

**DAVISON COUNTY**  
**TID GUIDELINES**

**August 24, 2016**

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## **ACKNOWLEDGEMENTS**

During the Davison County Commission Meeting on June 25, 2013 the Commission appointed a Tax Incremental District (TID) Project Review Committee, with the individuals below appointed. The purpose of the TID Review Committee is to evaluate the TID Project Plan prior to the Planning Commission. The Project Review Committee is not to vote or recommend approval/denial. Their purpose is to be sure the plan is ready to be presented to the Planning Commission. In December, 2014 the City Administrator and City Finance Officer were added to the Review Committee.

### **DEVELOPER:**

To be determined for each project.

### **COUNTY:**

Jeff Bathke, Planning & Zoning Administrator  
Susan Kiepke, Auditor  
Karen Knadle, Deputy Auditor  
Christie Gunkel, Treasurer  
Kathy Goetsch, Director of Equalization  
Randy Reider, Commissioner  
John Claggett, Commissioner

### **CITY:**

Neil Putnam, City Planner  
Stephanie Ellwein, City Administrator

### **LEGAL:**

The Developer's Legal Representative  
James D. Taylor, P.C., Deputy States Attorney

### **PLANNING COMMISSION:**

Bruce Haines, Planning Commission Chairman  
Gary Stadlman, Planning Commission Vice-Chairman

### **TID HISTORY**

South Dakota's tax increment financing provisions were originally enacted in 1978, and codified as SDCL ch. 11-9. 1978 S.D. Sess. Laws ch. 91. The original language of SDCL 11-9-42 stated that "[a] Tax Incremental District shall *not* be used for development of residential property." In 1985 the Legislature passed Senate Bill 133, which was entitled "An Act to permit use of Tax Incremental District for development of residential property." 1985 S.D. Sess. Laws ch. 102. The bill amended SDCL 11-9-42 to its current language. The Legislature's intent was to allow the use of tax increment financing districts to aid in the development of residential property, while prohibiting their use in the construction of residences.

Historically, the majority of TIDs have been proposed inside the Mitchell city limits; so they were approved by the Mitchell City Council. In 2003, the Wild Oak Housing Development TID was approved by the County Commissioners, which was outside the city limits. In 2013, County TID #2 was approved for CJM Consulting and County TID #3 was approved for Edgerton Place,

LLC; both of which were to assist in the construction of public infrastructure inside the Mitchell City Limits.

In 2015, the City of Mitchell had a taxable value of \$776,943,620 (2.96% increase from 2014), while the entire Davison County taxable value was \$1,473,551,365 (6.54% increase from 2014). New values are set March 1<sup>st</sup> of each year. SDCL 11-9-7 requires a maximum of ten (10) percent of the total assessed value for bonding authority, which would include all City TIFs and County TIDs. The 2015 maximum bonding authority is \$147,355,136.

The Mitchell City Council set a bonding authority cap, leaving at least \$5 million of authority. In 2012-2013, the City Council issued \$13.9 million in bonds for four major city projects; the library renovation, the Corn Palace renovation, a second sheet of ice at the Mitchell Activities Center, and a new City Hall; resulting in the city nearing this self-imposed bonding authority cap. At this time the City and the County put a plan in place to continue development through County TIDs, thus the need to create County TID Guidelines.

Tax Incremental Financing (TIF) can be used to fund infrastructure in a Tax Incremental District, which is a contiguous geographic area within a City and/or County defined and created by resolution of the governing body. The Tax Incremental Base Value is the aggregate assessed value of all taxable property located within a Tax Incremental District on the date the district is created. The increment, which will be used to pay the note or other funding obligations, is the *new* property or real estate tax that will be collected due to the new development.

## CHAPTER 1 DEFINITIONS

Section

01:01 Definitions.

**SECTION 1:01. DEFINITIONS.** For the purposes of this guide, certain terms and words are hereby defined. Unless otherwise noted, all terms contained in this guide are defined by their plain meaning.

1. **ADMINISTRATIVE FEE** means a fee imposed by the Davison County Commissioners for administrating the TID process, to include collecting funds and payment of notes.
2. **APPLICANT** means the corporation or private party presenting the project plan and requesting the Tax Incremental District, who may or may not also be identified as the developer.
3. **APPLICATION FEE** means a non-refundable fee imposed by the Davison County Commissioners for reviewing the application.
4. **BASE OR TAX INCREMENTAL BASE** means the aggregate assessed value of all taxable property located within a Tax Incremental District on the date the district is created, as determined by SDCL 11-9-20.
5. **BLIGHTED** means property that meets any of the following criteria:  
In accordance with SDCL 11-9-9, areas conducive to disease or crime are blighted. Any area, including slum area, in which the structures, buildings, or improvements, by reason of:
  - (1) Dilapidation, age, or obsolescence;
  - (2) Inadequate provisions for ventilation, light, air, sanitation, or open spaces;
  - (3) High density of population and overcrowding;
  - (4) The existence of conditions which endanger life or property by fire and other causes; or
  - (5) Any combination of such factors;are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and which is detrimental to the public health, safety, morals, or welfare, is a blighted area, or

In accordance with SDCL 11-9-10, developed areas impairing growth are blighted. Any area which by reason of:

- (1) The presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures;
- (2) Predominance of defective or inadequate street layouts;
- (3) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (4) Unsanitary or unsafe conditions;
- (5) Deterioration of site or other improvements;
- (6) Diversity of ownership, tax, or special assessment delinquency exceeding the fair value of the land;
- (7) Defective or unusual conditions of title;
- (8) The existence of conditions which endanger life or property by fire and other causes; or
- (9) Any combination of such factors;

substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use, is a blighted area, or

In accordance with SDCL 11-9-11, any area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of a municipality, is a blighted area.

6. CAPITALIZED INTEREST means the amount of upcoming interest for the project accrued prior to the development generating any increment.
7. CITY OF MITCHELL means Mitchell, South Dakota.
8. COUNTY COMMISSION means the Davison County Commission.
9. DAVISON COUNTY means Davison County, South Dakota.
10. DEPARTMENT OF REVENUE means the South Dakota Department of Revenue.
11. DEVELOPER means the corporation or private party presenting the project plan and requesting the Tax Increment District. May also be identified as the applicant.
12. DEVELOPER'S AGREEMENT means the agreement between Developer and Davison County concerning this Tax Incremental District.
13. DISCRETIONARY TAX FORMULA means the five year phase in formula used for reduced taxation of new structures and additions of Commercial Property, in accordance with SDCL 10-6-35.2, which gives the County Commissioners this authority.
14. DISTRICT means the Tax Incremental District.
15. ECONOMIC DEVELOPMENT means all powers expressly granted and reasonably inferred pursuant to SDCL 9-54.
16. GENERAL APPLICABLE TAXES shall mean an enforced contribution exacted pursuant to legislative authority in the exercise of the taxing power that is imposed and collected for the purpose of raising revenue to be used for governmental or public purposes. A generally applicable tax must have a uniform tax rate that is applied to all persons of the same classification in the appropriate jurisdiction and a generally applicable manner of determination and collection, as set forth in 26 CFR 1.141-4(e).
17. GOVERNING BODY means the Davison County Planning Commission or Davison County Commissioners.
18. GRANT means the transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the municipality.
19. INFRASTRUCTURE IMPROVEMENTS means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, for the benefit of or for the protection of the health, welfare, or safety of the public generally.
20. MUNICIPALITY, for the purpose of TIDS, means Davison County or any incorporated city inside the boundaries of Davison County.
21. PLAN means the Project Plan.
22. PLANNING COMMISSION means the Davison County Planning Commission.
23. PRO FORMA means financial statements which are prepared in advance of a planned transaction; such as a merger, an acquisition, a new capital investment, or a change in capital structure such as incurrence of new debt or issuance of equity.

24. PROJECT COSTS means any expenditure or monetary obligations, whether made, estimated to be made, incurred or estimated to be incurred, which are listed as Project Costs. This may include any costs incidental thereto but diminished by any income, special assessments, or other revenues, other than tax increments, received, or reasonably expected to be received, by Davison County in connection with the implementation of the Project Plan. This may also include any donations, grant funding, or other financing.
25. PROJECT PLAN means properly approved Plan for the development or redevelopment of a Tax Incremental District including all properly approved amendments thereto as recommended pursuant to SDCL 11-9-13.
26. PUBLIC WORKS means the Infrastructure Improvements, the acquisition by purchase or condemnation of real and personal property within the Tax Incremental District and the sale, lease, or other disposition of such property to private individuals, partnerships, corporations, or other entities at a price less than the cost of such acquisition which benefit or further the health, safety, welfare and economic development of the City or County and Project Costs.
27. TAXABLE PROPERTY means all real taxable property located in a Tax Incremental District.
28. TAX INCREMENTAL BASE is the aggregate assessed value of all taxable property located within the Tax Incremental District on the date the district is created, in accordance with SDCL 11-9-19.
29. TAX INCREMENTAL DISTRICT (TID) means a contiguous geographic area within a City and/or County defined and created by resolution of the governing body(s), which may be overlapping with a previous district.
30. TAX INCREMENTAL LAW means South Dakota Codified Laws Chapter 11-9.

## CHAPTER 2 TAX INCREMENTAL FINANCING DISTRICTS

### Section

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**SECTION 2:01. INTRODUCTION.** Tax increment financing is a method of funding public investments in an area by capturing, for a time, all of the *increased* property or real property tax revenue that results when public investment stimulates private investment. A TID is one of the few economic development and community redevelopment tools currently available to local government agencies in South Dakota.

TIDs should be used only if in the best interests of the County, in accordance with specified criteria. These criteria will assure that projects help fulfill the County's objectives for economic development and redevelopment. This document outlines criteria and procedures for evaluating proposals for the use of a TID. These criteria should be considered guidelines only and do not guarantee approval or disapproval of a request for Tax Incremental Financing. TIDs are solely at the discretion of the governing body.

**SECTION 2:02. PURPOSES OF TIDS.** Davison County recognizes the following purposes for the use of Tax Incremental Financing:

- 1) To encourage the redevelopment of deteriorated, or otherwise blighted real property in Davison County through the investment of public funds;
- 2) To stimulate economic development in the community by assisting projects that promote the long term economic vitality of the community;
- 3) To stimulate increased private investment in areas that would have otherwise remained undeveloped or underdeveloped and which will, in the long term, provide a significant source of additional tax revenues to all taxing entities; or
- 4) To stimulate the construction of safe and affordable housing units for low and moderate income residents of the community and expand the general housing stock in the community.

**SECTION 2:03. TID PROJECT REVIEW COMMITTEE.** All TID proposals must be submitted to the Davison County Planning & Zoning Administrator, which will be forwarded to the TID Project Review Committee. Upon review of a complete application, the TID Project



Review Committee will make recommendations to the applicant prior to forwarding the Application and Project Plan to the County Planning Commission. The Project Review Committee will, at a minimum, consist of the following members or their representatives:

- 1) The developer;
- 2) The developer's legal representative;
- 3) A representative of the affected municipality;
- 4) City Planning Director;
- 5) City Administrator;
- 6) A representative of the affected School Districts and School Board;
- 7) Two (2) County Commissioners;
- 8) Two (2) County Planning Commission members;
- 9) County Planning & Zoning Administrator;
- 10) County Auditor;
- 11) County Deputy Auditor;
- 12) County Treasurer;
- 13) County Director of Equalization; and
- 14) Davison County Office of the State's Attorney.

A majority of the Project Review Committee members *present* at the meeting where the TID proposal is evaluated must concur for a project to receive a positive recommendation to the County Planning Commission. Either recommendation of the Project Review Committee, to approve or not to approve, will be forwarded to the County Planning Commission along with the application.

The TID Project Review Committee does not need to publish notice of the meeting, as it does not exercise any sovereign power derived from state law; as noted in SDCL 1-25-1. However, any final recommendations, findings, or reports that result from a meeting of the committee shall be reported in an open meeting to the governing body, which would be the County Planning Commission, as noted in SDCL 1-27-1.18.

SECTION 2:04. APPROVAL PROCESS. In order for a TID to be evaluated and approved, the following steps shall occur:

- 1) The Planning & Zoning Administrator shall receive the Application *and* Project Plan. Separate hearings will *not* be held.
- 2) If located inside a municipality in Davison County, a resolution from the municipality will need to be passed in support of the TID, in accordance with SDCL 11-9-8. The Project Plan, which will include the boundaries, will be provided to the respective municipality in order to make an educated decision for the resolution of support. The municipality may require the Project Plan to be reviewed by their TIF Project Review Committee, in accordance with the respective municipality ordinance.
- 3) The TID Project Review Committee will evaluate the Application, Project Plan, and boundaries. Written or emailed comments will also be accepted.

- 4) The TID Project Review Committee will recommend any changes or clarifications to the Developer, prior to the TID being heard by the County Planning Commission.
- 5) The County Planning Commission shall hold a hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a Tax Incremental District and its proposed boundaries, in accordance with SDCL 11-9-3. The Developer is encouraged to attend and present a summary of the Project Plan and boundaries.
  - i. Notice of the hearing shall be published once, not less than ten nor more than thirty days prior to the date of the hearing in a legal newspaper having a general circulation in the redevelopment area of the municipality.
  - ii. Prior to publication, a copy of the notice shall be sent by first class mail to the chief executive officer of all local governmental entities having the power to levy taxes on property located within the proposed district and to the school board of any school district which has property located within the proposed TID. Those affected and notified in the TID, at a minimum, will be:
    1. Mayor;
    2. City Administrator;
    3. City Finance Officer;
    4. City Council Members;
    5. Superintendent of Schools;
    6. Business Manager of Schools;
    7. School Board Members;
    8. County Commissioners;
    9. County Auditor;
    10. Manager of the James River Water District;
    11. Rural Fire Districts;
    12. Township Chairperson.
    13. Any other Taxing Authority affected by the TID.
- 6) The County Planning Commission shall approve or deny the Project Plan, which will include the designated boundaries. If approved, the Project Plan will be forwarded to the governing body, which is the County Commission; in accordance with SDCL 11-9-4. If the Planning Commission does not recommend approval of the Project Plan, the proposal does not move forward. The applicant may *not* appeal the decision to the Commission; but rather is required to appeal the decision to Circuit Court.
  - i. A minimum of four (4) of the seven (7) Planning Commission members is required to define a quorum. The concurring simple majority vote of fifty-one (51) percent of the membership *present* at the meeting of the Planning Commission shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass.
- 7) If approved by the County Planning Commission, the Project Plan will be forwarded to the governing body, which is the County Commission; in accordance with SDCL 11-9-4. The County Commission shall hold a hearing during the regularly scheduled County Commissioner's Meeting, at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a Tax Incremental District and its proposed boundaries. The Developer or Developer's Representative is encouraged to attend and present a summary of the Project Plan.

- i. A favorable vote will require a simple majority of the members present at the meeting. When the board of county commissioners is equally divided on any question, it shall defer a decision until the next meeting of the board and the matter shall then be decided by a majority of the board, SDCL 7-8-18.
- 8) If approved, the County Commission shall adopt a resolution, which in accordance with SDCL 11-9-5:
  - i. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a Tax Incremental District with sufficient definiteness to identify with ordinary and reasonable certainty the territory included. The boundaries may not split a whole unit of property which is being used for a single purpose;
  - ii. Creates the district on a given date;
  - iii. Assigns a name to the district for identification purposes. The first district created in Davison County shall be known as "Tax Incremental District Number One of Davison County". Each subsequently *created* district shall be assigned the next consecutive number. A TID *not* approved by the County shall *not* receive a TID number.
- 9) If the County Commission does not recommend approval of the TID, the applicant may appeal the decision to Circuit Court. An approved TID may also be referred to a public vote by the people.
- 10) Following approval of the resolution creating the Tax Incremental District and the approval of the project plan, legal representation for the County and the developer will create a Development Agreement. The agreement sets forth the mutual responsibilities of both parties. The Development Agreement is reviewed by the Commission who must authorize the Commission Chairman and Auditor to sign the agreement; along with the Developer.
- 11) Any plan previously approved by the County Commission, which plan is subsequently amended, but does not provide for any increase in the bonded indebtedness, but needs to be amended in any other particulars, does not need to be reconsidered by the TID Project Review Committee; but does need to be approved by the Planning Commission and County Commission. Public notification is required.
- 12) The Tax Incremental Base Value of the property located in the TID will be certified by the South Dakota Department of Revenue, in accordance with SDCL 11-9-19 and SDCL 11-9-20.
- 13) All tax increments received in a Tax Incremental District shall, upon receipt by the County Treasurer, be deposited into a special fund for the TID. Subject to any agreement with bondholders or others securing the funds, moneys in the fund may be temporarily invested in the same manner as other County funds; in accordance with SDCL 11-9-31.
- 14) All bids will be provided to the Municipality and County prior to approval and construction.
- 15) All expenditures will be provided to the Municipality and County prior to payment by the Developer.

SECTION 2:05. APPROVED USE OF TID FUNDS. Davison County recognizes the following State approved use of TID funds, in accordance with SDCL 11-9-15:

- 1) Capital costs, including the actual costs of the construction of public works or improvements, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; the clearing and grading of land; and the amount of interest payable on tax incremental bonds or other public financing issued pursuant to this chapter until such time as positive tax increments to be received from the district, as estimated by the project plan, are sufficient to pay the principal of and interest on the tax incremental bonds when due;
- 2) Financing costs, including all interest paid to holders of evidences of indebtedness issued to pay for project costs, any premium paid over the principal amount thereof because of the redemption of such obligations prior to maturity and a reserve for the payment of principal of and interest on such obligations in an amount determined by the governing body to be reasonably required for the marketability of such obligations;
- 3) Real property assembly costs, including the actual cost of the acquisition by a municipality of real or personal property within a tax incremental district less any proceeds to be received by the municipality from the sale, lease, or other disposition of such property pursuant to a project plan;
- 4) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;
- 5) Imputed administrative costs, including reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan;
- 6) Relocation costs;
- 7) Organizational costs, including the costs of conducting environmental impact and other studies and the costs of informing the public of the creation of tax incremental districts and the implementation of project plans; and
- 8) Payments and grants made, at the discretion of the governing body, which are found to be necessary or convenient to the creation of tax incremental districts, the implementation of project plans, or to stimulate and develop the general economic welfare and prosperity of the state.

**SECTION 2:06. RESTRICTIONS OF TID FUNDS.** Davison County recognizes the following restrictions of TID Funds:

- 1) Payments and grants may be made, at the discretion of the County Commissioners, which are found to be necessary or convenient to the creation of Tax Incremental Districts, the implementation of project plans, or to stimulate and develop the general economic welfare and prosperity of the state.
- 2) TID funds shall not be used for the construction of residential structures in accordance with SDCL 11-9-42, but can be used for infrastructure of a residential development; as explained in the Attorney General's Official Opinion No. 08-01, Use of Tax Incremental Financing Districts for the Development of Residential Property.

- 3) Any TID assisted rehabilitation within a state or national historic district must be carried out according to the Secretary of the Interior's standards for rehabilitation. These also do not qualify for discretionary tax formula, but the portion of the structure that is rehabilitated and eligible may qualify for an eight year moratorium.
- 4) Plans must be complete and must receive the approval of the TID Project Review Committee, County Planning Commission, and County Commissioners prior to the release of funds. The Development Agreement must also be signed by all parties.
- 5) No expenditure may be provided for in the plan more than five years after a district is created unless an amendment is adopted by the governing body under SDCL 11-9-23. The five year window will commence on the date the Development Agreement is signed.
- 6) No Project Plan may request the positive tax increments be allocated longer than twenty years after the *calendar year of creation*, in accordance with SDCL 11-9-25. However, the total tax increment collected will be applied to the bonds or other public financing; therefore, the project may be paid off in less than 20 years.

SECTION 2:07. APPLICATION REQUIREMENTS. Any TID proposal must submit a complete application to the Davison County Planning & Zoning Administrator. The TID Project Review Committee may waive any portion of the requirements and may require additional information not listed. Items already included in the project plan do *not* need to be duplicated and included with the application. At a minimum, the application will include:

- 1) A project plan, which shall comply with the requirements of SDCL 11-9-13, to include:
  - i. The kind, number, and location of all proposed public works or improvements within the district;
  - ii. An economic feasibility study, showing the incremental revenue will be sufficient to repay the project costs and/or any bonds issued during the life of the TID.
  - iii. A detailed list of estimated project costs, with written construction estimates;
  - iv. A fiscal impact statement which shows the impact of the Tax Increment District, both until and after the bonds or other financing are repaid, upon all entities levying taxes upon property in the district; and
  - v. A description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred.
- 2) A detailed project description;
- 3) A proposal for a development financing plan, including sources of funds and loan terms unless the County is going to procure financing for the project through its bonding process;
- 4) An approval letter from a financial institution, with the stipulation funding is available once the TID is approved;
- 5) A pro forma, if appropriate, indicating projected costs and revenues; to include an administrative fee charged by the County. The administrative fee will be equal to 1%

of the actual TID funds requested pursuant to the TID, exclusive of capitalized and annual interest. In addition, if the Developer elects to utilize the Davison County Discretionary formula for the phase in of real property taxes authorized by SDCL 10-6-35.2, the administrative fee will also include an amount equal to the amount of real property taxes Davison County will directly lose as a result of Developer electing to utilize the Discretionary formula for the first payable tax year.

- 6) An explanation how the project would *not* proceed without the use of the TID;
- 7) Evidence that the project meets evaluation criteria;
- 8) Preliminary plans for the project;
- 9) A development schedule;
- 10) If applicable, a list of public improvements which will be constructed along with the project;
- 11) Corporation or partnership papers;
- 12) In the case of Economic Development, a copy of the proposed wage scale, employee benefits package, and full and part time employment positions and levels.
- 13) In the case of an affordable housing project, a copy of the applicable federal housing grant program, number of units, and base rent; and
- 14) A non-refundable application fee of \$2,500, in accordance with SDCL 11-9-15 (5). If the TID is approved, the application fee will be calculated into the administrative fee and not charged twice.
- 15) Additional information that may be required or requested by the Project Review Committee, Planning Commission, or County Commission.

**SECTION 2:08. MANDATORY CRITERIA.** In addition to the Purposes of TIDS set forth in Section 2:02, some criteria are mandatory and must be met in order for the Project Review Committee to consider the project for assistance. The project application must demonstrate how the project meets Section 2:08 (1) through Section 2:08 (6), and two (2) of the seven (7) criteria listed in Section 2:08 (7).

- 1) The aggregate assessed value of the taxable property in the proposed district, plus the Tax Incremental Base Value of all other existing districts, does not exceed ten percent of the total assessed value of taxable property in the County.
- 2) The County assumes no responsibility for the repayment of any loan or bond. The responsibility of the County will be collection of the real or property taxes and payment of allocations outlined in the project plan.
- 3) The project must be located within a proposed district in which a minimum of twenty five percent (25%) of the area of the district is determined to be "blighted" or not less than fifty percent (50%), by area, of the real property within the district will stimulate and develop the general economic welfare and prosperity of the state through the promotion and advancement of industrial, commercial, manufacturing, agricultural, or natural resources; and the improvement of the area is likely to enhance significantly the value of substantially all of the other real property in the district, in accordance with SDCL 11-9-8. It is not necessary to identify the specific parcels meeting the

criteria. For the purposes of a TID, a "blighted area" is defined in detail in Chapter 1: Definitions.

- 4) The project must comply with the adopted comprehensive plans, Zoning Ordinances, Drainage Ordinances, and all other appropriate plans and regulations.
- 5) The use of TID funds for the project will not result in the net loss of preexisting tax revenues to the County and other taxing jurisdictions.
- 6) For the life of the TID, the property inside the District may not be transferred to an entity which will claim a real property tax exemption. This will also be included in the Developer's Agreement.
- 7) In addition, a project must meet two (2) of the following seven (7) criteria:
  - i. The project must demonstrate that it is not economically feasible without the use of TID.
  - ii. If the project has site alternatives, the proposal must demonstrate that it would not occur in Davison County without the TID.
  - iii. The project will eliminate actual or potential hazard to the public. Hazards may include condemned or unsafe buildings, sites, or structures.
  - iv. The project will not provide direct or indirect assistance to retail or service businesses competing with existing businesses in the Davison County trade area.
  - v. The project will bring new or expanded employment opportunities as demonstrated by proposed wage scales, employee benefits and mixture of full and part time employees.
  - vi. The project will result in additional redevelopment in the Tax Incremental District.
  - vii. The project will result in the construction of "affordable housing units" defined as housing where the occupant is paying no more than thirty percent (30%) of gross income for housing costs including utilities and complies with the following requirements:
    1. Affordable housing projects must target residents at or below eighty percent (80%) of median income with rents at thirty percent (30%) of the tenant's income or the fair market rent (FMR) for the section 8 program, whichever is greater. A minimum of fifty one percent (51%) of the dwelling units of the proposed development shall be occupied by households meeting this income guideline;
    2. Affordable housing is required to remain affordable as defined above for ten (10) years.

SECTION 2:09. NON-MANDATORY CRITERIA. Some criteria are not mandatory and enable the Project Review Committee to determine the benefits of the project. There is no set number of non-mandatory criteria a project must meet, but the extent to which a project meets these criteria will be used in evaluation of the project; including the length of time a district will take to pay off the bonds. The non-mandatory criteria are:

- 1) The project will generate at least one full time job for each ten thousand dollars (\$10,000.00) in principal value of the TID; or would create a minimum of fifty (50) new jobs.
- 2) All TID proceeds are used for the construction of public improvements.
- 3) The project involves the rehabilitation of a building listed on or eligible for listing on the national register of historic places.
- 4) The project will directly benefit low and moderate income people, as defined by the U.S. Department of Housing and Urban Development as applied to the community development block grant program. A project will meet this criterion if at least fifty one percent (51%) of the jobs created will be held by or available to low and moderate income people.
- 5) The building or site that is to be redeveloped itself displays conditions of blight as established by the provisions of South Dakota Codified Laws 11-9, and defined in detail in Chapter 1: Definitions.
- 6) The project involves the development of an entirely new business or business operation within Davison County.
- 7) The project involves the expansion of an existing business located within Davison County.
- 8) The project site has displayed a recent pattern of declining real property assessments, as measured by the Davison County Director of Equalization.
- 9) The project costs are limited to those specific costs associated with a site that exceeds the typical or average construction costs (i.e., excessive fill, relocation costs, additional foundation requirements associated with unusual soil conditions, extension of sewer or water mains, on site or off site vehicular circulation improvements, etc.).
- 10) The development is financially able to waive the five (5) year discretionary tax formula, in accordance with SDCL 10-6-35.2; which gives the County Commissioners the authority to adopt a discretionary tax formula. Discretionary Tax Formula is only applicable to a new commercial business in the county or the expansion of an existing commercial business.

**SECTION 2:10. GENERAL FUNDING ALLOCATED TO SCHOOL DISTRICT.** All general funding for school districts is allocated in accordance with SDCL 13-13, in the following manner:

- 1) The State Legislature determines the allocation by the average daily membership.
- 2) The State Legislature determines the levy each year.
- 3) The Local School District puts forth their portion of the funding, the State provides the rest.
- 4) Local School Districts will receive a set amount per student, which is determined by the average daily membership.
- 5) The difference when a TID is involved is the State will pay a larger portion of the set amount per student, after the appropriate levies are applied, to make up for the shortfall.



For example:

1. Your School District has 1,000 students and your general fund requires \$4,000,000.
2. Your District receives:
  - a. \$2,000,000 from owner occupied property.
  - b. \$1,000,000 from Non-Ag property.
  - c. \$500,000 from Agriculture property.
3. This leaves a need of \$500,000 of State funding. When a TID is involved, this need will be higher than if a TID is not involved.

SECTION 2:11. FUNDING LOST BY SCHOOL DISTRICT AND OTHER LOCAL GOVERNMENTS. Although local School Districts are generally supportive of TIDs, it is important to note the areas which are financially affected; which are:

- 1) Capital Outlay.
- 2) Pension funds.

School Districts are affected by a Residential TID. However, the effect is very low compared to the amount gained by the School District receiving additional students. For example, in an average housing development TID approximately \$3,000-\$4,000 in General School funding is not captured in the TID, but these funds are spread out over the rest of the property in the district. If a housing development provides one new student to the District, the school will receive the average daily membership allowance after the levies are applied; which for the Mitchell School District was \$4,781.14 using the 2014-2015 formula. School Districts understand the development will normally create jobs, increase the tax base, and bring new families to their District; resulting in additional average daily membership which increases the amount of state general funding the school receives.

# TAX INCREMENTAL DISTRICT CHECKLIST

## SECTION 2:02. PURPOSES OF TIDS: (Must meet one of the four)

- Encourage the redevelopment of deteriorated, or otherwise blighted real property
- Stimulate economic development by assisting projects that promote the long term economic vitality of the community
- Stimulate increased private investment in areas that would have otherwise remained undeveloped or underdeveloped and which will, in the long term, provide a significant source of additional tax revenues to all taxing entities
- Stimulate the construction of safe and affordable housing units for low and moderate income residents of the community and expand the general community housing stock.

## SECTION 2:07. APPLICATION REQUIREMENTS:

- Completed Application
- Application Fee collected
- Completed Project Plan to include proposed boundaries
- Detailed project description
- Financing Plan
- Projected costs and revenues; to include an Administrative Fee
- Explanation of how the project would not proceed without the use of the TID
- Preliminary plans for the project
- Development Schedule
- List of Public Improvements
- Corporation papers
- Wage scale, employee benefits package, and full/part time employment and levels
- Federal housing grant program, number of units, and base rent

## SECTION 2:08. MANDATORY CRITERIA:

- Aggregate assessed value does not exceed ten percent of the total assessed value
- County assumes no responsibility for the repayment of any loan or bond
- Meets "blighted" definition
- Meets Comprehensive Plan criteria, Zoning Ordinances, and Drainage Ordinances
- Will not result in the net loss of preexisting tax revenues
- Property may not be transferred to property tax exemption status
- Meets two (2) of the following seven (7) criteria:
  - Not economically feasible without the use of TID
  - Project would not occur in Davison County without the TID
  - Project will eliminate actual or potential hazard to the public
  - Project will not provide assistance to competition with existing businesses
  - Project will bring new or expanded employment opportunities
  - Project will result in additional redevelopment in the Tax Incremental District.
  - Project will result in the construction of "affordable housing units"

## SECTION 2:09. NON-MANDATORY CRITERIA:

- Project will generate new jobs
- TID proceeds are used for the construction of public improvements
- Rehabilitation of a structure listed on the national register of historic places.
- Project will directly benefit low and moderate income people
- Building site displays conditions of blight
- New business in the County
- Expansion of an existing business
- Property has displayed a recent pattern of declining real property assessments
- Project costs exceeds the typical or average construction costs
- Development is financially able to waive the five (5) year discretionary tax formula.