



[This is an English version of the report originally submitted in French to Montréal's City Council on September 15, 2014]

Report and Recommendation Concerning Public Call for Proposals 1111368002

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Montréal 



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Acronyms

OIG..... Office of Inspector general
DSTI Directorate of policies and real-estate transactions
(Direction des stratégies et transactions immobilières)
SHDM Accomodations and Development Society of Montréal
(Société d'habitation et de développement de Montréal)
SMVTP Department of Development of Land and Heritage (Service
de la mise en valeur du territoire et du patrimoine)



1. Subject

In March 2014, the Office of Inspector General (OIG) received an allegation to the effect that a land sales process between Montréal and a third party was flawed and contained administrative irregularities. Furthermore, the involvement of elected officials and high ranking officials, as well as a potential conflict of interest, were pointed out.

This report deals with the call for proposals¹ regarding the sale of a lot belonging to the City to a private third party, that is, 9227-7797 Québec Inc.. The lot in question is located between Saint-Jacques and Notre-Dame streets in Old Montréal.

2. Scope and Limitations of the Investigation

The OIG conducted an extensive technical, contextual and strategic investigation with a view to conducting a detailed analysis of the situation. It should be noted that the file in question is known to the Administration and has already been partially analyzed by the Office of Comptroller General (Bureau du contrôleur général (hereinafter: BCG)) in 2013. However, the BCG did not have the legal powers conferred on the OIG and was therefore unable to obtain all of the information required to fully investigate the matter.

2.1 Applicable Standards and Norms

During the investigation, the scope of the analysis involved parts of the following standards and norms:

- Rules applying to land sales at the time;
- *Lobbying Transparency and Ethics Act*;
- *Employee Code of Conduct* (in effect prior to 2009);
- *Code of Conduct of Montréal Employees* (in effect since 2009);
- *Code of Ethics and Conduct of City Council and Borough Council Members*;
- *Frameworks and methods – decision-making process (Encadrements et manières de faire - processus décisionnel)*;
- *Reference Guide for bid weighting and evaluation systems, selection committees, and technical committees (Guide de référence des systèmes de pondération et d'évaluation, des comités de sélection et des comités techniques)*.

2.2 Additional Investigative Elements

With respect to the investigation, two additional elements were taken into consideration in order to adequately establish the context and links between the stakeholders involved as well as to corroborate the information, namely:

1. A prior sale process (2005) for the same lot involved in this investigation. It should be noted that the sale was never completed for reasons that are explained later in this report. However, certain elements of this transaction are reflected upon in the history of the current matter.
2. A sale process for a lot adjacent to the lot involved in this investigation. The coordination of the sale period of the lot adjacent to the lot involved in this investigation

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¹ Bearing number 1111368002



and the examination of an advantage of purchasing said adjacent lot were included in the analysis.

2.3 Scope of Work

Given the matter's complexity, sensitivity and history, the OIG implemented several investigative techniques. In this case, several hundred hours of work were required to study all of the points and ensure an objective, neutral and independent recommendation.

Between April 4 and September 6, 2014, the OIG interviewed a substantial number of the stakeholders involved in the case with the goal of establishing the facts. The OIG also obtained, through the powers conferred on it by the *Montréal City Charter*, a large volume of information of varied nature necessary to conduct a detailed analysis. Finally, several verification and corroboration strategies were used. A significant portion of the information received was corroborated by cross-checking interviews, information, research and analyses. Among the people interviewed were current and retired public officials, elected officials, proponents who had or had not presented offers as well as experts in the field.

2.4 Limitations

The recommendations made with respect to the present file concern primarily the call for proposals² issued in 2012 in relation to the sale of a lot located between Saint-Jacques and Notre-Dame streets. It should be noted that other corroboration may have been required but would have resulted in an additional delay in the production of this report. Given the scope of the work carried out, it is in the OIG's opinion that this report presents the critical information required to make an informed decision on a situation that has been evolving within the city since 2005.

3. Context of the Sale

The events investigated by the OIG occurred over the period from 2005 to today, that is, over more than nine (9) years. This report focuses on four events:

- First call for proposals (2005);
- Negotiations with the second proponent (2009);
- Sale of an adjacent lot by the SHDM (2010);
- Second call for proposals (2012).

3.1 First Call for Proposals in 2005

On January 19, 2005, the Montréal Executive Committee unanimously adopted, by way of a resolution, the decision-making summary³ concerning the launch of a public call for proposals for the sale of a vacant lot in Old Montréal, located between Saint-Jacques and Notre-Dame streets, east of Place d'Armes (Ville-Marie borough)⁴.

² Bearing number 1111368002

³ Bearing number 1040520008

⁴ Lot 1,180,954 of the Québec cadastre, with a surface area of 2,023.8 m²



The public call for proposals was issued with the aim of selecting the best real-estate development project proposed by a private developer.

3.1.1 Decision to Put the Lot Up for Sale

The lot was put up for sale through a public call for proposals with the objective of having it developed. The lot in question had been used for several decades as a paid parking lot. It was expropriated for development purposes.

In addition to the usual criteria, the following objectives or comments justified the decision to put the lot up for sale:

- The Ville-Marie borough sought to have the lot developed;
- The timing was favourable to real-estate investments.

Preliminary findings and analyses

Following interviews and the analysis of information, the OIG arrived at the conclusion that the public call for proposals was, at the time, the most effective means to obtain the best proposals on the market.

3.1.2 Selection Committee and Decision

The public call for proposals was launched on January 29, 2005, and the documents were made available to the public.

On April 8, 2005, Mr. Pierre Bernardin, assistant general director of the SMVTP, sent a follow-up of the mandate to the head of the DSTI to the effect that Mr. Robert Abdallah, then city manager, and Mr. Frank Zampino, chair of the Montréal's Executive Committee, sought to be informed of the specific process used to evaluate the proposals as well as the composition of the selection committee.

On April 13, 2005, the proposals received were publicly opened at Montréal's city hall. In total, six (6) proponents had presented an offer. On May 12, 2005, the selection committee was convened for the purpose of establishing the final scores (see Table 1).

Table 1: Proponent scores

Proponent	Score	Price
136991 Canada Inc.	91.9	\$3,400,000
Constructa Immobilier Inc.	75.5	\$3,500,000
Fonds immobiliers du Fonds de solidarité FTQ Inc. (SOLIM)	69.4	\$3,300,000
Développement McGill Inc.	60.8	\$2,760,000



Le Phénix Notre-Dame Inc.	61.2	\$2,200,000
6165061 Canada Inc.	43.2	\$2,187,000

The call for proposals was based on selecting the best real-estate development project proposed by a private developer. In May 2005, the company registered as 136991 Canada Inc. was chosen by a selection committee as the proponent with the best proposal. 136991 Canada Inc., which is in fact real-estate management company MIRELIS, was associated with architectural firm Cardinal-Hardy, which had drafted the architectural plans.

Preliminary findings and analyses

It is questionable that an elected official and a city manager ask to be informed of a selection and scoring process when such an interest is not supported by any contextual facts (such as a specific issue with the lot). Moreover, it is sound management to ensure the confidentiality of the composition of a selection committee to prevent its members' decisions from being influenced and to protect them from possible retaliation. Nevertheless, this act alone, while peculiar, does not call the process into question. The scoring process would appear to be consistent.

3.1.3 Drafting of the Decision-Making Record for Decision-Making Purposes (May 2005)

On May 25, 2005, after the selection committee had met, a decision-making record⁵, endorsed by a division head, was drafted to obtain the Montréal Executive Committee's agreement in principle to retain the proposal made by 136991 Canada Inc. (further to the issuance of the public call for proposals for the sale of a lot located between Saint-Jacques and Notre-Dame streets).

Preliminary findings and analyses

It should be noted that the decision-making record specified that the terms and conditions proposed by the proponent met all of the city's requirements and that the *proposed* price was consistent with the lot's market value. All stakeholders interviewed stated that they were in agreement with the sale of the lot to 136991 Canada Inc.

3.1.4 First Commercial Agreement for Parking Spaces (Groupe Antonopoulos and SOLIM)

During the course of the investigation, we were informed that a verbal agreement had been reached between Mr. Guy Gionet, director of the Fonds immobilier du Fonds de solidarité FTQ Inc. (SOLIM), and Mr. Costa Antonopoulos, shareholder of Antonopoulos Group and owner of Hôtel Place d'Armes, to acquire parking spaces in the event that SOLIM won the call for proposals. However, SOLIM was ranked third by the selection committee.

⁵ Bearing number 1050520001



3.1.5 Decision of Montréal's Executive Committee: Suspension of the Call for Proposals (July 2005)

On July 6, 2005, Montréal's Executive Committee unanimously adopted a resolution not to go forward with the proposal filed by 136991 Canada Inc.

Montréal's Executive Committee was presided over by Mr. Frank Zampino. Mr. Gérald Tremblay, mayor of the city at the time, was absent from the July 6, 2005 meeting.

Preliminary findings and analyses

A) Unfounded decision

Our research and requests for information did not enable us to determine the reasons for the Montréal Executive Committee's decision not to move forward with the proposal filed by 136991 Canada Inc. despite the recommendation to this effect by city functionaries.

B) Role of the strategic committee

It should be noted that a strategic committee advised Montréal Executive Committee members on real-estate matters. This committee's mandate consisted of making recommendations regarding the management of the city's property assets, that is to say, land purchases and sales.

Consequently, the strategic committee guided Montréal's Executive Committee in its decisions as well as the DSTI's work in various real-estate matters. At the time, the real-estate strategic committee was composed of the following people:

- Frank Zampino, chair of the Executive Committee
- Robert Abdallah, city manager
- The assistant general director of the SMVTP at the time
- The director of the DSTI at the time

C) Governance of the strategic committee

The OIG had to limit the scope of its investigation and therefore did not examine the strategic committee's governance structure. According to certain witnesses interviewed by the OIG, Mr. Frank Zampino and Mr. Robert Abdallah had made it a habit of asking the heads of the DSTI to act contrary to sound governance practices. Their requests and schemes were exposed to the auditor general, which led to cases known to the public today, Faubourg Contrecoeur and Marc-Aurèle-Fortin. Sound management requires operating mechanisms that specify individual roles and powers as well as an accountability process. It should be noted that it proved difficult to validate the list of people who participated in these committees or the roles they played seeing as the committee did not keep minutes of its meetings.

3.1.6 Allegations Raised to the Mayor of Montréal

The OIG, through the interviews it conducted, learned that an individual concerned about the Montréal Executive Committee's decision to not go forward with the proposal made by 136991 Canada Inc., made a comment to former mayor Gérald Tremblay during an evening function. This individual stated to the mayor that *"This is not Laval."* This comment was made in reference to the fact that the Montréal Executive Committee's decision resembled the decisions made by Laval, which at the time was struggling with a potential bribery and illegal political funding scheme.



This comment made to mayor Gérald Tremblay was confirmed by the latter. Mr. Tremblay pointed out to the OIG that it was the first time he had been informed of a possible irregularity regarding this call for proposals.

3.1.7 Solicitation of a Proponent for \$100,000

In the fall of 2005, immediately after the Montréal Executive Committee's decision to not go forward with the proposal made by 136991 Canada Inc., a third party is reported to have solicited a proponent, asking for money in exchange for having the file advance at the level of the political authorities. According to the versions obtained, this third party is said to have had meetings with the proponent in question and solicited a sum of \$100,000 in cash. According to his testimony, the solicited proponent did not grant the request as he underestimated the actual influence that this third party had over the political authorities to have the proposal approved. Furthermore, it would have been difficult for him to come up with \$100,000 in cash. Consequently, no monetary transaction occurred.

Preliminary findings and analyses

The allegations regarding the \$100,000 bribe are criminal in nature and must be disclosed by the Inspector General to the anti-corruption commissioner (UPAC).

3.1.8 Decision of Montréal's Executive Committee: Resume Negotiations (June 2006)

On June 21, 2006, Montréal's Executive Committee adopted a resolution to resume negotiations with 136991 Canada Inc. on the basis of its 2005 proposal (reversal of the decision made on July 6, 2005). Montréal's Executive Committee mandated the SMVTP to:

- negotiate the terms and conditions of the sale with 136991 Canada Inc., the latter having presented the proposal considered to be the most worthwhile for the city in regards to the lot located between Saint-Jacques and Notre-Dame streets.

This resolution was unanimously adopted by the members of Montréal's Executive Committee. The meeting was presided over by Mr. Frank Zampino. According to the minutes, former mayor Gérald Tremblay did not attend this meeting.

Preliminary findings and analyses

Following the interviews conducted by the OIG with public officials involved in real-estate transactions, it is our understanding that the delay in the sale, approximately one year, was abnormal. Such transactions are usually settled much more quickly (within a year). Two witnesses informed the OIG's investigators that Mr. Frank Zampino was chiefly responsible for these abnormal delays.

With respect to the reversal of the decision made on July 6, 2005, this was an unusual move for Montréal's Executive Committee. In fact, according to one witness, he had never seen this during his 20-year career.



3.1.9 Addition of a Purchase Option to the Proposal

On November 22, 2006, the DSTI officials, in charge of negotiating with 136991 Canada Inc., requested that Montréal City Council approve an irrevocable purchase option by which the city agreed to sell to 136991 Canada Inc. the vacant lot located between Saint-Jacques and Notre-Dame streets in Old Montréal. The new purchase price was set at \$3,650,000.

On December 11, 2006, Montréal City Council approved the purchase option for the Saint-Jacques/Notre-Dame lot for 136991 Canada Inc. for a final amount of \$3,650,000.

Preliminary findings and analyses

Following the interviews conducted by the OIG, it is our understanding that the delay forced DSTI officials to negotiate a purchase option with the representatives of 136991 Canada Inc.

3.1.10 Second Commercial Agreement for Parking Spaces (Antonopoulos Group and 136991 Canada Inc.)

During the course of our investigation, we learned that a verbal agreement had been reached between Mayer Lawee, representing 136991 Canada Inc., and Mr. Costa Antonopoulos, shareholder of Antonopoulos Group and owner of Hôtel Place d'Armes, for the acquisition of parking spaces in the event that a transaction would be concluded. Mr. Richard Marion, president of SOLIM from 1995 to 2004 and a self-employed lobbyist, is reported to have approached Mr. Antonopoulos to offer to facilitate a commercial agreement for parking spaces. Documentary evidence obtained by the OIG and dated 2005 indeed confirms that Costa Antonopoulos had presented an offer to the company.

3.1.11 Authorization of the Sale of the Lot to 136991 Canada Inc. (August 2008)

On August 13, 2008, Montréal's Executive Committee authorized the sale of the Saint-Jacques/Notre-Dame lot to 136991 Canada Inc. The recommendation to authorize the sale was supported by DSTI employees and management. The Montréal City Council approved the sale on August 25, 2008.

On November 21, 2008, more than three months after the decision to authorize the sale to 136991 Canada Inc., the latter had yet to respond to the draft deed of sale. DSTI officials arrived at the conclusion that the company was seeking to get out of the purchase of the lot. In a decision-making record drafted by DSTI officials, two options were presented to the city should 136991 Canada Inc. withdraw from the acquisition process:

- Sue 136991 Canada Inc. for failing to fulfill its obligations;
- Retain the deposit paid by 136991 Canada Inc. and continue negotiations with another proponent.

Under the section "calendar and subsequent steps" (calendrier et étapes subséquentes) of this decision-making summary⁶, it was specified that the DSTI would examine various scenarios to put this vacant lot back on the market as early as 2009.

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⁶ Bearing number 1084311006



3.1.12 Second Proponent Reiterates its Interest in Acquiring the Lot

On November 11, 2008, the president of Constructa Immobilier Inc. sent a letter to the DSTI's division head to:

- reiterate his interest as second proponent;
- acquire the Saint-Jacques/Notre-Dame lot;
- develop a real-estate project on it.

He increased his offer by \$500,000, bringing it to a total of \$4 million.

Constructa Immobilier Inc. was the proponent that arrived in second place after 136991 Canada Inc. (See Table 1 presented above.)

In this letter, the president of Constructa Immobilier Inc. suggested that 136991 Canada Inc. had no intention of fulfilling its commitment to acquire the lot since the company had sold the Aldred building on September 29, 2008, for the sum of \$22 million. This building was adjacent to the Saint-Jacques/Notre-Dame lot. The company 136991 Canada Inc. was no longer interested in developing the project and had offered Constructa Immobilier Inc. the option of buying back the Saint-Jacques/Notre-Dame lot for \$5.5 million. Constructa Immobilier Inc. had rejected the offer.

Constructa Immobilier Inc., as second proponent, reiterated its interest in acquiring the lot and stated that it would partner with third-place proponent SOLIM (the real-estate fund of the Fonds de solidarité FTQ Inc.) in its proposal to the city.

Copies of this letter addressed to the DSTI's division head were sent to Mr. Claude Dauphin, chair of Montréal's Executive Committee, Mr. Sammy Forcillo, vice-chair of Montréal's Executive Committee, Mr. Claude Léger, Montréal's city manager, and Mr. Pierre Bernardin, assistant general director of the SMVTP.

3.1.13 Cancellation of the Decision to Sell to the First Proponent (January 2009)

On January 26, 2009, Montréal's City Council, acting on a recommendation by Montréal's Executive Committee, decided to repeal the resolution,⁷ thus cancelling the draft deed of sale of the Saint-Jacques/Notre-Dame lot to 136991 Canada Inc., following the latter's failure to sign the deed of transfer of ownership of the property, and to retain the \$365,000 deposit made by 136991 Canada Inc.

Preliminary findings and analyses

Based on the interviews conducted by the OIG, the decision made by Montréal's Executive Committee and Montréal's City Council to retain the deposit made by 136991 Canada Inc. and not initiate legal proceedings was a viable one, seeing as the city's goal was to commence a development project as quickly as possible. Initiating legal proceedings would have delayed the process.

The OIG considers the business decision made by 136991 Canada Inc. to not purchase the lot and not develop a real-estate project on it as plausible since it had just sold the adjacent building, that is, the Aldred building. The motivation for purchasing the Saint-Jacques/Notre-Dame lot was to construct a building on the land that would increase the value of the Aldred building by

⁷ Bearing number CM080648



providing parking for it. However, given that the MIRELIS group, which owned 136991 Canada Inc. and the Aldred building, no longer owned the building, it no longer had an economic interest in the development project.

3.2 Direct Negotiations with the Second Proponent (2009)

3.2.1 Strategic Committee's Decision to Sell to Constructa Immobilier Inc. (February 2009)

On February 10, 2009, following a meeting of the strategic committee, the DSTI was mandated to commence negotiations with the second proponent, Constructa Immobilier Inc. This decision received the support of Mr. Claude Dauphin, then chair of Montréal's Executive Committee, as well as the other members of the strategic committee, including Mr. Claude Léger, city manager, Mr. Pierre Bernardin, assistant general director of the SMVTP, and Mr. Michel Nadeau, director of the DSTI.

Consequently, a functionary of the DSTI was given the mandate to negotiate an agreement similar to the one reached previously with 136991 Canada Inc. The OIG was unable to determine who was in charge of the strategic committee. Instructions were given to negotiate firmly with Constructa Immobilier Inc. and ensure that the initial development timeline would be respected.

Thus, the DSTI employee in charge of the negotiations contacted the owner of Constructa Immobilier Inc. around February 24, 2009, to begin negotiations for the sale. Contact was resumed in light of the letter sent by Constructa Immobilier Inc. in November 2008, in which it reiterated its interest and offered to purchase the lot for \$4 million.

Preliminary findings and analyses

The interviews conducted by the OIG leave it to believe that negotiating with the second proponent was a sound decision by the strategic committee because it prevented further delays in the development project.

Nevertheless, the mandate given by Montréal's Executive Committee to begin negotiations with the second proponent was given verbally. Despite the fact that there exists no Montréal Executive Committee resolution to confirm this information, a trace was found in the decision-making summary dated November 21, 2008⁸, in which it is specified under "calendar and subsequent steps" (calendrier et étapes subséquentes) that the DSTI would examine various scenarios to put the vacant lot back on the market as early as 2009.

Once again, we call attention to an issue of governance within the strategic committee, namely with respect to document management.

⁸ Bearing number 1084311006



3.2.2 Request for Information by the Chair of Montréal's Executive Committee Following a Request by Mr. Costa Antonopoulos (February 2009)

On February 24, 2009, a request by Mr. Claude Dauphin was sent to Mr. Pierre Bernardin, assistant general director of the SMVTP, who in turn sent it to Mr. Michel Nadeau, then director of the DSTI, seeking his opinion on a proposal made by Antonopoulos Group to acquire the Saint-Jacques/Notre-Dame lot.

The request made by Mr. Claude Dauphin was in response to a letter he received from Mr. Costa Antonopoulos in which the latter proposed to acquire the Saint-Jacques/Notre-Dame lot and asked that the city favour his proposal seeing as he owned a bordering property. In his letter, Mr. Antonopoulos stated that he owned Hôtel Place d'Armes, located near the lot in question. He argued that the city should give priority to his offer to purchase the lot seeing as the city usually gave priority to bordering owners in such situations. In his email addressed to Mr. Pierre Bernardin, Mr. Claude Dauphin pointed out that he was aware that the city was currently negotiating with the second and third proponents and asked if it was still worthwhile to discuss with potential proponents.

Mr. Michel Nadeau's response to the requests made by Mr. Claude Dauphin, was sent on March 3, 2009 to Mr. Pierre Bernardin to inform him that the priority granted to owners of a bordering property to acquire the Saint-Jacques/Notre-Dame lot did not apply to Antonopoulos Group. Mr. Michel Nadeau stated that priority was only given to a border property in cases of consolidation or under very specific circumstances. He added that Hôtel Place d'Armes, owned by Costa Antonopoulos, was located on the other side of the street and could therefore not be considered as a bordering property. Furthermore, Mr. Nadeau stressed that he had been mandated to stay within the scope of the initial call for proposals by continuing to negotiate with the second and third proponents involved, namely Constructa Immobilier Inc. and SOLIM.

3.2.3 Reuse of the Plans Prepared by the Firm of the First Proponent Having Won the Call for Proposals

As explained in the previous section, the first proponent (136991 Canada Inc.) never signed the draft deed of sale and the city consequently repealed the decision to sell, while retaining the proponent's deposit. Several steps had already been completed, however, including the approval of the project plans by:

- the Quebec Department of Culture and Communications (Ministère de la Culture et des Communications);
- the Ville-Marie borough for urban planning regulations.

The approved plans had been prepared by Cardinal-Hardy.

The city was now negotiating with Constructa Immobilier Inc., but it had retained the services of another firm to prepare its plans when it filed its proposal. This firm's plans had not been presented to the Quebec Department of Culture and Communications or the city, and there was therefore a risk that the project would be delayed. Consequently, reusing the plans prepared by Cardinal-Hardy seemed like a good option seeing as they had already been approved.

The various interviews conducted by the OIG regarding the evolution of the negotiations revealed that Constructa Immobilier Inc. contacted Mr. Aurèle Cardinal, from the Cardinal-Hardy architectural firm, to obtain the rights to use the architecture



plans prepared by his firm that had already been approved. Mr. Aurèle Cardinal had accepted to reach an agreement to this effect, but on the condition that the city grant the project to his firm.

3.2.4 Sales Agreement with Constructa Immobilier Inc. (July 2009)

In the spring of 2009, negotiations were held between DSTI officials and Constructa Immobilier Inc. An agreement was reached on July 23, 2009, concerning the sale of the Saint-Jacques/Notre-Dame lot. The president of Constructa Immobilier Inc. then signed a promise to purchase with the city.

A decision-making summary⁹ was drafted and was to be presented to Montréal's City Council for the purpose of recommending the approval of the sale of the Saint-Jacques/Notre-Dame lot to Constructa Immobilier Inc. The summary was endorsed by a division head.

On August 21, 2009, the notary representing the City and the notary representing Constructa Immobilier Inc. reached an agreement on a draft deed of sale as well as a deposit in trust in the amount of \$360,000 for the purchase of the lot.

On August 27, 2009, the assistant general director of the SMVTP approved the DSTI's recommendation regarding the sale of the Saint-Jacques/Notre-Dame lot to Constructa Immobilier Inc.¹⁰

Preliminary findings and analyses

The interviews and research carried out by the OIG indicate that both parties were satisfied with the negotiations with Constructa Immobilier Inc. Furthermore, the amendment of a clause seemed to be more advantageous for the city than in the first agreement and enabled the city to keep a financial lien on the building until the end of the construction. It also released the city of all liability to complete the construction should the developer declare bankruptcy. According to all versions gathered, negotiations between DSTI officials and Constructa Immobilier Inc. were completed. Consequently, the file was forwarded to Montréal's Executive Committee and was awaiting a decision.

3.2.5 Internal Memo to the City Manager (August 2009)

On August 25, 2009, a memo from Mr. Pierre Bernardin, director general of the SMVTP, was sent to the city manager, Mr. Claude Léger. The memo had been drafted by Mr. Michel Nadeau, director of the DSTI, and recounted his actions during meetings held with Mr. Costa Antonopoulos and Mr. Richard Marion for the purchase by mutual agreement of the Saint-Jacques/Notre-Dame lot.

In short, the internal memo confirms that Mr. Michel Nadeau had meetings with Mr. Costa Antonopoulos and Mr. Richard Marion and that these two had then presented an offer to purchase the Saint-Jacques/Notre-Dame lot by mutual agreement. Mr. Michel Nadeau is said to have informed Antonopoulos Group that he could not accept the proposal to purchase the lot by mutual agreement seeing as the city was negotiating with a developer that had taken part in the 2005 call for proposals,

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⁹ Bearing number 1094311002

¹⁰ Bearing number 1094311002



Constructa Immobilier Inc. He added, however, that if the negotiations with Constructa Immobilier Inc. were not successful, the city would then be open to considering the offer made by Antonopoulos Group. He informed the city manager that negotiations with Constructa Immobilier Inc. were now over and that the decision-making summary was to be filed at the September 21, 2009, Montréal City Council meeting.

Preliminary findings and analyses

We found that city management sought to remain informed of the file's status. It should be noted that the OIG was not able to clearly establish who mandated Mr. Nadeau to meet with Mr. Antonopoulos. None of the versions could be corroborated, but the one that came up the most was that the hired lobbyist, Mr. Marion, reportedly approached one or several elected officials to show that Antonopoulos Group was an important company for the city. Following these representations, the details of which we are unaware, one or several elected officials is said to have requested that an official meet personally with the company to listen to its grievances and explain that a process was already underway. Given this context, it is nevertheless difficult to understand how Antonopoulos Group could have made an offer.

3.2.6 Entry on the Agenda of Montréal's Executive Committee and Removal of the Agreement Decision (September 2009)

The proposed sale of the Saint-Jacques/Notre-Dame lot was entered on the agenda of the Montréal Executive Committee's September 9, 2009 meeting and later struck from said agenda.

Preliminary findings and analyses

Nothing appears on the Montréal Executive Committee's September 9th meeting agenda in regard to the file. The interviews and research carried out by the OIG indicate a certain level of confusion among Montréal's Executive Committee members and city functionaries in attendance, namely with respect to the ranking of the proponents after the selection committee's work on the first call for proposals. Furthermore, there was also some confusion concerning the association or partnership between Antonopoulos Group and one of the proponents (SOLIM). Mr. Michel Nadeau's presence was required at Montréal's Executive Committee meeting to clarify the situation. The OIG validated his presence, since it had not been entered into the minutes. We also raise the question regarding the purpose of knowing whether Antonopoulos Group was among the proponents or not given that negotiations had already been completed with Constructa Immobilier Inc.

Verifications carried out by city functionaries confirmed to the elected officials and city management that Constructa Immobilier Inc. was indeed the second place proponent and SOLIM the third. According to the documents provided by the different proponents in the first call for proposals, Antonopoulos Group was not involved in any of the proposals or with any of the proponents.

The work and interviews carried out by the OIG revealed that after the discussion at Montréal's Executive Committee meeting, one of Montréal's Executive Committee members personally contacted a DSTI official to obtain information, that is, information as to who was the second proponent.

The OIG understands, with certain reservations, the theory that Montréal's Executive Committee struck the item from the agenda because of the uncertainty and confusion surrounding it. Nevertheless, it should be recalled that a member of Montréal's Executive Committee:

- had addressed a request to city functionaries on February 24, 2009 (request for the purchase proposal made by Antonopoulos Group concerning the Saint-Jacques/Notre-Dame lot);
- had received from Antonopoulos Group a letter in which it formally reiterated its interest;
- had knowledge that a senior official had informed Mr. Antonopoulos that negotiations were underway with the second-place proponent.

Finally, it is former mayor Gérald Tremblay who made the decision to strike the matter from the Montréal Executive Committee's meeting agenda to gain a better understanding of it. This was confirmed to the OIG's investigators by Mr. Tremblay.

3.2.7 Needs, Approaches and Meetings of the Antonopoulos Group

In order to gain a better understanding of the confusion of Montréal's Executive Committee, this section lists the parallel actions taken in 2009.

On February 3, 2009, a letter was sent to Mr. Claude Dauphin, then chair of the Montréal's Executive Committee, by Mr. Costa Antonopoulos, to reiterate his interest in acquiring the Saint-Jacques/Notre-Dame lot. It should be reminded that Mr. Dauphin had contacted city functionaries for their opinion on Antonopoulos Group's purchase proposal.

In the spring of 2009, letters exchanged between Mr. Costa Antonopoulos and Mr. Michel Nadeau allowed to understand that, following a meeting between M. Antonopoulos and Mr. Nadeau, a proposal to purchase the Saint-Jacques/Notre-Dame lot by mutual agreement was presented by Mr. Costa Antonopoulos on May 28, 2009.

In a letter dated May 28, 2009, sent to Mr. Michel Nadeau by Mr. Costa Antonopoulos, reference is made to a prior meeting and Mr. Antonopoulos proposes to purchase by mutual agreement the Saint-Jacques/Notre-Dame lot for the sum of \$3,500,000 by June 30, 2009.

In a letter dated June 22, 2009, sent to Mr. Costa Antonopoulos by Mr. Michel Nadeau, Mr. Nadeau informs the M. Antonopoulos that he cannot accept his purchase proposal by mutual agreement because the city is already negotiating with one of the proponents of the 2005 call for proposals, but in the event that negotiations are not successfully completed with said proponent, the city would then be willing to consider any offer on his part.

Preliminary findings and analyses

The OIG wanted to ensure what were the reasons for the confusion. Consequently, the investigation and a meeting with Mr. Costa Antonopoulos revealed that:

- Mr. Antonopoulos was neither a business partner nor an associate of SOLIM in the proposal filed in response to the 2005 public call for proposals. Only a verbal agreement existed between Mr. Guy Gionet of SOLIM and himself to furnish parking spaces to Hôtel Place d'Armes and for which no further action was taken.

- The lobbying services of Mr. Richard Marion were retained and paid for by Mr. Antonopoulos to facilitate the purchase of the Saint-Jacques/Notre-Dame lot. However, Mr. Antonopoulos has no knowledge of who Mr. Marion spoke with or what he said.
- It should be noted that Mr. Richard Marion represented the interests of Antonopoulos Group, under various entities. A search conducted in the database of the Québec Registry of Lobbyists indicates that Mr. Richard Marion was a registered lobbyist during the 2014 fiscal year. However, Mr. Marion made representations before this date and our investigation revealed that it is only following a request made by an elected official that Mr. Marion registered as a lobbyist for the purpose of making representations in this matter.

3.2.8 Additional Delays at the Montréal Executive Committee Level (Fall 2009)

From September 2009 to January 2010, there were several exchanges made at the request of the former mayor and his chief of staff in order to gain a better understanding of the case.

3.2.9 Request Made to Constructa Immobilier Inc. to Accommodate Antonopoulos Group (September 2009)

Around September 15, 2009, immediately after Montréal's Executive Committee withdrew from its agenda the file for the sale of the Saint-Jacques/Notre-Dame lot to Constructa Immobilier Inc., a senior city executive asked the proponent, Constructa Immobilier Inc., to accommodate Antonopoulos Group's need for parking spaces. The request is reported to have been made through a representative of the project's architectural firm, Cardinal-Hardy. Constructa Immobilier Inc. was asked to commit to providing some fifty parking spaces to Hôtel Place d'Armes, property of Antonopoulos Group.

What resulted from this request was the fact that several people were mandated by Constructa Immobilier Inc. to meet Mr. Costa Antonopoulos and negotiate an agreement with him. Some of these people instead met with Mr. Richard Marion, who stated to them that he represented the interests of Antonopoulos Group. Some of the witnesses' allegations are to the effect that Antonopoulos Group was not interested in the offer of parking spaces. Mr. Antonopoulos instead wished to acquire the lot for the purpose of developing a project by participating in another call for proposals and take the risk of losing.

Constructa Immobilier Inc. retained the services of a lawyer in an attempt to find a legal solution to satisfy Mr. Costa Antonopoulos' request for parking spaces and an agreement on parking spaces was drafted. This proposed agreement was to be included in the sales agreement between Constructa Immobilier Inc. and the city. According to witnesses, it was presented to Mr. Costa Antonopoulos. The OIG obtained a copy of the proposed parking agreement.

Preliminary findings and analyses

During interviews conducted by the OIG with representatives of Constructa Immobilier Inc., it was pointed out that, to their understanding, the request that was made to them was clearly conditional on the fact that if Constructa Immobilier Inc. refused to accommodate Antonopoulos Group's parking needs, the Montréal Executive Committee would not approve the deal. The OIG



was able to establish that this request, made by a senior city executive, transited through the architectural firm associated with Constructa Immobilier Inc.

A manager (cadre) for the city informed the OIG that he had no knowledge that this request had been made, whereas his subordinate mentions that the request came from him. There was a great deal of confusion, contradictions and uncertainty, but none of the people with whom the OIG met denies that the request was made to Constructa Immobilier Inc. Also, most of the officials (cadres) involved believe that if Constructa Immobilier Inc. had not responded favourably to the request, the transaction would have nevertheless gone through seeing as it was not a requirement. Certain items of correspondence, of which the OIG obtained copies, lead us to believe, rather, that this condition was necessary to the transaction. Also, verifications made in the documents of the public call for proposals in question revealed that no such requirement was established, that is, reaching prior agreements for parking spaces with the owners of neighbouring properties.

The OIG met with certain senior city executives (cadre de direction). From their point of view, it was normal that city representatives pay attention to Antonopoulos Group from the moment it made its opposition known. This important group in terms of economic development was concerned about losing its parking area (for Hôtel Place d'Armes). In fact, the hotel's customers used the surface parking on the lot in question. His objection therefore seemed legitimate. For some of the functionaries met with by the OIG, it seemed important to pay attention to all of the economic interests of a sector of the city and to how the city's various departments coordinated to produce results. They considered themselves as facilitators rather than intermediaries in this situation. By acting as such, they were trying to improve the project's social acceptability by developing relationships with neighbouring businesses.

3.2.10 Indication of Cancellation of the Agreement with Constructa Immobilier Inc. (January 2010)

On January 11, 2010, executive management sent an email to the various employees involved in the project stating that, following an official meeting with the mayor, the mayor would like the city to issue another public call for proposals for the sale of the Saint-Jacques/Notre-Dame lot. This email was the first clear indication of the mayor of Montréal's desire to terminate the call for proposals. Nevertheless, discussions were later held between members of executive management and the mayor. An official decision would only be made in June 2010.



Preliminary findings and analyses

Meetings conducted by the OIG with members of executive management at the time revealed a great deal about the political climate during this period.

At the time, the climate among management was dismal. The auditor general's two reports on the scandals involving the Faubourg Contrecoeur and the water meters had just been published and 40% of the city's contracts were at a standstill. Both the mayor and executive management at the time had a great desire to change the system that had been previously implemented.

Certain members of executive management stated that the mayor at the time was not well informed about the decision-making records to be presented, among others, to Montréal's Executive Committee. Measures were taken to present more complete information and facilitate the decision-making process.

One of the members of executive management at the time, with whom the OIG met as part of this investigation, stated, upon reading some of the documents that he was presented, that it was not a standard file. Indeed, the fact that the city was acting as a facilitator in a request for parking spaces on behalf of a private third party for the benefit of another private third party makes the case delicate.

3.2.11 Parallel Negotiations between Constructa Immobilier Inc. and Antonopoulos Group (Spring 2010)

On March 15, 2010, the attorney representing Constructa Immobilier Inc. sent a letter to Montréal's Directorate General to inform them of an agreement (parking space option agreement) presented to Mr. Costa Antonopoulos in an attempt to meet his needs.

On March 30, 2010, Mr. Michel Nadeau, director of the DSTI, sent a letter to Mr. Costa Antonopoulos, in follow-up to the letters dated May 28, 2009 and June 22, 2009, to the effect that they were finalizing an agreement with one of the proponents that had taken part in the public call for proposals. This letter stated that if the sale could not be concluded with said proponent, the city would not consider the proposal made by Antonopoulos Group to purchase the lot by mutual agreement. It was specified that, should the negotiations underway with the current proponent fail, the city would opt for a public call for proposals at the appropriate time.

On April 1, 2010, the Antonopoulos Group sent a letter to Mr. Louis Roquet, Montréal city manager, reiterating its offer to purchase the Saint-Jacques/Notre-Dame lot by mutual agreement. There was also reference to a previous letter sent to Mr. Claude Dauphin and to the fact that as the owner of a neighbouring property, he should be given priority for a sale by mutual agreement.

In April 2010, mayor Gérald Tremblay assigned an employee who provided support to elected officials and was trained as an urban planner to examine the DSTI's transaction in order to advise the mayor on the decision to make with respect to this complex file.

During the course of that same spring, Mr. Richard Marion, a lobbyist not registered in the Québec Registry of Lobbyists, intervened on behalf of Antonopoulos Group with city functionaries to influence the city's decision concerning the sale of the Saint-Jacques/Notre-Dame lot.

On May 3 and 11, 2010, Mr. Michel Nadeau, director of the DSTI, reported to executive management that representations were made to him by Mr. Richard Marion to reiterate Antonopoulos Group's purchase offer and advocate for its interests.



Preliminary findings and analyses

The employee assigned by mayor Gérald Tremblay to analyze the situation produced a report with recommendations for the mayor. The employee recommended going ahead with the proposal negotiated between city functionaries and Constructa Immobilier Inc. According to the report, this agreement was the most profitable for the city because it allowed for the project to be completed as quickly as possible. However, the employee also warned of the political consequence of this decision. The decision would be very difficult to justify to the media, in his opinion, given the complexity of the project and the multiple abnormalities that occurred along the way. Given this warning, Gérald Tremblay decided not to follow the recommendation of going ahead with the project.

3.2.12 Final Decision of Mayor Gérald Tremblay to Put an End to Negotiations with Constructa Immobilier Inc. (July 2010)

On July 13, 2010, the office of mayor Gérald Tremblay sent an official email to executive management and DSTI management to inform them of the mayor's final decision regarding the sale of the Saint-Jacques/Notre-Dame lot to Constructa Immobilier Inc.

On September 17, 2010, Constructa Immobilier Inc. was informed by the city of its decision to terminate the first call for proposals and thereby end its negotiations with the proponent.

Preliminary findings and analyses

When the OIG's investigators met with Mr. Gérald Tremblay, he confirmed that he had removed the project from the Montréal Executive Committee's meeting agenda and that it was his decision to terminate the first call for proposals. He made this decision because he found that the project was overly complex, contained inconsistencies and was taking too long. It had therefore become increasingly difficult for him to explain it to the public.

Mr. Tremblay explained to the investigators the very difficult political circumstances he found himself in. The water meter and Faubourg Contrecoeur scandals had been highly publicized and the municipal administration was under a great deal of pressure. Given the context at the time, he could not go forward with a project such as the sale of the lot to Constructa Immobilier Inc. It was a matter of caution. This way, in his opinion, no one could accuse him of authorizing a project that he was unable to justify to the public.

It should be noted that interviews conducted by the OIG with members of the executive management at the time confirmed the claims made by Mr. Gérald Tremblay with respect to the reasons for his decision and the context in which it was made.

We find that the political system delayed the draft agreement that had been ready for several months despite the recommendation by city officials to go ahead with it.

3.3 Sale of an Adjacent Lot by the SHDM (2010)

On June 17, 2010, the Board of Directors of the SHDM approved the sale of the building located at 37/39 Notre-Dame West (number 10-185). The DSTI intervened and approved the SHDM's decision. It must be noted that said building is adjacent to the Saint-Jacques/Notre-Dame lot.

3.3.1 Authorization of the Public Call for Tenders (July 2010)

On December 21, 2010, according to the decision-making summary¹¹, Montréal's Executive Committee was asked to authorize the SHDM to issue a public call for tenders for the sale of the building located at 37/39 Notre-Dame West. On February 2, 2011, the Montréal Executive Committee gave its authorization.

The same decision-making summary specified that the SHDM had contacted the director of the DSTI to find out about the sale of the adjacent lot (Saint-Jacques/Notre-Dame) to a private developer to see if these lots could be sold at the same time. The director of the DSTI had informed the SHDM that the adjacent lot would not be sold in the near future and that he did not object to it proceeding with a public call for tenders for the sale of its building.

3.3.2 Launch and Description of the Public Call for Tenders (January 2012)

On January 25, 2012, the call for tenders for the sale of the building located at 37-39 Notre-Dame West was issued. The call for tenders was based solely on the price. No selection and evaluation committee was set up to evaluate the proposals received. The only condition was the compliance of the documents provided in response to the specifications of the call for tenders.

The call for tenders was overseen by the SHDM on behalf of the limited partnership set up for the 37/39 Notre-Dame West (SHDM 50% and SOLIM 50%).

3.3.3 Companies that Obtained the Specifications and Opening of the Bids (March 2012)

According to the receipts issued by the SHDM, four companies obtained the specifications. On March 2, 2012, the bids were opened by a management director at the SHDM in the presence of the executive secretary and three (3) representatives of the bidders, namely Mr. Libman and Mr. Bower representing 9259-1437 Québec Inc. as well as Mr. Richard Marion representing Édifice Le Coin, a general partnership.

Two bids were opened:

- 9259-1437 Québec Inc.: \$690,000
- Édifice Le Coin, general partnership: \$700,000

The bid made by the general partnership, Édifice Le Coin, was signed by Mr. Antoine Antonopoulos.

¹¹ Bearing number 1100341003



The bid made by 9259-1437 Québec Inc. was signed by Mr. Charles Leibovich and accompanied by a letter stating that the business group that owned 9259-1437 Québec Inc. also owned the adjacent building, 29-35 Notre-Dame West and had been the owner for four years. The letter argued that 9259-1437 Québec Inc. should be the logical choice for the SHDM seeing as the business group had fully renovated the building at 29/35 Notre-Dame West after acquiring it and the renovations had substantially increased the building's value. The group's intention was to integrate the 37/39 Notre-Dame West building into the 29-35 Notre-Dame West building to settle problems with access to the upper floors and issues related to emergency exits.

On March 16, 2012, Mr. Antoine Antonopoulos of Édifice Le Coin received a letter from SHDM management to the effect that he had thirty (30) days to have the building inspected, after which time he would be under the obligation to take possession of the building as is. The offer to purchase would then be presented to the Board of Directors of the SHDM and Montréal's Executive Committee for approval.

On March 23, 2012, SHDM management sent an email to Mr. Libman, representing 9259-1437 Québec Inc., to the effect that Édifice Le Coin had thirty (30) days to have the building inspected, as of March 16, 2012. Should Édifice Le Coin withdraw from the acquisition process, 9259-1437 Québec Inc. would in turn be entitled to the same period to have the building inspected. Should Édifice Le Coin purchase the building at a higher price following the inspection, 9259-1437 Québec Inc.'s deposit would be returned.

On April 17, 2012, SHDM management sent a letter to Mr. Charles Leibovich of 9259-1437 Québec Inc. informing him that his company's offer had not been retained and that their deposit was being returned.

Preliminary findings and analyses

- A verification by the OIG in Québec's register of enterprises confirmed that the general partnership, Edifice Le Coin, was incorporated on January 14, 2008.
- The general partnership is held jointly by the Antoine Antonopoulos Real Estate Fund and the Costa Antonopoulos Real Estate Fund. Its president is Mr. Anthony Antonopoulos, and Mr. Costa Antonopoulos serves as its secretary and treasurer.
- The OIG met with Mr. Costa Antonopoulos, who confirmed that Antonopoulos Group is active in the acquisition of real estate in Old Montréal. Also, Mr. Antonopoulos believed that the acquisition of the building located at 37/39 Notre-Dame West would give him an advantage to purchase the lot located between Saint-Jacques and Notre-Dame streets.

3.3.4 Finalization of the Call for Tenders

On May 9, 2012, a general assembly was held for the members of the SHDM. The members in attendance unanimously adopted a resolution approving the sale of 37-39 Notre-Dame West to Édifice Le Coin for the sum of \$700,000.



On May 17, 2012, in a decision-making summary¹², SHDM management recommended to Montréal's Executive Committee that it authorize the sale of its 50% share in the building located at 37-39 Notre-Dame West to the general partnership Édifice Le Coin.

On June 6, 2012, Montréal's Executive Committee adopted a resolution to this effect.

3.3.5 Coordination with the Upcoming Second Call for Tenders for the Saint-Jacques/Notre-Dame Lot (September 2010)

Meetings were held in September 2010 to begin work on the second call for proposals. These meetings were attended by officials from the DSTI, the SHDM and the Ville-Marie borough.

It was agreed that the sales process for the Saint-Jacques/Notre-Dame lot was much longer than that for the building at 37-39 Notre-Dame West. Consequently, coordinating the calls for tenders was no longer desired.

Preliminary findings and analyses

During the meetings for the second call for tenders, a point was raised about the potential advantage that existed for a proponent who owned a neighbouring lot. Certain DSTI functionaries believed that owning the 37-39 Notre-Dame West could represent an advantage for purchasing the Saint-Jacques/Notre-Dame lot. In fact, several interested proponents believed the same thing. After verification, this documentary assumption was determined to be unfounded.

3.3.6 Incorporation of 9227-7797 Québec Inc.

On October 1, 2010, 9227-7797 Québec Inc. was registered with the Quebec Registry of Entreprises (Registre des entreprises du Québec). This company is better known as DevMcGill and its president is Mr. Stéphane Côté. It should be noted that this company would eventually win the call for proposals.

Preliminary findings and analyses

The OIG met with Mr. Stéphane Côté and Mr. Costa Antonopoulos and was able to confirm that Mr. Stéphane Côté is indeed the person at the head of 9227-7797 Québec Inc., but he had a financial partner in the project to purchase the Saint-Jacques/Notre-Dame lot, namely Antonopoulos Group.

3.4 Second Call for Proposals (2012)

3.4.1 Preliminary Start-up Meetings (Fall 2010)

Start-up meetings were held during the fall of 2010 up to March 2012 for two main purposes:

- Create the necessary conditions to ensure that the second call for proposals was issued as quickly as possible;

¹² Bearing number 1120341001



- Assess the possibility of coordinating the sale of the building located at 37-39 Notre-Dame West with the sale of the Saint-Jacques/Notre-Dame lot.

From the first start-up meeting, a proposal to accelerate the process was discussed, namely to reuse the plans prepared by Cardinal-Hardy which had already been approved by the Quebec Department of Culture and Communications (Ministère de la Culture et des Communications) and the Ville-Marie borough with respect to zoning. However, at the following months' meetings, DSTI management stated that the city could not become the owner of said plans. The only situation in which the city could become the owner of the plans would be in the case of an expropriation.

Consequently, the clause entered in the specifications of the call for proposals stipulates that the projects presented by proponents had to comply with the urban planning regulations of the Ville-Marie borough (01-282), with the current PPCMOI or with a new PPCMOI¹³ to be adopted by competent authorities within a maximum delay of seventeen (17) months following the opening of the proposals.

With respect to the second objective, that is, the possibility of coordinating the sale of the building at 37-39 Notre-Dame West with that of the Saint-Jacques/Notre-Dame lot, this issue was covered in a previous section of this report. In short, it was determined that the sales process for the Saint-Jacques/Notre-Dame lot was much longer than that of the building at 37-39 Notre-Dame West and therefore the sale of the building would have been delayed.

The OIG conducted interviews with Mr. Costa Antonopoulos, Mr. Richard Marion and Mr. Stéphane Côté and was able to confirm that Mr. Richard Marion had attempted to continue to lobby the city, during the second call for proposals, to advocate for Antonopoulos Group. Several city functionaries met with no longer wanted to talk to him as they were uncomfortable with the fact that he represented a potential future proponent. All city functionaries the OIG met with stated that they had refused to speak with him when he had attempted to call the DSTI.

Preliminary findings and analyses

It should be noted that some of the members who participated in the start-up meetings were the same city functionaries as those involved in the first call for proposals, in addition to an employee of the SHDM. Also, for a certain period, all stakeholders believed that the two sales could be made at the same time.

One of the allegations motivating the verification was that a project complying with the current PPCMOI provided an advantage to the proponent who held the Cardinal-Hardy plans.

According to the participants, it was possible to present a host of new architectural designs within the regulatory provisions previously authorized under the 2005 call for proposals. Moreover, it was possible to comply with a new PPCMOI within seventeen (17) months.

3.4.2 Tripartite Commercial Agreement Between the IBI-CHBA Architectural Firm, DevMcGill and Antonopoulos Group

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¹³ Projet particulier de construction, de modification ou d'occupation d'un immeuble.



Agreement between DevMcGill (9227-7797 Québec Inc.) and IBI-CHBA (which includes Cardinal-Hardy)

Some of the former representatives of the architectural firm, whose initial plans were approved during the first call for proposals, reached an agreement with developer DevMcGill for the reuse of the architectural plans. Under this agreement in principle, the plans could be reused and slightly modified. It should be noted that Cardinal-Hardy merged with IBI-CHBA in 2011.

Agreement between DevMcGill (9227-7797 Québec Inc.) and Antonopoulos Group

Joint financial partnership, with DevMcGill making the largest investment and agreement authorizing Antonopoulos Group to acquire parking spaces.

3.4.3 Issuance of a New Call for Proposals (March 2012)

On March 22, 2012, the second call for proposals for the sale of the Saint-Jacques/Notre-Dame lot was issued¹⁴. The decision-making summary¹⁵ indicates that a total of sixteen (16) companies requested to obtain the specifications of the public call for proposals.

Preliminary findings and analyses

Some of the former representatives of the Cardinal-Hardy architectural firm had already asked Mr. Richard Marion if they intended to retain their services as architects for the project should Antonopoulos Group win the bid for the Saint-Jacques/Notre-Dame lot. Richard Marion is reported to have confirmed that they would since the plans had already been approved by the Quebec Department of Culture and Communications. Finally, the former representatives of the Cardinal-Hardy architectural firm dealt with developer DevMcGill, and Antonopoulos Group joined them for the purchase and project development.

3.4.4 Filing of the Proposals, Results of the Selection Committee and Decision

The city sold a total of sixteen (16) copies of the specifications of the public call for proposals and received two proposals, one from Conceptions Rachel-Julien Inc. and one from 9227-7797 Québec Inc. (Mr. Stéphane Côté from DevMcGill).

The proposals were evaluated according to the criteria approved by Montréal's Executive Committee during the authorization to sell this lot by public call for proposals. The evaluation committee reviewed the projects based on the qualitative criteria stipulated in the specifications of the public call for proposals, namely regarding the design concept, the project's architectural value, the proponent's profile as well as economic, social and environmental interests. (The results are presented in Table 2.)

¹⁴ Bearing number 1111368002

¹⁵ Bearing number 1121380018

Table 2: Scoring and prices proposed by the proponents

Names of the compliant proponents	Criteria and scoring					Proposed price
	Design concept (25 points)	Project's architectural value (25 points)	Proponent's profile (10 points)	Economic, social and environmental interests (40 points)	Total	
Conceptions Rachel-Julien Inc.	10.84	13.17	6.67	35.83	66.51	\$5,600,000
DevMcGill (9227-7797 Québec Inc.)	15.50	15.18	6.67	32.08	69.43	\$5,425,000

Bidding began at a minimum price of \$4,200,000 and it was stipulated in the public call for proposals that points would not be awarded to proponents who offered to pay the minimum price.

The project that obtained the highest overall score (criteria and price) was the project presented by 9227-7797 Québec Inc., represented by Mr. Stéphane Côté of DevMcGill, in collaboration with Antonopoulos Group and the IBI-CHBA architectural firm.

On November 7, 2012, Montréal's Executive Committee approved the evaluation committee's recommendation to retain the proposal filed by 9227-7797 Québec Inc. for the purchase and development of the Saint-Jacques/Notre-Dame lot¹⁶.

3.4.5 Analysis of the Bid Evaluation Process

A) Technical subcommittee

An evaluation committee may, when it deems it appropriate, set up a technical subcommittee whose mandate is to issue a technical opinion on a proposal. Accordingly, a subcommittee met on September 11, 2012. It was composed of three (3) individuals with different qualifications, namely:

- A planning consultant and team leader, Urban Planning and Business Services Department (Direction de l'aménagement urbain et des services aux entreprises), Ville-Marie borough;
- An architect specialized in planning, Urban Planning and Business Services Department (Direction de l'aménagement urbain et des services aux entreprises), Ville-Marie borough;
- A real-estate consultant and team leader, DSTI.

¹⁶ Resolution CE12 1845



B) Evaluation committee

The evaluation committee met on September 17, 2012, and was composed of five (5) individuals:

- A division head at the city's Financial services (Services des finances);
- A division head at the DSTI who had also participated in the start-up meetings;
- A director at the Ville-Marie borough;
- A director at the SHDM who had also participated in the start-up meetings;
- A division head at the Directorate of Culture and Heritage (Direction de la culture et du patrimoine).

Preliminary findings and analyses

Irregularities involving the technical subcommittee

The reference guide calls for the appointment of a secretary. The secretary leads the technical committee meetings and ensures the integrity of the process. At no time may the secretary make a judgment on the items reviewed by the technical committee. No independent secretary was appointed to the technical committee. It is a real-estate consultant/team leader who played this role in addition to providing expertise to the technical committee.

We also noted that the planning consultant/team leader was the only team leader in the planning architect's unit. Despite the fact that he did not have managerial authority, there remains a relationship of authority in terms of functional authority and coordination. The manager in charge stated to us that the team leader does not plan the employee's work. Nevertheless, it is our opinion that a functional reporting relationship could have been in place during the evaluation.

Although the subcommittee is not mandated to evaluate the proposals, as stipulated in the reference guide on scoring and evaluation systems, the subcommittee nevertheless evaluated the proposals for three of the four criteria.

We therefore find that the technical subcommittee's analysis led it to the determination that the proposal made by DevMcGill was clearly superior. The fact that the technical subcommittee was then present during the deliberations of the evaluation committee could have had an influence on the decision-making process.

Irregularities involving the evaluation committee

The fact that the technical committee members were present during the deliberations is contrary to the practices of the Procurement Directorate (Direction de l'approvisionnement). Technical committee members should not be present at meetings of the evaluation committee. The members of a technical committee may be asked to provide explanations to a selection committee, but they must leave the room before the deliberations resume. The reference guide recommends separating the tasks between the technical committee, the selection committee and the secretary of each committee in order to maintain the integrity and transparency of the evaluation process. Consequently, the separation of committees to ensure an independent opinion may not have been preserved. Moreover, meetings with witnesses revealed different opinions with respect to the level of participation of the technical committee members in the deliberations of the selection committee.

Also, the real-estate consultant/team leader of the DSTI responsible for the file served as the secretary of both committees and provided expertise to the technical committee. Without



shedding doubt on the employee's integrity, taking on all these roles did not make it possible for this person to separate the tasks to ensure the integrity of the process. The separation of committees' tasks to ensure an independent opinion may therefore not have been preserved.

In accordance with good practices, members of selection committees must individually evaluate the offers before the committee meets. If technical analyses are required, they must be provided to the members before the meeting. This enables the members to form an independent opinion based on their personal evaluation of the offers and their technical compliance. During the selection committee meeting, the members thus share their opinions and points of view and deliberate to arrive at a consensus.

During its investigation, the OIG found that the selection committee members had not been provided with the technical subcommittee's conclusions as to compliance or non-compliance prior to the meeting. Also, the members' individual evaluations were not done before the selection committee met. Consequently, the members had not formed an independent opinion before the selection committee meeting. In addition to the irregularities mentioned with respect to the independence of the evaluations is the fact that the technical subcommittee attended the deliberations and that opinions differ with regard to the participation. Consequently, all of these factors create a significant risk that the selection process may have been influenced. Moreover, no agreement with regard to conflicts of interest was signed by the members.

Finally, it should be noted that four (4) of the five (5) members of the evaluation committee may have had knowledge of the first call for proposals and the difficulties experienced. It was explained to the OIG that it was difficult to find functionaries with the necessary qualifications to participate in the second call for proposals and who did not have knowledge of the events surrounding the first call for proposals.

4. Summary of Findings and Analyses

Regarding the first call for proposals concerning the Saint-Jacques/Notre-Dame lot (2005), the OIG comes to the following findings and analyses:

1. It is irregular that Montréal's Executive Committee decided, in the summer of 2005, not to follow the selection committee's recommendation to sell the lot to the first proponent. Furthermore, it is also irregular for Montréal's Executive Committee to have come back on its decision, in the summer of 2006, and move forward with the sale of the lot to 136991 Canada Inc.
2. If proven, it is completely unacceptable that a sum of \$100,000 in cash was sought from a proponent in exchange for pushing the project forward. Pursuant to section 57.1.18 of the *Montréal City Charter*, the Inspector General shall make a disclosure to the anti-corruption commissioner seeing as the allegation is of a criminal nature.
3. It is irregular that an officer of the DSTI met with Antonopoulos Group while negotiations were underway, as requested by the strategic committee, between DSTI officials and Constructa Immobilier Inc.
4. It is peculiar that the project was removed from the agenda of Montréal's Executive Committee meeting and put on hold for several months due to confusion surrounding a partnership between Antonopoulos Group and the third proponent. Our understanding is that this situation could result from representations made to elected officials and city employees.
5. It is irregular that a city functionary asked Constructa Immobilier Inc., chosen as part of the call for proposals, to accommodate Antonopoulos Group with parking spaces on the pretext that it was a mandatory requirement for Montréal's Executive Committee to authorize the proposal. This requirement was not stipulated in the initial call for proposals.
6. It is irregular that city functionaries were waiting for the results of negotiations between two private third parties in order to include them in the agreement between the city and the proponent.
7. It is concerning that a person not registered at the time with the Registry of Lobbyists was making representations to the city on behalf of Antonopoulos Group (the lobbyist in question only registered in 2014).
8. It is of interest that the mayor at the time decided to terminate the first call for proposals mainly based on the fact that the file was difficult to explain publicly and despite the opinion to the contrary of a city official who had been mandated to analyze the situation.

Regarding the second call for proposals concerning the Saint-Jacques/Notre-Dame lot (2005), the OIG comes to the following findings and analyses:

1. It is irregular for some of the same city employees involved in the first call for proposals and witnesses to the events to work on the second call for proposals. There is a risk of influencing the selection process.
2. Certain sound practices were not followed by the technical subcommittee, namely:



- proceeding with an evaluation of the proponents in addition to the compliance analysis;
 - not appointing an independent secretary;
 - a functional relationship existed between two committee members and a reporting relationship was therefore present during the evaluation.
3. Certain sound practices were not followed by the selection committee, namely:
- the technical committee attended the deliberations of the selection committee, even if only in an observational capacity;
 - individual scoring by committee members was not done before the selection committee met;
 - the secretary of the selection committee was responsible for the file;
 - the secretary of the selection committee was an expert on the technical committee;
 - No formal agreement regarding conflicts of interest was signed to confirm the intention to act faithfully and in compliance with the mandate, without bias,, favour or consideration and according to the rules of ethics.
4. The sound practices that were not applied by the technical committee and selection committee resulted in the evaluation process becoming vulnerable with respect to its independence and integrity.

Recommendations

Under section 57.1.10 of the *Montréal City Charter*, the Inspector General may cancel any contracting process involving a contract of the city or rescind or suspend the carrying out of such a contract when the following two conditions are met:

- 1° the inspector general finds that any of the requirements specified in a document of the call for tenders or a contract has not been met or that the information provided in the contracting process is false;*
- 2° the inspector general is of the opinion that the seriousness of the breach observed justifies the cancellation, rescinding or suspension.*

In the case at hand, the investigation conducted by the Office of Inspector General does not demonstrate that the requirements stipulated in the call for tenders were not met or that false information was provided during the awarding of the contract.

Consequently, if the city decided to go ahead with the sale of the lot to the company that won the call for proposals, the Inspector General could not, on his own initiative, rescind the sales contract given the very limited legislative framework in this matter.

We would like to point out, however, that the circumstances surrounding the city's project to sell said lot are so worrisome that had we been able to cancel this entire process, we would have done so without hesitation.

Considering paragraphs 2, 3 and 4 of section 57.1.23 of the *Montréal City Charter* to the effect that:

The inspector general may also, at any time, send the mayor and the clerk any report presenting findings or recommendations that, in the opinion of the inspector general, warrant being brought to the attention of the council. The mayor shall table the report before the council at the first regular sitting following its receipt.

The inspector general may include any notices or recommendations in these reports that, in his or her opinion, must be brought before the council.

In addition, the inspector general may, at any time, submit any notice or recommendation he or she considers necessary to any decision-making authority of the city.



Considering the findings and analyses exposed above;

Considering the abnormal delays associated with a sale process for a lot that began more than nine (9) years ago;

The Inspector General makes the following recommendation to the Montréal City Council:

That public call for proposals 1111368002 concerning the sale of a lot located between Saint-Jacques and Notre-Dame streets in the Ville-Marie borough be cancelled and that a new public call for proposals be issued.

The Inspector General,

Denis Gallant, Ad.E.