink for all SNG-LRT work plan costs unnecessarily expended to date.

The anticipated SLS partnership agreements and their corresponding project phases are presented as follows:

- |                                 |                      |
|---------------------------------|----------------------|
| • MOU                           | Concept Phase        |
| • Reimbursement Agreement       | Design Phase         |
| • Supportive Policies Agreement | Design Phase         |
| • Municipal Access Agreement    | Implementation Phase |

The following sections of the report will focus on the description of the MOU and the different agreements anticipated to be drafted for the design and implementation phases of the project.

### **Memorandum of Understanding – Concept Phase**

The MOU is a statement of intent summarizing the collective elements of TransLink and the City and to illustrate mutual support of the project. The MOU is intended to advance the development of the Supportive Policies Agreement, Reimbursement Agreement and Municipal Access Agreement for the project. The following are the key elements of the MOU:

- Commitment by TransLink and the City;
- Project objectives and scope;
- TransLink's roles and general responsibilities;
- The City's roles and general responsibilities;
- Joint roles and responsibilities;
- Supportive Policies Agreement;
- Reimbursement Agreement; and
- Municipal Access Agreement.

TransLink and City staff have jointly developed the MOU, utilizing the framework established on the SNG-LRT and Broadway Subway projects. The MOU reaffirms TransLink and the City's commitment to work collaboratively and expeditiously to facilitate, expedite and support the project with innovative procurement and construction strategies to extend the SkyTrain as far as possible, while being flexible in accommodating funding timelines.

The City's commitment also includes development of updated land-use plans, transit-oriented land-use policies and affordable housing strategies, all of which are already underway and which will form part of the future Supportive Policies Agreement.

The MOU also outlines the City's reimbursement of up to \$39 million for unnecessary SNG-LRT costs and the various means/methods for reimbursement, all subject to final approval of the business case and construction of the SkyTrain.

The MOU is not intended to create legal binding rights nor to fetter the powers of Council on approving future agreements and policies. Staff are satisfied that the contents of the MOU are consistent and appropriate for its intention of advancing the development of the SLS project and respective agreements. The full MOU, including references to the subsequent agreements, is presented in Appendix "I" attached to this report.

### **Reimbursement Agreement – Design Phase**

On December 13, 2018, the Mayors' Council passed a resolution that subsequent SLS Work Plan and approvals proceed on the basis that:

*Subject to the City of Surrey's specific agreement to pay compensation, no later than upon signing the MOU, for all work plan costs unnecessarily expended to date.*

TransLink and the City have quantified the actual incurred SNG-LRT costs as \$54.4 million, separated into two categories: \$39.8 million in Project Development expenditures (planning, design, business case, procurement); and \$14.6 million for Early Works (Bear Creek Bridge and 104 Avenue utility relocations).

Some of the expenditures are reusable or have “utility”, as they would result in a savings for a future rapid transit project on the corridor. Thus, a weighting criteria/credit was applied to those expenditures which have future utility.

The net result is a quantification of unnecessary costs in the range of \$33-44 million, with TransLink recommending to the Mayors' Council a value of up to \$39 million. The potential means of reimbursement, which are based on past rapid transit projects, may include any or all of the following:

- Financial contribution;
- In-kind property contributions;
- Use of rights-of-way and/or road dedications;
- Incremental commercial rights to TransLink; and
- Reduction in cost through a transfer of scope elements.

It is intended that the Reimbursement Agreement, subject to Council's approval, will be completed in conjunction with completion of the reference design and submittal of the business case in late 2019/early 2020.

### **Supportive Policies Agreement – Design Phase**

During the design phase, when project elements such as reference design concept, urban integration and cost estimates are being finalized, a Supportive Policies Agreement will be prepared to correlate the design specific items with supportive land use and transportation policies, actions and investments by TransLink and the City to meet project objectives. It is anticipated that Supportive Policies Agreement for the SLS project will be developed based on the previously agreed upon SNG-LRT Supportive Policies Agreement.

It is intended that the Supportive Policies Agreement, subject to Council's approval, will be completed prior to the submittal of the business case in late 2019/early 2020.

### **Municipal Access Agreement – Implementation Phase**

The Municipal Access Agreement outlines a collaborative relationship between the City of Surrey and TransLink to ensure a successful project delivery and operations. As such, this agreement sets out how the City of Surrey will provide TransLink with access to certain City streets or other City lands necessary for the construction, operation and day-to-day maintenance of the project.

The following items will be included in the Municipal Access Agreement, but not limited to:

- Access to City roads and lands;
- Outstanding financial matters;
- Design and construction approval process;
- Public realm and public art;
- Station, road and utility maintenance;
- Traffic management;
- Dispute resolution; and
- Communication protocols.

Subject to Council's approval, the Municipal Access Agreement will be completed prior to proceeding with procurement in late Spring 2020.

### **Next Steps – Project Schedule**

The SLS project continues to proceed on an accelerated schedule. TransLink's work plan below outlines the current status of project activities:

• Draft Business Case to Mayor's Council:	July 25, 2019
• Public Engagement – Design & Environmental:	November 2019
• Finalize Reference Design, Costs and Business Case:	August – December 2019
• Reimbursement Agreement	September 2019 – January 2020
• Supportive Policies Agreement	September 2019 – January 2020
• Issue Business Case to Federal/Provincial Treasury Boards	January 2020
• Municipal Access Agreement	Spring 2020
• Issue RFQ and Procurement:	Summer 2020*
• Construction:	2021 - 2025*
• Surrey-Langley SkyTrain Start of Service:	Winter 2025*

\* Pending approval of Business Case from Provincial and Federal Treasury Boards.

### **Legal Services Review**

The City's Legal Services Division has reviewed this report and have no concerns.

### **SUSTAINABILITY CONSIDERATIONS**

The approval of the MOU for the SLS project supports the objectives of the City's Sustainability Charter 2.0. In particular, the construction of SkyTrain relates to the Sustainability Charter themes of Built Environment and Neighbourhoods, and Infrastructure. Specifically, the MOU supports the following Desired Outcomes ("DO"):

- Neighbourhoods and Urban Design DO2: Surrey is well-connected within the City and to the rest of the region by fast and efficient public transit and active all-ages-and-abilities transportation infrastructure; and
- Transportation DO11: An integrated and multi-modal transportation network offers affordable, convenient, accessible and safe transportation choices within the community and to regional destinations.

## CONCLUSION

Based on the above discussion, it is recommended that Council approve entering into the MOU with TransLink for advancing the SLS project towards procurement and developing the necessary successive agreements between TransLink and the City of Surrey.

Scott Neuman, P.Eng.  
Acting General Manager, Engineering

SBN/PL/cc

Appendix "I" – Memorandum of Understanding, South of Fraser Rapid Transit – Surrey-Langley SkyTrain Project, between TransLink and Surrey

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**MEMORANDUM OF UNDERSTANDING**

**South of Fraser Rapid Transit - Surrey Langley SkyTrain Project  
(Portion within Surrey)**

between

**South Coast British Columbia Transportation Authority  
("TransLink")**

and

**City of Surrey  
("Surrey")**

Made as of the \_\_\_\_ day of \_\_\_\_\_, 2019

**WHEREAS:**

- A. TransLink, as the Regional Transportation Authority, has the mandate to plan, prioritize, secure funding and deliver transportation and transit projects and create an integrated transportation and transit system within the Greater Vancouver Regional District pursuant to the *South Coast British Columbia Transportation Authority Act*;
- B. In the 2014 Mayors' Council Regional Transportation Investments, a Vision for Metro Vancouver (the "Mayors' Vision"), the Mayors' Council identified a South of Fraser Light Rail Transit network (the "LRT Project") as a priority to ensure that the transportation needs of the region are met;
- C. Surrey has requested that the LRT Project be suspended and replaced with an extension of the existing SkyTrain Expo Line;
- D. TransLink and the Mayors' Council have agreed to suspend the LRT Project and instead move forward with planning and development of a 16-kilometre extension of the existing SkyTrain Expo Line from King George Station to Langley Centre along the Fraser Highway (the "Proposed Extension");
- E. The Proposed Extension will provide an alternative to traffic congestion and increase transit network capacity to help meet the transportation goals for the region;
- F. Surrey, as the host municipality of the Proposed Extension within the boundaries of the City of Surrey, has the mandate to provide good governance within its municipal boundaries pertaining to the exercise of powers and duties provided to it pursuant to the *Local Government Act*;
- G. The Mayors' Vision calls on the parties to enter into Project Partnership Agreements (the "PPAs") whenever the region is making a major investment involving significant cost and risk, the success of which depends on higher degrees of coordination, collaboration and mutually supportive actions by multiple partners;
- H. Both TransLink and Surrey have significant roles and responsibilities with respect to the portion of the Proposed Extension within the boundaries of the City of Surrey (such portion being referred to herein as the "Project"), the details of which will be included in a subsequent Supportive Policies Agreement (the "SPA") and Municipal Access Agreement (the "Municipal Access Agreement") to be entered into by TransLink and Surrey;
- I. Both TransLink and Surrey will enter into a Reimbursement Agreement (the "Reimbursement Agreement") whereby Surrey will reimburse TransLink for certain amounts expended by TransLink on the LRT Project prior to its suspension; and
- J. TransLink and Surrey are committed to implement the Project.

**THEREFORE:**

**1. COMMITMENT:**

TransLink and Surrey affirm their full public commitment to proceed in good faith and to act expeditiously and reasonably to facilitate, expedite and support the successful procurement, design, construction, operation and maintenance of the Project.

TransLink commits to funding, procuring and delivering the Project pursuant to an Investment Plan to be approved by the TransLink Board of Directors and the Mayors' Council.

Surrey commits to support TransLink in the procurement, delivery and implementation of the Project by, among other actions, minimizing and streamlining municipal approvals to ensure Project delivery timelines are achieved; publicly supporting the Project; and helping to manage expectations and mitigate impacts during Project construction.

Surrey further commits to take proactive steps to advance integrated land use and transportation planning along the Project corridor by promoting residential, business and institutional growth to maximize transit ridership in the short, medium and long terms. Surrey's commitment will be guided by its Official Community Plan, Sustainability Charter, Transportation Strategic Plan, and other relevant planning policies, reflecting generally accepted Transit-Oriented Communities Design Guidelines. Surrey also commits to advancing plans supportive of the goals and targets identified in the Regional Transportation Strategy.

TransLink and Surrey affirm they will continue to support and implement measures to prioritize transit services during Project construction.

TransLink and Surrey commit to developing the following: (a) the SPA, (b) the Reimbursement Agreement, and (c) the Municipal Access Agreement, which will together serve as the PPAs for the Project.

## **2. ASSIGNMENT OF COMMITMENT:**

Until otherwise determined, TransLink will act as the Project delivery agent and the Project owner and operator, and will be responsible for all aspects of the Project's procurement, implementation and operations. In the event that another party replaces TransLink in all or part of this capacity, both parties agree to work cooperatively to maintain the commitments in this MOU and to support any necessary and mutually agreed assignment to a different party.

## **3. PROJECT OBJECTIVES:**

The Project objectives, as fully supported by both TransLink and Surrey, are to:

- (a) provide fast, frequent, reliable and convenient transportation, together with a great user experience;
- (b) use public funds efficiently to maximize the span of the Project and ultimately the Proposed Extension, all in a manner that will result in a constructible and operable Project that is acceptable to the public;
- (c) provide a high-quality urban design that will support, and integrate with, current and future land uses along the Project corridor;
- (d) increase affordable access to various opportunities such as employment, schools, housing and services;
- (e) support healthy communities and a healthy environment by managing various Project impacts; and
- (f) advance local and regional prosperity by facilitating movement of people and goods.

TransLink and Surrey will work together to advance the above objectives and will jointly develop performance measures to quantify and measure the progress in achieving such objectives.

#### **4. PROJECT SCOPE:**

- (a) The Project will specifically include, among other things: (i) two-way elevated guideway (track) along Fraser Highway extending the SkyTrain Expo Line from King George Station toward Langley Centre, and (ii) SkyTrain stations along the Fraser Highway corridor.
- (b) In addition, the Proposed Extension will generally include, among other things: (i) additional SkyTrain vehicles for the SkyTrain system, (ii) a new or expanded facility to meet the increased SkyTrain operations and maintenance capacity (which facility may be located, or integrated with another facility, outside of the boundaries of the City of Surrey), and (iii) other associated infrastructure, works and ancillary buildings required for construction and operation purposes (which may or may not be located within the boundaries of the City of Surrey). For clarity, the parties anticipate that Project funding will include any incremental operations and maintenance facility upgrades that may be required to address capacity issues resulting from the Proposed Extension.
- (c) The Project will be fully integrated with TransLink's existing transit network and system including provision of integrated fare structures and utilization of the Compass automated fare payment and collection system.
- (d) The Project may be constructed and delivered in phases, and the procurement strategy will therefore be flexible to accommodate various funding timelines.

#### **5. TRANSLINK'S ROLE AND GENERAL RESPONSIBILITIES:**

TransLink will:

- (a) own the Project except for any infrastructure and assets currently owned or controlled by Surrey;
- (b) design, procure and construct the Project, and have responsibility for and control over scope, budget, and scheduling;
- (c) operate and maintain the Project as an integrated part of the region's transit system;
- (d) continue to provide transit operations within the Project corridor throughout Project construction;
- (e) develop and implement a bus integration plan to support the Project; and
- (f) complete a refresh and planning study to identify rapid transit options and costing for the 104<sup>th</sup> Avenue and King George Boulevard corridors, as the Mayors' Vision prioritized 27 kilometres of rapid transit South of the Fraser River.

#### **6. SURREY'S ROLE AND GENERAL RESPONSIBILITIES:**

Surrey will:

- (a) support and actively participate in the design and construction stages of the Project to expedite delivery and ensure municipal and regional objectives are met, and may provide input, assistance and suggestions to TransLink;
- (b) be responsible for the review, approval, inspection, and acceptance of any municipal road infrastructure modifications, utility relocation and upgrading works required in connection with the Project;
- (c) implement transit-oriented land use policies and provisions in any relevant municipal plans and permit approval processes, including mixed-use densification along the Project corridor, all as to be further detailed in the SPA;
- (d) permit connections to municipal utilities to accommodate and support Project facilities;
- (e) support TransLink's effective delivery of bus operations in the Project corridor during the Project construction period; and
- (f) work cooperatively with TransLink to implement traffic management strategies during the Project construction period.

## **7. JOINT ROLES AND RESPONSIBILITIES:**

TransLink and Surrey will each work together to:

- (a) manage public engagement and communications, with TransLink taking the lead on all communications with respect to the Project and Surrey providing support to TransLink as required;
- (b) hold regular meetings, during Project planning and design, to discuss related inquiries including development permit applications, building permit applications and rezoning applications for properties fronting the Project, all for the purposes of: (i) coordinating development activities with Project infrastructure, (ii) ensuring public safety, and (iii) not adversely impacting the future constructability and operability of the Project;
- (c) advance integrated land use and transportation planning through the joint development, implementation and monitoring of the SPA as contemplated in Section 8;
- (d) jointly develop a Reimbursement Agreement as contemplated in Section 9; and
- (e) jointly develop a Municipal Access Agreement as contemplated in Section 10.

## **8. SUPPORTIVE POLICIES AGREEMENT:**

The parties will work collaboratively to complete the SPA prior to both the inclusion of the Project in a funded Investment Plan approved by the TransLink Board of Directors and Mayors' Council and the issuance of the Request for Proposals in connection with the Project. The SPA will: (i) specify Project supportive land use and transportation policies, actions and investments to support Project objectives, and (ii) identify specific actions and policies to coordinate and integrate transportation and land use planning in the Project corridor. The parties anticipate that the SPA will address, among other things:

- (a) the completion by the City of Project corridor land use plan(s) and policies (the “**Corridor Plans**”), the process for which has already been initiated by the City, by 2021;
- (b) the inclusion in the Corridor Plans of Project supportive population and job densities that are generally aligned with Metro 2040 (Regional Growth Strategy) targets, as well as TransLink’s Transit Service Guidelines and Transit-Oriented Communities Design Guidelines;
- (c) key policies relating to, without limitation, affordable housing, cycling, walking, urban design, parking, and transportation demand management; and
- (d) details of a SPA monitoring program similar to that which was agreed to in the Supportive Policies Agreement Surrey-Newton-Guildford Light Rail Transit Project made on June 12, 2018 between TransLink and Surrey.

## **9. REIMBURSEMENT AGREEMENT:**

The parties will work collaboratively to complete the Reimbursement Agreement prior to both the inclusion of the Project in a funded Investment Plan approved by the TransLink Board of Directors and Mayors’ Council and the issuance of the Request for Proposals in connection with the Project. The parties anticipate that the Reimbursement Agreement will address, among other things:

- (a) Surrey’s reimbursement to TransLink of up to \$39 Million, pending final technical reconciliation of expenditures, being the sum unnecessarily expended by TransLink on the LRT Project prior to its suspension;
- (b) the various means by which Surrey will reimburse TransLink, which may include all or any combination of the following:
  - (i) financial contributions;
  - (ii) in-kind property contributions of a permanent or temporary nature;
  - (iii) rights of way and/or road dedications;
  - (iv) certain commercial rights to TransLink in connection with any future use or access by TransLink of city streets or other city lands pursuant to the Municipal Access Agreement; and
  - (v) reduction in costs through a transfer of scope elements;
- (c) timing of Surrey’s reimbursement, which is dependent upon and subject to the final approval of the business case and the Project proceeding to the procurement and construction phases; and
- (d) any applicable valuation methodologies.

## **10. MUNICIPAL ACCESS AGREEMENT:**

The parties will work collaboratively to complete the Municipal Access Agreement prior to the issuance of the Request for Proposals in connection with the Project. Pursuant to the Municipal Access Agreement, Surrey will provide TransLink with access to certain city streets or other city lands necessary for the construction, operation

and day-to-day maintenance of the Project, for so as long as the Project is operated by TransLink, the Province or a related entity.

The Municipal Access Agreement will include various details on the collaborative relationship between Surrey and TransLink to ensure successful Project delivery and operations. The parties anticipate that the Municipal Access Agreement will address, among other things:

- (a) access to city lands and streets;
- (b) additional or outstanding financial matters;
- (c) design and construction approval process;
- (d) system operations and maintenance;
- (e) public realm;
- (f) public art;
- (g) road infrastructure and utilities;
- (h) traffic management;
- (i) dispute resolution; and
- (j) communications protocol.

## **11. CONTRIBUTION AGREEMENT:**

The parties acknowledge that Surrey may want to increase the Project scope to include works above and beyond those included in any approved business case for the Project. If the parties agree to implement any scope increase requested by Surrey, they may enter into a Contribution Agreement to set out Surrey's financial contribution to such scope increase.

## **12. GENERAL:**

The parties will revisit this MOU as is necessary to ensure the MOU continues to meet the Project needs.

This MOU is a statement of intent to summarize the collective wishes of the parties and to illustrate the parties' mutual support of the Project for the purposes of funding approval. This MOU is intended to advance the development of the SPA, the Reimbursement Agreement and the Municipal Access Agreement.

This MOU may be executed in counterparts, and when counterparts have been executed by the parties, each originally executed counterpart, whether a facsimile, photocopy, PDF or original, will be effective as if one original copy had been executed by the parties.

As governmental or public authorities, each of Surrey and TransLink are documenting their good faith commitments to each other to undertake the actions, cooperation and support described in this MOU in a diligent and timely manner to achieve the Project objectives.

As governmental or public authorities, each party acknowledges that it is governed by officials who are dutybound to enact by-laws and policies in accordance with the mandates stipulated in each party's governing legislation. As

such, and despite any other term of this MOU to the contrary, the parties acknowledge and agree that this MOU is not intended to, and will not operate so as to, create legally binding rights and obligations nor to fetter the lawful discretion and powers of either party with respect to the subject matter of this MOU.

**13. EXECUTION**

Executed by the parties on the date written above.

**South Coast British Columbia Transportation  
Authority (TransLink)**

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Kevin Desmond  
CEO

**The City of Surrey**

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Doug McCallum  
Mayor