

The Engineer Designer



Kenneth S. Risley, P.E.
Post Office Box 1115
Weirsdale, FL 32195

Telephone: 800-957-3740
Fax: 800-653-1796
E-Mail: PE@EngineerDesigner.Com

Letter of Proposal/Agreement

For Engineering and/or Design Services

Client

Address

City

Address of Project

Permit Jurisdiction (if applicable).

This letter, once signed by both parties, shall serve as an agreement between yourself or your company and Florida Tectonics, Inc. (d.b.a. The Engineer Designer) for services described below.

*(The terms FTI, The Engineer Designer, we, and mine shall be used interchangeably.
The Terms "you, yours, client, yourself and your company" shall all indicate the Client.)*

I.

Description of Project

II.

Description of Services Offered

Services Offered

Review and Stamp Only

- Review of existing plans.
- Add S Plans (Tabloid, "C" or "D" size) to existing plans. S plans will contain necessary structural information required for permits.
- S Sheets will reference existing plans.
- Only S Sheets will be Stamped.

Drafting and Stamp

- Produce the Construction Documents (CD's) for the Project.
- CD's will include floor plan, foundation plans, electrical plans, necessary sections, roof framing plans, site plan and on-plan specifications and notes. Electrical will include switches, lights, plugs, smoke detectors, phone and TV as well as plumbing fixture locations.. MEP (Mechanical, Electrical or Plumbing) Engineering or design by others.

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Architectural* Design

- Based upon your data, including interview, questionnaire, sketches and architectural preferences we will design the home or commercial space.
- Presentations will be in PDF format including plan view, elevations and renderings.
- Video Virtual Tours on our servers available for streaming to any computer where appropriate.
- * Architectural Services, though complete, are incidental to our Professional Engineering Practice.

Damage or Other Engineering Assessment

- Evaluation of Structural Damage and Assessment of repairs needed or other Engineering Assessment.

III.

Scope of Services and Fee

Service Needed (check each that applied)

Design and Presentations Only

Design, Presentations, CD's and Stamp

CD's and Stamp (based upon your design or schematic)

Reviewed Stamped (you supply the full Architectural Plans).

Other Assessment

Type of Project (check all that apply)

Residential

Hangar Home

Carport Enclose

Commercial

New

New Garage

Standard Home

Renovation

Foundation Only

Luxury Home

Addition

Comm. Build-Out

Beach Home

Porch Addition

Other (explain)

Summary of Service Provided

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IV.

Submissions

The fee and our work will be based upon your submissions to us. The key is good communication.

Our fees are based upon your providing the following information. **See checkmarks for all that apply to this.** Send to Email address noted in the header above.

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- Fees Are Established – No additional information required.
 - Site Survey (PDF of JPEG). If possible, send two: a clean one and another with an indication where the work is to be done.
 - Photos (JPEG). These are important in renovations/additions. Show photos of where the addition attached including close and long shots (for orientation).
 - Job Measurements (if appropriate) including plan measurements, plate line heights, etc. You'll know what to send.
 - If reviewing your plans only, we need a full set of what we are to review.
 - If CD's and Engineering are needed, send a schematic of the design.
 - If we are designing, send us any sketches, plan clips, and architectural photos that indicate preferences or otherwise communicate to us the design intent. This will get us moving in the right direction.
 - Written Descriptions.
 - Completed Questionnaire.
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Additional information required by us:

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V.

Exclusions

The following is excluded from the Scope of Services of this proposal:

- Cost estimates for any construction Work.
- Addressing of any adjacent or attached structures or any areas not specifically addressed above.
- Construction supervision or consultation during construction.
- Contract Administration
- MEP Engineering
- Site Visits
- Destructive testing if a forensic project.
- On-site construction or demolition labor even if it is needed for inspections. Should any demolition be required this will be supplied by the Owner.
- Attendance of meetings with Officials other than parties to this agreement.
- Site or Civil Engineering or design and Landscaping Design.
- Geotechnical Services or Site Surveys.
- Other Exclusion or modifications of above (list if any):

Any services not specifically covered in the scope of this proposal shall, at the discretion of Florida Tectonics, Inc., be either: **a.** The subject of a separate agreement, or **b.** Billed to you at the rate of \$ _____ per hour.

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VI. Dispute Resolution, Termination and other Legal Matters

INDEMNIFICATION- The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, the Client) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its sub consultants or anyone for whom the Consultant is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, director, employees and sub consultants (collectively, the Consultant) against all damages, liabilities, or costs, including reasonable attorney's fees and defense costs, the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors, or consultants or anyone for whom the Client is legally liable. Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

For any damage on account of any error, omission or other professional negligence, FTI's liability will be the cost of actual damages. FTI's professional officers shall be personally held harmless from any error, omission or other professional negligence.

The laws of the State of Florida shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties.

DEFECTS IN SERVICE - The CLIENT shall promptly report to FTI any defects or suspected defects in FTI'S work or services of which the CLIENT becomes aware, so that FTI may take measures to minimize the consequences of such a defect. The CLIENT warrants that the CLIENT will impose a similar notification requirement on all contractors to the CLIENT/Contractor contract and shall require all subcontractors at any level to contain a like requirement. Failure by the CLIENT 's contractors or subcontractors to notify ENGINEER shall relieve the ENGINEER of the costs of remedying the defects above the sum such remedy would have costs had prompt notification been given. **DELAYS -** FTI is not responsible for delays caused by factors beyond FTI'S reasonable control , including but not to delays because of strikes, lockouts, work slowdown, stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the CLIENT to furnish timely information or approve or disapprove of ENGINEER'S services or work product promptly, or delays caused by faulty performance by the CLIENT or by contractors of any level. When such delays beyond FTI'S reasonable control occur, the CLIENT agrees FTI is not responsible for damages, nor shall FTI be deemed to be in default of this Agreement.

EXTENSION OF PROTECTION - The CLIENT agrees to extend any and all liability limitations and indemnifications provided by the CLIENT to FTI to those individuals and entities ENGINEER retains for performance of the services under this Agreement, including but not limited to FTI'S officers and employees and their heirs and assigns, as well as FTI's subcontractors and their officers, employees, heirs, and assigns.

GOVERNING LAW - This Agreement shall be governed in all respects by the laws of the State of Florida. Venue shall be Marion County unless mutually agreed between the parties otherwise.

INTEGRATION - This Agreement comprises the final and complete agreement between the CLIENT and ENGINEER. It supersedes all prior or other communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly, has had any questioned explained by independent counsel and is satisfied. Amendments to this Agreement shall not be binding unless made in writing and signed by both the CLIENT and ENGINEER.

LIMITATION OF LIABILITY - In recognition of the relative risks, rewards, and benefits of the project to both the CLIENT and FTI, the risks have been allocated such that the CLIENT agrees the fullest extent permitted by law, to limit the liability of FTI and FTI's consultants, agents, and employees to the CLIENT for any and all claims, losses, costs, damages of any whatsoever or claims expenses from any causes or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of FTI and FTI's consultants, agents, and employees to all those named shall not exceed \$250,000 or FTI's fee, whichever is greater. IT is intended that this limitation apply to any and all liability or cause of however alleged or arising, unless otherwise prohibited by law.

CONTRACTOR AND SUBCONTRACTOR CLAIMS - The CLIENT further agrees, to the fullest extent permitted by law, to limit the liability of FTI and FTI's consultants, agents and employees to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages or any nature whatsoever or claims expenses from any cause or causes including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of FTI and its consultants, agents, and employees to all those named shall not exceed \$50,000 or FTI's fee, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

PUBLIC RESPONSIBILITY - The CLIENT recognizes that both the CLIENT and FTI owe a duty of care to the public that required them to conform to applicable codes, standards, regulation and ordinances, principally to protect public health and safety. FTI will do his best to alert the CLIENT to any matter that requires the CLIENT's immediate action to protect public health and safety or conform to applicable codes, standards, regulation, or ordinances. Should the CLIENT decide to disregard FTI's recommendations in these respects, the CLIENT agrees FTI has the right to employ his best judgment in deciding whether or not to notify public officials or take other appropriate action. The CLIENT agrees FTI should not be held liable in respect for reporting or failing to report said conditions. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold FTI harmless from any claim, liability or including reasonable attorney's fees and costs of defense) for injury or loss arising from FTI's notifying or failure to notify public officials.

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SAFETY – Neither the professional activities of FTI, nor the presence of FTI or FTI’s employees and sub consultants at a construction site, shall relieve the construction contractor and any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction. In accordance with the contract documents and any health or safety precautions required by any regulatory agencies, the ENGINEER and FTI’s personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precaution. The CLIENT agrees that the construction contractor is solely responsible for job site safety, and warrants that this Intent shall be made evident in the CLIENT’s agreement with the construction contractor. The CLIENT also agrees that the CLIENT, FTI, and FTI’s consultants shall be indemnified and shall be made additional insured under the construction contractor’s general liability insurance policy.

SEVERABILITY AND SURVIVAL – Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the CLIENT and FTI shall survive the completion of the services hereunder and the termination of this Agreement.

SITE VISITS – If construction phase professional services are included in the scope of this Agreement, CLIENT agrees that FTI will not be expected to make exhaustive or continuous or commissioning level inspections but will visit the site at intervals appropriate to the stage of construction as FTI deems necessary. It is further agreed that FTI will not assume responsibility for the CLIENT construction contractor’s means, methods, techniques, sequences, or procedures of construction, and it is understood that construction phase professional services provided by FTI will not relieve the CLIENT’s construction contractor of the CLIENT’s construction contractor’s responsibilities for performing the work in accordance with the plans and specifications. Full time observation provided means that an employee of FTI has been assigned for eight-hour days during regular business hours and compensation for full time observation shall be authorized by separate agreement.

THIRD PARTY BENEFICIARIES – Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or FTI. FTI’s services under this Agreement are being performed solely for the CLIENT’s benefit, and no other entity shall have any claim against FTI because of this Agreement or performance or nonperformance of services hereunder. The CLIENT agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

UNAUTHORIZED CHANGES – In the event the CLIENT consents to, allows, authorized or approves of changes to any plans, specifications or other construction documents, and these changes are not approved in writing by FTI, the CLIENT recognized that such changes and the results thereof are not the responsibility of FTI. Therefore, the Client agrees to release FTI from any liability arising from the construction, use or result of such changes. In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold FTI harmless from any damage, liability or cost (including reasonable attorney’s fees and costs of defense) arising from such changes, except only those damages, liabilities and costs arising from the negligence or willful misconduct of FTI.

ARBITRATION. The parties to this agreement agree that any action to enforce this Contract shall be exclusively by arbitration proceedings as described herein, to be held in the county in which the real property described herein is located, and both parties agree to be bound by the decision rendered in such proceedings. Within thirty (30) days of a written request for arbitration, each party shall select an arbitrator. If either party fails to select an arbitrator within this time frame, the first arbitrator selected may select the second arbitrator. Within ten (10) days thereafter the two arbitrators shall select a third arbitrator. All arbitrators shall be persons with experience or knowledge in the construction industry. The arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes); provided, however, the final hearing shall be held not more than ninety (90) days after the receipt of the request for arbitration and the final decision shall be rendered not more than thirty (30) days after the conclusion of the final hearing.

ATTORNEY FEES. In the event of any disputes arising out of or in connection with this agreement, the prevailing party therein shall be entitled to recover reasonable attorney fees and costs, whether same were incurred prior to or during any judicial proceedings, including, but not limited to, any trial or appellate proceedings, as well as prior to or during any of the alternative dispute resolution mechanisms whether described in the Arbitration Clause above or otherwise ordered by a court of competent jurisdiction.

INSURANCE – FTI carries Professional Liability \$500,000 aggregate and \$250,000 per claim. We will supply Certificate upon request.

SIGNATURES – Parties will sign, Page 7, once this document is flattened and made unchangeable. If this document is in “form” mode (changeable fields) then it is still in the negotiation stage and no signatures will be made. Once any negotiations are complete then this document will be made permanent (PDF flattening) by FTI and will be signed by both parties. Documents can either be signed through an electronic signature service (like EchoSign.com) or by printing, signing and either faxing or scanning for email attachment. Either method is acceptable by current legal precedent and by agreement of the parties.

RETAINER - Retainer may be paid by Credit Card or by a Check Mailed (Priority Mailed with tracking number) to the address in the Header. If credit card is used, FTI will send a Credit Card Authorization Form to the Client which that client will fill out and Email back to PE@EngineerDesigner.Com. Other means of Credit Card Authorization may be used.

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VII.

Fee and Draw Schedule

We will provide the above services for a fee of: _____

1. A retainer of _____ due upon acceptance of this proposal and prior to commencement of services. This may be paid using the attached credit card authorization. *If "waived" then no retainer is necessary.*
If checked, first payment is the full fee paid in advance.
2. A payment of _____ due upon approval by yourself of the schematic design drawings for the project. *If "waived" then second payment is waived.*
3. A payment of the remainder _____ (or as invoiced) will be due and payable when the construction documents are completed and ready to be delivered to you.

If checked, this last payment is the full fee paid upon completion.

We will supply _____ sets of stamped plans (if appropriate) and electronic file for further copies. Costs of all Printing and Shipping Fees will be charged to you as they occur at no markup. If our product is a report, then we will supply 2 copies of the report (stamped).

- Any drawings, specifications or reports produced as part of this agreement shall be considered instruments of service, will remain the property of Florida Tectonics Inc., and may not be reused in any form for any other project without our written consent.

VIII.

Signature (Each signatory agrees to all 7 pages of this document)

Kenneth S. Risley, P.E.
President, Florida Tectonics, Inc.
Authorization Number #9670

Client

Date (write date **only if printed and signed** – otherwise leave blank)