

PROPOSAL



Reference: 1684531
 Project Name: JACKIE GLEASON
 Salesperson: EZEL

Date: 8/16/2019

To: SCOTT NEWTON
 Purchaser: CITY OF LAUDERHILL
 Billing Address: 4141 N.W. 16TH STREET
 Fort Lauderdale, FL 33313

First Shipment Address:
 CITY OF LAUDERHILL
 4141 N.W. 16TH STREET
 Fort Lauderdale, FL 33313

Quantity	Item #	Item Description	Unit Price	Extended Amt
1.00	/ARCH-1370-MF-OM	ARCH-13X7'-MIST-OMNI	\$7,800.00	\$7,800.00
1.5 GPM				
1.00	/TNAR-011-LF	TUNNEL ARCH-4 OUTLETS-LOW FLOW	\$1,183.00	\$1,183.00
4 GPM				
2.00	WTJT-001-LF-OM	WATER TIARA-LOW FLOW-OMNI	\$575.00	\$1,150.00
7.9 GPM				
1.00	/SFOX-001-OM	TWIRLING FOX, OMNI	\$7,995.00	\$7,995.00
7.6 GPM				
2.00	BSWV-001-LF-OM	BASKET WEAVE-LOW FLOW-OMNI	\$575.00	\$1,150.00
1.1 GPM LOOP				
1.00	/CFDQ-002-CF-ART	Custom Art Duck, omni	\$7,250.00	\$7,250.00
2.5 GPM				
1.00	/TBFS-013-LF-OM	2 TUMBLE FISH W/WOOD GRAIN-LF-OM	\$13,475.00	\$13,475.00
18 GPM				
2.00	MPKJ-002-LF-OM	MINI POPKORN JET-LOW FLOW-OMNI	\$575.00	\$1,150.00
2 GPM LOOP				
1.00	CFBF-001-LF-OM	CREATURE FEATURE-JEREMIAH THE BULLFROG-LOW FLOW-OMNI	\$4,405.00	\$4,405.00
6.4 GPM TROPICAL PAINT				
1.00	WFCN-041-OM	WATER FUN CANNON PELICAN OM	\$6,350.00	\$6,350.00
12.00	POD-A001	OMNI-POD TEMPLATE	\$0.00	\$0.00
1.00	BOL-005	6" BOLLARD ACT-POLY-BUTTON	\$3,055.00	\$3,055.00
1.00	/ENC-1684521	CUSTOM ENCLOSURE FOR #1684521	\$24,325.00	\$24,325.00
4" MANIFOLD				
RAIN MAKER-16 OUTLET				
2" PRESSURE CONTROL VALVE				
1" BALL VALVE ASSEMBLY(3)				
1" SOLENOID VALVE (8)				
2.00	DRN12-002	DRAIN-12x12x12-FIBERGLASS-6" NOZZLE-CYCOLAC GRATE & FRAME	\$495.00	\$990.00

TOTAL INTENDED FLOW 58.1
 NJPA SOURCE WELL MEMBER#030117

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Total Order	\$80,278.00
Less discount at a rate of 10.00%	-\$8,027.80
Freight	\$2,700.00
Taxes - See General Terms, Conditions and Warranty	\$0.00
Net Order	\$74,950.20



Inquire about our nationwide cooperative purchasing programs!

Payment Terms: Net 30

Estimated Delivery Date upon placement of Order: 12-16 weeks

See the following pages for General Terms, Conditions and Warranty related to this Proposal

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Project Name: Jackie Gleason
Salesperson: EZEL

GENERAL TERMS, CONDITIONS AND WARRANTY

1) **Purchase:** By executing this proposal (the "Proposal"), or submitting a purchase order pursuant to this Proposal (which shall incorporate the terms of this Proposal into such purchase order specifically by reference) which is accepted by Rain Drop Products, LLC ("Rain Drop") the purchaser identified above ("you" or the "Purchaser") agrees to purchase the products as detailed in this Proposal (the "Products"), or in the purchase order accepted by Rain Drop, for use by Purchaser or for installation by Purchaser on behalf of a third-party who will be the ultimate owner of the features and/or equipment (the ultimate owner of the features and/or equipment, whether Purchaser or a third-party, being the "Owner"). This Purchase is subject to City Commission approval on 8/26/19 and the issuance of a purchase order.

2) **Proposal:** The above proposal is valid for sixty days from the date first set forth above. After sixty days Rain Drop reserves the right to increase prices due to the rise in costs of raw material, fuel or other cost increases.

3) **Short Ship Claims:** Purchaser has fifteen days from receipt of the Products to file a short ship report in writing to its sales representative. Rain Drop will not honor claims made after this time.

4) **Standard Exclusions:** Unless specifically included and detailed in this Proposal, this Proposal does not include, and Rain Drop will not provide services, labor or materials for any of the following work: (a) removal or disposal of any materials containing asbestos or any hazardous materials as defined by the EPA; (b) moving Owner's property around the installation site; (c) repair or replacement of any materials supplied by Purchaser or Owner; (d) repair of concealed underground utilities not located on prints, supplied to Rain Drop by Owner during the bidding process, or physically staked out by Owner, and which are damaged during construction; or (e) repair of damage to existing surfaces that could occur when construction equipment and vehicles are being used in the normal course of construction.

5) **Bonding Guidelines:** If Purchaser uses or provides the Products for an Owner other than Purchaser (including, without limitation, as a subcontractor of Purchaser), Purchaser will include the following statement in Purchaser's contract with Owner: "The manufacturer's warranty for the Rain Drop Products brand water components is a separate document between Rain Drop Products, LLC and the ultimate owner of the Rain Drop brand water components, which will be provided to the ultimate owner at the time of final shipment for products manufactured by Rain Drop. Due to surety requirements, any performance and/or payment bond will cover only the first year of Rain Drop Products, LLC warranty."

6) **Insurance Requirements:** Rain Drop will not provide any insurance coverage in excess of its standard insurance, a copy of which is available for your review prior to acceptance of this Proposal.

7) **Payment:** Terms of payment are defined in the "Payment Terms" section of this Proposal and are specific to this contract. All payments must be made to Rain Drop Products, LLC, 2121 Cottage Street, Ashland, Ohio 44805. If the Purchaser or Owner fails or delays in making any scheduled milestone payments, Rain Drop may cease continued manufacturing until such payments with penalties are made, or Rain Drop may be relieved of its obligations hereunder if payment is more than sixty days past due. Rain Drop shall be entitled to certain payments previously made as liquidated damages. Rain Drop may use all remedies available to it under current laws, including but not limited to filing of liens against the property and using a collection agency or the courts to secure the collection of the outstanding

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debt. All payments made pursuant to the installment payment process shall not be available to be recovered by Purchaser so long as Rain Drop Products is not in default under the agreement.

8) **Taxes:** Unless otherwise specifically included and detailed in this Proposal, prices do not include any taxes, including sales, use or excise taxes. It is the Purchaser's responsibility to furnish evidence of any sales tax exemption in the appropriate states and have compliance documents, where applicable, on file at Rain Drop.

9) **Lien Releases:** Upon request by Owner, Rain Drop will issue appropriate partial lien releases as corresponding payments are received from Purchaser, but prior to receiving final payment from Purchaser or Owner. Rain Drop will provide a full release of liens upon receipt of final payment. In accordance with state laws, Rain Drop reserves the right to place a lien on the property if final payment has not been received ten days prior to the filing deadline for liens.

10) **Site-plan Approval, Permit/s, Permit Fees, Plans, Engineering Drawings and Surveying:** Site-plan approval, permits, permit fees, plans, engineering drawings and surveying are specifically excluded from this Proposal unless specifically detailed herein. Rain Drop does not in any way warrant or represent that a permit or site plan approval for construction will be obtained.

11) **Manufacturing & Delivery:** Manufacturing lead-time from Rain Drop's receipt of this Proposal executed by Purchaser, or submittal by Purchaser of a purchase order pursuant to this Proposal (which shall incorporate the terms of this Proposal specifically by reference) which is accepted by Rain Drop is approximately twelve (12) to sixteen (16) weeks depending on the size and complexity of the components ordered.

12) **Changes in the Work:** During the course of this project, Purchaser may order changes consisting of additions and deductions in the work. The cost of these changes will be determined by Rain Drop, and a change order form must be completed and signed by both Purchaser and Rain Drop, which will detail the scope of the change order. Should any charge order be essential to the completion of the project, and the Purchaser refuses to authorize such change order, then Rain Drop will be deemed to have performed its part of the project, and the project will be terminated. Upon such termination, Rain Drop will submit a final billing to Purchaser for payment, less a labor allowance *for* work not performed but including additional charges incurred due to the stoppage. No credit will be allowed for materials sold and supplied, which will remain the property of Purchaser. The itemized list/inventor is subject to change based upon availability and coordination of the Artist's design proposal. A change order will reflect any changes in the proposal due to changes in inventory.

13) **Restocking Fee** There will be a 30% restocking fee applied to all Products returned by Purchaser. Prior approval must be obtained from Rain Drop before any product is to be returned. All returns are at Rain Drop's discretion.

14) **Limited Warranty**

The limited warranties of Rain Drop Products LLC (collectively, the "Limited Warranty") are as follows:

5 Year Product Limited Warranty. Rain Drop warrants that the Products are warranted for five years from date of shipment against any defects in material or workmanship under normal use and service. This warranty does not cover normal wear and tear, improper operation or improper installation of any Rain Drop Product.

25 Year Product Limited Warranty. In addition, the fiberglass reinforced plastic ("FRP") furnished with any Product has a

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twenty-five year warranty from the date of shipment against rust and corrosion only.

Original Manufacturer Warranty. With respect to equipment not manufactured by Rain Drop but used in conjunction with any Product, any applicable warranty is covered by the original manufacturer of such equipment and not by Rain Drop. This equipment includes, but is not limited to filtration, chlorination and re-circulation equipment. This warranty is in lieu of all other warranties express or implied. All claims, questions and inquiries should be directed to the original manufacturer.

Limitations on Warranty

Limited Remedy. The remedy for breach of Rain Drop's Limited Warranty as described above is limited to the replacement or repair of any Product which is determined to be defective under the reasonable judgment of Rain Drop. Further, the warranty coverage is only for that Product that has been properly installed and maintained according to the instructions provided by Rain Drop.

Discovery of Defect. In the event of any defective Product covered under this Limited Warranty, written notice of such defect must be delivered to Rain Drop at the following address:

Rain Drop Products, LLC
2121 Cottage Street
Ashland, Ohio 44805

within the warranty period and within fifteen days after such defect is discovered. Upon confirmation that the defect exists, Rain Drop will, within a reasonable period of time, replace or repair the defective Product. Rain Drop shall not be liable for the shipping cost of returning any claimed defective Product to Rain Drop or for shipping costs of replacement materials. Rain Drop has the ultimate discretion to determine whether a defect exists and whether to replace or repair such defect.

to

Disclaimer of Warranties. **ALL OTHER CONDITIONS, REPRESENTATIONS, AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED BY RAIN DROP TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.** If the foregoing disclaimer of additional warranties is not given full force and effect, any resulting additional warranty shall be limited in duration to the express warranties and be otherwise subject to and limited by the terms of Rain Drop's warranty set forth above.

Limitation of Liability. To the extent permitted by law, Rain Drop shall in no event be liable in connection with its

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products for (a) any indirect, special, incidental, liquidated or consequential damages, based on tort, contract or other legal theory, whether or not advised of the possibility of such damages, or (b) any damages whatsoever in excess of an amount equal to the purchase price for such product. The right to recover damages within the limitations specified herein is the purchaser's exclusive alternative remedy in the event that the remedy provided herein fails of its essential purpose.

Effective Date and Reservation of Rights. This Limited Warranty is dated as of March 1, 2012 and supersedes and replaces any previous warranties. Rain Drop reserves the right to revise, amend or modify this Limited Warranty at any time and in any manner without obligation to notify any individual or entity.

15) Indemnification: To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless Rain Drop and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the installation of products manufactured and supplied by Rain Drop, provided that such claim, damage, loss or expense is attributable to bodily injury to, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or subcontractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section..

16) Intellectual Property Rights Purchaser acknowledges and agrees that Rain Drop will remain the owner of any and all intellectual property rights, including, but not limited to, copyrights, service marks, and trademarks in, on or to the Products.

17) Assembly/Installation: Rain Drop does not provide installation services. If requested and specifically detailed in this Proposal, construction site services are intended to imply supervision and consulting services only. All labor required for the assembly, construction or removal of Products manufactured and supplied by Rain Drop will be the Purchaser's and/or Owner's responsibility.

18) Site/Use Review by Purchaser: Rain Drop relies on the Purchaser to determine that the Products are appropriate and safe for the Owner's installation site and/or intended use.

19) Dispute Resolution: Any controversy or claim arising out of or related to this Proposal must be settled by binding arbitration administered in Ashland, Ohio by a single arbitrator selected by the parties or by the American Arbitration Association, and conducted in accordance with the construction industry arbitration rules. Judgment upon the award may be entered in any court having jurisdiction thereof.

20) Entire Agreement: No Reliance: This Proposal, if accepted by Purchaser, represents and contains the entire agreement between the parties. Prior discussion or verbal representations by the parties that are not contained in this Proposal are not part of this Proposal. Purchaser hereby acknowledges that it has not received or relied upon any

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statements or representations by Rain Drop or its agents which are not expressly stipulated herein, including, without limitation any statements as to the Products, warranties provided hereunder.

21) **No Third-Party Beneficiaries:** This Proposal, if accepted by Purchaser, creates no third party rights or obligations between Rain Drop and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Proposal.

22) **Governing Law:** The Proposal will be construed and enforced in accordance with the laws of the State of Ohio. Notwithstanding any other law or venue available in any country or jurisdiction, the parties specifically reject all other venues and jurisdictions other than the United States of America, State of Ohio.

23) **Assignment:** Purchaser may not assign this Proposal, by operation of law or otherwise, without the prior written consent of Rain Drop. The Proposal, if accepted by Purchaser, shall be binding upon and inure to the benefit of Rain Drop and the Purchaser, and their successors and permitted assigns.

24) **Miscellaneous:** Rain Drop objects to the inclusion of any different or additional terms in Purchaser's acceptance of this Proposal and if such terms are included in Purchaser's acceptance, Purchaser agrees that a contract of sale will nevertheless result only on the original terms stated in this Proposal. If any portion of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect. This Agreement shall be binding upon the parties hereto and their respective successors and assigns. This Agreement may be executed in one or more counterparts, either of which may be deemed an original, but all of which shall constitute one and the same document. Each person executing this Agreement for and on behalf of Purchaser represents and warrants that that person has the authority to execute this Agreement and all corporate action necessary to authorize the execution delivery of this Agreement.

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Reference: 1684521
Project Name: Jackie Gleason
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Order Amount: \$ 74,996.50

Executed to be effective as of the date executed by the Company:

PURCHASER:

Signature: _____

A handwritten signature in blue ink, appearing to read "Marcus Faranda", is written over a horizontal line.

By: (Print Name) _____

Marcus Faranda

Title: _____

City Manager

Date: _____

8/20/19