



April 25, 2023

Andrew McCullough, Designer  
Black River Design, Architects  
73 Main St.  
Room 9  
Montpelier, VT 05602

**SUBJECT:** Energy Modeling of Options  
Richmond Town Offices, Richmond, VT.

Dear Andrew:

Pearson & Associates proposes to provide Energy Modeling Richmond Town Office Renovation in Richmond, VT. This proposal is based upon request of the Owner.

Energy modeling services with look at base design, stretch code design option and potential for net zero building option.

## **SCOPE OF SERVICE**

### **A. Baseline System**

1. Meeting to review schmetic design with Black River Design and Owner.
2. Provide Basis of Design for use with energy model.
  - a. Outline baseline assumptions for the building
  - b. Define systems to be evaluated

### **B. Energy Modeling**

1. Utilize Trane Trace or Carrier HAP to perform energy modeling calculation
  - a. Create evaluation of systems noted on Basis of Design (BOD).
2. Work to include
  - a. Take off of existing building envelope with upgrades.
  - b. Input installed lighting and power based on proposed building use.
  - c. Input of installed HVAC systems based on BOD.
  - d. Calculations and evaluation.

### **C. Create report of findings.**

1. One (1) check in meeting during modeling to review progress.
2. Meeting to review final report.

**SERVICES NOT INCLUDED**

- A. CAD drawings of existing building
- B. Schematic designs of proposed systems
- C. Benchmarking not included

**SERVICES AND INFORMATION UNDERSTOOD TO BE PROVIDED TO PEARSON & ASSOCIATES FOR MEP DESIGN COORDINATION**

- A. Proposed envelope construction
- B. Proposed air leakage
- C. CAD plans of proposed building layout

**PROFESSIONAL FEES**

For accomplishing the above Scope of Services, Pearson & Associates would be paid on a lump sum basis plus reimbursement of expenses.

The total fee for mechanical and electrical engineering is as follows:

<b>DESCRIPTION</b>	<b>TOTAL</b>
Energy Modeling	\$ 9,500
Meetings	\$ 1,200
<b>TOTALS</b>	<b>\$ 10,700</b>

**Reimbursable expenses are estimated to be \$200.**

Should additional services be necessary due to unanticipated conditions or recommended or directed changes in the Scope of Service we will seek your authorization first.**ACCEPTANCE**

If the Scope of Services and terms outlined here are acceptable please sign the enclosed copy of this letter and return it to us. This letter along with our Schedule of Fees and Contract Conditions will serve as our agreement.

Pearson & Associates is looking forward to working with you on this project, if you have any questions or desire additional information concerning this agreement do not hesitate to contact me.



Very truly yours,  
Pearson & Associates

ACCEPTED AND AUTHORIZED TO PROCEED:

BY: \_\_\_\_\_

Alan S. Gould, P.E.  
Vice President & Divisional Director  
Pearson & Associates  
A Division of DuBois & King, Inc.

DATE: \_\_\_\_\_



**Building Services Division**  
**Schedule of Hourly Rates and Fees**

Personnel	Hourly Rate
Senior Project Principal	\$200.00
MEP Senior Project Manager II	\$175.00
MEP Senior Project Manager I	\$160.00
MEP Project Manager II (P.E.)	\$140.00
MEP Project Manager I or Senior Project Engineer II (E.I.)	\$125.00
MEP Senior Project Engineer I or Senior Designer II	\$115.00
MEP Senior Designer I or Staff Engineer II	\$100.00
MEP Staff Engineer I	\$90.00
Administrative Support	\$70.00
Professional Services Sub-Consultant	Per Invoice

Notes:

1. Hourly rates do not include reimbursable expenses or other direct costs. See below for additional charges.
2. We structure each project team to provide the client with sufficient senior level oversight, quality assurance and control, while assigning the work among our team to realize the most efficient use of the project budget.
3. DuBois & King, Inc. is a multi-discipline professional services firm. Rates for Permitting, Survey, Civil/Site Engineering, Environmental Documentation, and Landscape Architecture can be provided upon request.
4. Rates for Expert Witness Assistance are separately quoted upon written request.
5. Overtime labor provided by non-exempt personnel will be invoiced at one and one-half (1½) times the appropriate hourly rate as detailed above.

REIMBURSABLE EXPENSES and OTHER DIRECT COSTS including, but not limited to, the following items will be invoiced at cost plus an administrative fee:

1. Subsistence expenses (hotel, food, etc.).
2. Shipping charges and insurance for hardware, samples, field test equipment, etc.
3. Transportation to and from project meetings or job sites based on the current Internal Revenue Service standard mileage reimbursement rate for business travel.
4. The use of rental cars, trucks, boats, airplanes or other means of transportation.
5. Reproduction of drawings, reports, and documents.
6. Other direct materials and expenses.

(Last update 07-2022)

## CONTRACT TERMS AND CONDITIONS

**SERVICES OF OTHERS:** On occasion, project needs will require the specialized services of individual consultants or other companies to participate in a project. When considered necessary, these firms or other consultants will be engaged with your approval. We expect that you will enter into an appropriate agreement with them and be directly responsible for all costs incurred by them. For work performed under this agreement for this project we will review their invoices and forward to you a recommendation for disposition of payment. Services that are subcontracted by DuBois & King, Inc., will be billed at direct cost plus 12% overhead and fee.

**REIMBURSABLE EXPENSES:** Reimbursable expenses are in addition to the professional fee compensation for labor and typically include, but are not limited to, the following items: lodging and subsistence expenses; shipping charges and insurance for hardware, samples, field test equipment, etc.; telegrams and cables; transportation to and from projects; use of personal or company vehicles at a rate consistent with the federally allowable mileage reimbursement rate as determined by the Internal Revenue Service; the use of rental cars, trucks, boats, airplanes, or other means of transportation; reproduction of drawings, reports, documents, and photographs for project records; and any other direct materials. Reimbursable expenses will be billed at our direct cost plus an administrative fee of 12%.

**DESIGN WITHOUT CONSTRUCTION PHASE SERVICES:** If the Consultant's Scope of Services under this Agreement does not include project observation or review of the Contractor's performance or any other construction phase services, it is understood and agreed that such services will be provided by the Client. The Client assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the Client waives any claims against the Consultant that may be in any way connected thereto.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of the Consultant.

**ON-SITE SERVICES DURING PROJECT CONSTRUCTION:** Should our services be provided on the job site during project construction, it is understood that, in accordance with generally accepted construction practices, the contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work, and compliance with OSHA regulations, and that these requirements will apply continuously and not be limited to normal working hours. Any monitoring of the contractor's performance conducted by our personnel is not intended to include review of the adequacy of the contractor's safety measures in, on or near the construction site. It is further understood that field services provided by our personnel will not relieve the contractor of his responsibilities for performing the work in accordance with the plans and specifications.

**RIGHT-OF-ENTRY:** Unless otherwise agreed, you will furnish right-of-entry on the land for us to make the planned studies, explorations, or investigations. We will take reasonable precautions to minimize damage to the land from use of equipment, but have not included in our fee the cost for restoration of damage that may result from our operations. If we are required to restore the land to its former condition, this will be accomplished and the cost will be added to our fee.

**SCHEDULE OF FEES:** DuBois & King, Inc., at its sole discretion, reserves the right to modify periodically the hourly billing rates as detailed in its published Schedule of Fees and Contract Conditions to reflect more accurately the cost of doing business, with or without notice. Invoiced amounts will be based on the Schedule of Fees in effect at the time of invoicing.

**ADDITIONAL SERVICES:** Services not explicitly detailed in this Agreement will be considered additional and subject to increased project fees. Additional services will not be provided without the Client's prior authorization to proceed.

**TAXES:** State and Local Sales, Use and License taxes will be billed at cost. Any taxes or fees, enacted by Local, State or Federal government subsequent to the date of this contract, and based on gross receipts or revenues, will be added to amounts due under this contract, in accordance with any such fees or taxes.

**INVOICES:** Invoices may be submitted periodically, and not less than monthly, and are payable upon receipt. Interest of one and one-half percent (1-1/2%) per month will be payable on any amount not paid within thirty (30) days. Any attorney's fees or other costs incurred in collection of any delinquent amount shall be paid by the Client.

Upon request, documentation of reimbursable expenses included in the invoice will be provided in some format itemizing the amount in excess of \$50.00. DuBois & King, Inc. reserves the right to discontinue work on any account that is not paid on a current basis in accordance with these terms. If reassignment of project personnel occurs due to non-payment on an account, project schedule and fees may be adversely impacted.

**OWNERSHIP OF DOCUMENTS:** All reports, field data and notes, laboratory test data, calculations, estimates, and other documents which we prepare, as instruments of service, shall remain the property of DuBois & King, Inc. We will retain all pertinent records relating to the services performed for a period of six years following the completion of our services, during which period the records will be made available to you at all reasonable times and for reasonable retrieval and reproduction costs.

**INSURANCE:** DuBois & King, Inc., is protected by Worker's Compensation Insurance (and/or Employer's Liability Insurance), and by Comprehensive General Liability Insurance for bodily injury and property damage. We will furnish information and certificates upon written request. We will not be responsible for any loss, damage or liability arising from your negligent acts, errors and omissions and those by your staff, consultants, contractors and agents or from those of any person for whose conduct we are not legally responsible.

**RISK ALLOCATION:** In recognition of the relative risks and benefits of the Project to both the Client and DuBois & King, Inc., the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of DuBois & King, Inc. and its officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claim 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 DuBois & King, Inc. and its officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed \$50,000, or DuBois & King, Inc.'s total fee for services rendered on this Project, 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.

In the event the Client does not wish to limit DuBois & King, Inc.'s professional liability, DuBois & King, Inc. agrees to waive (or increase the amount of) this limitation of liability upon written notice from the Client and agreement of the Client to pay an additional fee. This additional fee is in consideration of the greater risk involved in performing work for which there is an increase in the limitation of liability or there is no limitation of liability.

**INDEMNIFICATION:** DuBois & King, Inc. agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by DuBois & King, Inc.'s negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom DuBois & King, Inc. is legally liable.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless DuBois & King, Inc., its officers, directors, employees and subconsultants (collectively, DuBois & King, Inc.) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to 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 DuBois & King, Inc. shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

**CONSEQUENTIAL DAMAGES:** In no event shall DuBois & King, Inc. be liable to the Client or the Client to DuBois & King, Inc. for consequential or indirect damages, including but not limited to, loss of profits or revenue, loss of use of equipment, loss of production, additional expenses incurred in the use of equipment and facilities and claims of customers of the Client. This disclaimer shall apply to consequential damages based upon any cause of action whatsoever asserted, including ones arising out of any breach of warranty, guarantee, products liability, negligence, tort, strict liability, or any other cause pertaining to the performance or non-performance of the contract by the Client or DuBois & King, Inc.

**STANDARD OF CARE:** In performing our professional services, we will use that degree of care and skill ordinarily exercised, under similar circumstances by members of the profession practicing in the same or similar locality. This warranty is in lieu of all other representations expressed or implied.

**OPINION OF PROBABLE COST:** DuBois & King, Inc. has no control over the cost of labor and material, or over competitive bidding or market conditions, and therefore does not guarantee the accuracy of our project or construction cost estimates as compared to contractor bids or actual cost to the Client.

**DELAYS:** DuBois & King, Inc. is not responsible for delays caused by factors beyond DuBois & King, Inc.'s reasonable control. When such delays beyond DuBois & King, Inc.'s reasonable control occur, the Client agrees DuBois & King, Inc. is not responsible for damages, nor shall DuBois & King, Inc. be deemed to be in default of this Agreement.

**THIRD PARTY BENEFICIARY:** 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 DuBois & King, Inc. DuBois & King, Inc.'s services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of services hereunder. The Client and DuBois & King, Inc. agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

**DISPUTE RESOLUTION:** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and DuBois & King, Inc. agree that all disputes between them arising out of, or relating to, this Agreement or the Project shall be submitted to nonbinding mediation.

The Client and DuBois & King, Inc. further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution among the parties to all those agreements.

**TERMINATION:** In the event of termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days of termination, pay DuBois & King, Inc. for all services rendered and all reimbursable costs incurred by DuBois & King, Inc. up to the date of termination, in accordance with the payment provisions of this Agreement.

The Client may terminate this Agreement for the Client's convenience, and without cause, upon giving DuBois & King, Inc. not less than seven (7) calendar days' written notice.

DuBois & King, Inc. may terminate this Agreement for the Consultant's convenience, and without cause, upon giving the Client not less than seven (7) calendar days' written notice. Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days' written notice for any of the following reasons:

- Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;
- Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;
- Suspension of the Project or DuBois & King, Inc.'s services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate;
- Material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.

In the event of any termination that is not the fault of DuBois & King, Inc., the Client shall pay DuBois & King, Inc., in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by DuBois & King, Inc. in connection with the orderly termination of this Agreement, including, but not limited, to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from the termination.

**ASSIGNMENT:** Neither party to this Agreement shall transfer, sublet, or assign any rights under or interest in this Agreement including, but not limited to, monies that are due or monies that may be due, without the prior written consent of the other party.

**SEVERABILITY:** 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.

**EXTENT OF AGREEMENT:** This Agreement comprises the final and complete agreement between the Client and DuBois & King, Inc. It supersedes all prior or contemporaneous 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 questions 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 DuBois & King, Inc.

**LEGAL JURISDICTION:** The parties agree that this contract shall be governed by and construed in accordance with the laws of the State of Vermont in connection with all matters arising out of this contract. The parties agree that the courts of the State of Vermont shall have exclusive jurisdiction over any legal proceeding arising out of this contract.

*HR6 (07-2022)*