

CITY OF KELOWNA

BYLAW NO. 11474

Amendment No. 1 to Housing Agreement Authorization Bylaw No. 10624 2149, 2159, 2169, 2179 and 2189 Pandosy Street

WHEREAS pursuant to Section 483 of the Local Government Act, a local government may, by bylaw, enter into a housing agreement;

AND WHEREAS pursuant to Section 483 (4) of the Local Government Act, a local government may, by bylaw, amend a Housing Agreement with the consent of the owner;

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT the Municipal Council hereby authorizes amendments to the City of Kelowna Housing Agreement for the lands known as Lot 2, DL 14, ODYD, Plan 5973; Lot 1, DL 14, ODYD, Plan 5973; Lot 3, DL 14, ODYD, Plan 3216; Lot 2, DL 14, ODYD, Plan 3216; Lot 1, DL 14, ODYD, Plan 3216 located on 2149, 2159, 2169, 2179 and 2189 Pandosy Avenue, Kelowna, B.C., by deleting Schedule A attached to Bylaw No. 10624 and replacing it with a true copy of the new Schedule A which is attached to and forms part of this bylaw.
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw may be cited for all purposes as "Bylaw No. 11474 being Amendment No. 1 to Housing Agreement Bylaw No. 10624".
4. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this 18th day of September, 2017.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

Bylaw No. 11474 - Schedule "A"

AFFORDABLE RENTAL HOUSING AMENDING AGREEMENT

THIS AGREEMENT made effective as of the 10th day of May, 2017

BETWEEN:

Pandosy Street Developments Ltd.,
a British Columbia company, with an address at
1524 Woodridge Road, Kelowna, B.C., V1W 3B4
(the "Owner")

AND:

City of Kelowna, a local government incorporated
pursuant to the Community Charter and having its
offices at 1435 Water Street, Kelowna, B.C., V1Y
1J4

(the "City")

RECITALS:

- A. John Marrington, Alana Marrington, John Balla (together, the "Prior Owner"), and the City entered into an Affordable Rental Housing Agreement (the "Housing Agreement"), dated as of October 19, 2011, with respect to the following lands:

2149 Pandosy Street Lot 1, DL 14, ODYD, Plan 3216;
2159 Pandosy Street Lot 2, DL 14, ODYD, Plan 3216;
2169 Pandosy Street Lot 3, DL 14, ODYD, Plan 3216;
2179 Pandosy Street Lot 1, DL 14, ODYD, Plan 5973;
2189 Pandosy Street Lot 2, DL 14, ODYD, Plan 5973;

(the "Prior Lands");
- B. The Prior Owner applied to the City for rezoning of the Prior Lands, and the Prior Lands were rezoned to permit construction of forty-three (43) residential units, whereby forty (40) of those residential units may be stratified and sold;
- C. The Owner is the successor in interest to the Prior Owner;
- D. The Prior Lands have been consolidated into one parcel, legally known and described as Lot A, DL 14, ODYD, Plan EPP27000 (PID: 029-607-132) (the "Lands");
- E. The Owner and the City have agreed to amend the Housing Agreement on the terms and conditions contained herein.

Bylaw No. 11474 - Schedule "A"

Affordable Rental Housing Amending Agreement

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NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties hereto covenant and agree as follows:

1. Definitions

Capitalized words and expressions used in this Agreement that are defined in the Housing Agreement and not otherwise defined in this Amending Agreement shall have the meanings given to them in the Housing Agreement.

"Lands" or "Land" in the Housing Agreement shall mean the Lands, as defined herein.

2. Amendments

The Housing Agreement is hereby amended as follows:

- (a) Section 3.0 is deleted and replaced with the following:

"Purchaser Qualifications – The City and the Owner agree as follows:

(a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any Affordable Rental Unit other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified Affordable Rental Unit(s) are available in accordance with this Agreement."

- (b) Section 5.5 is deleted and replaced with the following:

"Agreement Runs With the Land – Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Lands and this Agreement burdens the Land and runs with it and binds the Owner's successors in title, provided that upon the subdivision or stratification of the Lands to create dwelling units, the City and the Owner shall remove any legal notation or charge reflecting this Agreement from title to all dwelling units and properties which are not designated as Affordable Rental Units."

3. Miscellaneous

- (a) The City covenants that it has the power, capacity and authority to enter into this Amending Agreement and to carry out its obligations hereunder, all of which have been authorized by the necessary proceedings.
- (b) This Amending Agreement shall be read together with the Housing Agreement and the parties confirm that, except as specifically modified herein, all covenants and conditions in the Housing Agreement remain unchanged, unmodified and in full force and effect.
- (c) The parties agree, from time to time, to do or cause to be done all such things, and shall execute and deliver all such documents, agreements and instruments reasonably

Affordable Rental Housing Amending Agreement

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requested by another party, as may be necessary or desirable to complete the amendments contemplated by this Amending Agreement and to carry out its provisions and intention. Further, the Owner or the City may file or cause to be filed a notice of this Amending Agreement in the applicable Land Title Office, as a legal notation against the Lands.

- (d) This Amending Agreement shall enure to the benefit of and be binding upon the parties and their legal representatives, heirs, executors, administrators, successors and permitted assigns, as the case may be.
- (e) This Amending Agreement shall be interpreted and governed by the laws of the Province of British Columbia and the laws of Canada applicable therein.
- (f) This Amending Agreement may be executed in counterparts each of which shall be deemed to be an original and both of which together shall constitute one and the same instrument. A counterpart signed by a party hereto and transmitted by facsimile or other form of electronic transmission shall have the same effect as a counterpart originally signed by such party.

(signature page follows)

Bylaw No. 11474 - Schedule "A"

Affordable Rental Housing Amending Agreement

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IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

PANDOSY STREET DEVELOPMENTS LTD.

Per:



Authorized Signatory

SIGNED, SEALED AND DELIVERED
in the presence of:

Signature: _____

Name: _____

Address: _____

Occupation: _____

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CITY OF KELOWNA
by its authorized signatories:

Mayor

City Clerk