

**TO:** CITY MANAGER 2003 November 26  
**FROM:** DIRECTOR PLANNING AND BUILDING Our File: 88000-20  
**SUBJECT:** RICHMOND-AIRPORT-VANCOUVER RAPID TRANSIT PROJECT (RAVP)  
**PURPOSE:** To provide Council with an assessment of the recommendations tabled by CUPE BC regarding the public sector comparator (PSC) proposed for the RAVP.

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**RECOMMENDATIONS:**

1. **THAT** Council adopt the motion contained in *Attachment 'A'*.
2. **THAT** Council forward copies of the adopted motion, as approved, to the TransLink Board of Directors, TransLink CEO (Pat Jacobsen), and CUPE BC President (Barry O'Neill).

**REPORT**

**1.0 BACKGROUND**

Council at their regular meeting of 2003 April 28 adopted a report which outlined a number of concerns surrounding the financial analysis completed by TransLink in support of the Richmond-Airport-Vancouver Rapid Transit Project (RAVP). Arising from the consideration of an item of correspondence from CUPE BC on the pending use of a public sector comparator in the RAVP procurement process, Council at their regular meeting of 2003 November 17 requested staff to review the material provided by CUPE BC and report back to Council. The purpose of this report is to provide background information related to the proposed use of the public sector comparator for the RAVP, to provide an overview of the CUPE BC research paper of experience with public sector comparators, and to provide a motion for Councils consideration.

**2.0 PUBLIC SECTOR COMPARATOR (PSC)**

A public sector comparator is often used on public-private-partnerships (P3) as a mechanism to evaluate the cost put forward by private sector bids versus the cost of having the public sector deliver the same project. This process uses the cost of constructing the project by the public sector as a benchmark to which the private sector P3 proposals are compared.

The public sector comparator calculation for the RAVP will be extremely complex given:

- The proposed term of the concession or contract is long - **35 years**. This will result in the need to review a long and complex series of cash flows over the 35 year term.
- Net present value (NPV) is a recognized method of reducing a stream of payments forecast to be made in the future to an equivalent value today. NPV calculations require the use of a “**discount rate**”, which takes into account a number of variables, such as inflation, the cost of borrowing<sup>1</sup>, required rates of return on capital and the time period.<sup>2</sup> The higher the discount rate assumed, the more competitive a P3 proposal will appear relative to the public sector option.
- **Risk** should also be assessed in the proposed public sector comparator evaluation. One of the main reasons for undertaking a P3 is the ability to transfer risk from the public sector to the private sector. As shown in **Table 1**, under the current RAVP P3 proposal, the higher risk items are retained by TransLink.

<b>Table 1 DISTRIBUTION OF RISK</b>	
<b>Private Sector (LOW to MEDIUM)</b>	<b>TransLink (HIGH)</b>
<ul style="list-style-type: none"> <li>• design</li> <li>• system integration</li> <li>• construction costs</li> <li>• operating costs</li> <li>• permits</li> </ul>	<ul style="list-style-type: none"> <li>• P3 default</li> <li>• tunnelling</li> <li>• property acquisition</li> <li>• revenue (ridership)</li> <li>• Environmental Assessment</li> <li>• approvals (Prov'n &amp; Federal)</li> </ul>

- **Provincial funding** was originally conditional on the RAVP being a P3 project. Although the CEO of TransLink (Pat Jacobsen) has stated several times that if the public sector option is more cost effective, the Province will continue to fund the project. To our understanding this latter commitment has not been issued in writing.

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<sup>1</sup> It should be noted that the public sector can borrow money at a lower rate. This difference alone could equate to \$1.1-\$3.3 million annually over the 35 years of the contract (using interest rates of 6.20% for the public sector and 7.58% for the private sector both for 35 year terms as stated in the report on the RAV line adopted by Council on 2003 April 28 and private sector contributions ranging from \$100 to \$300 million as stated by TransLink in their letter to Mayor Corrigan of 2003 May 9).

<sup>2</sup> The CUPE BC research paper notes that, “*The discount rate has only recently been reduced to 3.5 percent in the U.K. despite criticisms that the former level of 6% gave private operators a significant advantage. ... none of the first 11 PFI (privately financed initiatives) schemes in the NHS (National Health Service) would have been considered to provide value for money if the discount rate used had been 5% rather than 6%.*”

### 3.0 THE CUPE BC PSC RESEARCH PAPER

CUPE BC has developed a research paper that reviews recent international and local experience with public sector comparators used on P3's. This research paper highlights the sensitivity of this type of analysis to key inputs or variables. The research paper states that:

*"... it is possible to handle this (PSC) process in a way that will be more fair and open than we have seen in other projects. We are offering for your consideration a possible motion that would help guide TransLink in the development of a PSC. If the steps we are proposing are taken, the public will be able to have much more confidence in the outcome of any comparison between public and private operation."*

The following is a review of principles contained within the resolutions suggested by CUPE BC within the context of issues previously considered by Burnaby Council.

- The **absence of full disclosure** of *PriceWaterhouseCoopers'* report on RAVP's financial feasibility was one of the issues raised in the previous RAVP report adopted by Council on 2003 April 28. The CUPE BC research paper cites the Australian Council of Auditor-General in 1997, *"Recent experience in Australia would indicate that Government agencies are tending to use the pretext of commercial confidentiality as a shield against disclosure of information which is commercially embarrassing to the Government or which raises issues of probity."*
- PSC team members be above any **potential conflict of interest**: The appointment of team could be problematic in that they will require expertise with P3's. By definition individual team members with direct P3 experience may be active in the promotion, creation or delivery of P3's as part of their domestic or international business. Being actively involved in P3's would likely be perceived as having a pro-P3 bias and could also potentially be perceived as having a direct or indirect conflict of interest. The public sector comparator's need for P3 experience will have to be carefully balanced against the fundamental requirement to guard against inherent bias or potential conflict of interest. *Although not previously considered directly by Council, avoiding bias and conflict of interest would be in the public interest.*
- **PSC's assumptions be made public**: *This recommendation is consistent with Council's previous request for full disclosure.*
- **PSC consider all risks** in their assessment including P3 default: *The issue and magnitude of risk (specifically as it related to tunnelling) was raised by Mayor Corrigan (GVRD Director) at the Joint Board (GVTA/GVRD) Workshop of 2003 May 16.*

- **Auditor General of BC** be requested to review the PSC: *This issue was also raised by GVRD Directors at the Joint Board (GVTA/GVRD) Workshop of 2003 May 16. The CEO of TransLink (Pat Jacobsen) responded by saying that the Auditor General of BC was being requested by the Minister of Transportation to participate in the PSC evaluation.*
- **Results of the PSC be disclosed** prior to Auditor General's review and a final decision: *This recommendation is also consistent with Council's previous request for full disclosure.*

#### 4.0 CONCLUSION

CUPE BC's resolutions are generally consistent with the RAVP report adopted by Council on 2003 April 28. Moreover, the principles suggested by CUPE BC - eliminating the perception of conflict of interest, complete assessment of all potential risks to TransLink, involvement by the Auditor General of British Columbia and full public disclosure - are not only in the public interest but are paramount given that RAVP represents the largest single publicly funded project ever proposed to be undertaken in the Lower Mainland. Therefore, these principles have been included in the motion included in **Attachment "A"** for the consideration of Council. It should be noted that the wording of the motions suggested by CUPE BC has been modified to reflect the previous financial concerns related to RAVP raised previously by Burnaby Council.



J.S. Belhouse, Director  
PLANNING AND BUILDING

Attachment

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cc: Director Finance  
Director Engineering  
City Clerk  
City Solicitor

## Attachment "A"

### Proposed Council Motion on The Public Sector Comparator for the Richmond-Airport-Vancouver Rapid Transit Project (RAVP)

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**WHEREAS** Burnaby Council has previously expressed concern related to the financial analysis presented by TransLink in support of the proposed RAVP and more specifically its implementation as a public-private-partnership (P3); and

**WHEREAS** TransLink has since proceeded with the Request of Proposals that include the design, build, finance, operate and maintain (DBFOM) private partnership agreement over a 35 year term; and

**WHEREAS** TransLink has committed to use a public sector comparator to assess the relative value of the RAVP P3 proposals versus public sector delivery of RAVP.

#### **THEREFORE IT BE RESOLVED:**

1. **THAT** any appointments to the public sector comparator be done in a manner to eliminate any perception of bias or conflict of interest.
2. **THAT** TransLink publicly disclose the Terms of Reference developed for the public sector comparator, including all directives and assumptions, at the time it is issued to the public sector comparator.
3. **THAT** TransLink instruct the public sector comparator to: explicitly document the methodology used to prepare the financial analysis of risk transfer and discount rate; and consider new risks being absorbed by the public sector, such as but not limited to the potential commercial failure of the private partner in public sector comparator's overall assessment of risk transfer.
4. **THAT** TransLink be encouraged to secure a commitment from the Auditor General of British Columbia and provide the Auditor General with adequate time and resources to complete an audit of the public sector comparator's analysis to ensure fairness and accuracy.
5. **THAT** TransLink publicly disclose the results of the public sector comparator's analysis and the findings of the Auditor General's review of the public sector comparator's analysis to allow for a period of review and comment by the public and the municipal Councils of the GVRD prior to the Auditor General's review and a final recommendation on the potential award of the RAVP P3 contract being forwarded to the TransLink Board for their consideration.

