

## Professional Services Proposal

To	Hawaii Ocean Plaza LP	Date	December 21, 2017
Attention	Mr. Jay Fang	Email	<a href="mailto:andy@crosslandeng.com">andy@crosslandeng.com</a>
From	Andy Crossland	Project No	170206
Project	Hawaii Ocean Plaza	Pages	7
Subject	Mechanical Engineering Services Proposal		

Dear Mr. Fang,

Thank you for the opportunity to provide a proposal for this project. This proposal is based on our discussions and preliminary Architectural renderings dated 11/27. Details of this offer follow below.

### INTRODUCTION

Hawaii Ocean Plaza is a new 21-story mixed-use residential high-rise tower located in Honolulu's Ala Moana neighborhood which consists of a 15-story high-rise tower atop a 7-story podium structure. The podium structure contains a parking garage with a lobby and commercial space intended for restaurant use on the ground floor. Level 7 includes a podium roof garden with outdoor amenities including a resident pool, park, and playground. There is a total of 135 condominium units in the 15-story residential high-rise tower, consisting of a mix of one- and two-bedroom suites.

A preliminary scoping meeting was conducted on December 11, 2017 with representatives from Hawaii Ocean Plaza LP, FSC Architects, Crossland Engineering, and various other members of the design team. Following this meeting, Crossland Engineering was asked to provide a proposal for Mechanical Engineering services to support the design, permitting, and construction of the building.

### SCOPE OF SERVICES

Crossland Engineering is committed to providing services that are optimal to your needs and we are pleased to propose the following services for the above referenced project:

- HVAC
  - Common areas and systems
    - Central air-conditioning system design for lobby, hallways, amenities, etc.
    - Smoke control systems design, e.g. stairwell pressurization
    - Parking garage ventilation design
  - Residential living units
    - Individual VRF split system design for each residential unit with outdoor condensing units located on the lanai and indoor fan coil units concealed in the ceiling space
    - Exhaust system design for kitchen hood, toilet, and clothes dryer – either through the exterior wall or through common duct shafts served by roof-mounted exhaust fans
  - Ground floor restaurants
    - Provide stub-outs and provisions for future design and connection of restaurant HVAC systems (make-up air, kitchen hood grease exhaust, air-conditioning, etc.)
    - Restaurants will utilize central air-conditioning system or individual split air-conditioning



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- Plumbing
  - Common areas and systems
    - Domestic water booster pump design for water distribution to high-rise tower
    - Storm drain system design to serve high-rise tower
    - Water, waste, and vent piping design for plumbing fixtures in common areas
    - Central gas water heating system for residential units, pool, amenities, etc.
  - Residential living units
    - Water, waste, and vent piping design to serve plumbing fixture layouts in each type of residential unit
    - Gas distribution design for gas cooktops and clothes dryers in each residential unit
  - Ground floor restaurants
    - Stub-outs and provisions for future design and connection of restaurant plumbing systems (domestic water, sanitary waste and vent, grease waste, gas, etc.)
    - Common grease interceptor design for restaurants
- Fire protection
  - Schematic design for automatic wet-pipe fire sprinkler and standpipe system will be provided for the entire building
  - Fire pump will be provided to serve the high-rise fire sprinkler system
  - As required by C&C Honolulu, working drawings shall be completed and submitted by the licensed fire sprinkler contractor for final approval by authorities having jurisdiction
- Prepare construction specifications to delineate construction requirements regarding the materials, products, installation procedures, and quality aspects involved with execution of the work and fulfillment of the contract by the selected contractor
- Attendance at project meetings
- Submit plans for review and coordination at key milestones
- Permitting assistance
  - Complete and submit required HVAC and Plumbing permit forms
  - Provide responses and drawing revisions, if required, to address review comments
  - Coordination with permit reviewers and authorities having jurisdiction, as needed
- Construction Administration
  - Participation in pre-construction conference and site meetings
  - Provide responses to contractor RFIs
  - Review contractor shop drawings and submittals
  - Provide 20 total hours of periodic site visits during construction to observe contractor's work and check for conformity with the design intent of the mechanical construction documents
  - Provide one final site visit at substantial completion including a final punch list to the contractor with notification of any deficiencies or defects in their work



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## ASSUMPTIONS, CLARIFICATIONS, EXCLUSIONS

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The following assumptions, clarifications, and exclusions are provided as the basis for our scope of services on this project:

1. Our fee is based on the preliminary 3.5 FAR Architectural renderings received on 11/29. If the project undergoes a future revision to design a Transportation-Oriented District scheme (i.e. a larger building) we will submit a project change proposal for review and approval at that time.
2. Design of ground floor restaurant spaces is excluded from this proposal; only shell space with stubouts for future use will be provided. Should Hawaii Ocean Plaza LP request design for these spaces, Crossland Engineering will provide this service under a project change proposal.
3. Preparation of CAD backgrounds is not included in this proposal; to be completed and provided to Crossland Engineering by others.
4. Permit routing is not included in this proposal and will be fulfilled by others, however, responses and drawing revisions to address code review comments, if required, is included.
5. Contractor bidding and participation in owner-contractor negotiations are not included in this proposal and will be fulfilled by others.
6. This proposal does not include construction cost estimates.
7. Crossland Engineering is an environmentally conscious company and we prefer to only issue electronic copies of our documents. If necessary, hard copies can be provided at additional cost.
8. Our services are limited to the scope and fee amounts provided in this agreement. We will submit a project change proposal for review and approval if any additional or excluded work is requested to be performed.

## FEES FOR PROFESSIONAL SERVICES

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Crossland Engineering proposes to provide the Mechanical Engineering services described above on a fixed fee basis for a lump sum of \$104,000 not including State of Hawaii General Excise Tax (GET).

HVAC Design	\$ 34,000.00
Plumbing Design	\$ 30,000.00
Fire Protection Design	\$ 27,000.00
Permitting Assistance	\$ 3,000.00
Construction Administration	\$ 10,000.00
Subtotal (Lump Sum)	\$ 104,000.00
Hawaii State GE Tax (4.712%)	\$ 4,900.48
<b>TOTAL</b>	<b>\$ 108,900.48</b>

Invoices for our services will be submitted monthly based on a percentage of work completed, and payment is due within 15 days of invoice date. State of Hawaii GET will appear on each invoice for the services performed.

This proposal includes a standard reimbursable allowance for minor internal office expenses related to this project. Travel outside of Honolulu and hard copy document prints are not included in this reimbursable allowance.

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## AGREEMENT

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This offer is made to Hawaii Ocean Plaza LP and is based on the terms of this letter and the attached General Terms and Conditions. If the foregoing is acceptable, please sign this proposal and email a scanned copy of this signed agreement to [proposals@crosslandeng.com](mailto:proposals@crosslandeng.com). We will initiate this project upon receipt of your written authorization to proceed.

Crossland Engineering sincerely appreciates the opportunity to be of service to you and we look forward to working with you on this project. Please feel free to call or email us if you have any questions about this proposal or other aspects of our services.

Sincerely,

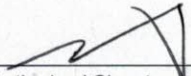
**Crossland Engineering, LLC**



Andy Crossland PE, LEED AP BD+C  
Owner, Principal Mechanical Engineer

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This proposal for services and the attached General Terms and Conditions are accepted by:

  
Authorized Signature

*Zhe Feng*  
Printed Name

1/8/2019  
Date



## GENERAL TERMS AND CONDITIONS

The following General Terms and Conditions are incorporated into, and made part of, the attached Agreement dated December 21, 2017 between Crossland Engineering, LLC (ENGINEER) and Hawaii Ocean Plaza LP (CLIENT), and together are referred to as the "AGREEMENT."

### STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this AGREEMENT will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this AGREEMENT or otherwise, in connection with ENGINEER's services.

### ASSUMPTION OF CONDITIONS

In the event that assumptions made in ENGINEER's proposal change, CLIENT agrees to appropriately adjust the schedule, scope of services and compensation.

The remodeling and/or rehabilitation of an existing building requires that certain assumptions be made regarding existing conditions, and because some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the building, the CLIENT agrees that, except for negligence on the part of the ENGINEER, the CLIENT will hold harmless, indemnify and defend the Engineer from and against any and all claims arising out of the professional services provided under this AGREEMENT.

### DOCUMENT OWNERSHIP

All documents, including drawings, estimates, plans, specifications, copyrights in all reports, computer files, electronic media, field and lab test data, engineering calculations, notes, and other documents and instruments prepared or furnished by ENGINEER (collectively the "Documentation") are the property of ENGINEER. ENGINEER grants CLIENT a nonexclusive limited license to use the Documentation for the project for which they were intended upon payment. In the case of non-payment or partial payment, CLIENT shall return all Documentation and any copies thereof and refrain from their use for any purpose. ENGINEER agrees to retain pertinent Documentation for five years and make this available at CLIENT's sole cost.

### JOBSITE SAFETY

CLIENT agrees that the project contractor shall be solely responsible for the safety of all persons and property on the jobsite during the performance of work at any time, not limited to normal working hours, and in compliance with applicable OSHA regulations.

### CONTRACTORS MEANS AND METHODS

The CLIENT's Construction Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract and for safety, as well as conformity and timeliness of all portions of the Work. ENGINEER shall not be held in any way responsible for or to guarantee any contractor's work. The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents by the on-site activities or duties of the ENGINEER.

### CONTRACT ADMINISTRATION

ENGINEER may be required to provide Contract Administration services, if retained as the designer of record, including

construction administration, observation, and monitoring services, if so stated in the proposal and to allow that ENGINEER's design intent is being adhered with and to provide support for unforeseen circumstances.

CLIENT agrees that Contract Administration services provided by ENGINEER are intended only to assist the ENGINEER in reducing, but not eliminating, the risks associated with construction defects and poor workmanship and that the CLIENT's contractors remain solely responsible for their acts, errors, omissions, and defects in their work and to install and protect fully functioning assemblies, systems, and components.

If Contract Administration services are not provided by ENGINEER, CLIENT shall defend, indemnify and hold ENGINEER harmless from and against any and all claims arising out of the professional services provided under this AGREEMENT and the failure to comply with ENGINEER's design intent, except caused by ENGINEER's sole negligence as determined by a court or arbitration.

### EXISTING DOCUMENTATION

CLIENT shall provide all existing documentation for all construction projects of an existing structure, to include "As-Built", "Record-Drawings", construction documents and progressive development sets. CLIENT shall be responsible for accuracy of such documentation. Without this documentation ENGINEER may be required to perform field measurements and/or create electronic documentation that shall be charged as additional services in accordance with the HOURLY RATE SCHEDULE outlined in this AGREEMENT.

### PERMITS AND APPROVALS

Unless otherwise provided in the proposal, CLIENT shall secure and pay for the building permit and for all other permits, utility stakeouts and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work associated with ENGINEER's services.

### HAZARDOUS MATERIALS

CLIENT represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, CLIENT represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials located at or near the project site, including, but not limited to asbestos, PCBs, petroleum, mold, mildew or other microbial growths or any material defined by the U.S. Environmental Protection Agency as hazardous. It is acknowledged by both parties that ENGINEER's scope of services does not include services related in any way to hazardous materials. Should these services become necessary, CLIENT shall retain and provide a qualified environmental consultant(s) to perform these services. TO the fullest extent permitted by law, CLIENT shall indemnify and hold harmless ENGINEER from and against all costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court of arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials.

### MOLD, FUNGUS, MILDEW AND SPORES

This AGREEMENT excludes absolutely any loss, damage, claim, cost, expense, sum or other obligation of any kind or



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description directly or indirectly caused by, contributing to, or resulting from contact with, exposure to, existence of or presence of any "fungi" or bacteria. This exclusion includes any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of any "fungi" or bacteria. "Fungi" is defined as "any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi."

## SERVICES OF OTHERS

ENGINEER shall have the right to deploy subcontractors to deliver contractually agreed service. The cost of such services shall be invoiced to CLIENT in accordance with the STANDARD REIMBURSIBLE SCHEDULE outlined below.

## CONTRACTORS INSURANCE

CLIENT agrees to require in all construction contracts for the project, provisions that CLIENT and ENGINEER shall be defended and indemnified by the contractor and its subcontractors and named additional insureds on contractor's and subcontractor's insurance.

## HOURLY RATE AND REIMBURSIBLES SCHEDULE

The HOURLY RATE SCHEDULE in this AGREEMENT outlines billing rates used to determine fees for services for time and expense contracts. The STANDARD REIMBURSIBLE SCHEDULE outlines the billing of ENGINEER's expenses.

## DELAYS OR SUSPENSIONS OF SERVICE

If the ENGINEER is delayed for more than forty-five (45) cumulative days at any time in the progress of the Work by any act or neglect of the CLIENT or the CLIENT's contractor, or by changes ordered in the work, or by occurrences beyond the control and without the fault or negligence of the ENGINEER, then ENGINEER shall be entitled to an equitable adjustment of its fees to reflect reasonable costs incurred by ENGINEER in connection with such delay, suspension, or reactivation. ENGINEER has the right to renegotiate any fees if the scope of its services is changed or not completed within 12 months. CLIENT shall provide ENGINEER fourteen (14) days written notice of its intent to suspend ENGINEER's services. In the event of suspensions, ENGINEER shall be entitled to invoice CLIENT for associated wind down and startup/mobilization costs during (re)startup.

## ADDITIONAL SERVICES

ENGINEER's fee includes a fixed quantity of time for meetings and other project related communication. Additional project communication needs beyond those included in ENGINEER's proposal will be considered an additional service, invoiced to CLIENT on a monthly basis in accordance with the HOURLY RATE SCHEDULE and STANDARD REIMBURSIBLE SCHEDULE outlined below.

## INVOICES

Invoices will be submitted once per month for services performed during the previous month. Payment of an invoice in full must be received by ENGINEER within fifteen (15) days of the date of such invoice.

## EFFECT OF INVOICE

The services provided shall be deemed approved and accepted by CLIENT as and when invoiced unless CLIENT objects within seven (7) days of invoice date by written notice specifically stating the details in which CLIENT believes such work is incomplete or defective, and the invoice amount(s) in dispute. CLIENT shall pay undisputed amounts as provided for in the preceding paragraph.

## INTEREST; SUSPENSION OF WORK

Failure of CLIENT to make full payment of an invoice so that it is received by ENGINEER within fifteen (15) days of the invoice date subjects the amount overdue to a delinquent account charge of one and a half percent (1.5%) of the invoice amount per month, compounded monthly, (18% per annum), but not to exceed the maximum rate permitted by law. Failure of CLIENT to submit full payment of an invoice within fifteen (15) days of the date thereof subjects this AGREEMENT and the work herein contemplated to suspension or termination at ENGINEER's discretion, without penalty or breach of AGREEMENT.

## TERMINATION

CLIENT or ENGINEER may terminate this AGREEMENT in whole or in part, by giving seven (7) days written notice to the other party should the other party fail substantially to perform its obligations under this AGREEMENT and continue such default after the expiration of a seven (7) day notice period. Upon the expiration of a fourteen (14) day notice period, either party may terminate this AGREEMENT without necessity of cause. In case of premature termination, in the absence of default by ENGINEER, all performances or parts thereof, which have already been fulfilled by ENGINEER prior to its receipt of notice of termination from CLIENT, shall be settled and paid according to the provisions in this AGREEMENT, including but not limited to reimbursement for direct expenses due, as well as wind down costs, not to exceed ten percent (10%) of charges incurred to the termination notice date, to cover services to orderly close the work and prepare project files and documentation, any additional direct expenses incurred by ENGINEER including but not limited to cancellation fees or charges, plus ENGINEER's forecasted profit of fifteen percent (15%) of the value of the services not performed by the ENGINEER. ENGINEER will use reasonable efforts to minimize such additional charges. Upon termination, CLIENT agrees to pay ENGINEER's final invoice within fifteen (15) days of the invoice date. ENGINEER will mail to CLIENT one set of all completed documents and reports, within two (2) working days after receipt of final payment, if not already provided to CLIENT.

## DISPUTES AND NEGOTIATION

The parties will first attempt in good faith to resolve all disputes arising out of or in connection with a breach, termination or invalidity of the present AGREEMENT through negotiation between officers or principals of the highest levels of the parties. The parties agree to exchange information and documents requested by the other party prior to the negotiations to facilitate discussions.

## MEDIATION

Should a dispute not be resolved by negotiations between the parties, the parties agree to try to settle disputes through mediation before resorting to arbitration or litigation as required by this AGREEMENT. The mediator shall be an attorney or similar expert experienced in mediating construction and design professional disputes and shall be chosen by mutual agreement of the parties. If no agreement on a mediator can be reached, then a mediator shall be appointed by the Presiding Judge of the Circuit Court, First Court, Honolulu, Hawai'i. The fees and costs of the mediator shall be borne equally by the parties. Each party shall bear its own costs and expenses of the mediation, including attorney's and expert's fees.

## ATTORNEY'S FEES, COSTS AND EXPENSES

Should litigation or arbitration occur between the parties, all reasonable litigation or arbitration expenses, collection expenses, witness fees, court costs, and attorney's fees



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incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.

## NO THIRD PARTY BENEFICIARIES

Nothing contained in this AGREEMENT or by the action of any person, shall create a contractual relationship with, any obligation toward or a cause of action in favor of a third party against ENGINEER.

## INSURANCE

ENGINEER agrees to procure and maintain, at its expense, Professional Liability Insurance and by General Liability Insurance. Upon request, ENGINEER will furnish information and Certificates of Insurance. ENGINEER will not be responsible for any loss, damage or liability beyond the value of the fee for negligence, errors, omissions, strict liability, breach of contract, and breach of warranty. Cost of all other insurance required by Client or the Owner in the performance of this contract will be billed to CLIENT as an additional service.

## WAIVER OF CONSEQUENTIAL DAMAGES

CLIENT and ENGINEER waive consequential, indirect, special, direct, delay, acceleration and interference damages for claims, disputes or other matters in question arising out of or relating to this AGREEMENT. This mutual waiver is applicable, including but not limited to and without limitation, to all consequential damages due to either party's termination in accordance with this AGREEMENT.

## ALLOCATION OF RISK

CLIENT and ENGINEER have evaluated the risks and rewards associated with this project and the extent to which those risks should be shared by ENGINEER and CLIENT, and have agreed: (a) To the fullest extent permitted by law, CLIENT agrees to limit the liability of ENGINEER to CLIENT, all landowners, contractors, subcontractors, lenders, suppliers, manufacturers, third parties, and their employees such that the total aggregate liability, including all attorneys' fees and costs shall not exceed the total fees paid for ENGINEER's services on this project, and in no case greater than the available proceeds under ENGINEER's professional and general liability insurance. (b) All damages such as loss of use, profits, anticipated profits, and the like losses are consequential damages for which ENGINEER is not liable. (c) ENGINEER is not responsible for the acts, errors or omissions of CLIENT, any contractor or supplier. (d) CLIENT shall give written notice to ENGINEER of any claim of negligent act, error or omission within one (1) year after the completion of the work performed by ENGINEER. Failure to give notice herein required shall constitute a waiver of claims by CLIENT.

## PROPOSAL VALID FOR 60 DAYS

This fee proposal will remain valid for 60 days from date of issuance.

## NOTICE

Any notice required under this AGREEMENT be effective as of the date of receipt and shall be in writing addressed to the appropriate party at its address set forth in this AGREEMENT and either delivered personally or mailed by registered or certified mail, postage prepaid, or commercial courier service.

## SURVIVAL OF TERMS

All terms included in this AGREEMENT, including these General Terms and Conditions, shall survive the completion or termination of AGREEMENT for any reason.

## NONWAIVER

Non-enforcement of any provision of this AGREEMENT by either party shall not constitute a waiver of that provision and shall not affect the enforceability of that provision or of the

remainder of the AGREEMENT. One or more waiver of any term, condition or other provision of this AGREEMENT by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

## PRECEDENCE OF CONDITIONS

Should any conflict exist between the terms herein and the terms of any purchase order or confirmation issued by CLIENT, the terms of these Standard Conditions shall prevail in the absence of ENGINEER's express written agreement to the contrary.

## FORCE MAJEURE

In the event ENGINEER is subject to an event of force majeure or an event beyond the control of ENGINEER, such as war, acts of terrorism, natural disasters, governmental interventions and bans, energy and raw-material shortages, strikes, civil unrest, transport damages or delay, any delay or default in the performance of any obligation of ENGINEER under this AGREEMENT shall not be deemed a breach of this AGREEMENT. The occurrence of any such event shall suspend the obligations of ENGINEER as long as performance is delayed or prevented thereby, and the fees due hereunder shall be equitably adjusted.

## HOURLY RATE SCHEDULE

The billing rate will be \$120/hour when fees for services are based on the actual hours worked on the project and is subject to State of Hawaii General Excise Taxes.

## STANDARD REIMBURSIBLE SCHEDULE

1. All invoices for sub-contractors and sub-consultants retained by ENGINEER shall be reimbursed based on sub-consultants or sub-contractors invoice plus a 15% service charge. Alternately, CLIENT may enter into an agreement with the subcontractor or sub-consultant directly.
2. All outside vendors, rental costs, travel costs and expenses utilized for the project such as, airline travel, car rental, man lift rental, staging costs, etc. shall be invoiced to CLIENT, plus a 15% service charge.
3. Automobile expenses will be charged at the Internal Revenue Service reimbursement rate in effect at the time the expense was incurred. Travel time is calculated from portal to portal, or round trip to and from the local ENGINEER office.
4. Airfare, rental vehicles, other transportation, and living expenses incurred for out-of-town projects. For out-of-town travel, per diems will be charged according to published U.S. government rates.
5. Reproduction costs for all outsourced printing, plotting, photocopying, binding and other reproduction services will be invoiced to CLIENT, at cost.
6. Delivery or shipping charges for documents, drawings, samples, field testing equipment, etc. will be invoiced to CLIENT, at cost.