Transportation infrastructure: A pillar of economic recovery

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Like many other governments, the Government of Quebec decided to invest in infrastructure to help mitigate the impact of the COVID-19 pandemic and stimulate Quebec's economy. A significant number of investments will be made in the transportation sector, and the government wants to accelerate the realisation of several previously announced transportation infrastructure projects in the greater Montréal area.

This focus on construction as a way of speeding up the recovery from the crisis arises in a context where construction contractors' and professionals' interest in public contracts has fallen sharply. According to a recent study conducted by three Raymond Chabot Grant Thornton professionals[1], mandated by six major players in the Quebec construction industry, this lack of interest in public contracts can be explained by a number of factors: poorly structured payment terms, unappealing contract clauses, issues related to the tender process, cumbersome contract management, and, as far as construction professionals are concerned, hourly rate ceilings set out in existing government regulations.

The Quebec government is acutely aware of this decline in interest for public contracts and tabled an action plan for the construction industry in late March 2021 to address it.

Four categories of measures are included in this action plan. First, the government has reiterated its desire to accelerate the realisation of a number of projects already included in the Québec Infrastructure Plan and to implement this plan more effectively. The *Act respecting the acceleration of certain infrastructure projects* introduced in June 2020 and adopted in December 2020, even before the action plan was tabled was a concrete example of the government's intent. The other two categories of measures in the action plan aim to implement solutions to reduce the current labour shortages and to increase productivity in the construction industry.

The *Act respecting the acceleration of certain infrastructure projects* covers approximately 180 projects, most of which are in the transportation, education and health and social services sectors.

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It focuses, in particular, on a number of transportation infrastructure projects in the greater Montréal area, such as the projects that will link the east, northeast and southwest of Montréal to the city's downtown area by way of an electric public transit system (including the REM de l'Est and the first phase of the pink metro line), to improve access to the Port of Montréal, to rebuild the Île aux Tourtes Bridge, to build the Longueuil tramway, to extend the REM to Laval and to implement an express bus service in Laval.

The Act focuses onfour main areas. First, if expropriation required to carry out a particular project, its procedure has been simplified. Second, in connection with compliance with environmental legislation provisions, the requirement of a certificate of authorization will waived for certain projects; for others, the BAPE project assessment procedure has been simplified. An expedited process to authorize the use of governmental property is provided for projects where such use is necessary. Lastly, city or municipal authorizations have been simplified for projects that require such an authorization.

Extraordinary measures were required to deal with the unique situation caused by the COVID-19 pandemic. We applaud the Quebec government's efforts to address the impacts of this pandemic. The chosen approach, however, is not without risks.

Some critics have warned the government about the risks of possible collusion between tenderers, as collusion is thought to be more likely to occur in a context where projects are being accelerated. To mitigate this risk, the Actconfers on the Autorité des marchés publics more oversight functions, and in clear cases of collusion, the power to suspend the performance of contracts.

Concerns have also been raised as to the quality of the constructed works, thereby underscoring the importance of maintaining and not ditching adequate public consultations.

Finally, the Act addresses the issue of delays in payments by the government that was not only raised in the Raymond Chabot Grant Thornton report, but also during public consultations preceding the adoption of the Act. The Act extends the existing pilot project to facilitate payment to enterprises applicable to all projects covered by the Act.

Hopefully, the *Act respecting the acceleration of certain infrastructure projects,* paired with the other measures announced in the government's action plan for the construction industry, will make infrastructure a key component of Quebec's economic recovery, as we finally start to see the end of the COVID-19 pandemic.

A short version of this publication was published as an open letter in La Presse. Click here to read it.

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1. Plante, Nicolas, Jean-Philippe Brosseau and Marie-Pier Bernard, *Consultation visant à évaluer le niveau d'intérêt des entrepreneurs et des professionnels envers les marchés publics* [French Only], Montréal, Raymond Chabot Grant Thornton, April 2021, 85 p. (see in particular pages 17 to 34).

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