

EQUINOX
CONTRACT TO PROVIDE SERVICES

This Agreement is made and entered into by and between Equinox Environmental Consultation & Design, Inc., a North Carolina corporation ("Equinox"), and Jackson County ("Client") for design services for Jackson County Recreation Splash Pad & Playground Design.

In consideration of the mutual exchange of binding promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Engagement. Subject to the terms and conditions set forth herein, Equinox shall provide the services set forth on Schedule A, Scope of Services, which is attached hereto and incorporated herein by reference ("Services"). If Client shall desire to engage Equinox to provide additional services, the engagement contemplated herein shall be expanded to include those services listed on any Addendum to Schedule A as shall be signed by both parties, and any reference herein to "Schedule A" shall include any such Addendum to Schedule A.

2. Compensation and Terms of Payment. Client shall pay Equinox the compensation set forth on Schedule A, ("Compensation"), and shall pay such Compensation in monthly installments amounts as invoiced. Client agrees to pay each monthly installment of Compensation within thirty (30) days of being invoiced for the monthly installment amount, which amount shall be representative of the percentage of the total Services performed during the invoice period. Interest at the rate of 3.5 % per month shall accrue on all invoices not timely paid. If payment is not received within 60 days all work will be halted until payment is received in full which will include payment of all past invoices. A revised work schedule will be provided once past due invoices are paid in full. Shall any amount due under paragraph 2 or 3 of this Agreement not be fully paid when due, Equinox may employ an attorney to enforce its rights and Client shall pay Equinox' reasonable attorney's fee and all applicable court costs.

3. Termination. Client may terminate this Agreement immediately upon written notification to Equinox. Equinox may terminate this Agreement immediately if Client: (i) fails to make timely payment of Compensation as set out herein; (ii) fails to communicate with Equinox as specified in Schedule A; (iii) fails to comply with other responsibilities of Client set out in Schedule A. No termination shall alter or affect the right of Equinox to Compensation for Services performed prior to termination, which shall become immediately due and payable upon termination. In addition, Client acknowledges that Equinox, relying on the promises of Client set forth herein, has forgone other opportunities in the conduct of its business, and in consideration thereof, Client shall immediately upon termination of this Agreement pay Equinox 15% of Compensation remaining due on the date of termination.

4. Performance. Equinox shall have the right to subcontract for the performance of any Services, and no such subcontract shall be considered an assignment for purposes of paragraph 8 of this Agreement, but Equinox shall see that all Services are performed in accordance with the terms hereof.

5. Force Majeure. Equinox shall not be in default by reason of failure in performance of this contract if such failure arises out of causes beyond the control of Equinox that make the fulfillment of this Agreement impossible or impracticable.

6. Work Product. Client acknowledges that, while performing Services, Equinox may prepare specifications, plans, reports, compilations of data, interpretations, advisory memoranda, and strategies ("Work Product"), and that, although copies of the Work Product may be delivered to Client, all Work Product shall remain the property of both the client and Equinox to be used by Equinox at any time and for any purpose whatsoever, without permission from Client. Information provided to the Client such as maps and illustrations



that contains Equinox logo shall not be removed by the Client for use in articles or other print without Equinox permission.

7. **Waiver.** No failure of Equinox to insist upon strict performance of any part of this Agreement shall in any way be construed as a waiver of any rights and no such failure shall prohibit or otherwise limit Equinox' right to subsequently insist upon strict performance of all of the terms hereof by Client.

8. **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party.

9. **Representations and Warranties.** Each party represents and warrants that this Agreement has been duly authorized and executed and constitutes the binding obligation of such party, his [Its] successors and assigns.

10. **Notices.** Any notice, invoice, or other document shall be effective upon placing the same in the US mail, postage prepaid, and addressed to the appropriate party at the following address:

**To: Equinox 37 Haywood Street, Suite 100
Asheville, NC 28801**

**To: Client County Manager
401 Grindstaff Cove Rd., Suite A207
Sylva NC 28779**

11. **Governing Law.** This Agreement and the rights of the parties hereunder shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

12. **Entire Agreement.** This Agreement contains the entire Agreement of the parties, and there are no representations, inducements, or other provisions other than those expressed in writing.

13. **Severability.** The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity and enforceability of the other provisions hereof. If any provision of this Agreement is unenforceable for any reason whatsoever, such provision shall be appropriately limited and given effect to the extent that it may be enforceable.

In Witness Whereof, each party hereto, if an individual has executed this Agreement, and if an entity has caused this Agreement to be executed by its duly authorized officer, as of the day and year first above written.

THE CLIENT
Jackson County

EQUINOX

By: _____
Signature

By: _____
David Tuch, President

By: _____
Print Name

Date: _____

SCHEDULE A: Scope of Services

Jackson County Recreation Splash Pad & Playground Design

INTRODUCTION

Equinox has been asked by Jackson County Parks & Recreation Department (“client”) to provide a scope and cost estimate for the development of the design, construction documents, and securing permits for a roughly 2.5 acre portion of the Jackson County Recreation Complex property that will house a new splash pad, pavilion, and play area for the Village of Cashiers. Equinox will lead the project and be joined by WithersRavenel. The project site located at 335 Frank Allen Road in Jackson County, Cashiers, North Carolina. All site layout, grading, erosion control, landscaping and stormwater management plans will be provided by Equinox. Survey and utility design will be provided by our teammate WithersRavenel. The subject site area is shown below.



PHASE 1 – SURVEY, SITE ANALYSIS & SITE PLAN

In this phase, Equinox will complete a thorough site analysis and utilize both it and the initial concept from the Cashiers-Glenville Recreation Center Master-Plan to create a conceptual plan to present to the client. This assumes one meeting with the client to get feedback and direction through the process. Once feedback is obtained, a final Site Plan will be developed. Also in this phase, WithersRavenel (subcontractor) will complete survey work for the area. While survey work is being conducted, Equinox will begin on the site analysis and conceptual design.

Topographic Survey

- WithersRavenel will provide a topographic survey of a portion Cashiers/Glenville Recreation Center, also known as pin: 7572-11-9090 on Jackson County GIS.
- Horizontal control will be based on NC State Grid, NAD'83(2011).
- Vertical control will be based on NAVD'88.
- Locate existing property corners as may be found on the subject property, and property corners on adjacent properties as may be necessary to help verify the existing the boundary of the subject property.
- Conventional survey will be completed using spot grades at approximate 50' intervals.
- Contours will be mapped at a .5ft interval.
- Includes locating top and bottom of slopes and any change in the slope lines.
- Locate all visible and obvious site improvements such as roadways, drives, walkways, signs, parking spaces, roadway markings, etc.
- Storm and Sanitary Sewer will be located to include top and invert elevations, pipe sizes and types, where such determinations are possible.
- A minimum of 2 project benchmarks will be set and identified in the mapping.
- Sub-surface utilities will be located based on observation of visible and obvious surface features; No SUE is being provided at this time.
- Location of tree lines. Does not include the location of individual trees within wooded areas.
- Topographic mapping will be completed to a scale to be determined by client's engineer and will be delivered as a digital CAD file in AutoCAD .dwg format with associated signed and certified survey report.

Exclusions:

- Time and expense for resolution of conflicts of boundary with adjacent properties such as gaps and overlaps and/or conflicts between deeds.
- Preparation of any recordable or non-recordable boundary, subdivision, recombination, easement, right-of-way or other surveys.
- No SUE is being provided at this time.

Base Map & Field Preparation

Equinox will collect available data, primarily GIS, pertaining to the property to create a base map of the property to be used during field work. Additional provisions needed to access the property for survey will be scheduled and arranged during this period as well.

Assumptions:

- Client shall provide any additional data that will be helpful for this process, including but not limited to any existing survey, ROW delineation, utilities, and other infrastructure.

Ordinance Review

As part of our review of the site, Equinox will conduct an ordinance review to ensure that the desires for the property align with restrictions set forth by various governing agencies. Equinox will conduct a basic review of Jackson County and Village of Cashiers ordinances to identify restrictions related to the development of the site.

Field Assessment & Site Analysis

Two (2) Equinox design professionals & one (1) engineering professional will visit the site. Utilizing the added base information, they will fine-tune the collection of opportunities, constraints, and other ground level notes. A combination of GPS waypoints, photographic documentation, and detailed field notes will be used to record conditions, and field data collected will inform design efforts.

Opportunities & Constraints Mapping

Equinox will develop an opportunities and constraints map to guide design efforts. This map will include relevant information from the data collection phase. Enacted by our interdisciplinary team, this step is a synthesis of the existing conditions data and the site analysis that highlights opportunities and challenges of the property. The opportunities and constraints process will identify best fit areas for improvements to the space.

Deliverable: Opportunities & Constraints Map.

Conceptual Plan

Utilizing the opportunities and constraints map and other data sources, Equinox will work to develop a refined concept for the space. The concepts will include elements identified during the scoping call held on 07/28/2022. The conceptual plan will show amenities roughly at scale and illustrate connections to and between them. The plan will be shared with the client, whereupon pros and cons of the concepts will be discussed. A further refined concept will emerge from conversations with the client, or the concept plan will progress to finalization. The intent is for the splash pad to accommodate 25-30 users at one time.

Deliverable: One concept drawing for presentation to the client.

Meeting #1: Concept review client meeting, in-person.

Final Site Plan

Once the final concept is decided, Equinox will develop a final site plan in CAD. This site plan will become the foundation for the detailed drawings and specifications.

Deliverable: One 11 X 17-inch PDF of the Final Site Plan for the Splashpad & Playground.

PHASE 2 – CONSTRUCTION DRAWINGS & SPECIFICATIONS

Based on the Site Plan, detailed construction plans and details will be developed. Construction plans will only to include details for a splash pad, pavilion (with lockable electric outlet), play areas, and a path for circulation. Overall demolition, grading, soil stabilization, and stormwater management for the 2.5-acre area is also to be included in this phase, but construction detailing of play courts and their amenities will take place in a future phase. Amenities may include a water bottle filling station.

Construction Documents

During this phase, we will develop a construction drawing submittal to the Client. The following drawings will be provided as part of this task, unless otherwise noted:

- Cover Sheet
- Existing Conditions
- Demolition Plan
- Site Plan
- Materials and Layout Plan
- Grading, Drainage, and Stormwater Plan
- Landscape Plan
- Erosion Control Plan
- Utility Service Plan (Assumes that sanitary sewer connection is not required)
- Standard Detail Sheets

Deliverable: One digital PDF construction plan set for the Splashpad & Playground.

Meeting # 2: Our team will virtually attend one review meeting to discuss comments of the construction drawings.

Assumptions:

- This task estimates two (2) total submittals, including one (1) re-submittal. Additional responses will be billed hourly.
- Assumes that any permit fees are to be submitted and paid separately by the Jackson County Parks & Recreation Department.

Permitting

It is assumed that some permitting will be required to begin construction on this project. Equinox and subcontractors will prepare application forms, calculations, and supporting materials for submittal of necessary permits.

- Respond to reviewer questions and provide response to review comments.
- Submit the project to get final permit approval.
- Permits that are likely to be needed are listed below:

Stormwater Permit

It is likely that disturbance will exceed more than 1 acre for this project. This means that we will be required to meet to meet NC DEQ or Jackson County requirements for stormwater permitting.

Erosion and Sedimentation Control Permit

Any new land disturbance in Jackson County requires an erosion control permit and may also require a North Carolina e-NOI and Certificate of Coverage form the state.

Utility Extension Permits

For water connections to the existing on-site utilities.

Construction Observation

Equinox will attend one pre-construction meeting with the contractor, up to 6 site visits during the construction process, one punch-list walk through and one close out meeting with contractor. Participation by WithersRavenel staff or additional meetings will be billed at an hourly basis if requested by the client.

Additional Services & Assumptions

Any service not described above will be considered an additional service. If the process requires additional services needed by the client, Equinox will obtain approval prior to commencing any work. This includes work for future phases which will be needed if the project moves forward through the construction process.

Assumptions:

- The landowner will provide locations of any utilities.
- Submittals reflecting design changes requested by the client, owner, or other consultants are subject to additional fees.
- Lighting is not required at this time.
- Bathroom access will be available on the Boys and Girls Club building.
- SUE is not being provided at this time.

COMPENSATION

Equinox will contract with the Jackson County for the services outlines in the “scope of services” for a fixed fee of \$119,263.63. For an additional 13,200 design for a pickleball/tennis court can also be provided. Below is breakdown of costs. Equinox and the sub consultant team shall satisfactorily perform all the work tasks as outlined in the ‘scope of services’. This cost includes expenses such as mileage, printing and copies but does not include permit application fees. Equinox bills on a monthly basis and invoices will be mailed typically by the 27th of each month with a payment due date within 30 days. Invoices that are not paid within 30 days will be assessed a late charge of interest at 3.5% whichever is greater, each pay period.

Breakdown of Costs

Service/Tasks	Cost
Phase 1: Survey, Site Analysis, Site Plan <ul style="list-style-type: none"> • Topographic Survey • Base mapping & Field Prep • Field Visit & Assessment • Ordinance Review • Opportunities and constraints • Conceptual Design • Client Meeting 1: Review of Design • Final Site Plan • QA/QC Revisions • Project Management 	\$27,976.63

<ul style="list-style-type: none"> • Expenses 	
<p>Task 2: Construction Drawings, Permitting</p> <ul style="list-style-type: none"> • Meetings for review (virtual) • Construction Drawings & Specifications • Stormwater Permitting • Sediment & Erosion Control Permitting • Utility Permitting • QA/QC Revisions • Project Management • Expenses 	\$78,004.50
<p>Task 2: Construction Observation (Broken Out)</p> <ul style="list-style-type: none"> • 1-Pre-Construction Meeting & Prep + Memo • 6-Site Visits + Memo • 1-Punch List Meeting + Memo • Close Out Meeting + Memo • RFIs • Expenses 	\$13,282.50
Total	\$119,263.63
Additional design for one pickleball/tennis court to bid out as an alternate.	\$13,200