

## V.7. Quartier des Spectacles Development Projects



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## V.7. QUARTIER DES SPECTACLES DEVELOPMENT PROJECTS

### 1. INTRODUCTION

Development of the Quartier des spectacles will add a culture and design component to downtown Montréal. The project, extending over more than a square kilometre, is bounded by rue Saint-Alexandre, boulevard René-Lévesque, boulevard De Maisonneuve and rue Saint-Dominique.

Enriching the Quartier des spectacles is a priority for Montréal. The city's main goal is to host major festivals within the downtown core and create a true urban redevelopment project that can promote Montréal's culture, encourage tourism and revitalize the sector.

This project, which was formulated in 2001 by the Association québécoise de l'industrie du disque, du spectacle et de la vidéo (ADISQ), is backed by the performing arts community.

The city began conducting studies, banking land and expropriating property to implement this concept. On March 24, 2004, the Executive Committee directed the Société de développement de Montréal (SDM) to set up and obtain approval for a short- and medium-term property strategy alongside the city's own activities in the sector bounded by rue Saint-Urbain, rue Ontario, rue Sanguinet and boulevard René-Lévesque.

In May 2006, Ville-Marie borough commissioned a non-profit organization (NPO) to propose a revitalization strategy for the Quartier. In 2008 and 2009, the organization presented the city with three revitalization projects (2-22 rue Sainte-Catherine Est, the Quadrilatère Saint-Laurent and Saint-Laurent metro station) for the Quartier des spectacles sector development plan.

The city expropriated 2-22 Sainte-Catherine Est in the summer of 2006 and demolished the structure in February 2008 for safety reasons. On June 16, 2008, the City Council approved a draft long-term lease. Under its terms, the city would transfer this land to the NPO for 75 years at no charge to develop an arts and culture centre, if 75% of the rentable space is set aside for cultural purposes. On April 19, 2010, however, the City Council rescinded the long-term lease and approved a draft deed under which the city transferred the building without payment, because the developer wanted to turn the building into a condominium. The developer (an NPO) agreed to construct a structure of at least six stories worth \$12 million in terms of its construction

costs and tenant alterations. Construction was to be completed within 30 months of the deed's signing. Work began in May 2010. However, the developer construction in June 2010 while waiting for confirmation of the federal and provincial government grants that the building's future occupant-owners were supposed to receive.

To date, the NPO has signed deals to acquire 8 of the 10 businesses that were located on boulevard Saint-Laurent to develop a large mixed-use office and commercial project in the Quadrilatère Saint-Laurent, with Hydro-Québec expected to be the lead tenant. The city then began expropriation procedures to transfer ownership of the two remaining parties to a third party for construction of a building complex. On September 21, 2009, the City Council approved a development agreement between the city and the developer's property fund to proceed promptly with the acquisition of properties covered by this project. Following a challenge by an owner, however, the expropriation procedure is awaiting for a Superior Court hearing so that the parties can be heard. Construction work had not, accordingly, begun as of April 30, 2010.

The Council approved the NPO's draft offer to purchase the property around the Saint-Laurent metro station. The organization plans to develop a cultural property project at an estimated cost of \$35 million. This offer, however, lapsed on May 31, 2010.

## 2. AUDIT SCOPE

This audit seeks to ensure that the city's approach to project development has been clearly defined and has been consistent with current laws and regulations. We also considered if appropriate controls were in place and if all activities were properly documented.

Our audit focused on the steps taken to develop and revitalize the following three projects in the Quartier des spectacles:

- 2-22 rue Sainte-Catherine Est.
- Quadrilatère Saint-Laurent.
- Saint-Laurent metro station.

We studied documents that were submitted to the authorities pertaining to the approval of different efforts involved in the implementation of these three projects and the existence of control mechanisms concerning such factors as:

- Planning of the three projects.
- Partner responsibilities promoting sound management of the three projects.

- Legal considerations with respect to a land bank and the expropriations.
- Establishment of fair market value for purchasing properties and buildings through expropriation (2-22 rue Sainte-Catherine Est and Quadrilatère Saint-Laurent projects).
- Public hearings and amendments to urban planning regulations regarding implementation of these projects.
- Grants and authorization of the Ministère de la Culture, des Communications et de la Condition féminine (MCCCF).
- Accountability reporting.

Our audit primarily covered 2005 to the present (June 2010). It was conducted in Ville-Marie borough, at the Service de la mise en valeur du territoire et du patrimoine (SMVTP), the Service du développement culturel, de la qualité du milieu de vie et de la diversité ethnoculturelle (SDCQMVDE) and the Service des affaires corporatives.

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

#### **3.1. DEVELOPMENT AND REVITALIZATION PROJECT PLANNING**

On March 24, 2004, the Executive Committee directed the Société de développement de Montréal (SDM) to set up and obtain approval for a short- and medium-term property strategy, alongside the city's own activities, in the sector bounded by rue Saint-Urbain, rue Ontario, rue Sanguinet and boulevard René-Lévesque.

By September 2004, documents pertaining to the detailed Quartier des spectacles planning section of the Development Plan set out such general strategies such as:

- Promotion and support for centres for the creation, production and dissemination of cultural works.
- Stimulation of property development and development of vacant lots.
- Support for a diversified residential presence in Faubourg Saint-Laurent.
- Uninterrupted continuation of activities along rue Sainte-Catherine.

##### **3.1.1. AWARD OF THE PROJECT PLANNING CONTRACT**

###### **3.1.1.A. Background and Findings**

In May 2006, the mayor of Ville-Marie borough asked an NPO to propose an urban revitalization strategy for boulevard Saint-Laurent between rue Sainte-Catherine and boulevard René-

Lévesque in line with the then-current strategy for the Quartier des spectacles (prior to formulation of the Quartier des spectacles Special Planning Program [SPP] in June 2008). This three-month, \$20,000 project was to begin by providing the city administration with an assessment of the site and a report including recommendations for the use and development of converted or acquired land and buildings. The NPO was supposed to work closely with the SMVTP and the SDM. The SMVTP had launched a land bank in late 2005 for properties on the southeast corner of boulevard Saint-Laurent and rue Sainte-Catherine. In August 2006, this NPO produced a revitalization plan that was to be deployed over three to five years.

**FINDING**

**Our review of the documents demonstrates that the contract for developing an urban revitalization project on this section of boulevard Saint-Laurent was awarded to this NPO based on correspondence dated May 16, 2006, and signed by the Ville-Marie borough mayor.**

Under section 52 of the *Cities and Towns Act* (C.T.A.), a borough mayor exercises “the right of superintendence, investigation and control over all departments and officers or employees of the municipality or borough and especially shall see that the revenue of the municipality or borough is collected and expended according to law, and that the provisions of the law and all by-laws, rules and regulations of the council are faithfully and impartially enforced. He shall lay before the borough council such proposals as he may deem necessary or advisable, and shall communicate to the council all information and suggestions relating to the improvement of the finances, cleanliness, comfort and progress of the municipality” (borough). This section makes absolutely no mention of any contract-awarding authority of the mayor. However, “in case of irresistible force that would imperil the life or health of the population,” a borough mayor “may order any expenditure deemed necessary and award any contract necessary to remedy the situation” of a borough, under section 573.2 of the C.T.A. “[T]he mayor must make a report . . . to the council at its next sitting.” We do not believe that the circumstances under which a contract was awarded to an NPO to propose a revitalization strategy in this case can be likened to an emergency.

**3.1.1.B. Recommendations**

**We recommend that Ville-Marie borough ensure that contract awards comply with tendering rules set out in the *Cities and Towns Act*.**



#### **3.1.1.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] “The borough has upgraded its ability to monitor procurement, acceptance and supplier payment activities, particularly in terms of the separation of duties concept and the Cities and Towns Act, pursuant to the internal control committee established in 2009.” (Planned completion: May 2009)*

### **3.1.2. ACCEPTING SUBMISSIONS FOR PROJECT DEVELOPMENT**

#### **3.1.2.A. Background and Findings**

The intersection of rue Sainte-Catherine and boulevard Saint-Laurent is clearly one of Montréal’s key nerve centres. It is “the gateway” to the Quartier des spectacles and is a strategic location requiring its own significant architectural input.

The development of an SPP for the Quartier des spectacles in 2007 and its adoption on June 16, 2008 by the City Council to cover the “Place du Quartier des spectacles” makes that document the municipal reference for designing and developing the Place des Arts sector of the Quartier des spectacles. The SPP establishes a general framework that provides guidance to those involved in the development process and sets out regulatory criteria for land-use designation and occupation density.

This improvement to the city’s Master Plan also marks the launch of a variety of projects aimed at revitalizing the sector and maintaining and expanding its cultural function.

The 2-22 rue Sainte-Catherine Est project grew out of extensive consultation with all partners involved in the revitalization of boulevard Saint-Laurent and rue Sainte-Catherine. Local stakeholders, such as the Corporation de développement urbain du Faubourg Saint-Laurent, the Table de concertation du Faubourg Saint-Laurent and members of the Partenariat du Quartier des spectacles, also worked closely on this effort.

The developer submitted a request for project approval to Ville-Marie borough on March 10, 2009 so that it could launch the project. At the same time, the developer proposed two other construction projects (the Quadrilatère Saint-Laurent and the Saint-Laurent metro station projects) in the same area of the borough.

Applications for the 2-22 rue Sainte-Catherine Est and the Quadrilatère Saint-Laurent projects were submitted by the City Council to the Office de consultation publique de Montréal (OCPM) in April 2009 so that the OCPM could hold a public hearing under the CTA. Public hearings on

these two projects provided opportunities for various members of the public to comment on such issues as the overall planning and approval of these revitalization project sites.

Following these public hearings, the OCPM submitted two reports to Montréal's mayor and the Chair of the Executive Committee, on July 27, 2009. One report dealt with 2-22 rue Sainte-Catherine Est and the other with Quadrilatère Saint-Laurent project. The OCPM presented its analysis of the two projects, taking into consideration the information provided during the public meetings as well as comments and suggestions from participants. The OCPM expressed some reservations about the planning of these two projects along with recommendations.

We have reviewed the two public hearing reports, and there was no doubt among participating members of public, the city or the OCPM about the need to revitalize the rue Saint-Catherine and boulevard Saint-Laurent sector. However, the OCPM concluded: *[TRANSLATION] "The project schedule will have to be more flexible so that the Quadrilatère Saint-Laurent project, which will have a major structural impact on a cornerstone of Montréal life, can move forward."*

The proposed projects are designed to help revitalize sector, in line with the SPP plans for the Quartier des spectacles. These projects must also fit into a complex social environment.

**FINDING**

**We have observed that several changes to the SPP (maximum building height and building density) must be made in the Quadrilatère Saint-Laurent project to meet the project's construction standards. The architectural adaptation and historical treatment of the 2-22 rue Sainte-Catherine Est and Quadrilatère Saint-Laurent projects, which are located within the Monument National protected area, must correspond with that of this heritage district. More detailed planning for this area, in accordance with specific project evaluation guidelines, is needed to ensure compliance with existing criteria.**

Municipal policies specific to the sector will provide clearer guidelines for developers seeking to invest there. Its cultural landscape and historical heritage must play roles in the sector's revitalization process, considering the importance of rue Sainte-Catherine and boulevard Saint-Laurent as historic districts.

**FINDING**

**We also noted that the city (SMVTP) did not seek proposals from developers for the development of the public property at 2-22 rue Sainte-Catherine Est and Saint-Laurent metro station, choosing instead to award the contract to launch the revitalization of the sector by private agreement with the same NPO.**

The city administration has asserted its right to do business in this manner with NPOs and is compliance with the CTA in so doing. However, a call for proposals from other developers would have served to permit comparison with other revitalization projects for developing this area and would have provided city and Ville-Marie borough administrators with other concepts and initiatives to consider.

**3.1.2.B. Recommendations**

**We recommend that the Direction du développement économique et urbain of the Service du développement et des opérations ensure that the Quadrilatère Saint-Laurent project meet the terms of the Special Planning Program so that it complies with the regulatory requirements pertaining to a developer.**

**We recommend that the Direction stratégies et transactions immobilières of the Service des immeubles et des systèmes d'information promote the use of calls for proposals to develop public lands to develop projects that more closely correspond with decision makers' expectations. A rationale should appear in the executive summary if this procedure cannot be applied.**

**3.1.2.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] "A working subcommittee tasked to translate these requirements and their method of implementation will be set up as part of a joint coordination mechanism for large projects pairing the DDEU (Direction du développement économique et urbain) and Ville-Marie borough. This mechanism for consultation between central city administration and the borough was initiated during the fall of 2010. Its role includes facilitating the management of major projects through transparency in decision-making, effective communication and regular meetings. The committee will also consider issues of common interest for major projects."*  
**(Planned completion: September 2011)**

*[TRANSLATION] "The DSTI (Direction stratégies et transactions immobilières) generally favours public calls for proposals for the sale of city land. Attaining specific development goals requires*

*occasional recourse to private sales. This was the case of the 2-22 Sainte-Catherine Est transaction, for example, in which a public call for proposals could not have accommodated the project's cultural development goals.*

*We will carefully document such situations when they arise in their decision records.*

*Public calls for proposals will continue to be employed for most transactions.” (Planned completion: June 2010)*

#### **3.1.2.D. Auditor General's Comments**

**We consider that the 2-22 rue Sainte-Catherine Est project is a priority in terms of Quartier des spectacles development projects. A public call for proposals to developers that includes such cultural development requirements as architectural and historical considerations could allow decision-makers to choose the project that would best fit into this heritage area. Several changes to the SPP were particularly important in terms of meeting project implementation conditions.**

### **3.2. FINANCIAL VIABILITY STUDY**

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

In 2006, the city established an investment fund with plans to contribute \$60 million into it annually for three years to ensure implementation of such major projects as the Quartier des spectacles. This new investment strategy would provide the city with a financial tool for actively contributing to the growth of its property value while meeting its economic concerns, as part of the Imagining—Building Montréal 2025 and the Success@Montréal development strategies.

This fund was established to allow the city to invest in projects providing significant financial returns, while addressing the socio-economic and organizational implications of the selected projects.

Three principles govern the creation of a separate fund allocation under the traditional Three-Year Capital Works Program (TCWP):

- The city wishes to invest in projects with high projected property taxes.
- The city wants to acquire a system of funding that will gradually finance major project investment on its own.

- City investments are intended to ensure three years of uninterrupted funding for investments committed to major development projects.

The city created a project analysis and investment process to set investment priorities essentially involving two stages of analysis:

- Assessment of financial returns.
- Environmental impact assessment

A preliminary financial analysis as of October 30, 2006 was conducted as part of the budget planning process (TCWP 2007–2009) to provide a general idea of the relatively long-term tax revenues that the Quartier des spectacles' Quadrilatère Saint-Laurent project would generate. No specific official criteria were required at that time for assessing profitability or priorities. The Service des finances and the SMVTP established financial criteria for the investment fund, however, in the 2007 Budget.

Investment projects must demonstrate their financial viability to the city in terms of net surplus tax income to be selected. Indicators of this projected performance include the required investment payback period of no more than 10 years and the requirement for a positive net present value (NPV) based on the projected internal rate of return (IRR). Each project's impact on the city's external and internal environments must also be considered to ensure a proper fit.

We obtained the October 30, 2006 study on the financial analysis of the complete Quartier des spectacles project from the Direction de l'analyse financière et de l'administration of the SMVTP as part of our audit. This study of the cash flow generated by the project reveals:

- NPV (net present value): \$235.8 million.0
- Payback period: six years (number of years before the cumulative discounted cash flow will turn positive).

A second study was conducted in 2010. Comparisons between the two profitability studies (2006 and 2010) are complicated, however, because the project was redefined using different factors affecting both content and area covered. The zone targeted by the 2007 SPP (Place des Arts area only) is not the same as that of the 2006 financial feasibility study. Economic conditions have also changed significantly over the past few years.

Although it is not possible to compare it with the analysis used in the TCWP 2007-2009 budget preparation, the new analysis for the Place des Arts sector presents a positive NPV with a maximum five-year payback period.

Financial viability studies were conducted for two of the three development projects chosen as part of our audit: 2-22 rue Sainte-Catherine Est and the Quadrilatère Saint-Laurent. No study was done for the Saint-Laurent metro station since no development project had been drawn up. However, a financial analysis of all Quartier des spectacles projects must provide a basis for assessing overall impact on the investment fund.

The results demonstrated that, unlike the Quadrilatère Saint-Laurent project, 2-22 rue Sainte-Catherine Est does not on its own meet criteria for inclusion in the investment fund.

**FINDING**

**We have also determined that the authorities made critical decisions with respect to these projects before they knew the results of completed or planned viability studies.**

**For example:**

- **On June 16, 2008, the City Council approved a promise to conclude a long-term lease in which the city pledge to transfer a property at 2-22 rue Sainte-Catherine Est to an NPO for 75 years, although though the financial viability study was only completed on April 17, 2009.**
- **On September 21, 2009, City Council approved a draft development agreement between the city and an NPO for the Quadrilatère Saint-Laurent project without having received the financial viability study completed on September 15, 2009.**

It should be noted that the overall Quartier des spectacles projects met criteria for inclusion in the investment fund, based on the financial viability study conducted in October 2006, which covered the three audited projects.

**FINDING**

**Although the Quartier des spectacles project has evolved over the past four years, this financial viability study has only been updated once to take into account decisions that would have a great impact on the project. A further update would allow us to assess whether or not the project's established goals will permit its overall viability and to provide the authorities with information on how specific projects will influence the Quartier des spectacles as a whole.**

### 3.2.B. Recommendations

To monitor monetary flows resulting from project development and keep authorities informed as to the effects of decisions, we recommend that the Direction de l'analyse financière et de l'administration du Service du développement et des opérations:

- Communicate the selected projects' financial viability analyses to the authorities prior to their approval.
- Regularly produce and communicate financial viability analysis for the entire Quartier des spectacles project to the authorities when major events occur.

### 3.2.C. Action Plan of the Relevant Business Unit

- *[TRANSLATION] "The Urban Agglomeration Council adopted a municipal asset management program and project governance framework (GDD 1104544002, CG10 0158) in April 2010. This governance framework covers large-scale projects and municipal asset management programs.*

*The administrative rules of this governance framework consist of seven guiding principles. Under these principles, units responsible for projects and programs must prepare or update their respective business cases in view of decision points. These updates include:*

- *Risk and opportunity analyses.*
- *Forecasts of project revenues and benefits.*
- *Financial viability analysis.*
- *Potential funding sources.*
- *Study of deviations from the basic business case.*

*The process has, accordingly, been officially approved already. The administration should not make any decisions with respect to decision points without first considering the business case, as stipulated in the governance framework.*

- *Reports will be periodically generated (with TCWP budget evolution) to reflect changes in a project's overall financial status. Furthermore, an updated financial analysis must be included in any project's GDD if an important financial event is reported during the project that requires a decision by the administration." (Planned completion: April 2010)*

### 3.3. PROPERTY EXPROPRIATION AND TRANSFER

The SMVTP's Direction de la planification stratégique et du soutien began to consider transforming and developing the Quartier des spectacles in October 2005. This undertaking sought to define appropriate strategies and actions for revitalizing this sector. Measures were taken at the start of planning to preserve and protect important sites harbouring potential that could be impaired by activities inconsistent with project goals. The city accordingly placed two sites on the southeast corner of rue Sainte-Catherine and boulevard Saint-Laurent in a land reserve. Moreover, the SDM was asked on March 24, 2004 to participate in the sector's property development. However, the SDM's attempts to negotiate purchases have been unsuccessful.

#### 3.3.1. 2-22 RUE SAINTE-CATHERINE EST PROJECT (EXPROPRIATION)

##### 3.3.1.A. Background and Conclusion

The SMVTP's Division expertise et évaluation immobilières estimated that the potential purchase price of properties targeted by the reserve was some \$1.7 million as at October 24, 2005. A recommendation was made at the City Council meeting of November 29, 2005 that the city's Direction du contentieux be tasked with following through on these purchases.

However, the condition of properties targeted by the land was adversely affecting the status of the sector's buildings and businesses. In April 2006, the SMVTP's Direction stratégies et transactions immobilières estimated a potential purchase price for budgetary purposes of these properties at approximately \$1.9 million. The City Council authorized the SMVTP on June 19, 2006 to keep this \$1.9 million available as compensation for the expropriated owners and to deposit with the Superior Court, at the request of the Direction du contentieux, the provisional compensation set out under the *Expropriation Act*. This expropriation pertained to a building with five registered business leases and a vacant lot.

In February 2008, the building was demolished because the SSIM ruled that it was unsafe and unfit for occupancy.

An out-of-court settlement with the owner ultimately approved final compensation of \$2,150,000 for the 2-22 rue Sainte-Catherine Est parcels on May 6, 2008. Both parties signed this deal and the City Council approved the settlement on August 25, 2008.



We obtained the chartered appraiser's report of June 19, 2008 on this property, which offered a favourable opinion on this settlement. The chartered appraiser considered the scarcity of large vacant lots, the presence of this lot in a busy downtown area and the sector's changing nature. The main features of the application zoning regulation are:

- Permitted height: from three to five stories.
- Maximum height: 16 metres (52.5 feet).
- Authorized density: six times the land area (potential surface area: 9,869.7 square feet).

The chartered appraiser considered in his assessment of market value that the land was vacant and available for future development under zoning by-laws as at the date of the appraisal, as well as its best and most profitable use. Based on the foregoing statements, he appraised the market value of the properties under consideration at \$150 per square foot. The settlement, at the rate of \$165 per square foot, is 10% higher than the appraiser's assessment. However, the \$165 per square foot rate represents a better-than 30% discount from the some \$2,465,400 (equivalent to a square foot rate of \$250) initially sought by the expropriated party.

### **Conclusion**

**The audit of the documents relating to the expropriation of property at 2-22 rue Sainte-Catherine Est demonstrated that the expropriation procedure was properly observed, that agreements between the city and the expropriated parties were approved by the City Council and that all pertinent information was forwarded to the Council.**

### **3.3.2. 2-22 RUE SAINTE-CATHERINE EST (ASSIGNMENT)**

#### **3.3.2.A. Background and Findings**

The same organization (NPO) has become the developer (NPO) of a cultural project aimed at creating a symbolic and visual point of reference for Montréal arts, shows and entertainment on the site of 2-22 rue Sainte-Catherine Est, in line with the development strategy cited in its August 2006 report on the Quartier's revitalization strategy.

The SMVTP's Direction stratégies et transactions immobilières declared in an internal announcement on November 10, 2006 that the city planned to transfer the property at 2-22 rue Sainte-Catherine Est without charge to an NPO for cultural purposes.

On June 16, 2008, the City Council approved a draft commitment to enter into a long-term lease. Under its terms, the city would transfer some 900 square metres (9,869 square feet) of land at the intersection of rue Sainte-Catherine and boulevard Saint-Laurent to a developer (the NPO) for 75 years to permit construction of an office building devoted primarily to arts and cultural enterprises, all without monetary consideration, on the condition that at least 75% of the total building space was set aside for cultural purposes. The terms included an agreement by the developer to complete the project within 24 months of signing the long-term lease and to construct a building of at least five stories and a value of some \$15 million for cultural purposes that complied with Leadership in Energy and Environmental Design (LEED) standards. The developer's budget for the 2-22 rue Sainte-Catherine Est building was based on construction costs of recently completed projects.

The financing package assumed that the NPO would contribute up to some 55% of the funding, with about 45% provided by public partners. The project's planned funding package is outlined in Table 1:

**Table 1—Financing Package**

<b>Participants</b>	<b>Amount</b>
The NPO's initial investment	\$4,500,000
Interim financing during construction	\$3,909,000
Municipal contribution (property)	\$2,000,000
Government of Québec contribution	\$2,500,000
Government of Canada Contribution	\$2,500,000
<b>Total</b>	<b>\$15,409,000</b>

The principles guiding formal design of 2-22 rue Sainte-Catherine Est were primarily based on the building's cultural function of serving as a showcase for the Quartier des spectacles.

We obtained the long-term lease and verified that the Direction du contentieux of the Service des affaires corporatives had approved the project and noted that the contract complies with the plan to conclude a long-term lease. We also reviewed the decision summaries accompanying the City Council resolution of June 16, 2008 with respect to the approval of the draft commitment conclude a long-term lease with an NPO. Finally, we confirmed with the Direction du contentieux that the long-term lease was genuine and checked the various clauses cited in the contract and the official signatures of the duly authorized legal entities dated December 16, 2008.

**FINDING**

**The project developer conducted a brief feasibility study of the proposed building's construction and appended it to the long-term lease. However, we noticed there were no studies or assessments identifying measures needed to meet objectives (market analyses, study of technically and economically feasible measures, project viability and the expectations of future building tenants).**

The feasibility study stated that the developer expected to receive financing from public sources of some \$7 million (\$2 million from the city, \$2.5 million from the Government of Québec and \$2.5 million from the Government of Canada) to follow through on the project. It planned to make up the difference (\$8.4 million) between the total cost of the building and its actual value with a special rental structure benefitting artists and cultural businesses.

**FINDING**

**Investor participation in this \$8.4 million was not, however, sufficiently substantiated by this study.**

The developer sent a letter to the SMVTP's Assistant Director General on October 15, 2009 to discuss changes to the long-term lease that would allow sales of divided shares of the property to different owners. The developer asked the city to change the financial and legal structure of the project and indicated that the long-term lease was not an effective vehicle for the project as originally defined and in view of the required financing. The City Council was accordingly obliged to terminate the long-term lease on April 19, 2010 because of funding problems and partner concerns as to project implementation.

**3.3.2.B. Recommendations**

**To ensure partner interest in the financing package, we recommend that the Direction stratégies et transactions immobilières of the Service des immeubles et des systèmes d'information require developers to provide:**

- **A complete and detailed feasibility study to support the investments needed to develop their projects as outlined in the agreements.**
- **A confirmation of project financing from public and private sector partners.**

### **3.3.2.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] “Planned investments in projects involving building transfers usually depend on a feasibility study. The city, however, ensures project completion through a cancellation clause whereby it ownership of the transferred land reverts to it if the developer defaults on such obligations as investment in the property.*

*We lack adequate in-house resources to obtain full confirmation of funding by public and private partners. We believe that the city’s ability to repossess the property in the event of project non-completion is a sufficient guarantee.*

*The DSTI does not accordingly have to monitor the frequent changes in the share ownership of our buyers and constant changes in financial partners.” (Planned completion: June 2010)*

### **3.3.2.D. Auditor General’s Comments**

**As stated in our recommendation, we urge that the DSTI require, in addition to a cancellation clause, that the developer provide a detailed and complete feasibility study to support the necessary investments.**

**The developer must also provide confirmations of financial contributions from its partners to demonstrate their commitment and their conviction that the project will materialize. The cancellation clause will only serve in the last resort, when there is no further basis for agreement.**

## **3.3.3. 2-22 RUE SAINTE-CATHERINE EST PROJECT (COMPLIANCE OF THE PLANNED CONSTRUCTION)**

### **3.3.3.A. Background and Findings**

To continue with the project following termination of its long-term lease, it was necessary to transfer full and absolute ownership of the property at 2-22 rue Sainte-Catherine Est to a limited partnership in which the sole general partner was the same project developer (NPO). The developer promised, in a notarized transfer deed approved by City Council on April 19, 2010, to construct an LEED-complaint building of at least six stories worth some \$12 million in terms of its construction costs and tenant alterations.

Ville-Marie borough’s Direction de l’aménagement urbain et des services aux entreprises of Ville-Marie borough prepared an executive summary for the borough’s elected officials regarding the

adoption of a resolution on April 12, 2010 concerning construction of a commercial building at 2-22 rue Sainte-Catherine Est.

**FINDING**

**Information on the project's financial aspects demonstrate, however, that construction costs would total some \$9 million, although the April 19, 2010 transfer deed required the developer to construct a building worth some \$12 million in terms of its construction costs and tenant alterations.**

We could not obtain a breakdown of the building's construction costs during the audit, so we could not reconcile the \$3 million difference between the information revealed in the executive summary prepared for the elected representatives of Ville-Marie borough and the transfer deed.

The ownership agreements must be submitted in advance to the Direction du contentieux to ensure that the city is satisfied with the provisions and that they do not dilute requirements pertaining to the building's cultural purpose. The developer agreed to sell or lease at least 75% of the building's rental space to cultural businesses for a minimum period of 30 years following the conclusion of the transfer deed between the city and the developer. The contract contains a cancellation clause to ensure that the developer meets these conditions.

With the assistance of a notary from the Direction du contentieux, we reviewed the long-term lease's cancellation agreement, the draft deed for transfer of the property by the city to the developer, the prerequisites for approval by the city of a "designated purchaser" and the terms and conditions of the mortgage security prepared by the designated purchaser in favour of the city. The Direction du contentieux received written confirmation from the developer's legal advisor that the administrators concurred with these draft deeds and schedules and that the developer was committed to signing them without modification.

We also reviewed the positive comments on these transactions from the following business units:

- The SMVTP's Direction de l'analyse financière et de l'administration.
- The SMVTP's Direction stratégies et transactions immobilières.
- The SDCQMVDE's Direction générale adjointe.
- The SMVTP's Direction de l'aménagement urbain et des services aux entreprises (DAUSE).

Our review of the various documents pertaining to the agreements demonstrated that they had been approved by the authorities and parties concerned.

#### FINDING

Work on this project began in May 2010. However, we observed that several factors must be taken into consideration to ensure its completion. These factors include:

- Implementation of the new project according to the conditions of the transfer agreement within 30 months of the contract's signature.
- Municipal authorization of the project's architectural changes in view of the sector's heritage status; furthermore plans for these changes must comply with existing laws and regulations and must be certified by professional architects.
- The building's construction costs, taking into consideration the financial capacity of future renters or owners, 75% of which will be active in the cultural sector.
- Requirement for maintaining this cultural function for 30 years after signing.
- Compliance with SPP guidelines for the Quartier des spectacles.
- Compliance with construction industry standards for sustainable development (LEED certification).
- MCCCCF grant authorization.

#### 3.3.3.B. Recommendations

We recommend that the Direction du développement économique et urbain of the Service du développement et des opérations ensure, in conjunction with Ville-Marie borough, ensure that the information in the executive summary on the construction of a building (at 2-22 rue Sainte-Catherine Est) complies with the terms of the transfer deed approved by the City Council on April 19, 2010.

#### 3.3.3.C. Action Plan of the Relevant Business Unit

*[TRANSLATION] "The project manager is responsible for a project's management process and ensures compliance with terms of the transfer deed (or the proposal to and acceptance by the authorities concerned of a contingency plan). Project management with Ville-Marie borough is has been facilitated now that the DDEU-borough coordinating committee is in place.*

#### Actions

- Prepare a regular follow-up report on the work's progress, with particular focus on transfer deed requirements.
- Present a contingency plan with respect to the 30-month construction period." (**Planned completion: March 2011**)

### 3.3.4. QUADRILATÈRE SAINT-LAURENT PROJECT (EXPROPRIATION)

#### 3.3.4.A. Background and Findings

On September 21, 2009, the City Council approved a development agreement with the developer to proceed promptly with the acquisition of the properties targeted by the Quadrilatère Saint-Laurent project. Under the agreement, acquisitions made by the city through a private sale or expropriation would be subsequently transferred to the developer. Property transactions between the city and the developer would be at no cost to the city, since the developer would purchase the property when taking possession of it, by paying the total cost of the expropriation, including eventual damage costs and all expenses incurred by the city. The developer would also assume the cost of demolishing the buildings and of all risks relating to land contamination. Finally, the developed would pledge to provide the city with a letter of credit from the bank guaranteeing payment of the total price for the properties concerned.

We confirmed with the Division du droit fiscal, évaluation et transactions foncières that the expropriation process consisted of the following procedures:

- A notice of expropriation was delivered by bailiff to the owners of the buildings on October 9, 2009.
- A notice of expropriation was published at the Bureau de publicité on October 16, 2009.
- Notification to tenants was sent on October 27, 2009.
- The city received notification of a motion to quash and contest its right to expropriate the property on November 9, 2009.
- The Direction du contentieux filed its defence with the Superior Court and served it on the opposing party on December 21, 2009.

On April 15, 2010, the Division du droit fiscal provided us with the market value of the property prepared by a firm of chartered appraisers, accompanied by proof of an irrevocable and unconditional letter of guarantee issued by a banking institution to cover all of the developer's acquisition costs.

The parties were awaiting a Superior Court hearing on the expropriation procedure as of April 22, 2010.

The principal tenant in this project was expected to be Hydro-Québec. Hydro-Québec had, in a May 2008 letter of intent, expressed its interest in leasing 300,000 square feet of space.

**FINDING**

In December 2009, due to such issues as delays caused by the expropriation procedures, Hydro-Québec downgraded its requirements to 100,000 square feet. The individuals we met said that delays caused by these proceedings could undermine the initial rental scenario and the developer might have to find new tenants.

**3.3.4.B. Recommendations**

We recommend that the Direction du développement économique et urbain ask the developer about this project's progress and the importance of developing alternatives in the event that the initial scenario is not feasible.

**3.3.4.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] "Various scenarios for breaking the expropriation deadlock have been considered. The Direction du développement économique et urbain in conjunction with the Direction des services juridiques of the SDO and Ville-Marie borough instituted technical studies in October 2010 to explore the various regulatory options for amending the by-law in question to permit completion of the project in phases." (Planned completion: the city is currently continuing to explore development scenarios for the site [February 21, 2011]. There will be quarterly follow-ups on this project.)*

**3.3.5. SAINT-LAURENT MÉTRO STATION PROJECT (LAPSED OFFER TO PURCHASE)**

**3.3.5.A. Background and Conclusion**

The city has for several years wanted to have a cultural project on this site that would prove a good fit with the Quartier des spectacles. In September 2007, the SMVTP's Division du développement urbain produced a document entitled *Balises de développement pour le terrain du métro Saint-Laurent*. Its guidelines included a stipulation that project density must approach the maximum permitted by the Master Plan, since the open space ratio (OSR) will be increased to 9 under the current revision process.

The NPO submitted an offer in 2009 to buy this property and develop a cultural project.

On September 21, 2009, the City Council approved the developer's draft offer to purchase a vacant lot at the corner of boulevard Saint-Laurent and boulevard De Maisonneuve in Ville-Marie borough for the sum of \$2,872,275, based on a unit rate of \$25 per square foot for each OSR unit and a minimum OSR of 6 (basic OSR).



The property was valued at \$1,726,900 on the 2007-2009 assessment roll. We have reviewed the external assessment report dated January 22, 2008 that set the property value at \$2,730,000. This value was established using an OSR of 6. However, in adopting the Quartier des spectacles SPP, the Master Plan and zoning regulations were changed to increase this property's density to an OSR of 9.

### **Conclusion**

**The developer had not submitted a request to the Direction de l'aménagement urbain et des services aux entreprises of Ville-Marie borough for regulatory permission to develop a property project as of May 31, 2010, the date on which the draft offer to purchase the building made by the developer expired.**

## **3.4. PUBLIC HEARING ON PROJECT IMPLEMENTATION**

### **3.4.A. Background and Conclusion**

The OCPM was created under section 75 of the Charter of Ville de Montréal. The OCPM conducts public hearings pertaining to the city's various areas of authority, particularly for urban development and land planning projects and all other projects designated by the Council or the Executive Committee. This agency is independent and members are not elected representatives or municipal employees.

Under the Charter of Ville de Montréal, the OCPM holds public hearings on all by-laws adopted by the City Council pertaining to projects pertaining to recognized or classified cultural properties and historic monuments designated under the *Cultural Property Act* or to projects planned for a historic borough or a heritage site as defined in this *Act*.

On April 28, 2009, the City Council directed the OCPM to hold a public hearing on the 2-22 rue Sainte-Catherine Est and Quadrilatère Saint-Laurent projects. The Saint-Laurent metro station project was not referred to the OCPM because the administrative process involved in project implementation was not sufficiently advanced.

Implementation of these projects requires changes to the city's Master Plan companion document and one project must be adopted under Ville-Marie borough's *By-law concerning special projects regarding the construction, modification or occupation of a building*.

Furthermore, the projects were submitted in accordance with current regulations to Ville-Marie borough's Comité consultatif d'urbanisme (CCU), to the city's ad hoc Comité d'architecture et d'urbanisme (CAU) and to the Conseil du patrimoine de Montréal (CPM).

Hearings were publicly announced on May 6, 2009 and advertisements appeared in daily newspapers that day and the next.

These hearings comprised two components. The first was a general information session about the proposed project and its regulatory framework. In this case, some topical information sessions were held on the project's social implications, its architectural concept and its integration into the urban landscape. Resident opinions and submissions were presented in the second part.

The OCPM then reviewed the information and opinions presented at these hearings in the second component. The OCPM issued two reports on July 27, 2009, with one on the 2-22 Sainte-Catherine and the other on Quadrilatère Saint-Laurent.

The report on 2-22 rue Sainte-Catherine Est stated that it was favourably viewed by most of its stakeholders and had received enthusiastic support from the cultural sector. Some misgivings were expressed with respect to the architectural proposal (concept), the building's height and the structure and treatment of its facades (in keeping with local history). The OCPM issued a recommendation supporting the project. The OCPM also stated that the proposed building complies with its intended use and that the request for exemption from the sector's height restriction was justified. However, the OPEC recommended that the architectural adaptation of the building façade be more expressive and be developed in closer keeping with the history of the Saint-Laurent and Sainte-Catherine intersection.

The report on Quadrilatère Saint-Laurent stated that the large majority of public hearing participants expressed different opinions as to project's architectural adaptation, but not as to its relevance. Participants generally considered the project concept from a heritage perspective or in terms of a smoother integration of the structure within the urban setting.

The OCPM's report presents nine recommendations for various aspects of the developer's proposal.

The OCPM ultimately stated that the project was too vast to be subjected to such tight deadlines and that some flexibility should be included in the completion schedule to permit the evolution of a project that will have a considerable structural impact on one of Montréal's key sectors.

The OCPM emphasized that the project needs to evolve and will benefit from additional work, particularly with respect to its integration into a complex and iconic sector of Montréal.

### **Conclusion**

**The OCPM sent its public hearing reports on 2-22 rue Sainte-Catherine Est and Quadrilatère Saint-Laurent to the Mayor of Montréal and the Chair of the Executive Committee on July 27, 2009 and were publicly disclosed on August 10, 2009. These reports presented a number of recommendations.**

### **3.5. REGULATORY PARAMETERS AND EXEMPTIONS**

Montréal's Master Plan, which the City Council adopted on November 22, 2004, established 26 detailed planning sectors, including the Quartier des spectacles, across Montréal. These sectors represent parts of the city presenting major and complex issues that required additional consideration and new urban planning studies subsequent to the Plan's adoption. Ville-Marie borough accordingly launched in-depth planning for the Quartier des spectacles by commissioning an external firm in March 2007 to develop an SPP for the Place des Arts area of the Quartier des spectacles. The SPP serves as tangible support for economic development efforts by the city and by Ville-Marie borough in this sector. On June 16, 2008, City Council adopted the *By-law modifying the Master Plan* to include the Place des Arts sector of the Quartier des spectacles SPP in the Master Plan. Ville-Marie borough adopted the concordance by-law of the *By-law amending the Urban Planning By-law for the Ville-Marie borough* during its council meeting on December 2, 2008.

One of the SPP's goals is to maintain and develop cultural functions in the Quartier des spectacles. However, these three revitalization projects deviate from the Master Plan, which falls under City Council jurisdiction and the *Urban Planning Bylaw of the Borough of Ville-Marie*.

### 3.5.1. 2-22 RUE SAINTE-CATHERINE EST PROJECT

#### 3.5.1.A. Background and Conclusion

The developer filed a request for regulatory authorization for this project with Ville-Marie borough on March 10, 2009. The proposed 2-22 rue Sainte-Catherine Est project is one component of the Quartier des spectacles' SPP. However, it deviates somewhat from the Master Plan (City Council jurisdiction) with respect to:

- Height: the building would be 33.5 metres high, although the city's Master Plan allows for a maximum height of 25 metres. The Master Plan must be amended to add a new zone with a maximum height of 44 metres, corresponding to the limit of the next higher category, if the project is to be implemented.
- Maximum building density: 6.3 for the project, although the Master Plan allows a maximum of 6.0.

Examples of how the project also departs from Ville-Marie borough's [TRANSLATION] *Planning By-law* follow:

- Maximum height in stories and metres: the planned building would be eight stories and 33.5 metres, although official limits are five stories and 16 metres.
- Maximum construction density: the project is designed for 6.3, although the official maximum is 6.0.
- Number of parking spaces for cars: the project does not provide for any space, although a minimum of 11 is required.
- Number of parking spaces for bicycles: the project does not provide for any, although a minimum of 12 is required.

Because of the kinds of the variances requested (special construction project and amendments to the Master Plan's supplementary document), the following advisory bodies gave opinions in the matter:

- CPM (Conseil du patrimoine de Montréal), at its March 30, 2009 meeting
- CCU (Comité consultatif d'urbanisme) at its April 2, 2009 meeting
- CAU (Comité ad hoc d'architecture et d'urbanisme), at its April 3, 2009 meeting

These agencies issued favourable opinions for the height exemption, since the proposed building's model blends well with its surroundings. However, they believe that the architectural adaptation must be revised in view of the highly commercial nature of the sector, the surrounding architecture and boulevard Saint-Laurent's importance as a historic district.

On April 28, 2009, City Council adopted the draft regulation entitled *By-law modifying the Montréal Master Plan* and will submit the matter to the OCPM so that the latter can hold the required public hearing under the Charter of Ville de Montréal to amend Ville-Marie borough's building height map.

The OCPM held public hearings on this draft by-law in May and June 2009, as appears in its report of July 27, 2009.

On August 25, 2009, City Council adopted the by-law entitled *By-law modifying the Montréal Master Plan* to include the amendments of Ville-Marie borough's building height map in its companion document.

On September 1, 2009, the Ville-Marie borough council stated that it had not received a request for a referendum. In accordance with the plans prepared and submitted on August 18, 2009 by the project architect, the borough council granted its authorization for an exemption from the *Urban Planning By-law for Ville-Marie borough*.

The Direction de l'aménagement urbain et des services aux entreprises issued the construction permit for the new building on October 23, 2009.

## **Conclusion**

**We reviewed the requests for required exemptions from the *Urban Planning By-law for Ville-Marie borough* to permit construction of the 2-22 rue Sainte-Catherine Est project and we have verified compliance with *Act respecting Land Use Planning and Development* and Charter of Ville de Montréal procedures (opinions of the CCU and public hearings conducted by the OCPM and the borough, referendum approval, respective areas of jurisdiction of the city and borough councils).**

On February 22, 2010, the developer submitted a request to Ville-Marie borough to authorize the changes to the Special Planning Program previously approved by a borough council resolution on September 1, 2009. The request deviates from this resolution because the new plans propose the construction of a building with fewer stories and a different architectural style. The changes requested can be granted through the *By-law on specific construction, alteration or occupancy proposals for an immovable* if they comply with the by-laws standards and directives.

In its first reading of the resolution on April 12, 2010, the borough council approved changing the maximum height of the building under the September 1, 2009 by-law from 34 metres to 28 metres, including roof protrusions. The final vote on this change is scheduled for June 15, 2010.

The Ville-Marie borough planning calendar indicates that the request for a building permit will be filed on June 16, 2010.

### 3.5.2. QUADRILATÈRE SAINT-LAURENT PROJECT

#### 3.5.2.A. Background and Findings

The Quadrilatère Saint-Laurent site is identified on the Master Plan as a developed sector of great heritage value. In March 2009, the developer filed a request with Ville-Marie borough's Division de l'urbanisme to permit construction of a commercial building on the northwest part of the block bounded by boulevard Saint-Laurent, boulevard René-Lévesque, rue Clark and rue Sainte-Catherine. The project requires an exemption from Ville-Marie borough's *Urban Planning By-law* that can be allowed under procedure set out in section 89 of the Charter of Ville de Montréal. An amendment to the Master Plan is also required to adapt the site's allowed height and density restrictions. Such an amendment also requires the inclusion of a building purchase program in the Quartier des spectacles SPP to ensure the reparcelling of land needed for the project. The city may, in other words, have to expropriate properties that the developer has not been able to acquire.

Section 89 (Article 1, Paragraph 3) of the Charter allows the City Council to adopt a by-law to carry out certain projects despite any by-laws adopted by a borough council. The City Council can accordingly adopt a by-law permitting exemptions from certain provisions of the borough's urban planning by-law and preclude the application of other provisions of this by-law in this area. Furthermore, adoption of such a by-law is not subject to referendum approval. That is why provisions also require the OCPM to hold hearings if the City Council applies section 89.1 of the Charter of Ville de Montréal.

Construction of the Quadrilatère Saint-Laurent project requires such exemptions as:

- Open space ratio of 7.7 rather than 6.0 as set out in the Master Plan.
- Maximum height of 48 metres/12 stories instead of 16 metres/5 stories.
- Less than 80% masonry.
- More than 40% door and windows.

The rationale for the requested exemptions is based on the special situation of the site, the proposed urban integration measures and the objectives of the Quartier des spectacles' SPP (a pleasant, well-balanced and attractive neighbourhood).

The project was presented to three advisory bodies:

- The CPM, at its March 30, 2009 meeting.
- The CCU (Comité consultatif d'urbanisme), at its April 2, 2009 meeting.
- The Comité ad hoc d'urbanisme (CAU), at its April 3, 2009 meeting.

After receiving the comments from these organizations, the developer modified the project design by reducing the commercial space, reducing the height from 66 metres to 48 metres and transferring the overheight portion toward rue Sainte-Catherine and proposing solutions to the other concerns raised.

The OCPM held public hearings as stated in its report of July 27, 2009. The City Council took note of this report during its meeting of August 24, 2009. The draft by-laws were amended after these public hearings.

Following publication of the OCPM's report on August 10, 2009, the parties worked to enhance the project and certain improvements were proposed, particularly with regard to its total space, the preservation of heritage components and the occupancy and architectural adaptation of the first three stories.

On September 22, 2009, the City Council took note of the report from Ville-Marie borough's Direction de l'aménagement urbain et des services aux entreprises to address the proposed by-law amendments. The City Council adopted, with some changes to the draft that had been adopted on its first reading of April 28, 2009, a by-law entitled [TRANSLATION] *By-law authorizing the demolition and construction of a building on properties located on the southwest corner of the intersection of rue Sainte-Catherine and boulevard Saint-Laurent*. The proposed by-law now addresses the preservation and restoration of heritage buildings façades along boulevard Saint-Laurent in their original locations as well as maintenance of the heights of their original storeys when dismantled and a requirement to reproduce their façades. The prominence of the Monument-National is to be maintained by setbacks providing good clearance between the Monument-National and the highest part of the proposed building's mass.

**FINDING**

Details of the building's architectural adaptation are still awaited. The Ville-Marie borough council will, in accordance with its by-laws, conduct an architectural review of these issues, before issuing a building permit.

**FINDING**

Heritage issue guidelines are not clearly formulated and require studies to ensure the and inclusion of historic façades. Consistency of land use, architecture, design, development and public art in this sector would help future projects benefit from a sustainable approach to development incorporating high artistic content.

On September 22, 2009, City Council also adopted without amendment the by-law entitled *By-law amending the city of Montréal' Master Plan* to include the amendment of Ville-Marie borough's building-height map within its companion document.

We reviewed requests for exemptions made by the developer for the Quadrilatère Saint-Laurent project and have found that they are consistent with the provisions of:

- The Charter of Ville de Montréal.
- An *Act respecting Land Use Planning and Development* regarding approval for a project deviating from the planning by-law.
- Amendment to the Master Plan and to the Quartier des spectacles, Place des Arts sector's SPP.

**3.5.2.B. Recommendations**

We recommend that the Ville-Marie borough administration, in conjunction with the Direction culture et patrimoine of the Service du développement et des opérations, establish a development plan for this architectural sector that will ensure consistency in land use, architecture, design, development and public art, and will help ensure that future projects benefit from a sustainable approach to development incorporating high artistic content. This plan must be consistent with the city's Master Plan and Ville-Marie borough's *[TRANSLATION] Planning By-law*.

**3.5.2.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] "To ensure consistency in urban planning and respect for a sustainable vision of development for the targeted sector, the Direction de l'aménagement urbain et des services*



*aux entreprises of Ville-Marie borough initiated an innovative participatory process open to all with last May's Saint-Laurent'dez-vous. This event was a great success and was well received by the community and the 600 persons attending. A report on deliberations will be issued in October 2010 and will be accompanied by an action plan, in partnership with the Direction de la culture et du patrimoine of the Service du développement et des opérations. This action plan will include specific planning for the sector and will constitute a basis for discussion for the Master Plan revision work initiated by the Bureau du plan." (Planned completion: May 2010 to May 2011)*

### 3.5.3. SAINT-LAURENT METRO PROJECT

#### 3.5.3.A. Background

This project falls within the Quartier des spectacles development strategy for introducing cultural functions to the sector. The SPP, which was introduced and adopted by Ville-Marie borough, established new building density rules for the land in question and reflected a desire to change building density from 6 to 9. This agreement lapsed, however, on May 31, 2010.

### 3.6. GRANTS

The Government of Québec released its *Stratégie pour le développement de toutes les régions* [Strategy for the Development of all Regions] on February 20, 2007. A sum of \$140 million over five years was set aside in the Government du Québec's 2007–2008 budget to support the city's development.

The city's Executive Committee approved the draft memorandum of understanding between the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (MAMROT) and the city on March 31, 2008. The draft memorandum was designed to set conditions for MAMROT to grant financial aid to the city for projects the latter chooses under the "Imagining—Building Montréal 2025" development strategy. Furthermore, the Executive Committee directed the SMVTP on that same date to oversee implementation of this program. Under this memorandum of understanding, which expires on December 31, 2012, the city must invest the amounts paid to it by MAMROT in projects overseen by the Montréal administration or by NPOs. Eligibility criteria (project valued at more than the \$1 million minimum, investment of the entire amount paid by MAMROT in projects that do not benefit from any financial assistance from another government department except with prior approval from MAMROT, etc.), accountability reporting to MAMROT

(filing of programming listing projects to receive financial contributions under the memorandum) and a visibility protocol also apply.

We reviewed a guide formulated by the SMVTP on November 5, 2009 (revised on February 3, 2010) for optimizing the partnership process needed to oversee the \$140 million memorandum. The guide is also intended for city managers who are likely to help project supervisors in their efforts to obtain financial contributions from this budget allocation.

We also obtained a report of February 12, 2010 outlining the intended use of the \$140 million grant. This report stated, for example, that 2-22 rue Sainte-Catherine Est has received a financial commitment under the \$140 million memorandum to support the construction of a building for cultural purposes.

### **3.6.1. 2-22 RUE SAINTE-CATHERINE EST**

#### **3.6.1.A. Background and Findings**

2-22 rue Sainte-Catherine Est was added to the list of projects included in the “Imagining—Building Montréal 2025” developed strategy by a resolution of the Urban Agglomeration Council on August 28, 2008. On October 22, 2008, the Executive Committee approved the earmarking of maximum \$5 maximum contribution from the \$140 million budget allocation under the agreement with the Government of Québec for construction of a building for cultural purposes.

The developer’s financing package for the project presupposes that \$5 million of public funds, plus the land transferred by the city (a total value of some \$15 million), will be obtained to complete the construction project’s financing package.

This \$5 million reserve was formulated by the developer while arranging the financing package included in the long-term lease and signed by both parties on December 16, 2008. The amount of the grant was justified as offsetting the difference between the total cost of developing the building and its actual value in view of a rent structure targeting the needs of artists and cultural enterprises.

However, on April 19, 2010, the City Council cancelled the long-term lease between the city and the developer and approved a draft transfer of land under which the city transferred the property at 2-22 rue Sainte-Catherine Est to the developer.

**FINDING**

We have reviewed the draft transfer of land approved by City Council and nowhere does it mention that a grant will be awarded. SMVTP management mentions, however, that steps will soon be taken to honour a \$5 million subsidy to permit the project's construction. A significant number of provisions will have to be changed in the agreement for the \$5 million financial contribution, since the 2-22 rue Sainte-Catherine Est project will no longer be a rental building as was originally planned, but a condominium. Most of the future occupants will be cultural organizations and will receive grants from the Government of Québec for the purchase of their units. Eligibility of the 2-22 rue Sainte-Catherine Est project will have to be verified with MAMROT, considering the eligibility criteria that govern the memorandum of understanding between MAMROT and the city.

Initial construction timeframes and payment schedules for money will also have to be revised. It must be noted that no payment can be made and no amount claimed by the developer after December 31, 2012, the date on which the \$140-million agreement between the city and MAMROT expires. For that reason, the deed of sale indicates a time limit of 30 months, ending in November 2012, for project completion.

We are of the opinion that the recognition of a \$5-million subsidy for the construction of the project should have been dealt with at the same time as the deed of sale, if that was authorities' intention.

The developer halted construction in June 2010, however, pending confirmation of grants from the federal and provincial governments that the future occupants (owners) of the condominium must obtain.

**3.6.1.B. Recommendations**

We recommend that the Direction du développement économique et urbain of the Service du développement et des opérations, with the support of the Service des affaires juridiques et de l'évaluation foncière, verify grant eligibility terms and payment procedures to allow payment of the \$5 million financial contribution (from MAMROT's \$140-million envelope).

### **3.6.1.C. Action Plan of the Relevant Business Unit**

[TRANSLATION] “At the request of the city, the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire confirmed by e-mail on July 21, 2010 that payment of the \$5 million grant from MAMROT’s \$140-million allocation was consistent with provisions of the agreement on managing this envelope and that no exemption was required to allow the \$5 million grant.” (Planned completion: July 2010)

## **3.6.2. QUADRILATÈRE SAINT-LAURENT PROJECT**

### **3.6.2.A. Background**

This project has not yet received any grant from the city.

## **3.6.3. SAINT-LAURENT METRO STATION PROJECT**

### **3.6.3.A. Background**

The city would be prepared to make a financial contribution to the developer if the latter reserves a certain portion of the building for cultural use. The city will make a financial contribution to the developer equivalent to \$269.10 per square metre of the building’s rental area occupied by a cultural organization—according to the Building Owners and Managers Association (BOMA, 1996) standards—up to a maximum amount of \$1,198,000 if the purchaser sells or rents a maximum area of 4,452 square metres to professional cultural organizations for a total period of at least 20 years.

The developer also agreed not to apply for any form of grant other than those that already exist in the city’s various standardized programs.

However, the promise to purchase approved by City Council on September 21, 2009 became null and void on May 31, 2010.

## **3.7. ACCOUNTABILITY REPORTING**

### **3.7.A. Background and Findings**

Systematic and permanent accountability reporting mechanisms must exist to evaluate the extent to which revitalization development projects have met projections established between the city and the developer. This requires the systematic production of management reports that include information for assessing results achieved over the reporting period.

The city's Director General formulated a governance model covering the Quartier des spectacles program's planning to completion phases. A proposal concerning this model was submitted to the Executive Committee on September 12, 2007. The city's elected representatives must oversee project decision-making, given the amount of public money at stake. A political representative (the Mayor of Montréal), an administrative representative (the city's Director General) and a project head (Division Head, Portefeuille de projets) were appointed to provide oversight for the three projects covered by this audit.

The Comité corporatif de gestion des projets d'envergure and the *Réaliser les grands projets de Montréal 2025* committee also provided accountability reporting mechanisms at the senior management and elected representative levels. Committee administrators review major projects at Comité corporatif de gestion des projets d'envergure meetings. A project follow-up chart was prepared to record any new developments since the previous meeting and subsequent steps for each project. Pictograms show if the project is on track, if any problems have arisen or if any difficulties may jeopardize the project. The city's Director General, assistant directors general, senior directors, the treasurer, the senior director of the Direction du contentieux and project managers sit on this corporate committee. Committee meetings are held every other Thursday.

The minutes of the Comité corporatif de gestion des projets d'envergure meetings pertaining to the three projects selected for our audit record recent events marking the projects' evolution, issues relating to the various architectural concepts produced to date, progress achieved and difficulties encountered.

Various committees, including the *Réaliser les grands projets de Montréal 2025* committee, conduct accountability reporting on these projects. This committee reports to the Executive Committee.

**FINDING**

**We have examined the minutes of the Comité corporatif de gestion des projets d'envergure meetings for the period from January 13, 2009 to February 23, 2010 and we have noted that it reports observations on the progress of the three projects and their timelines.**

**FINDING**

**Our review of the three projects' statuses in terms of the completion schedules shows major risks of delay. Delays in these three projects will result in considerable losses of tax revenue for the city, in terms of the future buildings' reduced property values.**

These projects also require a considerable time and energy investments from employees of the city departments concerned to ensure proper management of the projects and particularly for handling regulatory exemptions to maintain work on these three projects. We have found that mechanisms were implemented to facilitate monitoring and to report on project progress.

**3.7.B. Recommendations**

**We recommend that the Direction du développement économique et urbain of the Service du développement et des opérations continue to monitor these three projects, reporting relevant information about developments in them and conveying this information to authorities to make them aware of difficulties involved in executing completing these projects, related risks and implications of delays.**

**3.7.C. Action Plan of the Relevant Business Unit**

*[TRANSLATION] "The project and program governance framework for managing municipal assets adopted by City Council in April 2010 sets out the rules for project management, the mechanisms for accountability reporting to administrative and political bodies\*, as well as the decision points pertaining to these mechanisms.*

*Project updates are constantly submitted from design to completion to the authorities, until such time that the project concludes and accountability reporting ceases. This procedure applies systematically to each of the projects covered by the targeted by Governance Framework."*  
**(Planned completion: ongoing, December 31, 2010)**

\* These mechanisms are:

- The Comité corporatif de gestion des projets d'envergure (consisting of administrative representatives from senior management).
- The Comité de monitoring des projets d'envergure (consisting of Executive Committee members appointed by the mayor and representatives of senior management).
- The Executive Committee and other municipal bodies.