

PROFESSIONAL SERVICES AGREEMENT

This Agreement, made and entered into this, the _____ day of _____, 2022 by and between the **City of Dripping Springs**, Texas (hereinafter referred to as the “City”) and **Felix Media Solutions**, (hereinafter referred to as “Contractor”), is understood and agreed to be as set forth herein:

1. **Project Summary:** Dripping Springs Ranch Park and Event Center IT and AV rack relocation and QSC hardware installation.
2. **Scope of Work:** Scope of Work includes all work in Attachment “A”.
3. **Attachments:** All attachments to this Professional Service Agreement are hereby made part hereof as if fully set out herein
 - a. Attachment A: City of Dripping Springs Event Center QSC Rack Move Proposal
4. **Payment for Services:** Payments will be made as specified in Attachment “A”.
5. **Duration:** The work will be commenced on or before June 27, 2022, and completed by July 1, 2022. This Agreement shall be in effect for a period of one year (12 months), unless terminated as provided below or if all work associated with Agreement is completed. Contractor shall start work immediately after the execution of this Agreement.
6. **Termination:** Either party may terminate this Agreement by a thirty (30) day written notice.
7. **Relationship of Parties:** It is understood by the parties that Contractor is an independent contractor with respect to the City and not an employee of the City. City will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefits, for the benefit of Contractor. The City may contract with other individuals or firms for engineering services.
8. **Limitations:** During the period the Contractor is covered by this agreement, the Contractor will contact the City in writing if a potential conflict of interest with a third-party client may exist. If the City Council finds that a project for a third-party client of the Contractor has a direct conflict with the City, the City Council shall contact the Contractor in writing. If the conflict of interest cannot be resolved to either party’s satisfaction, either the Contractor or the City Council may terminate this Agreement with seven (7) days’ notice to the other party.
9. **Employees:** Contractor employees, if any, who perform services for City under this Agreement shall also be bound by the provisions of this Agreement. At the request of City, Contractor shall provide adequate evidence that such persons are Contractor’s employees.
10. **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor has submitted to the City a copy of the

Conflict of Interest Questionnaire Form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176).

- 11. Injuries/Insurance:** Contractor acknowledges his/her obligation to obtain appropriate insurance coverage for the benefit of Contractor's employees, if any. Contractor waives the rights to recovery from City for any injuries that Contractor and/or Contractor's employees may sustain while performing services under this Agreement. Contractor is to provide a copy of a certificate of insurance coverage to City at least ten (10) days prior to end of any existing coverage period if Contractor uses the services of any of Contractor's employees for the provision of services to the City.
- 12. INDEMNIFICATION:** CONTRACOT AGREES TO INDEMNIFY AND HOLD CITY HARMLESS FROM ALL CLAIMS, LOSSES, EXPENSES, FEES, INCLUDING REASONABLE ATTORNEY'S FEES, COSTS, AND JUDGMENTS THAT MAY BE INCURRED BY CITY TO THE EXTENT THAT RESULT FROM NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, CONTRACTOR'S EMPLOYEES, IF ANY, AND CONTRACTOR'S AGENTS.
- 13. Assignment:** Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of City.
- 14. Notice:** All notice required or permitted under this Agreement shall be in writing and shall be delivered either in person or deposited in the United States mail, postage prepaid, addressed as follows:
- | | |
|---|--|
| <p>For the City:
 Attention: City Administrator
 City of Dripping Springs City
 P.O. Box 384
 Dripping Springs, TX 78620
 512-858-4725</p> | <p>For the Contractor:
 Attention: Felix Media Solutions
 1042 Event Center Dr, Dripping Springs,
 TX 78620
 512-572-1777</p> |
|---|--|
- Either party may change such address from time to time by providing written notice to the other in the manner set forth above. Notice is deemed to have been received three (3) days after deposit in U.S. mail.
- 15. Entire Agreement:** This Agreement contains the entire Agreement of the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes and prior written agreements between the parties. If a conflict exists between this Agreement and Attachment "A", this Agreement shall prevail.
- 16. Amendment:** This agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.
- 17. Severability:** If any provision of this Agreement shall be held to be invalid or unenforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

18. Waiver of Contractual Right: The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

19. Applicable Law: The laws of the State of Texas shall govern this Agreement.

20. Venue: The venue for any and all legal disputes arising under this Agreement shall be Hays County, Texas.

21. Consequential Damages. Neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; costs of capital; or for any special, consequential, indirect, punitive, or exemplary damages.

22. Site Access and Safety. City shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Contractor will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health and safety precautions for any third parties, including City's contractors, subcontractors, or other parties present at the site.

CITY OF DRIPPING SPRINGS:

Michelle Fischer, City Administrator

Date

FELIX MEDIA SOLUTIONS:

Lionel Felix

Date

ATTACHMENT A

Project General Narrative

This proposal is designated for work to be performed during normal business hours.

FMS Normal Business Hours:

Monday - Friday

8 AM - 5 PM

Felix Media Solutions will provide the labor to complete the relocation of the IT and AV racks from their current location to the new closet and install QSC hardware. We will need this closet to have permanent power as well as your internet modem installed.

We are not able to move the internet, it needs to be done by your service provider.

Below is the scope of work for the rack move:

- Label and remove all wires from connected equipment in racks
- Power all equipment down
- Move racks and extend wires to new location
 - Some wires may need to be extended which we will do in the most professional way possible
- Hook all wires back to equipment ports
 - We will do the internet first to minimize internet downtime
- Power On
- Test and Troubleshoot

QSC and QSYS will be the hardware and control system that will connect to the current AV hardware. We will install a new QSC QSYS core kit with 64 Dante channels and 8 input/output ports. This will come with 4 encoders/decoders to send signals, we can add more as needed. To control this we will install an 8 inch touchscreen QSC tablet. We will install a Netgar 24 port switch specifically designed for AV applications to network the QSC devices.

We expect this entire project to take up to 5 days to complete with an interruption of AV and IT networks.

This includes all labor and materials, programming, and end user training.

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Appendix A: Bill of Materials

Project Detail	c
Dripping Springs Event Center	
1042 Event Center Dr, Dripping Springs, TX 78620	
QSC QSYS & Rack Relocation	
QSC Core Kit	
QSC Dante Bridge Card	
QSC 4 ch input	
QSC 4 ch output	
QSC UCI License	
QSC Scripting engine License	
QSC 8" Table Top Touch Screen Control Panel	
QSC Encoder	
QSC Decoder	
Netgear POE Plus Switch	
Cables, consumables and small parts	
Parts Subtotal	
Design, Sub & Labor	
Installation Labor	
Programming & Commissioning	
Supervisor / Foreman	
CAD, As-Builts	
Project Management	
Travel	
Parking /day/pp	
General & Administrative	
Design, Sub & Labor Total	
Project Subtotal	
Shipping	
Tax	
Project Total	

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Appendix D: Project Assumptions & Division of Responsibilities

FMS made the following assumptions regarding the process required to complete the project.

Item / Task	Furnished By	Installed By	Notes
AV conduit and power infrastructure	NA		
Connectrac (Conference and Open Work areas)	NA		
Penetration between floors	NA		
AV floor box plates/ wall boxes	NA		
Wall supports (blocking)	NA		
Low voltage, data	FMS	FMS	
Satellite / cable TV feed & boxes	OWNER	OWNER	
Coax cabling for cable TV	OWNER	OWNER	
Low voltage AV signal cable	FMS	FMS	
AV cables, connectors & terminations	FMS	FMS	
Prefabricated AV equipment racks	OWNER	OWNER	
Patching and painting	NA		
Millwork / table modifications for AV devices	NA		
Table boxes	NA		
Table AV inserts, adapters and knockouts	NA		
In-ceiling support hardware	NA		
Ceiling speakers	OWNER	OWNER	
Support for projector	NA		
Projector motorized lift	NA		
Projection screen & low voltage wall switch	NA		
OFE equipment in good working order w/ all necessary cables and accessories	OWNER	OWNER	

Responsible Parties	
GC	General Contractor (or Subcontractor to GC)
Felix Media Solutions (FMS)	Audiovisual Integrator
Felix Media Solutions Subcontractor (FMS-US)	Installation contractor under contract w/ FMS
Owner	Client or Client's Subcontractor
Furniture	Client's furniture vendor

Contract:

1. Definitions
 - a. This document will be considered the "Contract".
 - b. Felix Media Solutions may be referred to in this document and others as "FMS".
 - c. [City of Dripping Springs](#) may be referred to in this document and others as "Client".
 - d. Substantial Completion is defined as the delivery and installation of all physical products within this agreement and includes each device performing its primary function without special programming, short of manufacturer warranty items, minor bugs, cosmetic issues, or other "punch list" categorized items.
2. The Client is responsible for the "AV room ready" conditions below to be met prior to commencement of work and acknowledges that any incomplete items may result in scheduling delays and/or additional trip charges:
 - a. *Electrical is in place and working in all TV, projector, rack and locations designated for powering AV components*
 - b. *Wall and ceiling conduit specified is complete, clear of obstacles and "ring and string" provided*
 - c. *Furniture is 100% delivered, installed, secured, wired, ready for AV install*
 - d. *Floor devices, raceway, floor boxes are complete, room and pathways for AV cabling are complete, clear and include 'ring and string'*
 - e. *Paint is complete and dry in AV work areas*
 - f. *AV areas are clear of other trades performing ladder work, dust work, hot work, wet work*
 - g. *Work area is free of drywall dust, sawdust and other airborne contaminants that can interfere with equipment safe operation*
3. The specific work to be performed by Felix Media Solutions is the procurement, construction, supply, installation of the specified items in the Bill of Materials in this document, and systems as outlined in the preceding Contract. Any changes to the preceding Contract require a written change-order from a Client authorized approver signed by Felix Media Solutions and the Client.
4. All areas of work that require custom installation, calibration, programming, etc. will be done so by methods found to be best practices. Any modifications requested based on client preference or opinion will be considered a change.
5. If the scope of work exceeds the time estimated to complete due to unforeseen circumstances such as construction changes by owner or an Act of God, the client acknowledges that additional charges will be incurred at the rates outlined in the Services & Rates section of the contract, for all additional service time related to those circumstances. All deviations will be proposed and approved by owner prior to starting new work.
6. Any client-requested changes or additions to this document resulting in additions of equipment, labor, materials, or services will be presented in the form of a change-order. Felix Media Solutions will execute no change-orders until written / emailed approval has been received from the client.
7. In cases where estimated costs or budget amounts are declared, the client will be responsible for the actual charges for service and materials, but will be notified for approval before any estimated / budget amount is exceeded.
8. **For all spaces, rooms, areas to be worked on, FMS may require the space be free, AV ready and unoccupied for a specified period of time. If that space is not available when FMS arrives for work, a minimum of ½-day rate will be incurred for each member of the team on site for the work. If FMS is "kicked out" of a conference room, the remainder of the day rate will be incurred and a new trip fee may be incurred. FMS may not arrive at the exact time the room is booked.**
9. Felix Media Solutions commits to our manufacturers to take delivery of items when ordering equipment. Sometimes equipment deliveries are delayed by manufacturer lead-times, delivery schedules, availability. Equipment will be ordered 30 days prior to install or as close to 30 days as possible given Contract to start time lead time. Felix Media Solutions is in no way responsible for manufacturer or shipping delays. In cases where product has been ordered, received, and the client then decides to change equipment or decline the purchase, a restocking fee based on applicable manufacturers and accrued additional labor will be incurred by the client and is due and payable immediately upon purchase declination. Returns must include all original packaging, parts, documents and accessories in good condition or they will be refused.
10. No orders will be placed before a signed Contract is in place. Long lead items like projector screens, and other specialty equipment takes at least 14 days from time of FMS placing the order. Some long lead items can take longer to procure and as such, may cause install delays beyond the control of FMS.
11. There are no returns allowed on custom fabricated products, software, SaaS products, Lifesize equipment and services or special order items. Items that have been installed may not be returned unless they are materially different than stated in the SoW, are defective, does not deliver the service specified in the Contract.
12. In cases of recent equipment obsolescence, discontinuation or unavailability within a reasonable time, Felix Media Solutions will not be held liable in any way, and further reserves the right to replace any such proposed equipment models with comparable model(s) of equal or superior performance.
13. Normal scheduled work hours are between 7:30AM and 5:30PM, Monday through Friday. Any work that must be scheduled on "off hours" between 5:30PM and 7:30AM or weekends must be agreed to by FMS and will incur a time and a half premium on labor. Holiday labor is provided at a rate of 2X our standard rate for the labor specified. Unless

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specified in the contract FMS cannot be compelled to work "off hours".

Services & Rates

14. Felix Media Solutions' Service Rates are as follows:
General Labor - \$110.00 per hour;
Technical Service, CAD & Project Management - \$115.00/hour;
Design and Engineering - \$145.00/ hour; and
Programming / IT Services - \$175.00 per hour.
15. The client acknowledges that Project Management, meeting attendance, and other services often occur both on-site and off-site and are fully compensable services.
16. Any services performed by Felix Media Solutions (beyond those provided within this agreement - (if any)) will be charged at the same rate whether the service occurs on-site or off-site. Documentation of off-site services will be maintained to the best of our ability in hour increments.
17. All project related drawings, schematics, and operational programming and/or source code (intellectual property(ies)) generated by Felix Media Solutions are the property of Felix Media Solutions. The client has right to use, copy, store and edit code created for them by FMS. Should the client request copies of any such code or documentation, they should do so by email and they will be provided with a shared folder or compressed archive. All shared folders will be deleted after 6 months. Any IP created by FMS may not be transferred or resold without explicit consent of FMS. Code and documentation in digital format transferred in its uncompiled and usable form is provided at no charge, upon request. Formal documentation, as-builts, CAD, manuals, guides and other digital and physical deliverables are charged on a T&M rate if not included as a deliverable in the project description or requirements.
18. If "As Built" documentation is to be produced for the client by Felix Media Solutions, it must either be specified as an expected deliverable in the original Contract, or must be otherwise provided for through a separate and additional purchase agreement executable upon completion of the original contract.
19. Felix Media Solutions reserves the right to make use of contractors and outside firms to perform work such as low voltage cabling and termination, fabrication, modification, programming and other services to complete the project.

Payment

20. No work will be done under this contract until Felix Media Solutions has received a fully signed copy of the contract from the client, and the client has made any initial payment which is due under the contract.
21. The efficient execution of services by Felix Media Solutions is dependent upon timely payments by the client. Delays in all services will occur if the payment schedule is not fully observed. If any payment is not made in a timely fashion, Felix Media Solutions may suspend work for the Client until all accounts are current.
22. All payments are due within 15 days upon the client's receipt of an invoice or other written request for payment.
23. Final payment is due within 15 days of invoice submitted at Substantial Completion. Substantially Complete systems may have punch list items that do not stop the systems from operating in their primary function. Any invoice / balance which go unpaid for more than 10 days after presentation will bear interest at the rate of 1.5% per month, or the highest rate permitted by law, whichever is higher.
24. All right, title and interests in all equipment provided by Felix Media Solutions shall remain with Felix Media Solutions (regardless of location) until receipt of final payment for the project as defined in the payment schedule. Felix Media Solutions reserves all remedies allowed by law (up to and including mechanic's liens on the property) to secure these rights.
25. In the event that any problems are experienced by the Client after the project is completed; those problems must be promptly reported to FMS in writing / email in a clear bulleted fashion. If FMS does not receive notice of problems within 30 days of final system delivery, the system will be deemed to be complete and in good working order.
26. In the event of any dispute between Felix Media Solutions and the client, the parties will make a good faith effort to resolve their differences amicably before resorting to legal proceedings.
27. If collection or enforcement of this agreement is necessary, the defaulting party is liable for all costs incurred in connection therewith, including, but not limited to, attorney's fees.
28. Felix Media Solutions will hold the client harmless with respect to any financial claims of subcontractors and suppliers.

Warranties / Insurance / Freight

29. FMS Provides a 90 day materials and workmanship warranty which commences on the date of First Productive Use which covers all materials provided by FMS and all labor provided in the year after install. Within the first year all removal, reinstall, shipping and labor to replace parts is provided by FMS or the Manufacturer. This warranty does not extend to

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- software / firmware that operates within a system, FMS will work with the manufacturer to update, upgrade, troubleshoot those systems. Those aspects are warranted by the respective manufacturers and/or authors of the intellectual property.
30. Service Contracts are available and cover labor and exchange costs during the extended coverage period. Manufacturer Warranties may extend beyond the first year (often 3 years) but not cover the cost of services or freight related to the removal and reinstallation of equipment that fails or has failed while "in warranty".
 31. The Contract offers no equipment warranty provided by or through Felix Media Solutions for any owner furnished equipment- (O.F.E.) installed by Felix Media Solutions.
 32. Any consumer TVs utilized within our projects come with a 30 Day warranty.
 33. Felix Media Solutions maintains insurance as required to protect from claims under Worker's Compensation and from any damage to the owner's property resulting from the conduct of this contract.
 34. With International shipping, Client agrees that all shipping and VAT quotes are estimates and often cannot be guaranteed until final VAT, tax, tariffs, freight, customs charges and shipping charges are settled, often after delivery. All related charges will be pass-through and paid for by the client. All charges, VAT, tax, customs charges, freight-forwarding, tariffs and are the responsibility of the client and will be billed to the Client as incurred. Client may take on shipping and arrange for materials to be delivered on site and FMS will remove all related shipping and tax costs.
 35. Client will inspect all direct deliveries within 48 hours for damage. TVs and projectors are prone to shipping damage and should be inspected for container damage as items arrive and should refuse delivery of any boxes that appear to have damage where the items inside may be damaged.
 36. Client gives permission to Felix Media Solutions to photograph our work and all applicable rights associated.
 37. Non-Solicitation: During the term of engagement of this Contract and for 1 year after any termination of this agreement, The Client will not directly or indirectly, on the Client's own behalf or in the service or on behalf of others, in any capacity induce or attempt to induce any officer, director, contractor, subcontractor or employee to leave Felix Media Solutions company.
 38. The Client agrees to indemnify and hold harmless FMS of and from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, but only to the extent caused by, arising out of, or relating to the work of Contractor or products provided.
 39. The Client has read and agrees to all conditions as stated above and has so specified by signing herewith and initialing each page / section where indicated. This written agreement supersedes all prior written or unwritten agreements and negotiations. There are no other agreements either written or oral pertaining to this project.

Terms

Payment terms 65% due upon signing. Remainder billed monthly based on work completed and materials stored or ordered

Invoices All payments are due upon invoice receipt

Signature

Client	_____	FMS	Felix Media Solutions, Inc.
Name	_____	Name	_Lionel Felix_____
Title	_____	Title	_CEO_____
Date	_____	Date	_____
Signature	_____	Signature	_____

This Proposal is valid for a term of 30 days from the date on the proposal.