



PUBLIC REPORT

2022

Report on Contract Award and Performance Related
to Calls for Tenders 16-15062, 18-16618 and 21-18750

(Section 57.1.10 of the *Charter of Ville de Montréal,
metropolis of Québec*)

Summary

The Office of Inspector General conducted an investigation upon receiving two separate denunciations in December 2021. It was alleged that Les Entreprises K.L. Mainville inc. (hereinafter “K.L. Mainville”) had been awarded two snow-hauling contracts following Call for Tenders 21-18750, but allowed them to be carried out by a person who was ineligible for Ville de Montréal public contracts, namely, Louis-Victor Michon. According to the reports received, this situation also occurred the previous winter (2020-2021), when Louis-Victor Michon was in charge of K.L. Mainville’s drivers for Ville de Montréal.

In support of these allegations, the denunciations also stated that K.L. Mainville did not use any of its own trucks for the Ville de Montréal contracts. K.L. Mainville’s main subcontractor for these contracts was Excavation Bromont inc., whose owner, Daniel Girard, appeared to be financed by Louis-Victor Michon.

Louis-Victor Michon’s ineligibility resulted from the report filed by the Office of Inspector General in June 2016. The Office of Inspector General had concluded at the time that Louis-Victor Michon, as the operations manager of J.L. Michon Transports Inc., had repeatedly contacted a competitor to enter into collusive agreements for the award of Ville de Montréal contracts, namely those for sectors MHM-102-1621 and MHM-104-1621. As a result of this report, City Council passed a resolution excluding Louis-Victor Michon and the companies he operated (i.e., Déneigement Malvic inc. and 9149-9418 Québec inc.) from any call for tenders, subcontracts or the possibility of entering into a mutual agreement contract with Ville de Montréal for a period of five (5) years, from November 8, 2016, to November 7, 2021.

Under this ineligibility status, sections 15 and 16 of Ville de Montréal’s contract management by-law (hereinafter “RGC” for “règlement sur la gestion contractuelle”) provides that during this period, Louis-Victor Michon could not submit any bids, enter into contracts or subcontracts with Ville de Montréal, or do business, work or have any type of interest in a Ville de Montréal contract or subcontract. Conversely, for the same period, no Ville de Montréal co-contractor could enter into a subcontract with Louis-Victor Michon, allow him to work or have an interest in a Ville de Montréal contract or subcontract.

The investigation conducted by the Office of Inspector General revealed that K.L. Mainville and its president, Serge Mainville, allowed Louis-Victor Michon to work on the 2016, 2018 and 2021 Contracts through a subcontract with Excavation Bromont inc., which the latter de facto managed via a fronting agreement entered into with its official president, Daniel Girard.

This determination is based on the following:

- Serge Mainville has maintained a relationship of trust with Louis-Victor Michon and his father, Jean-Louis Michon, for several years, having received a loan of \$2,000,000 from them in 2014.
- A review of the K.L. Mainville’s contract history with Ville de Montréal showed a change in the company’s behaviour after the 2016 BIG Report was filed in June 2016, a report that concluded that Louis-Victor Michon’ had attempted to enter into collusive agreements.
- Louis-Victor Michon entered into a fronting agreement with Daniel Girard to take control of Excavation Bromont inc., which allowed him to participate as a subcontractor in performing the 2016, 2018 and 2021 Contracts and, in particular, to become K.L. Mainville’s exclusive subcontractor for the 2019–2020 and 2020–2021 winter seasons.

- *Louis-Victor Michon's involvement consisted in helping to carry out the main obligations under the 2016, 2018 and 2021 Contracts, namely driving the trucks himself, supervising the drivers hauling the snow, reconciling the snow-hauling data for K.L. Mainville's invoicing of its services to Ville de Montréal, and recruiting drivers in the summer and fall of 2021, that is, before the end of his period of exclusion from Ville de Montréal public contracts and subcontracts.*
- *Serge Mainville runs K.L. Mainville, is in charge of the company's bids and of overseeing performance of the 2016, 2018 and 2021 Contracts, including hiring subcontractors (section 3.4.2). He was aware of Louis-Victor Michon's ineligibility status, his de facto control of Excavation Bromont and his involvement in the performance of the 2016, 2018 and 2021 Contracts.*

For these reasons, the Inspector General has concluded that sections 15 and 16 of the RGC were violated, as Serge Mainville and K.L. Mainville did business with Excavation Bromont knowing that it was de facto operated by Louis-Victor Michon, which enabled the latter to work and acquire an interest in Ville de Montréal contracts despite being ineligible.

Section 57.1.10 of the Charter of Ville de Montréal, metropolis of Québec sets out two (2) cumulative conditions for the Inspector General to intervene. The Inspector General must have determined that one of the requirements in the call for tender documents or a contract was not observed. Second, she must be of the opinion that the seriousness of the breach observed justifies rescinding the contract.

In the present matter, as mentioned above, the investigation enabled the Inspector General to determine that there was non-compliance with sections 15 and 16 of the RGC, deemed to be an integral part of all contracts awarded by Ville de Montréal.

With respect to the seriousness of the breaches, the Inspector General noted that although fully aware of Louis-Victor Michon's ineligibility, the president of K.L. Mainville, Serge Mainville, still did business with him and allowed him to work and have an interest in the performance of Ville de Montréal contracts, and, further, tried to conceal this fact during the investigation.

In short, the Inspector General believes that both conditions required under section 57.1.10 of the Charter of Ville de Montréal have been met in this case and, consequently, she is rescinding the two (2) contracts awarded to K.L. Mainville following Call for Tenders 21-18750.

Furthermore, because of their aforementioned violations of the provisions of Ville de Montréal's by-law on contract management, the Inspector General believes that an ineligibility period of five (5) years would be appropriate for Louis-Victor Michon, Serge Mainville and Les Entreprises K.L. Mainville inc., while the term of the same sanction should be four (4) years for Excavation Bromont and three (3) years for Daniel Girard.

Table of Contents

SUMMARY	2
1. SCOPE AND EXTENT OF THE WORK	6
1.1 Details	6
1.2 Applicable standard of proof	6
1.3 Notice to Interested Parties	6
1.4 Glossary	7
2. CONTEXT OF THE OFFICE OF INSPECTOR GENERAL'S INVESTIGATION	8
2.1 Denunciations received	8
2.2 Ineligibility of Louis-Victor Michon and related companies for Ville de Montréal public contracts and subcontracts	8
2.3 Contracts investigated.....	9
2.3.1 2016 Contracts	9
2.3.2 2018 Contract	10
2.3.3 2021 Contracts	10
3. FINDINGS OF THE INVESTIGATION	10
3.1 Relationship between Louis-Victor Michon and Serge Mainville	11
3.1.1 Loan of \$2,000,000 in 2014.....	11
3.1.2 Planned subcontracting to Location K.L. Mainville in a contract awarded to Dénéigement Malvic inc. in 2016	11
3.1.3 Machinery transactions between Location K.L. Mainville, J.L. Michon Transports and Excavation Bromont in 2016 and 2017	12
3.1.4 Personal ties and defence of Michon family.....	12
3.2 Contract history of companies tied to Serge Mainville and Louis-Victor Michon with Ville de Montréal	12
3.2.1 Contract history of companies tied to Louis-Victor Michon	13
3.2.2 Contract history of companies tied to Serge Mainville before the 2016 BIG Report was filed.....	13
3.2.3 Contract history of K.L. Mainville after the 2016 BIG Report was filed	14
3.3 Use of Excavation Bromont inc. since 2017	14
3.3.1 Role of Excavation Bromont in performance of the 2016, 2018 and 2021 Contracts	15
3.3.2 Fronting agreement and de facto control of Excavation Bromont	16

3.3.3	Participation in performance of the 2016, 2018 and 2021 Contracts	17
3.3.4	Louis-Victor Michon's explanation of his role in Excavation Bromont.....	25
3.4	Role played by Serge Mainville	29
3.4.1	Serge Mainville's role in K.L. Mainville	29
3.4.2	Serge Mainville's responsibility for award and performance of the 2016, 2018 and 2021 Contracts.....	29
3.4.3	Serge Mainville's awareness of Louis-Victor Michon's exclusion from Ville de Montréal public contracts and subcontracts	31
3.4.4	Serge Mainville's awareness of Louis-Victor Michon's involvement in performance of the 2016, 2018 and 2021 Contracts	31
4.	RESPONSE TO THE NOTICE TO INTERESTED PARTIES.....	32
4.1	Responses from Louis-Victor Michon, Serge Mainville and K.L. Mainville.....	32
4.1.1	Arguments relating to certain facts	33
4.1.2	Interpretation of the by-law on contract management (RGC)	37
4.1.3	Ville de Montréal's power to keep its own Register of Ineligible Persons	40
4.1.4	Alleged breaches of procedural fairness.....	41
4.2	Excavation Bromont's response	45
5.	APPLICATION OF THE BY-LAW ON CONTRACT MANAGEMENT.....	48
5.1	Sections 15 and 16 of the RGC	49
5.2	Application of the RGC in the present matter	49
5.2.1	Serge Mainville and K.L. Mainville did business with an ineligible subcontractor.....	49
5.2.2	Louis-Victor Michon worked on a Ville de Montréal contract with the backing of Serge Mainville and K.L. Mainville	49
5.3	Recommendation regarding the period of ineligibility	50
6.	CONCLUSIONS AND RECOMMENDATIONS	53
	APPENDIX	56
	<i>Contract History of Louis-Victor Michon and K.L. Mainville</i>	<i>56</i>

1. Scope and Extent of the Work

1.1 Details

Under section 57.1.8 of the *Charter of Ville de Montréal, metropolis of Québec* (CQLR c. C-11.4, hereinafter the “Charter of Ville de Montréal”), the Inspector General’s mandate consists in overseeing contracting processes and the performance of contracts by Ville de Montréal or a related legal person.

The Inspector General does not conduct criminal investigations. She conducts investigations of an administrative nature. Throughout this report, wherever the term “investigation” is used, it means an investigation of an administrative nature, and under no circumstances shall it be interpreted as referring to a criminal investigation.

1.2 Applicable standard of proof

The Inspector General has the duty to deliver quality reports that are timely, objective, accurate and presented in a manner that will ensure that the individuals and organizations under her authority are able to act in accordance with the information provided.

In support of her opinions, reports and recommendations, the Inspector General imposes upon herself the burden of proof of the civil standard of the balance of probabilities.¹

1.3 Notice to Interested Parties

Before making the results of her investigation public and, where applicable, using the powers conferred to her under section 57.1.10 of the *Charter of Ville de Montréal* in accordance with her duty of procedural fairness, the Inspector General sends a Notice to Interested Parties (hereinafter the “Notice”) to the persons involved indicating the relevant facts gathered during the investigation.

Upon receiving the Notice, the persons concerned may submit in writing any comments, representations or observations they believe to be relevant.

Such a Notice was sent on May 13, 2022, to the attention of the company that was awarded the contracts being investigated, namely, Les Entreprises K.L. Mainville inc., its president, Serge Mainville, to Louis-Victor Michon, to the person who agreed to act as a front for the latter, Daniel Girard, and to the company headed by the latter and operated de facto by Louis-Victor Michon, Excavation Bromont inc. Notices were also sent to Ville de Montréal’s Department for Borough Consultation [Service de la concertation des arrondissements] and to the Mercier–Hochelaga-Maisonneuve borough’s public works department, as project owners for the contracts related to Call for Tenders 21-18750.

While the initial two-week period was set to end on May 27, 2022, it was extended to June 8, 2022, at the request of Les Entreprises K.L. Mainville inc., Serge Mainville, Louis-Victor Michon and Daniel Girard.

¹ Evidence is sufficient if it renders the existence of a fact more probable than its non-existence (see Article 2804 of the *Civil Code of Québec*).

The Inspector General considered the facts and arguments invoked by the various recipients of the Notice and these are covered in this report. Daniel Girard, Ville de Montréal's Department for Borough Consultation and the Mercier–Hochelaga-Maisonneuve borough's public works department did not respond to the Notice.

1.4 Glossary

Given the scope and duration of this case, a short glossary of the key stakeholders and a few preliminary remarks are provided to facilitate the reader's understanding.

Name	Role or position
Louis-Victor Michon	Snow removal contractor who became ineligible for Ville de Montréal contracts and subcontracts from November 8, 2016, to November 7, 2021; de facto president of Excavation Bromont inc.
J.L. Michon Transports inc., Déneigement Malvic inc., 9149-9418 Québec inc.	Companies owned or tied to Louis-Victor Michon until November 2021 and ineligible for Ville de Montréal public contracts and subcontracts
Les Entreprises K.L. Mainville inc.	Successful bidder for various snow-hauling contracts in the Mercier–Hochelaga-Maisonneuve borough since 2016 (Calls for Tenders 16-15062, 18-16618 and 21-18750)
Serge Mainville	President of Entreprises K.L. Mainville inc.; father of Kevin Mainville
Kevin Mainville	CEO of Les Enterprises K.L. Mainville inc.; son of Serge Mainville
Excavation Bromont inc.	Subcontractor of Les Entreprises K.L. Mainville inc. for the performance of snow-hauling contracts in the Mercier–Hochelaga-Maisonneuve borough since 2017 (Calls for Tenders 16-15062, 18-16618 and 21-18750)
Daniel Girard	Official president of Excavation Bromont inc. from 2016 to 2021; front for Louis-Victor Michon

2. Context of the Office of Inspector General's Investigation

2.1 Denunciations received

In December 2021, the Office of Inspector General received two separate denunciations alleging that Les Entreprises K.L. Mainville inc. (hereinafter "K.L. Mainville") had been awarded two snow-hauling contracts following Call for Tenders 21-18750 but allowed these to be carried out by Louis-Victor Michon, who was ineligible for Ville de Montréal public contracts. According to the reports received, this situation also occurred the previous winter (2020-2021) when Louis-Victor Michon was in charge of K.L. Mainville's drivers for Ville de Montréal.

In support of these allegations, the denunciations also stated that K.L. Mainville did not use any of its own trucks for the Ville de Montréal contracts. K.L. Mainville's main subcontractor for these contracts was Excavation Bromont inc., whose owner, Daniel Girard, appeared to be financed by Louis-Victor Michon.

Lastly, according to the denunciations, K.L. Mainville had submitted very competitive bid prices for two sectors in the Mercier–Hochelaga-Maisonneuve borough for Call for Tenders 2118750. This would be contrary to what was customary for the company, which in previous years had submitted prices well above the market for the other Ville de Montréal sectors.

2.2 Ineligibility of Louis-Victor Michon and related companies for Ville de Montréal public contracts and subcontracts

First, and before addressing the facts gathered during the investigation, it is important to clearly define the status of Louis-Victor Michon with respect to municipal public contracts, as well as the resulting implications.

On June 20, 2016, the Office of Inspector General submitted to Ville de Montréal a recommendation report on cancelling the award process for two snow removal contracts in the Mercier–Hochelaga-Maisonneuve borough (MHM-102-1621 and MHM-104-1621) (hereinafter the "2016 BIG Report").

The Office of Inspector General concluded that Louis-Victor Michon, in his capacity as operations manager of J.L. Michon Transports inc. (hereinafter "J.L. Michon Transports") had repeatedly contacted a competitor to enter into collusive agreements for the award of Ville de Montréal contracts, namely those for sectors MHM-102-1621 and MHM-104-1621.

Following this report, City Council passed resolutions CM16 1072 and CM16 1266, which had the following effects:

- To exclude J.L. Michon Transports from any calls for tenders, subcontracts or the possibility of entering into a mutual agreement contract with Ville de Montréal for a period of five (5) years, from June 9, 2016, to June 8, 2021, and
- To exclude Louis-Victor Michon and the companies he operated (i.e., Dénéigement Malvic inc. and 9149-9418 Québec inc.) from any calls for tenders, subcontracts or the possibility of entering into a mutual agreement contract with Ville de Montréal for a period of five (5) years, from November 8, 2016, to November 7, 2021.

Alongside these City Council decisions, the Autorité des marchés financiers listed J.L. Michon Transports in the register of businesses ineligible for public contracts (hereinafter “RENA”), which made the company ineligible for any public contracts or subcontracts with a provincial or municipal public body, including Ville de Montréal. The above decision was also for five years, from March 2, 2017, to March 1, 2022.

Such listings have the following consequences:

- First, with regard to public contracts and subcontracts for all Québec public bodies, including Ville de Montréal², section 21.4.1 of the *Act Respecting Contracting by Public Bodies*³ provides that an ineligible company may not bid on or enter into a public contract or subcontract; and
- Second, with respect specifically to Ville de Montréal contracts, the Ville de Montréal City Council by-law on contract management (18-038, hereinafter “RGC”) also stipulates the following:
 - Under Section 15 of the RGC, a Ville de Montréal co-contractor is prohibited from doing business with an ineligible subcontractor in the performance of its contract, except if specifically authorized to do so by Ville de Montréal.
 - Under Section 16 of the RGC, except if specifically authorized by Ville de Montréal, an ineligible person, other than a subcontractor, may not perform any work or have any type of interest in any Ville de Montréal contract or subcontract directly or indirectly related to it. No Ville de Montréal co-contractor may allow or tolerate such situations.

In other words, until November 7, 2021, Louis-Victor Michon could not submit any bids, enter into any contracts or subcontracts with Ville de Montréal, or do business, perform work or have any type of interest in a Ville de Montréal contract or subcontract. Conversely, for the same period, no Ville de Montréal co-contractor could enter into a subcontract with Louis-Victor Michon, allow him to work or have an interest in a Ville de Montréal contract or subcontract.

2.3 Contracts investigated

As mentioned above, the denunciations pertained to contracts awarded in 2021 to K.L. Mainville related to Call for Tenders 21-18750 as well as the contract performed in winter 2020–21 related to Call for Tenders 18-16618. Furthermore, the facts revealed by the investigation led the Office of Inspector General to examine a third call for tenders (16-15062).

In all, the investigation pertained to the award and performance of five snow-hauling contracts by K.L. Mainville from 2016 to 2021, each in the Mercier–Hochelaga-Maisonneuve borough.

2.3.1 2016 Contracts

On June 15, 2016, Ville de Montréal issued Call for Tenders 16-15062 to contract snow-hauling services for nine sectors in four boroughs, including Mercier–Hochelaga-Maisonneuve.

² The provisions of Division I, Chapter V.1 of the *Act Respecting Contracting by Public Bodies* apply to municipal contracts for work, insurance, procurement and services under section 573.3.3.2 of the *Cities and Towns Act*, CQLR, c. C-19.

³ CQLR, c. C-65.1.

On July 11, 2016, K.L. Mainville submitted a bid on the two packages MHM-206-1618 and MHM-207-1618, which was determined to be the lowest compliant bid. The two-year contracts were respectively valued at \$603,572.76 and \$430,765.34, including tax.

These contracts will hereinafter be referred to as the “2016 Contracts.”

2.3.2 2018 Contract

On June 6, 2018, Ville de Montréal issued Call for Tenders 18-16618 to retain “snow-hauling services for a period of three (3) years, with an extension option of one (1) year.”

On August 20, 2018, Ville de Montréal awarded the contract for package MHM-207-1821 to K.L. Mainville for a total amount of \$785,532.20, including tax.

This contract will hereinafter be referred to as the “2018 Contract.”

2.3.3 2021 Contracts

On April 7, 2021, Ville de Montréal issued Call for Tenders 21-18750 to retain “snow-hauling services, by package, for snow removal in the boroughs of Ahuntsic-Cartierville, Plateau-Mont-Royal, Sud-Ouest, Mercier–Hochelaga-Maisonneuve, Rosemont–La-Petite-Patrie, and Villeray–St-Michel–Parc-Extension.”

On June 14, 2021, City Council awarded contracts MHM-210-2123 and MHM-211-2123 to K.L. Mainville for two seasons in the amounts of \$1,052,027.00 and \$976,882.21, respectively, including tax and contingencies.

These contracts are currently in effect and will hereinafter be referred to as the “2021 Contracts.”

3. Findings of the investigation

As can be seen from the sections below, the investigation conducted by the Office of Inspector General revealed that K.L. Mainville and its president, Serge Mainville, allowed Louis-Victor Michon to work on the 2016, 2018 and 2021 Contracts through a subcontract with Excavation Bromont inc., which the latter in effect managed via a fronting agreement entered into with its official president, Daniel Girard.

This finding is based on the following:

- Serge Mainville has maintained a relationship of trust with Louis-Victor Michon and his father, Jean-Louis Michon, for several years, having received a loan of \$2,000,000 from them in 2014 (section 3.1).
- A review of K.L. Mainville's contract history with Ville de Montréal showed a change in the company's behaviour after the 2016 BIG Report was filed in June 2016, a report that concluded that Louis-Victor Michon attempted to enter into collusive agreements (section 3.2).
- Louis-Victor Michon entered into a fronting agreement with Daniel Girard to take control of Excavation Bromont inc., which allowed him to participate as a subcontractor in performing the 2016, 2018 and 2021 Contracts and, in particular, to become K.L. Mainville's exclusive subcontractor for the 2019–2020 and 2020–2021 winter seasons (section 3.3).

- Serge Mainville was aware of Louis-Victor Michon's ineligibility status, his de facto control of Excavation Bromont, and his involvement in performing the 2016, 2018 and 2021 Contracts (section 3.4).

3.1 Relationship between Louis-Victor Michon and Serge Mainville

As detailed below, the investigation revealed that Louis-Victor Michon and his father and former president of J.L. Michon Transports, Jean-Louis Michon, and Serge Mainville have known each other for a long time and all three men have a relationship of trust.

3.1.1 Loan of \$2,000,000 in 2014

As can be seen in a mortgage deed dated July 25, 2014, obtained during the course of the investigation, J.L. Michon Transports and Gestion Jean-Louis Michon inc., represented by Jean-Louis Michon, granted a loan of \$2,000,000 at an annual interest rate of 25% to the group of companies represented by Serge Mainville, namely, Ferme K.L. Mainville inc., Déneigement K.L. Mainville inc., Location K.L. Mainville inc. and Les Entreprises K.L. Mainville inc. In return, these companies granted a hypothec on all their movable and immovable property.

The land register indicated that two buildings located in Mirabel and both owned by Ferme K.L. Mainville were mortgaged under the loan agreement.

As at the date of this report, no cancellation of a hypothec has been published in the land register for either of the buildings.

3.1.2 Planned subcontracting to Location K.L. Mainville in a contract awarded to Déneigement Malvic inc. in 2016

Prior to becoming ineligible for Ville de Montréal contracts and subcontracts on November 8, 2016, Louis-Victor Michon had been awarded a snow-hauling contract in the Sud-Ouest borough through his company Déneigement Malvic inc. The investigation revealed that at the time he was considering contracting out work to one of the companies linked to Serge Mainville.

In preparation for winter 2016–2017, Déneigement Malvic provided Ville de Montréal with a list of trucks and trailers that would be assigned to the contract and that had to be measured beforehand by Ville de Montréal. The list showed that Déneigement Malvic had retained the services of two trucks that belonged to Location K.L. Mainville. The trucks were measured by Ville de Montréal on November 5, 2016, in view of being used for snow removal operations.

However, a few days later, Déneigement Malvic's contract was rescinded and the company, along with its president, Louis-Victor Michon, was added to Ville de Montréal's Register of Ineligible Persons.

3.1.3 Machinery transactions between Location K.L. Mainville, J.L. Michon Transports and Excavation Bromont in 2016 and 2017

On October 5, 2016, approximately two weeks after being excluded from Ville de Montréal public contracts and subcontracts, J.L. Michon Transports sold two trailers to Location K.L. Mainville inc.

They were two Henri trailers, one a Dump model from 2006 and the other a 2040 model from 2006. Documents obtained during the investigation revealed that K.L. Mainville then included these trailers in its list of equipment that would be assigned to performance of the 2016 Contracts during winter 2016–2017. The list indicated that the trailers were owned at the time by Location K.L. Mainville.

In the end, the trailers were not used for the 2016 Contracts, and on December 7, 2016, they were sold by Location K.L. Mainville inc. to J.L. Michon Transports.

After the winter, the same two trailers were sold on April 3, 2017, by J.L. Michon Transports to Excavation Bromont inc. (hereinafter “Excavation Bromont”). As detailed in section 3.3 below, the investigation revealed that Excavation Bromont was then de facto controlled by Louis-Victor Michon.

Lastly, in preparation for winter 2017–2018, K.L. Mainville included these trailers in the list of trucks reported to Ville de Montréal for performance of the 2016 Contracts. The list indicated that the two trailers were owned at the time by Excavation Bromont.

Data obtained from Ville de Montréal for snow-hauling trips in winter 2017–2018 for performance of the 2016 Contracts showed that the two above trailers made about 18% of all snow-hauling trips.

3.1.4 Personal ties and defence of Michon family

When met by the Office of Inspector General’s investigating officers on February 16, 2022, Serge Mainville said that he has personally known the Michons for a long time.

Serge Mainville also defended the Michon family by arguing that the family could not have engaged in collusion as shown by the 2016 BIG Report. As proof, he said that, in his opinion, if the bid prices of the various snow removal contractors for Ville de Montréal over the past 30 years were reviewed, there was a good chance that the lowest ones would be from the Michon family.

3.2 Contract history of companies tied to Serge Mainville and Louis-Victor Michon with Ville de Montréal

The Office of Inspector General reviewed the contract history of companies tied to Serge Mainville and those tied to Louis-Victor Michon with Ville de Montréal both before and after the 2016 BIG Report was filed.

The following determinations were made from the tables attached to this report, which list the various public tenders and contract awards.

3.2.1 Contract history of companies tied to Louis-Victor Michon

Louis-Victor Michon's contract history with Ville de Montréal from 2002 to November 8, 2016, when he was excluded from Ville de Montréal public contracts and subcontracts, was through the companies he worked for (J.L. Michon Transports) or personally owned (9149-9418 Québec inc. and Déneigement Malvic).

The calls for tenders in question were all for snow removal, snow hauling or machinery rental services for snow removal in certain Ville de Montréal boroughs.

The following boroughs were involved, in order of importance:

- Mercier–Hochelaga-Maisonneuve: 8 contract awards, 5 other bids submitted, and 1 purchase of specifications, all by J.L. Michon Transports.
- Rivière-des-Prairies–Pointe-aux-trembles: 5 contract awards (4 by J.L. Michon Transports and 1 by 9149-9418 Québec inc., but assigned to J.L. Michon Transports), 2 other bids submitted by J.L. Michon Transports.
- Sud-Ouest: 1 contract award through Déneigement Malvic in 2013.
- Saint-Léonard: 2 bids submitted through J.L. Michon Transports.
- Rosemont–La-Petite-Patrie: 1 bid submitted through J.L. Michon Transports.

With regard to the snow-hauling contract awarded to Déneigement Malvic in the Sud-Ouest borough in 2013, J.L. Michon Transports had also purchased the specifications. However, the company withdrew for the following reasons, according to Ville de Montréal's decision summary: "decided to bid under another of its companies that also purchased the specifications."

Before the 2016 BIG Report was filed, Louis-Victor Michon was very active in snow removal in Montréal, particularly in the Mercier–Hochelaga-Maisonneuve borough.

3.2.2 Contract history of companies tied to Serge Mainville before the 2016 BIG Report was filed

With respect to Serge Mainville, two companies tied to him participated in Ville de Montréal contracting processes before the 2016 BIG Report was filed. The first was K.L. Mainville, which submitted a bid for a single snow removal call for tenders in 2014 in the Saint-Laurent borough that was ranked the fifth lowest.

The second was Ferme K.L. Mainville, which twice purchased the specifications for calls for tenders in 2012 and 2013. Only the second call for tenders was for services related to snow removal, namely, snow hauling. However, the company withdrew its bid during the tendering process because, according to Ville de Montréal's decision summary, it did not have enough trucks.

Note that the call for tenders in question was for the Sud-Ouest borough, where one of the contracts was awarded to Déneigement Malvic and for which Location K.L. Mainville Inc. had to provide two trucks as a subcontractor in winter 2016–2017 (section 3.1.2).

Before the 2016 BIG Report was filed, K.L. Mainville had never been awarded a Ville de Montréal contract for snow removal, snow hauling or any other service related to these areas of activity.

3.2.3 Contract history of K.L. Mainville after the 2016 BIG Report was filed

From 2016 to 2021, K.L. Mainville submitted bids for seven Ville de Montréal snow removal and snow-hauling calls for tenders, tendering for a total of 43 packages over those five years. The only contracts that were awarded to the company were for snow hauling in the Mercier–Hochelaga-Maisonneuve borough.

Note that for virtually all the calls for tenders for snow removal or snow hauling, K.L. Mainville's bids were significantly different from the bid of the lowest compliant bidder and Ville de Montréal's prior estimate.

In fact, 29 of K.L. Mainville's 43 bids had a tender price at least 50% higher than that of the lowest compliant bidder. In 15 of these 29 cases, K.L. Mainville's price was more than 100% higher than that of the lowest compliant bidder.

Notable exceptions concerned the contracts awarded in the Mercier–Hochelaga-Maisonneuve borough, for which K.L. Mainville tendered highly competitive prices. Indeed, for the two packages awarded in July 2016, approximately one month after the 2016 BIG Report was filed, K.L. Mainville's prices were 19% and 31% lower than those of the second lowest compliant bidder.

Regarding the package awarded in June 2018, K.L. Mainville's price was 22% higher than that of the lowest bidder. However, the latter was found to be non-compliant and K.L. Mainville was awarded the contract. Note that K.L. Mainville's price was still 27% lower than Ville de Montréal's control estimate.

Finally, for the two packages awarded in May 2021, K.L. Mainville's prices were 21% and 30% lower than those of the second lowest compliant bidder.

3.3 Use of Excavation Bromont inc. since 2017

As previously mentioned, starting in winter 2017–2018, K.L. Mainville inc. hired Excavation Bromont as a subcontractor for performance of the 2016, 2018 and 2021 Contracts. The next sections will detail the evidence gathered during the investigation that demonstrates the following:

- From the start of its relationship with K.L. Mainville, Excavation Bromont was its main subcontractor for performance of the 2016 and 2018 Contracts, becoming the exclusive subcontractor for the 2019–2020 and 2020–2021 winter seasons (section 3.3.1).
- In April 2017, Louis-Victor Michon entered into a fronting agreement with Excavation Bromont's president, director and sole shareholder at the time, Daniel Girard, which enabled him to in effect run the company's operations (section 3.3.2).
- This enabled him to take part in the main obligations for performance of the 2016, 2018 and 2021 Contracts, namely by driving trucks himself, supervising the drivers assigned to snow hauling, reconciling the snow hauling data so that K.L. Mainville could invoice its services to Ville de Montréal, and recruiting drivers in the summer and fall of 2021, that is, before the end of his period of exclusion from Ville de Montréal public contracts and subcontracts (section 3.3.3).

- Louis-Victor Michon, who was met with twice during the investigation, attempted to conceal from the Office of Inspector General the true extent of his involvement in performing the 2016, 2018 and 2021 Contracts and in Excavation Bromont, in particular by attempting to influence the statements made by Daniel Girard (section 3.3.4).

3.3.1 Role of Excavation Bromont in performance of the 2016, 2018 and 2021 Contracts

The table below lists the trucks and trailers reported by K.L. Mainville to Ville de Montréal for performance of the 2016, 2018 and 2021 Contracts, based on whether they belonged to K.L. Mainville or a sister company, Excavation Bromont or another subcontractor.

Note that the Office of Inspector General obtained the relevant billing documents from Ville de Montréal in order to retain only the trucks and trailers that were actually used for performance of the 2016, 2018 and 2021 Contracts as well as the percentage of snow-hauling trips they made.

Ownership and use of trucks and trailers assigned by K.L. Mainville to performance of the 2016, 2018 and 2021 Contracts by winter season			
Winter season	K.L. Mainville	Excavation Bromont	Other subcontractors
2017—2018	1 (6.3%)	5 (47.9%)	7 (45.8%)
2018—2019	2 (15.6%)	5 (84%)	0 (0%)
2019—2020	0 (0%)	7 (100%)	0 (0%)
2020—2021	0 (0%)	6 (100%)	0 (0%)
2021—2022	0 (0%)	9 (34.8%)	15 (65.2%)

The table reveals the following findings:

- Starting with winter 2017–2018, Excavation Bromont became K.L. Mainville’s main subcontractor for performance of the 2016, 2018 and 2021 Contracts.
- During the 2019–2020 and 2020–2021 winter seasons, Excavation Bromont was K.L. Mainville’s sole subcontractor for performance of the 2018 Contract.
- Starting in winter 2019–2020, K.L. Mainville did not assign any of its trucks for performance of the 2018 and 2021 Contracts.

3.3.2 Fronting agreement and de facto control of Excavation Bromont

As previously mentioned, the investigation revealed that Louis-Victor Michon entered into an agreement in spring 2017 with the then-president of Excavation Bromont, Daniel Girard, to use him as a front, particularly to perform subcontracting work for K.L. Mainville under the 2016, 2018 and 2021 Contracts.

3.3.2.1 *Daniel Girard's statements*

Daniel Girard acquired Excavation Bromont on July 7, 2016, as indicated in the Quebec business registry [Registraire des entreprises du Québec]. He claimed that Excavation Bromont was a company with no real assets that he had acquired at the same time as another company that was the main reason for the transaction.

As he was about to dissolve Excavation Bromont in the fall of 2016, Daniel Girard became aware of the fire that had occurred at J.L. Michon Transports' garage on November 26, 2016.

As he had known Jean-Louis Michon for a long time and was aware that J.L. Michon Transports and Déneigement Malvic had been excluded from Ville de Montréal contracts and subcontracts because of Louis-Victor Michon's actions, Daniel Girard spoke to Louis-Victor Michon and Jean-Louis Michon and gave them the opportunity to use Excavation Bromont for their various activities, including snow removal.

Ultimately, an agreement was reached whereby Daniel Girard agreed to serve as a front for Louis-Victor Michon who would run Excavation Bromont, in exchange for an annual sum of \$20,000 for five years, totalling \$100,000.

Under the agreement, Daniel Girard stated that Louis-Victor Michon was actually running Excavation Bromont, whereas his role was limited to signing what he or his secretary brought to him. Louis-Victor Michon was thus responsible for:

- (i) Purchasing vehicles and trailers, including their financing and registration with the SAAQ. Daniel Girard signed the related documents, including the purchase contracts and SAAQ powers of attorney. He would sometimes receive a call from Louis-Victor Michon, who would say that he had purchased a vehicle from a dealership and would ask him to come sign the necessary documents.
- (ii) Administration and invoice follow-ups, with the assistance of the company's secretary. Daniel Girard signed all the related documents, including cheques for the employees and suppliers. He would also sometimes sign blank cheques.
- (iii) Organizing subcontracting jobs for K.L. Mainville. Daniel Girard signed all the related documents, including the subcontracting agreement forms bearing the name Excavation Bromont, which K.L. Mainville sent to Ville de Montréal.

Daniel Girard knew that Louis-Victor Michon was working with K.L. Mainville as the latter had told him that he was doing subcontracting work for the company. In addition, on November 30, 2017, Daniel Girard signed a truck driver's undertaking form bearing the name Excavation Bromont to perform subcontracting for K.L. Mainville under the 2016 Contracts.

Daniel Girard said he knew Serge Mainville but added that he had never spoken to him or met with him in relation to the snow subcontracting contracts for the Mercier-Hochelaga-Maisonneuve borough. He had only seen him once at Excavation Bromont's offices and said he did not even have his telephone number.

During their fronting agreement, Daniel Girard stated that Louis-Victor Michon had asked him to bid directly on the snow removal contracts in Montréal using Excavation Bromont. Daniel Girard maintained that he was adamantly opposed to such an arrangement and refused to provide the bonds required to submit such a bid.

Finally, on November 14, 2021, Daniel Girard sold Excavation Bromont to Louis-Victor Michon, who immediately sold it the same day to his cousin. Daniel Girard explained that this first transaction was necessary so that Louis-Victor Michon could put Excavation Bromont and its assets in his name and thus benefit from the company's growth since 2017 under the second transaction.

Prior to said sale of Excavation Bromont, Louis-Victor Michon had asked Daniel Girard to continue signing the various documents required for the company's operations, including the performance of the snow-hauling subcontracting contracts in Montréal for winter 2021–2022.

3.3.2.2 *Statements by an Excavation Bromont secretary*

The Office of Inspector General met with the Excavation Bromont secretary who worked for the company from December 2019 to December 2021. She stated that the company was run by Louis-Victor Michon that he had hired her, and that she performed the following work at his request:

- Accounting for Excavation Bromont
- Preparing all documentation required to operate Excavation Bromont (including employee paycheques, SAAQ powers of attorney, permits, invoices) to be later signed by Daniel Girard
- Entering certain data relating to performance of the 2018 Contract on the Ville de Montréal website
- Reconciling the snow-hauling trips made under the 2018 Contract by Excavation Bromont or the truck drivers it hired, and reviewing the information with Louis-Victor Michon before sending the documents to K.L. Mainville and Ville de Montréal
- Responding to questions or emails from the assistant of K.L. Mainville's CEO which Louis-Victor Michon would forward to her

3.3.3 **Participation in performance of the 2016, 2018 and 2021 Contracts**

The investigation revealed that Louis-Victor Michon was involved in most of the obligations for performance of the 2016, 2018 and 2021 Contracts, including by:

- Driving the trucks himself (subsection 3.3.3.1)
- Supervising the drivers assigned to haul away the snow, driving one of the trucks himself (subsection 3.3.3.2)
- Reconciling snow-hauling data so that K.L. Mainville could invoice Ville de Montréal for its services (subsection 3.3.3.3)

- Recruiting truck drivers in the summer and fall of 2021 for performance of the 2021 Contracts, before the end of the period during which he was excluded from Ville de Montréal contracts and subcontracts (subsection 3.3.3.4)

3.3.3.1 Operation of trucks for performance of the 2016, 2018 and 2021 Contracts

The Office of Inspector General met with the Mercier–Hochelaga-Maisonneuve borough foreman who was responsible for performance of the 2016, 2018 and 2021 Contracts, with the exception of winter 2018–2019 (hereinafter the “Ville de Montréal foreman”).

According to him, from the time Excavation Bromont began subcontracting, he noticed during snow removal that Louis-Victor Michon was driving trucks when there was a shortage of drivers. In addition, he stated that he often heard Louis-Victor Michon on the radios used by the drivers assigned to perform the 2016 and 2018 Contracts.

The Office of Inspector General also obtained an email from a K.L. Mainville employee sent to Ville de Montréal. Dated December 8, 2020, the email contained an attachment that confirmed the presence of the Excavation Bromont drivers at a training course on the safety rules required by the Lafarge snow disposal site, which was the site used by Ville de Montréal for performance of the 2018 Contract.

As shown in the form reproduced below, Louis-Victor Michon’s name and signature appear with those of the other drivers.

Attestation de présence

Les compagnies visées qui utilisent le dépôt de neige ont la responsabilité de donner la formation/information sur les règles de sécurité applicables sur le site de Lafarge Montréal-Est à chacun de leur chauffeur.

Dans l'éventualité où un chauffeur se présenterait sur le site sans avoir eu la formation, celui se verra refusé l'accès au dépôt.

Compagnie : Excavation Bromont Date : 5 Déc 2020

Formation donnée par : Daniel Girard

Nom : Louis-Victor Michon Signature : [Signature]

 08-2018 Accusé SST MI Est. qytz © 2015 LafargeHolcim 13

Excerpt redacted by the Office of Inspector General from the safety rules training form sent by K.L. Mainville to Ville de Montréal

3.3.3.2 *Supervision of truck drivers assigned to perform the 2018 and 2021 Contracts*

During the course of its investigation, the Office of Inspector General obtained statements from the Ville de Montréal foreman mentioned in the previous section as well as from the technical officer for the Mercier–Hochelaga-Maisonneuve borough who was in charge of the administrative aspects for performance of the 2016 and 2018 Contracts (hereinafter the “Ville de Montréal technical officer”). Both contended that Louis-Victor Michon had been the driver coordinator at least since the winter of 2018–2019.

According to the Ville de Montréal technical officer, during the 2016–2017 and 2017–2018 winter seasons, his main points of contact were Serge Mainville and Kevin Mainville. However, starting in winter 2018–2019, he believed that Louis-Victor Michon's role in performing the 2018 Contract was growing and he would behave as if he were in charge of the truck drivers, although he was never officially designated in that capacity by K.L. Mainville to Ville de Montréal.

In the event of a problem, the Ville de Montréal technical officer would sometimes deal with Louis-Victor Michon since he was in the field and would quickly solve the problems.

In addition, the Ville de Montréal technical officer reported that there had been some communication by email between himself and Louis-Victor Michon during winter 2020–2021 regarding performance of the 2018 Contract. For example, on January 13, 2021, the Ville de Montréal technical officer sent an email to Louis-Victor Michon outlining the procedures and instructions for his company to have a truck's dump bed measured.

Other emails were exchanged regarding the reconciliation of snow-hauling trips made under the 2018 Contract, which will be detailed in the next subsection.

The Ville de Montréal foreman, for his part, stated that based on the facts he had observed, it was Louis-Victor Michon who informally controlled performance of the 2018 and 2021 Contracts in the field.

Although for major issues, the Ville de Montréal foreman had to contact Serge Mainville or Kevin Mainville. The Ville de Montréal foreman stated that each year, K.L. Mainville would appoint a truck driver supervisor to be contacted in the event of an immediate problem in the field. The truck driver supervisor varied from year to year but was never Louis-Victor Michon. It was not until winter 2021–2022 that Serge Mainville and Kevin Mainville officially designated Louis-Victor Michon as the manager of the 2021 Contracts.

However, from the time Excavation Bromont began performing subcontracting work, the Ville de Montréal foreman noticed in the field that Louis-Victor Michon was driving trucks when there was a shortage of drivers. He also stated that he often heard Louis-Victor Michon on the radios used by the drivers assigned to perform the 2016 and 2018 Contracts.

For example, when problems would arise on a day-to-day basis and on site, the Ville de Montréal foreman would contact Louis-Victor Michon since winter 2019–2020 and even more frequently since winter 2020–2021.

The Ville de Montréal foreman mentioned having had disagreements with Louis-Victor Michon in winter 2020–2021 and when he spoke about it to Serge Mainville, Kevin Mainville or K.L. Mainville's designated representative, he would be told that he had to contact the latter and that Louis-Victor Michon had no business being there.

The Ville de Montréal foreman recounted that later on, when he contacted K.L. Mainville's designated representative to tell him that a truck driver had left the site during snow removal operations, the representative was unaware of the situation. The Ville de Montréal foreman understood that it had been Louis-Victor Michon who had given the driver permission to leave.

In addition, the Ville de Montréal foreman said that he did not know Daniel Girard.

It should also be noted that every winter, the Mercier–Hochelaga-Maisonneuve borough produces a table listing the contact information of the various operations supervisors, namely, for the snowfall site, snow removal contractors and Ville de Montréal foremen.

As shown in the excerpts below from the tables produced for the 2020–2021 and 2021–2022 winter seasons, Louis-Victor Michon's name and contact information are listed under "Driver supervisor" for K.L. Mainville for the 2018 and 2021 Contracts:

MHM-207	Jour et Nuit Carrière Lafarge Guérite : 514 [REDACTED]	Les Entreprises K.L. Mainville Inc. [REDACTED] Mirabel (Québec) [REDACTED]	Marie-Josée Tanguay, présidente Serge Mainville Louis-Victor Michon, responsable chauffeurs (cel: [REDACTED])	Cell: [REDACTED] Bur: [REDACTED] / info technique: [REDACTED] Télec. / Bur: [REDACTED] [REDACTED]@kmainville.com
---------	--	--	---	---

Excerpt redacted by the Office of Inspector General from the contact information table produced by the Mercier–Hochelaga-Maisonneuve borough for winter 2020–2021

MHM-210 (Transporteur)	Jour Chute De La Salle Guérite : 514 [REDACTED]	Les Entreprises K.L. Mainville Inc. [REDACTED] Mirabel (Québec) [REDACTED]	Marie-Josée Tanguay, présidente Kevin Mainville	Cell: [REDACTED] Téléc. / Bur: [REDACTED] Cell: [REDACTED] Téléc. / Bur: [REDACTED]
	Nuit Carrière Lafarge Guérite : 514 [REDACTED]		Louis-Victor Michon, responsable chauffeurs	Cell: [REDACTED] Courriel: info@kmainville.com
MHM-211 (Transporteur)	Jour et Nuit Carrière Lafarge Guérite : 514 [REDACTED]	Les Entreprises K.L. Mainville Inc. [REDACTED] Mirabel (Québec) [REDACTED]	Kevin Mainville	Cell: [REDACTED] Téléc. / Bur: [REDACTED]
			Louis-Victor Michon, responsable chauffeurs	Cell: [REDACTED] Courriel: info@kmainville.com

Excerpt redacted by the Office of Inspector General from the contact information table produced by the Mercier–Hochelaga-Maisonneuve borough for winter 2021–2022

In a similar vein, on October 18, 2021, while still excluded from Ville de Montréal contracts and subcontracts, Louis-Victor Michon sent an email from his personal email address to the Ville de Montréal technical officer asking him to send him the contact information for his replacement in the Mercier–Hochelaga-Maisonneuve borough.

It should also be noted that on November 30, 2021, three weeks after the end of his ineligibility period for Ville de Montréal public contracts and subcontracts, Louis-Victor Michon represented K.L. Mainville at the kickoff meeting for the 2021 Contracts held by Ville de Montréal.

Finally, other driver supervision tasks performed by Louis-Victor Michon included reconciling snow-hauling data so that K.L. Mainville could invoice Ville de Montréal for its services. This aspect will be covered in the following subsection.

3.3.3.3 Reconciliation of snow-hauling data for K.L. Mainville

As previously indicated, the investigation revealed that the Excavation Bromont secretaries would report to Louis-Victor Michon and perform, at his request and under his supervision, all the administrative tasks required for performance of the 2018 and 2021 Contracts, including reconciliation of the snow-hauling data. In addition to the aforementioned statement by Excavation Bromont's secretary from December 2019 to December 2021, the Office of Inspector General obtained various emails on this subject showing that K.L. Mainville's staff would also contact Louis-Victor Michon to approve the data in order to invoice Ville de Montréal accordingly.

Between March 7 and March 13, 2019, several emails were exchanged between an employee in K.L. Mainville's finance department, the assistant of K.L. Mainville's CEO, and the Excavation Bromont secretary who held that position from 2017 to 2019. The following five elements must be emphasized:

- The above-mentioned Excavation Bromont secretary was also J.L. Michon Transports' secretary at that time.
- The first message in the above string of emails came from an employee in K.L. Mainville's finance department. The email address which she used to contact Excavation Bromont's secretary (ilmichon@) contained the name of Louis-Victor Michon's father and was the same email address that Jean-Louis Michon had used in the bid submitted by J.L. Michon Transports for Call for Tenders 16-15477 and by Louis-Victor Michon in Dénéigement Malvic's bid for Call for Tenders 16-15480.
- In her first reply email to K.L. Mainville's finance employee and to the assistant of K.L. Mainville's CEO, Excavation Bromont's secretary used the same email address mentioned above and she signed as J.L. Michon Transports.
- In a subsequent reply email to the same recipients, Excavation Bromont's secretary then replied using an Excavation Bromont email address (@excavationbromont.ca) and the signature at the bottom of the email was Excavation Bromont.
- Lastly, as will also be the case for the other emails presented below, it appeared from these email exchanges that the K.L. Mainville employee was asking Excavation Bromont's secretary to confirm the reconciliation submitted by Ville de Montréal for the snow-hauling trips carried out in performance of the 2018 Contract. She then forwarded the entire content of the emails from Excavation Bromont's secretary to the Ville de Montréal technical officer by asking him to simply take note of the comments of "our subcontractor."

Other emails exchanged between March 18 and May 4, 2021, for performance of the 2018 Contract were along the same lines and this time included Louis-Victor Michon.

As shown in the emails below, on March 18, 2021, at 2:03 p.m., the Ville de Montréal technical officer sent an email to an employee in K.L. Mainville's billing department requesting that she confirm the number of snow-hauling trips that were made during the fifth snow-loading operation. Two minutes later, at 2:05 p.m., said K.L. Mainville employee forwarded the technical officer's email to Louis-Victor Michon to his personal email address saying only: "For approval 5th load."

De : Facturation KL Mainville <[REDACTED]@klmainville.com>
 Envoyé : 18 mars 2021 14:05
 À : Louis-Victor Michon <lvnichon@[REDACTED]>
 Cc : [REDACTED] <[REDACTED]@klmainville.com>
 Objet : TR: ébauche de la 5e conciliation

Pour approbation 5^e chargement

De : [REDACTED] <[REDACTED]@montreal.ca>
 Envoyé : 18 mars 2021 14:03
 À : Facturation KL Mainville <[REDACTED]@klmainville.com>
 Objet : ébauche de la 5e conciliation

Bonjour,

Voici la compilation préliminaire des voyages de neige du 5e chargement. SVP procéder à la vérification des quantités de voyages pour chaque camion et me revenir pour me dire si vous constatez des différences entre mes chiffres et les vôtres.

Merci et bonne journée.

--

[REDACTED]
 <image.png>
 Agent Technique en Ingénierie Municipale
 Ville de Montréal, Division de la Voie
 Arrondissement Mercier/Hochelaga-Maisonneuve

Excerpts redacted by the Office of Inspector General from emails obtained during the investigation

On March 23, the assistant of K.L. Mainville's CEO, who was copied in the previous email, sent another email to Louis-Victor Michon, again to his personal email address, asking him to "verify and approve this reconciliation so we can invoice Ville de Montréal." Two days later, Louis-Victor Michon replied to the assistant of K.L. Mainville's CEO via his personal email address saying that he had sent the Ville de Montréal technical officer proof of certain trips that had not been listed in the March 18 email and that he was awaiting his approval. He suggested that she follow up with the Ville de Montréal technical officer.

De : Louis-Victor Michon <lvnichon@[REDACTED]>
 Envoyé : 25 mars 2021 08:09
 À : [REDACTED] <[REDACTED]@klmainville.com>
 Objet : Re: ébauche de la 5e conciliation

Bonjour [REDACTED] nous avons envoyé la preuve des douze (12) voyages manquants à [REDACTED]. Nous attendons pour avoir l'approbation de lui. Peut-être faire un suivi pour savoir si nous faisons la facture quand même au nombre indiqué et les voyages supplémentaires seront facturés à la fin de la saison avec les ajustements du début de saison.

Louis-Victor

Envoyé de mon iPhone

Le 23 mars 2021 à 06:58, [REDACTED] <[REDACTED]@klmainville.com> a écrit :

Bon matin Louis-Victor,

Serait-il possible de vérifier et approuver cette conciliation afin que nous puissions facturer la ville de Montréal?

Merci beaucoup et bonne journée,

Nous vous invitons à cliquer sur le lien pour visionner notre vidéo corporatif:
 Français : <https://youtu.be/2N745L0tk4>
 English : <https://youtu.be/1NSDmawAMcQ>

[REDACTED]
Adjointe au directeur général

Excerpts redacted by the Office of Inspector General from emails obtained during the investigation

The assistant of K.L. Mainville's CEO did so 40 minutes later by forwarding the above-mentioned email from Louis-Victor Michon to the Ville de Montréal technical officer, saying: "Regarding the 5th reconciliation, see below what Mr. Michon says in his email and get back to me with your comments."

Also on March 25, after the Ville de Montréal technical officer informed her that he had already discussed any trips not on the list with Louis-Victor Michon, the assistant of K.L. Mainville's CEO replied to the Ville de Montréal technical officer that "I just spoke with Mr. Michon and the 5th reconciliation has been approved." She added that K.L. Mainville's invoice would be issued shortly.

Starting on April 20, 2021, the issue of unlisted trips was brought up again during email exchanges when the Ville de Montréal technical officer asked the assistant of K.L. Mainville's CEO and Louis-Victor Michon about them, again at the latter's personal email address. The Ville de Montréal technical officer asked them for a report of the missing trips that appeared to not have been paid during the winter, including the supporting documentation needed to perform the necessary checks (truck number, date and time).

Ten minutes later, Louis-Victor Michon forwarded the above email to the Excavation Bromont company email address mentioned above ([REDACTED]@excavationbromont.ca). The body of the email had no content. The next day, using the same company email address, Excavation Bromont's secretary sent an email to the Ville de Montréal technical officer and the assistant to K.L. Mainville's CEO that included a document containing the requested information, namely 44 trips for the first loading operation and 12 for the fifth. Louis-Victor Michon was copied using his personal email address.

One week later, on April 28, the assistant to K.L. Mainville's CEO sent an email to the Ville de Montréal technical officer to "follow up on the previous email from our colleagues." After receiving a response from the Ville de Montréal technical officer, the assistant to K.L. Mainville's CEO forwarded the technical officer's email to an employee in K.L. Mainville's billing department stating: "Louis Victor has approved everything and will send us his final invoice."

Finally, as shown in the excerpt below, a few minutes later, the assistant of K.L. Mainville's CEO forwarded the previous email to the Ville de Montréal technical officer and asking him to obtain a final version of the reconciliation documentation so that K.L. Mainville could issue an invoice.

De: Facturation KL Mainville <[REDACTED]@klmainville.com>
 Envoyé: 4 mai 2021 10:40
 À: [REDACTED]@montreal.ca
 Objet: TR: transactions manquantes
 Pièces jointes: 6e chargement 207 sommaire.pdf; scan@ville.montreal.qc.ca_20210429_075228.pdf

Salut [REDACTED],
 J'aimerais avoir la version finale à signer pour la facturation. SVP

Merci 😊

Salutations!

De : [REDACTED] <[REDACTED]@klmainville.com>
 Envoyé : 4 mai 2021 10:35
 À : Facturation KL Mainville <[REDACTED]@klmainville.com>
 Objet : TR: transactions manquantes

Louis Victor approuve le tout et va nous envoyer sa dernière facture.

Nous vous invitons à cliquer sur le lien pour visionner notre vidéo corporatif :
 Français : <https://youtu.be/3N745Lc3Ks>
 English : <https://youtu.be/MSDnauA5cKs>

[REDACTED]
 Adjointe au directeur général

Excerpts redacted by the Office of Inspector General from emails obtained during the investigation

In short, these email exchanges appear to show that both the assistant of K.L. Mainville's CEO and the employee in the company's finance department needed Louis-Victor Michon to approve the data on snow-hauling trips made in winter 2020–2021 for performance of the 2018 Contract and so that K.L. Mainville could subsequently issue the relevant invoices to Ville de Montréal.

3.3.3.4 *Recruitment of truck drivers for performance of the 2021 Contracts*

As mentioned in section 3.3.1, starting in winter 2017–2018, Excavation Bromont became K.L. Mainville's main subcontractor. In addition, starting in 2019–2020, K.L. Mainville did not assign any of its own trucks to perform the 2018 and 2021 Contracts and had the subcontractors take charge of everything. Such subcontractors must obviously be hired.

With respect to the recruitment of truck drivers assigned to perform the 2021 Contracts, the investigation revealed that this was handled by Louis-Victor Michon during the summer and fall of 2021, with Louis-Victor Michon hiring virtually all of the drivers while still ineligible for Ville de Montréal public contracts and subcontracts. He then acted as their supervisor.

A total of 39 trucks and trailers were reported by K.L. Mainville to Ville de Montréal for performance of the 2021 Contracts. None came from K.L. Mainville. Ownership of the subcontractor vehicles was as follows:

- 15 were provided by Excavation Bromont, and
- the remaining 24 trucks and trailers were supplied by 9 other drivers.

Each of these subcontractors, including Excavation Bromont, was required to sign a "truck driver's undertaking form" with the main co-contractor, K.L. Mainville, which would then forward all the forms to Ville de Montréal.

In this case, a review of the Excavation Bromont truck driver's undertaking forms showed that they were signed by Daniel Girard on August 4 and September 30, 2021. All of the other forms completed by the 9 other truckers assigned to perform the 2021 Contracts were signed before November 8, 2021. All of the subcontractors were hired prior to the end of Louis-Victor Michon's exclusion from Ville de Montréal contracts and subcontracts.

The evidence revealed that said hiring was handled by Louis-Victor Michon. Excavation Bromont's secretary from December 2019 to December 2021 told investigating officers that:

- Louis-Victor Michon managed all the 2021 Contracts, including truck driver hiring and dispatching.
- She would prepare the truck driver's undertaking forms at Louis-Victor Michon's request, and Louis-Victor Michon would then have them sign the forms.
- She would prepare the invoices to be sent to K.L. Mainville for performance of the 2021 Contracts at Louis-Victor Michon's request.
- She would prepare cheques for Déneigement Malvic to pay the truck drivers assigned to the 2021 Contracts, at Louis-Victor Michon's request.

In addition, the Office of Inspector General met with 2 of the 9 truck drivers assigned to carry out the 2021 Contracts in winter 2021–2022. Both had been recruited by Louis-Victor Michon. They negotiated their pay with him.

Both even said that they thought the 2021 Contracts had been awarded to Louis-Victor Michon. They said that they only found out that the contracts had actually been awarded to K.L. Mainville when one of the drivers was signing the truck driver's undertaking form and when the measurements were being made of the other driver's truck dump bed in Ville de Montréal.

One of the drivers said that it was Louis-Victor Michon who would call to tell him when to have the measurements done on his trucks as well as the times and places he was supposed to report to during the snow loading operations in winter 2021–2022.

The statements made by one of the drivers were consistent with the statement made by Excavation Bromont's secretary in that the truck driver's undertaking form was sent by Louis-Victor Michon, was already filled out, and he only needed to sign it. As for the other driver, when an investigating officer showed him the undertaking form, he said that it was not his signature and that Louis-Victor Michon had told him that he had taken care of the paperwork.

One of the drivers said that it was Louis-Victor Michon in winter 2021-2022 who had returned the plate and pager to Ville de Montréal which had been supplied to the drivers for performance of the 2021 Contracts.

Lastly, the two drivers were paid by Déneigement Malvic using cheques signed by Louis-Victor Michon, not by K.L. Mainville.

3.3.4 Louis-Victor Michon's explanation of his role in Excavation Bromont

Louis-Victor Michon was met with twice during the course of the investigation. As shown in the following two subsections (3.3.4.1 and 3.3.4.2), he provided several different versions of the extent of his involvement in performing the 2016, 2018 and 2021 Contracts and in Excavation Bromont.

Furthermore, it turns out that Louis-Victor Michon had attempted to influence Daniel Girard's statements prior to his meeting with the Office of Inspector General and then tried to conceal this fact from the investigating officers (subsection 3.3.4.3).

3.3.4.1 First meeting with Serge Mainville

On February 16, 2022, the Office of Inspector General's investigating officers met with Serge Mainville. Without having been called in by the investigating officers, Louis-Victor Michon showed up and sat in on the meeting.

Louis-Victor Michon then stated that he was retired, that he no longer had a company, and that he was in the process of selling his garage.

However, he stated that he had been assisting Serge Mainville in managing the 2021 Contracts since his period of exclusion from Ville de Montréal public contracts and subcontracts ended on November 7, 2021. It was in this capacity that Louis-Victor Michon stated that he had attended the November 2021 kickoff meeting for the 2021 Contracts and had had some contact with the relevant Ville de Montréal departments.

During the previous five years when he had been excluded from Ville de Montréal contracts and subcontracts, Louis-Victor Michon claimed that he had been operating sandpits, but that at no time had he worked in snow removal.

Despite this statement, it should be noted that Louis-Victor Michon spoke up several times during the meeting on technical topics related to the supervision of snow removal services, how they had changed over the years, and the non-compliance of some competitors.

For example, he mentioned the criterion for the maximum number of truck axles, but added that he had reported to the Office of Inspector General over the past five years that he had noticed that another snow removal company, which also had contracts in the Mercier–Hochelaga-Maisonneuve borough, had repeatedly been in breach of the requirement. Louis-Victor Michon then said that the Ville de Montréal by-law and specifications had been amended in 2021 in this respect and that the competitor was now compliant.

Furthermore, when the investigating officers told Serge Mainville that he had almost been awarded a contract in another borough – Sud-Ouest – under Call for Tenders 21-18750, he replied that the price he had submitted was high and was not discounted. Louis-Victor Michon then intervened to clarify the actual results of the call for tenders, namely that the lowest bidder had been found non-compliant and that there was a difference of about \$0.50 per cubic metre between the price tendered by K.L. Mainville and that of the successful bidder.

3.3.4.2 *Second meeting*

On May 2, 2022, the Office of Inspector General investigating officers met with Louis-Victor Michon, who was accompanied by a lawyer.

From the outset, Louis-Victor Michon once again described himself as a retired businessman and that he had not been involved in anything since 2016.

When asked by investigating officers to describe his duties as the person in charge of K.L. Mainville's truck drivers for the 2018 and 2021 Contracts, Louis-Victor Michon replied that he was not in charge of K.L. Mainville's drivers.

When the investigating officers showed him the Ville de Montréal table mentioned in subsection 3.3.3.2 that listed the contact persons of the various snow removal contractors along with the name and contact information of Louis-Victor Michon as the "Driver supervisor" for performance of the 2018 Contract during winter 2020–2021, Louis-Victor Michon first said that he was surprised to see his name there. He then added that he had no duties, that he was merely doing some supervision from afar, that he was not present at the site and was working at the time for a company that supplied trucks, Excavation Bromont.

Louis-Victor Michon then said that he had started working for Excavation Bromont in May 2017 and was hired by the company's president, Daniel Girard. However, he could not explain how he had been hired.

Louis-Victor Michon provided several different answers regarding the description of his duties at Excavation Bromont in connection with Ville de Montréal's snow removal contracts.

He first said that he "assisted the secretary with billing, possibly," and that in that respect, he would count the snow-hauling trips made by the company's trucks and make sure that the secretary entered the information in the right place on the charts. All of this was then sent to a secretary at K.L. Mainville.

Louis-Victor Michon then said that his job at Excavation Bromont consisted in dispatching trucks for the bulk transport of various materials, including snow in the winter.

Later on, Louis-Victor Michon stated that his role was to be in the field and find customers for Excavation Bromont.

Louis-Victor Michon repeatedly stated that he had never driven a truck for Excavation Bromont during snow removal operations in Montréal.

Moreover, while specifying that he had never been employed by K.L. Mainville, Louis-Victor Michon acknowledged that Excavation Bromont was a subcontractor for K.L. Mainville. He stated that he had discussions with Serge Mainville about snow removal subcontracts in the Mercier–Hochelaga-Maisonneuve borough when he became an employee of Excavation Bromont in 2017.

Louis-Victor Michon later maintained that he had not done much regarding the performance of K.L. Mainville's contracts with Ville de Montréal. According to him, he had only recruited two truck drivers in the summer of 2021 and they only worked for Excavation Bromont during one or two snow storms in winter 2021–2022. Louis-Victor Michon stated that he had done this at Serge Mainville's request.

Regarding the trailers referred to in section 3.1.3 above that J.L. Michon Transports sold to Excavation Bromont in April 2017, Louis-Victor Michon stated that he had not been involved in these transactions and could not provide any information in that respect.

Regarding Excavation Bromont's purchase of other vehicles since he joined the company in 2017, Louis-Victor Michon said that his role was limited to giving Daniel Girard his opinion on the trucks that the latter planned to buy. Louis-Victor Michon claimed that he made only one trip to a truck dealership to obtain the salesperson's assistance with the purchase of a vehicle.

As mentioned in section 3.3.1, Louis-Victor Michon purchased Excavation Bromont and immediately sold it to his cousin. When investigating officers asked him questions about this, including why he was listed in the Quebec business registry as president and sole shareholder of the company from November 30, 2020, to October 14, 2021, Louis-Victor Michon remained evasive.

He further stated that he was unable to specify the number of employees, the company's assets when he arrived in 2017 or at the time he purchased it, or the precise value or at least a price range paid to purchase the company.

Investigating officers showed him emails he had exchanged with Ville de Montréal in the spring of 2021 concerning performance of the 2018 Contract and asked why the emails were sent from his personal email address rather than the Excavation Bromont company email address. Louis-Victor Michon replied that this was because he was in the process of retiring in the spring of 2021 by selling Excavation Bromont.

3.3.4.3 Attempts to influence Daniel Girard's statements

The investigation revealed that Louis-Victor Michon attempted to influence Daniel Girard's statements regarding his role in Excavation Bromont and then to conceal the fact at his meeting with the Office of Inspector General's investigating officers.

On Monday, April 25, 2022, the Office of Inspector General called Louis-Victor Michon in for a meeting that had been originally scheduled for Wednesday, April 27, 2022. The meeting was finally held on Monday, May 2, 2022.

The request for the meeting was made by phone on April 25, 2022, at 12:45 p.m. and at 1:30 p.m., with the Office of Inspector General leaving a message on Louis-Victor Michon's voice mail on the second call.

At 2:00 p.m. the same day, Louis-Victor Michon tried to reach Daniel Girard, but was unable to.

On the evening of the same day, Louis-Victor Michon went to the office he shared at the time with Daniel Girard and asked him if he had been met by the Office of Inspector General. Daniel Girard replied that he had and that he had been asked to confirm the date he had sold his shares in Excavation Bromont.

The following afternoon, on Tuesday, April 26, 2022, Louis-Victor Michon called Daniel Girard back to ask him if his secretary was in the office. Daniel Girard said that she was only working on Thursday that week.

On Wednesday, April 27, 2022, at around 9:00 a.m., Louis-Victor Michon returned to the office he shared with Daniel Girard. At that time, Louis-Victor Michon told Daniel Girard what he should tell the Office of Inspector General if he were to meet with them again, namely:

- In 2020 and 2021, Kevin Mainville would call Daniel Girard directly regarding performance of the 2018 and 2021 Contracts, both with respect to the hiring of the truck drivers and from an operational perspective during the winters.
- As far as Louis-Victor Michon was concerned, he was just a driver in the winter and truck dispatcher in the summer.
- Regarding the sale of Excavation Bromont, Daniel Girard was the one who had asked Louis-Victor Michon to find a buyer for the company.

It should be noted that Daniel Girard claimed that he had never spoken to Kevin Mainville and that the latter also told investigating officers that he did know Daniel Girard.

On the afternoon of April 27, 2022, Louis-Victor Michon called Daniel Girard back, telling him that the Office of Inspector General knew that he had acted as his front and had the \$20,000 cheques. He asked to meet with him on Saturday morning, April 30, in Mirabel, where K.L. Mainville's offices were located and where, according to the Quebec business registry, the offices of the other Mainville family businesses were still located (e.g., Ferme K.L. Mainville), along with Serge Mainville's residence. Daniel Girard refused to make the trip.

When he was met on May 2, 2022, Louis-Victor Michon first told investigating officers that he had not spoken to witnesses prior to his meeting with the Office of Inspector General.

Louis-Victor Michon then said that he had met Daniel Girard since they shared offices, but that he had only told him that he had been called to a meeting. According to Louis-Victor Michon, Daniel Girard simply replied that he was aware of it, that the Office of Inspector General had also called him to obtain a copy of the Excavation Bromont sales cheque and that he had provided it.

3.4 Role played by Serge Mainville

The investigation revealed that Serge Mainville was aware of Louis-Victor Michon's ineligibility status, his de facto control of Excavation Bromont, and his involvement in performance of the 2016, 2018 and 2021 Contracts. This determination is based on the following:

- Serge Mainville runs K.L. Mainville (section 3.4.1).
- Serge Mainville is in charge of bids and overseeing performance of the 2016, 2018 and 2021 Contracts, including the hiring of subcontractors (section 3.4.2).
- Serge Mainville was aware of the ineligibility status of Louis-Victor Michon (section 3.4.3).
- Serge Mainville was aware of Louis-Victor Michon's de facto control of Excavation Bromont and his involvement in performance of the 2016, 2018 and 2021 Contracts (section 3.4.4).

3.4.1 Serge Mainville's role in K.L. Mainville

Serge Mainville was running K.L. Mainville. According to the Quebec business registry, he has been the company's president and secretary since September 11, 2020, in addition to being the sole shareholder.

This decision-making role dates back to at least July 2014, as evidenced by the loan document referred to above in section 3.1.1.

Note that these facts were acknowledged by Serge Mainville and K.L. Mainville in their response to the Notice to Interested Parties.

3.4.2 Serge Mainville's responsibility for award and performance of the 2016, 2018 and 2021 Contracts

The investigation revealed that Serge Mainville was responsible for both award and performance of the 2016, 2018 and 2021 Contracts, namely, preparing and submitting a bid then overseeing performance.

3.4.2.1 *Bid preparation*

Regarding this first aspect, Serge Mainville and K.L. Mainville's response to the Notice stated that Serge Mainville "is the sole person in charge and manager of the 2016, 2018 and 2021 Contracts." The response to the Notice also stated that Serge Mainville had the "required knowledge and expertise" to bid on public snow removal contracts, which he has been doing since 2010, and since 2014 for Ville de Montréal.

Despite this position, as well as the admission in the previous section that Serge Mainville has been running K.L. Mainville since at least 2014, it should be noted that he only signed the company's bid for the 2021 Contracts. With respect to the 2016 and 2018 Contracts, it was his spouse at the time, as president of K.L. Mainville, who signed the company's bids.

Moreover, it should be noted that, at the end of the investigation, it was still not entirely clear how Serge Mainville prepared the bids. In fact, different answers were provided to the investigating officers by Serge Mainville, as well as by his son and the CEO of K.L. Mainville, Kevin Mainville, and the assistant of the company's CEO.

Serge Mainville first told the investigating officers that it was Kevin Mainville who handled the company's contracts with Ville de Montréal and prepared the bids in that respect, and they would then review them together.

However, at his meeting with the investigating officers, Kevin Mainville stated on several occasions that he was not involved in any capacity in K.L. Mainville's bid preparation process. He also pointed out that when the bids were submitted for the 2016 and 2018 Contracts, he was respectively 17 and 19 years old.

For her part, the assistant of K.L. Mainville's CEO maintained that it was Serge Mainville who chose which calls for tenders the company would bid as well as the tendered prices. However, over the last few years, she had noted that Kevin Mainville was increasingly involved in the process with his father as he gained more experience.

Furthermore, when the investigating officers asked Serge Mainville why he had only submitted competitive prices for the 2016, 2018 and 2021 Contracts in the Mercier-Hochelaga-Maisonneuve borough⁴, he replied that it was because he was very familiar with the area and felt comfortable having his employees work there. However, as previously mentioned, K.L. Mainville had subcontracted all of the 2018 and 2021 Contracts since winter 2018–2019, and mainly to Excavation Bromont.

3.4.2.2 Performance oversight for 2016, 2018 and 2021 Contracts

Regarding this second aspect, the investigation revealed that Serge Mainville was involved in performance of the 2016, 2018 and 2021 Contracts.

For instance, the aforementioned Ville de Montréal technical officer stated that Serge Mainville was very much involved in performance of the 2016 and 2018 Contracts until winter 2018–2019. Similarly, both the Ville de Montréal technical officer and the Ville de Montréal foreman stated that they would call Serge or Kevin Mainville in the event of a major problem during performance of the 2018 and 2021 Contracts.

In addition, emails obtained during the investigation showed that for the 2018–2019 and 2019–2020 winter seasons, Ville de Montréal continued to include Serge Mainville as a recipient in case of major problems (such as for the reconciliation of several snow-hauling trips in February 2019, or during an incident involving truck drivers at the Lafarge snow disposal facility, also in February 2019) or activities to be carried out in early or late winter (such as measuring the trucks in the fall of 2018 and 2019 and recovering the signs and pagers provided by Ville de Montréal in May 2020).

Note that in their response to the Notice to Interested Parties, Serge Mainville and K.L. Mainville acknowledged these facts and, as mentioned above, added that Serge Mainville "is the sole person in charge and manager of the 2016, 2018 and 2021 Contracts."

⁴ See Section 3.2.3 for more details.

3.4.3 Serge Mainville’s awareness of Louis-Victor Michon’s exclusion from Ville de Montréal public contracts and subcontracts

The investigation revealed that Serge Mainville was aware that Louis-Victor Michon was excluded from Ville de Montréal contracts and subcontracts.

As mentioned in section 3.1.4, Serge Mainville said that he had personally known the Michons for a long time, and he defended the Michon family before the Office of Inspector General’s investigating officers, believing that they could not have been involved in any collusion.

In addition, as mentioned in subsection 3.3.3.2, when the Ville de Montréal foreman told him about a disagreement he had had with Louis-Victor Michon, Serge Mainville told him that he should instead speak to the K.L. Mainville representative that he had appointed and that Louis-Victor Michon had no business being there.

Note that in their response to the Notice to Interested Parties, Serge Mainville and K.L. Mainville acknowledged these facts, reiterating that Serge Mainville “is the sole person in charge and manager of the 2016, 2018 and 2021 Contracts.” They added that the Ville de Montréal foreman was supposed to speak to Serge Mainville and not Louis-Victor Michon.

3.4.4 Serge Mainville’s awareness of Louis-Victor Michon’s involvement in performance of the 2016, 2018 and 2021 Contracts

The investigation revealed that Serge Mainville was aware that Louis-Victor Michon was involved in performance of the 2016, 2018 and 2021 Contracts. This determination is supported by several factors in addition to the aforementioned interaction between the Ville de Montréal foreman and Serge Mainville regarding a dispute he had had with Louis-Victor Michon during performance of the 2018 Contract in winter 2020–2021.

First, on November 14, 2019, the aforementioned Ville de Montréal foreman sent an email to Serge Mainville and to the assistant of K.L. Mainville’s CEO in which he said that he had talked to Louis-Victor Michon about measuring K.L. Mainville’s trucks before winter 2019-2020:

De: [REDACTED] <[REDACTED]@montreal.ca>
Envoyé: 14 novembre 2019 15:10
À: Serge Mainville; [REDACTED]
Objet: mesurage du samedi 16 novembre

Bonjour,

Tel que discuté au téléphone avec Louis-Victor, prendre note que le mesurage d’après-demain aura finalement lieu au Complexe Environnemental Saint-Michel (2335 Michel-Jurdant), entre 8h et midi.

Puisque je vous ai remis toutes les pagettes étant donné le chargement en cours, je ne serai pas présent sur les lieux. Par contre, je ne peux insister suffisamment à l’effet que vous devez rappeler à vos chauffeurs que leur benne doit être (complètement) vide et propre pour assurer une lecture appropriée du laser optique qui prend les mesures de la benne. Toute présence de neige ou d’un quelconque résidu pourrait faire diminuer le volume déterminé par le laser pour la toise des camions.

Merci de passer le message à vos camionneurs, bonne fin de journée!

--

[REDACTED]
 Agent technique en ingénierie municipale
 Ville de Montréal, Division de la Voie
 Arrondissement Mercier/Hochelaga-Maisonneuve

Excerpt redacted by the Office of Inspector General from an email obtained during the investigation

It should also be recalled that in winter 2017–2018, Excavation Bromont had become K.L. Mainville’s main subcontractor for performance of the 2016, 2018 and 2021 Contracts. In their response to the Notice, Serge Mainville and K.L. Mainville stated that Serge Mainville “is the sole person in charge and manager of the 2016, 2018 and 2021 Contracts.” Therefore, the subcontracts for the various truck drivers, including Excavation Bromont, had to be signed with Serge Mainville.

In this respect, as mentioned in subsection 3.3.4.2, Louis-Victor Michon twice told the investigating officers that Serge Mainville was the one who had contacted him to obtain subcontractors to perform the 2016 and 2021 Contracts when he joined Excavation Bromont in the summer of 2021.

Similarly, Kevin Mainville told the investigating officers that Serge Mainville was in charge of all administrative aspects of the 2016, 2018 and 2021 Contracts, including preparing K.L. Mainville’s bids and hiring subcontractors.

Lastly, as mentioned in subsection 3.3.2.1, Daniel Girard alleged to investigating officers that Louis-Victor Michon told him from the start of their fronting agreement that he was doing subcontracting work for K.L. Mainville. Daniel Girard, for his part, stated that he had never spoken to Serge Mainville and had never met him in relation to the snow removal subcontracts in the Mercier–Hochelaga-Maisonneuve borough. He claimed that he only saw him once at Excavation Bromont’s offices and stated that he did not even have his telephone number.

As will be further detailed in the next section, Serge Mainville and K.L. Mainville denied these facts in their response to the Notice.

4. Response to the Notice to Interested Parties

In accordance with her duty to ensure procedural fairness, the Inspector General summarized all the facts underlying the previous sections in a Notice to Interested Parties (the “Notice”) sent on May 13, 2022, to Louis-Victor Michon, Serge Mainville and K.L. Mainville, Excavation Bromont, Daniel Girard, the Mercier–Hochelaga-Maisonneuve borough and the Ville de Montréal Department for Borough Consultation [Service de concertation des arrondissements]. The latter three recipients did not respond.

Some of the factual and legal arguments by Louis-Victor Michon, Serge Mainville and K.L. Mainville are the same. Therefore, they will be covered together in section 4.1, while Excavation Bromont’s response will be discussed in section 4.2.

4.1 Responses from Louis-Victor Michon, Serge Mainville and K.L. Mainville

In their responses to the Notice, Louis-Victor Michon, Serge Mainville and K.L. Mainville presented several identical arguments, although more details were provided by Serge Mainville and K.L. Mainville. Their arguments can be grouped as follows:

- Arguments regarding certain facts revealed by the investigation and stated in the Notice (section 4.1.1)
- A common interpretation of the RGC, including the notion of “ineligible person” (section 4.1.2)
- A challenge of the validity of the Register of Ineligible Persons under Ville de Montréal’s RGC (section 4.1.3)
- Allegations of breaches of procedural fairness on the part of the Office of Inspector General (section 4.1.4)

4.1.1 Arguments relating to certain facts

4.1.1.1 *Relationship of trust between Louis-Victor Michon and Serge Mainville*

Both Serge Mainville and Louis-Victor Michon disputed in their responses to the Notice that they were “long-time friends.” Each described the other as a mere business acquaintance.

With respect to the \$2,000,000 loan, both acknowledged that it existed, but disputed its relevance. Serge Mainville and K.L. Mainville added that the Autorité des marchés financiers had already investigated the matter in 2017 and that an authorization to contract was still issued to the company.

Similarly, Serge Mainville, K.L. Mainville and Louis-Victor Michon are disputing the relevance of the planned subcontracting in 2016 by Location K.L. Mainville with Déneigement Malvic.

Lastly, with respect to the sale of J.L. Michon Transports’ trailers to Location K.L. Mainville followed by their return to J.L. Michon Transports, Serge Mainville, K.L. Mainville and Louis-Victor Michon admitted their existence, but again disputed their relevance in the present matter. In addition, in their response to the Notice, Serge Mainville and K.L. Mainville stated that they bought the trailers because of the exclusion of J.L. Michon Transports, which lost work as a result. However, because of a major fire that destroyed several of J.L. Michon Transports’ vehicles on November 26, 2016, Serge Mainville mentioned having agreed to sell the two trailers back to the company.

While the Inspector General is not disputing that each of these elements does not in and of itself constitute a violation of Ville de Montréal’s RGC, she still believes that they are relevant for understanding the nature of the relationship between Louis-Victor Michon and Serge Mainville. Whether the two are considered friends, long-time acquaintances or business acquaintances is of little importance. In light of these facts, as well as the entire investigation presented below, the Inspector General has determined that they clearly have a relationship, at least a business one, of significant importance and one that spans almost a decade.

4.1.1.2 *Subcontracting with Excavation Bromont*

Serge Mainville, K.L. Mainville and Louis-Victor Michon all stated in their responses to the Notice that there was nothing unusual in K.L. Mainville using the services of subcontractors, including Excavation Bromont, to carry out the 2016, 2018 and 2021 Contracts.

Serge and K.L. Mainville mentioned having obtained several new public snow removal contracts with the Ministère des Transports du Québec (hereinafter “MTQ”) starting in 2017. This is why the company’s vehicles and employees were assigned on a priority basis to these contracts, which required the use of subcontractors. This decision could also be explained

by the specialized equipment required by the MTQ contracts which, unlike Ville de Montréal's snow-hauling contracts, cannot be leased from subcontractors. Lastly, K.L. Mainville's employees had a preference for MTQ contracts since Ville de Montréal contracts are often carried out at night and in a difficult urban environment.

In addition, Serge Mainville and K.L. Mainville added that the Ville de Montréal snow removal contracts only accounted for a small portion of the company's revenues.

There is nothing, from a contractual point of view, that prohibits the 2016, 2018 and 2021 Contracts from being subcontracted. However, on the one hand, this contradicts the statements made by Serge Mainville to investigating officers when he said he bid on these contracts since they provided some security in terms of work for K.L. Mainville's employees. On the other hand, the crux of the present matter lies in the identity of the selected subcontractor, as will be discussed in the next subsection.

4.1.1.3 Role played by Louis-Victor Michon

In their response to the Notice, Serge Mainville and K.L. Mainville claimed to have no knowledge of the fronting agreement between Louis-Victor Michon and Daniel Girard. Neither Louis-Victor Michon or Daniel Girard informed them that such an agreement had been made. In addition, K.L. Mainville and Serge Mainville claimed that they had no reason to suspect the existence of such an agreement, since all the documents sent out by Excavation Bromont were signed by Daniel Girard and all communications between the two companies were carried out through the assistants, dispatchers or financial personnel.

Furthermore, Serge Mainville and K.L. Mainville claimed that "performance of the subcontract by Excavation Bromont does not require Serge Mainville to speak directly and personally to Daniel Girard, or to the directors or owners of the other subcontractors." They stated that K.L. Mainville was a large company with qualified staff and that "Serge Mainville does not micromanage every contract."

Serge Mainville and K.L. Mainville then responded generally that they had no knowledge of Excavation Bromont's internal management or of the sale of Daniel Girard's company to Louis-Victor Michon and then to his cousin.

Furthermore, Serge Mainville and K.L. Mainville used the various elements mentioned in section 3 to conclude that Louis-Victor Michon's role could not be equated with management or administrative work (such as picking up the other drivers' time sheets, compiling the number of trips made by each driver, and reconciling the data with that provided by Ville de Montréal).

They denied that Louis-Victor Michon had been the drivers' supervisor, that he had been put in charge of the 2021 Contracts, or that he had de facto control over the drivers' operations. At the same time, Serge Mainville and K.L. Mainville added that if Louis-Victor Michon had done so, it was on his own and without their knowledge. The same can be said for any contact that the Ville de Montréal technical officer may have had with Louis-Victor Michon in lieu of Serge or Kevin Mainville.

Serge Mainville and K.L. Mainville also disputed the finding in subsection 3.3.3.3 that the assistant of the company's CEO and the employee in the finance department "needed Louis-Victor Michon to approve the data" before issuing invoices to Ville de Montréal. According to them, Louis-Victor Michon did not approve any invoices from K.L. Mainville.

Lastly, Serge Mainville and K.L. Mainville acknowledged that Louis-Victor Michon was working as a driver for one of their subcontractors, but claimed that this was never done on the sly and that Ville de Montréal and the Office of Inspector General were always aware of the fact.

For his part, Louis-Victor Michon, in his response to the Notice, stated that he disagreed with the fact that he had entered into a fronting agreement with Daniel Girard. Instead, his objective was to work with Excavation Bromont and Daniel Girard in view of potentially buying the latter's companies. The company was involved as a subcontractor for K.L. Mainville under the 2016, 2018 and 2021 Contracts with Daniel Girard's consent. Daniel Girard was also the one with the decision-making power at Excavation Bromont, which allowed him to pay himself an annual salary of \$20,000.

Although he was now admitting that he was driving trucks for the 2016, 2018 and 2021 Contracts, Louis-Victor Michon maintained that he never had de facto control over the operations of the other truck drivers. He stated that starting in winter 2020–2021, the Ville de Montréal foreman was no longer turning to him. He also added that he was only helping Excavation Bromont's secretary reconcile the snow hauling trips.

Moreover, Louis-Victor Michon pointed out that he had no ties to K.L. Mainville as he was not receiving any salary, benefits, dividends, management fees or other compensation from the company.

Lastly, with respect to his purchase and subsequent sale of Excavation Bromont, Louis-Victor Michon stated that "the documents will be submitted to the competent authorities at the proper time."

In light of the facts gathered during the investigation and set out in this report, the versions of the facts presented by Serge Mainville, K.L. Mainville and Louis-Victor Michon cannot be considered credible for the following reasons.

First, as regards Louis-Victor Michon, his response to the Notice is yet another depiction of the role he played at Excavation Bromont: from retired contractor since 2016 with no involvement in snow removal to assistant to Excavation Bromont's secretaries, including remote operations supervisor, truck driver dispatcher, canvasser for new business opportunities, to now mere driver, virtually all the possible roles were covered. Only one role was not mentioned—that of the company's official president.

There is much evidence in that respect, including the statements made by the chief party concerned, Daniel Girard, who told the investigating officers right from the start that he was Louis-Victor Michon's front. Despite the seriousness of such an admission, Daniel Girard was highly cooperative throughout the investigation. As such, it may be said that he contacted the investigating officers himself when approached by Louis-Victor Michon and the latter was attempting to influence his statements.

In the same vein, there were the statements made by Excavation Bromont's secretary, who had worked closely with Louis-Victor Michon and described him as the true head of the company; those made by the Ville de Montréal foreman and technical officer, who were able to observe him as the truck drivers' supervisor; as well as those made by the two truck drivers who were hired in the summer and fall of 2021 by Louis-Victor Michon to carry out the 2021 Contracts.

Louis-Victor Michon's cousin, and new president of Excavation Bromont, could also be added to this list. As will be further detailed in section 4.2, in his response to the Notice, he stated having been involved in the company's operations since January 1, 2021. As such, he claimed to have observed Louis-Victor Michon being in charge in winter 2020–2021 of the

2018 Contract, as well as in charge of planning the 2021 Contracts during the summer and fall of 2021.

These statements are supported by the documentary evidence presented in section 3, whether consisting of emails with K.L. Mainville or Ville de Montréal, the driver safety rules training form, or the drivers' undertaking forms for winter 2021–2022. There is also Louis-Victor Michon's purchase of Excavation Bromont from Daniel Girard, after which he immediately sold the company to his cousin, a situation that would be unusual, to say the least, if Louis-Victor Michon were really just an employee of the company.

Everything was converging toward the same determination, namely the management role held by Louis-Victor Michon at Excavation Bromont, for the purpose of performing the 2016, 2018 and 2021 Contracts.

With respect to Serge Mainville, the investigation revealed that he was aware of the true role played by Louis-Victor Michon. In this regard, the first fact to consider is that he was the "sole person in charge and manager" of performance of the 2016, 2018 and 2021 Contracts, as he himself and K.L. Mainville indicated in their response to the Notice. As such, he was responsible for finding the various subcontractors required each year and for signing the necessary subcontracts with them.

In this respect, the most important subcontractor was Excavation Bromont, as described in section 3.3.1. Since the company is not a multinational, very few options are available to anyone wishing to retain their services, all the more so as Serge Mainville and K.L. Mainville repeatedly stated in their response to the Notice that they were unaware that anyone other than Daniel Girard controlled Excavation Bromont. It stands to reason that successive subcontracting agreements would have therefore been entered into with him.

However, he told investigating officers that he had never spoken to or met with Serge Mainville in relation to the snow removal subcontracts in the Mercier–Hochelaga-Maisonneuve borough. He had only seen him once at Excavation Bromont's offices and said that he did not even have his telephone number.

On the contrary, Daniel Girard stated that it was Louis-Victor Michon who told him that he was doing subcontracting at the beginning of their fronting agreement. Moreover, Louis-Victor Michon even said twice during his second meeting with investigating officers that it was Serge Mainville who had asked him, when he joined Excavation Bromont in 2017 and in the summer of 2021, to recruit truck drivers.

Similarly, the subcontracts for the truckers other than Excavation Bromont also had to be entered into in some manner. Regarding the facts recounted in subsection 3.3.3.4 concerning the statements by two of the nine subcontractors interviewed by investigating officers who claimed to have been hired by Louis-Victor Michon to perform the 2021 Contracts, Serge Mainville and K.L. Mainville replied that they were not personally aware of those facts.

Now if Serge Mainville was really the sole person in charge and manager of the 2021 Contracts and if Louis-Victor Michon was really just an employee of Excavation Bromont, who hired the truckers on behalf of K.L. Mainville if Serge Mainville said he had no personal knowledge of this?

In addition to these reasons, there was the meeting held by investigating officers with Serge Mainville, who was joined by Louis-Victor Michon, who had not been invited. Whereas Serge Mainville and K.L. Mainville claimed in their response to the Notice that they had never concealed that Louis-Victor Michon was a truck driver for one of their subcontractors, Serge Mainville did not speak up during the meeting to set things right when Louis-Victor Michon stated to investigating officers that he had retired in 2016 and was not involved in

any way in the performance of Ville de Montréal snow removal contracts during his ineligibility period.

Lastly, with respect to the fact, disputed by Serge Mainville and K.L. Mainville, that the company's billing personnel would consult Louis-Victor Michon, this was, on the one hand, substantiated by the emails reproduced above. On the other hand, the very response provided by Serge Mainville and K.L. Mainville contained the passage below, which appears to attribute a quality control role to Louis-Victor Michon in the absence of K.L. Mainville's foremen, who were likely assigned to the company's more sizable and important contracts (see previous subsection):

"Since [Louis-Victor Michon] is driving a truck in the field, this is the number of trips he 'approves' to reconcile the time sheets. This is an internal control measure to ensure the accuracy of the reported trips. EKLM's foremen are assigned to several contracts and cannot be physically present on site at all times to oversee such a small number of drivers, who are already being supervised by a Ville de Montréal foreman."

In short, an analysis of the evidence gathered and presented in this report leads the Inspector General to conclude that Serge Mainville was aware from the start of the control Louis-Victor Michon exercised at Excavation Bromont as well as to consider the reasons put forward in their response to the Notice as lacking credibility.

4.1.2 Interpretation of the by-law on contract management (RGC)

In their responses to the Notice, both Serge Mainville and K.L. Mainville as well as Louis-Victor Michon initially objected to the application of sections 15 and 16 of the RGC to them, believing that Louis-Victor Michon had not been found "ineligible" under the RGC, but was only "excluded" from Ville de Montréal public contracts under the contract management policy that was applicable in 2016 (subsection 4.1.2.1).

Second, according to Serge Mainville and K.L. Mainville, they cannot be alleged to have violated these same sections because, secondarily, they were unaware that Louis-Victor Michon was more than just an employee of Excavation Bromont (subsection 4.1.2.2). That said, they were dealing with a subcontractor they believed to be eligible (sect. 15) and, what is more, Ville de Montréal and the Office of Inspector General were aware of Louis-Victor Michon's employment with Excavation Bromont (sect. 16).

4.1.2.1 Interpretation of the notion of "ineligible person"

According to Serge Mainville, K.L. Mainville and Louis-Victor Michon, the latter had never been an "ineligible person" for Ville de Montréal public contracts as defined in the RGC. Their interpretation is based on the fact that Louis-Victor Michon was instead "excluded" from public contracts through the application of the contract management policy in effect at the time in 2016 (hereinafter the "PGC"). However, according to them, the transitional provisions of the second paragraph of section 35 of the RGC would mean that the 2016 PGC would apply exclusively to Louis-Victor Michon for the five years of his exclusion:

[Translation] "35. This by-law replaces the contract management policy in force after August 22, 2016, which became the by-law on contract management on January 1, 2018. This by-law applies to any tendering process and any contract, including those under way at the time of its adoption."

However, this policy, which became a by-law on January 1, 2018, continues to apply to any actions prior to the effective date of this by-law.” (Emphasis added)

That said, the RGC provisions regarding ineligible persons do not apply to Louis-Victor Michon since they were only added to the RGC in 2018.

With all due respect, the Inspector General cannot accept such an interpretation for the following reasons. First, it should be noted that when section 573.3.1.2 of the *Cities and Towns Act* was adopted in 2010, municipalities were required to adopt a policy on contract management that included various measures to ensure the integrity of municipal public contracts. Effective January 1, 2018, this section was amended to replace the requirement to adopt a policy with the requirement to adopt a by-law on contract management.⁵

Under a transitional provision, the contract management policies already adopted by Quebec municipalities were deemed to be by-laws on contract management as of that date.⁶ This transition from the regulatory framework, imposed by legislators is reflected in part in section 35 of the RGC above.

That said, the interpretation by Louis-Victor Michon, Serge Mainville and K.L. Mainville is incomplete and incorrect. It does not take into account the second transitional clause included in Ville de Montréal’s RGC, which reads as follows:

[Translation] “36. Any person listed in the Register of Ineligible Persons under the contract management policy in force prior to August 23, 2016, who does not have an authorization to contract, and any person listed in the Register under the contract management policy in force after August 22, 2016, which became the by-law on contract management on January 1, 2018, shall continue to be listed in the Register until the end of the prohibited period.” (Emphasis added)

This section is clear and requires no interpretation. It clearly indicates that a person who has been excluded from Ville de Montréal public contracts under the 2016 PGC and who is listed in Ville de Montréal’s Register of Ineligible Persons cannot participate in Ville de Montréal public contracts. It should be noted that Ville de Montréal has only ever kept one such register that was always posted on its public tendering portal, which all of its various co-contractors and the public have been aware of.

The definition of “ineligible” must be added to the first section of the RGC:

[Translation] “‘Ineligible’ refers to the status of a person who may not, for the period determined under section 24 of this by-law, submit a bid for a contract with Ville de Montréal or enter into such a contract, mutual agreement contract or subcontract associated with such contracts.”

When this definition is combined with the above-mentioned transitional provisions of section 36, it is clear that a person who has been excluded under the 2016 PGC has a status prohibiting them from bidding or entering into a public contract or subcontract until the prohibited period has expired.

Lastly, with respect to the reference in the second paragraph of section 35 above that the 2016 PGC continues to apply to any action taken before the RGC came into effect, it must be read in conjunction with the first paragraph. Given that the 2016 PGC and the RGC form

⁵ *An Act Mainly to Recognize that Municipalities are Local Governments and to Increase their Autonomy and Powers*, SQ 2017, c. 13, sect. 74.

⁶ *Id.*, sect. 278.

an integral part of all Ville de Montréal contracts and subcontracts⁷, a Ville de Montréal contract may overlap the two. So it's clear that the purpose of this section is to indicate which one applies, as the case may be. In other words, if a Ville de Montréal contractor took an action prior to the effective date of the RGC in 2018, the provisions of the 2016 PGC must apply. Conversely, the same action taken by the same co-contractor after the RGC came into force in 2018 should be assessed under the most recent by-law.

4.1.2.2 *Subsidiary arguments for applying sections 15 and 16 of the RGC*

In their response to the Notice, Serge Mainville and K.L. Mainville present subsidiary arguments if the Inspector General were to conclude that Louis-Victor Michon was indeed ineligible under the RGC.

First, with respect to section 15 of the RGC, Serge Mainville and K.L. Mainville are claiming that it is not applicable in the present case since they never “did business” with Louis-Victor Michon. According to them, he was only an employee of one of their subcontractors, Excavation Bromont. Furthermore, they were never notified or had reason to suspect that Louis-Victor Michon had de facto control of Excavation Bromont.

Second, with respect to section 16 of the RGC which prohibits a co-contractor from allowing an ineligible person to work under or have an interest in a public contract, Serge Mainville and K.L. Mainville argued that it cannot be enforced since they never acted on the sly, that Ville de Montréal and the Office of Inspector General were aware that Louis-Victor Michon was employed by Excavation Bromont, and no allegations were ever made toward them in that respect since 2016.

Sections 15 and 16 of the RGC read as follows:

[Translation] “15. A Ville de Montréal co-contractor cannot do business with ineligible subcontractors or with a related person within the meaning of paragraph 9 of section 1 in the performance of the contract unless expressly authorized by Ville de Montréal under the second paragraph of section 28 or sections 29 or 30.

As soon as the co-contractor becomes aware of a breach by its subcontractor of the present by-law, the co-contractor must notify the City immediately.

16. Unless expressly authorized by Ville de Montréal, an ineligible person or a person related to him/her within the meaning of section 1, paragraph 9, other than a subcontractor, may not work under or have any interest in a Ville de Montréal contract and a related subcontract. The Ville de Montréal co-contractor may not allow or tolerate such situations.”

For the reasons mentioned in subsection 4.1.1.3, the Inspector General cannot accept what Serge Mainville and K.L. Mainville were proposing, namely that they were unaware of Louis-Victor Michon's unofficial managerial role at Excavation Bromont.

The same is true of their argument that they were always aboveboard. In addition to the statements made by Louis-Victor Michon to investigating officers in the presence of Serge Mainville denying any involvement on his part from 2016 to 2021, the reading made by Serge Mainville and K.L. Mainville ignored the first words of section 16, namely that a co-contractor must request and expressly obtain Ville de Montréal's authorization. In fact, now

⁷ Sect. 3: [Translation] “This by-law applies to the contracting process, all contracts entered into by Ville de Montréal, as well as all subcontracts related to such contracts, regardless of their value. It is deemed to be an integral part of all such contracts.”

that the investigation has shown that Louis-Victor Michon was involved in the performance of Ville de Montréal contracts, the interpretation proposed by Serge Mainville and K.L. Mainville would reverse the burden of section 16 of the RGC and impose it on Ville de Montréal.

In short, these subsidiary arguments must also be rejected.

4.1.3 Ville de Montréal's power to keep its own Register of Ineligible Persons

In addition to interpreting the provisions of the RGC and PGC, Serge Mainville and K.L. Mainville argue that the Register of Ineligible Persons kept by Ville de Montréal is the result of provisions that are ultra vires, namely, beyond its jurisdiction. In their opinion, this is a discretionary power not expressly provided for in enabling legislation and, as such, must be declared null and void. Therefore, if Ville de Montréal could not find Louis-Victor Michon ineligible for its public contracts and subcontracts, neither could it prohibit an ineligible person from working on such contracts.

First, as mentioned above, under section 573.3.1.2 of the *Cities and Towns Act*, the legislator requires municipalities to adopt a by-law on contract management that provides various measures to preserve the integrity of municipal public contracts, including by combating bid-rigging, breaches of lobbying legislation, acts of intimidation, influence peddling, or corruption.

Ville de Montréal's Register of Ineligible Persons is included in its by-law on contract management and constitutes such a measure, directly in line achieving the objectives set out by the legislator. In reality, it constitutes the logical outcome needed to ensure the effectiveness of the other measures.

Indeed, a municipality could determine that one or more of the previously listed acts have been committed and rescind the offending party's contract. It would then have to go back to the tendering process to find a new contractor to replace the offending party. However, in the absence of such an ineligibility register, the offending party could potentially be its own replacement by submitting a new bid, and if deemed the lowest bidder, the municipality would have no choice but to award it a new contract under the *Cities and Towns Act*. Such an outcome would make any integrity measures planned from the outset meaningless.

It should be noted that the Court of Appeal has already examined, in *P.S. Roy v. Ville de Magog*,⁸ a contractual clause with several similarities to Ville de Montréal's objective sought through its Register of Ineligible Persons. In that case, Magog had added to its tender documents a clause providing for the rejection of any bid from a contractor whose contract had been rescinded in the last five years. The Court of Appeal found that this was a rational and relevant objective:

[Translation] "[53] Is clause 2.12 frivolous? I do not believe it is. Determining a bidder's reliability based on its track record seems rational and can help determine whether the bidder will adequately meet its future obligations. Clause 2.12 therefore seeks to consider a relevant factor by assuming that the past speaks to the present."

Ville de Montréal's exclusion of a contractor that violated the RGC and its contractual integrity provisions follow in the same vein. The past speaks to the present, and the trust required between the project owner and the contractor cannot be restored over the short period of time required to rescind and award a new public contract.

⁸ 2013 QCCA 617.

Although the Court of Appeal struck down the clause that was challenged in the aforementioned case, the reason was that the means used by Ville de Magog to achieve its objective was inadequate, given that it was [Translation] “*excluding a potential bidder on the basis of a unilateral decision by another public body, regardless of the circumstances leading to the rescinding of the contract and without the company being given the opportunity to be heard first.*”⁹

However, Ville de Montréal’s Register of Ineligible Persons does not have the same limitations. On the one hand, while a violation of the by-law on contract management (RGC) may be determined either by the Office of Inspector General or Ville de Montréal itself, the individual or company in question will have the opportunity to be heard beforehand through a Notice to Interested Persons, as in this case, or the mechanisms now provided under section 24.1 of the RGC.

On the other hand, should it decide to declare an individual or a company ineligible, this exclusion from public contracts by Ville de Montréal would only apply to contracts it awards itself, without extension to its related para-municipal organizations. Hence, when having to reject a bid from the offending party during the period of ineligibility, Ville de Montréal would have full knowledge of all the circumstances that led to the ineligibility status.

Regarding section 16 of the RGC, its aim is to ensure full effect of the ineligibility status provided in the RGC. In other words, not only will it be impossible for the ineligible person to be directly awarded a public contract or subcontract from Ville de Montréal, but section 16 ensures that any other indirect route to public contracts is blocked, whether in the form of work or any interest obtained through another contractor.

Given the preceding, the Inspector General believes that Ville de Montréal’s by-law on contract management, including section 16, remains valid and applicable.

4.1.4 Alleged breaches of procedural fairness

Serge Mainville and K.L. Mainville’s response to the Notice alleged several breaches of procedural fairness. These can be grouped as follows:

- Insufficient response time (subsection 4.1.4.1)
- Lack of institutional independence on the part of the Inspector General (subsection 4.1.4.2)
- Lack of detail in the Notice and violation of the right of full answer and defence (subsection 4.1.4.3)

For his part, Louis-Victor Michon also said that [Translation] “the procedure followed by BIG is unfair and does not allow him to benefit from his right of full answer and defence.” However, it should be noted that this constitutes the entirety of his argument in that respect, as his response contained no details regarding the alleged unfairness.

For the reasons set out below, the Inspector General believes that the alleged breaches are unfounded and therefore cannot be accepted.

⁹ *Id.*, par. 54 to 56.

4.1.4.1 *Insufficient response time*

The first procedural fairness argument raised by Serge Mainville and K.L. Mainville concerned the time they were given to respond to the Notice to Interested Parties. In their view, it is clear that the time granted is unreasonable given the complexity of the facts set out in section 3.

First, it should be noted that Serge Mainville and K.L. Mainville had about one month to respond to the Notice.

While the initial response time was two weeks and scheduled to end on Friday, May 27, 2022, their counsel wrote on May 20 to the Office of Inspector General requesting various clarifications regarding the Notice and disclosure of various elements of the investigation file, as well as an additional 30 days after these were received. It should be noted that the additional time being requested was not supported by any reasons (e.g., inability to reach a witness).

For reasons that will be detailed below, only an additional period of twelve (12) days could be granted, bringing the total response time to 26 days. However, in order to facilitate and expedite the response process, on May 25, the Office of Inspector General provided various clarifications sought by Serge Mainville and K.L. Mainville's counsel and sent them the next day the evidence in its possession that was either public in nature or that came from K.L. Mainville or should already have been in its possession.

Regarding the extension that could be granted, the Office of Inspector General had to balance the private interests of the recipients of the Notices to Interested Parties against the public interests of Ville de Montréal residents in the Mercier–Hochelaga-Maisonneuve borough.¹⁰

In light of the various limitations related to the calendar of City Council meetings and the time involved in municipal contracting, as required under the *Cities and Towns Act*, it appears that the City Council meeting on June 13, 2022, was the last time the Office of Inspector General could take a position on the present matter before winter 2022–2023.

In fact, under the relevant provisions of the *Charter of Ville de Montréal*, the Office of Inspector General's reports must be submitted at a regular City Council meeting so that the latter may be informed and exercise its power, which is also provided for in the *Charter of Ville de Montréal*, to approve or overturn the Inspector General's decision, and adopt or reject any recommendations that are made. However, City Council only sits once a month. When responding to Serge Mainville and K.L. Mainville's counsel, no City Council meeting was scheduled for July, with the next meeting scheduled for August 2022.

In the event of an unfavourable decision resulting in the rescinding of the 2021 Contracts awarded to K.L. Mainville, Ville de Montréal would then have to find new contractors to avoid an interruption in service and ensure public safety before the first snowfall in winter 2022-2023.

To do so, the City Administration must first obtain a position from City Council on the Office of Inspector General's report and then initiate a new contracting process. In addition to the time frame required to prepare tender documents, publish them, assess the bids and award new contracts at another City Council meeting, the subsequent start of such snow removal contracts also requires various tasks to be carried out, such as inspecting the equipment to

¹⁰ 11073192 *Canada inc. c. Inspectrice générale de la ville de Montréal*, 2021 QCCS 3868, par. 35-36.

be used by the winning bidder and measuring the dump beds of all the trucks being used to haul the snow.

For all the above reasons, the Office of Inspector General could not grant an extension of the response time beyond the total period of 26 days granted to Serge Mainville and K.L. Mainville.

4.1.4.2 *Lack of institutional independence on the part of the Inspector General*

The second procedural fairness argument invoked by Serge Mainville and K.L. Mainville is that the Inspector General does not have the institutional independence necessary and essential for the function of a court. As proof, they cited the fact that they were denied the full 30 days of additional time indicated in subsection 4.1.3.1, the breach of the Office of Inspector General's obligations under the *Act Respecting Administrative Justice*, and the fact that the Inspector General has no guarantee of independence with respect to Ville de Montréal since she reports to City Council under section 57.1.7 of the *Charter of Ville de Montréal*.

The first alleged reason, namely the response time that was allotted, has already been addressed, explained and rejected in the previous subsection.

Regarding the argument involving the *Act Respecting Administrative Justice*, with all due respect, there is a misunderstanding to its applicability to the Office of Inspector General. This act applies to the *Administration*. Municipal bodies are not covered by the definition in section 3 of the act.¹¹

Lastly, in terms of guarantees of institutional independence, once again there seems to be a certain misunderstanding of the scope of section 57.1.17 of the *Charter of Ville de Montréal*. On the one hand, a distinction must be made between the City Administration and the democratically elected decision-making body that is City Council. On the other hand, the fact of reporting to City Council and not to the City Administration or to the general manager like all other civil servants is in itself a guarantee of independence.

The same is true of other provisions of the *Charter of Ville de Montréal* applicable to the Inspector General, including the following:

- Her appointment, suspension or dismissal, if applicable, must be voted on by two-thirds of City Council (sect. 57.1.1).
- Her appointment is for a term of five years and is non-renewable (sect. 57.1.4).
- She fulfills her duties on an exclusive and full-time basis (sect. 57.1.5).
- Her operating budget is set by the *Charter of Ville de Montréal*, not by Ville de Montréal's administrative or political bodies (sect. 57.1.21).
- The Inspector General is solely responsible for managing this budget as well as the Office's human and material resources (sect. 57.1.22).
- Her decision-making autonomy, including her capacity to submit to City Council any report presenting findings or recommendations which, in her opinion, warrant its attention, including reports against the City Administration (sect. 57.1.23).

¹¹ "3. The Administration consists of the government departments and bodies whose members are in the majority appointed by the Government or by a minister and whose personnel is appointed in accordance with the *Public Service Act* (chapter F-3.1.1)."

- Her non-compellability and immunity in the exercise of her duties, both with respect to third parties and Ville de Montréal (sect. 57.1.24).

These guarantees of independence are consistent with those generally put forward by legislators and have also been validated by the courts specifically with respect to the Inspector General.¹²

In short, this argument cannot be accepted by the Inspector General.

4.1.4.3 *Lack of detail in the Notice to Interested Parties and violation of the right of full answer and defence*

The third and final argument related to procedural fairness is to some extent related to the previous two breaches. Serge Mainville and K.L. Mainville's response to the Notice covered on this point the elements set out above, namely, the insufficient response time that was allotted, the lack of detail in the Notice, the refusal to provide certain requested documents, and non-compliance with the obligations imposed under the *Act Respecting Administrative Justice*. As mentioned at the beginning of this section, Louis-Victor Michon's response alleged a violation of his right of full answer and defence, without any further details.

First, it should be noted that the *Act Respecting Administrative Justice* does not apply to the Inspector General, or to municipal bodies, for the above reasons.

However, she remains subject to procedural fairness obligations, which she meets by sending a Notice to Interested Parties. In accordance with ongoing case law on the subject, the Notice includes all the relevant elements that the Inspector General intends to consider for her report and presents them in sufficient detail to enable the persons concerned to understand the allegations and to allow them to submit their observations.¹³

In the present matter, the Office of Inspector General sent a Notice to Serge Mainville, K.L. Mainville and Louis-Victor Michon, among others. The 41-page Notice contains a detailed account of all the relevant facts, possible findings, the consequences that Serge Mainville, K.L. Mainville and Louis-Victor Michon will face, as well as all the relevant excerpts from the RGC that is in force, included in the 2021 Contracts and to which the aforementioned parties are subject by becoming Ville de Montréal co-contractors and subcontractors.

With respect to the facts set out in the Notice, a side-by-side reading of the Notice against section 3 of this report shows that they are virtually identical in content and level of detail. This determination also applies to the statements gathered from the various witnesses met during the investigation.

Serge Mainville and K.L. Mainville noted that they would have liked to have had the full statements of certain persons. To some extent, this is related to their argument that the Inspector General does not have the institutional independence needed for the function of a

¹² See, for instance: *Beauregard Environnement ltée c. Inspectrice générale de la Ville de Montréal*, 2020 QCCS 2616, par. 5, 35 to 45; *Beauregard Environnement ltée c. Ville de Montréal*, 2022 QCCS 797, par. 26 to 37; SOCQUÉ, Mathieu, *La fonction de vérificateur général d'une municipalité: les garanties d'indépendance et d'impartialité inhérentes à la charge de vérificateur public*, 2004 35-1 Revue de Droit de l'Université de Sherbrooke 231, 2004 CanLII Docs 398, available online at: <https://canlii.ca/t/2s3t>.

¹³ See, for instance: *9129-2201 Québec inc. c. Autorité des marchés financiers*, 2014 QCCS 2070, par. 54; *Ali Excavation inc. c. Autorité des marchés financiers*, 2015 QCCS 939, par. 38, 87-88; *Beauregard Environnement ltée c. Inspectrice générale de la Ville de Montréal*, 2020 QCCS 2616, par. 38; *11073192 Canada inc. c. Inspectrice générale de la ville de Montréal*, 2021 QCCS 3868, par. 47; *9108-4566 Québec inc. c. Ville de Montréal*, 2022 QCCS 3, par. 25.

court. However, not only does she benefit from the institutional guarantees of independence set out above, but Serge Mainville and K.L. Mainville are also incorrect in equating her with a court.

A number of decisions made with respect to the Office of Inspector General ruled that it is not a tribunal, it does not have a quasi-judicial function, and it basically has an administrative role. That said, a hearing with the witnesses that were met during the investigation is not necessary and the right to cross-examination is generally not applicable. Offering the opportunity to submit written observations was deemed sufficient.¹⁴ Since this is not a criminal trial and the innocence of the parties involved is not at stake, the principles of the disclosure of evidence under the *Stinchcombe* case do not apply in an administrative context.¹⁵

It should also be noted that this argument by Serge Mainville and K.L. Mainville is essentially a violation of the *audi alteram partem* rule. According to Supreme Court case law, they are required to prove the existence of an actual violation, as a fear of violation is not sufficient.¹⁶ However, neither their counsel's correspondence nor their response to the Notice indicated in concrete terms in what way the full statements were needed to present their version of the facts. On the contrary, as indicated in section 4.1.1 above, their response to the Notice stated that the facts recounted by these witnesses cannot be imputed to them since they fall under Excavation Bromont's internal administration.

With regard to the lack of precision of the conclusions and the consequences which the recipients of the Notice were facing, Serge Mainville and K.L. Mainville maintained that the allegations are not specific to each recipient of the Notice and that therefore it is impossible for them to know what facts are alleged against them and whether they are involved with regard to the facts concerning Louis-Victor Michon and the internal organization of Excavation Bromont. They were also claiming that it was unclear what breaches of the RGC they were facing.

This argument is difficult to reconcile with their detailed position outlined in section 4.1.2 on the way in which the various provisions of the RGC and PGC are to be interpreted. On the contrary, it appears clear that they understood that the Office of Inspector General's investigation could lead to the conclusion that Serge Mainville and K.L. Mainville, as the Ville de Montréal co-contractor, had violated sections 15 and 16 of the RGC, included in the 2021 Contracts, by allowing Louis-Victor Michon, who was an ineligible person, to work on Ville de Montréal contracts. As previously mentioned, these sections are reproduced in the appendix to the Notice.

In short, this third argument related to procedural fairness must also be rejected.

4.2 Excavation Bromont's response

As mentioned earlier, in a series of successive transactions, Excavation Bromont was sold on November 14, 2021, by Daniel Girard to Louis-Victor Michon, and then to the latter's cousin. Since that date, Louis-Victor Michon's cousin is still the owner of Excavation Bromont and as such, a Notice was sent to him. He provided a response to the Notice on June 3, 2022, from which the Inspector General retained the following. It should be noted that since he only

¹⁴ See, for instance: *Beauregard Environnement ltée c. Inspectrice générale de la Ville de Montréal*, 2020 QCCS 2616, par. 38; *11073192 Canada inc. c. Inspectrice générale de la ville de Montréal*, 2021 QCCS 3868, par. 47.

¹⁵ *May v. Ferndale Institution*, 2005 SCC 82, par. 91.

¹⁶ *Ellis-Don Ltd. v. Ontario (Labour Relations Board)*, 2001 SCC 4, par. 49.

acquired the company after the end of Louis-Victor Michon's ineligibility period, he will be referred to hereinafter as the "new president of Excavation Bromont."

From the outset, the new president of Excavation Bromont confirmed in his response to the Notice that Louis-Victor Michon was his cousin. Louis-Victor Michon apparently approached him in January or February 2020 to sell him Excavation Bromont, J.L. Michon Transports and another holding company, 9176-1189 Québec inc. The new president of Excavation Bromont felt that this was a good business opportunity given the potential for synergy with his other companies and the purchase of equipment and property assets.

He said that while he wanted to proceed through the sale of assets, Louis-Victor Michon wanted to proceed through the sale of shares for tax reasons. It would appear from the documentation provided by Excavation Bromont's new president in support of his response to the Notice that the method used for the purposes of the transaction was the one that Louis-Victor Michon wanted. The new president of Excavation Bromont added that because of his family ties with Louis-Victor Michon, they agreed to retain a single lawyer to oversee the transaction.

Furthermore, while indicating that he was aware of the ineligibility of Louis-Victor Michon and J.L. Michon Transports for Ville de Montréal contracts, the new president of Excavation Bromont mentioned that he wanted to make sure that the sale would only take place after the end of the sanction so as not to interfere with his own application for an authorization to contract with the Autorité des marchés publics that was pending. According to him, Louis-Victor Michon and Jean-Louis Michon reassured him that there would never be a problem in that respect.

While the new president of Excavation Bromont sent Louis-Victor Michon a letter of intent to purchase on April 10, 2020, he indicated in his response to the Notice that Louis-Victor Michon delayed finalizing his part of the transaction by about a year.

Given the delay, the new president of Excavation Bromont said he had agreed with Louis-Victor Michon that he would start getting involved in the company starting on January 1, 2021, to ensure a smooth transition after the transaction. Between those dates and the transaction on November 14, 2021, he mentioned that his role was limited to day-to-day tasks, such as dispatching the drivers. According to what he said he had observed, "Louis-Victor [Michon] was in charge during the 2020–2021 season of the 2018 Contract."

Although he was informed that Excavation Bromont would provide trucks for winter 2021-2022, the new president of Excavation Bromont said that at no time did he bring up any contractual terms between Excavation Bromont, Déneigement Malvic or K.L. Mainville. To that end, he said he observed that in "2021, Louis-Victor [Michon] was in charge of planning the 2021–2022 winter season [for the 2021 Contracts] for Excavation Bromont" and that it was he who made subcontracting agreements with K.L. Mainville. For his part, the new president of Excavation Bromont said that he was not involved in management of the 2021 Contracts since there was no truck driver dispatching to be done at that time.

In the end, the transaction was finalized on November 14, 2021, for an approximate amount of \$6,000,000 for all three of the above companies, namely Excavation Bromont, J.L. Michon Transports and 9176-1189 Québec inc. The transaction was carried out in several stages that involved various businesses and holding companies. With respect to Excavation Bromont, it was first sold by Daniel Girard to Louis-Victor Michon and then to the new president of Excavation Bromont. Like the other two companies involved in the transaction, Excavation Bromont was ultimately merged with another company created by the new president of Excavation Bromont for the purpose of the transaction. He himself called them "fronts [shell corporations]". This explains why Excavation Bromont now has a different NEQ

(Québec enterprise number) than the one that was in effect at the time of the facts being investigated.

Following the purchase of Excavation Bromont, the company's new president said that he retained Louis-Victor Michon's services as an employee for close to a month, on the basis of eight hours a week, to perform administrative duties. Finding that Louis-Victor Michon was costing him too much for the services being provided, the new president of Excavation Bromont said that he let him go. Aside from these few hours worked in the month following the transaction, Louis-Victor Michon would no longer be involved in Excavation Bromont.

Regardless of the case, Excavation Bromont continued to work as a subcontractor for K.L. Mainville, via Déneigement Malvic, during winter 2021–2022 for the 2021 Contracts. The new president of Excavation Bromont justified this decision by the fact that the drivers had already been hired and that the driver undertaking forms had already been sent to K.L. Mainville and Ville de Montréal. The new president of Excavation Bromont added that it would have been too costly for him, just a few weeks before the start of winter, not to meet the commitments previously made by Louis-Victor Michon. However, he mentioned having decided to no longer act as subcontractor for Déneigement Malvic for the 2022–2023 winter season, preferring to assign his drivers to more lucrative operations.

After the transaction, Louis-Victor Michon appeared to continue to act as subcontractor for the 2021 Contracts, but only on behalf of Déneigement Malvic and not Excavation Bromont any longer.

In conclusion, the new president of Excavation Bromont acknowledged that, "ordinarily, Excavation Bromont should be subject to a sanction." However, he considered himself a victim of the front scheme between Daniel Girard and Louis-Victor Michon and of having been deceived by the latter.

As proof, the new president of Excavation Bromont stated that he had no decision-making role within the company before the transaction on November 14, 2021, which was after the end of Louis-Victor Michon's ineligibility period. Furthermore, he claimed that he had no reason to believe that Louis-Victor Michon was a director at Excavation Bromont before the transaction, given that Daniel Girard was "in effect" and "in his eyes" the company's only director.

It was only at the time of the transaction that changes to the roles of shareholder, director and officer were made retroactively in the Quebec business registry for corporate and tax purposes. This is how Louis-Victor Michon's name appeared as the sole shareholder, director and president of Excavation Bromont from November 30, 2020, to October 14, 2021, at which time the name of the new president of Excavation Bromont was substituted for each of these functions.

Furthermore, by performing verifications of Excavation Bromont's business, following a GST/QST audit, the new president of Excavation Bromont claimed to have found an invoice for \$20,000 in connection with the fronting agreement and that he intended to recover the amount from Louis-Victor Michon. More broadly, he also stated that he intended to claim from Louis-Victor Michon and the other sellers the damages that Excavation Bromont would incur.

For this reason, he believes that the transaction was perfectly legal and that Excavation Bromont should not be sanctioned under the RGC.

The Inspector General cannot accept the arguments put forth by the new president of Excavation Bromont. On the one hand, inconsistencies in his response have shown that, on the contrary, he had reasons to circumvent the formality of Daniel Girard's holding the

position of director, on paper, and to determine the managerial role actually played by Louis-Victor Michon. In that respect, the following elements of his response should be noted:

- It was Louis-Victor Michon who approached him to offer to sell him three companies, including Excavation Bromont, although he did not officially own it.
- It was to Louis-Victor Michon that the new president of Excavation Bromont then sent a letter of intent to purchase the three companies, including Excavation Bromont.
- It was with Louis-Victor Michon that the new president of Excavation Bromont claimed to have agreed on the terms of the transaction, namely to proceed by sale of shares rather by sale of assets, as well as to retain only one lawyer for the transaction.
- He made an agreement with Louis-Victor Michon to start getting involved in Excavation Bromont's day-to-day operations starting on January 1, 2021.
- It was Louis-Victor Michon whom he said he had observed to be in charge of the 2018 and 2021 Contracts, particularly for the subcontracting commitment to K.L. Mainville and for the recruitment of truck drivers.
- The new president of Excavation Bromont did not state that he had had any dealings with Daniel Girard regarding any of the above-mentioned elements, including the sale of the company he owned.
- The new president of Excavation Bromont stated that he knew Louis-Victor Michon and J.L. Michon Transports were ineligible for public contracts and that he had obtained assurances from him and his father that these sanctions would be over at the time of the transaction. The new president of Excavation Bromont said that he became involved in the company one year before the transaction. In addition, even at the time of the transaction, valued at about \$6,000,000, J.L. Michon Transports was still listed on the RENA register until March 2022, even though the register is public and accessible.

Furthermore, the response by the new president of Excavation Bromont was directed almost exclusively to his personal responsibility in the facts revealed by the investigation or to the collateral impact that a sanction on Excavation Bromont would have on his reputation or that of his other companies. In this respect, few or no elements were presented in the response to the Notice provided by the new President of Excavation Bromont to avoid or reduce the company's liability with respect to the facts revealed by the investigation.

5. Application of the By-law on Contract Management

As previously mentioned, pursuant to section 573.3.1.2 of the *Cities and Towns Act*, Ville de Montréal adopted a by-law on contract management. Section 3 of the RGC provides that this by-law is deemed to be an integral part of all contracts entered into by Ville de Montréal, including all subcontracts directly or indirectly related to them. The RGC thus applies to the 2021 Contracts awarded to K.L. Mainville and is still currently in effect.

5.1 Sections 15 and 16 of the RGC

As mentioned in section 4.1.2, section 15 of the RGC prohibits a Ville de Montréal co-contractor from doing business with an ineligible subcontractor, while section 16 of the RGC prohibits an ineligible person from working under or having any interest in a Ville de Montréal contract:

[Translation] “15. A Ville de Montréal co-contractor cannot do business with ineligible subcontractors or with a related person within the meaning of paragraph 9 of section 1 in performance of the contract unless expressly authorized by Ville de Montréal under the second paragraph of section 28 or sections 29 or 30.

As soon as the co-contractor becomes aware of a breach by its subcontractor of the present by-law, the co-contractor must notify the City immediately.

16. Unless expressly authorized by Ville de Montréal, an ineligible person or a person related to him/her within the meaning of section 1, paragraph 9, other than a subcontractor, may not work under or have any interest in a Ville de Montréal contract and a related subcontract. The Ville de Montréal co-contractor may not allow or tolerate such situations.”

This prohibition extends to both the ineligible person, in this case Louis-Victor Michon, and the co-contractor, in this case K.L. Mainville, who cannot allow or tolerate such situations.

5.2 Application of the RGC in the present matter

5.2.1 Serge Mainville and K.L. Mainville did business with an ineligible subcontractor

In their responses to the Notice, Serge Mainville, K.L. Mainville and Louis-Victor Michon all conceded that Excavation Bromont was a subcontractor in the performance of the 2021 Contracts.

However, in their opinion, no violation had been committed since Louis-Victor Michon was merely an employee and not officially a director of Excavation Bromont. In addition, where Serge Mainville and K.L. Mainville were concerned, they were unaware of or had no reason to suspect that there was a fronting agreement between Daniel Girard and Louis-Victor Michon.

These arguments were analyzed and refuted in section 4. Thus, by being aware of the true managerial role played by Louis-Victor Michon at Excavation Bromont, particularly with regard to performance of the 2021 Contracts as well as Louis-Victor Michon's status of ineligibility for public contracts, Serge Mainville and K.L. Mainville have done business with an ineligible subcontractor.

5.2.2 Louis-Victor Michon worked on a Ville de Montréal contract with the backing of Serge Mainville and K.L. Mainville

As mentioned in the previous point, Serge Mainville, K.L. Mainville and Louis-Victor Michon acknowledged in their responses to the Notice that the latter was at the very least an employee of Excavation Bromont and that they were aware that he was working on Ville de Montréal contracts.

However, according to them, no violation had been committed since Louis-Victor Michon was not technically an “ineligible person” within the meaning of the RGC, but simply an “excluded person” under the 2016 PGC. Moreover, Serge Mainville and K.L. added in their response that such employment was known to Ville de Montréal and the Office of Inspector General, without any reproaches having been made against them.

These arguments were also analyzed and refuted in section 4 above. Louis-Victor Michon held ineligibility status under the RGC until November 2021.

Furthermore, section 16 is clear and seeks to ensure that a person is completely ineligible and that there are no ways of circumventing the situation, either directly or indirectly. As Ville de Montréal co-contractors, Serge Mainville and K.L. Mainville had an obligation to prevent Louis-Victor Michon’s involvement or, alternatively, to obtain Ville de Montréal’s specific permission. Neither one did so, and they are now seeking to reverse the burden by imposing it on Ville de Montréal, a position that cannot be accepted.

5.3 Recommendation regarding the period of ineligibility

As a violation of sections 15 and 16 of the RGC has been proven in this report and brought to Ville de Montréal’s attention by submission to City Council, the latter must therefore determine the appropriate penalty and the period of ineligibility for public contracts, as the case may be, in accordance with section 24 and subsequent sections of the RGC.

Under section 57.1.8 of the *Charter of Ville de Montréal*, the mandate assigned to the Inspector General by the legislator includes the power to recommend to City Council any measure aimed at preventing any breach of integrity in the award of contracts by Ville de Montréal or their performance, as well as any measures aimed at promoting compliance with Ville de Montréal’s legal provisions and requirements with respect to contract award or contract performance.

Since the declaration of ineligibility has the direct effect of preventing future breaches of integrity by the offending party while promoting compliance with the RGC by other bidders, the Inspector General deems herself authorized to recommend, based on this report, that Serge Mainville, K.L. Mainville and Louis-Victor Michon be declared ineligible for Ville de Montréal contracts and subcontracts for a period of five (5) years. Furthermore, the Inspector General is recommending that Excavation Bromont be declared ineligible for a period of four (4) years and Daniel Girard, for a period of three (3) years.

These recommendations are based on the Inspector General’s assessment below of the non-exhaustive list of five (5) factors that must be considered in determining the penalty to be imposed under section 24.2 of the RGC:

24.2. The city determines the sanction in accordance with article 24, taking into account, in particular, the following factors:

(1) the benefits derived from the contravention; (2) the degree of planning related to the contravention and the period during which it was committed;

(3) the consequences of the contravention for the city;

(4) the previous contraventions and sanctions for similar actions; 18-038/12 Updated to June 21, 2021

(5) the adoption of measures to reduce the likelihood of other contraventions being committed.

(i) Benefits derived from the commission of the violation

With respect to Louis-Victor Michon, commission of the violation enabled him to receive compensation during performance of the successive contracts, followed by a sale price of about \$1,000,000 for Excavation Bromont in the transaction with his cousin in November 2021.

Recall that, according to Daniel Girard, the company was a front before the arrival of Louis-Victor Michon. Commission of the violation thus enabled the company's value to grow exponentially.

With regard to Daniel Girard himself, it was established that the fronting agreement with Louis-Victor Michon earned him \$20,000 a year for five years.

Lastly, with respect to Serge Mainville and K.L. Mainville, they stated themselves in their response to the Notice that starting in 2017, they were awarded several contracts with the MTQ. Combined with their own employees' lack of interest in the 2016, 2018 and 2021 Contracts, Serge Mainville and K.L. Mainville were therefore required to outsource the work. Louis-Victor Michon's participation therefore enabled them to meet their snow-hauling contractual obligations.

(ii) Degree of planning associated with the violation and period during which it was committed

Serge Mainville, K.L. Mainville, Daniel Girard and Louis-Victor Michon were all well aware of the latter's ineligibility status and his control of Excavation Bromont. It was thus with full knowledge of the facts that they had had business dealings with each other since 2017, enabling Louis-Victor Michon to work and to be involved in performing the public contracts awarded by Ville de Montréal.

Moreover, the investigation revealed several instances where attempts were made to conceal the true role played by Louis-Victor Michon, including:

- Daniel Girard's signing of the Excavation Bromont documents which K.L. Mainville was to ultimately give to Ville de Montréal
- The multiple versions presented by Louis-Victor Michon at his meetings with investigating officers
- His attempts to influence the statements made by Daniel Girard to deny his managerial role at Excavation Bromont
- No correction made by Serge Mainville at his meeting with investigating officers when Louis-Victor Michon stated that he had not worked in snow removal in any capacity since 2016

(iii) Impact of the violation for Ville de Montréal

As previously mentioned, the RGC arises from an obligation provided by the legislator in the *Cities and Towns Act* and is intended to reinforce municipal contract integrity measures in order to restore public trust in the wake of the Charbonneau Commission revelations.

The Register of Ineligible Persons established by Ville de Montréal is among the key elements in its efforts to protect the integrity of its own public contracts. Ineligibility is a sanction that allows Ville de Montréal to avoid putting itself at risk again by being forced to immediately enter into a contract with the offending party while deterring bidders from engaging in similar wrongdoings.

Ville de Montréal therefore incurs injury if excluded suppliers can undermine the effectiveness of the ineligibility scheme by bypassing it through the permissiveness of other suppliers.

(iv) The violation and prior penalties for similar acts

As repeatedly stated, Louis-Victor Michon had been ineligible for Ville de Montréal public contracts and subcontracts since November 8, 2016. Louis-Victor Michon was listed in the Ville de Montréal register because, as operations manager of J.L. Michon Transports, he had repeatedly contacted a competitor to enter into collusive agreements for the award of Ville de Montréal's snow removal contracts, more specifically in the same borough as that concerned by the 2021 Contracts, namely Mercier–Hochelaga-Maisonneuve. As such, Louis-Victor Michon must be considered a repeat offender.

With respect to Serge Mainville, K.L. Mainville, Daniel Girard and Excavation Bromont, this is their first violation of the RGC and they have not been previously sanctioned for similar acts.

(v) Adoption of measures to reduce the likelihood of other violations being committed

First, Louis-Victor Michon's response to the Notice did not include any mention of measures that were or could be taken to that effect.

With respect to Serge Mainville and K.L. Mainville, although they said they were vehemently disputing the violations of the CGR and believed that the Inspector General's rescinding of the 2021 Contracts would have a disproportionate impact on the company, they made the following suggestions in writing in good faith as an alternative, now that they "were told of the Office of Inspector General's suspicions that Louis-Victor Michon had been in *de facto* control of Excavation Bromont":

- No longer use the services of Excavation Bromont as a subcontractor for all snow removal contracts in Montreal as of today, for a period to be determined of one (1) to five (5) years.
- No longer use the services of any companies tied to Louis-Victor Michon as a subcontractor for all snow removal contracts in Montreal as of today, for a period to be determined of one (1) to five (5) years.
- Take measures to ensure that Louis-Victor Michon would not work for any of his subcontractors and/or hold an interest in any snow removal contracts in Montreal as of today, for a period to be determined of one (1) to five (5) years.
- As an alternative to the foregoing, discuss the possibility that Serge Mainville voluntarily agree that K.L. Mainville and all companies tied to him no longer bid on any Ville de Montréal snow removal contracts as of today for a period to be determined of one (1) to five (5) years.

- As an alternative to the foregoing, discuss the possibility of terminating the 2021 Contracts by mutual agreement.
- As an alternative to the foregoing, discuss any other corrective or preventive measure.

Despite the scope of the listed measures, the fact remains that they are based on the premise that Serge Mainville and K.L. Mainville only became aware of Louis-Victor Michon's de facto control of Excavation Bromont when they received the Notice relaying the above facts. Not only did they qualify these elements as mere "suspicions" by the Office of Inspector General, but the investigation on the contrary revealed that they were fully aware of them. Under such circumstances, it is reasonable to doubt the good faith required to implement such measures and, consequently, there is a risk of recidivism.

As for Excavation Bromont, the company's new president maintained that his taking control of the company at the time of the transaction in November 2021 is the best guarantee to prevent any new violations from being committed. He stressed that he would never again allow Louis-Victor Michon to be involved in Excavation Bromont or any other company he owns. In closing, he said that he intended to claim from Louis-Victor Michon and the other sellers the damages incurred by Excavation Bromont.

Lastly, with respect to Daniel Girard, although he did not respond to the Notice, certain elements of the investigation must be emphasized. Although he did not take the initiative himself to contact the investigating officers, he was still very cooperative with the Office of Inspector General, admitting within the first minutes of the meeting that he had entered into a fronting agreement with Louis-Victor Michon. This collaboration then continued when he disclosed to investigating officers that Louis-Victor Michon had contacted him a number of times to try to influence his statements.

In light of the preceding, the Inspector General believes that an ineligibility period of (5) years would be appropriate for Louis-Victor Michon, Serge Mainville, and K.L. Mainville, four (4) years for Excavation Bromont and three (3) years for Daniel Girard.

6. Conclusions and Recommendations

Section 57.1.10 of the *Charter of Ville de Montréal* states two (2) cumulative criteria that allow the Inspector General to intervene to rescind a Ville de Montréal contract:

1. She must find a breach of one of the call for tender or contract document requirements, or that some of the information provided as part of the contract-awarding process is false.
2. She must be of the opinion that the seriousness of the breach observed justifies rescinding the contract.

In the present matter, as mentioned above, the investigation enabled the Inspector General to determine that there was non-compliance with sections 15 and 16 of the RGC, deemed to be an integral part of all contracts awarded by Ville de Montréal, including the 2021 Contracts.

With respect to the seriousness of the breaches, as detailed above, the Inspector General noted that although fully aware of Louis-Victor Michon's ineligibility, the president of K.L. Mainville, Serge Mainville, still did business with him and allowed him to work and have

an interest in the performance of Ville de Montréal contracts, and also tried to conceal this fact during the investigation.

In short, the Inspector General believes that the two conditions required under section 57.1.10 of the *Charter of Ville de Montréal* have been met in this case and, consequently, she is rescinding the two (2) contracts awarded to K.L. Mainville following Call for Tenders 21-18750.

FOR THESE REASONS,

The Inspector General

RESCINDS the two (2) snow-hauling contracts MHM-210-2123 and MHM-211-2123 that were awarded subsequent to Call for Tenders 21-18750 to Les Entreprises K.L. Mainville inc. by Ville de Montréal City Council on June 15, 2021, under Resolution CM21 0727;

INFORMS Ville de Montréal of the breach by Louis-Victor Michon, Serge Mainville, Les Entreprises K.L. Mainville inc. and Excavation Bromont inc. of sections 15 and 16 of the by-law on contract management.

RECOMMENDS that, in accordance with the provisions of the by-law on contract management currently in force, Louis-Victor Michon, Serge Mainville, Les Entreprises K.L. Mainville Inc. and Excavation Bromont be listed on Ville de Montréal's Register of Ineligible Persons for a period of five (5) years.

INFORMS Ville de Montréal of the violation by Excavation Bromont inc. of sections 15 and 16 of the by-law on contract management.

RECOMMENDS that, in accordance with the provisions of the by-law on contract management currently in force, Excavation Bromont be listed on Ville de Montréal's Register of Ineligible Persons for a period of four (4) years.

INFORMS Ville de Montréal of the violation by Daniel Girard of sections 15 and 16 of the by-law on contract management.

RECOMMENDS that, in accordance with the provisions of the by-law on contract management currently in force, Daniel Girard be listed on Ville de Montréal's Register of Ineligible Persons for a period of three (3) years.

SENDS, pursuant to section 57.1.10 of the *Charter of Ville de Montréal*, a copy of this decision to the Ville de Montréal Mayor and City Clerk, who shall forward it to the City Councils concerned.

TRANSMITS the relevant information that was gathered to the Autorité des marchés publics with regard to their mandate under chapter V.2 of the *Act Respecting Contracting by Public Bodies*, pursuant to section 57.1.18 of the *Charter of Ville de Montréal*.

The Inspector General,

Brigitte Bishop

Appendix

Contract History of Louis-Victor Michon and K.L. Mainville¹⁷

1- Contract history of Louis-Victor Michon until his exclusion from Ville de Montréal contracts and subcontracts on November 8, 2016

Call for tenders	Bid opening date	Borough	Description	Status	Notes
N02-45	27-9-2002	MHM	Snow removal	Winning bidder	One-year contract awarded to J.L. Michon Transports inc.
2003-N45	Oct. 2003	MHM	Snow removal	Winning bidder	Three-year contract awarded to J.L. Michon Transports inc.
2003-T46	Oct. 2003	MHM	Snow hauling	Bidder	Bid submitted by J.L. Michon Transports inc., 2nd lowest compliant bidder
2003-T47	Oct. 2003	MHM	Snow hauling	Winning bidder	Three-year contract awarded to J.L. Michon Transports inc.
RPM-TP05-03	20-7-2005	RDP-PAT	Snow hauling	Winning bidder	Contract awarded to 9149-9418 Québec inc. but assigned to J.L. Michon Transports inc. in 2006
2006-03	12-6-2006	SLE	Snow removal	Bidder	Bid submitted by J.L. Michon Transports inc., 4th lowest compliant bidder
2006-04	12-6-2006	SLE	Snow removal	Bidder	Bid submitted by J.L. Michon Transports inc., 2nd lowest compliant bidder

¹⁷ The acronyms in the tables have the following meanings: CDN–NDG (Côte-des-Neiges–Notre-Dame-de-Grâce), MHM (Mercier–Hochelaga-Maisonneuve), PMR (Plateau–Mont-Royal), RDP–PAT (Rivière-des-Prairies–Pointe-aux-Trembles), RPP (Rosemont–La-Petite-Patrie), SLE (Saint-Léonard), SO (Le Sud-Ouest) and VSMPE (Villieray–Saint-Michel–Parc-Extension).

2006-T-44	7-9-2006	MHM	Snow hauling	Winning bidder	Two-year contract awarded to J.L. Michon Transports inc.
RP-ING07-12	1-8-2007	RDP-PAT	Snow removal	Winning bidder	Three-year contract awarded to J.L. Michon Transports inc.
RP-ING08-14	6-8-2008	RDP-PAT	Snow hauling	Winning bidder	2 packages awarded to J.L. Michon Transports inc., each for two years
RP-TP10-01	4-8-2010	RDP-PAT	Snow removal	Winning bidder	Five-year contract awarded to J.L. Michon Transports inc.
10-11496	10-11-2010	MHM	Tractor rental with operator	Bidder	Bids submitted by J.L. Michon Transports inc. on 2 packages, respectively the 2nd and 3rd lowest compliant bidder
2011-067	6-9-2011	MHM	Snow hauling	Winning bidder	2 packages awarded to J.L. Michon Transports inc., each for five years
2011-066	9-9-2011	MHM	Snow removal	Winning bidder	Five-year contract awarded to J.L. Michon Transports inc.
11-11809	24-10-2011	MHM	Rental of tractor loader with operator	Winning bidder	One-year contract with two one-year extensions awarded to J.L. Michon Transports inc.
12-12089	17-9-2012	RPP	Rental of tractor loader with operator for winters 2012 to 2015	Bidder	Bid submitted by J.L. Michon Transports inc., 3rd lowest compliant bidder
13-13158	9-9-2013	SO	Snow hauling in a sector for winters 2013 to 2018	Winning bidder	One package awarded through Déneigement Malvic J.L. Michon Transports also took the specifications, but withdrew for the following reason, according to Ville de Montréal's decision summary: "decided to bid under another of its companies that also purchased the specifications." Specifications obtained by Ferme K.L. Mainville, which withdrew, according to Ville de Montréal's decision summary, because it did not have enough trucks.
15-14748	28-9-2015	RDP-PAT	Snow hauling	Bidder	Bids submitted by J.L. Michon Transports inc. on 2 packages, 2nd lowest compliant bidder for both

16-15049	18-5-2016	MHM	Snow hauling in two sectors for five years	Bidder	Bids submitted by J.L. Michon Transports inc. on 2 packages, but call for tenders cancelled by Ville de Montréal following the above-mentioned Office of Inspector General report
16-15062	11-7-2016	MHM	Snow hauling	Obtained the specifications	Specifications obtained through Déneigement Malvic Two packages awarded to K.L. Mainville in MHM
16-15477	29-8-2016	MHM	Snow removal	Bidder	Bids submitted on 2 packages (3rd lowest) through J.L. Michon Transports, but excluded by Ville de Montréal following the above-mentioned Office of Inspector General report Specifications obtained by K.L. Mainville
16-15480	19-10-2016	MHM	Tractor rental with operator	Bidder	Bids submitted on 3 packages (13th lowest) through Déneigement Malvic, but excluded by Ville de Montréal following the above-mentioned Office of Inspector General report

2- K.L. Mainville's contract history before release of the Office of Inspector General's report in 2016

Call for tenders	Bid opening date	Borough	Description	Status	Notes
12-12177	27-6-2012		Supply of winter abrasives	Obtained specifications	Specifications obtained by Ferme K.L. Mainville
13-13158	9-9-2013	SO	Snow hauling	Obtained specifications	Specifications obtained by Ferme K.L. Mainville 1 contract awarded in SO to Déneigement Malvic.
ST-14-16	18-6-2014		Reconstruction of roadway, drainage works, replacement of water lines and sewers, replacement of service connections and paving	Obtained specifications	Specifications obtained by Les Entreprises K.L. Mainville
14-13815	25-8-2014	Saint-Laurent	Snow removal	Bidder	Bid submitted by Les Entreprises K.L. Mainville (5 th lowest compliant bidder)

3- K.L. Mainville's contract history after release of the Office of Inspector General's report in 2016

Call for tenders	Bid opening date	Borough	Description	Status	Notes
16-15062	11-7-2016	MHM	Snow hauling (2 years)	Package MHM-206-1618: Winning bidder	31% lower than 2nd lowest compliant bidder 3% higher than estimate
				Package MHM-207-1618: Winning bidder	19% lower than 2nd lowest compliant bidder 25% lower than estimate
16-15477	29-8-2016	Ahuntsic and MHM	Snow removal (5 years)	Obtained specifications	Bids submitted for 2 packages (3rd lowest) by J.L. Michon Transports, but excluded by Ville de Montréal following the above-mentioned Office of Inspector General report
18-16618	26-6-2016	PMR and MHM	Snow hauling (3 years)	Lot PMR-205-1821: Bidder	98% higher than lowest compliant bidder 116% higher than estimate
				Package MHM-207-1821: Winning bidder	22% higher than lowest compliant bidder, but was not compliant 27% lower than estimate
				Lot MHM-208-1821: Bidder	174% higher than lowest compliant bidder 178% higher than estimate
18-16993	3-7-2018	RPP and Saint-Laurent	Rental of wheel loaders with operators	Obtained specifications	
18-16608	12-7-2018	CDN-NDG	Snow removal	Package CDN-105-1822: Bidder	122% higher than lowest compliant bidder 135% higher than estimate
				Package CDN-106-1822: Bidder	103% higher than lowest compliant bidder 134% higher than estimate

				Package CDN-107-1822: Bidder	85% higher than lowest compliant bidder 141% higher than estimate
				Package CDN-108-1822: Bidder	89% higher than lowest compliant bidder 137% higher than estimate
				Package CDN-109-1822: Bidder	76% higher than lowest compliant bidder 139% higher than estimate
				Package CDN-110-1822: Bidder	65% higher than lowest compliant bidder 129% higher than estimate
		Montréal-Nord	Snow removal	Package MTN-101-1822: Bidder	120% higher than lowest compliant bidder 120% higher than estimate
				Package MTN-102-1822: Bidder	83% higher than lowest compliant bidder 78% higher than estimate
				Package MTN-105-1822: Bidder	131% higher than lowest compliant bidder 121% higher than estimate
		SLE	Snow removal	Package SLE-103-1819: Bidder	133% higher than lowest compliant bidder 168% higher than estimate
				Package SLE-104-1819: Bidder	158% higher than lowest compliant bidder 148% higher than estimate
				Lot SLE-106-1819: Bidder	184% higher than lowest compliant bidder 149% higher than estimate
				Package SLE-108-1819: Bidder	119% higher than lowest compliant bidder 107% higher than estimate

		Ville-Marie	Snow removal	Package VMA-109-1823: Bidder	279% higher than lowest compliant bidder 160% higher than estimate
				Package VMA-110-1823: Bidder	234% higher than lowest compliant bidder 139% higher than estimate
				Package VMA-111-1823: Bidder	193% higher than lowest compliant bidder 158% higher than estimate
18-17163	9-8-2018	VSMPE	Snow hauling	Package VSP-205-1820: Bidder	153% higher than lowest compliant bidder 167% higher than estimate
				Package VSP-206-1820: Bidder	206% higher than lowest compliant bidder 206% higher than estimate
19-17480	11-6-2019	RPP	Snow hauling	Package RPP-201-1923: Bidder	87% higher than lowest compliant bidder 187% higher than estimate
20-18267	9-7-2020	Saint-Laurent	Rental of equipment with operators	Obtained specifications	
21-18734	27-4-2021	Lachine	Snow removal	Package LAC-102-2125: Bidder	62% higher than lowest compliant bidder 82% higher than estimate
				Package LAC-104-2125: Bidder	62% higher than lowest compliant bidder 123% higher than estimate
		MHM	Snow removal	Package MHM-105-2124: Bidder	76% higher than lowest compliant bidder 53% higher than estimate
				Package MHM-106-2124: Bidder	48% higher than lowest compliant bidder 60% higher than estimate

				Package MHM-107-2124: Bidder	44% higher than lowest compliant bidder 52% higher than estimate
				Package MHM-108-2124: Bidder	59% higher than lowest compliant bidder 59% higher than estimate
				Package MHM-109-2124: Bidder	70% higher than lowest compliant bidder 104% higher than estimate
21-18750	4-5-2021	Ahuntsic	Snow hauling	Package AHU-201-2123: Bidder	33% higher than lowest compliant bidder 83% higher than estimate
				Package AHU-202-2123: Bidder	32% higher than lowest compliant bidder 83% higher than estimate
		MHM	Snow hauling	Package MHM-209-2123: Bidder	49% higher than lowest compliant bidder 99% higher than estimate
				Package MHM-210-2123: Winning bidder	30% lower than 2nd lowest compliant bidder 11% lower than estimate
				Package MHM-211-2123: Winning bidder	21% lower than 2nd lowest compliant bidder 14% lower than estimate
		PMR	Snow hauling	Package PMR-203-2123: Bidder	45% higher than lowest compliant bidder 17% higher than estimate
				Package PMR-204-2123: Bidder	60% higher than lowest compliant bidder 57% higher than estimate
		RPP	Snow hauling	Package RPP-204-2123: Bidder	31% higher than lowest compliant bidder 8% higher than estimate

				Package RPP-205-2123: Bidder	33% higher than lowest compliant bidder 21% higher than estimate
		SO	Snow hauling	Package S-O-201-2123: Bidder	6% higher than lowest compliant bidder 10% higher than estimate
		VSMPE	Snow hauling	Package VSP-205-2123: Bidder	81% higher than lowest compliant bidder 105% higher than estimate
				Package VSP-206-2123: Bidder	104% higher than lowest compliant bidder 96% higher than estimate

Office of Inspector General

1550 Metcalfe Street, Suite 1200
Montréal, QC H3A 1X6

Telephone: 514 280-2800

Facsimile: 514 280-2877

BIG@bigmtl.ca

www.bigmtl.ca

