

MEMORANDUM OF UNDERSTANDING
(the “MOU”)

Dated: February 22, 2024

BETWEEN

**HIS MAJESTY THE KING IN RIGHT OF CANADA AS REPRESENTED BY THE
MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICES**

(“PSPC”)

and

THE CITY OF OTTAWA

(“the City”)

(hereinafter collectively “the Parties”)

RE: 344 Wellington St.

City File no. D07-12-19-0162

WHEREAS Regenerate 344 (Moriyama & Teshima Architects and Kasian Architecture in Joint Venture), on behalf of PSPC, submitted a Site Plan Control application for the Site Location municipally known as 344 Wellington Street, more fully described in Schedule A hereto, (the “PSPC Lands”) to complete construction of certain services, installations, structures, buildings and other works further described in this MOU (the “Works”); and

WHEREAS the City approved the Site Plan Control application on June 2, 2020, attached hereto as Document “1”, subject to PSPC and City entering into an MOU within one year from the date of approval of the Site Plan Control application, which deadline was subsequently extended upon the mutual consent of the Parties; and

WHEREAS notwithstanding that PSPC and its real property, including the subject lands, are not generally subject to provincial and municipal land use controls, PSPC is prepared to enter into this MOU to address matters of mutual interest between itself and the City related to planning and development issues; and

WHEREAS the parties agree and acknowledge that this MOU is not legally binding and is not intended to and does not create any legal relationship between them whatsoever;

and understand and agrees that this MOU does not and is not intended to constitute a binding agreement with respect to any of the matters contemplated herein; and

NOW THEREFORE in consideration of the Site Plan Control application and Conditions contained therein the City and PSPC agree to as follows:

1. Recitals

The recitals to this MOU form an integral part of this MOU for all purposes and the Parties confirm that they agree to the same.

2. Processes for Completion of Works

The Parties agree and acknowledge that for PSPC to carry out the works (“Works”) as described in the Site Plan Control application, and as more particularly detailed in the Plans and Reports referenced in Schedule “E” hereto, the following processes (“Processes”) must occur:

- a. PSPC to obtain all necessary agreements, permits, licences, consents, permissions or similar approvals, from the applicable municipal, provincial and federal governments or agencies which may allow PSPC to complete the Works;
- b. The parties to negotiate and execute one or more agreements as may be necessary to address the Conditions of the Site Plan Control application to construct the Works on or below the “City Lands” which form the right-of-way abutting the PSPC Lands (as described in Schedule “B”) ; and
- c. The parties to obtain the approval of their respective directors, managers, executives, employees, and City councillors as the case may be, for certain aspects of the proposed Works and corresponding agreements.

For greater certainty, neither party is obligated to enter into any such agreements(s), grant any such permits, licences, consents, permissions or similar approvals or otherwise continue with the Works.

3. Scope of Works and Conformity

PSPC intends to construct and maintain the proposed development in conformity with this MOU and Schedules attached hereto, at its sole expense. PSPC intends to request written approval of the City prior to any departure from the specifications of this MOU and Schedules. For greater clarity, and notwithstanding any mandatory language in Schedules “C” and “D” this document records the intent of PSPC only and does not itself create a binding legal agreement.

4. Insurance Policy

- (a) PSPC shall obtain, before the execution of this MOU, and keep in force during construction of the Works, Commercial General Liability insurance

from an insurance company licensed to do business in Ontario, providing insurance in the amount of not less than Five Million (\$5,000,000.00) Dollars, per occurrence, exclusive of interest, and costs against loss or damage resulting from bodily injury to, or death of one or more persons and loss of or damage to property. Such policy shall name the City of Ottawa as an additional insured thereunder.

- (b) The policy shall provide coverage against claims for damage or injury including death to a person or persons, for damage to property of the City or any other public or private property resulting from or arising out of any act or omission on the part of PSPC or any of its servants or agents during the construction, installation or maintenance of any Works to be performed upon public rights-of-way pursuant to this MOU. The policy shall include completed operations coverage and shall be maintained in full force until final Acceptance of the Works by the City.
- (c) The policy shall include written contractual liability, cross liability, contingent employer's liability, personal injury, liability with respect to non-owned licensed vehicles, premises and operations liability, Owner's and contractor's protective coverage, as well as severability of interest clause. The policy shall have no exclusion pertaining to shoring, blasting, excavating, underpinning, demolition, pile driving, caisson work and work below ground surface including tunneling and grading. PSPC shall forward to the City, prior to the signing of this MOU by the City, a Certificate of Liability Insurance. This Certificate of Insurance shall be signed by an authorized employee of the insurance company providing the insurance. Such insurance policy shall contain an endorsement to provide the City and PSPC with not less than thirty (30) days written notice of cancellation.

Notwithstanding, PSPC is a self-insured governmental body and shall be permitted to self-insure provided that such self-insurance maintains coverage in favour of the City equivalent to that outlined under in Article 4 (a), (b), and (c) above.

5. Relocation of Utilities and Provision of Easements

PSPC shall obtain approval for, arrange for and pay for the cost of the relocation of any existing utilities which are necessary due to this development to the satisfaction of, and at a time satisfactory to the authority having jurisdiction, together with the granting of such new easements as may be required and the release of any existing easements which are rendered unnecessary.

6. Plans and Reports

PSPC acknowledges and agrees that the plans and reports included in Schedule "E" hereto, form part of the site plan approval under Section 41 of the *Planning Act*, R.S.O. 1990, c. P.13 and intends to comply with such approval.

7. Schedules

The following Schedules are attached hereto and form part of this MOU:

Schedule "A"	Description of PSPC Lands
Schedule "B"	Description of City Lands
Schedule "C"	City Standards or Specifications
Schedule "D"	Site Specific Conditions
Schedule "E"	List of Approved Plans and Approved Reports

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EXECUTION OF THIS DOCUMENT OCCURS ON THE NEXT PAGE)***

DATED AT _____ this _____ day of _____, 20____.

) HIS MAJESTY THE KING IN RIGHT OF
) CANADA as represented by the Minister of
) Public Works and Government Services

)

)

)

)Per: _____

) Name:


) Title:

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DATED AT OTTAWA this 14th day of March, 2024.

Approved for execution



) **CITY OF OTTAWA**
) **Per:**
)
) 
) _____
) **Vivi Chi**
) General Manager (Interim)
) Planning, Real Estate, and Economic Development

I have authority to bind the Corporation.

SCHEDULE "A"

Legal Description of PSPC Lands

All and singular that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, being composed of:

DESCRIPTION	P.I.N.
LTS B, C, 1, 2, 3, 4, 5, 6, 7, 8 & 9, PL 14111 ; LT 11, PL 3922 , S/S OF WELLINGTON ST, NUMBERING WESTWARD ; LT 11, PL 3922 , N/S OF SPARKS ST, NUMBERING WESTWARD ; LT CAMERON, PL 3922 , ALL BEING PT 1, 4R1583 ; OTTAWA/NEPEAN	04114-0001 (LT)

Schedule B
Legal Description of City Lands

All and singular that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, being composed of:

	DESCRIPTION	P.I.N.
Firstly:	PT LYON ST, PL 3922 , (FORMERLY MARKET SQUARE) LYING BTN THE SLY LIMIT OF WELLINGTON ST PL 3922 & THE NLY LIMIT OF SPARKS ST PL 3922 ; OTTAWA/NEPEAN	04114-0273 (LT)
Secondly:	PT BAY ST, PL 3922 , LYING BTN THE SLY LIMIT OF WELLINGTON ST, PL 3922 & THE NLY LIMIT OF QUEEN ST, PL 3922 ; OTTAWA/NEPEAN	04114-0303 (LT)
Thirdly:	PT WELLINGTON ST, PL 2 , (FORMERLY GEORGE ST) LYING N OF THE ELY EXT OF SLY BOUNDARY DUKE ST ; WELLINGTON ST, PL 9247 , (FORMERLY GEORGE ST) ; WELLINGTON ST, PL 45208 ; WELLINGTON ST, PL 4797 ; WELLINGTON ST, PL 3922 ; S/T N335868,NS248412,NS9675 OTTAWA/NEPEAN; SUBJECT TO AN EASEMENT IN GROSS OVER PART 1 ON PLAN 4R27285 AS IN OC1669116	04280-0034 (LT)
Fourthly:	PT SPARKS ST, PL 3922 , LYING BTN THE ELY LIMIT OF BAY ST PL 3922 & THE WLY LIMIT OF BANK ST PL 3922; OTTAWA/NEPEAN	04114-0272 (LT)

SCHEDULE "C"

CITY STANDARDS OR SPECIFICATIONS

1. Permits

PSPC shall obtain such permits as may be required from Municipal or Provincial authorities and provide proof of same at the request of the City.

2. Construction of Internal Walkways

If applicable, PSPC shall extend internal walkways beyond the limits of the PSPC Lands to connect to existing or proposed public sidewalks, at the sole expense of PSPC, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department.

3. Barrier Curbs

If applicable, PSPC shall ensure that parking areas and entrances shall have barrier curbs and that such shall be constructed in accordance with a professionally-prepared design drawings. PSPC shall provide such drawings to the General Manager, Planning, Real Estate and Economic Development Department for review and approval.

4. Water Supply for Fire Fighting

The Owner shall provide adequate water supply for fire fighting for every building. Water supplies may be a public water works system, automatic fire pumps and pressure tanks or gravity tanks.

5. Construct Sidewalks

PSPC shall design and construct sidewalk(s) within public rights-of-way or on other City owned lands to provide a pedestrian connection from or to the PSPC Lands as may be determined by the General Manager, Planning, Real Estate and Economic Development Department. Such sidewalk(s) shall be constructed to City Standards.

6. Reinstatement of City Property

PSPC shall reinstate at its expense, to the satisfaction of the General Manager, Planning, Infrastructure and Economic Development Department, any property of the City, including, but not limited to, sidewalks and curbs, boulevards, that are damaged as a result of the subject development.

7. Construction Fencing

PSPC shall install construction fencing at its expense, in such a location as may be determined by the General Manager, Planning, Real Estate and Economic Development Department.

8. Intentionally Deleted

Intentionally deleted.

9. Intentionally Deleted

Intentionally deleted.

10. Exterior Lighting

If exterior lighting is proposed on City lands in the future, PSPC will ensure that the location of such lighting is approved in writing by the General Manager, Planning, Infrastructure and Economic Development Department. Lighting installed on the City Lands or PSPC lands will utilize sharp cut-off fixtures or in exceptional circumstances only, an alternative fixture design designed to minimize possible lighting glare onto adjacent properties. It is noted that exterior lighting includes exterior building lighting.

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SCHEDULE "D"

SITE SPECIFIC CONDITIONS

1. Asphalt Overlay

Due to the number of road cut permits required to service the PSPC Property, PSPC shall install an asphalt overlay over the total area of the public driving surface of Sparks Street, fronting the subject lands, as per the approved Site Servicing Plan, Dwg. C-001, prepared by MH, creation date September 5, 2019, Revision 5, dated March 18, 2020, referenced in Schedule "E" hereto. The overlay shall be carried out to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department and the recently updated Road Activity By-Law 2003-445. PSPC acknowledges and agrees that all costs are to be borne by PSPC.

2. Protection of City Sewers

a) Prior to the issuance of a building permit, PSPC shall, at its expense:

i) obtain a legal survey acceptable to the General Manager, Planning, Real Estate and Economic Development Department and the City's Surveyor, showing the existing City Sewer System within Bay, Sparks and Lyon Streets and the location of the existing building and its footings in relation to the City Sewer System;

ii) obtain a video inspection of the City Sewer System within Bay, Sparks and Lyon Streets prior to any construction to determine the condition of the existing City Sewer System prior to construction on the lands and to provide said video inspection to the General Manager, Planning, Real Estate and Economic Development Department.

b) Upon completion of construction on the lands, PSPC shall, at its expense and to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department:

i) obtain a video inspection of the existing City Sewer System within Bay, Spark and Lyon Streets to determine if the City Sewer System sustained any damages as a result of construction on the lands; and

ii) assume all liability for any damages caused to the City Sewer System within Bay, Spark and Lyon Streets and compensate the City for the full amount of any required repairs to the City Sewer System.

3. Requirement for Oil and Grit Separator

PSPC shall, in accordance with the City's Sewer Use By-law, being By-law No. 2003-514, as amended, install an oil and grit separator to the system within the sheltered loading dock area.

4. Soil Management

PSPC acknowledges and agrees that it shall comply with all applicable federal regulations related to the assessment of and removal of excess soils, fill and/or construction debris.

5. Groundwater Management

PSPC acknowledges and agrees that it shall comply with all applicable federal regulations related to the assessment and management of groundwater to be removed from the site during and after redevelopment.

5. Street Name and Signs

a) PSPC acknowledges and agrees it shall provide for, install and maintain, at its own expense, all regulatory traffic signage, in accordance with the City's Municipal Addressing By-law 2014-78, as amended, for any private road within the area controlled by this MOU and as shown on the approved Site Plan, Dwg. A011, prepared by Regenerate 344, creation date September 5, 2019, Revision 8, dated January 20, 2020, Approved June 24, 2020, referenced in Schedule "E" herein.

b) PSPC acknowledges and agrees it shall provide for, install and maintain, at its own expense, all temporary street name signs, in accordance with the City's Municipal Addressing By-law 2014-78, as amended, for any private road within the area controlled by this MOU and the approved Site Plan, Dwg. A011, prepared by Regenerate 344, creation date September 5, 2019, Revision 8, dated January 20, 2020, Approved June 24, 2020, referenced in Schedule "E" herein.

c) PSPC acknowledges and agrees it shall, at its own expense, make arrangements for the City to provide, install, and maintain all permanent street name signs, in accordance with the City's Municipal Addressing By-law 2014-78, as amended, and to City Specifications or Standards.

7. Permanent Encroachment Agreement – Lightning Rod Plates

PSPC acknowledges and agrees to enter into a permanent Encroachment Agreement to permit the encroachment of lightning rod ground plates and related infrastructure to be constructed within the City's Wellington Street, Sparks Street, Lyon Street, and (possibly) Bay Street rights-of-way. PSPC shall, at its expense, provide a reference plan for registration, indicating the approved encroachments, and PSPC shall submit the draft reference plan to the City's Surveyor for review and approval prior to its deposit in the Land Registry Office. PSPC further acknowledges and agrees that the cost of preparation and registration of the Encroachment Agreement will be borne by PSPC.

7.1 Permanent Encroachment Agreement – Lyon Street Entrance

PSPC acknowledges and agrees to enter into a permanent Encroachment Agreement to permit the encroachment of the accessible ramp on and entrance on Lyon Street and

related infrastructure to be constructed within the City's Lyon Street right-of-way. PSPC shall, at its expense, provide a reference plan for registration, indicating the approved encroachments, and PSPC shall submit the draft reference plan to the City's Surveyor for review and approval prior to its deposit in the Land Registry Office. PSPC further acknowledges and agrees that the cost of preparation and registration of the Encroachment Agreement will be borne by PSPC.

7.2 Further Encroachment Agreements

Should further encroachments into the City-owned right-of-way be necessary as a result of the Works, PSPC agrees to enter into a further encroachment agreement or agreements. The cost of preparation and registration of any such encroachment agreement(s) shall be borne by PSPC.

8. Maintenance and Liability Agreement

PSPC acknowledges and agrees it shall be required to enter into a Maintenance and Liability Agreement with the City, for all proposed items, including but not limited to, plant and landscaping material (except municipal trees), decorative paving, retaining walls, fixtures, bike repair station, water fountains, security bollards, and street furnishings placed in the City's right-of-way along Bay, Spark and Lyon Streets in accordance with City Specifications. PSPC shall assume all maintenance and replacement responsibilities in perpetuity.

9. License of Occupation

PSPC acknowledges and agrees it shall be required to obtain a License of Occupancy from the City along with monetary compensation for the exclusive use of on-street parking spaces in the City's right-of-way along Sparks Street.

10. Road Modification

PSPC acknowledges and agrees that the design and construction of the proposed road modifications will be at its expense. PSPC further acknowledges and agrees it shall be required to enter into a Road Modification Agreement with the City for the road alterations proposed on Sparks Street.

11. Stormwater Management Memorandum

Prior to commencing the Works PSPC acknowledges and agrees to provide the General Manager, Planning, Real Estate and Economic Development Department, with a memorandum prepared by a Professional Engineer, licensed in the Province of Ontario, confirming that the designed roof-top scuppers and associated spill point elevations will be set equivalent to the top of the control weir of the approved roof drain elevation(s). PSPC further acknowledges and agrees that said memorandum shall be to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, and all associated costs shall be PSPC's responsibility.

12. Professional Engineering Inspection

PSPC shall have competent Professional Engineering inspection personnel on-site during the period of construction, to supervise the Works on the City Lands, and the General Manager, Planning, Real Estate and Economic Development Department, shall have the right at all times to inspect the installation of the Works on the City Lands. PSPC acknowledges and agrees that should it be found in the sole opinion of the General Manager, Planning, Real Estate and Economic Development Department, that such personnel are not on-site or are incompetent in the performance of their duties, or that the said Works on the City Lands are not being carried out in accordance with the approved plans or specifications and in accordance with good engineering practice, then the General Manager, Planning, Real Estate and Economic Development Department, may order all Works on the City Lands to be stopped, altered, retested or changed to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department.

13. Stormwater Works Certificate

Upon completion of all stormwater management Works, PSPC acknowledges and agrees to retain the services of a Professional Engineer, licensed in the Province of Ontario, to ensure that all measures have been implemented in conformity with the approved Site Servicing Plan, Details Plans, and Servicing Brief referenced in Schedule “E” herein. PSPC further acknowledges and agrees to provide the General Manager, Planning, Real Estate and Economic Development Department with certificates of compliance issued by a Professional Engineer, licensed in the Province of Ontario, confirming that all recommendations and provisions have been implemented in accordance with the approved Site Servicing Plan, Details Plans, and Servicing Brief referenced in Schedule “E” herein.

14. Site Dewatering

PSPC acknowledges and agrees that while the site is under construction, any water discharged to the sanitary sewer due to dewatering shall meet the requirements of the City’s Sewer Use By-law No. 2003-514, as amended.

15. Intentionally deleted.

Intentionally deleted.

16. Pre and Post Construction Surveys

a) PSPC acknowledges and agrees that all shoring/sheet piling/bracing and excavation activities, including hoe ramming (including Ground Borne Vibration and Noise from Hoe Rams or Rock Drills), will conform to the requirements of O.Reg.213/91- Construction Projects, Part III – Excavations, O.H.S.A., M.O.L. - Excavation Hazards, O.B.C., City of Ottawa Environmental Noise Control Guidelines and Ottawa Noise By-law No.2017-255, all as amended. Prior to any of the aforementioned activities, pre and post construction

surveys shall be prepared, at PSPC's expense, for all buildings, utilities, structure, infrastructure, water plant and facilities likely to be affected by these activities, in particular, those adjacent to the site location. The standard inspection procedure shall include the provision of an explanatory letter to PSPC or occupant and owner with a formal request for permission to carry out an inspection and documentation of existing baseline structural conditions.

b) The pre and post construction survey shall include, as a minimum, the following information:

i. identification and description of existing differential settlements, including visible cracks in walls, floors, and ceiling, including a diagram, if applicable, room-by-room. All other apparent structural and cosmetic damage or defect must be noted. Defects shall be described, including dimensions, wherever possible; and

ii. photographs or video as necessary for recording areas of significant concern.

c) PSPC acknowledges and agrees to arrange visits by the structural engineer referred to in paragraph (a) herein every ten (10) working days during excavation and construction, to monitor any change from the baseline established in the above-mentioned pre-construction survey.

d) PSPC shall provide five full days written notice to PSPCs and residents captured in the study area, prior to commencing any construction and, if requested, PSPC shall cause its representatives to meet with said owners and residents within the five-day period.

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SCHEDULE "E"

LIST OF APPROVED PLANS AND REPORTS

The Parties have agreed that the following plans and reports constitute part of the site plan approval under Section 41 of the *Planning Act*, R.S.O. 1990, c. P.13. These documents can be viewed at Ottawa City Hall, 110 Laurier Avenue West, Ottawa, Ontario, K1P 1J1.

Approved Plans

1. Site Plan, Dwg. A011, prepared by Regenerate 344, creation date September 5, 2019, Revision 8, dated January 20, 2020, approved on June 24, 2020.
2. Site Servicing Plan, Dwg. C-001, prepared by MH, creation date September 5, 2019, Revision 5, dated March 18, 2020, approved on June 24, 2020.
3. Details Plan, Dwg. C-002, prepared by MH, creation date January 20, 2020, Revision 2, dated February 19, 2020, approved on June 24, 2020.
4. Details Plan, Dwg. C-003, prepared by MH, Revision 1, dated January 20, 2020, approved on June 24, 2020.
5. Details Plan, Dwg. C-004, prepared by MH, creation date January 20, 2020, Revision 2 dated February 19, 2020, approved on June 24, 2020.
Grading Plan, Dwg. C-005, prepared by MH, creation date September 5, 2019, Revision 3, dated February 19, 2020, approved on June 24, 2020.
6. Erosion and Sediment Control Plan, Dwg. C-006, creation date September 5, 2019, Revision 3, dated February 19, 2020, approved on June 24, 2020.
7. Existing Catchments, Dwg. C-100, prepared by MH, Revision 1, dated February 19, 2020, approved on June 24, 2020.
8. Proposed Catchments, Dwg. C-101, prepared by MH, Revision 1, dated February 19, 2020, approved on June 24, 2020.
9. Tree Conservation Plan, Dwg. L1-01, creation date September 5, 2019, Revision 3, prepared by Regenerate 344, dated February 19, 2020, approved on June 24, 2020.
10. Landscape Layout Plan, Dwg. L2-01, creation date September 5, 2019, Revision 4, prepared by Regenerate 344, dated March 2, 2020, approved on June 24, 2020.
11. Planting Plan, Dwg. L3-01, creation date September 5, 2019, Revision 4, prepared by Regenerate 344, dated March 2, 2020, approved on June 24, 2020.
12. Landscape Details Plan, Dwg. L4-01, creation date September 5, 2019, Revision 3, prepared by Regenerate 344, dated February 19, 2020, approved on June 24, 2020.

13. Landscape Details Plan, Dwg. L4-02, creation date September 5, 2019, Revision 3, prepared by Regenerate 344, dated February 19, 2020, approved on June 24, 2020.

Approved Reports

1. Phase III ESA, prepared by Stantec, dated March 31, 2016, approved on June 24, 2020.
2. Servicing Brief prepared by MH, dated January 20, 2020, approved on June 24, 2020.

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