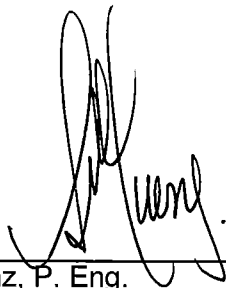

CITY OF KELOWNA
MEMORANDUM

Date: June 6, 2017
File No.: LUC17-0001
To: Land Use Management Department (JR)
From: Development Engineering Manager (SM)
Subject: 482 Clifton Road Lot 4 PLAN 28178 Zoning RR3

Requirements addressed in rezoning file S16-0098-01 must be satisfied prior to the LUC discharge.

The discharge of the Land Use Contract from the subject property does not compromise the Development Services Branch.



Steve Muenz, P. Eng.
Development Engineering Manager

RO

ATTACHMENT A

This forms part of application
LUC17-0001

Planner Initials JR

City of 
Kelowna
COMMUNITY PLANNING

This forms part of application

LUC17-0001



City of Kelowna COMMUNITY PLANNING

Planner Initials JR

M 17452 C

CITY OF KELOWNA

BY-LAW NO. 14193 04

A by-law to authorize the entering into of a Land Use Contract.

WHEREAS Subsection (3) of Section 702A of the "Municipal Act" being Chapter 255 of the Revised Statutes of British Columbia, 1960, provides in part that the Council may, by by-law, notwithstanding any by-law of the municipality, or Section 712 or 713 of the "Municipal Act", enter into a Land Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon, and thereafter the use and development of the land shall, notwithstanding any by-law of the municipality, or Section 712 or 713 of the said Act, be in accordance with the Land Use Contract;

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of entering into a Land Use Contract with R. & E. Enterprises Limited, c/o W.C. Bennett, Bennett Road, R.R. #1, Kelowna, British Columbia.

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

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Land Use Contract with R. & E. Enterprises Limited, c/o W.C. Bennett, Bennett Road, R.R. #1, Kelowna, British Columbia in the form of a Land Use Contract attached hereto and forming part of this By-Law.

2. His Worship the Mayor and the City Clerk are hereby authorized to sign the attached Land Use Contract as well as any conveyances, deeds, receipts and other documents in connection with the attached Land Use Contract and affix the Corporate Seal of the City of Kelowna to same.

3. This By-Law may be cited for all purposes as the "R. & E. Enterprises Limited Land Use Contract Authorizing By-Law, 1976, No. 4193."

Read a first time by the Municipal Council this 21st day of December, 1976.

Considered at a Public Hearing on the 18th day of January, 1977. Read a second time by the Municipal Council this 18th day of January, 1977.

Read a third time by the Municipal Council this 18th day of January, 1977.

Reconsidered, finally passed and adopted by the Municipal Council of the City of Kelowna by a vote in favour thereof of at least two-thirds of all /

Registered the MAR 31 1977 at the time Written or Stamped on the Application.

Handwritten signatures and dates: 22-9-77

REGISTERED OFFICERS, WALLER & BERNEZ SOLICITORS & LEGAL AGENTS

Handwritten notes: 2/10/52/F, OK

This forms part of application

LUC17-0001



City of Kelowna
COMMUNITY PLANNING

Planner Initials JR

-2-

all the members present this 22 day of March, 1977.

James G. ...
Acting Mayor
[Signature]
City Clerk

I hereby certify the foregoing to be a true copy of By-Law No. 4193 as passed by the Municipal Council of the City of Kelowna on the 22nd day of March, 1977.

[Signature]
Clerk of the Municipal Council of the City of Kelowna.

(LUC-76-1087)

Substitute Forms 'A', 'D' & 'E'
Particulars

Applicant: *[Signature]* *[Signature]* & *[Signature]*

[Signature] *[Signature]* *[Signature]*

City of Kelowna

Decision: *[Signature]*

Nature of the application:

Land Use Contract

Duplicate of Yes/No

British Subject Yes/No

[Signature]
Signature of Agent



LAND USE CONTRACT

AGREEMENT made the 12th day of NOVEMBER, 1976.

CITY OF KELOWNA,
 a municipal corporation having
 its offices at 1435 Water Street
 in the City of Kelowna, Province
 of British Columbia

(hereinafter called the "Municipality")

OF THE FIRST PART

AND:

R & E ENTERPRISES LTD.
 a company duly incorporated under
 the laws of the Province of British
 Columbia, having its office at c/o
 W.C. Bennett, Bennett Road, R.R. #1,
 Kelowna, British Columbia

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS as a result of the mass rezoning carried out in the City of Kelowna following the boundary extensions to the City of Kelowna the Land was zoned to a rural designation but the Council agreed to consider a land use contract to permit completion of a subdivision of the property that had been substantially commenced at the date of the blanket rezoning so as to preserve the value of the property and to avoid imposing an economic hardship upon the Developer;

AND WHEREAS it is acknowledged that this land use contract was agreed upon only because of the extraordinary situation arising out of the mass rezoning that Council of the Municipality deemed to injuriously affect the Developer unless this contract was entered into;

AND WHEREAS the Land has been designated a development area pursuant to Section 702A(2) of the Municipal Act;



AND WHEREAS the Municipality, pursuant to Section 702A of the Municipal Act, may, notwithstanding any by-law of the Municipality, or Section 712 or 713 of the Municipal Act, enter into a land use contract containing such terms and conditions for the use and development of land as may be agreed upon with a Developer, and thereafter the use and development of the land shall be in accordance with the land use contract;

AND WHEREAS the Municipal Act requires that the Municipal Council consider the criteria set out in Section 702(2) and 702A(1) in arriving at the terms, conditions and consideration contained in a land use contract;

AND WHEREAS the Developer has presented to the Municipality a scheme of use and development of the within described lands and premises that would be in contravention of the new zoning of the Municipality and has requested that the Council of the Municipality enter into this contract under the terms, conditions and for the consideration hereinafter set forth;

AND WHEREAS the Council of the Municipality, having given due consideration to the criteria set forth in Sections 702(2) and 702A(1) of the Municipal Act, have agreed to the terms, conditions and consideration herein contained;

AND WHEREAS the Municipality and the Developer are currently negotiating the turnover of the Developer's water system to the Municipality and the terms and conditions under which other properties owned by the Developer may, at a later date, be serviced and subdivided;

AND WHEREAS the Municipality and the Developer both acknowledge that the Council of the Municipality could not enter into this Agreement, until the Council held a public hearing in relation to this Agreement, and considered any opinions expressed at such hearing, and unless two-thirds of the members of the Council present at the meeting at which the by-law to approve this Agreement is adopted voted in favour of the Municipality entering into this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the Municipality and the Developer covenant and agree as follows:

OWNER

1. The Developer is the registered owner of an estate in fee simple of all and singular that certain parcel or tract of land and premises, situate, lying and being in the City of Kelowna in the Province of British Columbia; and being more particularly known and described as:



the fractional North West 1/4 of
Section 8
Township 23
Osoyoos Division
Yale District
(except Plan 20895)

D 3.1052F

(herein called the "Land")

CONSENT

2. The Developer has obtained the consent of all persons having a registered interest in the Land as set out in the schedule prefacing the consents to the use and development set forth herein which consents are attached hereto.

DEVELOPMENT

3. The Land may be subdivided strictly in accordance with the Plan of Subdivision annexed hereto as Schedule "A" provided those portions of the Land not contained within the red outline in Schedule "A" may be subdivided only in accordance with the Zoning By-law of the Municipality or a land use contract or written amendment hereto and further provided that each lot and the entire subdivision meet all of the requirements of the Medical Health Officer and all by-laws and subdivision policies of the Municipality in effect as at the date of approval of the subdivision except as herein specifically provided.

COMPLIANCE

4. For the purpose of determining the use of land, including the surface of water, buildings and structures within that portion of the Land outlined in red on Schedule "A" and the regulations of the size, shape and siting of buildings and structures and the provision of off-street parking and other zoning regulations therein that portion of the Land outlined in red on Schedule "A" hereto shall be deemed to be zoned R-1 Single Family Residential as described in City of Kelowna Zoning By-law No. 4500, a copy of which regulations are annexed hereto as Schedule "B" and that portion of the Land outlined in red in Schedule "A" annexed hereto shall be used and developed strictly in compliance with such regulations and the balance of the Land not contained within the red outline in Schedule "A" annexed hereto shall be unaffected by this contract.

CONSTRUCTION

5. The Land shall be developed strictly in accordance with the construction requirements annexed hereto as Schedule "C".

INCORPORATION

6. Schedules "A", "B" and "C" hereinbefore referred to are hereby incorporated into and made a part of this Agreement.

LEGAL FEES

7. The Developer agrees to pay all of the legal costs incurred by the Municipality in the preparation of this contract.



REPRESENTATION 8. It is understood and agreed that the Municipality has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Developer other than those in this contract.

REGISTRATION 9. This Agreement shall be construed as running with the Land and shall be registered in the Land Registry Office by the Municipality pursuant to the provisions of Section 702A(4) of the Municipal Act.

INTERPRETATION 10. Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context of the parties so require.

BINDING 11. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

A public hearing on this Contract was held on the 18th day of January, 1976.

THIS AGREEMENT WAS APPROVED by the affirmative vote of at least two-thirds of the members of the Council of the Municipality present at the meeting at which the by-law to approve this Agreement was adopted on the 22nd day of March, 1976.

IN WITNESS WHEREOF the said parties to this Agreement have hereunto set their hands and seals the day and year first above written.

THE CORPORATE SEAL OF THE CITY OF KELOWNA was hereunto affixed in the presence of:

James McAllister Mayor Acting Clerk

(Seal)

THE CORPORATE SEAL OF R & E ENTERPRISES LTD. was hereunto affixed in the presence of:

[Signature]

(Seal)

This forms part of application

LUC17-0001



City of
Kelowna
COMMUNITY PLANNING

Planner
Initials

JR

LAND USE CONTRACT

Schedule of Persons Having a Registered Interest In the Land Whose Consents Are Required

<u>Full Name</u>	<u>Address</u>	<u>Occupation</u>	<u>Nature of Charge</u>
Bank of Montreal	Kelowna, B.C.		Mortgage L29806



CONSENT

KNOW ALL MEN by these presents that:

Bank of Montreal of
Kelowna, British Columbia being
the holder of a charge by way of mortgage registered
in the Land Registry Office at Kamloops under
Number L29806 against all and singular that certain
parcel or tract of land and premises being in the City of Kelowna
in the Province of British Columbia and known and described as:

the fractional North West 1/4 of
Section 8
Township 23
Osoyoos Division
Yale District
(except Plan 20895)

in consideration of the sum of One Dollar (\$1.00) hereby agrees and
consents to the registration of a Land Use Contract; made between
the registered owner of the said Lands and the City of Kelowna
dated the 12th day of November 1976; against the aforementioned
Lands in priority to the said charge in the same manner and to the
same effect as if it had been dated and registered prior to the said
charges.

IN WITNESS WHEREOF Bank of Montreal has caused these presents
to be executed by its duly authorized attorneys at Vancouver, British
Columbia, this 24th day of November, A.D. 1976.

APPROVED, SIGNED, SEALED AND DELIVERED
in the presence of:

W. MacLaren
Manager
721 Kelowna
B.C.
Signature
Address
Robert C. Christianson
13953 113A Ave.
Surrey, B.C.
Occupation CREDIT OFFICER
As to both signatures

Bank of Montreal
BANK OF MONTREAL
by its attorneys

[Signature]
ASSISTANT CREDIT MANAGER

[Signature]
CREDIT MANAGER 019720

Van:

R-1 SINGLE FAMILY RESIDENTIAL - LOW DENSITYPurpose

The purpose of this zone is to designate and preserve areas for low density, single family residential purposes.

1. Permitted Uses

The following uses and no others shall be permitted in those areas designated by this By-Law as R-1:

A. Principal Uses

- i) Single family residential.
- ii) The keeping of not more than two (2) lodgers in each dwelling unit.
- iii) Day care centres for not more than five (5) children.

2. Permitted Buildings and Structures

The following buildings and structures and no others shall be permitted in those areas designated by this By-Law as R-1:

- A. One family dwellings
- B. Buildings and structures which are accessory to one family dwellings.

3. Regulations Pertaining to the R-1 Zone

The following regulations apply to every development in all areas designated by this By-law as R-1:

A. Lot Area

The minimum lot area for a principal building shall be nine thousand (9,000) square feet; (836.43 square metres).

B. Minimum Frontage

The minimum frontage of a lot containing a principal building shall be sixty (60) feet; (18.29 metres).

C. Number of Buildingsi) Principal Buildings

The number of Principal Buildings on a single lot shall not exceed one (1) building.

ii) Accessory Buildings

The number of Accessory Buildings on a single lot shall not exceed two (2) buildings.

D. Heighti) Principal Buildings

The height of Principal Buildings shall not exceed two (2) storeys.

ii) Accessory Buildings

The height of Accessory Buildings shall not exceed twelve (12) feet;
(3.66 metres).

iii) Accessory Structures

The height of Accessory Structures shall not exceed forty (40) feet;
(12.19 metres).

E. Front Yard

Subject to Schedule A of this By-Law, the Front Yard shall have a minimum depth of twenty (20) feet; (6.10 metres). No required off-street parking shall be permitted in the required Front Yard.

F. Side Yard

Subject to Schedule A of this By-Law, each Side Yard shall have a minimum width of five (5) feet; (1.52 metres), except in the case of a corner lot where the Side Yard abuts the flanking street the side yard shall be increased to a minimum width of fifteen (15) feet; (4.57 metres).

G. Rear Yard

Subject to Schedule A of the By-Law, the Rear Yard shall be a minimum of twenty-five (25) feet; (7.62 metres) in depth.

In cases where lot widths exceed lot depths, the Rear Yard may be reduced to a minimum depth of fifteen (15) feet; (4.57 metres) provided that one (1) side yard shall have a width of not less than twenty-five (25) feet; (7.62 metres).

H. Accessory Buildings

Accessory Buildings shall satisfy all provisions set forth in this subsection.

- i) The maximum floor area of Accessory Buildings shall be determined by the ratio of the lot area upon which the Accessory Building is situated to the maximum permitted floor area as follows:

<u>Lot Area</u>	<u>Maximum Floor Area</u>
less than 1 acre (.40 hectares)	750 sq. ft. (69.70 sq. metres)
1 acre (.40 hectares) and over	1000 sq. ft. (92.94 sq. metres)



ii) If constructed independent of the principal building Accessory Buildings shall meet the following siting regulations:

Accessory Buildings shall not be situated closer to the front street line than the front wall of the principal building which the accessory building serves.

Accessory Buildings shall not be situated less than twenty (20) feet; (6.10 metres) from any street line nor closer than five (5) feet; (1.52 metres) from any interior lot line.

Accessory Buildings shall not occupy more than one-half (1/2) of the width of the rear yard.

iii) If constructed as part of, or attached to the principal building, Accessory Buildings shall satisfy all siting requirements of this Schedule for principal buildings.

I. Height of Fences

i) The maximum height of fences along the rear lot line and the portion of the interior side lot line not within the required front yard shall be six (6) feet; (1.83 metres).

ii) The maximum height of fences in the required front yard or in a side or rear yard abutting a street shall be four (4) feet; (1.22 metres).

J. Minimum Ground Floor Area of Principal Buildings

Principal buildings shall have a minimum ground floor area of not less than seven hundred and fifty (750) square feet; (69.70 square metres).

K. Lot Coverage

Lot coverage by principal buildings and accessory buildings shall not exceed thirty-five (35) per cent of the total lot area.

L. Off-Street Parking

Provision for Off-Street Parking shall be made in accordance with the requirements established in Section 6 of Part III of this By-Law.



L.U.C. NO. 76 - 1087,
OUR FILE NO. S 76 - 10.

SCHEDULE "C"

CONSTRUCTION REQUIREMENTS

The quality of material and workmanship provided for all services and utilities shall be equivalent to City of Kelowna Standards and as approved by the City Engineer.

CONSTRUCTION REQUIREMENTS SHALL INCLUDE:

CLIFTON ROAD:

Reconstruct from the northerly end, south for a distance of 1600'+, and more particularly -

- A) Standard type curb and gutter (6" vertical curb face) on the west side.
- B) 28' hot - mix asphaltic concrete.
- C) Clear an area at curb grade, behind the curb on the west side of Clifton Road sufficient to enable future installation of a 5' wide sidewalk by others. Rough grade boulevard areas.
- D) A 30' radius paved turnaround at the north end.
- E) Storm sewer system including approved run - off control at the southerly end of the curb and gutter sections.
- F) A domestic water system.
- G) Fire protection (hydrants).
- H) Underground wiring (electrical, and communication).
- I) Street name and traffic control signs.
- J) Street lighting.

LYNN COURT :

From Clifton Road west and more particularly -

- A) Rolled type curb and gutter on both sides.
- B) 30' hot mix asphaltic concrete between the curbs.
- C) 44' radius paved cul - de - sac complete with an 18' radius traffic island centered on the bulb.
- D) Rough grade the boulevard area.
- E) Approved drainage facilities.
- F) Domestic water system.
- G) Fire protection (hydrants).
- H) Underground wiring (power and communication).
- I) Street lighting.
- J) Street name and traffic control signs.

L.U.C. - NO. 76 - 1087,

SUR FILE NO. S 76 - 10

.... / 2

KYNDREE COURT:

From Clifton Road west 400' - -

- A) Rolled curb and gutter on both sides.
- B) 30' hot mix asphaltic concrete between the curbs.
- C) Rough grade the boulevard areas.
- D) Storm sewer system.
- E) Domestic water.
- F) Fire protection (hydrants).
- G) Underground wiring (power and communication).
- H) Street lighting.
- I) Street name and traffic control signs.

TINA COURT:

From Kyndree Court - north. -

- A) Rolled type curb and gutter on both sides.
- B) 30' hot mix asphaltic concrete between the curbs.
- C) 40' radius paved cul - de - sac.
- D) Approved drainage facilities.
- E) Domestic water system.
- F) Fire protection (hydrants.)
- G) Underground wiring (power and communication).
- H) Street lighting.
- I) Street name and traffic control sign.

PRIVATE ACCESS ROADS:

Between Lots 3 and 5, and 16 and 17. -

Construct a 16' surface width complete with a 12' width of hot - mix asphalt.

PLAN OF SUBDIVISION OF PART OF THE FRACTIONAL N.W. 1/4, SECTION 8, TOWNSHIP 23, O.D.Y.D. EXCEPT PLAN 20895.

DD M17452

PLAN NO. DEPOSITED IN THE LAND REGISTRY OFFICE AT KAMLOOPS, B.C. THIS DAY OF 197

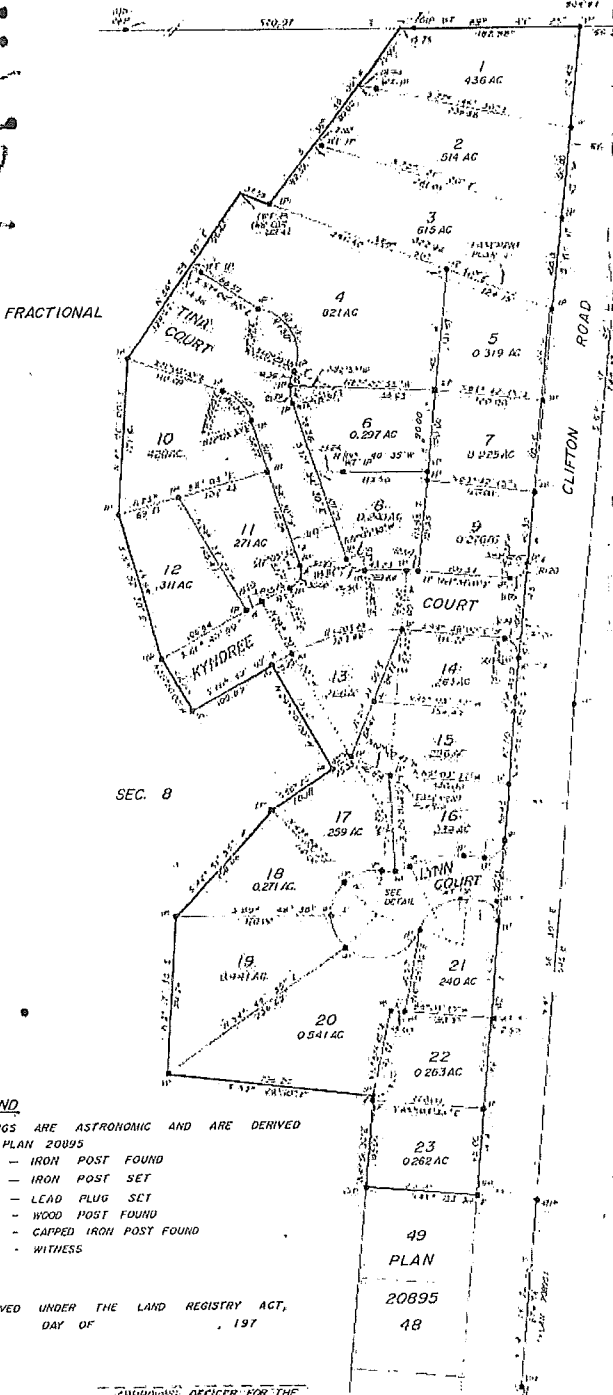
SCALE: 1" = 100'

REGISTRAR

SEE PLAN FRACTIONAL S.W. 1/4 SEC. 17 TP. 23 O.D.Y.D.



M17452



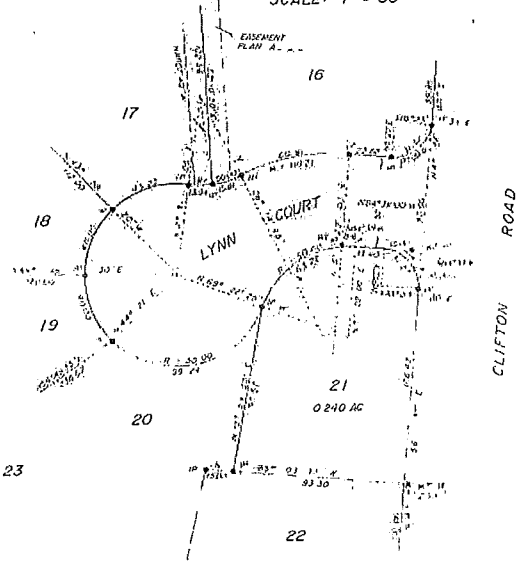
ATTACHMENT B

This forms part of application # LUC17-0001

Planner Initials **JR**

City of Kelowna COMMUNITY PLANNING

DETAIL SCALE: 1" = 50'



- LEGEND**
- BEARINGS ARE ASTRONOMIC AND ARE DERIVED FROM PLAN 20895
- DIP - IRON POST FOUND
 - IP - IRON POST SET
 - LP - LEAD PLUG SET
 - ONP - WOOD POST FOUND
 - OCIP - CAPPED IRON POST FOUND
 - WT - WITNESS

THE REGISTERED OWNER DESIGNATED HEREIN HEREBY DECLARES THAT IT HAS ENTERED INTO A CONDITION OR COVENANT WITH THE MUNICIPALITY UNDER SEC 24A OF THE LAND REGISTRY ACT

I, C.W. GEHUE, OF THE CITY OF KELOWNA A BRITISH COLUMBIA LAND SURVEYOR, MAKE OATH AND SAY THAT I WAS PRESENT AT AND DID PERSONALLY SUPERVISE THE SURVEY REPRESENTED BY THIS PLAN AND THAT THE SAID PLAN ARE CORRECT. THE SAID SURVEY WAS COMPLETED ON THE 20th DAY OF JANUARY 1976

APPROVED UNDER THE LAND REGISTRY ACT, THIS DAY OF 197

R B E ENTERPRISES LTD

SWORN BEFORE ME THIS 23rd DAY OF JANUARY 1976

Signature of C.W. Gehue, R.C.L.S. Affidavit for British Columbia

LANDING OFFICER FOR THE CITY OF KELOWNA

C.W. GEHUE & ASSOCIATES B.C. LAND SURVEYORS 1450 ST PAUL STREET, KELOWNA