

## V.6. Sale of the Marc-Aurèle-Fortin Land Site



## V.6. SALE OF THE MARC-AURÈLE-FORTIN LAND SITE

### 1. INTRODUCTION

Since the late 1960s, the City has been trying to develop vacant lots in the southwest sector of the current Rivière-des-Prairies–Pointe-aux-Trembles borough. In order to rezone various areas in the neighbourhood in accordance with the development plan for Rivière-des-Prairies, the City expropriated land for the construction of roads and the development of a protected zone around the sector. Under section 964b of the Charter of Ville de Montréal (which became section 144 of the Charter after the creation of the new City in 2002), several land sites were acquired by the City in order to set up a bank of land for resale to carry out projects fostering the planning and development of vacant lots.

Among the land holdings available for resale is a vast 198,741 m<sup>2</sup> (2,140,000 ft.<sup>2</sup>) lot in the western part of Rivière-des-Prairies known as the “Marc-Aurèle-Fortin site”. This land is located south of Maurice-Duplessis Boulevard and east of Philippe-Panneton Avenue, following the centre of the extension of Fernand-Gauthier Avenue. The site is bounded on the south by the Canadian National rail lines, on the north and east by a residential area, and on the west by an industrial sector of average density.

This land is in an area that is earmarked for development and has already been the subject of two calls for proposals in 2001, as part of the City’s “Habiter Montréal” program. In both cases, the process proved fruitless and, consequently, no development project has ever materialized.

There was still a will to develop the land and resell it for residential purposes. Consequently, the Rivière-des-Prairies–Pointe-aux-Trembles borough asked the Service de la mise en valeur du territoire et du patrimoine (SMVTP) to draft a new public call for proposals in 2004. This time, the process proved successful and, in 2008, a five-year development agreement (2008–2012) was signed between the City and a developer.

### 2. AUDIT SCOPE

The objective of this audit was to examine the various steps taken by the City to select a developer for the residential project on the Marc-Aurèle-Fortin land site. To this end, we examined how the market value and reserve price for the land were established. We also

reviewed the process used to issue a public call for proposals, as well as the information disclosed to the authorities concerned.

Our audit focused chiefly on the years 2004 to 2009. It targeted primarily the Direction stratégies et transactions immobilières (DSTI) of the SMVTP and the Rivière-des-Prairies–Pointe-aux-Trembles borough.

### **3. FINDINGS, RECOMMENDATIONS AND ACTION PLANS**

#### **3.1. ESTABLISHMENT OF THE MARKET VALUE AND INFORMATION DISCLOSED TO THE EXECUTIVE COMMITTEE**

##### **3.1.A. Background and Findings**

When transferring land intended for resale, the City must comply with the legal and administrative frameworks applicable to this type of property transfer.

In the case of property transfers, the Charter of Ville de Montréal (sec. 34.1) also enables the executive committee to exercise some of the city council's powers, such as the alienation of immovable property valued at \$25,000 or less.

Unlike the acquisition of goods and services for which there are contract allocation provisions in the *Cities and Towns Act* (call for public tenders, invitational tenders, or private agreements), the transfer of property is not subject to any specific legal provisions. As a result, the approach to transferring immovable property becomes a matter of choice between two awarding procedures, i.e. through a private agreement or a public call for proposals.

For example, land in industrial parks or small residential lots that remain unsold after a call for public tenders are generally sold through a private agreement.

When the City intends to offer land for residential development, the preferred procedure for awarding contracts is a public call for proposals. In accordance with this procedure, the SMVTP, in collaboration with the borough concerned, prepares the specifications of the public call for proposals and obtains the approval of the appropriate authorities before issuing the public call. Once proposals are received, a selection committee analyzes them on the basis of pre-established evaluation criteria and recommends approval of the best proposal to the appropriate authorities, conditional on finalization of a development agreement between the parties.

The first steps taken by the City for the development and sale of the Marc-Aurèle-Fortin land site began with the *Habiter Montréal* program. In January 2001, the City's executive committee authorized the Service de l'habitation, then responsible for the program, to issue a public call for proposals to builders for the sale and development of this land site. At the same time, the committee approved a reserve price of \$5 million, which represented the market value as well as the transfer and development conditions contained in the specifications of the call for proposals. After two months, no interested party had come forward. In April 2001, the executive committee authorized a new public call for proposals with a reduced reserve price of \$3.75 million. In August 2001, on the recommendation of the Service de l'habitation, the executive committee accepted the only proposal that was submitted, with the intention of signing a development agreement providing for the subsequent sale of lots on the site.

Following lengthy negotiations that lasted almost two years with the developer to reach a development agreement, the latter decided to withdraw his proposal in May 2003. In its executive summary to the executive committee which recommended that the withdrawal of the developer's proposal be accepted, the Service de l'habitation mentioned that the Rivière-des-Prairies–Pointe-aux-Trembles borough should revisit the plan for the site and set conditions for its development. Subsequently, in September 2003, the Rivière-des-Prairies–Pointe-aux-Trembles borough formally requested the right to assume control over this file from the Service de l'habitation.

In June 2004, the borough drew up a development program for this site. This plan provided for the construction of a minimum of 250 housing units on the land, most of which would be single-family dwellings, including detached, semi-detached or town houses. The plan also provided the development parameters (e.g., type, height and placement of buildings, side and back yard dimensions, etc.) and other project-specific requirements (e.g., infrastructure assets, architectural quality, buffer zone, and the like.)

In July 2004, the borough council asked the SMVTP to prepare the specifications for a public call for proposals aimed at builders for the development of the Marc-Aurèle-Fortin land site. Among other things, these specifications included a project description, notices to potential bidders, the nature of the proposal as set out in the development program, land specifications and the proposal selection criteria.

In August 2005, the SMVTP recommended that the executive committee authorize a public call for proposals for the sale of the land. It also asked the executive committee to approve the specifications of the public call for proposals and a reserve price of \$1 million. The DSTI

prepared an executive summary to support the committee's decision-making process. This document indicated that the reserve price was based on the market value of land in this sector as assessed by the Section de l'expertise et de l'évaluation immobilières. It also mentioned that the market value encompassed the costs of municipal infrastructure to be built on the site, which had been estimated at \$21 million by the Service des infrastructures, transport et environnement based on a street grid used in the previous development proposal. In addition, the executive summary indicated that:

- the residential development advocated by the borough included one- to three-unit buildings, but that family-type detached, semi-detached or town houses were preferable;
- the proponent would be responsible for all site-related development costs, particularly in respect to the creation of the buffer zone, which would play a combined aesthetic, safety and noise-reduction role on the boundary with the industrial zone to the west and the rail lines to the south. The proponent would also be responsible for the expenses related to municipal infrastructures, in accordance with the *By-law Concerning Municipal Works Agreements for the Development of Residential Projects*, as of the request date;
- the submitted proposals would be analyzed by an evaluation committee comprised of representatives from the Rivière-des-Prairies–Pointe-aux-Trembles borough and the SMVTP, and judged according to the following criteria<sup>1</sup>:
  - overall composition (20%),
  - building quality (15%),
  - landscaping (10%),
  - profile of the proponent and professional teams (15%),
  - marketing approach (10%),
  - quoted price (20%),
  - fiscal items (10%);
- the SMVTP, in collaboration with the Rivière-des-Prairies–Pointe-aux-Trembles borough, would recommend the best proposal to city council within 90 days of the proposals being opened;
- within the eight-month period following the city council's approval to accept a proponent, the latter would have to negotiate with municipal representatives and settle on the final terms of a development agreement for the completion of a residential project on the site. The development agreement would then have to be approved by the borough and city councils.

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<sup>1</sup> The weighting assigned to each of these criteria is shown in the specifications of the public call for proposals appended to the executive summary.

Essentially, the aim of our audit was threefold:

- to ensure that there was a fair market value opinion supporting the reserve price as established for the call for proposals;
- to examine the proposal review process;
- to ensure that the appropriate authorities had all the necessary information when authorizing the call for proposals and deciding which proposal should be selected.

The main methods used for assessing market value are the cost, comparison and income methods.

Beginning in June 2004, the Section des transactions immobilières (now the Section transactions et services immobiliers) of the DSTI asked the Section de l'expertise et de l'évaluation immobilières (now the Section expertise et évaluation immobilières) to establish the market value of the abovementioned land as part of the call for proposals.

In a November 2004 assessment to establish its fair market value, the Section de l'expertise et de l'évaluation immobilières specified that the parcel of land concerned was very large, un-serviced and intended for subsequent subdivision once a winning bid had been selected and the final project terms had been agreed upon. Generally speaking, the features and development restrictions of a parcel of land influence its value. In this case, the Section de l'expertise et de l'évaluation immobilières advised caution when assessing this particular parcel of land given that some of the data originated from 2000 or 2001 (when earlier calls for proposals had been issued). Although this data had been indexed for the November 2004 assessment, it was to be used reservedly, since it came from a project that was outdated and had not proved viable. For instance, the costs of the infrastructures and the retention pond might be different, depending on the selected proposal. Moreover, the Section de l'expertise et de l'évaluation immobilières mentioned that it was missing data for the accurate assessment of the various costs related to development restrictions (e.g., costs of the buffer zone, costs of underground water mains). Against this background, four approaches to establishing a fair market value (Table 1) were examined.

**Table 1—Residential Land Market in Rivière-des-Prairies**

Approaches	Features of the assessed land	Assumptions	Land price	Costs not taken into consideration
1. Standard size lot (4,500 ft. <sup>2</sup> )	Serviced, subdivided lot, uncontaminated and suitable for construction	N/A	\$12/ft. <sup>2</sup>	<ul style="list-style-type: none"> <li>• Construction of a retention pond and bank</li> </ul>
2. Land sold in parcels of 130,000 ft. <sup>2</sup> (several transactions)	Un-serviced lots, on a surveyed street, suitable for construction	After the sale price of serviced land suitable for construction was taken into consideration, infrastructure costs in the range of \$8.8 M were subtracted (assuming a base rate of \$4,500 per linear metre of street multiplied by 1,955 linear metres for the whole project).  60% of the land is buildable area.	\$2.25/ft. <sup>2</sup>	<ul style="list-style-type: none"> <li>• Rehabilitation costs</li> <li>• Underground water mains</li> <li>• Construction of a retention pond and bank</li> </ul>
3. Land sold in its entirety to a single tenant, not in sequence, with payment in cash on signing of the deed	Application of the subdivision method with the unit price of \$12/ft. <sup>2</sup> for serviced land suitable for residential construction	After the sale price of serviced land suitable for construction was taken into consideration, infrastructure costs of \$8.8 M were calculated assuming a base rate of \$4,500 per linear metre of street multiplied by a length of 1,955 linear metres for the whole project.  60% of the land is buildable area.	\$0.60/ft. <sup>2</sup>	<ul style="list-style-type: none"> <li>• Rehabilitation costs</li> <li>• Underground water mains</li> <li>• Construction of a retention pond and bank</li> </ul>
4. Comparison with the sale of an 800,000 ft. <sup>2</sup> parcel of land located in RDP (single transaction)  Comparison with the sale of a vacant 300,000 ft. <sup>2</sup> parcel of land located in RDP (single transaction)	Un-serviced, uncontaminated land on a surveyed street, made up of surveyed lots  Partially serviced, uncontaminated land made up of surveyed lots	N/A  N/A	\$0.67/ft. <sup>2</sup> (Value from a recent sale)  For 100% of the total land area  \$1.92/ft. <sup>2</sup> (Value from a recent sale)	<ul style="list-style-type: none"> <li>• Infrastructure costs</li> <li>• Underground water mains</li> <li>• Construction of a retention pond and bank</li> </ul>

**FINDING**

**Given the shortcomings in data and the existing assumptions, the approaches used did not enable the Section de l'expertise et de l'évaluation immobilières to properly determine a fair market value for the land concerned. Consequently, no opinion was given as to the establishment of the most appropriate market value.**



Despite this state of affairs, the Section des transactions immobilières nonetheless established a reserve price of \$1 million or \$0.47/ft.<sup>2</sup> for the purposes of the call for proposals. In the executive summary prepared for the approval of this reserve price, the Section des transactions immobilières noted that this amount was based on the market value. **Our examination of this market value assessment raised several concerns:**

- the use of a sale price of \$12/ft.<sup>2</sup> for a standard size serviced lot (approach #1) could not be justified. This price, from which an estimated infrastructure cost was deducted in order to establish a selling price for un-serviced land, was also used in approach #3;
- the Section de l'expertise et de l'évaluation immobilières assumed an estimated infrastructure cost of \$8.8 million (in 2004). However, the infrastructure cost that appears in the September 2008 development agreement with the developer was \$17 million;
- comparing the sales of similar lots is a recognized approach frequently used by accredited appraisers to establish a fair market value. For the purposes of this market value assessment, the results of the sales of two large parcels of land that took place in the borough were offered for additional reference (approach #4). We wondered whether these sales were truly representative, since one of them related to a parcel of land first sold in April 2004 following a court-ordered repossession for \$0.57/ft.<sup>2</sup> and then re-sold four days later to a related company for \$0.67/ft.<sup>2</sup>, far below the municipal assessment at that time of \$3.75/ft.<sup>2</sup>

**FINDING**

**Our audit failed to show with certainty that the reserve price corresponded to the fair market value of the land in question. We believe that the reserve price should have been documented to reflect the selected approach as well as the assumptions put forward. The situation is all the more ambiguous since the executive committee was not given this information when it authorized the call for proposals and approved the reserve price.**

Therefore:

- the original cost of the lots, the majority of which were acquired by the City between 1988 and 1992, was \$7.7 million or \$3.60/ft.<sup>2</sup> (information taken from the executive summaries prepared by the Service de l'habitation to obtain authorization for the first two calls for proposals in 2001);
- the market value was established at \$5 million during earlier calls for proposals in 2001;
- the 2004 municipal assessment was \$5/ft.<sup>2</sup>;
- the Section des transactions immobilières maintained a market value of \$0.60/ft.<sup>2</sup>, even though no opinion was ever given on the establishment of the market value at the time of the

assessment. According to Table 1, the market value of \$0.60/ft.<sup>2</sup> is similar to the one established using the subdivision method (approach #3) for the entire land area and for a total sale (as opposed to a sequential sale) with payment in cash on the signing of the deed. However, the borough's preference was to sell the land to a single developer, in successive parcels. Such an approach brings the market value closer to \$2.25/ft.<sup>2</sup> (approach #2).

### 3.1.B. Recommendations

**We recommend that the Direction stratégies et transactions immobilières document the reserve price calculation based on the market value in its working papers to show the appropriateness of the selected method and the elements considered (assumptions, costs, comparisons, estimates, others.)**

**In order for the executive committee to have all of the information needed to authorize a call for proposals and approve a reserve price, we recommend that the Direction stratégies et transactions immobilières prepare decision reports that reflect:**

- the accurate market value;
- the original cost of the land concerned;
- the municipal assessment.

### 3.1.C. Action Plan for the Business Unit Involved

- 1) *[Translation] "The market value records from the Section de l'expertise et de l'évaluation immobilières are readily available. In the future, a brief including the market value assessment results and rationale explaining the difference between the market value and the reserve price will be prepared. (Planned completion: April 30<sup>th</sup> 2010)*
- 2) *In general, this information is provided to the executive committee. It is also disclosed in the executive summary and the data sheet appended to the summary.*

*Exceptionally in this case, this information was not included in the summary. We recognize that it should have been." (Completed)*

### **3.2. CHOICE OF DEVELOPER AND INFORMATION DISCLOSED TO THE APPROPRIATE AUTHORITIES**

#### **3.2.A. Background and Findings**

The specifications of the public call for proposals provided for a winning proposal to be selected by a committee comprised mainly of representatives from the Rivière-des-Prairies–Pointe-aux-Trembles borough and the SMVTP. The specifications also stipulated that, once the proposals were studied, the selection committee would report to the director of the SMVTP and borough director with its recommended choice of proposal, if applicable. In addition, the specifications indicated that city council had 90 days from the date proposals were opened to confirm the recommended choice.

Following the public call for proposals for the sale of the Marc-Aurèle-Fortin land site, the submitted proposals were opened on December 7<sup>th</sup> 2005. A selection committee comprised of representatives from the Rivière-des-Prairies–Pointe-aux-Trembles borough and the SMVTP was formed to analyze them according to the evaluation criteria outlined in the public call-for-proposal documentation.

Three submitted proposals were judged to be compliant by the selection committee. The committee recommended the proposal with the highest score and purchase price (proponent #3). This proposal differed from the other two in that it advanced the construction of three multiplex dwellings (264 high-density condo-type units) in addition to single-family detached, semi-detached or town houses (232 units), for a total of 496 units. As for the other two proposals, one provided for the construction of multiplex dwellings with a maximum of three condo-type units only (proponent #2), while the other made no provision for any multiplex dwelling unit (proponent #1).

The selection committee's decision was then presented for approval to the City's strategic committee, which was created in March 2006. The latter questioned the validity of the recommended proposal because of the rules set forth in the specifications of the public call for proposals and turned for advice to the senior director of the Service des affaires corporatives, who in turn sought a legal opinion from an outside law firm.

The legal opinion, dated September 2006, concluded that the proposal recommended by the selection committee did not comply with the specifications of the public call for proposals because it failed to abide by the principle of equality between proponents. In fact, two sections in the call for proposals were not observed:

Section 3.2.1, entitled *[Translation] Type of buildings*: “The recommended residential development will be of medium density and the buildings will consist of one to three housing units. However, single family detached, semi-detached or town houses will be preferred for all or the majority of the site.”

Section 2.1.6, entitled *[Translation] Caution*: “Any failure to strictly comply with each of the listed conditions could lead to rejection of the proposal, unless the City deems it has merit and decides to overlook any formal defect or minor deficiency that it may contain.”

Based on the above, the proposal that included three buildings of more than 12 units each contravened the existing regulations and could not have been considered compliant with the specifications of the public call for proposals. It was also unfair to the other proponents for the City to accept a proposal that was based on different conditions than those laid out in these specifications, even if it was more advantageous for the City to do so.

Taking this legal opinion into consideration, the City’s strategic committee decided to reject proposal #3. As a result, the selection committee then had to choose a new proponent. The choice should have fallen to the proponent with the second highest score, but the selection committee mentioned in its report that the latter had not been able to provide irrefutable proof of sufficient financial capacity to complete the project.

It should be pointed out that a proponent’s financial capacity is assessed using the evaluation criterion “Profile of the proponent and professional teams,” which has a weighting of 15%.

**FINDING**

**Since other elements are also used to evaluate this criterion (technical expertise, project team and previous accomplishments), we believe that this weighting factor does not allow for the automatic rejection of a bid, even if the proponent fails to get a passing grade on an element as crucial as financial capacity.**

In this respect, we believe that the weighting assigned to this aspect should be re-evaluated when issuing future calls for proposals.

Given that the findings of the selection committee differed from those of the legal opinion and that the committee had expressed its disagreement with the choice of proponent #2, the hope

was that the authorities would provide guidance in this matter. The City's strategic committee once again turned for advice to the senior director of the Service des affaires corporatives.

A second legal opinion was therefore sought from the outside law firm about how to proceed in such a case. The legal opinion that was received suggested two options. The first was to cancel the existing call for proposals and issue a new one, while the other proposed creating a second selection committee. The strategic committee chose this option and decided to re-evaluate the two remaining tenders. Consequently, a new selection committee comprised of representatives from the borough and SMVTP management was created.

In spite of the first selection committee's reservations about the financial capacity of proponent #2, the second selection committee studied both remaining proposals (proponents #1 and #2).

**FINDING**

**Our review of the report issued by the second selection committee indicated that a qualitative evaluation was done using the analysis criteria set out in the specifications of the public call for proposals. Contrary to the report of the first committee, however, there was no numerical rating to show that the analysis was done in accordance with the established selection criteria and weighting system. According to the manager in charge at the Section transactions et services immobiliers, this evaluation was done but could not be found.**

Finally, 12 months after the opening of the proposals that had been received (from December 2005 to November 2006), the second selection committee chose proposal #1, with a sale price of \$1 million.

According to the information we received, the SMVTP later successfully negotiated an increase in the sale price to \$1.5 million. We found no evidence, however, of the exact dates of these negotiations.

**FINDING**

**Our audit revealed that, some 12 months after the opening of the proposals, an executive summary seeking approval for the selected proponent was presented to the executive committee on December 6<sup>th</sup> 2006. However, it was not submitted to city council.**

Our review of the executive summary that was prepared to secure the executive committee's approval for the selected proponent showed that the director of the DSTI told the executive committee about the decision of a selection committee comprised of representatives from the borough, SMVTP and the Service des affaires corporatives to declare proposal #3 non-compliant. The executive summary also gave a brief description of the two proposals that were compliant and mentioned that the SMVTP successfully negotiated with the proponent to increase its offer to \$1.5 million (\$0.73/ft.<sup>2</sup>) after the firm was retained by the selection committee. It should be pointed out that the submitted proposals were appended to the executive summary.

As mentioned above, the choice of proponent was not presented to city council as provided for in both the specifications of the public call for proposals and the executive summary prepared to secure the executive committee's approval for these specifications.

**FINDING**

**In addition, we noted that some relevant information had not been disclosed to the executive committee while it was approving the choice of proponent.**

In this regard, it should be noted that:

- two years passed between the market value assessment (November 2004) and the selection of the proponent (December 2006);
- the agreed-upon sale price (\$1.5 million) was to be collected by the City in sequence over the five-year period following the signing of the development agreement;
- there were reasons justifying the non-compliance of one of the proposals;
- two selection committees studied the submitted proposals;
- two legal opinions were obtained from an outside firm to provide guidance during the selection process;
- there was no evidence of a weighted evaluation grid to demonstrate how the selected proponent was chosen.

In conclusion, seeking the city council's approval at this stage of the process would have enabled it to voice its opinion about the proposal retained for the Marc-Aurèle-Fortin residential project, as well as the sale price at which the City would be transferring the land. At this point in time, we also believe that city council should have had a financial analysis showing the City's cash flow for the development of this land.

### 3.2.B. Recommendations

**We recommend that the Direction stratégies et transactions immobilières review the weighting system when establishing the bid evaluation grid as part of public calls for proposals so that any proposal with an unacceptable financial capacity score can be rejected.**

**We recommend that the Direction stratégies et transactions immobilières keep documents on file showing a numerical rating of proposals that complies with the selection criteria set out in the specifications of the public call for proposals to support its recommended choice of proponent.**

**In order for the executive committee to make informed decisions about the winning proposal following a public call-for-proposal process, we recommend that the Direction stratégies et transactions immobilières disclose, in its executive summaries, all relevant information in its possession, including:**

- any deviation from the normal process within the framework of a public call for proposals leading to the choice of proponent;**
- the findings obtained following the analysis of proposals in compliance with the evaluation criteria retained;**
- a financial analysis showing the City's cash flow for the duration of the project.**

**We recommend that the SMVTP comply with the provisions set out in the documentation relating to public calls for proposals, especially when seeking approval from the appropriate authorities.**

### 3.2.C. Action Plan for the Business Unit Involved

- 1) [Translation] "This weighting system is adjusted according to the development project at hand. In the case of the Marc-Aurèle-Fortin land site, a passing grade should have been*

*shown given the magnitude of the initial infrastructure investment. The passing grade would not be as important in the case of buildable land requiring no initial investment.*

*A weighting factor assigned to the developer's financial capacity, with a minimum passing grade in respect to its solvency, will be included in the economic analysis criteria. (Planned completion: April 30<sup>th</sup> 2010)*

- 2) *The first committee's analysis of the proposals was tabled and kept on file.*

*The second committee chose to assign a grade retaining the proposal it considered most compliant with the evaluation grid. This grade was entered in the file.*

*In the future, we will ensure that a numerical rating of the proposals examined according to the established selection criteria is always kept on file. (Planned completion: April 30<sup>th</sup> 2010)*

- 3) *We have taken the recommendations into account and will apply them in future calls for proposals. (Planned completion: April 30<sup>th</sup> 2010)*
- 4) *We have taken the recommendations into account and will apply them in future calls for proposals." (Planned completion: April 30<sup>th</sup> 2010)*

### **3.3. APPROVAL OF THE DEVELOPMENT AGREEMENT**

#### **3.3.A. Background and Findings**

According to the specifications of the public call for proposals, the land sale was conditional upon the borough council and city council approving a development agreement within eight months of the city council's decision to retain the proponent. The property sale would then have to be approved by the municipal authorities, as part of the development agreement and planned sale sequence.

The facts show that, in July 2007, a development agreement was reached between the SMVTP, the developer and the borough. In August 2007, the executive committee approved the development agreement in principle and authorized the start of construction of six model housing units before officially approving the agreement. In October 2007, the borough council approved the development agreement. However, the executive committee only approved the development agreement and the first deed of sale for 20 residential lots on February 13<sup>th</sup> 2008. On



March 31<sup>st</sup> 2008, 16 months after approving the choice of proponent, city council finally approved the development agreement. This was the first authorization obtained from city council for the sale and development of the Marc-Aurèle-Fortin land site.

Only then was city council told that, under the development agreement, the developer planned to build a residential project that would include a maximum of 331 dwellings (i.e. 67 single-family and 264 semi-detached units) upon completion.

In this executive summary, city council was informed that the proposal retained during the public call for proposals included an agreement to acquire all of the land for a sum of \$1.5 million, in addition to the costs for rehabilitating the ground. It was also mentioned that all sale transactions would be in cash and that the developer would be responsible for building, at its expenses, the infrastructures (sewers, water system, streets, sidewalks, paving and street lighting) intended to service the entire project in question.

**FINDING**

**Although city council approved the development agreement based on the information disclosed to it, it is our opinion that it was not informed about certain key elements.**

These elements include the following:

- in August 2007, the executive committee had already given its approval in principle to the development agreement, duly signed by the developer on July 13<sup>th</sup> 2007, to build six model housing units even before city council had authorized the development agreement, thus allowing the developer to build on the land;
- new elements (e.g., a buffer zone) were agreed upon with the developer at the time the development agreement was finalized;
- the decision had an impact on the City's financial statements due to the recording of a loss on the disposal of assets (for the lots sold in March 2008) and a provision to write down lots available for sale (assessed at more than \$8.6 million). Following a change to municipal accounting standards in 2007, the SMVTP had established the original cost for all available-for-sale land held by the City, including this land. At the time of authorizing the development agreement, the sale price of \$1.5 million (\$0.73/ft.<sup>2</sup>) should have been compared to the original write-down cost (\$4.71/ft.<sup>2</sup>). In addition, a depreciation allowance should have been recorded for this land.

In conclusion, city council should have received all relevant information explaining any new facts that emerged after the proponent was chosen up to the time the development agreement was finalized. Given that 28 months had elapsed between the opening of the proposals (December 2005) and the authorization of the development agreement (March 2008), it is our opinion that city council should have received an updated financial analysis showing the City's cash flow for the duration of the project.

### 3.3.B. Recommendations

In order to enable city council to make informed decisions when approving development agreements, we recommend that the Direction stratégies et transactions immobilières disclose all important new facts that emerge from the time the proponent is chosen, especially those that are likely to affect the ongoing financial assessment.

### 3.3.C. Action Plan for the Business Unit Involved

*[Translation] "We have taken the recommendations into account and will apply them in future calls for proposals." (Planned completion: April 30<sup>th</sup> 2010)*