

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH CARDINAL**

BY-LAW NO. 2022-05

**“A BY-LAW TO AUTHORIZE THE MAYOR AND CAO TO EXECUTE AN
AGREEMENT WITH HGC MANAGEMENT INC. FOR CURBSIDE COLLECTION
OF SOLID WASTE AND RECYCLABLES”**

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 8(1) states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 8(2) states that in the event of ambiguity, the ambiguity shall be resolved so as to include, rather than exclude, municipal powers that existed before the Municipal Act, 2001 came into force; and

WHEREAS the Municipal Act 2001, SO 2001, Chapter 25, Section 9 gives the municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this Act; and

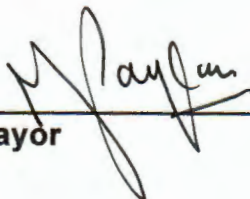
WHEREAS the Council of the Corporation of the Township of Edwardsburgh Cardinal deems it advisable to enter into an agreement with HGC Management Inc. for the provision of curbside collection of solid waste and recyclables;

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh Cardinal enacts as follows:

1. That the Mayor and CAO are hereby authorized to execute the Waste Disposal Agreement with HGC Management Inc, attached hereto as Schedule “A”, and shall form part of this bylaw.
2. That this by-law shall come into force and take effect on the date of passing.

Read a first and second time in open Council this 24 day of January, 2022.

Read a third and final time, passed, signed and sealed in open Council this 24 day of January, 2022.



Mayor



Clerk

WASTE DISPOSAL AGREEMENT

This Agreement, made in triplicate, on the 24 day of January, 2022.

BETWEEN:

The Corporation of the Township of Edwardsburgh/Cardinal
(hereinafter call the "Municipality")

- and -

HGC Management Inc.
(hereinafter called the "Contractor")

WHEREAS the Contractor provides collection and disposal services for solid waste and recyclables in the Province of Ontario.

AND WHEREAS the Municipality requires curbside collection and the disposal of waste and recovery of recyclables.

NOW THEREFORE, in consideration of the promises made hereinafter, set out and intended to be legally binding thereby, the Municipality and the Contractor agree as follows:

SECTION 1:

A. A general (but not exhaustive) description of the work is as follows:

Waste Management Collection Services:

The Contractor shall supply all expertise, labour, materials, equipment, licenses, and certifications necessary to complete the following:

- i. The weekly collection and disposal of curbside solid waste at an approved landfill site in accordance with the Municipality's Waste Collection By-law No. 2019-64;
- ii. The bi-weekly collection and recovery of curbside recycling, with green box material collected one week and blue box material collected the next in accordance with By-law No. 2019-64 ("the Work").

B. The Contractor shall, for the Contract Price as set out in Section 3 of this Agreement, without exception, supply at no additional costs to the Municipality all and every kind of labor, machinery, plants, structures, materials, appliances, articles, and things necessary for the performance of the Work as defined by this agreement.

SECTION 2:

The Contractor shall commence the Work on March 1, 2022 and agrees to carry out the work for a period of three (3) years (“the Term”).

SECTION 3:

The Municipality and the Contractor agree that the Contract Price for the Work shall be as follows:

Weekly Curbside Solid Waste Collection	# of Eligible Units	TOTAL ANNUAL COST
YEAR ONE (2022-2023)	3170	\$232,000.00, plus HST
YEAR TWO (2023-2024)	3208	\$232,450.00, plus HST
YEAR THREE (2024-2025)	3246	\$242,250.00, plus HST

Alternating Weekly Curbside Recyclable Waste Collection, (blue box one week, green box the next).	# of Eligible Units	TOTAL ANNAUL COST
YEAR ONE (2022-2023)	3170	\$110,625.00, plus HST
YEAR TWO (2023-2024)	3208	\$115,300.00, plus HST
YEAR THREE (2024-2025)	3246	\$120,175.00, plus HST

SECTION 4:

In the event of any inconsistency or conflict in the contents of the following documents, such documents shall take precedence and govern in the following descending order:

- a. This Agreement;
- b. Addenda to this Agreement, if any;
- c. *Request for Proposal for Curbside Collection of Recyclables and Solid Waste Addendum No. 1;*
- d. *Request for Proposal for Curbside Collection of Recyclables and Solid Waste dated November 3, 2021;*
- e. Edwardsburgh Cardinal RFP for Curbside Collection Technical and Pricing Submissions;
- f. Declaration by Proponent and Schedule of Items & Pricing.

SECTION 5:

The Contractor shall not, without the consent in writing of the Municipality, and without restricting in any way the Terms and Conditions as set out in the *Request for Proposal for Curbside Collection of Recyclables and Solid Waste* dated November 3, 2021, make any assignment of any part or the whole of any of this Agreement or any individual provision thereof

SECTION 6:

The Municipality covenants with the Contractor that the Contractor, having in all respects complied with the provisions of this Agreement, will be paid the Contract price for 2022-2023, 2023-2024, 2024-2025 subject to such additions and deductions as may properly be made under the terms hereunder, if any. The Municipality may make payment of the Contract Price to the Contractor by way of monthly installments or as otherwise permitted by the Terms and Conditions contained in the *Request for Proposal for Curbside Collection of Recyclables and Solid Waste* and any addenda thereto.

SECTION 7:

Where any notice, direction or other communication is required to be or may be given or made by one of the parties hereto to the other, such notice shall be deemed sufficiently given or made if mailed or delivered in writing to such party at the following addresses:

The Municipality: **THE CORPORATION OF THE TOWNSHIP OF EDWARDSBURGH/ CARDINAL**
18 Center Street
Spencerville, ON K0E 1X0

The Contractor: **HGC MANAGEMENT INC.**
50 Shaver Street, RR#8
Brantford, ON N3T 5M1

SECTION 8:

A copy of each of the *Request for Proposal for Curbside Collection of Recyclables and Solid Waste Addendum No. 1*, *Request for Proposal for Curbside Collection of Recyclables and Solid Waste* dated November 3, 2021, Edwardsburgh Cardinal RFP for Curbside Collection Technical and Pricing Submissions, and the Declaration by Proponent and Schedule of Items & Pricing are hereto annexed and form part of this Agreement as though recited in full herein.

SECTION 9:

No contract of any kind by or on behalf of the Municipality shall arise, be implied, or inferred from anything contained in this Agreement, nor from any position or situation of the parties at any time, it being understood and acknowledged that the express covenants and agreements herein contained are the only covenants and agreements between the parties.

SECTION 10:

Time shall be of the essence of this Agreement.

SECTION 11:

The Contractor declares that by submitting a proposal for the Work and by entering into this Agreement, it has either investigated the character of the Work and all local conditions that might affect its tender, acceptance or performance of the Work, or that not having so investigated, it acknowledges that its responsibility under this Agreement is in no way reduced or limited thereby. The Contractor further agrees to assume and does hereby assume all risk of conditions arising, developing, or being revealed in the course of the Work which might or could make the Work, or any part thereof, more expensive to complete, or more onerous to fulfill, than was contemplated or known when the tender was made or this Agreement signed. The Contractor further declares that it did not and does not rely upon information furnished by any methods whatsoever by the Municipality or its officers, employees or agents, being aware that any such information was and is approximate and speculative only and was not in any manner warranted or guaranteed by the Municipality.

SECTION 12:

The Contractor shall ensure that the Work is done in compliance with the requirements of each federal, provincial, municipal and other government and each governmental and regulatory authority having jurisdiction over the Work and/or the Contractor (collectively, the "Regulatory Authorities") and with all laws, regulations, rules, by-laws, codes, standards, directives, and policies of every nature and kind whatsoever of all Regulatory Authorities (collectively, the "Laws") applicable to the work and/or the Contractor. The Contractor shall, at its own expense, obtain and maintain in good standing all permits and licenses required by the Regulatory Authorities. If the Contractor performs any work contrary to any applicable Laws, then the Contractor shall bear all costs related to that contravention and its correction.

SECTION 13:

In the event that the performance of the Contractor is not satisfactory, as determined by the Municipality in its sole and absolute discretion, then the Municipality shall serve written notice upon the Contractor setting out the details of non-performance and will give the Contractor ten (10) calendar days to rectify that non-performance. If the Contractor does not take the required corrective action, this Agreement may be terminated immediately by the Municipality without further recourse by the Contractor against the Municipality. The Municipality may then procure the necessary equipment and services to complete the work, the cost of which shall be deducted from any monies owed to the Contractor. If the expense of completing the work exceeds the unpaid balance of the Agreement price, then the Contractor shall pay the difference to the Municipality forthwith on demand.

SECTION 14:

Prior to the commencement of any work, the Contractor shall obtain and maintain until the termination of this Agreement or otherwise stated, the required insurance coverage as outlined and set out in the *Request for Proposal for Curbside Collection of Recyclables and Solid Waste Addendum No. 1* and/or *Request for Proposal for Curbside Collection of Recyclables and Solid Waste* dated November 3, 2021, which coverage may include, but is not limited to, commercial general liability, automobile liability, professional liability, and environmental liability insurance. The Contractor shall provide evidence of the foregoing insurance to the Municipality upon demand.

SECTION 15:

A. Notwithstanding anything to the contrary contained in this Agreement, the parties shall not be liable for any failure or delay in fulfilling or performing any of their obligations under this Agreement when such performance is prevented or delayed by any cause or condition beyond the reasonable control of the affected party, including without limitation:

- (i) acts of God or natural disasters such as but not limited to fire, explosion, earthquake, volcanic activity, blizzard, epidemic, violent storm, flood or drought;
- (ii) war, act of terrorism, insurrection, rebellion, riot, civil commotion or disorder, strike, lockout or other labour disturbance;
- (iii) act, omission or delays in acting by governmental authority, compliance with any law or government order, rule, regulation or direction, curfew restriction or lockdown, or expropriation; and
- (iv) prolonged breakdown or shortage of transport, telecommunication or electricity (each an "Event of Force Majeure").

- B. A party affected by an Event of Force Majeure shall forthwith notify the other party within seven (7) calendar days of the existence or occurrence of the Event of Force Majeure and shall use commercially reasonable best efforts to avoid, mitigate or remove such Event of Force Majeure and the causes of non-performance or any damage resulting therefrom.

SECTION 16:

- A. The Contractor shall keep the work site (curbside collection zones) clean and tidy and free of debris and waste materials, failing which the Contractor will be charged a clean-up fee of double to cost of such clean up to the Municipality. The Municipality has the right to direct the Contractor with respect to its clean-up activities.
- B. The Contractor shall be responsible for reinstatement of all disturbed areas. The Contractor shall also be responsible for any and all costs associated with the release of hazardous materials caused by or resulting from the acts or omissions of the Contractor or its agents. Those costs include, without limitation, emergency response, investigation, containment, remediation, removal and disposal of hazardous materials in surface and ground water, land surface, subsurface strata, buildings, structures or improvements on the work site or on neighboring properties that originated from a release on the work site.

SECTION 17:

The Contractor agrees to indemnify, hold harmless, and defend the Municipality and its elected officials, directors, officers, employees and agents, as applicable (collectively, the "Indemnified Parties"), from and against all claims, demands, debts, dues, losses, costs including legal costs, damages, actions, suits or proceedings (collectively, the "Liabilities") as a result of (i) accidents or injuries (including death) to persons or property occasioned by the acts, omissions or negligence of the Contractor its directors, officers, agents, employees or any other person for whom it is responsible in law, whether or not the Contractor is insured and whether or not the accident or injury is jointly caused by any third party, (ii) violations by the Contractor or its agents of any applicable laws, (iii) any release of hazardous materials caused by or resulting from the acts, omissions or negligence of the Contractor, its directors, officers, agents, employees or any other person for whom it is responsible in law, (iv) any claim, lien or trust claim pursuant to the *Construction Act* or any other statute or law, including without limitation, the cost of removing any claim for lien from the title to the work site, and (v) any breach of this Agreement by the Contractor. If any claim or demand is made against the Indemnified Parties on account of any such Liabilities, the Municipality may deduct the amount of such Liabilities (and related legal fees) from monies owing to the Contractor.

SECTION 18:

- A. The parties hereto agree that they will follow the process for dispute resolution as set out herein.
- (i) In the event of any dispute, claim, question or difference arising out of or relating to the construction of the Services or the reduction of security contemplated by subsection 2(f) of this Agreement, the parties shall use their best efforts to settle such disputes, claims, questions or differences. To this effect, they shall consult and negotiate with each other in good faith and understanding of their mutual interests in the Services to reach a just and equitable solution satisfactory to all parties. If they do not reach such solution within thirty (30) days, then upon notice by either party, the disputes, claims, questions, or differences shall be finally settled by arbitration in accordance with the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17 and any amendments thereto.
 - (ii) The arbitration tribunal shall consist of one arbitrator. The parties will cooperate with one another with a view to selecting an arbitrator appropriate to the subject matter of the dispute. If the parties fail to agree upon an arbitrator within a reasonable period of time, then either of them may apply to a judge of the Superior Court of Justice of the Province of Ontario to appoint an arbitrator. The arbitration will take place in the City of Ottawa unless agreed otherwise by the parties.
 - (iii) The arbitrator has the right to grant legal and equitable relief including injunctive relief and the right to grant permanent and interim injunctive relief. The arbitrator shall not amend or otherwise alter the terms and conditions of this Agreement. The arbitrator shall render a decision within sixty (60) days of any hearing.
 - (iv) The final award of the arbitrator shall be final and binding on the parties with no appeal to any court. The parties hereby agree to carry out any decision or order of the arbitrator in good faith. The costs of the arbitration shall be determined by the arbitrator.

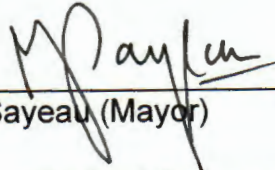
SECTION 19:

This Agreement shall ensure to the benefit of and be binding on the parties hereto and their respective successors, administrators, and assigns.

IN WITNESS THEREOF the parties hereto have hereunto set their hands and seals the day and year first above written or caused their corporate seals to be affixed, attested by the signature of their proper officers, duly authorized, as the case may be.

SIGNED, SEALED AND DELIVERED

**THE CORPORATION OF THE TOWNSHIP OF
EDWARDSBURGH/CARDINAL**



Per: Patrick Sayeau (Mayor)

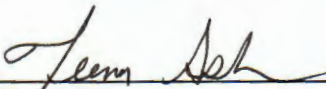
(I have authority to bind the corporation)



Per: Dave Grant (CAO)

(I have authority to bind the corporation)

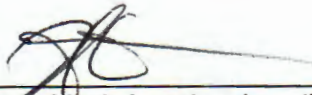
HGC MANAGEMENT INC.



Witness

Name (Printed):

Tereza Ashbridge



Per: Herb Lambacher (President)

(I have authority to bind the corporation)