

STATE OF GEORGIA
COUNTY OF HENRY
CITY OF STOCKBRIDGE

RESOLUTION NO. 813-567

A RESOLUTION AUTHORIZING THE CITY OF STOCKBRIDGE TO DEED CERTAIN PARK PROPERTY TO THE STOCKBRIDGE DOWNTOWN DEVELOPMENT AUTHORITY IN FEE SIMPLE FOR THE PURPOSE OF ALLOWING THE DOWNTOWN DEVELOPMENT AUTHORITY TO MANAGE THAT PARK PROPERTY IN A MANNER CONSISTENT WITH THE PURPOSES OF THE AUTHORITY; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS RESOLUTION; AUTHORIZING THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; PROVIDING FOR SEVERABILITY; REPEALING INCONSISTENT RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Stockbridge (“City”) is a municipal corporation located within Henry County, Georgia duly organized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within the corporate limits of the City; and

WHEREAS, on May 30, 2013 the City completed the full re-activation of the City’s Downtown Development Authority, pursuant to O.C.G.A. § 36-42-1 *et seq.*; and

WHEREAS, the City now has a fully functioning Downtown Development Authority (“DDA”) with all of the powers of such authorities granted by State law; and

WHEREAS, the City currently owns certain real property located within the Downtown Development Area known as the Eagle’s Landing Park Project, located at the intersection of Eagles’ Landing Parkway and Rock Quarry Road, and has entered into an

agreement regarding that property with the Eagle's Landing Community Association to develop it into a park; and

WHEREAS, the property in question is fully described in the deed records attached hereto as Exhibit "A"; and

WHEREAS, the DDA has proven its ability to properly manage and make use of properties in a manner consistent with the purposes of the DDA pursuant to O.C.G.A. § 36-42-1 *et seq.*; and

WHEREAS, the City wishes to improve and manage the Eagle's Landing Park Project property in a manner that is consistent with the City's agreement with the Eagle's Landing Community Association and with the purposes of the DDA; and

WHEREAS, because of the special powers of the DDA under state law and the experience and expertise of the DDA directors, the City believes that the DDA is better suited to improve and manage the Eagle's Landing Park Project property in a manner that is consistent with the City's agreement with the Eagle's Landing Community Association and with the purposes of the DDA; and

WHEREAS, the City's above-referenced property located at the intersection of Eagle's Landing Parkway and Rock Quarry Road in Stockbridge, Georgia, and situated within Land Lot 20 of the 6th Land District, Henry County, Georgia, as further described in the Quitclaim Deed from the Georgia Department of Transportation attached hereto as Exhibit "A" and incorporated herein by reference is a property that the DDA could make use of for the purposes it was created in a manner that would benefit the downtown area of the City and the Association, and promote the welfare of the citizens and businesses of the City of Stockbridge; and

WHEREAS, the Mayor and City Council believe that deeding the above-referenced property to the DDA in fee simple will allow the DDA additional flexibility to

make use of the property in a manner consistent with its purpose under state law, and in a manner that will benefit the Association and the citizens and businesses of the City; and

WHEREAS, the Mayor and City Council, after due consideration, believe that it would be in the best interests of the citizens and businesses of the City of Stockbridge to deed the above-referenced property to the Stockbridge Downtown Development Authority in fee simple, and desire to grant the Mayor the express authority to sign a deed of that same property to the DDA on behalf of the City.

NOW THEREFORE, THE COUNCIL OF THE CITY OF STOCKBRIDGE
HEREBY RESOLVES AS FOLLOWS;

Section 1. **Approval** - The Mayor and City Council of the City of Stockbridge hereby approve and authorize the City to deed in fee simple to the Stockbridge Downtown Development Authority the City's above-referenced property located at the intersection of Eagle's Landing Parkway and Rock Quarry Road, Stockbridge, Georgia, and situated within Land Lot 20 of the 6th Land District, Henry County, Georgia, as further described in the Quitclaim Deed from the Georgia Department of Transportation attached hereto as Exhibit "A" and incorporated herein by reference, and further approve and authorize the Mayor to execute a quitclaim deed of that same property to the DDA on behalf of the City. The deed shall include all of the City's interest in the above-referenced real property and improvements thereon.

Section 2. **Approval of Execution** - The Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution.

Section 3. **Documents** - The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this Resolution, subject to approval as to form by the City Attorney.

Section 4. **Severability** - To the extent any portion of this Resolution is declared to be invalid, unenforceable, or non-binding, that shall not affect the remaining portions of this Resolution.

Section 5. **Repeal of Conflicting Provisions** - All City resolutions inconsistent with this Resolution are hereby repealed.

Section 6. **Effective Date** - This Resolution shall be effective on the date of its approval by the City Council and Mayor as provided in the City Charter.

[Signatures on following page.]

SO RESOLVED, this the 9th day of December, 2013.

CITY OF STOCKBRIDGE, GEORGIA

Mark A. Alarcon
MARK A. ALARCON, MAYOR

ATTEST:

Rhonda A. Blackmon
RHONDA A. BLACKMON, CITY CLERK

APPROVED AS TO FORM:

William J. Linkous, III
WILLIAM J. LINKOUS, III, CITY ATTORNEY
6898.00001/893383v1

PARK PROJECT AGREEMENT

THIS PARK PROJECT AGREEMENT ("Agreement") is made and entered into this 1st day of July, 2011, by and between **EAGLE'S LANDING COMMUNITY ASSOCIATION, INC.** (hereinafter "Association") and the **CITY OF STOCKBRIDGE, GEORGIA** (hereinafter "City"). The Association and the City may hereinafter collectively be referred to as the "Parties".

WHEREAS, the City owns certain real property located within the boundaries of the City of Stockbridge within Land Lot 20 of the 6th Land District, Henry County Georgia, (hereinafter the "Property"), as further described in the Quitclaim Deed from the Department of Transportation, attached hereto and incorporated by reference as **Exhibit "A"**; and

WHEREAS, the Property is located along Eagle's Landing Parkway at its intersection with Rock Quarry Road on the site of a former BP gas station; and

WHEREAS, the City and the Association desire to create a community park on the Property (hereinafter, "Park Project"); and

WHEREAS, the Association has agreed to contribute certain funds toward the construction of the Park Project and to be responsible for the maintenance of certain portions of the park; and

WHEREAS, the Association believes it is in the best interest of its constituent members to enter into this Agreement; and

WHEREAS, the Mayor and City Council believe it to be in the best interests of the City to enter into this Agreement; and

WHEREAS, the Parties are willing to execute this Agreement to verify and achieve all of said purposes; and

NOW, THEREFORE, for and in consideration of the covenants and agreements hereinafter stated, the receipt and sufficiency of which is hereby acknowledged and undisputed, the Parties agree as follows:

1. Use of the Property

- A. **Public Use.** All parties acknowledge that the Property is to be used as a public park unless and until the City takes affirmative action to change the use of the Property to another purpose. The City reserves the right to sell, exchange or otherwise convey the Property.
- B. **Benefit to Community.** All parties acknowledge that the Park Project is intended for the general use and benefit of the Association constituents and the general public so long as the Property is maintained as a public park. No member of the public will be denied access to park facilities or be subject to discrimination.
- C. **Association Acquires No Interest.** All parties acknowledge that nothing in this Agreement shall be construed to convey any ownership rights to the Association.
- D. **Use Requirements Generally.** The Association shall comply with all applicable Ordinances of the City, except where specifically excluded or varied herein. If there is a conflict between the City Ordinances and this Agreement, the terms of this Agreement shall control.

2. Association Financial Contribution

- A. The Association hereby agrees to contribute one hundred thousand dollars (\$100,000.00) towards the construction of the Park Project monument and other improvements. The Association shall transfer to the City \$100,000.00 within 15 days of the execution of this Agreement and approval by the City of this Agreement.

3. Approval of Rendering and Landscape Design

- A. The parties hereby approve the Conceptual Rendering of the monument is described in the attached Exhibit "B".
- B. The parties hereby approve the Landscape Design Plan further described in the attached Exhibit "C".

4. Construction and Improvements

- A. The City shall be responsible for the costs to implement and install the monument and the Landscape Design Plan as described in the foregoing Exhibits "B" and "C". The City shall additionally be responsible for non-LED lighting to be installed around the monument.
- B. The City shall offer for bid the construction of the Park Project and monument within 90 days of the acceptance of this agreement by the City Council.
- C. If the total cost of the project exceeds \$200,000.00, the City shall have the right to terminate this agreement and return the association's \$100,000.00 contribution to

the Park Project.

5. Maintenance, Repair and Replacement

- A. ~~By the Association.~~ The Association shall be authorized to ~~maintain the planting (beds and non-hardscape landscaping on the Property).~~ In the event the Association is unable to maintain the Park Project landscaping, the Association shall inform the City in writing.
- B. ~~By the City.~~ The City shall maintain at the City's expense ~~the costs of a casualty insurance policy~~ which shall also insure against acts of ~~vandalism for the Park Project improvements.~~

6. Utilities

- A. ~~The City shall be responsible for the costs of all utility charges~~ incurred as part of the Park Project, including all electrical and water expenses.

7. Authorization

- A. The Association has designated its President as the authorized party to sign all written approvals and accept written notices in connection with the Park Project. The City Council has designated the Mayor to sign written approvals and accept written notices in connection with the Park Project. All Park Project expenditures must be approved by the City Council.

8. Notice

- A. Notices to each party shall be addressed as follows:

Eagle's Landing Community Association, Inc.
c/o Association President
325 Country Club Drive, Suite C
Stockbridge, GA 30281

City of Stockbridge
c/o Mayor
4640 North Henry Boulevard
Stockbridge, GA 30281

9. Previous Written and Oral Statements

- A. All previously written or transcribed plans, documents, letters, notes, minutes, and memorandums, together with all oral representations and agreements concerning all matters set forth in this Agreement have been merged into this Agreement, and the terms and conditions of this Agreement shall supersede any previous agreements between the parties. The Parties agree that time shall be of the essence of this Agreement. This Agreement may be executed in counterparts, and each

counterpart, and all counterparts together, shall constitute the original Agreement.

10. Force Majeure

- A. If, by reason of force majeure, any party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this agreement, then if such party shall give written notice in full particulars of such force majeure to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of a public enemy, orders, refusals or denials of any required permit(s), of any kind from the Government of the United States or the State of Georgia, or any agency thereof, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or inability on the part of either the Association or City to deliver hereunder because of any of the above-stated instances, or on account of any other causes not reasonably within the control of the party claiming such inability.

11. Amendment and Modification of Agreement

- A. This Agreement represents the entire understanding of the Parties hereto, and any amendments, changes, additions, or deletions shall be made in writing upon the mutual agreement of the parties, or their assigns or successors in title. This Agreement may not be assigned without the express written consent of all the Parties.

12. Captions and Definitions

- A. Captions, the description headings of the separate articles, sections and paragraphs contained in this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

13. Severability

- A. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
- B. Each person executing or attesting this Agreement warrants and represents that he or she is fully authorized to do so. Each person also stipulates that he or she has been afforded an adequate opportunity to read this Agreement and to consult with an attorney prior to executing the same, and that all signatures are given knowingly, voluntarily, and with full awareness of the terms contained herein.

The parties also agree that this Agreement has been prepared after negotiations and, as a result, neither party may be considered the sole author thereof, nor it should not be construed in favor or against either party by a court of competent jurisdiction.

14. Applicable Law

- A. The laws of the State of Georgia shall govern the validity, interpretation, performance and enforcement of this Agreement and any dispute involving this Agreement or the Property without regard to conflicts of laws principles.

15. Rights Cumulative

- A. All rights, powers and privileges conferred hereunder upon Parties hereto shall be cumulative but not restrictive to those given by law. No waiver of any default hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by a party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

16. Binding Effect

- A. This Agreement shall be binding upon the undersigned, their heirs, administrators, executors, successors, and assigns. This Agreement shall be binding on any person or entity that develops or uses the Property. The parties expressly stipulate that there are no third party beneficiaries to this Agreement.

17. Date of Effectiveness of this Agreement

- A. This Agreement shall be effective between the parties, their successors and assigns, immediately upon execution of this Agreement by all parties hereto.

18. Stipulation and Waiver

- A. The Association, by and through its representative(s) below, knowingly and voluntarily waives any right to challenge the validity of this Agreement, in whole or in part, in a court of competent jurisdiction or to seek monetary relief, including but not limited to damages, costs, sanctions, or fees, from the City in connection with this agreement, the zoning of the Property or the development of the Property. Excluding the Association's right to sue, if the Park Project does not proceed and the \$100,000.00 is not returned to the Association. Each party agrees to execute this Agreement and any other documents necessary to encumber the Property so as to bind all successors in interest in a similar manner.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and affixed their seals this 4th day of August, 2011.

EAGLE'S LANDING COMMUNITY ASSOCIATION, INC.:

(SEAL)

George W. Handhurst

Signed, sealed and delivered before me
this 4th day of August, 2011

James M. Keenel
Witness

Notary Public
(SEAL)

CITY OF STOCKBRIDGE, GEORGIA

[Signature]
BY: Lee Smart, Mayor



ATTEST:
This 1th day of July, 2011

Vanessa Holiday
Vanessa Holiday, City Clerk
(SEAL)

[Signature]
Witness

DOC# 013498
FILED IN OFFICE
06/22/2010 01:36 PM
BK=11778 FG=159-161
BARBARA A. HARRISON
CLERK OF SUPERIOR COURT
HENRY COUNTY

BOOK PAGE
011778 0159

Barbara A. Harrison
REAL ESTATE TRANSFER TAX
PAID: \$0.00

Return to: A. J. Welch, Jr.
SMITH, WELCH & BRITAIN
2200 Keys Ferry Court
McDonough, Georgia 30253
(770) 957-3937

Smith Welch & Britain

P.O. Box 10

*McDonough GA
30253*

GEORGIA DEPARTMENT OF TRANSPORTATION

QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF FULTON

PT-61 075-20 10 - 005403

PROJECT: NH-IM-75-2(212)
COUNTY: HENRY
PARCEL 16, PMF # 2086

THIS INDENTURE, made this 10th day of June, 2010, between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia (herein called "Grantor") and City of Stockbridge, Georgia (herein called "Grantee").

WITNESSETH: that the Grantor for and in consideration of the sum of ONE DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold, and does by these presents bargain, sell, remise, release, and forever QuitClaim to Grantee all the right, title, interest, claim or demand which Grantor has or may have had to all that right of way described in Exhibit "A", shown in yellow on the plat marked Exhibit "B".

~~This conveyance is made pursuant to 23 CFR 5.710-409 (b) and (d) for continued Public Ownership and Use. Therefore GRANTOR specifically retains a reversionary right to the above described property. In the event said property should no longer be needed for public transportation purposes, Grantee acknowledges that title to said property will be returned to the Grantor at no cost to the Grantor, free and clear of any and all liens or encumbrances. Grantee further agrees that upon acceptance and recording of this deed to maintain the above described property for public purposes.~~

TO HAVE AND TO HOLD the said described premises, together with all and singular the rights, privileges and appurtenances thereto, or in anywise appertaining, to the only proper use, benefit and behoof of the Grantee, his heirs and assigns, forever.

IN WITNESS WHEREOF, the Grantor, acting by and through the Commissioner of the Department of Transportation, has hereunto caused the hand and seal of the Department of Transportation to be set to these presents the day and year first above written.

DEPARTMENT OF TRANSPORTATION
An agency of the State of Georgia

BY: Vance C. Smith, Jr.
Vance C. Smith, Jr.
Commissioner

Signed, Sealed, and Delivered this the 10 day of June, 2010, in the Presence of

Catherine McCollum
Witness

Shelby Jo Campbell
Notary Public

ATTEST: Kathryn P. German
Kathryn P. German



(Seal)

Notary Public, Fayette County, Georgia
My Commission Expires Feb. 27, 2011

PM OCD Revised 3/17/2008

EXHIBIT A

Page 1 of 1

SEAL AFFIXED

EXHIBIT "A"

PROJECT NO.: NH-IM-75-2(212)
P. I. NO.: 312150
PARCEL NO.: 16

COUNTY: HENRY

All that tract or parcel of land lying and being in Land Lots 20 of the 6TH Land District of Henry County, Georgia, being more particularly described as follows:

BEGINNING at a point on the property line between the lands now or formerly owned by Carter & White, Inc. and the lands now or formerly owned by Outback Steakhouse of Florida, Inc., said point being 128.80 feet left of and opposite station 53+33.075 on said centerline; thence northeasterly 158.47 feet along the arc of a curve to the left (said curve having a radius of 2,762.00 feet and a chord distance of 158.45 feet on a bearing on N.61° 23' 10.1"E.) to a point 128.86 feet left of and opposite station 55+00.000 on said centerline; thence N.24°15'11.9" E. a distance of 63.28 feet to a point 95.00 feet left of and opposite station 114+70.00 on the construction centerline of Rock Quarry Road; thence N.21°51'.08 W. a distance of 105.12 feet to a point 90.00 feet left of and opposite station 115+75.00 on said centerline of Rock Quarry Road; thence N.24°00'00" W. a distance of 17.66 feet to a point 89.82 feet left of and opposite station 115+92.657 on said centerline of Rock Quarry Road, said point also being a point on the property line between the land now or formerly owned by Carter & White, Inc. and the lands now or formerly owned by Eagles Landing Properties, Inc.; thence southwesterly along said property line to the intersection of said property line with the eastern property line of the lands now or formerly owned by Outback Steakhouse of Florida, Inc.; thence southerly along said latter property line back to the point of Beginning. Said described property containing 0.72 +/- acre and shown colored yellow on the attached plat colored yellow and marked Exhibit "B"

All Limited Access Rights along Hudson Bridge Road and Rock Quarry Road as shown on Exhibit "B" attached to be preserved.

This conveyance is made subject to any easement of record and any utilities facilities permitted by the Department of Transportation.

EXHIBIT "B"

RENDERING OF MONUMENT

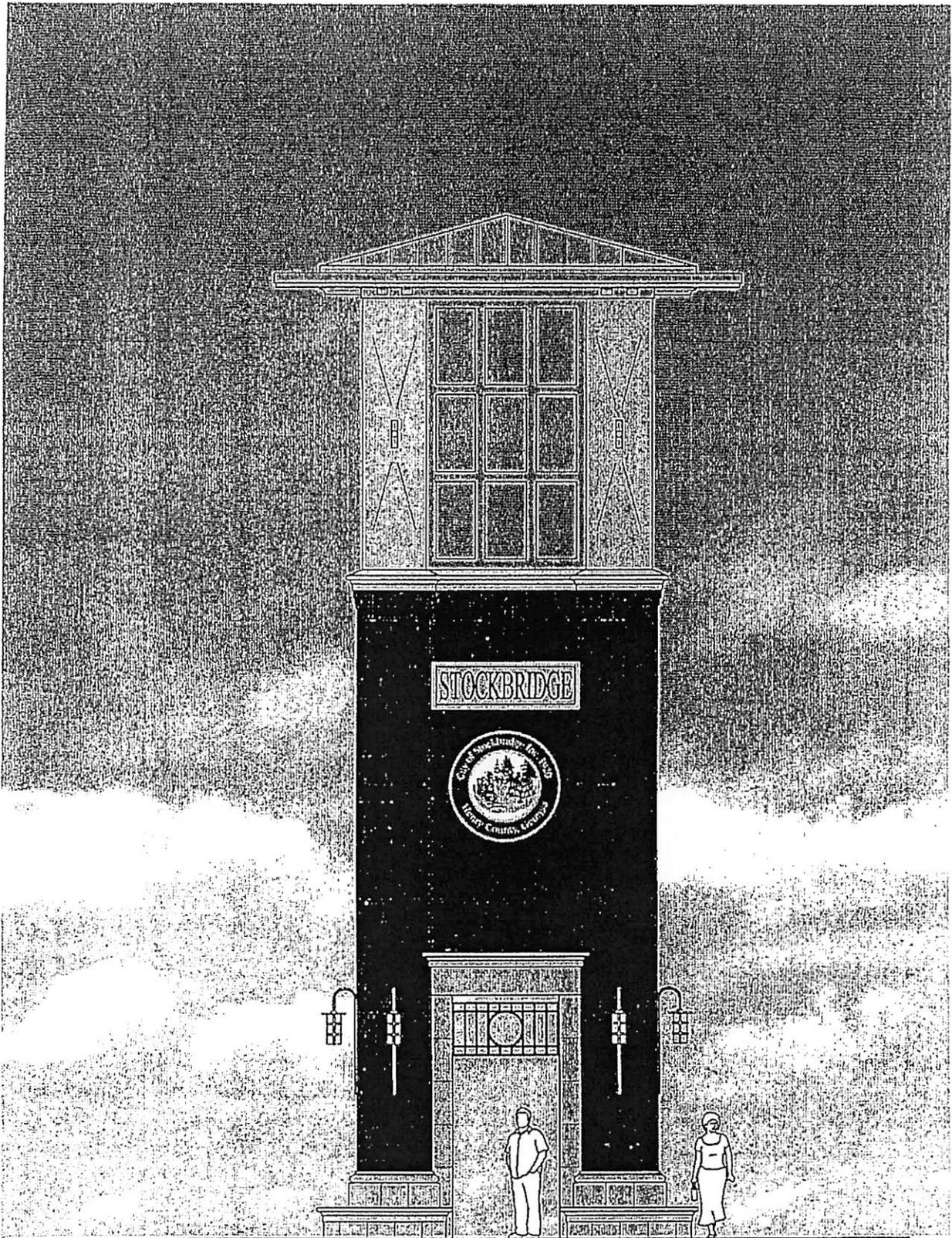
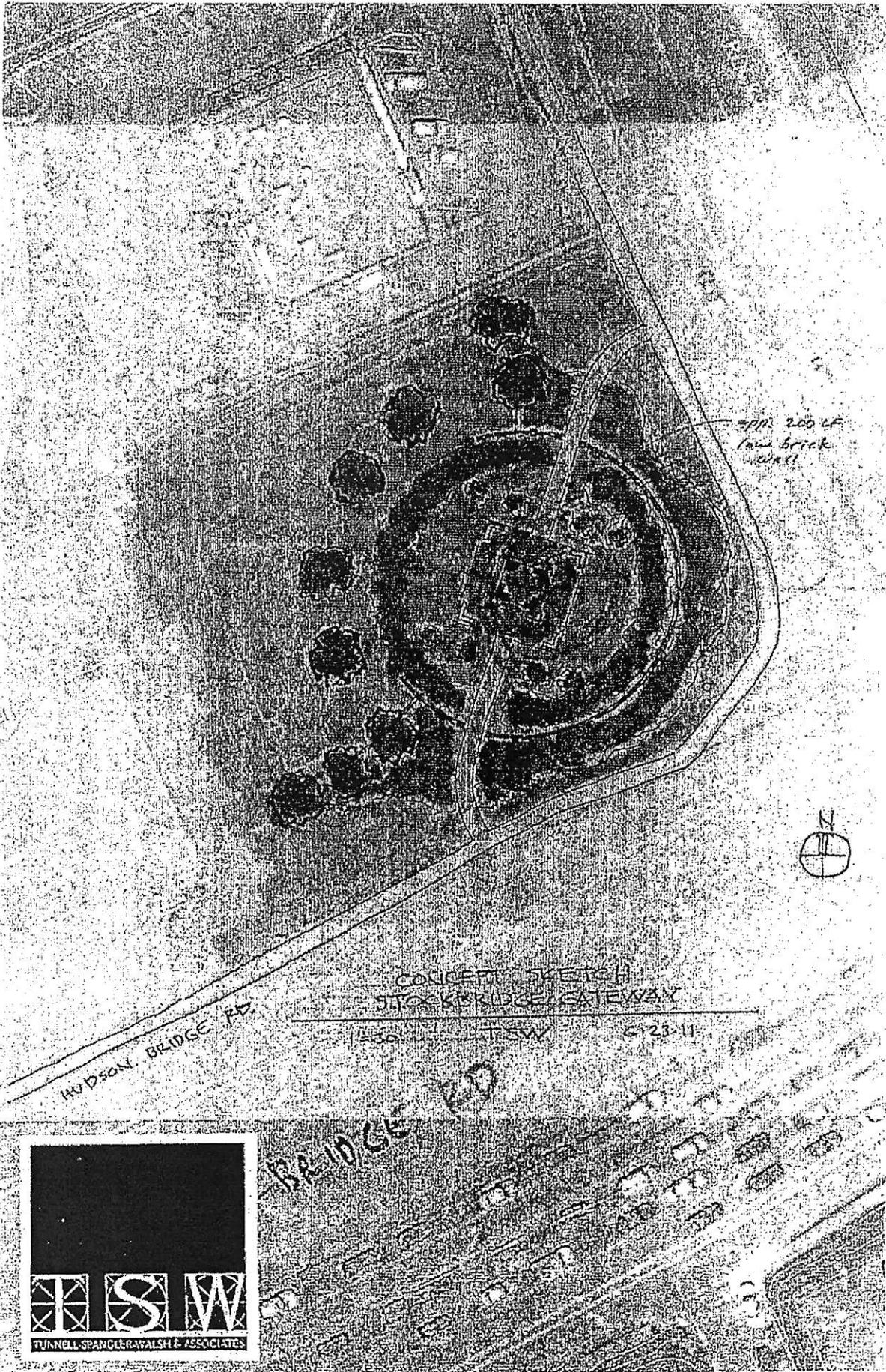


EXHIBIT B
PAGE 1 OF 1

JUNE 28TH 2011



EXHIBIT "C"
LANDSCAPE DESIGN PLAN



approx 200 LF
low brick
wall



CONCEPT SKETCH
JITOX BRIDGE GATEWAY

1430 [unclear] TSW 6-23-11

HUDSON BRIDGE RD

BRIDGE RD



EXHIBIT C
PAGE 1 OF 1