

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

BY-LAW 2018-26

Being a By-law to appoint David C. King, Municipal Advisory Services (MAS),
as the Integrity Commissioner for the Municipality of Powassan

WHEREAS, section 223.3 through 223.8 of the Municipal Act, 2001, as amended, (the Act) authorizes a municipal council to appoint an Integrity Commissioner who is responsible for performing in an independent manner functions related to the Code of Conduct and sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act of members of council and local boards; and

WHEREAS such services shall be undertaken by an Integrity Commissioner appointed by the Council pursuant to Sections 9, 10, 11 and 223.3 of the Act; and sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act; and

WHEREAS the Council deems it advisable to appoint MAS (David C. King, principal) as Integrity Commissioner to perform the services as referred to above; and

WHEREAS MAS has expressed interest in providing services to the Municipality of Powassan acting as Integrity Commissioner on the terms and conditions as agreed from time to time and under written agreement in the form and of the content attached as Schedule "A" hereto;

NOW THEREFORE BE IT RESOLVED THAT the Municipal Council of the Corporation of the Municipality of Powassan hereby enacts as follows:

1. THAT, subject to execution of the agreement attached as Schedule "A" hereto, MAS is hereby appointed as Integrity Commissioner for the Municipality of Powassan to perform those functions set forth in Section 223.3 through 223.8 of the Municipal Act, 2001 (Ontario) and sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act including but unlimited to:

(a) Assisting in the development and application of a Code of Conduct and any related procedures, rules, and policies governing the ethical behavior of members of council and local boards;

(b) The provision of educational information to members of Council, members of local boards, the municipality and the public about the municipality's Code of Conduct for members of Council and members of local boards and about the Conflict of Interest Act.2017

(c) Conducting inquiries in respect of any requests alleging contravention of the Code of Conduct and/or any other procedures, rule or policy governing the ethical behavior of members of council and local boards; and

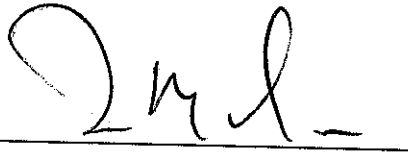
(d) Reporting to council for the Corporation of the Municipality of Powassan as to the activities as Integrity Commissioner, including but not limited to reports as to the results of any inquiry into alleged contravention and/or an annual report of activities as Integrity Commissioner.

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

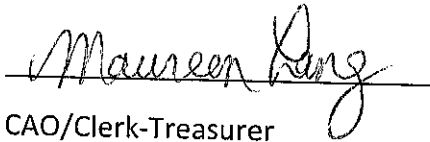
BY-LAW 2018-26

2. That By-Law 2017-25 is repealed.
3. That this By-law shall come into force and take effect on May 15, 2018.

READ a **FIRST** time and considered read a **SECOND** and **THIRD** time and adopted as such in open Council this 15th day of May, 2018.



Mayor



CAO/Clerk-Treasurer

SCHEDULE "A" By-Law No. 2018-26

AGREEMENT FOR MUNICIPAL INTEGRITY COMMISSIONER

THIS AGREEMENT made as of the 15 day of May, 2018

BETWEEN: CORPORATION OF THE MUNICIPALITY OF POWASSAN
(Hereinafter referred to as "the Municipality")

OF THE FIRST PART

AND:

DAVID C. KING, carrying on business as MAS Municipal Advisory Services
(Hereinafter referred to as "MAS")

OF THE SECOND PART

WHEREAS:

(A) Section 223.3 through 223.8 of the Municipal Act, 2001, S.O. 2001, c.25 (the "Act") authorizes a municipality to appoint an Integrity Commissioner to, provide advice and guidance to members of Council and local boards and the public as to the application the Municipal Code of Conduct and sections 5,5.1 and 5.2 of the Municipal Conflict of Interest Act ("MCIA") relating to their ethical behavior, and, furthermore, to making inquiry into requests as to alleged contraventions of the Municipal Code of Conduct and sections 5,5.1 and 5.2 of the Municipal Conflict of Interest Act by a member of Council or board or public and to report the results of such inquiry to the municipality;

(B) In appointing an Integrity Commissioner and in assigning powers and duties to him or her, a municipality is to have regard to, among other things:

i) the independence and impartiality of the said Commissioner; ii) confidentiality in respect of the activities of the Integrity Commissioner; iii) the credibility required to be attributed to the role of the Integrity Commissioner; and

(C) the Municipality is satisfied that MAS has the skills and ability to meet the foregoing criteria.

NOW THEREFORE, in consideration of the payment of the sum of one dollar (\$1.00) by each party to the other and the covenants and hereinafter set forth, the sufficiency and receipt of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. Term — The term of this agreement is for the period of 5 years commencing June 1, 2018 (the "commencement date") and ending on December 31, 2023 unless subject to prior early termination by either of the parties hereto and/or as otherwise renewed or extended by agreement of the parties.
2. Services — the Municipality hereby retains and appoints MAS as Integrity Commissioner for the purposes of Sections 223.3 through 223.8 of the Act and sections 5,5.1 and 5.2 of the MCIA and MAS accepts such appointment and agrees to provide such services as are reflected in the Acts and as requested by the municipality, at all times in accordance with and to the standards as set forth in the Act. MAS confirms that such services will be rendered by David C. King, save and accept as otherwise delegated in accordance with this agreement.
3. Duties — As Integrity Commissioner, MAS shall perform the duties and have the powers provided for in the Acts, including but not limited to the following:
 - (1) **Advisory:** Assistance in the development of a Code of Conduct , standardized notices, processes/procedures related to the administration of Integrity Commissioner functions; upon proper written request, provide written advice to individual members of Council respecting the application of the Municipal Code of Conduct and sections 5,5.1 and 5.2 of the MCIA relating to and reflecting upon their ethical behavior; and furthermore and when appropriate, providing the full Council with specific and general opinions and advice in writing respecting compliance by elected officials in respect of the provisions of governing statutes the Code of Conduct and sections 5,5.1 and 5.2 of the MCIA.
 - (2) **Compliance Investigation/Determinations:** upon proper written request from a member of Council or local board or one or more members of the public, to conduct an inquiry and make a determination as to any alleged contravention of the Municipal Code of Conduct or sections 5,5.1 and 5.2 of the MCIA to report the details and results of such inquiry to municipal Council.

(3) Educational: provide the Municipality with an annual report of activities during the previous calendar year as Integrity Commissioner, including advice given to Council or individual members of Council and a summary of inquiry results and determinations; furthermore, provide outreach programs to members of Council and local boards, the public and relevant staff on legislation, protocols, and office procedures emphasizing the importance of compliance with a Code of Conduct and the MCIA for public confidence in Municipal Government; and, furthermore, dissemination of information available to the public on the website operated by the Municipality.

Notwithstanding that set forth above, the parties acknowledge and agree that the function of the Integrity Commissioner is to provide advice and opinion to Council and members thereof, to provide independent complaint prevention, investigation, adjudication, and resolution to members of Council and the public, and education respecting adherence with the Code of Conduct for members of Council and other procedures, rules, and policies governing ethical behavior.

The parties hereto also acknowledge and agree that MAS, as Integrity Commissioner, will perform services, and in particular those services relating to advisory and educational duties, in a manner so as to avoid duplicated advice, opinion, and cost in respect of identical requests and inquiries — for example, the Integrity Commissioner shall decline to provide individualized advice and opinion to more than one member of Council or a local board on identical issues but should choose to provide general advice to Council or such local board as a whole to answer all such inquiries. In addition, it is recognized that MAS, as Integrity Commissioner, will likely receive requests for advice on matters involving compliance with the MCIA. While the Integrity Commissioner may provide general interpretation of the MCIA, as it relates to sections 5.5.1 and 5.2 of the MCIA it is expected that individual members of Council or local boards will seek independent legal advice on a specific question of individual compliance with such legislation.

4. Fees

(a) Annual Retainer — Following the commencement date of this agreement, the Municipality shall pay to MAS the sum of THREE HUNDRED DOLLARS (\$300.00) as an annual retainer for appointment as Integrity Commissioner.

(b) Hourly Rate — MAS will be paid a fee of ONE HUNDRED & FIFTY DOLLARS PER HOUR (\$150.00/hour), plus HST, for time devoted to

services as Integrity Commissioner identified in Schedule "A" hereto; provided that MAS will charge such hourly rate only for time actively devoted to the duties described in Section 3 (1) and (3) above. For the duties described in Section 3 (2) MAS will be paid a fee of TWO HUNDRED & FIFTY DOLLARS PER HOUR (\$250.00/hour plus HST.

(c) Expenses — Upon presentation of receipts, MAS will be entitled to reimbursement of expenses incurred in relation to performance of duties contemplated by this agreement, including but not limited to food and hotel costs, in accordance with the client municipality's expense policy, plus mileage at the rate of .55 per/km plus HST.

(d) Legal Advice/Fees — The parties agree that, when necessary, and upon notice to the municipal Clerk and Council, MAS may arrange for and receive legal assistance and advice to properly perform the duties contemplated by this agreement. The parties agree that, this is a reimbursable expense and the municipality shall pay the cost of such legal assistance and advice.

(e) Invoicing — MAS agrees the hourly fees and related expenses for which reimbursement will be sought and as referred to above shall be charged and invoiced to the municipal corporation from which the request originated and to whom the service was provided.

(f) Payment without deduction — The parties hereto agree that invoices rendered by MAS and payments by the municipality shall be without deduction, specifically for any contributions imposed or required by law for employment insurance, health costs, social insurance, income tax, workers compensation, or mandatory pension.

5. Delegation — In the event of a potential conflict, or that more than one request or complaint is made at any one time and requiring the rendering of more than one service, including more than one investigation, MAS may determine it necessary to delegate some or all of the powers and duties reflected above and MAS is authorized to arrange for and effect such delegation in writing; provided that such delegation shall not be made to a member of Council and provided further that the person, body, or agency to whom such delegation is made agrees in writing to be governed by the terms of this agreement. The person, body, or agency to whom such delegation shall be made shall be under the supervision and direction of MAS. MAS shall prepare and render an invoice to the Town which

accounts for the costs of the delegatee and MAS shall be responsible for the fees and disbursements of such delegatee.

6. Independent Contractor — Notwithstanding the appointment as a statutory officer, the parties agree and acknowledge that MAS is a contractor independent of the Municipality. Nothing within this agreement shall be interpreted to render or create a relationship of employer/employee, partnership, franchise, agency, joint venture or other like arrangement as between MAS and the Municipality.

7. Statutory Officer — For purposes of the agreement and solely for arranging for errors and omission insurance, the Integrity Commissioner shall be deemed to hold the status of "Statutory Officer" under the Municipal Act.

8. Indemnification — the municipality agrees to indemnify and save harmless MAS, its agents and assigns, from and against any and all liabilities, losses, suits, claims, demands, damages, expenses, costs (including all legal costs), fines and actions of any kind or nature whatsoever arising out of or in connection with the provision of services and carrying out of duties as contemplated hereunder, including but not necessary limited to any alleged breach of this agreement, any procedural defect, or any breach of relevant statutory provisions.

MAS shall, at its expense, obtain and keep in force during the term of this Agreement, Errors and Omissions and General Liability Insurance satisfactory to the Corporation, with limits of not less than \$2,000,000.

MAS shall also obtain and keep in force, during the term of this Agreement, Errors and Omissions insurance with limits of not less than \$2,000,000.

9. Early Termination — The agreement may be terminated by either party at the end of any calendar year, save and except for the calendar year 2018, by delivery of a written notice of such early termination delivered thirty days before December 1st of any such calendar year during the term of this agreement.

10. Notice — Any notice required pursuant to this agreement shall be delivered to the respective parties hereto at the following addresses:

For the Municipality -Municipality of Powassan, 466 Main Street P.O. Box 250 Powassan, ON, POH 1Z0

For MAS — David C. King, 42 Stacey Crescent, Garson, ON, P3L 1C5

Any written notice between the parties hereto which specifically excludes any invoice rendered herein, shall be delivered or sent by pre-paid registered mail addressed to the parties at the respective addresses listed above. Notice shall be deemed to have been received on the date on which notice was delivered to the addresses designated or, in the case of mailing, on the fifth day after the date of mailing.

11. Severability —

All paragraphs, terms, and conditions of this agreement are severable and the invalidity, illegality or unenforceability of any such paragraph, term, or condition shall be deemed not to affect the validity, legality, or enforceability of the remaining paragraphs, terms and conditions.

12. Complete Agreement — This agreement, including any schedule hereto, constitutes the entire agreement between the parties and supersedes all prior agreements, negotiations and discussions, whether oral or written, with respect to the subject matter of this agreement.

13. Inurement — This agreement shall inure to the benefit of and is binding upon the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties are to have caused the agreement to be signed and sealed and/or executed by their respective officers which are duly authorized as of the date first written above.

SIGNED, SEALED AND DELIVERED, THE CORPORATION OF THE MUNICIPALITY OF POWASSAN:

Per , Mayor

Per , CAO/Clerk-Treasurer

We have authority to bind the Corporation

David C. King

David King

MAS Municipal Advisory Services