

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 Qualla/Whitter Park.

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 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 fees and all applicable court costs if a court determines that Client is at fault for not paying the amount due.

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.

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

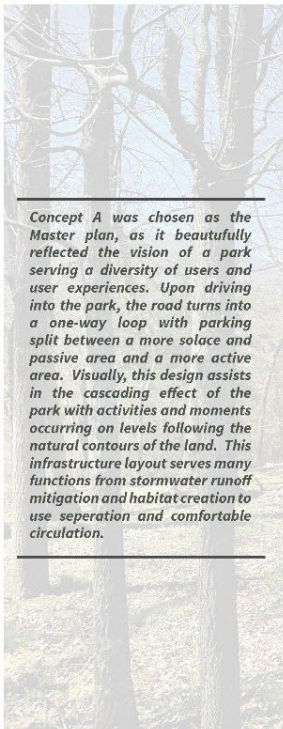
Date: _____

Schedule A: Whittier Park

Construction Documents and Construction Observation

SCOPE OF SERVICES

This scope of services is based on the project site located at TR 1 Sunset Farm Road in Jackson County, Whittier, North Carolina. The following scope of services is based on the Master Plan developed for the PARTF Grant application Equinox will develop construction documents for the park that include the following.



Concept A was chosen as the Master plan, as it beautifully reflected the vision of a park serving a diversity of users and user experiences. Upon driving into the park, the road turns into a one-way loop with parking split between a more solace and passive area and a more active area. Visually, this design assists in the cascading effect of the park with activities and moments occurring on levels following the natural contours of the land. This infrastructure layout serves many functions from stormwater runoff mitigation and habitat creation to use separation and comfortable circulation.



Task 1: Topographic Survey

Topographic survey for portions of the property in which grading and stormwater will be designed including the active use areas such a parking, pavilion, and playground.

- WithersRavenel will provide a location survey of a portion Whittier Park Tract, also known as pin: 7613-28-6129 on Jackson County GIS.
- Horizontal control will be based on NC State Grid, NAD'83(2011) and tied to the existing boundary survey.
- Vertical control will be based on NAVD'88.
- Locate existing property corners as may be found on the subject property to help tie the existing boundary to the site features to be located.
- Topographic Survey will not be in the scope of services.
- Locate all visible and obvious site improvements such as the existing well house, the existing stone wall along the driveway, old building foundations, etc.
- Locate the existing stream along Beck Branch Road.
- 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. Up to 5 trees around the existing "dilapidated house" will be provided.
- Survey will not extend beyond the existing Duke Energy transmission line.

Exclusions:

- Time and expense for resolution of conflicts of boundary with adjacent properties such as gaps and overlaps and/or conflicts between deeds.
- Alternate to provide a full ortho hi-resolution site imagery and location.
- Preparation of any recordable or non-recordable boundary, subdivision, recombination, easement, or other surveys.
- No SUE is being provided at this time.

Task 2: Utility Connection Plans

Task 2 includes design of water and sewer connections to the proposed bathroom facilities. For the purposes of this agreement, it is assumed that the electric service for the existing homesite can be utilized to make connection to the new pre-manufactured or custom built restroom facility. It is further assumed that the existing home well site will be utilized for water service and the existing septic field will be used for wastewater disposal. This scope of services does not include any well or septic field verification or design. WithersRavenel will develop a drawing submittal to the Client. The following drawings will be provided as part of this task, unless otherwise noted:

- Utility connection plan sheet
 - Water connection from existing well to new prefabricated bathroom facility

- Electric connection from existing service panel to new prefabricated bathroom facility
- Sewer connection to the existing septic drain field.

- The above listed sheets will be incorporated into a full set of site construction drawings prepared by Equinox.

Exclusions:

- Any well or septic field verification or design including assessment of the water quality of the well or assessment of the septic system. Equinox will work to identify consultants and share their information with Jackson County for these services.
- A lighting plan with photometric analysis will not be required to be completed for the Project.
- This task estimates two (2) total submittals, including one (1) re-submittal. Additional responses will be considered an additional service.
- It is anticipated that utility extension permitting for this project will be secured via the building permit process by the site contractor.

Task 3: Site Design Development & Construction Documents

- Design Development-65% Design (Grading, Stormwater, Layout)
- Construction Documents -100% Design (Grading, Stormwater, Layout, Details)
- Planting Plan
- Bid Set
- QA/QC and Revisions
- Culvert Design
- Landscape Architecture
 - Play Equipment Options
 - Play Equipment Detail/CD
 - Vegetative Screening concept
 - Vegetative Screening Planting Design/CD
- Project Management
 - Coordination with team members
 - Meetings with client
 - Project Management

The pavilion will be a prefabricated structure and the restroom will be prefabricated or custom built (based on restroom at Savannah Park). If the restroom is not prefabricated, Equinox will provide a “design/build” detail for the restroom. This will not be a construction ready detail as Equinox does not have an architect in-house or on the design team but it will provide design intent for a contractor to design and install.

Deliverables: One digital PDF construction plan set for the park at 90% for review with Jackson County. One final plan Construction Document Plan set

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

Assumptions:

- This task estimates two (3) total submittals, including one (1) review. Reviews will take place at 65% and 90% completion. 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.

Exclusions:

- Public Engagement
- Utility design including septic, water, and electric

Task 4: Permitting

It is assumed that permitting will be required to begin construction on this project. Equinox will prepare application forms, calculations, and supporting materials for stormwater and erosion control permits, we do not foresee other permit needs at this time. The contractor will be responsible for obtaining building permits.

- 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.

Task 5: Construction Observation

- Responses to contractor for Requests for Information (RFIs)
- Pre-Construction meeting
- Up to six (6) site visits during key times during construction
- Punch List and Walkthrough

ADDITIONAL SERVICES

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.

CLIENT RESPONSIBILITIES

The following are responsibilities of the Client and Consultant will rely upon the accuracy and completeness of this information:

- Provide representative for communications and decisions.
- Coordination and designation of a primary contact for architect, contractor, and other consultants engaged by the Client.
- Provide any information needed to complete the Project not specifically addressed in the Scope of Services.
- Provide all available information pertinent to the Project, including any GIS information, reports, maps, drawings, and any other data relative to the Project.
- Examine all proposals, reports, sketches, estimates and other documents presented by the Consultant.
- Give prompt written notice to consultant whenever Client observes or otherwise becomes aware of any defect in the Project or the services of consultant.
- Coordinate all plan submittals for County review and approval.
- Discussions/negotiations with adjacent landowners.
- Acquire all off-site utility and/or construction easements required for this Project.
- All submittal, review, or permitting fees associated with the Project.
- Any legal representation requiring an attorney at law.

TIMELINE FOR SERVICES

Consultant will begin work upon receipt of executed Agreement and written notice to proceed from the Client. Estimated timeframe(s) for the basis of the services described in the Scope of Services are shown below.

- From the milestone time frames and factoring in variability in the approval process, Consultant estimates the total project timeframe for the Scope of Services to be 6 months.
- The estimated timeframe(s) may be impacted by, among other things:
 - Timeliness and additional permit and/or plan reviews of review agencies;
 - Timeliness and accuracy of information provided by the Client and Client consultants.
- Timeframe through construction will vary based on:
 - The Client's schedule and phasing;
 - Contractor's progress and adherence to completion date;
 - Client and/or Agencies requesting additional work.

- Certain tasks, such as reviews and approvals, are performed by third parties, including governmental agencies, over which neither Client nor Consultant have control or responsibility. As such, neither party is responsible for delays or the resulting cost impacts caused by third parties.

COMPENSATION

Equinox will contract with Jackson County for the services outlined in the “scope of services” for a fixed fee of \$98,000. Equinox 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.