



LEGISLATIVE COVER MEMO

Date: February 3, 2025

Agenda Item: **Resolution 2025-14**

AUTHORIZING THE PURCHASE OF PUBLIC RESTROOM FACILITY FROM ENTERPRISES URBEN BLU INC.

Submitted by: Jonathan Westendorf, City Manager

Scope/Description: This Resolution authorizes the City to purchase a certain public restroom facility from Enterprises Urben Blu Inc. ("Urben Blu"). Urben Blu is the sole source provider of these services for the City of Franklin.

Urben Blu is the only manufacturer that provides a Public Restroom Facility containing the features necessary to protect the public safety, health and welfare, and serve the City's needs at Dial Park. These features include;

- Constructed of anti-vandalism materials (including 2 layers of reinforced concrete fire protection)
- Microwave volumetric presence detectors (to notify the City if a person has been in the restroom for an abnormal length of time, indicating a potential medical emergency or unauthorized use of the restroom)
- Automatic cleaning system that cleans, disinfects and dries the restroom area after each use

There are no other buildings in this location, which is surrounded by roadways and treelined. A prefabricated structure with the technology needed to ensure the safety of our residents and staff is the best and most efficient considering the estimated completion date of the splash pad in May of 2025.

Budget Impact: The total cost of the contract is \$291,000. Payments would be made from the Capital Improvement Fund.

Exhibits: Exhibit A: Urben Blu Sales Agreement

Recommendation Approval

CITY OF FRANKLIN, OHIO
RESOLUTION 2025-14

AUTHORIZING THE PURCHASE OF PUBLIC RESTROOM FACILITY FROM ENTERPRISES URBEN BLU INC.

WHEREAS, the City of Franklin identified a need to install a prefabricated public restroom facility as part of the ongoing Dial Park public improvement project;

WHEREAS, because the restroom facility will be used by the general public, including children and elderly residents, and due to the limited street access to the planned location of the public restroom facility, it is necessary that the prefabricated public restroom facility be constructed with certain features to protect public safety, health and welfare (the "Public Restroom Facility");

WHEREAS, the City has determined the Public Restroom Facility needs to be constructed of anti-vandalism materials (including 2 layers of reinforced concrete fire protection), as well as microwave volumetric presence detectors (to notify the City if a person has been in the restroom for an abnormal length of time, indicating a potential medical emergency or unauthorized use of the restroom);

WHEREAS, the City has further determined the Public Restroom Facility must include an automatic cleaning system that cleans, disinfects and dries the restroom area after each use;

WHEREAS, the City has determined that Enterprises Urben Blu Inc. ("Urben Blu") is the only manufacturer that provides a Public Restroom Facility containing the aforementioned necessary features to protect the public safety, health and welfare, and serve the City's needs at Dial Park;

WHEREAS, because Urben Blu is the City's sole source of this proprietary Public Restroom Facility, the City may acquire the Public Restroom Facility directly from Urben Blu and competitive bidding is not required for this purchase under Ohio law;

WHEREAS, Urben Blu has provided a quote for purchase and installation of 1 Public Restroom Facility for the total amount of \$291,000, as set forth in the purchase order attached as Exhibit A to this Resolution; and

WHEREAS, City Council finds that acquisition of the Public Restroom Facility will enhance the public safety, health and welfare of the Franklin community by ensuring the City's continued provision of efficient, clean and safe public restroom facilities, and Council, therefore, desires to purchase the Public Restroom Facility from Urben Blu.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of Council Members present concurring, that:

Section 1. Based upon the information provided, Council determines that Urben Blu is the sole source of the Public Restroom Facility the City requires for the Project, and approves the waiver of competitive bidding for the purchase and installation of the Public Restroom Facility.

Section 2. Council hereby authorizes the City Manager to execute, on behalf of the City, a purchase order with Urben Blu for the City's purchase and installation of the Public Restroom Facility, in substantially the same form as the attached Exhibit A in an amount not-to-exceed \$291,000.

Section 3. Council further authorizes the City Manager to execute any other documentation, and take any other action, necessary to carry out the intent of this Resolution.

Section 4. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that

resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 5. This Resolution shall become effective immediately upon its passage.

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Resolution 2025-__ passed by City Council on February 3, 2025.

Khristi Dunn, Clerk of Council



SALES AGREEMENT

SELLER

ENTREPRISES URBEN BLU INC
599 CURÉ-BOIVIN, BOISBRIAND, QC, J7G 2A8 CANADA

PHONE : 514-606-5467
SALES REP : Rebecca Bolduc
EMAIL : r.bolduc@urbanblu.com
PHONE : 450-437-8094

(hereinafter referred to as « **Urban Blu** »)

CONTRACT NUMBER :
DATE : January 13th 2025

CUSTOMER – BILL TO :

NAME : City of Franklin OH
ADDRESS: 1 Benjamin Franklin Way, Franklin, OH 45005
PHONE : (937) 746-5001
CONTACT: Steve Inman
PO NUMBER :
CONTACT EMAIL: sinman@franklinohio.org
PHONE CONTACT : (937) 746-9921

(hereinafter referred to as "**CUSTOMER**")

CUSTOMER–SHIP TO

NAME :
ADDRESS:
PHONE :
CONTACT:

DEFINITION OF SERVICES

Customer initials _____



SALES AGREEMENT

1.0- **Urban Blu** takes charge of the planning and supervision of all the works concerning the construction of the building from the factory to the installation, including:

- architectural and visual design
- preparation of plans and technical drawings
- manufacturing in the factory
- delivery and installation with an integrated concrete slab
- connections to municipal services and the electrical network
- programming according to the **CUSTOMER's** needs
- commissioning of the sanitary block
- training

NOT INCLUDED

Unless otherwise indicated, **Urban Blu** toilets do not include landscaping; connection to sewer, water and electrical systems and crane.

CODES AND STANDARDS

2.0- **Urban Blu** Enterprises Inc. is a manufacturer of self-cleaning toilets. We ensure that our product meets and exceeds CSA standards. **Urban Blu** also aims to ensure that the functionality is ADA compliant. **Urban Blu's** products are purchased and installed all over North America; unfortunately, it is not possible for **Urban Blu** to know and comply with all local standards, codes, legislation and/or municipal bylaws that may apply to the buildings we supply, depending on the delivery and installation location determined by the **CUSTOMER**.

2.1- **Urban Blu** will work with the **CUSTOMER** to ensure compliance with applicable codes and standards, but it is the **CUSTOMER's** responsibility to identify these requirements prior to the signing of the Sales Agreement and to inform **Urban Blu** in advance. Failure to do so may result in additional charges to the **CUSTOMER** if modifications are required after the order has been placed. All costs related to obtaining any permits required for the installation of products sold by **Urban Blu** will be the sole responsibility of the **CUSTOMER**.

TERMS AND CONDITIONS

3.0- The following terms and conditions (the "Terms and Conditions") are an integral part of the sales contract (the "Sales Contract") between the "**CUSTOMER**" and **Urban Blu** Enterprises Inc. The **CUSTOMER's** acceptance and understanding of these terms and conditions and all other documents provided in connection with this project are evidenced by the signing of the Sales Agreement.

Customer initials



SALES AGREEMENT

TERMS OF PAYMENT AND FINANCIAL CONSIDERATIONS:

4.0- Unless otherwise specified in the Sales Agreement, payment by the **CUSTOMER** of the purchase price specified in the Sales Agreement (including all applicable taxes, hereinafter referred to as the "Purchase Price") shall be made according to the following terms:

- 40% of the Purchase Price to be paid upon execution of this agreement and receipt of the Purchase Order (P.O.), prior to **Urban Blu** commencing production of the **CUSTOMER's** order in accordance with the Purchase Order,
- 30% of the Purchase Price is to be paid on the earlier of 50% of the progress of the work or 2 months following the signing of the PO
- 30% of the Purchase Price payable on completion of factory work.

Interest of 2% per month will be charged for late payment on invoices submitted and must be paid prior to delivery of goods.

4.1- Unless otherwise specified, all sales or other personal property taxes, use taxes, duties, excise taxes, levies or tariffs imposed by any governmental authority and incurred by **Urban Blu** in the performance of the Purchase Agreement shall be borne by the **CUSTOMER** and are not included in the Purchase Price. Without limiting the generality of the foregoing, applicable federal and provincial taxes will be applied to all taxable goods and services included in the Purchase Agreement in accordance with the rules of the Canada Revenue Agency and Revenu Québec.

4.2- The **CUSTOMER** is advised to consult their financial and tax advisors for further information regarding the taxes applicable to their purchase.

4.3- **Urban Blu** maintains a no-return policy. Consequently, it is the **CUSTOMER's** responsibility to carefully determine the selection of characteristics and colors of the products that are the subject of the sales contract.

4.4- **IMPORTANT:** If the **CUSTOMER** cancels his/her order after production has begun, **Urban Blu** reserves the right to invoice and the **CUSTOMER** agrees to pay a restocking fee.

4.5- Checks and bank transfers are considered acceptable methods of payment.

4.6- All additional fees and charges payable by **Urban Blu** pursuant to the provisions of this Agreement will be billed to **CUSTOMER** at an hourly rate of : \$125/hour.

Customer initials



SALES AGREEMENT

OWNERSHIP OF PRODUCTS SOLD

5.0- Except where ownership of the products contained in the **CUSTOMER's** order is explicitly transferred by **Urban Blu** to the **CUSTOMER** and the Purchase Price is paid in full, ownership, title and right to possession of such products shall remain with **Urban Blu** until the Purchase Price and all amounts due or to become due from the **CUSTOMER** are paid in FULL.

DESIGN CHANGES

6.0- If the **CUSTOMER** requests changes to the design specifications, or if changes to the design specifications are either required by an authority having jurisdiction, or are necessitated by substantial differences between the physical conditions on which the specifications are based and the actual physical conditions of the site, the Sales Price will be adjusted as necessary, including the material and labor required for such changes.

6.1- In the event that changes are made to the delivery schedule after the **CUSTOMER's** order has been confirmed and the scheduled shipping date and delivery date have been determined, **Urban Blu** reserves the right to demand immediate payment of the remaining balance of the Purchase Price, effective on the originally determined shipping date, as well as a storage fee of \$250 per week until the new delivery date, and the **CUSTOMER** irrevocably undertakes to pay these fees to **Urban Blu**.

DELAYS & LOGISTICS

7.0- **Urban Blu** strives to fulfill orders within the time frame requested by the **CUSTOMER**. However, lead times are affected by multiple factors, some of which are beyond **Urban Blu's** control, including, but not limited to, the availability of raw materials, product mix and factory production capacity at the time of the order. The expected time for order fulfillment and shipment from **Urban Blu's** factory will be communicated to the **CUSTOMER** at the time the Sales Agreement is accepted by **Urban Blu**.

7.1- The transit time from **Urban Blu's** factory to the final shipping destination is in addition to the estimated production times indicated by **Urban Blu** in the Sales Contract. The estimated production times assume that all necessary documents and payments in accordance with the provisions of this Sales Agreement have been received by **Urban Blu**. If documents and payments in accordance with the provisions of this Sales Contract have not been received by the deadlines set forth in this contract, additional delivery times may apply.

7.2- All products will be carefully packaged to mitigate loss or damage during shipment and to comply with local import regulations.

All shipments must be inspected upon delivery and any damage, errors or omissions on the parts must be reported to **Urban Blu** within 48 hours of receipt of the products.

ACCEPTANCE OF DESIGN:

8.0- **CUSTOMER** has reviewed local codes/standards as they may apply to the products contained in this order and confirms acceptance of the design and related product specifications, by signing the Sales Agreement.

Customer initials



SALES AGREEMENT

8.1- Where features have been included, **CUSTOMER** has indicated acceptance of the custom feature by initialing the attached custom product specification pages.

SERVICE & SUPPORT:

9.0- **Urban Blu** will communicate the shipping date and delivery date to the general contractor (Contractor) identified by **CUSTOMER** in this Sales Agreement to allow for unloading of materials and handling preparations by the Contractor.

9.1- **Urban Blu** is responsible for providing product technical telephone support for emergencies according to the Service Agreement and system commissioning training to ensure proper operation of the toilet. Operation and maintenance documentation will be provided upon completion of the project installation.

9.2- The **CUSTOMER** is responsible for coordinating the installation schedule with **Urban Blu** to ensure that the site is ready for **Urban Blu's** services upon delivery of the product.

9.3- If the site is not ready as previously agreed upon, **Urban Blu** reserves the right to invoice the **CUSTOMER** and the **CUSTOMER** agrees to pay for any additional time spent on site and any additional expenses incurred as a result of the site not being ready for the scheduled services.

9.4- The delivery and installation of the toilet block is dependent on the site preparation work according to the plans that will be provided by **URBEN BLU** at the time of the order. Therefore, **URBEN BLU** shall not be held responsible for any delays in delivery and installation resulting from the delay in the site preparation work for the toilet block. Should this occur, **URBEN BLU** shall be exempt from any penalties by the **CUSTOMER**.

9.5- The **CUSTOMER** is responsible for providing a safe working environment for all **Urban Blu** service technicians or **Urban Blu** subcontractors on site. **Urban Blu's** subcontractors and personnel have the right to stop work if a work environment is deemed by them (in their sole discretion) to be unsafe until the safety issue(s) have been resolved to **Urban Blu's** satisfaction.

9.6- **Urban Blu** reserves the right to charge the **CUSTOMER** and the **CUSTOMER** agrees to pay for any additional time incurred due to waiting to rectify a reported safety issue.

GENERAL CONDITIONS

10.0- **Order Acceptance:** **Urban Blu** may refuse to accept any order for any reason without liability to the **CUSTOMER**.

10.1- **Change of Order:** No change to this Agreement will be binding unless the **CUSTOMER** has signed a change order provided by **Urban Blu**.

Customer initials



SALES AGREEMENT

10.2- **Collection Costs:** **CUSTOMER** agrees to pay on demand the amount of all expenses reasonably incurred by **Urban Blu** in collecting payment of the purchase price from **CUSTOMER**. **CUSTOMER** shall pay the legal costs incurred (fees and disbursements) by **Urban Blu** in collecting payment of the Purchase Price, including costs incurred in trial and appellate courts or costs incurred without trial and all court costs.

10.3- **Confidentiality:** All confidential information that is part of this agreement including price, design details and product specifications included in the **CUSTOMER's** order, including, but not limited to, fabrication drawings, samples, sketches, photographs, foundation drawings, approval drawings, shipping lists, manuals and any other technical details provided are the property of **Urban Blu**.

10.4- It is absolutely forbidden for the **CUSTOMER** to use or disclose the confidential information of this agreement to third parties, except as required by law, without the prior written consent of **Urban Blu**.

10.5- **Limitation of Liability:** **Urban Blu**, its affiliates and their respective employees, directors, officers, agents and contractors (collectively, **Urban Blu Enterprises Inc.**) shall not be liable for any claim, whether in contract or tort, including negligence or otherwise, for any loss or damage arising from, related to or resulting from the manufacture, sale, delivery, resale, preparation, replacement or use of any product shall in no event exceed the actual portion of the Purchase Price paid by the **CUSTOMER** for such product, or any portion thereof, which gives rise to the claim. In no event shall **Urban Blu Enterprises Inc.** be liable for special indirect or consequential damages.

10.6- The limitation of liability contained herein shall survive the termination or expiration of the Sales Contract.

10.7- **Applicable Law:** This sales contract and all amendments, modifications, alterations or supplements to this sales contract are governed by the laws of the province of Quebec, as to the nature, validity and interpretation of the sales contract. Acceptance of the **CUSTOMER's** order is subject to the condition that **Urban Blu's** obligation under any law or governmental order, rule or regulation issued thereunder, whether now in effect or hereafter made effective, shall not be greater by reason of the acceptance of such order than that required by such laws and **Urban Blu** expressly disclaims the assumption of any of the **CUSTOMER's** obligations under such laws.

10.8- **Time:** All deadlines indicated in the Contract are binding unless otherwise indicated in the text. An extension or modification to the Contract, unless clearly indicated to that effect, shall not constitute a waiver of the foregoing.

10.9- **Dispute Resolution:** All disputes and controversies arising out of or in connection with this Agreement shall be submitted to and finally resolved by a single arbitrator (the "Arbitrator"), to the exclusion of the courts of general jurisdiction, in accordance with the provisions of the Code of Civil Procedure of Quebec, it being understood that such arbitration shall be conducted in the judicial district of Terrebonne. The decision of the arbitrator on all matters or issues submitted to the arbitrator for resolution shall be final and binding on all parties. The arbitrator shall determine who shall bear the costs of arbitration.

10.10- **Enforcement:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective executors, administrators, successors and assigns.

10.11- **Force Majeure:** Neither **CUSTOMER** nor **Urban Blu** shall be liable for any breach of their obligations where such breach results from acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of

Customer initials



SALES AGREEMENT

foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockade, embargo, labor dispute, strike, lockout or interruption or failure of power or telephone service, and no other party shall have the right to terminate the agreement evidenced by the Purchase Agreement under such circumstances. Any party asserting force majeure as a ground shall have the burden of proving that reasonable steps have been taken (under the circumstances) to minimize delay or damage caused by foreseeable events, that all obligations not affected by this exception to performance have been substantially performed, and that the other party has been given timely notice of the likelihood or actual occurrence that would justify such assertion, so that other prudent precautions may be considered.

WARRANTY

11.0- Under normal use of the toilet, **Urban Blu** agrees to provide the following warranties:

- **Full 3-year warranty** on parts and labor (travel expenses not included)
- **10-year warranty** on the structure of the toilet unit

11.1- We strongly recommend the use of our **Urban Blu** products for hand cleaning (hand soap) and disinfectant (for the tank and floor) for optimal use.

11.2- **Breakages caused by the use of products not recommended by Urban Blu or abnormal use of the equipment are not covered by this warranty.**

Customer initials _____



SALES AGREEMENT

Acceptance of the terms of the Sales Agreement and the terms of sale by the CUSTOMER:

Date : _____

Signature : _____

Title and name in print : _____

Acceptance of the terms and conditions of the Sales Agreement and the terms and conditions of sale by Urban Blu Enterprises Inc.

Alain Bolduc, VP- Sales & marketing

Please initial/sign each page of this agreement, scan and return all pages to **Urban Blu** by email or mail with confirmation of deposit (if applicable).

REMINDER

The average manufacturing time for an order is 16 weeks and manufacturing cannot begin until the **CUSTOMER** has provided **Urban Blu** with these documents:

1. The purchase order (P.O.) signed by the **CUSTOMER**
2. **Approval of the plans and specifications**, signed by the **CUSTOMER**
3. **Confirmation of options and choice of all materials**, signed by the **CUSTOMER**

Therefore, the 16 weeks manufacturing period begins **ONLY** when these three (3) signed documents have been provided to **Urban Blu**.

Customer initials _____



SALES AGREEMENT

APPENDIX 1 PURCHASE ORDER

Customer initials _____



SALES AGREEMENT



Quote

URBEN BLU

599 Curé-Boivin
Boisbriand, QC, J7G 2A8
T. 1 450 437 8094

Date: 01-10-2025

Client: City of Franklin OH
Address

Contact: Steve Inman

Quantity	Description	Price (\$)	Total (\$)
1	Double unit -Self Cleaning ADA 2 Restrooms + 1 mechanical room 8'11" X 22'4"	288,000.00	288,000.00
	12" heated concrete pad		
	Flat roof - White membrane		
	Concrete walls, anti-vandalism and anti-graffiti		
	Concrete sink		
	Air exchanger		
	Heated mechanical room		
	Personalized outside finishes		
	3D plan		
	Power pressure machine indoors/outdoors		
	Baby changing table		

1	Supervision of the site preparation / Supervision of the installation		
	** Does not include plumber and electrician and crane		
1	Band with, Software license, Technical support, Sim card, Supervision - Anual Fee	3,000.00	3,000.00
1	Shipping	Included	Included
		Total	
		Taxes	
		TOTAL	291,000.00 US

Customer initials _____