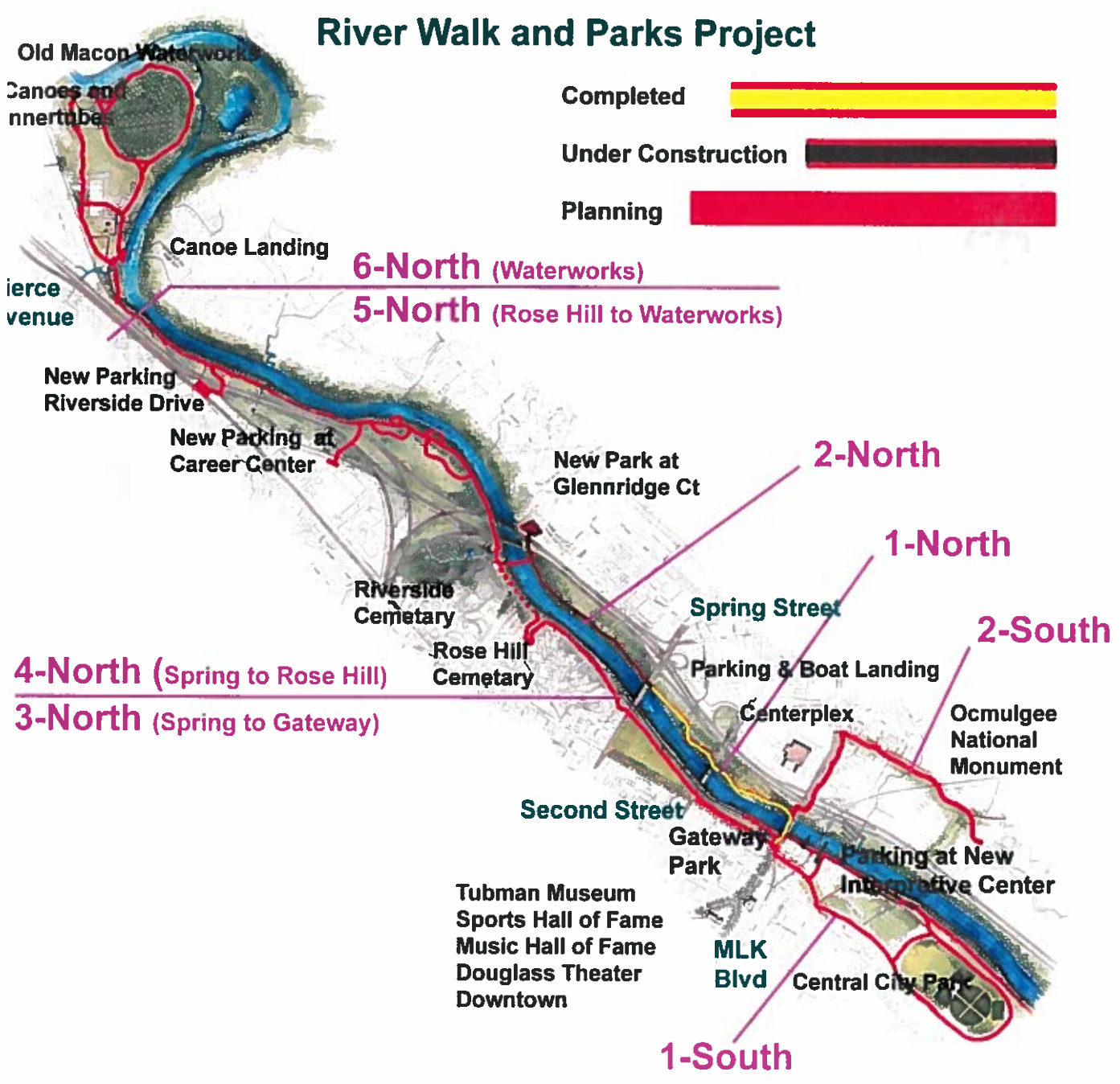


# Ocmulgee Heritage Greenway Trail Business Plan

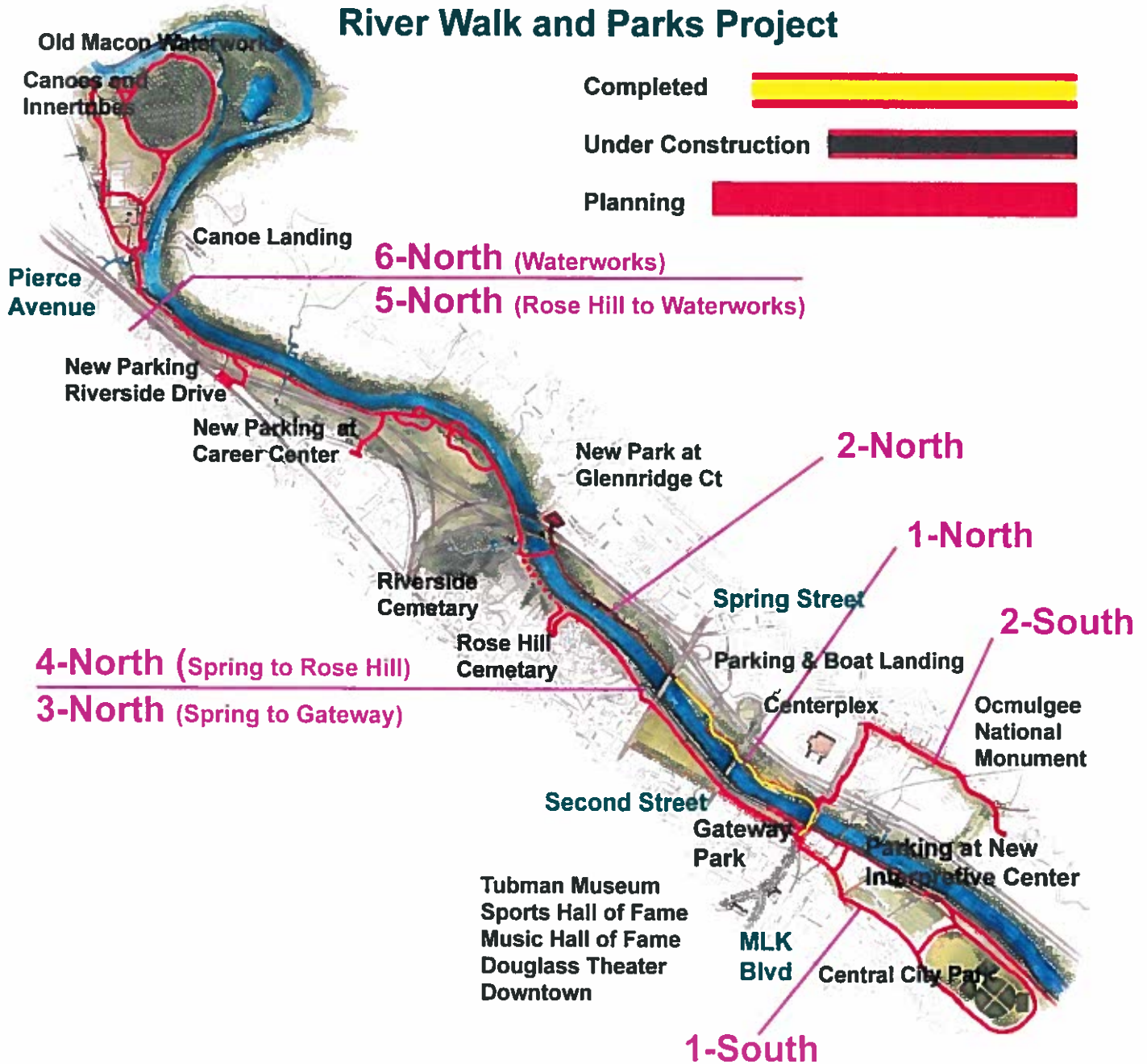


# OCMULGEE



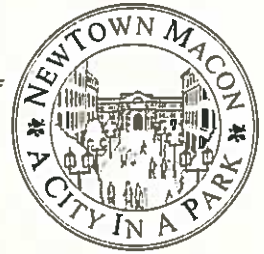
## HERITAGE GREENWAY

### River Walk and Parks Project



July 25, 2002

Mr. Chuck Howard  
Chairman  
Macon Bibb County Urban Development Authority  
P. O. Box 169  
Macon, GA 31202



Re: Ocmulgee Heritage Greenway

Dear Chuck:

I am pleased to present the proposed business plan for the Ocmulgee Heritage Greenway. This plan was prepared as a key part of an overall strategy for the revitalization of downtown Macon. The creation of the Ocmulgee Heritage Greenway will reconnect our citizens with the Ocmulgee which is not only scenically beautiful but the focus of much of our history. From its habitation by the ancient Native Americans, to its importance as the water route taken by early explorers like DeSoto, through its use as a river of commerce in our city's early decades, the waters of the Ocmulgee flow through much of our history.

We look forward to our partnership with the Macon Bibb County Urban Development Authority ("MBCUDA"). As you will see in the business plan, we have outlined an organizational structure, key dates for development, the sources and uses of funds for the Greenway, a draft Memorandum of Understanding of how NewTown Macon and MBCUDA can work together in the creation and management of the Greenway.

The County has already made substantial contributions of Revenue Bond funds for the Greenway and the city has provided right-of-way and other important forms of assistance. Through the efforts of the Steering Committee headed by Chris Sheridan, we have hired one of the top landscape architects in the nation, and a highly experienced engineering firm to design and construct the Greenway. Substantial progress has already occurred—construction of Gateway Park, acquisition of the Interpretive Center and the construction of the first phase of the Greenway. We will be working diligently to finalize the funding needed for subsequent phases and to create a maintenance endowment sufficient to fund the on-going operations and maintenance.

After you have reviewed the business plan, we would like to meet and discuss whether you are in agreement with the approach, budget and timetable. We look forward to our close collaboration on the Greenway which provides a way for Macon's citizens to reconnect to the River.

Very truly yours,

Conie Mac Darnell  
President/CEO

## **Executive Summary**



## **Executive Summary**

The creation of the Ocmulgee Heritage Greenway represents an opportunity for Macon's citizens to enjoy this waterway that bisects the region and provides an important linkage to the region's history. As presently planned, this 7+ mile pedestrian walkway will offer recreational opportunities for walking, biking, bird-watching, skating and jogging along the banks of the Ocmulgee River. Situated on both sides of the River, and with spur trails accessing unique vistas and overlooks, the trail will provide a view of Macon and its natural environment that had previously only been accessible to a few. We believe the Greenway will serve as an important catalyst project bringing regional residents back to downtown Macon to enjoy this unique amenity. Its success will parallel the positive reception of similar trails in Chattanooga, Augusta, and Columbus that have been important elements in the renaissance of these cities.

The business plan has been prepared to provide the organizational road map of how we intend to create and maintain the Greenway. The general approach is that working in close cooperation with the City and County, NTM will be responsible for the design and construction of the Greenway as well as its maintenance during the first few years. The Macon-Bibb County Urban Development Authority ("MBCUDA") will acquire the land and own the Greenway. Operation and maintenance will be the responsibility of the Ocmulgee Heritage LLC, once the Operational Fund has been established.

The initial segment of the Greenway—Gateway Park—has already opened. Section I North had its grand opening in July, 2002. The future home of the Interpretive Center has been acquired and we are ready to begin initial renovation and the creation of the temporary exhibits for an opening in the fall of 2002. We anticipate completion of the Greenway by 2005.

The business plan we have prepared for the Ocmulgee Heritage Greenway incorporates the following elements:

**Organizational Structure**—This section presents graphically the various key actors and their suggest roles in the creation and operation of the Greenway.

**Key Project Milestones**—Outlines the key dates for accomplishing the major tasks involved in creating and operating the Greenway.

**Sources and Uses of Capital Resources**—In two exhibits we show the various sources of funding that are needed to create the Greenway and how those fund will be used to construct the various components of the Greenway.

**Operating and Maintenance Budget**—Once the Greenway has been created, the next challenge is to make certain sufficient funding has been identified for its operation and maintenance. In this section we outline the budget for the firs two years of the Greenway's operation. The first year's funding has already been committed by NewTown Macon. The second and subsequent year's funding will come from the creation of the Operational Fund for the Greenway.

**Ocmulgee Heritage Greenway LLC Agreement**—To carryout the operation and maintenance of the Greenway once constructed a new management LLC will be formed

which is described in this section. Once the Operational Fund has been established the LLC will take over the management of the Greenway.

**Memorandum of Understanding between MBCUDA and NTM**—The MOU outlines how we propose to structure the creation, ownership and operation of the Greenway. The roles and responsibilities of each organization are defined.

**Proposed Capital Campaign for OHG Operational Fund**—This section discusses the proposed structure of the Operational Fund that will be established to create funding for the operation and maintenance of the Greenway for at least the next decade.

**Masterplan**—This presents the masterplan for the Ocmulgee Heritage Greenway.

## **Table of Contents**

**Transmittal letter**

**Executive Summary**

**Section I: Organizational Chart**

**Section II: Key Project Milestones**

**Section III: Sources and Uses of Funds for Capital Improvements**

**Section IV: Operating and Maintenance Budget**

**Section V: Ocmulgee Heritage Greenway LLC Agreement**

**Section VI: MOU between MBCUDA and NTM**

**Section VII: Proposed Capital Campaign for Operational Fund**

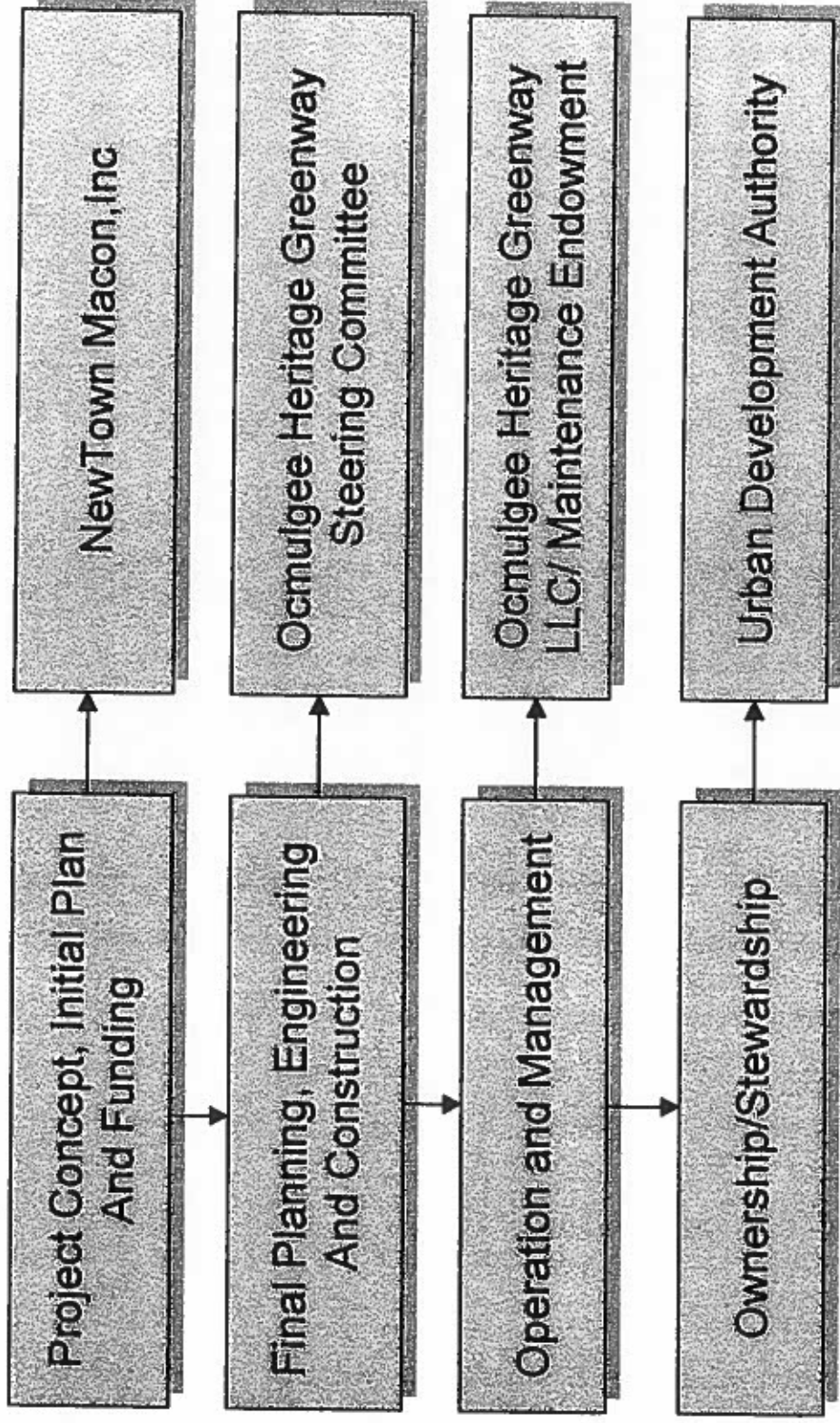
**Section VIII: Masterplan for Ocmulgee Heritage Greenway**

---

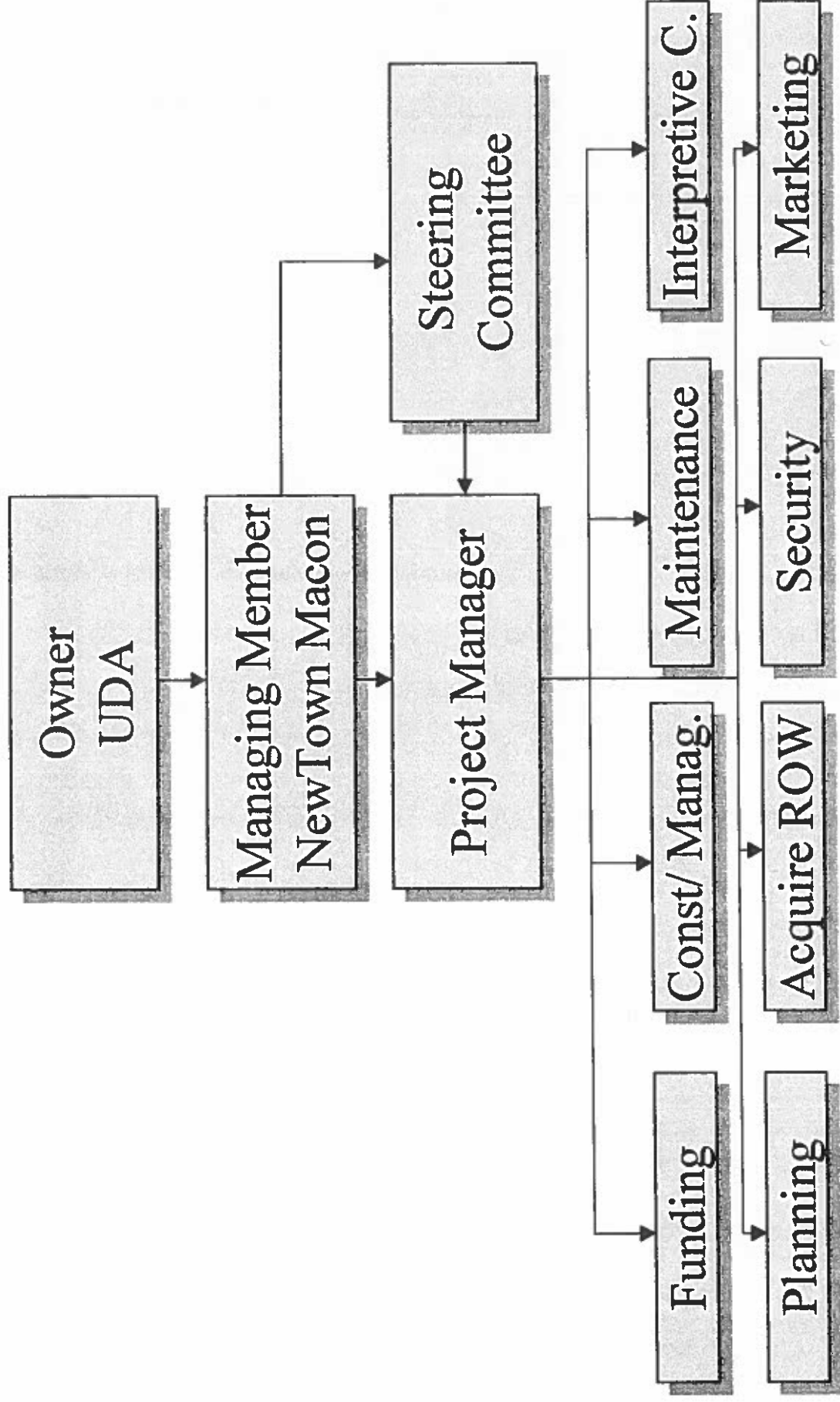
**Section I**  
**Organizational Chart**



## Ocmulgee Heritage Greenway -- Roles and Responsibilities



# Proposed Organization for Ocmulgee Heritage Trail



**Section II**  
**Key Project Milestones**

## Key Project Milestones for Ocmulgee Heritage Greenway

### **Financial**

Agree on interim business plan for project	8/2002
Obtain Revenue Bond funds for project	9/2002
Apply for ISTEAFunding for remaining segments	9/2002-9/2003
Begin fund-raising for operational fund	8/2002
Complete fund-raising for operational fund	6/2003

### **Land Control**

Obtain easements from key private owners	on-going
Acquire right of way from private owners	on-going
Execute agreements with City/County on use of land	9/2002

### **Organizational**

Approve Ocmulgee Heritage Greenway LLC	8/2002
Enter into MOU with MBCUDA on Greenway operation	8/2002
Appoint Project Director	7/2002

### **Construction**

Complete Gateway Park	6/2001
Construct Section 1 North (Spring Street)	7/2002
Construct Section 2 North (Baconsfield)	12/2002
Construct Section 1 South (Central City Park)	7/2003
Construct Section 2 South (Ocmulgee Nat. Monument)	12/2003
Construct Section 4 North (Boat Ramp/Water Works Park)	7/2003
Construct Section 5 North (Promenade)	12/2003
Construct Section 3 North (Water Works Connector)	7/2004
Construct Section 4 North (Complete Water Works Park)	12/2004
Construct Section 6 North (Rose Hill)	12/2005
Dedicate Otis Redding Memorial	9/2002
Open Interpretive Center	7/2003

**Section III**  
**Sources and Uses of Funds for Capital Improvements**

Newtown Macon, Inc.  
Ocmulgee Heritage Greenway Capital Improvements  
Sources of Funds

	Federal	State	County	City	Private	Sub - Total	Project Total
Pre-Development Planning							
TPL			33,800	33,800		67,600	
Glattings Jackson		16,000	8,000	8,000		32,000	
Peyton Anderson					255,000	255,000	354,600
Gateway Park							
Washburn Property		245,000	125,000			370,000	
Construction		750,000				750,000	
Design		125,000		20,000		145,000	
Gateway Arch					47,500	47,500	
Restrooms		10,000	2,500			12,500	1,325,000
Section I North							
Pre-Planning					37,500	37,500	
Construction		227,249	31,812	25,000	153,439	437,500	
Construction			200,000			200,000	675,000
Section II North							
Pre-Planning					40,000	40,000	
Construction			600,000			600,000	640,000
Section III North							
Pre-Planning					55,000	55,000	
Construction (2002)	1,000,000		200,000		50,000	1,250,000	1,305,000
Section IV North							
Pre-Planning					65,000	65,000	
Demolition & Land Prep	250,000	250,000				500,000	
Land Acquisition		1,687,500				1,687,500	
Boat Launch		85,000				85,000	
Construction			150,000			150,000	
Construction (2003)	1,000,000		250,000			1,250,000	3,737,500
Section I South							
Pre-Planning						-	
Construction	800,000		100,000	100,000	130,000	1,130,000	1,130,000
Connector							
Pre-Planning						-	
Construction	800,000		162,500	162,500	100,200	1,225,200	1,225,200
Rosehill							
Design & Construction (2004)	1,000,000			250,000		1,250,000	1,250,000
Misc Greenway				50,000		50,000	50,000
Unknown Section - DNR Funding							
Trailhead - Original		100,000		25,000		125,000	125,000
Trailhead							
Property Acquisition			705,000			705,000	
Renovations						-	
Interpretive Center *			295,000			295,000	1,000,000
Otis Redding Memorial					50,000	50,000	50,000
Other - In Kind Contributions					200,000	200,000	200,000
Misc. Expenditures from Greenway Fund					256,500	256,500	256,500
Total	4,850,000	3,495,749	2,863,612	674,300	1,440,139	13,323,800	13,323,800

Note:

\* assumes cost of initial renovation and exhibits for temporary facility, to be upgraded with later funding

**NewTown Macon, Inc.**  
**Ocmulgee Heritage Greenway Capital Improvements**  
**Uses of Funds**

<b>EXPENDITURES</b>	<b>Jun-02</b>	<b>Dec-02</b>	<b>Jun-03</b>	<b>Dec-03</b>	<b>Jun-04</b>	<b>Dec-04</b>	<b>Totals</b>
<b>Pre-Development Planning</b>							
Design (arch/engineering)	354,600						354,600
subtotal							354,600
<b>Gateway Park</b>							
Land acquisition	370,000						370,000
Design (arch/engineering)	145,000						145,000
Construction	797,500	12,500					810,000
Miscellaneous							
subtotal							1,325,000
<b>Section I North</b>							
Design (arch/engineering)	37,500						37,500
Construction	637,500						637,500
Miscellaneous							
subtotal							675,000
<b>Section II North</b>							
Design (arch/engineering)	20,000						20,000
Construction		600,000					600,000
Miscellaneous		20,000					20,000
subtotal							640,000
<b>Section II North</b>							
Design (arch/engineering)		30,000	25,000				55,000
Construction		200,000	1,050,000				1,250,000
Miscellaneous							0
subtotal							1,305,000
<b>Section IV North</b>							
Land acquisition	2,187,000						2,187,000
Design (arch/engineering)			65,000				65,000
Construction				700,000	785,500		1,485,500
Miscellaneous							0
subtotal							3,737,500
<b>Section I South</b>							
Design (arch/engineering)		130,000					130,000
Construction		1,000,000					1,000,000
Miscellaneous							0
subtotal							1,130,000
<b>Connector</b>							
Design (arch/engineering)		100,200					100,200
Construction		1,125,000					1,125,000
Miscellaneous							0
subtotal							1,225,200
<b>Rosehill</b>							
Design and construction				1,250,000			1,250,000
Miscellaneous greenway					50,000		50,000
subtotal							1,300,000
<b>Unknown Section/DNR</b>							
Trail							0
Trailhead-original	125,000						125,000
subtotal							125,000
<b>Trailhead</b>							
Land acquisition	705,000						705,000
Design (arch/engineering)							0
Construction		295,000					295,000
Miscellaneous							0
subtotal							1,000,000
<b>Otis Redding Memorial</b>	50,000						50,000
<b>Other In-kind contributions</b>	200,000						200,000
<b>Misc. / Greenway Fund</b>	256,500						256,500
<b>TOTAL</b>	<b>5,885,600</b>	<b>3,512,700</b>	<b>1,140,000</b>	<b>700,000</b>	<b>2,085,500</b>	<b>0</b>	<b>13,323,800</b>



**Section IV**  
**Operating and Maintenance Budget**

# OCMULGEE HERITAGE GREENWAY OPERATIONAL BUDGET 2002-2004

EXPENSE CATEGORIES	2002-2003*					2003-2004				
	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	Annual	Jul-Sept	Oct-Dec	Jan-Mar	Apr-June	Annual
Staff Salaries**										
Trail		16,120	16,120	16,120	48,360	16,120	16,120	16,120	16,120	64,480
Interpretive Center		15,990	15,990	15,990	47,970	15,990	15,990	15,990	15,990	63,960
Subtotal		32,110	32,110	32,110	96,330	32,110	32,110	32,110	32,110	128,440
Interpretive Center Operations***	3,000	3,000	3,000	3,000	12,000	5,000	5,000	5,000	5,000	20,000
Trail-Repair and Maint.	12,000	12,000	12,000	12,000	48,000	18,000	18,000	18,000	18,000	72,000
Trail- Landscaping****	12,000	12,000	12,000	12,000	48,000	24,000	24,000	24,000	24,000	96,000
Liability Insurance*****	1,500	1,500	1,500	1,500	6,000	2,000	2,000	2,000	2,000	8,000
Advertising and Promotions	9,000	9,000	9,000	9,000	36,000	9,000	9,000	9,000	9,000	36,000
Miscellaneous	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>	<u>1,200</u>	<u>4,800</u>	<u>3,000</u>	<u>3,000</u>	<u>3,000</u>	<u>3,000</u>	<u>12,000</u>
Subtotal	38,700	70,810	70,810	70,810	251,130	93,110	93,110	93,110	93,110	372,440

## Notes:

- \* the funding for 2002-2003 has been committed by NTM; future funding of O&M expenses needs to be identified
- \*\* assumes salaries include benefits for 6 full-time-equivalent employees
- \*\*\* assumes initial renovation and installation of exhibits for temporary Interpretive Center operations
- \*\*\*\* assumes maintenance of trail provided by City Parks Department in first year
- \*\*\*\*\* assumes City provides partial liability coverage for first year

**Section V**  
**Ocmulgee Heritage Greenway LLC Agreement**

**OPERATING AGREEMENT OF  
OCMULGEE HERITAGE, L.L.C.**

**THIS AGREEMENT IS MADE** by the entities identified below in Paragraph 4 of this Agreement and OCMULGEE HERITAGE, L.L.C. (hereafter the "Company") all of whom are collectively referred to as the "Parties;"

**WITNESSETH**

**WHEREAS**, OCMULGEE HERITAGE, L.L.C. is a limited liability company organized under the Georgia Limited Liability Company Act pursuant to its Articles of Organization;

**WHEREAS**, the Parties intend for OCMULGEE HERITAGE, L.L.C. to operate and manage Ocmulgee Heritage Greenway;

**WHEREAS**, the Parties to this Agreement desire to cause the development, operation and management of Ocmulgee Heritage Greenway as a focus of community activity;

**WHEREAS**, the Parties to this Agreement desire to make provision for the harmonious operation of the Company;

**WHEREAS**, the Parties desire to make provision for the obligations of each of the Parties with respect to the Company.

**NOW, THEREFORE, THIS AGREEMENT WITNESSES** that in consideration of the premises and mutual covenants herein contained, each of the parties hereto hereby covenants and agrees with the others as follows:

**Paragraph 1. Definitions.** The following terms and expressions have, for all purposes of this Agreement, the meanings set forth below:

- (a) "Act" refers to the Georgia Limited Liability Company Act codified at Chapter 11 of Title 14 of the Official Code of Georgia Annotated as it exists on May 1, 2002, or the date of the execution of this Agreement, which ever is later, or as subsequently amended from time to time. As used in this agreement, any section of the Act (or a section codified in Chapter 11 of Title 14 of the Official Code of Georgia Annotated) is referred to as the "Act Section."
- (b) "Agreement" means this Agreement, as amended from time to time.
  - 1. "Board of Directors" refers to those persons who are designated to act for the members as determined by paragraph 5.
- (d) "Capacity" refers to the status of a Member as either a Member, Director, or as Managing Member.
- (e) "CEO" refers to the individual selected by the Managing Member to implement its responsibilities on behalf of the Company.
- (f) "Company" means this limited liability company.
- (g) "Director" refers to each individual serving on the Board of Directors.
- (h) "Interests" means the equitable ownership interests by a Member in the capital of the Company, to be distinguished from that interest paid on debt.
- (i) "Managing Member" refers to the entity responsible for the day-to-day administration of the Company.

- (j) "Member" refers to any person or entity having an interest in the Company, acting in that capacity only. The Members are identified in Paragraph 4 of this Agreement.
- (k) "Officer" refers to persons exercising the duties of an office of the Company, whether or not designated or elected as such.
- (l) "Party" refers to any one party to this Agreement, as identified in Paragraph 4 of this Operating Agreement, and "parties" refers to all of them collectively.
- (m) "Person" includes individuals, individuals acting in a fiduciary capacity, corporations, limited partnerships, limited liability companies, general partnerships, joint stock companies, joint ventures, associations, companies, trusts or other organizations, whether or not they are recognized as separate legal entities.

**Paragraph 2. Name.** The name of the Company is "OCMULGEE HERITAGE, L.L.C." The Company's business may be conducted under other names chosen by the Board of Directors as trade names, and in addition, the Board of Directors may change the name of the Company, in accordance with the Act, whenever, in their judgment such a change in the name of the Company is appropriate.

**Paragraph 3. Scope of Business Activity of Company.** The business of the Company is to operate and manage the Ocmulgee Heritage Greenway as a focus of community activity and development which enhances the quality of life in and around the City of Macon and Bibb County.

**Paragraph 4. Identification of All Parties to Agreement.** This Agreement is made by and between the Company and the following entities which are parties to this Agreement:

**NewTown Macon, Inc.,** a Georgia not-for-profit corporation, is a Member of the Company.

**The Macon-Bibb County Urban Development Authority,** a public body corporate and politic which was created and exists pursuant to Georgia Law, is a Member of the Company.

**Paragraph 5. Board of Directors.** The Board of Directors shall act for and on behalf of the Members and shall include constituent representatives of the Members. All acts of the Board of Directors shall be considered acts of the Members. When, in any agreement or this document, it is contemplated that the Members shall act or decide any issue, it shall be the Board of Directors created by the Members which actually acts or decides in the place of the Members unless otherwise noted.

The Board of Directors shall be composed of the following persons, and the term of each Director shall continue as long as he/she holds his/her respective office or until the organization from which the Director was selected recalls the Director:



1. *one appointee designated by the City of Macon;*
2. *one appointee designated by Bibb County;*
3. *one appointee of the Ocmulgee National Monument, designated by its Director;*
4. *one appointee of the State of Georgia Department of Natural Resources; designated by its Director;*
5. *one appointee designated by the Board of Directors of NewTown Macon;*
6. *one appointee designated by the Board of Directors of the Peyton Anderson Foundation;*
7. *the Director of the City of Macon Department of Parks and Recreation;*
8. *the Chairman of the Macon-Bibb County Urban Development Authority; and*
9. *the Chairman of NewTown Macon;.*

The Executive Director of the Macon-Bibb County Urban Development Authority and the President of NewTown Macon shall serve as ex officio Directors, without a vote.

**Paragraph 6. Organizational Documents.** This Agreement, along with the Articles of Organization of OCMULGEE HERITAGE, L.L.C. constitute the principal

organizational documents of OCMULGEE HERITAGE, L.L.C., a Georgia limited liability company.

As part of the organization of the Company, the parties will have filed Articles of Organization for OCMULGEE HERITAGE, L.L.C. in the Office of the Secretary of State of Georgia, before or simultaneous with the effectiveness of this Agreement, and have thereby formed a limited liability company as defined under the Act. Accordingly, an original executed copy of this Agreement, and any and all amendments to this Agreement, and any notices under this Agreement is to be maintained as part of the records of the Company.

**Paragraph 7. Objective of Agreement.** This Operating Agreement constitutes the code of regulations for the regulation and management of OCMULGEE HERITAGE, L.L.C., as authorized by its Articles of Organization. This Operating Agreement is adopted in order to fulfill the objectives of the Company as stated in the Articles of Organization and Act Section 201, and to exercise the powers conferred upon the Company under the Articles of Organization and Act Section 202. The parties desire to set out more fully in this Agreement, the purposes of the Company and other matters.

**Paragraph 8. Implementation of Agreement.** The Board of Directors agrees to cause such meetings of the Company to be held, resolutions passed, regulations enacted, agreements and other documents signed and things performed or done as may be required to implement the arrangements specified in this Agreement in connection with the affairs of the Company.

**Paragraph 9. Additional Parties.** Additional persons may accede to and be added as parties to this Agreement as Members of the Company in accordance with this

Agreement, the Articles of Organization, and the Act. In addition to any other procedures and requirements specified elsewhere in this Agreement, the Articles of Organization, or the Act, the execution of an amendment to this Agreement is required, that states all modifications needed to any pertinent provisions in this Agreement relevant to the addition of such person, signed by the person or persons to be added, and by the Members.

**Paragraph 10. Parties Bound By Agreement; Successors and Assigns.** The terms, conditions and obligations of this Agreement inure to the benefit of and are binding upon the parties to this Agreement and their respective successors, assigns, heirs and legal representatives.

**Paragraph 11. Term of Agreement and Company Existence.** The Company will exist until the date of dissolution provided in the Articles of Organization, or as soon as dissolved in accordance with the Articles of Organization, this Agreement or the Act.

**Paragraph 12. Principal and Other Offices.** The principal office for the transaction of business of the Company is to be located at such place as may be fixed from time to time by the Board of Directors. Branch offices and places of business may be established at any time by the Board of Directors at any place or places where the Company is qualified to do business, whether within or outside the State of Georgia.

**Paragraph 13. Registered Office and Agent.** The Company will designate a registered agent and registered office for service of legal process; these designations are to be filed with the Georgia Secretary of State as required by the Act. These

designations may be changed at any time. In the event the Company fails to make a designation, or a registered agent resigns without a new designation of a registered agent and office, then the person who functions as the CEO of the Company, and that officer's business address, are to filed with the Georgia Secretary of State as the registered agent and office of the Company until the Company makes some other affirmative designation.

**Paragraph 14. Rights of Members.** The Members are entitled to the rights and powers and subject to the limitations provided by the Act, the Articles of Organization, and this Agreement.

**Paragraph 15. Procedure Rules at Meetings.** The procedural reference authority for the Company is designated as the latest edition of *Roberts Rules of Order*. It is understood that in the transaction of its business, the meetings of the Company, Officers, or Board of Directors and any committees may be conducted with informality whenever appropriate; however, this informality does not apply to procedural requirements required in the Articles of Organization, this Agreement, or the Act. When circumstances warrant, any meeting or a portion of a meeting will be conducted according to generally understood principles of parliamentary procedure as stated in the Articles of Organization, this Agreement, or the designated procedural reference authority.

**Paragraph 16. Meetings, Where Held.** The Board of Directors shall hold an annual meeting during the third week of June each year to adopt the budget for the Company. In addition to the annual meeting the Board of Directors will meet quarterly

throughout the year. The Managing Member may request a special called meeting at any time should specific Board action be required.

The Board can, at its discretion, establish an executive committee of not more than five Board members to take action on its behalf in the interim between quarterly meetings of the full Board.

Any meeting of the Board of Directors, whether a regular meeting, an annual meeting or a special meeting, may be held either at the principal office of the Company or at any place in the United States within or outside the State of Georgia.

**Paragraph 17. Chairperson and Secretary.** The Board of Directors shall annually elect a Chairperson. At every meeting of the Board of Directors, the Chairperson, or if that Officer is not present, then an appointee of the meeting, presides. The presiding officer has no vote, unless the presiding officer is a Director of the Company otherwise entitled to vote; in which case the presiding officer may cast a vote only when that Director's vote could create or deny the requisite majority required to approve any proposed action.

The Board of Directors shall annually elect a Secretary who shall be the custodian of the Company records. The Secretary, or if that Officer is not present, then the appointee of the meeting, will record the minutes and take custody of all papers related to the meeting of the Directors for delivery to the Secretary as soon as practicable.

**Paragraph 18. Designation of Managing Member.** The business and affairs of the Company are controlled by the Board of Directors which shall designate a Managing Member with such powers and authority, and subject to such limitations provided for in the Articles of Organization, this Agreement and the Act. Upon designation of the Board

of Directors, the Managing Member shall be vested with full power to act on behalf of the Board of Directors and Company without further approval or consent of the Board of Directors, except as limited by Paragraph 23, below. NewTown Macon, Inc. shall initially serve as the Managing Member, and shall continue in that capacity for a minimum of five (5) years, unless otherwise requested by the Board of Directors.

**Paragraph 19. Officers.** The Company may, at the discretion of the Board of Directors, designate officers to exercise such offices and with such responsibilities as the Board of Directors deems appropriate for the Company. The same person may hold two or more offices.

**Paragraph 20. Specific Duties and Responsibilities of the Managing Member.** The Managing Member shall perform the following non-exhaustive list of duties as approved by the Board of Directors. The designated duties may or may not, as the case may be, require approval of the Board of Directors.

- (a) Manage all aspects of the construction, maintenance, promotion, and programming of Ocmulgee Heritage Greenway;
- (b) Acquire the funds for the operation of Ocmulgee Heritage Greenway;
- (c) Create any appropriate development partnerships;
- (d) Negotiate such agreements as are needed;
- (e) Hire consultants and advisors as needed.

**Paragraph 21. Limitation on the Powers of the Managing Member.** The authority of the Managing Member under this Agreement is limited by the following:

- (a) Without the written consent to the specific act by the Board of Directors, the Managing Member shall have no authority to:

(1) Do any act in contravention of this Agreement or the Articles of Organization, as each may be amended from time to time.

(2) Do any act that would make it impossible to carry on the ordinary business of the Company, provided that the resignation by the Managing Member upon written notice to the Board of Directors is not restricted, except as provided in Paragraphs 18 and 23.

(3) Possess Company property, or assign any rights in specific Company property for other than a Company purpose.

(b) The Managing Member has no authority to sell all or substantially all of the assets of the Company in a single transaction, unless consented to by the Board of Directors as required under the Act.

(c) The Managing Member must prepare an annual budget which shall not be used unless adopted by the Board of Directors.

(d) The Managing Member shall not enter contracts which exceed, in cost, \$50,000.00, or make expenditures which exceed \$50,000.00 without prior approval of the Board of Directors.

**Paragraph 22. Liabilities of the Managing Member.** The liability of the Managing Member or its actions in the capacity as Managing Member under this Agreement is established under the Act.

**Paragraph 23. Election and Tenure.** Each officer initially selected holds office until the first annual meeting of the Board of Directors. At the first annual meeting of the Board of Directors and at each annual meeting thereafter, Officers are selected and



approved, and each will hold office until the next annual meeting of Directors when their successors are selected and approved, or until their earlier resignation, removal from office, or death. The Managing Member will serve for an initial term of five years from the date of this Agreement and then will be subject to annual renewal by the Board of Directors.

**Paragraph 24. Removal.** The Managing Member may be removed from office, with or without cause, by the affirmative vote of the holders of a majority of the Board of Directors entitled to vote at any Board of Directors meeting with respect to which notice of such purpose has been given. Notice of a proposal to remove the Managing Member must be included in the notice of the meeting of the Board of Directors.

**Paragraph 25. Chief Executive Officer (CEO).** The Managing Member will appoint a Chief Executive Officer for the Company to implement the responsibilities of the Managing Member. The CEO shall be responsible for the general overall supervision of the business and affairs of the Company. The CEO has the following responsibilities:

- (a) Attend all meetings of the Board of Directors of the Company.
- (b) Sign, on behalf of the Company, deeds, mortgages, binders, contracts or other instruments that have been appropriately authorized to be executed, except in cases where the signing or execution is expressly delegated by this Agreement, by the Act, or by the Board of Directors to some other Officer or agent of the Company.
- (c) Effectuate this Agreement and the decisions of the Board of Directors.
- (d) Direct and supervise the operations of the Company.

- (e) Collect charges for services and products of the Company, within any parameters set by the Board of Directors;
- (f) Set and adjust wages and rates of pay for all personnel of the Company within the budget established by the Board of Directors.
- (g) Appoint, hire, and dismiss all personnel and regulate their hours of work and job responsibilities.
- (h) Keep the Board of Directors advised in all matters pertaining to the operation of the Company, services rendered, operating income and expenses, financial position, and, to this end, prepare and submit a report to the Board of Directors at each regular meeting and at other times as may be directed by the Board of Directors.
- (i) Such other duties as may be prescribed by the Board of Directors.

The CEO of the Company is initially the President and CEO of NewTown Macon, Inc., or his designee, as approved by the Board of Directors.

**Paragraph 26. Employment.** Until otherwise determined by the Board of Directors, or by the CEO of the Company, the Board of Directors, Members, or any of its agents may be contracted by the Company under such terms and conditions as agreed upon in separate Employment Agreements between such individual and the Company. Any Member or Member's agent employed by the Company under this subsection may, at such person's option, be included in any group insurance or benefit plan offered generally to the employees of the Company. In all events, any expense incurred by any Member, Director, Officer or employee of the Company which is reasonable and necessary in the conduct of the business of the Company is reimbursable in full to the person incurring such expense on behalf of the Company; if approved by the Company.

**Paragraph 27. Contracts, Deeds and Loans.** All contracts, deeds, mortgages, pledges, promissory notes, transfers and other written instruments binding upon the Company are to be executed on behalf of the Company by the CEO as designated pursuant to this Agreement, or by such other persons or agents as the Board of Directors may designate from time to time. Any such instrument required to be given under the seal of the Company may be attested by that officer having custody of the records of the Company. Such contracts, deeds, and loans are subject to the restrictions imposed by paragraph 21(d).

**Paragraph 28. Exercise of Company's Proxies.** The CEO of the Company or other Officer designated by the Board of Directors has full power and authority, on behalf of the Company, to attend and to act and to vote at any meetings of partners, shareholders, bondholders or other security holders of any business entity in which this Company may hold securities, and at any such meeting possesses and may exercise any and all of the rights and powers incident to the ownership of such securities and which as owner of the shares the Company might have possessed and exercised if present, including the power and authority to delegate such power and authority to a proxy selected by that representative. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

**Paragraph 29. Signatures on Checks, Drafts.** Checks and drafts drawn on the credit or accounts held by the Company shall be signed by such Officers, or such other employees or persons as the Board of Directors may designate from time to time.

**Paragraph 30. Fiscal Year.** The fiscal year of the Company is July 1 through June 30. The tax year of the Company, for federal or state income tax purposes, is the fiscal year.

**Paragraph 31. Banking.** All funds of the Company are to be deposited in a bank account or accounts at financial institutions selected by the Board of Directors. All withdrawals of funds from these accounts are to be made upon checks or other instruments signed by those persons designated from time to time by the Board of Directors.

**Paragraph 32. Loans.** No loan may be contracted on behalf of the Company and no evidence of indebtedness may be issued in its name unless authorized by a resolution of the Board of Directors. This authority may be general or specifically limited to stated instances. The authorization of this paragraph shall be restricted by paragraph 21(d).

**Paragraph 33. Member Interest Percentages.**

**Ownership Interest in the LLC.** NewTown Macon, Inc. owns 50% of the interests of the Company. The Macon-Bibb County Urban Development Authority owns 50% of the interests of the Company.

**Paragraph 34. Withdrawal of Member.** Except as otherwise limited herein, a Member may withdraw from the Company at any time by giving formal notice to the Board of Directors at least thirty (30) days prior to the effective date of its withdrawal.

**Paragraph 35. Dissolution.** The Company is to be dissolved should any of the following events or circumstances arise:

- (a) **Expiration Date.** The occurrence of the date of Dissolution as specified in the Articles of Organization, as may be amended by the Board of Directors from time to time.

(b) Conversion of Assets to Cash or Other Readily Marketable Assets.

Any event following which all or substantially all of the assets of the Company consist of cash and other assets that are readily marketable in an established active market, unless within 30 days after such event, the Board of Directors agree in writing to continue the business of the Company.

(c) Election to Dissolution. The decision by the Board of Directors that it is in the best interests of the Company to dissolve.

(d) Other Circumstances. The occurrence of other circumstances provided for in the Act.

Paragraph 36. Indemnification; Funding. The Company adopts the standards of indemnification under Act Section 306.

Paragraph 37. Conflict of Interest Transactions. Act Section 307 shall govern any transaction that may give rise to conflict of interests for Board of Directors of the Company.

Paragraph 38. Reimbursement of Expenses of Organization. The Company is to pay all the costs of its formation, and will reimburse all organizers for those expenses related to the formation of the Company.

Paragraph 39. Number and Gender. Words importing the singular include the plural and vice versa. Words in any gender (whether male, female, or neuter) are deemed to include words in the other genders wherever the context requires.

**Paragraph 40. Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written, of and between the parties.

**Paragraph 41. Headings.** The Regulation, Paragraph and Subparagraph headings are (a) for reference purposes only for the convenience of the reader; (b) in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provisions of this Agreement; (c) not intended to be full or accurate descriptions of the content of such Regulation, Paragraph, or Subparagraph; and (d) not to be considered in the interpretation of this Agreement.

**Paragraph 42. Applicable Law.** For any and all purposes, this Agreement is governed by and construed in accordance with the laws of the State of Georgia and the United States of America which apply to it, including in particular, the provisions of the Georgia Limited Liability Company Act, codified at O.C.G.A. §14-11-100, *et seq.* Any action brought to enforce or construe this Agreement is to be brought in a federal or state court of appropriate jurisdiction which resides in Bibb County, Georgia.

**Paragraph 43. Currency.** Any dollar amount referred to in this Agreement and all payments to be made under this Agreement are to be in the lawful money of the United States of America.

**Paragraph 44. Interpretation of Conflicting Provisions.** If any conflict appears between the Articles of Organization of the Company or this Agreement, or the Act, the provisions of the Act and the Articles of Organization shall govern this Agreement. Any such conflict is to be promptly resolved by the adoption of an

amendment either to the appropriate provision of the Articles of Organization, or to the appropriate provision of this Agreement.

**Paragraph 45. Counterparts.** This Agreement may be executed in one or more counterparts, each of which, for all purposes, is deemed to be an original and all of which constitute the same instrument. The signature of any party to any counterpart is deemed to be a signature to, and may be appended to, any other counterpart.

**Paragraph 46. Time.** Time is of the essence in this Agreement.

**Paragraph 47. Severability.** Every provision of this Agreement is intended to be severable. If any term or provision of this Agreement is illegal, invalid, or unenforceable for any reason whatsoever, such illegality, invalidity or unenforceability does not affect the validity of the remainder of this Agreement.

**Paragraph 48. Appendices.** The following listed appendices to this Agreement form an integral part of this Agreement and are accepted as part of this Agreement by all of the Parties:

Schedule "A" – Articles of Organization of OCMULGEE HERITAGE, L.L.C. as of the date of this Agreement.

**Paragraph 49. Authority to Amend.** Under certain circumstances specified below, as directed by the Board of Directors, this Agreement may be amended, altered, restated, or repealed with the Managing Member. Amendments made under this section, if necessary to accomplish the objective of the amendment may have an effective date prior to the date of filing. These circumstances include:



- (a) Change in Directors. To admit into the Company Substituted Directors accepted by the Board of Directors by prior action.
- (b) Clarification of Agreement Language. To clarify language in this Agreement provided that the substance of such provision is not materially changed, and provided that the Company obtains the written opinion of its counsel that the amendment clarifies language in this Agreement without materially changing the substance of such provision.
- (c) Compliance with Tax or Securities Laws. To make any necessary or appropriate changes in this agreement in order to comply with the requirements of the Internal Revenue Code of 1986, as amended, with respect to entities taxed as partnerships, to implement any future tax provisions governing the taxation of Limited Liability Companies, as such, or the requirements of any federal or state securities laws or regulation, provided that any amendment does not adversely affect the interests of any Director.

**Paragraph 50. Amendment Affecting Contribution Obligations of Member.**

Any amendment to this Agreement that increases the obligation of the Members to contribute to the Company or creates a responsibility of the Members for the liabilities of the Company, as a guarantor or otherwise, requires the written approval of the Members. Such amendments shall be approved first by the Board of Directors and then referred to the actual members as established in paragraph 4.

**Paragraph 51. Other Amendments.** Any amendment, other than those adopted or implemented under Paragraph 50 of this Agreement requires the approval of only the Board of Directors.

**Paragraph 52. Notice of Amendment.** Notice and a copy of any proposed amendment to this Agreement requiring approval by the Board of Directors is to be provided to each Director in advance, with an opportunity for discussion by the Board of Directors prior to any action to adopt the proposed amendment. Copies of any adopted or implemented amendment to this Agreement under Paragraph 49 through Paragraph 51 of this Agreement will be provided to the Members promptly after adoption or implementation.

**Paragraph 53. Date of Execution; Effective Date.** This Agreement is executed as of the later of the dates on which the members signed.

Paragraph 54. Execution of Agreement. This Agreement is freely and voluntarily made by all of the parties after full and complete consideration of all relevant facts at hand, and in recognition of the benefits each will accrue from the terms of this Agreement.

NEWTOWN MACON, INC.

By: \_\_\_\_\_

\_\_\_\_\_  
R. Kirby Godsey, Chairman  
of the Board  
Date

Attest: \_\_\_\_\_

\_\_\_\_\_  
Date

URBAN DEVELOPMENT AUTHORITY

By: \_\_\_\_\_

\_\_\_\_\_

Attest: \_\_\_\_\_

\_\_\_\_\_  
Date

**Section VI**  
**Memorandum of Understanding**  
**Between**  
**Macon Bibb County Urban Development Authority**  
**And**  
**NewTown Macon, Inc.**

July 25, 2002



Mr. Chuck Howard  
Chairman  
Macon-Bibb County Urban Development Authority  
P. O. Box 169  
Macon, GA 31202

Re: Memorandum of Understanding for Ocmulgee Heritage Greenway

Dear Chuck:

As we work in partnership to create the Ocmulgee Heritage Greenway we have outlined in this letter a proposed division of responsibilities for the creation and operation of this project. We believe this represents the most efficient and cost-effective way to construct the trail and provide for its on-going operation and maintenance. Accordingly, we would propose the following:

NewTown Macon, will be responsible for:

- **Design and Construction**—NTM will be responsible for the design and construction of the trail in accordance with the Masterplan prepared by the designers, Nimrod Long and Associates.
- **Construction Funding**—NTM will be responsible for raising sufficient funds to complete the construction of the Greenway consistent with the masterplan. These funds will come from a combination of private, local and federal resources.
- **Acquisition and Rehabilitation of the Interpretive Center**—NTM will be responsible for acquiring, renovating and staffing the Interpretive Center for the Greenway.
- **Maintenance and Operation**—NTM will be responsible for the maintenance and operation of the Greenway during the construction period until such time as an Operational Fund has been established and funded. At that time, the operation and maintenance of the Greenway will become the responsibility of the Ocmulgee Heritage Greenway LLC, using funding from the Operational Fund. During the period of NTM's operational responsibility, it will obtain sufficient liability insurance to cover both NTM and MBCUDA for risks from the operation of the Greenway.
- **Operational Fund**—NTM will be responsible for raising the funds needed to create an operational Fund for the on-going maintenance and operation of the Greenway. This fund will be designed to cover all on-going maintenance and operating costs of the Greenway for at least the next decade.
- **Managing Member of LLC**—NTM will serve as the managing member of the LLC for five years or until the construction has been completed and the Operational Fund is in place. In this capacity NTM will be responsible for the operation and maintenance of the Greenway.

MBCUDA will be responsible for:

- **Land Acquisition**—MBCUDA will acquire all property for the Greenway, and well as maintaining any easements. Fund for land acquisitions will come from NTM and not be the responsibility of MBCUDA. MBCUDA will work closely with NTM and the board of the Ocmulgee Heritage Greenway LLC to facilitate the acquisition of land for the right-of-way, including, if necessary, using its powers of condemnation.
- **Ownership**—MBCUDA will own the property acquired for the Greenway.
- **Contracting for Maintenance and Operations**—At the completion of the construction of the Greenway and upon creation of the Operational Fund, MBCUDA will contract with the Ocmulgee Heritage Greenway LLC for the operation and maintenance of the Greenway. It will be a requirement of the contract that the LLC have sufficient liability insurance to cover any reasonable risk to MBCUDA that could result from the operation of the Greenway. MBCUDA will assume no financial responsibility for the on-going maintenance and operation of the trail should the Operational Fund prove insufficient.

We believe this addresses the key issues governing the construction, funding, operation and maintenance of the trail. We are prepared to discuss the MOU at your earliest convenience and prepare a final document for our mutual concurrence.

Very truly yours,

Conie Mac Darnell  
President/CEO

## **Section VII**

### **Proposed Capital Campaign for OHG Operational Fund**

## Memorandum

To: Ocmulgee Heritage Greenway Executive Committee

From: NewTown Macon, Inc.

Subject: Proposed Capital Campaign for Operational Funds for Ocmulgee Heritage Greenway

Date: 7/3/02

---

NewTown Macon is making great progress in the construction of the Ocmulgee Heritage Greenway. While construction of the Greenway is underway we need to plan for its on-going maintenance and operation as well as providing support for the marketing and programming of the Greenway and Interpretive Center. Accordingly, you have indicated NewTown Macon will lead an effort to create an Ocmulgee Legacy Fund that will be self-sustaining and of sufficient size to cover educational programs, promotions and the operational and maintenance costs associated with the Greenway for at least the next ten years. We anticipate raising through a corporate, civic and public sector fund-raising effort, a \$6 million Ocmulgee Legacy Fund from the following sources:

- **Foundation Challenge Grant**—Secure a \$1 million challenge grant that will need to be matched five-to-one with other contributions.
- **Foundation Matching Grant**—Obtain a \$1 million matching grant from another foundation.
- **City of Macon/Bibb County**—Provide a combined \$1 million in funding from various sources including future SPLOST funds.
- **State Grant(s)**—NewTown Macon will raise approximately \$1 million from state sources including DCA, DNR, OneGeorgia, etc.
- **Private Sector Donations**—\$2 million will be pledged from private sector sources as the result of targeted campaign to potential local and regional donors, including foundations, corporate and individual.

The Fund will be used to support a wide range of activities associated with the Greenway, including:

- **Educational Programs**—History, Culture, Environmental, Recreational, etc.
- **Promotions**—Events, Partnerships, Press Conferences, Advertising, etc.
- **Operations**—Interpretive Center, Trail, Boating, Bicycling, etc.
- **Repairs and Maintenance**

We anticipate that the \$6 million Ocmulgee Legacy Fund will provide \$300,000-400,000 annually in operational and maintenance funding for the Greenway. In addition the Fund will serve as matching funds for the National Heritage Designation of the Greenway, which will give us access to significant federal funds for programs, and operations.

NewTown Macon will be responsible for organizing and implementing the funding campaign for the Fund. We anticipate building on the recent success of NewTown Macon's \$36 million capital campaign. We will begin the campaign during the summer



of 2002 and anticipate it will take approximately 12-15 months to complete. We will obtain Board approval of the funding campaign and the concept of the Ocmulgee Legacy Fund at our next meeting.

**Section VIII**  
**Masterplan for Ocmulgee Heritage Greenway**