

This chapter shall be known and may be cited as the “Public Improvement District Act.”

§ 19-31-3. Legislative findings and intent

The Legislature finds that:

(a) There is a need for uniform, focused and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation and duration of independent districts to manage and finance basic public improvement services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive and economic way to deliver these basic services, thereby providing a solution to the state's planning, management and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening counties and municipalities and their taxpayers.

(b) It is the legislative intent and purpose to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance basic services for public improvements through the levy and collection of special assessments. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power and procedure for termination of any such independent district. It is further the purpose and intent of the Legislature that a district created under this act not have or exercise any zoning or permitting power. It is further the purpose and intent of the Legislature that no debt or obligation of a district shall constitute a burden on any local government without its consent.

§ 19-31-5. Definitions

As used in this chapter the following terms shall have the meanings ascribed to them in this section unless the context clearly requires otherwise:

(a) “Assessable improvements” means any public improvements and community facilities that the district is empowered to provide in accordance with this chapter.

(b) “Assessment bonds” means special obligations of the district that are payable solely from proceeds of the special assessments levied for an assessable project.

(c) “Board” or “board of directors” means the governing board of the district or, if such board has been abolished the board, body or commission succeeding to the principal functions thereof or to whom the powers given to the board by this chapter have been given by law.

(d) “Bond” includes certificate, and the provisions that are applicable to bonds are equally applicable to certificates. The term “bond” includes any assessment bond, refunding bond, revenue bond and other such obligation in the nature of a bond as is provided for in this chapter.

(e) “Public improvement district” or “district” means a special district that is created pursuant

to this chapter and limited to the performance of those specialized functions authorized by this chapter, the boundaries of which are contained wholly within a single county or two (2) or more contiguous counties; the governing head of which is a body created, organized and constituted and authorized to function specifically as prescribed in this chapter for the delivery of public improvement services; and the formation powers, governing body, operation, duration accountability, requirements for disclosure and termination of which are as required by general law.

(f) “Contribution agreement” means an agreement between a district and the governing body of any governmental agency, county and/or municipality whereby the governing body agrees to provide financial or credit support in the form of cash, pledge, guaranty, or other enhancement, which agreement shall be approved by the Secretary of State pursuant to Section 19-31-23.

(g) “Cost,” when used with reference to any project, includes, but is not limited to:

- (i) The expenses of determining the feasibility or practicability of acquisition, construction or reconstruction.
- (ii) The cost of surveys, estimates, plans and specifications.
- (iii) The cost of improvements.
- (iv) Engineering, fiscal and legal expenses and charges.
- (v) The cost of all labor, materials, machinery and equipment.
- (vi) The cost of all lands, rights, servitudes and franchises acquired.
- (vii) Financing charges.
- (viii) The creation of initial reserve and debt service funds.
- (ix) Working capital.
- (x) Interest charges incurred or estimated to be incurred on money borrowed before and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.
- (xi) The cost of issuance of bonds pursuant to this chapter, including advertisements and printing.
- (xii) The cost of any election held pursuant to this chapter and all other expenses of issuance of bonds.
- (xiii) The discount, if any, on the sale or exchange of bonds.

(xiv) Administrative expenses.

(xv) Such other expenses as may be necessary or incidental to the acquisition, construction or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(gh) “District manager” means the manager of the district.

(hi) “District roads” means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges and thoroughfares of all kinds and descriptions.

(ij) “Landowner” means the owner of land, including real property as it appears in the official records of the county, including a trustee, a private corporation or other entity, and an owner of a condominium unit.

~~(k)~~ “Market value” means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal. Such value shall be determined in accordance with Section 27-35-50.

(l) “Project” means any development, improvement, property, utility, facility, works, enterprise or service undertaken after the passage of this chapter or established under the provisions of this chapter-, including, but not limited to the following:

(1) Acquisition, construction, repair, renovation, demolition or removal of:

(i) Buildings and site improvements (including fixtures);

(ii) Potable and nonpotable water supply systems;

(iii) Sewage and waste disposal systems;

(iv) Storm water drainage and other drainage systems;

(v) Airport facilities;

(vi) Rail lines and rail spurs;

(vii) Port facilities;

(viii) Highways, streets and other roadways;

(ix) Fire suppression and prevention systems;

(x) Utility distribution systems, including, but not limited to, water, electricity, natural

gas, telephone and other information and telecommunications facilities, whether by wire, fiber or wireless means; provided, however, that electrical, natural gas, telephone and telecommunication systems shall be constructed, repaired or renovated only for the purpose of completing the project and connecting to existing utility systems (this provision shall not be construed to prevent a city, county or natural gas district from

supplying utility service that it is authorized to supply in the service area that it is authorized to serve);

(xi) Business, industrial and technology parks and the acquisition of land and acquisition or construction of improvements to land connected with any of the preceding purposes;

(2) County purposes authorized by or defined in Sections 17-5-3 and 19-9-1, (except Section 19-9-1(f));

(3) Municipal purposes authorized by or defined in Sections 17-5-3, 17-17-301 et seq., 21-27-23, 21-33-301;

(m) “Public entity” means any governmental agency, county or municipality, which enters into a contribution agreement with a district in accordance with this chapter.

(n) “Qualified voter” shall mean any landowner of the district who is eighteen (18) years old and upwards, or an authorized representative thereof who is also eighteen (18) years old and upwards. If the landowner consists of more than one (1) person, or is a corporation, partnership, LLC or any association or legal entity organized to conduct business, the landowners shall select one (1) person to serve as the “qualified voter” for the group.

(o) “Revenue bonds” means obligations of the district that are payable from revenues derived from sources other than ad valorem taxes on real or personal property and that do not pledge the property, credit or general tax revenue of the district.

(p) “Sewer system” means any plant, system, facility or property, and additions, extensions and improvements thereto, useful or necessary in connection with the collection, treatment or disposal of sewage.

(q) “Water management and control facilities” means any lakes, canals, ditches, reservoirs, dams, levees, floodways, pumping stations or any other works, structures or facilities for the conservation, control, development, utilization and disposal of water, and any purposes incidental thereto.

(r) “Water system” means any plant system, facility or property, and additions, extensions, and improvements thereto, useful or necessary in connection with the development of sources, treatment or purification and distribution of water.

§ 19-31-7. Establishment procedure

(1) The method for the establishment of a public improvement district shall be pursuant to an ordinance adopted by the governing body of each county in which the land is located granting a petition for the establishment of a public improvement district. The petition for the establishment of a public improvement district shall be filed by the petitioner with the governing body of the county or counties. The petition shall contain:

(a) A description of the boundaries of the district;

(b) The written consent to the establishment of the district by all landowners in the district;

(c) A designation of five (5) persons to be the initial members of the board of directors, who shall serve in that office until replaced by elected members as provided in ~~this chapter~~Section 19-31-9;

(d) The proposed name of the district; and

(e) A map of the proposed district showing existing infrastructure, if any; ~~and~~.

(f) Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services.

(2) A public hearing on the petition shall be conducted by the governing body of each county of the proposed district within ~~forty five (45)~~sixty (60) days after the petition is filed unless an extension of time is requested by the petitioners and granted by the governing body of each county. The hearing shall be held at an accessible location in each county in which the public improvement district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper having general circulation in each county at least once a week for the four (4) successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall be published in the official minutes of the local governing body.

(3) The governing body of each county shall consider the record of the public hearing and any other relevant factors in making its determination to grant or deny a petition for the establishment of a public improvement district.

(4) An ordinance establishing a public improvement district shall include the boundaries of the district, the names of the five (5) persons designated to be the initial members of the board of directors of the district and the name of the district.

(5) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipality, then the petition requesting establishment of a public improvement district under this chapter shall be filed by the petitioner with that particular municipality. In such event, the duties of the county with regard to the petition shall be the duties of the municipality. If any of the land area of a proposed district is within the land area of a municipality, the governing body of the county may not create the district without the approval of the municipality.

(6) The governing body of any governmental agency, county and/or municipality may enter into contribution agreements with the district.

§ 19-31-9. District board

(1) The board of the district shall exercise the powers granted to the district pursuant to this chapter. The board shall consist of five (5) members as otherwise provided in this section. Each member shall hold office for a term of four (4) years and until a successor is chosen and qualifies. The initial members of the board shall be residents of the state and at least one (1) of

the initial members shall be either a landowner within the district or an individual resident of the area immediately adjacent to the district. Upon appointment or election, the board members shall elect a chair who shall conduct board meetings.

(2) Beginning four (4) years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified voter of the district, elected by the qualified voters of the district. There shall be an election of members every four (4) years ~~on the first Tuesday in November at a qualified voters' meeting from the date of the ordinance establishing the district.~~ The district manager shall determine the date and time of the election which shall be held within twenty (20) days following the anniversary date of the ordinance. In the event a contribution agreement exists, then the governing body of the public entity that is a party to the contribution agreement may appoint one (1) of the five (5) members to the board of the district at the time of the election in lieu of electing that member.

(a) Candidates must qualify in writing by submitting a "Statement of Intent", as prescribed in this section, to the district manager thirty (30) days prior to the election. The district manager shall prepare a ballot of all candidates qualified to run for office twenty (20) days prior to the election.

Statement of Intent

Candidate for (insert name of district) Public Improvement District

I, (name of candidate as it will appear on the ballot), (mailing address, street address, city, state, zip code, telephone number of the candidate) certify that I am a qualified voter, as defined in Miss. Code Ann. § 19-31-5, of the (insert name of public improvement district) Public Improvement District in the State of Mississippi; and do hereby declare my candidacy for Board of the (insert name of public improvement district) Public Improvement District at the election to be held on (insert date of election).

(Signature of candidate) (Date)

Received by _____

(Signature) (Title) (Date)

(b) Notice of the election shall be announced at a public meeting of the board at least ninety (90) days before the date of the qualified voters' meeting and shall be published once a week for two (2) consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than fourteen (14) days nor more than twenty-eight (28) days before the election. In addition, notice of the election shall be sent by ~~first class mail~~ certified United States mail, return receipt requested, to all qualified voters at their last known address as shown on the tax rolls. Instructions on how all qualified voters may participate in the election, along with sample proxies, shall be provided ~~during the board meeting that announces the qualified voters' meeting~~ as part of the notice required by this section, and the location, date and time of the qualified voters' meeting shall be included on all instructions and notices.

(c) Each qualified voter shall be entitled to cast ~~only~~ one (1) ~~vote~~.ballot to elect board members regardless of the number of parcels owned within the district. Parcels shall not be aggregated for determining the number of ballots allowed to be cast by a qualified voter. Each qualified voter shall register with the district manager no less than thirty (30) days prior to the election. A list of qualified voters in the form of a voter roll shall be kept current by the district manager and shall be deemed final thirty (30) days prior to the election.

(d) A qualified voter may vote in person or by proxy in writing. A vote cast by proxy must be submitted within fifteen (15) days prior to the election and shall be submitted in the form prescribed in this section. Each proxy must be signed by ~~one (1) of the qualified voters~~voter for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, and legal description of the property, or tax parcel identification number; ~~and the number of authorized votes.~~ The signature on a proxy need not be notarized. ~~For purposes of this subsection (2), the term “qualified voter”~~All votes cast by proxy shall ~~mean any landowner or an authorized representative thereof.~~be reflected in the voter roll.

Proxy for Election

(Name of Public Improvement District) Public Improvement District

I, _____, (name of landowner & qualified voter),

_____ (street address);

_____ (legal description);

_____ (tax parcel identification parcel)

[NOTE – this proxy must contain one of either the street address, legal description or tax parcel identification number to be considered.]

1. Do constitute and appoint _____ (name), attorney and agent for me, and in my name, place, and stead, to vote as my proxy for the election of members of the Board of Directors of the (name of district) Public Improvement District at the Qualified Voters meeting to be held beginning at 10:00 a.m. on (insert date), at the (insert voting location/facility name with street address); **OR (only choose one)**

2. Do hereby cast my vote for: _____ [print or type name of person being voted for – PLEASE NOTE THAT YOUR VOTE MUST BE FOR A QUALIFIED VOTER OF THE DISTRICT. A QUALIFIED VOTER MEANS ANY LANDOWNER OF THE DISTRICT WHO IS EIGHTEEN (18) YEARS OLD AND UPWARDS OR AN AUTHORIZED REPRESENTATIVE THEREOF WHO IS ALSO EIGHTEEN (18) YEARS OLD AND UPWARDS to be elected as a member of the Board of Directors of the (name of district) Public Improvement District for a term beginning (date of term), and ending four years from said date, or until a successor is chosen.

I understand that I have the right to revoke this proxy at any time prior to the election. I understand that I have the right to be present in person at the election.

I have executed this proxy on (insert date).

(Printed Name of
Landowner/Qualified Voter)

(Signature of Landowner/Qualified Voter)

(e) A qualified voter may cast only one vote for each of the five board member positions. When a qualified voter casts a vote for the same person more than once, only one of the votes cast for that person will be counted. When a qualified voter casts more votes to elect board members than he or she is entitled to cast, all votes are invalid and the qualified voter is deemed to have voted for none of them. When a qualified voter casts fewer votes to elect board members than he or she is entitled to cast, all votes cast by the qualified voter shall be counted but no votes shall be counted more than once.

(f) If a board member dies, resigns or is otherwise prevented from serving as a board member, the board of the district shall appoint a member to fill the remainder of the term. In the event no qualified voter is willing to serve on the board of the district, the governing body which established the district shall appoint members as necessary to fill any vacancy for the remainder of the term.

(3) Members of the board shall be known as directors and, upon entering into office, shall take an oath of office. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(4) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(5) As soon as practicable after each election or appointment, the board shall organize by electing one (1) of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(6) The board shall keep a permanent minute book in which shall be recorded minutes of all meetings, resolutions, ordinances, proceedings and all corporate acts.

(7) Members of the board may receive per diem compensation for services in an amount as provided under Section 25-3-69, and shall be entitled to expenses necessarily incurred in the discharge of their duties in accordance with Section 25-3-41. Any payments for compensation

and expenses shall be paid from funds of the district.

§ 19-31-11. District manager; treasurer; depository

(1) The board shall employ and fix the compensation of a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for (a) preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this chapter, (b) maintaining and operating the equipment owned by the district, and (c) for performing such other duties as may be prescribed by the board. The district manager may hire or otherwise employ and terminate the employment of such other persons including, without limitation, professional, supervisory and clerical employees, as may be necessary as authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board. The district manager, a board member or district employee may be a stockholder, officer or employee of a landowner.

(2) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order or pursuant to the resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the district shall be audited by an independent certified public accountant at least once a year.

(3) The board may select as a depository for its funds any qualified public depository as provided for under Sections 27-105-301 through 27-105-371.

§ 19-31-13. Budget

(1) The district shall comply with Sections 19-11-1 through 19-11-27, the County Budget Law.

(2) At least sixty (60) days before adoption of the annual budget, the district board shall submit to the local governing authorities having jurisdiction over the area included in the district for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations.

§ 19-31-15. Disclosure of information

The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information who shall provide each prospective

initial purchaser of property in that development with a copy.

§ 19-31-17. District powers

The district shall have, and the board may exercise, the power:

- (a) To sue and be sued in the name of the district.
- (b) To adopt and use a seal and authorize the use of a facsimile thereof.
- (c) To acquire, by purchase, gift, devise or otherwise, and to dispose of, real and personal property.
- (d) To dedicate, donate or convey in any manner, real and personal property under such terms and conditions as may be agreed upon, to:
 - (i) Nonprofit entities that have been issued a certificate of public convenience and necessity by the Public Service Commission; or
 - (ii) Governmental entities.
- (e) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- (f) To contract for the services of consultants to perform planning, engineering, financial, legal, or other appropriate services of a professional nature.
- (g) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government or any person or any organization for any district purposes and enter into agreements required in connection therewith; and to hold, use and dispose of such monies or property for any district purposes in accordance with the terms of the gift, grant, loan or agreement relating thereto.
- (h) To adopt bylaws prescribing the powers, duties and functions of the officers of the district, the conduct of the business of the district and the maintenance of records.
- (i) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners. Meetings shall be held at such office or such other location as may be designated by the board.
- (j) To hold, control and acquire by donation, or purchase or dispose of, any public servitudes or dedications to public use and to make use of such servitudes or dedications for any of the purposes authorized by this chapter.
- (k) To lease as lessor or lessee to or from any person, firm, corporation, association, or body public or private, any projects of the type that the district is authorized to undertake and

facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this chapter.

(l) To borrow money and issue bonds, certificates, warrants, notes or other evidence of indebtedness as provided in this chapter; to levy such special assessments as may be authorized; and to charge, collect and enforce fees and other user charges.

(m) To acquire property within the boundaries of the district for public use through condemnation, exercised pursuant to Sections 11-27-1 through 11-27-51, subject to the approval of the governing body of the county and/or the municipality that enacted the ordinance establishing the district.

(n) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(o) To cooperate with, contract, or enter into contribution agreements with, other governmental agencies, including the governing bodies of counties and/or municipalities, as may be necessary, convenient, incidental or proper in connection with any of the powers, duties or purposes authorized by this chapter.

(p) To determine, order, levy, impose, collect and enforce special assessments pursuant to this chapter.

(q) To enter into interlocal cooperative agreements pursuant to Section 17-13-1 et seq.

~~(r) To covenant with the holders of assessment bonds or other obligations that it will diligently and faithfully enforce and collect all the special assessments and interest and penalties thereon for which such certificates of indebtedness or assessment liens have been deposited in or assigned to a special fund.~~

~~(s) To foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund.~~

(t) To exercise all of the powers necessary and proper in connection with any of the powers, duties or purposes authorized by this chapter.

§ 19-31-19. Special powers; systems, facilities, infrastructure

The district shall have, and the board may exercise, any or all of the special powers relating to public improvements and community facilities authorized by this act. The district shall have the power to finance, fund, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities, projects, and basic infrastructures that are within the district, or which benefit or serve the district for the following:

- (a) Water management and control for the lands within the district and connection of some or any of such facilities with roads and bridges.
- (b) Water supply, sewer and wastewater management, reclamation and reuse, or any combination thereof.
- (c) Bridges or culverts that may be needed across any drain, ditch canal, floodway, holding basin, excavation, public highway, tract, grade, fill or cut and roadways over levees and embankments.
- (d) District roads equal to or exceeding the specifications of the county in which such district roads are located, ~~and including~~ street lights and the location of underground utilities.
- (e) Parks and facilities for indoor and outdoor recreational, cultural and educational uses, and other tourism related infrastructure and facilities.
- (f) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.
- (g) Security, except that the district may not exercise any police power, but may contract with the appropriate local governmental agencies for an increased level of such services within the district boundaries.
- (h) Waste collection and disposal.
- (i) Systems as defined in Section 21-27-11(b).

§ 19-31-21. Purchase, sale, dedication, donation or conveyance of water or wastewater utility

No public improvement district may purchase, sell, dedicate, donate or convey in any manner a water or wastewater utility that provides service to the public, or enter into a management contract for such facilities, until the board has held a public hearing on the purchase, sale, dedication, donation, conveyance or management contract and has made a determination that the purchase, sale or management contract is in the public interest.

§ 19-31-23. Indebtedness

(1) The district may issue and sell from time to time bonds, notes, negotiable notes, tax anticipation notes, bond anticipation notes, other fund anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper or other obligations or evidences of indebtedness to provide funds for and to fulfill and achieve its public purpose or corporate purposes, as set forth in this chapter, including, but not limited to, the payment of all or a portion of the costs of a project, to provide amounts necessary for any corporate purposes, including incidental

expenses in connection with the issuance of the obligations, the payment of principal and interest on the obligations of the district, the establishment of reserves to secure such obligations, and all other purposes and expenditures of the district incident to and necessary or convenient to carry out its public functions or corporate purposes, and any credit enhancement for such obligations.

(2) Prior to the issuance of bonds as provided in this chapter, the district shall hold a public hearing on the advisability of the indebtedness. Notice of the hearing must be published twice in a newspaper having general circulation in each county where the district is located. The final publication of notice must be at least ten (10) days prior to such public hearing. The district shall give by United States certified mail return receipt requested, written notice of the public hearing to all qualified voters in the district. The notice shall be addressed to "Property Owner" and mailed by United States certified mail, return receipt requested, to the current address of the owner, as reflected on tax rolls of property located in the district.

(3) If a district proposes to enter into a contribution agreement with a public entity, the public entity shall hold a public hearing on the advisability of the contribution agreement. A public entity shall not enter into a contribution agreement with any district until receipt of a certificate of compliance from the Secretary of State pursuant to this section.

(a) Notice of the hearing must be published twice in a newspaper having general circulation in each county where the public entity is located. The final publication of notice must be at least ten (10) days before such public hearing. The public entity shall also give by United States certified mail, return receipt requested, written notice of the public hearing to the Public Lands Division of the Office of the Secretary of State.

(b) The notice must state the following:

- (i) time and place of the hearing;
- (ii) general nature of the proposed improvement;
- (iii) estimated cost of the improvement;
- (iv) boundaries of the public improvement district;
- (v) proposed method of assessment; and
- (vi) proposed amount and term of indebtedness.

(c) The hearing may be adjourned from time to time until the governing body of the public entity makes findings by resolution as to the:

- (i) advisability of the improvement;
- (ii) nature of the improvement;
- (iii) estimated cost of the improvement;
- (iv) boundaries of the public improvement district;
- (v) method of assessment;
- (vi) market value of real property within the district; and
- (vii) terms of the contribution agreement.

(d) As provided in Section 19-31-23(3)(c)(vi), the governing body of the public entity shall obtain an appraisal to determine that the true value of real property following the completion of the improvements, including but not limited to the project, within the district will be at least four times the principal amount of all new and existing debt secured by assessments. The appraisal shall satisfy all parties to the contribution agreement and the Secretary of State that the value of the property in the district will be sufficient to ensure payment of any obligation to which a public entity is subject.

(4) Following adoption of the resolution by the governing body of the public entity, the public entity shall provide to the Secretary of State an application for approval and shall certify that it has complied with Sections 19-31-23(3)-(4). Within thirty (30) days of the district providing to the Secretary of State an application for approval and certification that it has complied with Sections 19-31-23(3)-(4), the Secretary of State shall issue to the district a certificate of compliance or a letter of noncompliance.

Any district which receives a letter of noncompliance from the Secretary of State may obtain review in the chancery court of any county where the district is located, by filing in court, within thirty (30) days after receipt of the letter, a written petition praying that the letter be modified, granted, or set aside in whole or in part. A copy of the petition shall be forthwith served upon the Secretary of State and thereupon the Secretary of State shall certify and file in court a copy of the petitioner's application for approval of the contribution agreement and certification that it has complied with Sections 19-31-23(3)-(4). When these have been filed, the court has exclusive jurisdiction to affirm, grant, modify, enforce or set aside the letter, in whole or in part.

(5) Except as may otherwise be provided by the district, all obligations issued by the district shall be negotiable instruments and payable solely from the levy of any special assessment by the district or from any other sources whatsoever that may be available to the district but shall not be secured by the full faith and credit of the state or the county or municipality that created the district.

(36) Obligations shall be authorized, issued and sold by a resolution or resolutions of the district adopted as provided in this chapter. Such bonds or obligations may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in Section 17-21-53(2), for and in connection with any public sale, be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption and be entitled to such priorities on the income, revenue and receipts of, or available to, the district as may be provided by the district in the resolution or resolutions providing for the issuance and sale of the bonds or obligations of the district.

(47) The obligations of the district shall be signed by such directors or officers of the district by either manual or facsimile signatures as shall be determined by resolution or resolutions of the district, and shall have impressed or imprinted thereon the seal of the district or a facsimile

thereof.

(58) Any obligations of the district may be validly issued, sold and delivered notwithstanding that one or more of the directors or officers of the district signing such obligations or whose facsimile signature or signatures may be on the obligations shall have ceased to be such director or officer of the district at the time such obligations shall actually have been delivered.

(69) Obligations of the district may be sold in such manner and from time to time as may be determined by the district to be most beneficial, and the district may pay all expenses, premiums, fees or commissions that it deems necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this chapter.

(710) The district may authorize the establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve or such other funds or reserves as the district may approve with respect to the financing and operation of any project and as may be authorized by any bond resolution, trust agreement, indenture of trust or similar instrument or agreement pursuant to the provisions of which the issuance of bonds or other obligations of the district may be authorized.

(8(11) Notwithstanding any other law to the contrary, but subject to any agreement with bondholders or noteholders, monies of the district not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, may be invested in:

- (a) Obligations of any municipality, the State of Mississippi or the United States of America;
- (b) Obligations the principal and interest of which are guaranteed by the State of Mississippi or the United States of America;
- (c) Obligations of any corporation wholly owned by the United States of America;
- (d) Obligations of any corporation sponsored by the United States of America which are, or may become, eligible as collateral for advances to member banks as determined by the Board of Governors of the Federal Reserve System;
- (e) Obligations of insurance firms or other corporations whose investments are rated "A" or better by recognized rating companies;
- (f) Certificates of deposit or time deposits of qualified depositories of the State of Mississippi as approved by the State Depository Commission, secured in such manner, if any, as the commission determines appropriate;
- (g) Contracts for the purchase and sale of obligations of the type described in paragraphs (a) through (e) of this subsection;
- (h) Repurchase agreements secured by obligations described in paragraphs (a) through (e) of this subsection; and
- (i) Money market funds, the assets of which are required to be invested in obligations described in paragraphs (a) through (f) of this subsection.

(12) Any cost, obligation or expense incurred for any of the purposes specified in this chapter shall be a part of the project costs and may be paid or reimbursed as such out of the proceeds of bonds or other obligations issued by the district.

(~~9~~13) Neither the directors of the board nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability by reason of the issuance thereof. No earnings or assets of the district shall accrue to the benefit of any private persons. However, the limitation of liability provided for in this subsection shall not apply to any gross negligence or criminal negligence on the part of any director or person executing the bonds.

(~~40~~14) The district may avail itself of the provisions of Sections 31-13-1 through 31-13-11.

(~~44~~15) This chapter constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the board or any board, officers, commission, department, agency or instrumentality of the district, other than those required by this chapter, shall be required to perform anything under this chapter, except that the issuance or sale of bonds pursuant to the provisions of this chapter shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this chapter shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(~~42~~16) Before incurring any debt as provided in subsection (1) of this section, the district may, but shall not be required to, secure an agreement from one or more developers obligating such developer or developers:

- (a) To effect the completion of all or any portion of a project at no cost to the district;
- (b) To pay all or any portion of the real property taxes due on the project in a timely manner; and
- (c) To maintain and operate all or any portion of the buildings or other facilities or improvements of the project in such a manner as to preserve property values.

No breach of any such agreement shall impose any pecuniary liability upon a district or any charge upon its general credit or against its taxing powers.

Additionally, the district may enter into an agreement with the developer under which the developer may construct all or any part of the project with private funds in advance of issuance of bonds and may be reimbursed by the district for actual costs incurred by the developer upon issuance and delivery of bonds and receipt of the proceeds, conditioned upon dedication of the project by the developer to the district, a governmental agency, a county or a municipality to assure public use and access. This condition shall not apply to the privately owned portion of a project for which the Mississippi Development Authority has issued a certificate of convenience and necessity pursuant to the Regional Economic Development Act.

As used in this section, the term “developer” means any entity or natural person which enters into an agreement with a district whereby the developer agrees to construct, operate and maintain or procure the construction, operation and maintenance of a project or projects, or portions thereof, upon land within the district.

§ 19-31-25. Pledges

Any pledge made by the district shall be valid and binding from time to time when the pledge is made without the need for physical delivery of any pledged property. The money, assets or revenues of the district so pledged and thereafter received by the district shall be immediately subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to establish and perfect a lien or security interest in the property so pledged by the district.

§ 19-31-27. Public and governmental purpose; tax exemption

It is hereby determined that the creation of the district and the carrying out of its public functions and corporate purposes is, in all respects, a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, prosperity and security, that such functions and purposes are public purposes and that the district will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. All obligations authorized to be issued by the district pursuant to the provisions of this chapter, together with interest thereof, income therefrom, and gain upon the sale thereof shall be exempt from all state and local taxes.

§ 19-31-29. Bonds; obligation; content; effect of issuance

Bonds issued under the provisions of this chapter shall be limited obligations of the district payable solely from the sources pledged for the payment thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the full faith and credit of the state nor the full faith and credit of any governmental unit of the state are pledged to the payment of the principal of or the interest on such bonds. ~~The~~[Except as provided in a contribution agreement, the](#) issuance of bonds under the provisions of this chapter shall not directly, indirectly or contingently obligate the state or any governmental unit of the state to levy any taxes or to make any appropriation for their payment arising out of contracts authorized under this chapter.

§ 19-31-31. Authorized investment

The state and all public officers, any county, municipality or other subdivision or instrumentality of the state, any political subdivision, any bank, banker, trust company, savings bank and institution, building and loan association, savings and loan association, investment company or any person carrying on a banking or investment business, any insurance company or business, insurance association and any person carrying on an insurance business, any executor, administrator, curator, trustee and other fiduciary, and any retirement system fund may legally invest any sinking funds, monies or other funds belonging to them or within their control in any bonds or other obligations issued by the district pursuant to the provisions of this chapter, and such bonds or other obligations shall be authorized security for all public deposits.

It is the purpose of this section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities public or private, to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations of the district and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm, corporation or other entity from any duty of exercising reasonable care in selecting securities.

§ 19-31-33. Assessments

(1) The board shall annually determine, order and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects that are levied under this chapter. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the assessor by the board not later than August 31 of each year. Such assessments shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes. All statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(2) To maintain and preserve the facilities and projects of the district, the board shall levy a maintenance special assessment. This assessment may be evidenced by and certified to the assessor by the board of directors not later than August 31 of each year and shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes and all statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the maintenance special assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(3) Benefit special assessments and maintenance special assessments authorized by this section

shall be levied and payable in annual installments for each year for which bonds secured by the assessment are outstanding. The tax collector shall collect and enforce benefit special assessments and maintenance special assessments in the same manner and at the same time as ad valorem taxes. Benefit special assessments and maintenance special assessments shall constitute a lien on the property against which assessed until paid and shall be on a parity with the lien of state, county, municipal and school board property taxes.

(4) The tax assessor and tax collector are entitled to reasonable compensation for preparing the rolls and collecting the assessments.

(5) District assessments may be made payable in no more than forty (40) yearly installments. Benefit special assessments shall be prepayable. Such prepayment of benefit special assessments shall be credited against the payor's pro rata share of principal and interest of the indebtedness.

§ 19-31-35. Lien enforcement

Any lien in favor of the district arising under this chapter may be enforced by the district in a court of competent jurisdiction as provided by law. Such proceedings may be brought at any time after the expiration of one (1) year from the date any tax or installment thereof becomes delinquent. The board of the district may commence proceedings to foreclose on the land as follows:

(1) The board shall send a letter, United States certified mail, return receipt requested, to the last known address of the owner. The address of the owner as shown in the tax assessment records of the tax assessor for the county in which the property is located shall be sufficient.

(2) The letter shall specify that if payment is not made within ten (10) days of the date of the letter, foreclosure proceedings may be commenced.

(3) Any late payment received within the ten (10) day period will accrue a late fee of the greater of five percent of the payment or one hundred fifty dollars (\$150).

(4) If payment is not made within the ten (10) day period, the entire assessment shall become immediately due and payable, and the board may do either of the following:

(a) File a complaint in the chancery court for the county in which the property is located requesting that the property be foreclosed. Thirty days following service of process, unless the entire assessment is paid in the meantime, the court shall enter a decree declaring that the property shall be sold to the highest bidder.

(b) Proceed to sell the property against which the assessment is made to the highest bidder for cash.

(c) In either case, the sale shall be made after first giving public notice of the date and time of the sale and the purpose for which the same is made, together with a description of the property

to be sold; and that the proceeds from the sale shall first be applied to the amount of the assessment and all accrued interest thereon, plus penalties specified in subdivision (3), plus the attorneys' fees and other expenses incurred by the board in the foreclosure and suit.

(5) If the agent concludes that no bidders are present or that all bids are insufficient, the agent may announce that the auction shall be continued to a later date to be announced by public notice.

(6) Upon declaring the highest bidder and receipt of the purchase price, an agent of the board shall make out a foreclosure deed to the highest bidder. The owner of the property shall have no right of redemption unless otherwise provided in the board's proceedings with respect to the assessment.

(7) The purchase price shall be used first for the payment of the assessment, then for the cost of collection, suit, foreclosure, and deed preparation, then for penalties, then for accrued interest and interest until the next principal payment date of bonds as provided in this chapter with respect to prepayments of assessments, and then for the unpaid principal amount of the assessment, and any remaining portion shall be paid to the owner of the land at the owner's last known address as shown in the records of the tax assessor with respect to such tract of land.

(8) The board may bid on any sale the same as any other person, and may credit any portion of the assessment and other costs as a part of its bid.

(9) If the highest amount bid and accepted is insufficient to pay the entire assessment, the board and holders of the bonds shall have no further claim against the owner of the land assessed by virtue of the assessment.

(10) Any foreclosure deed shall make no warranty with respect to the title to the land other than as expressly stated therein.

(11) At any point in the foreclosure proceedings, until a bid is accepted, the board may waive the default on terms as it may consider proper and reinstate the assessment, subject to any contrary terms of the board's proceedings with respect to the bonds.

§ 19-31-37. District construction and purchases; law governing

The district shall comply with the provisions of Section 31-7-1 et seq., regarding the construction of public works or the purchase of materials or supplies.

§ 19-31-39. Rates, fees, rentals, and other charges

(1) The district may prescribe, fix, establish and collect rates, fees, rentals or other charges for the facilities and services furnished by the district, within the limits of the district, including but not limited to recreational facilities, water management and control facilities and water and sewer systems. The district may also recover the costs of making connection with any district facility or system and provide for reasonable penalties against any user or property for any

such rates, fees, rentals or other charges that are delinquent.

(2) No such rates, fees, rentals or other charges for any of the facilities or services of the district may be fixed until after a public hearing at which all the users of the proposed facility or services shall have an opportunity to be heard concerning the proposed rates, fees, rentals or other charges. Notice of such public hearing setting forth the proposed schedule of rates, fees, rentals and other charges shall be published in the official journal of a newspaper having general circulation in each county where the district is located once at least ten (10) days before such public hearing.

§ 19-31-41. Payment enforcement authority

The district shall provide by ordinance with respect to nonpayment, delinquency charges and discontinuance of service for water and sewer services provided by the district.

§ 19-31-43. District boundaries; dissolution

(1) The boundaries of the district may be contracted or expanded in the same manner in which the district was created pursuant to this chapter; however, the petition shall be filed by the board and be required to contain the written consent of all landowners within only the proposed area of expansion or contraction.

(2) The(a) Subject to the limitations of paragraph (b) of this subsection, the district may be terminated or dissolved in one of the following ways:

(ai) The district may be terminated or dissolved upon the transfer of all the public improvement services of the district to a unit of local government. The district shall be terminated in accordance with a plan of termination which shall be adopted by the board of directors and filed with the clerk of the court.

(bii) If, within five (5) years after the effective date of the ordinance creating the district, a landowner has not received a development permit on some part or all of the area covered by the district, then the district will be automatically dissolved and a court of competent jurisdiction shall cause a statement to that effect to be filed in the public records.

(eiii) If the district has become inactive, the county or municipality that created the district shall be informed and shall take appropriate action.

(b) The district may not be dissolved or terminated if any bonds issued by the district, or bonds for which the district is obligated, are outstanding or are secured by special assessments or other security instruments to which the district is a party in connection with the bonds.

§ 19-31-45. Real estate sales within district; disclosure

After the establishment of a district under this chapter, each contract for the initial sale and instrument of conveyance of a parcel of real property and each contract for the initial sale of a

~~residential unit~~ within the district shall include, immediately before the space reserved in the contract and instrument of conveyance for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract and the instrument of conveyance: **“THE (Name of District) PUBLIC IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY ASSESSMENTS ON THIS PROPERTY. THESE ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.”**

§ 19-31-47. Recordation of notice of district establishment

Within thirty (30) days after the effective date of the ordinance establishing a public improvement district under this chapter, the district shall cause to be recorded in the sectional index and the subdivisioinal index, if applicable, in the land records in each county in which it is located a “Notice of Establishment of the _____ Public Improvement District.” The notice shall include the legal description of the district and a copy of the disclosure statement specified in this chapter.

§ 19-31-49. Liberal construction

This chapter, being necessary for the welfare of the state and its residents, shall be liberally construed to effectuate its purposes.

§ 19-31-51. Certificate of public convenience and necessity

- (1) No public improvement district established under this chapter shall provide any utility service described in Section 77-3-3(d) to or for the public for compensation without first obtaining a certificate of public convenience and necessity from the Public Service Commission.
- (2) Nothing contained in this section shall prohibit the Public Service Commission from issuing a certificate of public convenience and necessity to any person for service in uncertificated areas within public improvement district boundaries.
- (3) Notwithstanding any law to the contrary, water and/or sewer districts that petition the Public Service Commission for a certificate of public convenience and necessity for any uncertificated area shall give written notice by regular mail to all property owners located in such area, as reflected on the tax rolls of the county or counties at the time of filing the petition, at the address listed on the tax rolls of the county or counties within such area, and to public improvement districts and other public entities located in such area. Such notice shall give the property owners

and the governmental entities instructions on how they may appear before the Public Service Commission and make any objections or otherwise participate as an interested party-

This chapter shall be known and may be cited as the “Public Improvement District Act.”

§ 19-31-3. Legislative findings and intent

The Legislature finds that:

(a) There is a need for uniform, focused and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation and duration of independent districts to manage and finance basic public improvement services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive and economic way to deliver these basic services, thereby providing a solution to the state's planning, management and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening counties and municipalities and their taxpayers.

(b) It is the legislative intent and purpose to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance basic services for public improvements through the levy and collection of special assessments. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power and procedure for termination of any such independent district. It is further the purpose and intent of the Legislature that a district created under this act not have or exercise any zoning or permitting power. It is further the purpose and intent of the Legislature that no debt or obligation of a district shall constitute a burden on any local government without its consent.

§ 19-31-5. Definitions

As used in this chapter the following terms shall have the meanings ascribed to them in this section unless the context clearly requires otherwise:

(a) “Assessable improvements” means any public improvements and community facilities that the district is empowered to provide in accordance with this chapter.

(b) “Assessment bonds” means special obligations of the district that are payable solely from proceeds of the special assessments levied for an assessable project.

(c) “Board” or “board of directors” means the governing board of the district or, if such board has been abolished the board, body or commission succeeding to the principal functions thereof or to whom the powers given to the board by this chapter have been given by law.

(d) “Bond” includes certificate, and the provisions that are applicable to bonds are equally applicable to certificates. The term “bond” includes any assessment bond, refunding bond, revenue bond and other such obligation in the nature of a bond as is provided for in this chapter.

(e) “Public improvement district” or “district” means a special district that is created pursuant

to this chapter and limited to the performance of those specialized functions authorized by this chapter, the boundaries of which are contained wholly within a single county or two (2) or more contiguous counties; the governing head of which is a body created, organized and constituted and authorized to function specifically as prescribed in this chapter for the delivery of public improvement services; and the formation powers, governing body, operation, duration accountability, requirements for disclosure and termination of which are as required by general law.

(f) “Contribution agreement” means an agreement between a district and ~~the governing body of any governmental agency, county and/or municipality a public entity~~ whereby the ~~governing body public entity~~ agrees to provide financial or credit support in the form of cash, pledge, guaranty, or other enhancement, which agreement shall be approved by the Secretary of State pursuant to Section 19-31-23.

(g) “Cost,” when used with reference to any project, includes, but is not limited to:

- (i) The expenses of determining the feasibility or practicability of acquisition, construction or reconstruction.
- (ii) The cost of surveys, estimates, plans and specifications.
- (iii) The cost of improvements.
- (iv) Engineering, fiscal and legal expenses and charges.
- (v) The cost of all labor, materials, machinery and equipment.
- (vi) The cost of all lands, rights, servitudes and franchises acquired.
- (vii) Financing charges.
- (viii) The creation of initial reserve and debt service funds.
- (ix) Working capital.
- (x) Interest charges incurred or estimated to be incurred on money borrowed before and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.
- (xi) The cost of issuance of bonds pursuant to this chapter, including advertisements and printing.
- (xii) The cost of any election held pursuant to this chapter and all other expenses of issuance of bonds.
- (xiii) The discount, if any, on the sale or exchange of bonds.

(xiv) Administrative expenses.

(xv) Such other expenses as may be necessary or incidental to the acquisition, construction or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(h) “District manager” means the manager of the district.

(i) “District roads” means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges and thoroughfares of all kinds and descriptions.

(j) “Landowner” means the owner of land, including real property as it appears in the official records of the county, including a trustee, a private corporation or other entity, and an owner of a condominium unit.

(k) “Market value” means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal. Such value shall be determined in accordance with Section 27-35-50.

(l) “Project” means any development, improvement, property, utility, facility, works, enterprise or service undertaken after the passage of this chapter or established under the provisions of this chapter, including, but not limited to the following:

(1) Acquisition, construction, repair, renovation, demolition or removal of:

(i) Buildings and site improvements (including fixtures);

(ii) Potable and nonpotable water supply systems;

(iii) Sewage and waste disposal systems;

(iv) Storm water drainage and other drainage systems;

(v) Airport facilities;

(vi) Rail lines and rail spurs;

(vii) Port facilities;

(viii) Highways, streets and other roadways;

(ix) Fire suppression and prevention systems;

(x) Utility distribution systems, including, but not limited to, water, electricity, natural gas, telephone and other information and telecommunications facilities, whether by wire, fiber or wireless means; provided, however, that electrical, natural gas, telephone and telecommunication systems shall be constructed, repaired or renovated only for the purpose of completing the project and connecting to existing utility systems (this provision shall not be construed to prevent a city, county or natural gas district from

supplying utility service that it is authorized to supply in the service area that it is authorized to serve);

- (xi) Business, industrial and technology parks and the acquisition of land and acquisition or construction of improvements to land connected with any of the preceding purposes;
- (2) County purposes authorized by or defined in Sections 17-5-3 and 19-9-1, (except Section 19-9-1(f)); ~~and~~
- (3) Municipal purposes authorized by or defined in Sections 17-5-3, 17-17-301 et seq., 21-27-23, 21-33-301~~;~~.

(m) “Public entity” means any governmental agency, county or municipality, which enters into a contribution agreement with a district in accordance with this chapter.

(n) “Qualified voter” shall mean any landowner ~~of within~~ the district who is at least eighteen (18) years old ~~and upwards~~, or an authorized representative thereof who is also at least eighteen (18) years old ~~and upwards~~. If the landowner consists of more than one (1) person, or is a corporation, partnership, ~~LLC~~ limited liability company or any association or legal entity organized to conduct business, the landowners shall select one (1) person who is at least eighteen (18) years old to serve as the “qualified voter” for the group.

(o) “Revenue bonds” means obligations of the district that are payable from revenues derived from sources other than ad valorem taxes on real or personal property and that do not pledge the property, credit or general tax revenue of the district.

(p) “Sewer system” means any plant, system, facility or property, and additions, extensions and improvements thereto, useful or necessary in connection with the collection, treatment or disposal of sewage.

(q) “Water management and control facilities” means any lakes, canals, ditches, reservoirs, dams, levees, floodways, pumping stations or any other works, structures or facilities for the conservation, control, development, utilization and disposal of water, and any purposes incidental thereto.

(r) “Water system” means any plant system, facility or property, and additions, extensions, and improvements thereto, useful or necessary in connection with the development of sources, treatment or purification and distribution of water.

§ 19-31-7. Establishment procedure

(1) The method for the establishment of a public improvement district shall be pursuant to an ordinance adopted by the governing body of each county in which the land is located granting a petition for the establishment of a public improvement district. The petition for the establishment of a public improvement district shall be filed by the petitioner with the governing body of the county or counties. The petition shall contain:

- (a) A description of the boundaries of the district;

- (b) The written consent to the establishment of the district by all landowners in the district;
- (c) A designation of five (5) persons to be the initial members of the board of directors, who shall serve in that office until replaced by elected members as provided in Section 19-31-9;
- (d) The proposed name of the district; and
- (e) A map of the proposed district showing existing infrastructure, if any.
- (f) Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services.

(2) A public hearing on the petition shall be conducted by the governing body of each county of the proposed district within sixty (60) days after the petition is filed unless an extension of time is requested by the petitioners and granted by the governing body of each county. The hearing shall be held at an accessible location in each county in which the public improvement district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper having general circulation in each county at least once a week for the four (4) successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall be published in the official minutes of the local governing body.

(3) The governing body of each county shall consider the record of the public hearing and any other relevant factors in making its determination to grant or deny a petition for the establishment of a public improvement district.

(4) An ordinance establishing a public improvement district shall include the boundaries of the district, the names of the five (5) persons designated to be the initial members of the board of directors of the district and the name of the district.

(5) If all of the land in the area for the proposed district is within the territorial jurisdiction of a municipality, then the petition requesting establishment of a public improvement district under this chapter shall be filed by the petitioner with that particular municipality. In such event, the duties of the county with regard to the petition shall be the duties of the municipality. If any of the land area of a proposed district is within the land area of a municipality, the governing body of the county may not create the district without the approval of the municipality.

(6) The governing body of any governmental agency, county and/or municipality may enter into contribution agreements with the district.

§ 19-31-9. District board

(1) The board of the district shall exercise the powers granted to the district pursuant to this chapter. The board shall consist of five (5) members as otherwise provided in this section. Each member shall hold office for ~~a-an initial~~ term of ~~four-six (46)~~ years and until a successor is chosen and qualifies. The initial members of the board shall be residents of the state and at

least one (1) of the initial members shall be either a landowner within the district or an individual resident of the area immediately adjacent to the district. Upon appointment or election, the board members shall elect a chair who shall conduct board meetings.

(2) Beginning ~~four (4)~~six (6) years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified voter of the district, elected by the qualified voters of the district. There shall be an election of members every ~~four (4)~~six (6) years from the date of the ordinance establishing the district. The district manager shall determine the date and time of the election which election shall be held within twenty (20) days following the anniversary date of the ordinance. In the event a contribution agreement exists, then the governing body of the public entity that is a party to the contribution agreement may appoint one (1) of the five (5) members to the board of the district at the time of the election in lieu of electing that member.

(a) Candidates must qualify in writing by submitting a “Statement of Intent”, as prescribed in this section, to the district manager thirty (30) days prior to the election. The district manager shall prepare a ballot of all candidates qualified to run for office twenty (20) days prior to the election.

Statement of Intent

Candidate for *(insert name of district)* Public Improvement District

I, *(name of candidate as it will appear on the ballot)*,
(mailing address, street address, city, state, zip code, telephone number of the candidate)
 certify that I am a qualified voter, as defined in Miss. Code Ann. § 19-31-~~5~~, of the *(insert name of public improvement district)* Public Improvement District in the State of Mississippi; and do hereby declare my candidacy for Board of the *(insert name of public improvement district)* Public Improvement District at the election to be held on *(insert date of election)*.

(Signature of candidate) (Date)

Received by _____
(Signature) (Title) (Date)

(b) Notice of the election shall be announced at a public meeting of the board at least ninety (90) days before the date of the qualified voters' meeting and shall be published once a week for two (2) consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than fourteen (14) days nor more than twenty-eight (28) days before the election. In addition, notice of the election shall be sent by certified United States mail, return receipt requested, to all qualified voters at their last known address as shown on the tax rolls. Instructions on how all qualified voters may participate in the election, along with sample proxies, shall be provided as part of the notice required by this section, and the location, date and time of the qualified voters' meeting shall be included on all instructions and notices.

(c) Each qualified voter shall be entitled to cast only one (1) ballot to elect board members regardless of the number of parcels owned within the district. Parcels shall not be aggregated for determining the number of ballots allowed to be cast by a qualified voter. Each qualified voter shall register with the district manager no less than thirty (30) days prior to the election. A list of qualified voters in the form of a voter roll shall be kept current by the district manager and shall be deemed final thirty (30) days prior to the election.

(d) A qualified voter may vote in person or by proxy in writing. A vote cast by proxy must be submitted within fifteen (15) days prior to the election and shall be submitted in the form prescribed in this section. Each proxy must be signed by the qualified voter for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, and legal description of the property, or tax parcel identification number. The signature on a proxy need not be notarized. All votes cast by proxy shall be reflected in the voter roll.

Proxy for Election

(Name of Public Improvement District) Public Improvement District

I, _____, (name of landowner & qualified voter),

_____ (street address);
_____ (legal description);
_____ (tax parcel identification parcel)

[NOTE – this proxy must contain one of either the street address, legal description or tax parcel identification number to be considered.]

1. Do constitute and appoint _____ (name), attorney and agent for me, and in my name, place, and stead, to vote as my proxy for the election of members of the Board of Directors of the (name of district) Public Improvement District at the Qualified Voters meeting to be held beginning at 10:00 a.m. on (insert date), at the (insert voting location/facility name with street address); **OR (only choose one)**
2. Do hereby cast my vote for: _____ [print or type name of person being voted for – PLEASE NOTE THAT YOUR VOTE MUST BE FOR A QUALIFIED VOTER OF THE DISTRICT. A QUALIFIED VOTER MEANS ANY LANDOWNER OF THE DISTRICT WHO IS EIGHTEEN (18) YEARS OLD AND UPWARDS OR AN AUTHORIZED REPRESENTATIVE THEREOF WHO IS ALSO EIGHTEEN (18) YEARS OLD AND UPWARDS to be elected as a member of the Board of Directors of the (name of district) Public Improvement District for a term beginning (date of term), and ending four years from said date, or until a successor is chosen.

I understand that I have the right to revoke this proxy at any time prior to the election. I understand that I have the right to be present in person at the election.

I have executed this proxy on (insert date).

**(Printed Name of
Landowner/Qualified Voter)**

(Signature of Landowner/Qualified Voter)

(e) A qualified voter may cast only one vote for each of the five board member positions. When a qualified voter casts a vote for the same person more than once, only one of the votes cast for that person will be counted. When a qualified voter casts more votes to elect board members than he or she is entitled to cast, all votes are invalid and the qualified voter is deemed to have voted for none of them. When a qualified voter casts fewer votes to elect board members than he or she is entitled to cast, all votes cast by the qualified voter shall be counted but no votes shall be counted more than once.

(f) If a board member dies, resigns or is otherwise prevented from serving as a board member, the board of the district shall appoint a member to fill the remainder of the term. In the event no qualified voter is willing to serve on the board of the district, the governing body which established the district shall appoint members as necessary to fill any vacancy for the remainder of the term.

(3) Members of the board shall be known as directors and, upon entering into office, shall take an oath of office. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(4) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(5) As soon as practicable after each election or appointment, the board shall organize by electing one (1) of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(6) The board shall keep a permanent minute book in which shall be recorded minutes of all meetings, resolutions, ordinances, proceedings and all corporate acts.

(7) Members of the board may receive per diem compensation for services in an amount as provided under Section 25-3-69, and shall be entitled to expenses necessarily incurred in the discharge of their duties in accordance with Section 25-3-41. Any payments for compensation and expenses shall be paid from funds of the district.

§ 19-31-11. District manager; treasurer; depository

(1) The board shall employ and fix the compensation of a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible for (a) preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this chapter, (b) maintaining and operating the equipment owned by the district, and (c) for performing such other duties as may be prescribed by the board. The district manager may hire or otherwise employ and terminate the employment of such other persons including, without limitation, professional, supervisory and clerical employees, as may be necessary as authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board. The district manager, a board member or district employee may be a stockholder, officer or employee of a landowner.

(2) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order or pursuant to the resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the district shall be audited by an independent certified public accountant at least once a year.

(3) The board may select as a depository for its funds any qualified public depository as provided for under Sections 27-105-301 through 27-105-371.

§ 19-31-13. Budget

(1) The district shall comply with Sections 19-11-1 through 19-11-27, the County Budget Law.

(2) At least sixty (60) days before adoption of the annual budget, the district board shall submit to the local governing authorities having jurisdiction over the area included in the district for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations.

§ 19-31-15. Disclosure of information

The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information who shall provide each prospective initial purchaser of property in that development with a copy.

§ 19-31-17. District powers

The district shall have, and the board may exercise, the power:

- (a) To sue and be sued in the name of the district.
- (b) To adopt and use a seal and authorize the use of a facsimile thereof.
- (c) To acquire, by purchase, gift, devise or otherwise, and to dispose of, real and personal property.
- (d) To dedicate, donate or convey in any manner, real and personal property under such terms and conditions as may be agreed upon, to:
 - (i) Nonprofit entities that have been issued a certificate of public convenience and necessity by the Public Service Commission; or
 - (ii) Governmental entities.
- (e) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- (f) To contract for the services of consultants to perform planning, engineering, financial, legal, or other appropriate services of a professional nature.
- (g) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government or any person or any organization for any district purposes and enter into agreements required in connection therewith; and to hold, use and dispose of such monies or property for any district purposes in accordance with the terms of the gift, grant, loan or agreement relating thereto.
- (h) To adopt bylaws prescribing the powers, duties and functions of the officers of the district, the conduct of the business of the district and the maintenance of records.
- (i) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners. Meetings shall be held at such office or such other location as may be designated by the board.
- (j) To hold, control and acquire by donation, or purchase or dispose of, any public servitudes or dedications to public use and to make use of such servitudes or dedications for any of the purposes authorized by this chapter.
- (k) To lease as lessor or lessee to or from any person, firm, corporation, association, or body public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this chapter.

(l) To borrow money and issue bonds, certificates, warrants, notes or other evidence of indebtedness as provided in this chapter; to levy such special assessments as may be authorized; and to charge, collect and enforce fees and other user charges.

(m) To acquire property within the boundaries of the district for public use through condemnation, exercised pursuant to Sections 11-27-1 through 11-27-51, subject to the approval of the governing body of the county and/or the municipality that enacted the ordinance establishing the district.

(n) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to finance projects which fees and charges may be pledged to the payment of any bond or other indebtedness of the District and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(o) To cooperate with, contract, or enter into contribution agreements with, other governmental agencies, including the governing bodies of counties and/or municipalities, as may be necessary, convenient, incidental or proper in connection with any of the powers, duties or purposes authorized by this chapter.

(p) To determine, order, levy, impose, collect and enforce special assessments pursuant to this chapter.

(q) To enter into interlocal cooperative agreements pursuant to Section 17-13-1 et seq.

(r) To covenant with the holders of assessment bonds or other obligations that it will diligently and faithfully enforce and collect all the special assessments-, charges and fees, and interest and penalties thereon ~~for which such certificates of indebtedness or assessment liens have been deposited in or assigned to a special fund.~~

(s) To foreclose such assessment liens ~~so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, as provided in Section 19-31-35~~ after such assessment liens have become delinquent, ~~and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund.~~

(t) To exercise all of the powers necessary and proper in connection with any of the powers, duties or purposes authorized by this chapter.

§ 19-31-19. Special powers; systems, facilities, infrastructure

The district shall have, and the board may exercise, any or all of the special powers relating to public improvements and community facilities authorized by this act. The district shall have the power to finance, fund, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems, facilities, projects, and basic infrastructures that are within the district, or which benefit or serve the district for the following:

- (a) Water management and control for the lands within the district and connection of some or any of such facilities with roads and bridges.
- (b) Water supply, sewer and wastewater management, reclamation and reuse, or any combination thereof.
- (c) Bridges or culverts that may be needed across any drain, ditch canal, floodway, holding basin, excavation, public highway, tract, grade, fill or cut and roadways over levees and embankments.
- (d) District roads equal to or exceeding the specifications of the county in which such district roads are located, including street lights and the location of underground utilities.
- (e) Parks and facilities for indoor and outdoor recreational, cultural and educational uses, and other tourism related infrastructure and facilities.
- (f) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.
- (g) Security, except that the district may not exercise any police power, but may contract with the appropriate local governmental agencies for an increased level of such services within the district boundaries.
- (h) Waste collection and disposal.
- (i) Systems as defined in Section 21-27-11(b).

§ 19-31-21. Purchase, sale, dedication, donation or conveyance of water or wastewater utility

No public improvement district may purchase, sell, dedicate, donate or convey in any manner a water or wastewater utility that provides service to the public, or enter into a management contract for such facilities, until the board has held a public hearing on the purchase, sale, dedication, donation, conveyance or management contract and has made a determination that the purchase, sale or management contract is in the public interest.

§ 19-31-23. Indebtedness

(1) The district may issue and sell from time to time bonds, notes, negotiable notes, tax anticipation notes, bond anticipation notes, other fund anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, certificates of participation, debentures, warrants, commercial paper or other obligations or evidences of indebtedness to provide funds for and to fulfill and achieve its public purpose or corporate purposes, as set forth in this chapter, including, but not limited to, the payment of all or a portion of the costs of a project, to provide amounts necessary for any corporate purposes, including incidental

expenses in connection with the issuance of the obligations, the payment of principal and interest on the obligations of the district, the establishment of reserves to secure such obligations, and all other purposes and expenditures of the district incident to and necessary or convenient to carry out its public functions or corporate purposes, and any credit enhancement for such obligations.

(2) Prior to the issuance of bonds as provided in this chapter, the district shall hold a public hearing on the advisability of the indebtedness. Notice of the hearing must be published twice in a newspaper having general circulation in each county where the district is located. The final publication of notice must be at least ten (10) days prior to such public hearing. ~~The district shall give by United States certified mail return receipt requested, written notice of the public hearing to all qualified voters in the district. The notice shall be addressed to "Property Owner" and mailed by United States certified mail, return receipt requested, to the current address of the owner, as reflected on tax rolls of property located in the district.~~

(3) If a district proposes to enter into a contribution agreement with a public entity, the public entity shall hold a public hearing on the advisability of the contribution agreement. A public entity shall not enter into a contribution agreement with any district until receipt of a certificate of compliance from the Secretary of State pursuant to this section.

(a) Notice of the hearing must be published twice in a newspaper having general circulation in each county where the public entity is located. The final publication of notice must be at least ten (10) days before such public hearing. The public entity shall also give by United States certified mail, return receipt requested, written notice of the public hearing to the Public Lands Division of the Office of the Secretary of State.

(b) The notice must state the following:

- (i) time and place of the hearing;
- (ii) general nature of the proposed improvement;
- (iii) estimated cost of the improvement;
- (iv) boundaries of the public improvement district;
- (v) proposed method of assessment; and
- (vi) proposed amount and term of indebtedness.

(c) The hearing may be adjourned from time to time until the governing body of the public entity makes findings by resolution as to the:

- (i) advisability of the improvement;
- (ii) nature of the improvement;
- (iii) estimated cost of the improvement;
- (iv) boundaries of the public improvement district;
- (v) method of assessment;
- (vi) market value of real property within the district; and
- (vii) terms of the contribution agreement.

(d) As provided in Section 19-31-23(3)(c)(vi), the governing body of the public entity shall obtain an appraisal to determine that the true value of real property following the completion of the improvements, ~~including but not limited to the project, within the district will be at least four times the principal amount of all new and existing debt secured by assessments.~~ The appraisal shall satisfy all parties to the contribution agreement and the Secretary of State that the value of the property in the district will be sufficient to ensure payment of any obligation to which a public entity is subject.

(4) Following adoption of the resolution by the governing body of the public entity, the public entity shall provide to the Secretary of State an application for approval and shall certify that it has complied with Sections 19-31-23(3)~~(4)~~. Within thirty (30) days of the district providing to the Secretary of State an application for approval and certification that it has complied with Sections 19-31-23(3)~~(4)~~, the Secretary of State shall issue to the district a certificate of compliance or a letter of noncompliance.

Any district which receives a letter of noncompliance from the Secretary of State may obtain review in the chancery court of any county where the district is located, by filing in court, within thirty (30) days after receipt of the letter, a written petition praying that the letter be modified, granted, or set aside in whole or in part. A copy of the petition shall be forthwith served upon the Secretary of State and thereupon the Secretary of State shall certify and file in court a copy of the petitioner's application for approval of the contribution agreement and certification that it has complied with Sections 19-31-23(3)~~(4)~~. When these have been filed, the court has exclusive jurisdiction to affirm, grant, modify, enforce or set aside the letter, in whole or in part.

(5) Except as may otherwise be provided by the district, all obligations issued by the district shall be negotiable instruments and payable solely from the levy of any special assessment by the district or from any other sources whatsoever that may be available to the district but shall not be secured by the full faith and credit of the state or the county or municipality that created the district.

(6) Obligations shall be authorized, issued and sold by a resolution or resolutions of the district adopted as provided in this chapter. Such bonds or obligations may be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, including variable, adjustable, or zero interest rates, be payable at such time or times, be in such denominations, be sold at such price or prices, at public or private negotiated sale, after advertisement as is provided for in Section 17-21-53(2) for and in connection with any public sale, be in such form, carry such registration and exchangeability privileges, be payable at such place or places, be subject to such terms of redemption and be entitled to such priorities on the income, revenue and receipts of, or available to, the district as may be provided by the district in the resolution or resolutions providing for the issuance and sale of the bonds or obligations of the district.

(7) The obligations of the district shall be signed by such directors or officers of the district by either manual or facsimile signatures as shall be determined by resolution or resolutions of the

district, and shall have impressed or imprinted thereon the seal of the district or a facsimile thereof.

(8) Any obligations of the district may be validly issued, sold and delivered notwithstanding that one or more of the directors or officers of the district signing such obligations or whose facsimile signature or signatures may be on the obligations shall have ceased to be such director or officer of the district at the time such obligations shall actually have been delivered.

(9) Obligations of the district may be sold in such manner and from time to time as may be determined by the district to be most beneficial, and the district may pay all expenses, premiums, fees or commissions that it deems necessary or advantageous in connection with the issuance and sale thereof, subject to the provisions of this chapter.

(10) The district may authorize the establishment of a fund or funds for the creation of a debt service reserve, a renewal and replacement reserve or such other funds or reserves as the district may approve with respect to the financing and operation of any project and as may be authorized by any bond resolution, trust agreement, indenture of trust or similar instrument or agreement pursuant to the provisions of which the issuance of bonds or other obligations of the district may be authorized.

(11) Notwithstanding any other law to the contrary, but subject to any agreement with bondholders or noteholders, monies of the district not required for immediate use, including proceeds from the sale of any bonds, notes or other obligations, may be invested in:

- (a) Obligations of any municipality, the State of Mississippi or the United States of America;
- (b) Obligations the principal and interest of which are guaranteed by the State of Mississippi or the United States of America;
- (c) Obligations of any corporation wholly owned by the United States of America;
- (d) Obligations of any corporation sponsored by the United States of America which are, or may become, eligible as collateral for advances to member banks as determined by the Board of Governors of the Federal Reserve System;
- (e) Obligations of insurance firms or other corporations whose investments are rated "A" or better by recognized rating companies;
- (f) Certificates of deposit or time deposits of qualified depositories of the State of Mississippi as approved by the State Depository Commission, secured in such manner, if any, as the commission determines appropriate;
- (g) Contracts for the purchase and sale of obligations of the type described in paragraphs (a) through (e) of this subsection;
- (h) Repurchase agreements secured by obligations described in paragraphs (a) through (e) of this subsection; and
- (i) Money market funds, the assets of which are required to be invested in obligations described in paragraphs (a) through (f) of this subsection.

(12) Any cost, obligation or expense incurred for any of the purposes specified in this chapter shall be a part of the project costs and may be paid or reimbursed as such out of the proceeds of bonds or other obligations issued by the district.

(13) Neither the directors of the board nor any person executing the bonds shall be personally liable for the bonds or be subject to any personal liability by reason of the issuance thereof. No earnings or assets of the district shall accrue to the benefit of any private persons. However, the limitation of liability provided for in this subsection shall not apply to any gross negligence or criminal negligence on the part of any director or person executing the bonds.

(14) The district may avail itself of the provisions of Sections 31-13-1 through 31-13-11.

(15) This chapter constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the board or any board, officers, commission, department, agency or instrumentality of the district, other than those required by this chapter, shall be required to perform anything under this chapter, except that the issuance or sale of bonds pursuant to the provisions of this chapter shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this chapter shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(16) Before incurring any debt as provided in subsection (1) of this section, the district may, but shall not be required to, secure an agreement from one or more developers obligating such developer or developers:

- (a) To effect the completion of all or any portion of a project at no cost to the district;
- (b) To pay all or any portion of the real property taxes due on the project in a timely manner; and
- (c) To maintain and operate all or any portion of the buildings or other facilities or improvements of the project in such a manner as to preserve property values.

No breach of any such agreement shall impose any pecuniary liability upon a district or any charge upon its general credit or against its taxing powers.

Additionally, the district may enter into an agreement with the developer under which the developer may construct all or any part of the project with private funds in advance of issuance of bonds and may be reimbursed by the district for actual costs incurred by the developer upon issuance and delivery of bonds and receipt of the proceeds, conditioned upon dedication of the project by the developer to the district, a governmental agency, a county or a municipality to assure public use and access. This condition shall not apply to the privately owned portion of a project for which the Mississippi Development Authority has issued a certificate of convenience and necessity pursuant to the Regional Economic Development Act.

As used in this section, the term “developer” means any entity or natural person which enters into an agreement with a district whereby the developer agrees to construct, operate and maintain or procure the construction, operation and maintenance of a project or projects, or

portions thereof, upon land within the district.

§ 19-31-25. Pledges

Any pledge made by the district shall be valid and binding from time to time when the pledge is made without the need for physical delivery of any pledged property. The money, assets or revenues of the district so pledged and thereafter received by the district shall be immediately subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed in order to establish and perfect a lien or security interest in the property so pledged by the district.

§ 19-31-27. Public and governmental purpose; tax exemption

It is hereby determined that the creation of the district and the carrying out of its public functions and corporate purposes is, in all respects, a public and governmental purpose for the benefit of the people of the state and for the improvement of their health, safety, welfare, prosperity and security, that such functions and purposes are public purposes and that the district will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. All obligations authorized to be issued by the district pursuant to the provisions of this chapter, together with interest thereof, income therefrom, and gain upon the sale thereof shall be exempt from all state and local taxes.

§ 19-31-29. Bonds; obligation; content; effect of issuance

Bonds issued under the provisions of this chapter shall be limited obligations of the district payable solely from the sources pledged for the payment thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the full faith and credit of the state nor the full faith and credit of any governmental unit of the state are pledged to the payment of the principal of or the interest on such bonds. Except as provided in a contribution agreement, the issuance of bonds under the provisions of this chapter shall not directly, indirectly or contingently obligate the state or any governmental unit of the state to levy any taxes or to make any appropriation for their payment arising out of contracts authorized under this chapter.

§ 19-31-31. Authorized investment

The state and all public officers, any county, municipality or other subdivision or instrumentality of the state, any political subdivision, any bank, banker, trust company, savings bank and institution, building and loan association, savings and loan association, investment company or any person carrying on a banking or investment business, any insurance company or business, insurance association and any person carrying on an insurance business, any executor, administrator, curator, trustee and other fiduciary, and any retirement system fund may legally invest any sinking funds, monies or other funds belonging to them or within their control in any bonds or other obligations issued by the district pursuant to the provisions of this

chapter, and such bonds or other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize such persons, firms, corporations, associations, political subdivisions and officers, or other entities public or private, to use any funds owned or controlled by them, including but not limited to sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations of the district and that any such bonds shall be authorized security for all public deposits. However, nothing contained in this section with regard to legal investments or security for public deposits shall be construed as relieving any such person, firm, corporation or other entity from any duty of exercising reasonable care in selecting securities.

§ 19-31-33. Assessments

(1) The board shall annually determine, order and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects that are levied under this chapter. These assessments may be due and collected during each year that county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the assessor by the board not later than August 31 of each year. Such assessments shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes. All statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(2) To maintain and preserve the facilities and projects of the district, the board shall levy a maintenance special assessment. This assessment may be evidenced by and certified to the assessor by the board of directors not later than August 31 of each year and shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes and all statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the benefit special assessments levied under this section. The amount of the maintenance special assessment for the exercise of the district's powers under this chapter shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(3) Benefit special assessments and maintenance special assessments authorized by this section shall be levied and payable in annual installments for each year for which bonds secured by the assessment are outstanding. The tax collector shall collect and enforce benefit special assessments and maintenance special assessments in the same manner and at the same time as ad valorem taxes. Benefit special assessments and maintenance special assessments shall constitute a lien on the property against which assessed until paid and shall be on a parity with the lien of state, county, municipal and school board property taxes.

(4) The tax assessor and tax collector are entitled to reasonable compensation for preparing the rolls and collecting the assessments.

(5) District assessments may be made payable in no more than forty (40) yearly installments. Benefit special assessments shall be prepayable. Such prepayment of benefit special assessments shall be credited against the payor's pro rata share of principal and interest of the indebtedness.

§ 19-31-35. Lien enforcement [Needs to be considered further]

Any lien in favor of the district ~~arising under this chapter established in accordance with Section 19-31-33~~ may be enforced by the district in a court of competent jurisdiction as provided by law. Such proceedings may be brought at any time after the expiration of one (1) year from the date any ~~tax assessment~~ or installment thereof becomes delinquent. The board of the district may commence proceedings to foreclose on the land as follows:

(1) The board shall send a letter, United States certified mail, return receipt requested, to the last known address of the land owner. The address of the land owner as shown in the tax assessment records of the tax assessor for the county or the district in which the property is located shall be sufficient.

(2) The letter shall specify that if payment is not made within ten (10) days of the date of the letter, foreclosure proceedings may be commenced.

(3) Any late payment received within the ten (10) day period will accrue a late fee of the greater of five percent of the payment or one hundred fifty dollars (\$150).

(4) If payment is not made within the ten (10) day period, the entire assessment shall become immediately due and payable, and the board may do either of the following:

(a) File a complaint in the chancery court for the county in which the property is located requesting that the property be foreclosed. Thirty days following service of process, unless the entire assessment is paid ~~in the meantime~~, the court shall enter a decree declaring that the property shall be sold to the highest bidder.

(b) Proceed to sell the property against which the assessment is made to the highest bidder for cash.

(c) In either case, the sale shall be made after first giving public notice of the date and time of the sale and the purpose for which the same is made, together with a description of the property to be sold; and that the proceeds from the sale shall first be applied to the amount of the assessment and all accrued interest thereon, plus penalties specified in subdivision (3), plus the attorneys' fees and other expenses incurred by the board in the foreclosure and suit.

(5) If the agent concludes that no bidders are present or that all bids are insufficient, the agent may announce that the auction shall be continued to a later date to be announced by public notice.

(6) Upon declaring the highest bidder and receipt of the purchase price, an agent of the board shall ~~make out prepare~~ a foreclosure deed to the highest bidder. The owner of the property shall have no right of redemption unless otherwise provided in the board's proceedings with respect to the assessment.

(7) The purchase price shall be used first for the payment of the assessment, then for the cost of collection, suit, foreclosure, and deed preparation, then for penalties, then for accrued interest and interest until the next principal payment date of bonds as provided in this chapter with respect to prepayments of assessments, and then for the unpaid principal amount of the assessment, and any remaining portion shall be paid to the owner of the land at the owner's last known address as shown in the records of the tax assessor with respect to such tract of land.

(8) The board may bid on any sale the same as any other person, and may credit any portion of the assessment and other costs as a part of its bid.

~~(9) If the highest amount bid and accepted is insufficient to pay the entire assessment, the board and holders of the bonds shall have no further claim against the owner of the land assessed by virtue of the assessment.~~

~~(9)~~(10) Any foreclosure deed shall make no warranty with respect to the title to the land other than as expressly stated therein.

~~(11)~~(10) At any point in the foreclosure proceedings, until a bid is accepted, the board may waive the default on terms as it may consider proper and reinstate the assessment, subject to any contrary terms of the board's proceedings with respect to the bonds.

§ 19-31-37. District construction and purchases; law governing

The district shall comply with the provisions of Section 31-7-1 et seq., regarding the construction of public works or the purchase of materials or supplies.

§ 19-31-39. Rates, fees, rentals, and other charges

(1) The district may prescribe, fix, establish and collect rates, fees, rentals or other charges for the facilities and services furnished by the district, within the limits of the district, including but not limited to recreational facilities, water management and control facilities and water and

sewer systems. The district may also recover the costs of making connection with any district facility or system and provide for reasonable penalties against any user or property for any such rates, fees, rentals or other charges that are delinquent.

(2) No such rates, fees, rentals or other charges for any of the facilities or services of the district may be fixed until after a public hearing at which all the users of the proposed facility or services shall have an opportunity to be heard concerning the proposed rates, fees, rentals or other charges. Notice of such public hearing setting forth the proposed schedule of rates, fees, rentals and other charges shall be published in a newspaper having general circulation in each county where the district is located once at least ten (10) days before such public hearing.

§ 19-31-41. Payment enforcement authority

The district shall provide by ordinance with respect to nonpayment, delinquency charges and discontinuance of service for water and sewer services provided by the district.

§ 19-31-43. District boundaries; dissolution

(1) The boundaries of the district may be contracted or expanded in the same manner in which the district was created pursuant to this chapter; however, the petition shall be filed by the board and be required to contain the written consent of all landowners within only the proposed area of expansion or contraction.

(2) (a) Subject to the limitations of paragraph (b) of this subsection, the district may be terminated or dissolved in one of the following ways:

(i) The district may be terminated or dissolved upon the transfer of all the public improvement services of the district to a unit of local government. The district shall be terminated in accordance with a plan of termination which shall be adopted by the board of directors and filed with the clerk of the court.

(ii) If, within five (5) years after the effective date of the ordinance creating the district, a landowner has not received a development permit on some part or all of the area covered by the district, then the district will be automatically dissolved and a court of competent jurisdiction shall cause a statement to that effect to be filed in the public records.

(iii) If the district has become inactive, the county or municipality that created the district shall be informed and shall take appropriate action.

(b) The Following establishment of the district with no timely appeal therefrom, no district may ~~not~~ be dissolved or terminated if any bonds issued by ~~the-such~~ district, or bonds for which ~~the-such~~ district is obligated, are outstanding or are secured by special assessments or other security instruments to which the district is a party in connection with ~~the-such~~ bonds.

(c) No non-substantive defect in such petition shall effect the contraction or expansion of the district.

§ 19-31-45. Real estate sales within district; disclosure

After the establishment of a district under this chapter, each contract and instrument of conveyance of a parcel of real property within the district shall include, immediately before the space reserved in the contract and instrument of conveyance for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract and the instrument of conveyance: **“THE (Name of District) PUBLIC IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY ASSESSMENTS ON THIS PROPERTY. THESE ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.”**

Provided that the failure to provide the above language does not and will not be deemed to invalidate any assessment levied by the district or any such contract and instrument of conveyance of such real property.

§ 19-31-47. Recordation of notice of district establishment

Within thirty (30) days after the effective date of the ordinance establishing a public improvement district under this chapter, the district shall cause to be recorded in the sectional index and the subdivisional index, if applicable, in the land records in each county in which it is located a “Notice of Establishment of the _____ Public Improvement District.” The notice shall include the legal description of the district and a copy of the disclosure statement specified in this chapter.

§ 19-31-49. Liberal construction

This chapter, being necessary for the welfare of the state and its residents, shall be liberally construed to effectuate its purposes.

§ 19-31-51. Certificate of public convenience and necessity

(1) No public improvement district established under this chapter shall provide any utility service described in Section 77-3-3(d) to or for the public for compensation without first obtaining a certificate of public convenience and necessity from the Public Service Commission.

(2) Nothing contained in this section shall prohibit the Public Service Commission from issuing a certificate of public convenience and necessity to any person for service in uncertificated areas within public improvement district boundaries.

(3) Notwithstanding any law to the contrary, water and/or sewer districts that petition the Public Service Commission for a certificate of public convenience and necessity for any uncertificated area shall give written notice by regular mail to all property owners located in such area, as reflected on the tax rolls of the county or counties at the time of filing the petition, at the address listed on the tax rolls of the county or counties within such area, and to public improvement districts and other public entities located in such area. Such notice shall give the property owners and the governmental entities instructions on how they may appear before the Public Service Commission and make any objections or otherwise participate as an interested party