MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Representatives Buck, Gadd, Woods

To: Local and Private Legislation

HOUSE BILL NO. 1599

AN ACT TO AMEND CHAPTER 958, LOCAL AND PRIVATE LAWS OF 2003, TO REVISE THE BOUNDARIES OF THE CHICKASAW TRAIL ECONOMIC DEVELOPMENT AREA IN MARSHALL COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Chapter 958, Local and Private Laws of 2003, is amended as follows:

Section 1. The purpose of this act is to promote the development of certain undeveloped rural areas in Marshall County, Mississippi, described in Section 3 of this act, and to authorize the Industrial Development Authority of Marshall County, Mississippi, to develop public and private partnerships to facilitate the economic growth of the area by providing developed sites for the location and construction of manufacturing plants, distribution facilities, research facilities, regional and national offices with supportive services and facilities.

Section 2. Whenever used in this act, the following words and terms shall have the following respective meanings unless a different meaning clearly appears from the context:

(a) "Authority" means the Industrial Development Authority of Marshall County, Mississippi, created pursuant to Chapter 869, Local and Private Laws of 1983, as amended.

(b) "Bonds" means either revenue bonds, bond anticipation notes, or other types of debt instruments issued by the authority unless the reference to bonds clearly indicates which type of bonds are being referred to, such as "revenue bonds," "general obligation bonds," "bond anticipation notes" or other specific forms of debt instruments.

(c) "Cost of project" means all costs of site preparation and other start-up costs; all costs of construction; all costs of real and personal property acquired for the purposes of the development area and facilities related thereto, including land and any rights or undivided interest therein, easements, franchises, fees, permits, approvals, licenses and certificates and the securing of such permits, approvals, licenses and certificates; all machinery and equipment, including any cost associated with financing charges and interest before and during construction and during such additional period as the authority reasonably may determine to be necessary for the placing of the project in operation; costs of engineering, geotechnical, architectural and legal services; costs of plans, testing, development and specifications and all expenses necessary or incident to determining the feasibility or practicability of the project; administrative expenses; and all expenses as may be necessary or incidental to the financing. The costs of the project also may include funds for the creation of a debt service reserve, a renewal and replacement reserve, and such other reserves as may be reasonably required by a specific bond issue for the operation of its projects and as may be authorized by bond resolution or trust agreement or indenture under the provisions of which the issuance of any such bonds may be authorized. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the project and may be paid or reimbursed out of the proceeds of user fees, of revenue bonds or notes issued for such project, or from other revenues obtained by the authority.

(d) "County" means Marshall County, Mississippi.

(e) "Development area" means the Chickasaw Trail Economic Development Area described in Section 3 of this act.

(f) "Enterprise" means any for profit or nonprofit venture, business, service provided, industrial facility or

utility located within the development area under any agreement or contract with the authority.

(g) "Facilities" means any plant, structure, building, improvement, land or any other real or personal property of the authority or used or useful in a project under this act.

(h) "Governing body" means the elected or duly appointed officials constituting the governing body of a municipality or county.

(i) "Municipality" means any incorporated city or town within the county.

(j) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision or any other group acting as a unit, and the plural as well as the singular.

(k) "Project" means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, United States or state government or tourism enterprise, facility or service, together with all real property required for construction, maintenance and operation of the enterprise together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise, or any addition to or expansion of an existing enterprise.

(l) "Property owner group" means those property owners who have sold, leased or allowed the use of their land or otherwise entered into an agreement for the development of a project or facilities thereof as a part of the development area.

(m) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district; and

(iii) Any department, commission, agency or instrumentality of the United States of America.

(n) "Related facility" means any facility related to a project and includes any of the following, as the same may pertain to the project of the authority within the development area:

(i) Facilities to provide utilities, as defined herein;

(ii) Airports, airfields and air terminals;

(iii) Rail lines;

(iv) Highways, streets and other roadways;

(v) Conference centers, classrooms and instructional facilities, including any functionally related facilities;

(vi) Parks and outdoor recreation facilities;

(vii) Auditoriums, pavilions, art centers, cultural centers, office complex and other public facilities; and

(viii) Public or private health care facilities.

(o) "Revenues" means all rentals, receipts, income and other charges derived or received or to be derived or received by the authority from any of the following: the operation by the authority of a facility or facilities, or a part thereof; the sale, including installment sales or conditional sales, lease, sublease or use or other disposition of any property or facility or portion thereof; the sale, lease or other disposition of recovered resources; contracts, agreements or franchises with respect to a facility or portion thereof, with respect to recovered resources, or with respect to a facility or portion thereof and recovered resources, including, but not limited to, charges with respect to the management of any project received

with respect to a facility; income received as a result of the sale or other disposition of recovered resources, services or utilities; any gift or grant received with respect thereto; proceeds of bonds to the extent of use thereof for payment of principal or premium, if any, or interest on the bonds as authorized by the authority; proceeds from any insurance, condemnation or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of a facility; income and profit from the investment of the proceeds of bonds or of any revenues and the proceeds of any special tax to which it may be entitled.

(p) "State" means the State of Mississippi.

(q) "Unit of local government" means the county or a municipality within the county.

(r) "Utility" or "utilities" means potable and industrial water supply systems and sewage and water disposal systems.

Section 3. The authority is authorized and empowered to create the Chickasaw Trail Economic Development Area. Such area shall be composed of the following described area in Marshall County, Mississippi:

Beginning at a point at the intersection of Rabbit Ridge Road and Highway 178; thence in a Northerly direction to the Southwest Corner of Section 32, Township 2, Range 4 West; thence North following said section line and following said section lines * * * to the Coldwater River; thence in a Westerly direction following the Coldwater River to the Marshall-DeSoto County line; thence North following the county line to the Mississippi-Tennessee stateline; thence * * * east following said stateline to the northeast corner of Section 15, Township 1, Range 3 West; thence south following said section line and following successive

section lines south to the Coldwater River; thence in a Westerly direction following the Coldwater River to the intersection of the Coldwater River and Red Banks Road; thence in a Southerly direction following said Red Banks Road to the intersection with Highway 178; thence in a Westerly direction following Highway 178 to the point of beginning.

Section 4. It shall be the duty of the authority in general to promote, encourage and coordinate efforts to secure the development of the Chickasaw Trail Economic Development Area. Toward this end, the authority shall have power to hold hearings; to conduct studies and surveys of all problems, benefits and any other matter associated with the development of the Chickasaw Trail Economic Development Area, and to make reports thereon; to acquire, by gift or otherwise, and hold and dispose of such money and property as may be provided for the proper performance of their function; to cooperate with other public or private groups, whether local, state, regional or national having an interest in economic development; to formulate and execute plans and policies for emphasizing the purpose of this act before appropriate officers and agencies of the United States and of the State of Mississippi; and to exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the development of the Chickasaw Trail Economic Development Area and to carry out the purposes of this act.

Section 5. In addition to the powers conferred on the authority by Chapter 869, Local and Private Laws of 1983, as amended, the authority is conferred such powers as may be deemed necessary to carry out the purposes of this act, including the following:

(a) To sue and be sued in its own name.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and

such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To borrow money and to issue bonds, notes and other evidence of indebtedness, without the authority to levy ad valorem taxes, for any of its purposes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof.

(d) To invest any monies of the authority, including proceeds from the sale of any bonds subject to any agreements with bondholders, on such terms and in such manner as the authority deems proper.

(e) To exercise any one or more of the powers, rights and privileges under this act, either alone or jointly or in common with one or more other public or private parties. In any such exercise of such powers, rights and privileges jointly or in common with others for the development, construction, operation and maintenance of facilities within the development area, the authority may own an undivided interest in such facilities with any other party, public or private, with which it may jointly or in common exercise the rights and privileges conferred by this act and may enter into an agreement or agreements with respect to any such facility with the other party or parties, public or private, participating therein, including development agreements, joint ventures and real estate investment trusts. An agreement may contain such terms, conditions and provisions, consistent with this paragraph, as the parties thereto shall deem to be in their best interest, including, but not limited to, provisions for the construction, operation and maintenance of such facility by any one or more parties to such agreement. The party or parties may be designated in or under such agreement as agent or agents on behalf of itself and one or more of the other parties thereto, or by such other means as may be determined by the parties thereto, and including provisions for a method or methods of determining

and allocating, among or between the parties, costs of construction, operation, maintenance, renewals, replacements and improvements related to such facility. In carrying out its functions and activities as the agent with respect to construction, operation and maintenance of such a facility, the agent shall be governed by the laws and regulations applicable to the agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating parties. The agent shall act for the benefit of the public. Under any such agreement, the authority may delegate its powers and duties related to the construction, operation and maintenance of such facility to the party acting as agent and all actions taken by such agent in accordance with the agreement may be binding upon the authority without further action or approval of the authority.

(f) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(g) To apply for, accept and utilize grants, gifts, donations and other funds or aid from any source for any purpose contemplated by this act, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

(h) To acquire by purchase, lease, gift, investment, trade, exchange or in other manner, as may be authorized under this act, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal or mixed or easement therein or any interest or estate therein, within the development area, necessary for the project or any facility related to the project.

(i) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(j) To enter into a development agreement with any public agency, private firm or person for the development of the development area, development area property, or any portion thereof upon such terms as the parties might agree to carry out the purposes of this act.

(k) To negotiate, with the proper governmental agency or regulated utility or transportation provider, any necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or an agreement is made with such owners regarding the payment of the cost of such relocation.

(l) To enter into joint agreements, development agreements or other agreements with any person or participant in a joint venture with any private firm, person or public agency to form and participate in real estate investment trusts and limited liability partnerships, joint ventures, joint ownerships and agreements for the construction and operation of any project of the authority with the development area.

(m) To construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate any and all components of the project or any facility related to a project, subject to the concurrence and approval of the affected public agency, within the development area, necessary to the project and to the exercise of such powers, rights and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o) To lease, sell, mortgage, pledge, trade, exchange or otherwise convey any or all property acquired by the authority

under the provisions of this act to the enterprise, its successors or assigns, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that the property shall revert to the authority if, as and when the property is declared by the enterprise to be no longer needed.

(p) To enter into an agreement with the county and units of local government adjoining the development area to promote, develop, contract or operate projects which will contribute to the economic development of the area.

(q) To enter into contracts with any private firm, person or public agency, including, but not limited to, in furtherance of any of the purposes authorized by this act upon such consideration as the authority and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(r) To establish and maintain reasonable rates and charges for the use of any facility within the development area owned or operated by or under the authority, or services provided by the authority and, from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(s) To adopt and enforce exclusively all necessary and reasonable rules and regulations to carry out and effectuate the implementation of this act, the purpose of the authority and any project and any land use plan classification adopted for the development area, including, but not limited to, rules, regulations, zoning and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the authority or any project. However, the exercise of this power shall not conflict with the provisions of Section 6, subsection (2).

(t) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by a project or any facility related to a project.

(u) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to a project to generate opportunities for commercial development within the development area.

(v) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula and training programs within the development area.

(w) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the development area.

(x) To do any and all things necessary or proper for the accomplishment of the objectives of this act and to exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the Constitution and laws of this state, including the power to employ professional and administrative staff and personnel and to retain legal, engineering, fiscal, accounting and other professional services;

the power to purchase all kinds of insurance, including without limitations, insurance against tort liability and against risks of damage to property; and the power to act as self-insurer with respect to any loss or liability.

Section 6. (1) The authority may adopt and promulgate all reasonable rules and regulations regarding the operation of the development area, its projects, and the specifications and standards relating to the construction, operation and maintenance of any facility.

(2) The authority shall have the authority to comment upon and review, prior to any approval by units of local government, the development of any land use or planning or the promulgation of land use restrictions, regulations or zoning ordinance which applies to the land use within the development area.

Section 7. (1) The authority is empowered and authorized, from time to time, to issue bonds in such principal amounts as shall be necessary to provide sufficient funds for achieving any of its purposes, including without limiting the generality of the foregoing, the financing of the acquisition, construction, improvement of facilities or any combination thereof, the payment of interest on bonds of the authority, establishment of reserves to secure such bonds, expenses incident to the issuance of such bonds, including bond insurance and to the implementation of programs or projects, and any other capital expenditures but not operating costs of the authority incident to or necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue such types of bonds or notes, in its discretion, subject only to any agreement with the holders of particular bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenues derived from one or more facilities under the contracts entered into by public agencies, and other persons, or any combination of any of the foregoing, or which may be secured by a

pledge or any grant, subsidy or contribution from any public agency or other person, or a pledge of an income or revenues, funds or monies of the authority from any source whatsoever, except that the authority may not issue bonds or notes that are secured by ad valorem taxes.

(3) Bonds shall be authorized by a resolution or resolutions of the authority. Such bonds shall bear such date or dates, mature at such time or times (either serially, term or a combination thereof), bear interest at such rate or rates, be in such denomination or denominations, be in such registered form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner and by such officers, be payable from sources other than ad valorem taxes, in such medium of payment at such place or places within or without the state, provided that one such place shall be within the state, be subject to such terms of redemption before maturity, all as may be provided by resolution or resolutions of the authority.

(4) Any bonds of the authority may be sold at such price or prices, at public or private sale, in such manner and at such times as may be determined by the authority to be in the public interest, and the authority may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof.

(5) Any pledge of earnings, revenues or other monies made by the authority shall be valid and binding from the time the pledge is made and the earnings, revenues or other monies so pledged and thereafter received by the authority immediately shall be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority regardless of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(6) Neither the board members of the authority nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(7) Whenever any bonds shall have been signed by the officers of the authority designated by resolution of the authority to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the manual or facsimile signatures of such officers upon such bonds and the coupons appertaining thereto, shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially executing such bonds had remained in office until the delivery of the same to the purchaser or had been in office on the date such bonds may bear.

(8) The bonds issued by the authority under this act shall be limited obligations of the authority. The principal, interest and redemption premium, if any, shall be payable solely out of the monies to be derived by the authority from the development area. Revenue bonds and interest coupons issued under authority of this act shall never constitute an indebtedness of the state or any county or municipality within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of a county or municipality or the state, or a charge against its general credit or taxing powers, and such fact shall be plainly stated on the face of each bond.

Section 8. (1) Pending the issuance of revenue bonds by the authority, the authority may make temporary borrowings not to exceed two (2) years in anticipation of the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable prior to the issue of bonds. To provide for

such temporary borrowings, the authority may enter into any purchase, loan or credit agreement, or agreements or other agreement or agreements with any banks or trust companies or other lending institutions, investment banking firms or persons in the United States having power to enter into the same.

(2) All temporary borrowings made under this section shall be evidenced by notes of the authority which shall be issued, from time to time, for such amounts, in such form and in such denominations and subject to terms and conditions of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the authority shall authorize and direct. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund, upon issuance thereof, such notes, and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the authority may determine and direct.

Section 9. The authority may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the authority deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereof, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments.

Section 10. The authority shall have power in the issuance of its bonds to:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, to covenant for their redemption and to provide the terms and conditions thereof.

(c) Covenant to charge rates, fees and charges sufficient to meet operating and maintenance expenses, renewals and replacements, principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability of the bonds.

(d) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of bondholders.

(e) Covenant as to the mortgage or pledge of or the grant of a security interest in any real or personal property and all or any part of the revenues from any facilities or any revenue-producing contract or contracts made by the authority with any person to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist.

(f) Covenant as to the custody, collection, securing, investment and payment of any revenue assets, monies, funds or property with respect to which the authority may have any rights or interest.

(g) Covenant as to the purpose to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds.

(h) Covenant as to the limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(i) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(k) Covenant as to the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds.

(l) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers and duties in trust as the authority may determine.

(m) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state.

(n) Make all other covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds without a pledge of ad valorem taxes, or in the absolute discretion of the authority tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds and in the provisions for security thereof which are not inconsistent with the Constitution of the state.

(o) Execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of covenants or duties, which may contain such covenants and

provisions, as any purchaser of the bonds of the authority may reasonably require.

Section 11. The authority may, in any authorizing resolution, trust indenture or other security instrument relating to its bonds, provide for the appointment of a trustee who shall have such powers as are provided therein to represent the bondholders of any issue of bonds in the enforcement or protection of their rights under any such resolution, trust indenture or security instrument. The authority may also provide in such resolution, trust indenture or other security instrument that the trustee, or if the trustee so appointed fails or declines to protect and enforce such bondholders' rights then the percentage of bondholders as shall be set forth in, and subject to the provisions of, such resolution, trust indenture or other security instrument, may petition the court of proper jurisdiction for the appointment of a receiver of the facilities, the revenues of which are pledged to the payment of the principal of and interest on the bonds held by such bondholders. Such receiver may exercise any power as may be granted in any such resolution, trust indenture or security instrument to enter upon and take possession of, acquire, construct or reconstruct, or operate and maintain such facilities, fix, charge, collect, enforce and receive all revenues derived from such facilities, and perform the public duties and carry out the contracts and obligations of the authority in the same manner as the authority itself might do, all under the direction of such a proper court.

Section 12. (1) The exercise of the powers granted by this act will be in all respects for the benefit of the people of the state for their well-being and prosperity and for the improvement of their social and economic conditions, and the authority shall not be required to pay any tax or assessment on any property owned by the authority upon the income therefrom.

(2) Any bonds issued by the authority under this act, their transfer and the income therefrom shall at all times be free from taxation by the state or any unit of local government or other instrumentality of the state, except for inheritance and gift taxes.

Section 13. For the purpose of attaining the objectives of this act, any county, municipality or other unit of local government, public corporation, agency or instrumentality of the state, a county or municipality or person may, upon terms and with or without consideration, as it may determine, do any or all of the following:

(a) Lend, contribute or donate money to the authority or perform services for the benefit thereof;

(b) Donate, sell, convey, transfer, lease, option or grant upon such terms as the parties may agree, without the necessity of authorization at any election of qualified voters, any property of any kind; and

(c) Do any and all things, whether or not specifically authorized in this section, not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with any authority in attaining the objectives of this act.

Section 14. Contracts for acquisition, purchase, construction or installation of a project shall be effected in the manner prescribed by law for public contracts, except when:

(a) The authority finds and records such finding on its minutes, that because of availability or particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this act to enter into such contracts upon the basis of public bidding pursuant to advertising;

(b) The industry concurs in such finding; and

(c) Such finding is approved by the authority, public bidding pursuant to advertisement may be dispensed with and such

contracts may be entered into based upon negotiation; and provided further, that the industry or enterprise locating within the development area, at its option, may negotiate such contracts in the name of the authority.

Section 15. For the purpose of aiding in the planning, design, undertaking and carrying out of a project or any facility related to a project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include (i) the appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating and maintaining a project or any facility related to a project, and (ii) the furnishing of other assistance in connection with a project or facility related to a project;

(b) To dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to the authority;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community

meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to a project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads or ports with the approval of the proper state, federal or local regulatory authority;

(g) To comment upon and review prior to any appraisal by units of local government the development of any land use or planning or the promulgation of land use restriction, regulations or zoning ordinance which apply to the land within the development area; and

(h) To cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance. Any contract between a public agency entered into with the authority pursuant to any of the powers granted by this act shall be binding upon the public agency according to its terms, and the public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof, would be to the best interest of the people of the public agency. If at any time title to or possession of a project or any such facility is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

Section 16. The authority is empowered to establish and create such nonprofit corporations, joint ventures, limited liability companies as from time to time the authority may deem necessary or desirable in the performance of any acts or other things necessary to the exercise of the powers provided in this act, and to delegate to such departments, boards or other agencies

such administrative duties and other powers as the authority deems necessary or desirable.

Section 17. The authority is authorized to acquire property, real, personal or mixed, within or without its territorial limits, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease, on such terms and conditions as the authority may deem necessary or desirable; to acquire mineral rights and leases; to acquire title to submerged lands and riparian rights and easements or rights-of-way with or without restrictions within or without the limits of the development area; to accept the dedication of streets and other rights-of-way on such terms and conditions as the authority may approve; to make purchase money mortgages and deed trusts and other forms of encumbrance on any property acquired by the authority and to purchase property subject to purchase money mortgages, or other encumbrances; and to mortgage, hold, manage, control, convey, lease, sell, grant or otherwise dispose of the same, and of any of the assets and properties of the authority, with or without consideration.

Section 18. Whenever deemed necessary or desirable by the authority, the authority may 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 authority is authorized to undertake and facilities or property of any nature for the use of the authority and to carry out any of the purposes of this act.

Section 19. (1) The authority, in furtherance of its purposes and to facilitate or provide the necessary services for the development of the development area is authorized by agreement, ownership, contract, lease, joint venture or otherwise to do the following within the development area:

(a) To adopt a plan of reclamation, and own, acquire, construct, reconstruct, equip, operate, maintain, extend and

improve canals, ditches, drains, dikes, levees, pumps, plants and pumping systems and other works, machinery and plants.

(b) To facilitate the development or own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve water systems and sewer systems or combined water and sewer systems; to cooperate with the proper public agency to regulate the use of sewers and the supply of water within the development area and cooperate with the proper public agency in prohibiting or regulating the use and maintenance of outhouses, privies, septic tanks or other sanitary structures or appliances within the development area; to coordinate with the proper public agencies in prescribing methods of pretreatment of wastes not amenable to treatment with domestic sewage before accepting such wastes for treatment and to refuse to accept such wastes when not sufficiently pretreated as may be prescribed by the proper public agency; to sell or otherwise dispose of the effluent, sludge or other by-products as a result of sewage treatment; and to construct and operate connecting, intercepting or outlet sewers and sewer mains and pipes and water mains, conduits or pipelines in, along or under any street, alleys, highways or other public places or ways within the development area, when deemed necessary or desirable by the authority and the proper public agency in accomplishing the purposes of this act.

(c) To own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve a waste collection and disposal system, and to sell or otherwise dispose of any effluent, residue or other by-products of such systems, provided that such actions comply with existing state and federal laws and regulations.

(d) To provide, acquire, construct, equip, operate, maintain, if necessary, extend and improve parks, playgrounds, picnic grounds, golf courses, auditoriums, libraries, recreational

centers, convention halls and facilities, and cultural, recreational and other appropriate projects.

(e) To own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve parking facilities, to install or cause to be installed parking meters at or near the curbs of streets, roads and other public ways within the development area, and to adopt such regulations and impose such charges in connection with any parking facilities as the authority may deem necessary or desirable.

(f) To provide for or own, acquire, construct, reconstruct, equip, maintain, operate, extend and improve fire control facilities for the development area, including fire stations, water mains and plugs, fire trucks and other vehicles and equipment, and to undertake such works and construct such facilities as may be determined necessary by the authority to carry out a program of fire prevention and fire control within the development area.

(g) To designate, set aside and maintain lands and areas within the development area as conservation areas; to promulgate and enforce rules and regulations with respect thereto and to protect and preserve the natural beauty thereof.

(2) The authority may contract with the county or a unit of local government located within the county for any services authorized by this section when doing so would result in lower or comparable costs to the authority.

Section 20. The authority shall not have the power to exercise eminent domain. The authority shall have the authority to request and pursue eminent domain through the county for the development area. However, before the exercise of this power, the authority shall enter on its minutes the determination of the need to pursue the power of eminent domain through the county for the acquisition of the part of the development involved, and the authority shall so specify in its minutes.

Section 21. The authority at any time may obtain loans, in such amount and on such terms and conditions as the authority may approve, for the purpose of paying any of the expenses of the authority or any costs incurred or that may be incurred in connection with any of the projects of the authority within the development area, which loans shall have a term not exceeding two (2) years from the date of issuance thereof, and may be renewable for a like term or terms, and may be payable from and secured by a pledge of such funds, revenues and assessments, other than a levy of ad valorem taxes, as the authority may determine.

Section 22. (1) The State of Mississippi and the county, municipalities within the county and other political subdivisions and public bodies and agencies thereof, or any of them, whether now existing or hereafter created, are authorized to aid and cooperate with the authority in carrying out any of the purposes and projects of the authority to enter into cooperation agreements with the authority, to provide in any such cooperation agreement for the making of loans, gifts, grants or contributions to the authority and the granting and conveyance to the authority of real or personal property of any kind or nature, or any interest therein, for the carrying out of the purposes and projects of the authority, to covenant in any such cooperation agreement to pay all or any part of the costs of acquisition, construction, reconstruction, extension, improvement, operation and maintenance of any of the projects of the authority, and to pay all or any part of the principal and interest on any bonds of the authority and all or any part of the deposits required to be made into any reserve, renewal and replacement or other funds created and established by the indenture, resolution, deed of trust or other instrument securing such bonds.

(2) The authority is empowered to enter into a joint venture development agreement or other agreement to provide services, facilities or to invest such available funds of the authority in a

project which contributes to the economic growth and development of Marshall County, Mississippi, as may be determined by the authority.

Section 23. The authority is authorized to cooperate and coordinate with economic development commissions, travel, and other similar commissions and boards, or other similar agencies of other states, the federal government, and with county, municipal, and regional economic development, travel, and other similar commissions or boards, or other agencies thereof, for the purposes of securing economic development within the State of Mississippi, and to accomplish this purpose.

Section 24. It shall be the duty of the authority to prepare and execute a program of publicity and advertising that will bring into favorable notice the industrial, commercial, recreational, educational and social advantages, opportunities, possibilities, resources and facilities of the development area, and in the preparation and execution of such program the authority may use any funds which may be appropriated or otherwise made available.

Section 25. The authority is empowered, in its discretion, to sell, lease or otherwise dispose of any industrial enterprise or other enterprises of the authority, in whole or in part, on such terms and conditions and with such safeguards as will best promote and protect the public interest. Further, the authority is authorized to transfer title or possession to such industry or to any property utilized therein, by warranty deed, lease, bill of sale, contract or other customary business instrument, in the same manner and to the same extent that any private corporation, association or person may contract, with reference to such property of a similar nature. Such disposition shall not be made except by the affirmative vote of at least two-thirds (2/3) of the membership of the authority, and all votes shall be of record. All income from any lease or contract for the operation or from

the disposition of an industrial enterprise may be used by the authority for any authorized purpose, except that if bonds have been issued for the enterprise, the proceeds shall be paid into the bond sinking funds provided for any bonds issued for the retirement of such bonds if any are outstanding for the sale year and the interest thereon. Such income or proceeds related to a bond issue shall not be used by the authority for any other purpose except as to disposition of surplus income authorized above, and shall be subject to all of the provisions regarding the sinking fund.

Section 26. (1) Before the leasing of any project, enterprise or facilities for which bonds have been issued, the authority must determine and find the following:

(a) The amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance such project;

(b) The amount necessary to be paid each year into any reserve funds, which amounts may include deposits in escrow or reserve amounts as advance sums for the payment of insurance, which the authority may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and

(c) Unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured.

(2) The determinations and findings of the authority required to be made in subsection (1) of this section shall be set forth in the proceedings under which the proposed bonds are to be issued; and before the issuance of such bonds, the authority shall lease the project to a lessee under an agreement conditioned upon completion of the project and providing for payment to the

authority of such rentals as, upon the basis of such determinations and findings, will be sufficient:

(a) To pay the principal of and interest on the bonds issued to finance the project;

(b) To build up and maintain any reserve deemed by the authority to be advisable in connection therewith; and

(c) Unless the agreement of the lease obligated the lessee to pay for the maintenance and insurance of the project, to pay the cost of maintaining the project in good repair and keeping it properly insured.

(3) Such lease shall be made upon such other terms and conditions and for the time which may be determined by the authority and may contain provisions authorizing the purchase of the entire project or any portion thereof by the industry or its assignee after all bonds issued thereunder have been paid in full, for such consideration and upon such terms and conditions as the authority may determine.

Section 27. The authority is authorized and empowered to formulate plans for industrial plant training, workplace skills or other educational activities to aid in recruitment for new and expanded industries, or both, and to enter into agreements for such training with a college, university or training institution.

Section 28. Any agreement made under this act may provide that the project will be owned by the authority, and leased to the industry; may provide the industry with an option to purchase the project upon such terms and conditions as the authority and the industry shall agree upon, at a price which represents the fair market value at the time of purchase or may provide that the project shall become the property of the industry upon the acquisition thereof. Any such agreement may also, but is not required to, include a guaranty agreement whereby a corporation, foreign or domestic, other than the industry guarantees in whole or in part the obligations of the industry under the lease or sale

upon such terms and conditions as the authority may deem appropriate.

Section 29. The authority conferred by this act shall not be construed as an exemption from the provisions of Section 77-3-1 et seq., Mississippi Code of 1972, as to the requirements for obtaining a certificate of public convenience and necessity, the jurisdiction of the Mississippi Public Service Commission to regulate rates or any other provisions of the laws of the state. Furthermore, nothing in this act shall be construed to deprive, prevent, or hinder an electric or other public utility from exclusively providing its services in those portions of the development area that are now or hereafter included within a certificate of public convenience and necessity issued to the public utility by the Mississippi Public Service Commission or other appropriate regulatory agency. The authority conferred by this act shall not be construed as a grant of authority to provide electric, telephone, telegraph, telecommunications services, cable television, video transmission, video programming services or other similar service, and this act shall be subject to all federal, state and local laws, ordinances, rules and regulations governing such services.

Section 30. This act shall take effect and be in force from and after its passage.

SECTION 2. This act shall take effect and be in force from and after its passage.