



Roll Call Number

Agenda Item Number

24A

Date June 26, 2023

RECEIVE AND FILE REPORT AND RECOMMENDATION OF THE PLAN AND ZONING COMMISSION REGARDING THE PETITION TO EXPAND AND CONTINUE THE DOWNTOWN DES MOINES SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT

WHEREAS, on May 22, 2023, by Roll Call No. 23-0741, the City Council received a Petition to expand and continue the Downtown Des Moines Self-Supported Municipal Improvement District (“SSMID”), and referred the Petition to the City Plan and Zoning Commission for preparation of an evaluative report for the Council on the merit and feasibility of the proposed SSMID as required by Iowa Code Chapter 386; and

WHEREAS, the City Plan and Zoning Commission has advised in the accompanying letter that at a public hearing held on June 15, 2023, the members considered the Petition and an evaluative report on the merit and feasibility of expanding and continuing the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) and voted 9-0-1-1 in support of a motion to recommend **APPROVAL** of the petition and evaluative report.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the attached communication from the City Plan and Zoning Commission is hereby received and filed.

MOVED BY _____ TO ADOPT.

SECOND BY _____.

APPROVED AS TO FORM:

/s/ Chas M. Cahill

Chas M. Cahill
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

CERTIFICATE

I, Laura Baumgartner, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

June 16, 2023

Communication from the City Plan and Zoning Commission advising that at their June 15, 2023 meeting, the following action was taken regarding a City-initiated request for an evaluative report and recommendation on the merit and feasibility of expanding and continuing the Downtown Self-Supported Municipal Improvement District for an additional ten (10) years.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0-1-1 as follows.

Commission Action:	Yes	Nays	Pass	Abstain	Absent
Francis Boggus	X				
Leah Rudolphi	X				
Carol Maher	X				
Abby Chungath	X				
Kayla Berkson	X				
Chris Draper			X		
Todd Garner	X				
Johnny Alcivar	X				
Justyn Lewis					X
Carolyn Jenison					X
William Page	X				
Andrew Lorentzen					X
Emily Webb	X				
Katie Gillette				X	

APPROVAL of the evaluative report and the petition to expand and continue the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) and associated operation tax for a period of ten years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2024, and continuing until June 30, 2034.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the evaluative report and the petition to expand and continue the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) and associated operation tax for a period of ten years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2024, and continuing until June 30, 2034.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

Downtown property owners have submitted a petition to the City Council seeking to expand and continue the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) and associated operation tax for a period of ten years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2024, and continuing until June 30, 2034.

II. ADDITIONAL APPLICABLE INFORMATION

Pursuant to Section 386.3 of the Iowa Code, the Plan and Zoning Commission is to prepare an evaluative report for the City Council based on the “merit” and “feasibility” of expanding and continuing the Self-Supported Municipal Improvement District (SSMID). Further, the Commission is directed to determine the validity of the petition.

Staff has prepared an evaluative report for the Commission’s review and consideration (see attached).

SUMMARY OF DISCUSSION

Mike Ludwig presented the staff report and recommendation.

Carol Maher asked if the SSMID is a protected levy that is separate from TIF.

Mike Ludwig replied that is correct.

Carol Maher asked if a property receiving tax abatement would be charged this levy.

Mike Ludwig stated the SSMID levy would be protected from tax abatement.

Carol Maher asked if this could be opened for reconsideration during the 10-year window.

Mike Ludwig stated a new petition could be submitted if they wanted to revisit the SSMID before the end of the 10-year period.

Carol Maher asked if non-profit organizations pay the levy.

Mike Ludwig stated non-profit organizations do not pay. However, the SSMID can accept donations from tax exempt property owners.

Carol Maher asked if the SSMID purpose language should remain consistent in terms of parking.

Mike Ludwig stated the listing of purposes has not changed in 25 years; this is what’s presented on the owner’s petition. The services that they provide are determined by the board and owners within the district. The debate of not enough or too much parking downtown isn’t within the purview of this petition.

Will Page asked how the dynamics have changed between residential and commercial needs.

Mike Ludwig stated the clean, safe and beautiful component is the most critical part of their efforts. They have funded studies to address things like noise complaints and hours of operation. The SSMID is a critical component in making downtown livable and desirable.

Will Page asked if there is an authority that focuses on improvements.

Mike Ludwig stated that would be their board of directors, which is made up of owners in the district.

Chris Draper asked about the relationship between the SSMID and the Greater Des Moines Partnership.

Mike Ludwig stated Operation Downtown is a subset of the Downtown Community Alliance, who manages the SSMID.

Chris Draper asked if there is any public oversight once this is approved.

Mike Ludwig stated the Commission is charged with making a recommendation to the City Council on if the SSMID petition complies with State law. The Council will hold a hearing to determine if the SSMID petition should be approved. Each year the City Council reviews and comments on their operating budget and approves their levy amount. In addition, the SSMID is also obliged to provide an annual audit to the City for review.

Chris Draper asked if City recommendations are binding in anyway.

Mike Ludwig stated the City has representation on the board and comments are brought forward during those meetings.

Chris Draper asked if the City's oversight is as significant as portrayed.

Mike Ludwig stated he believes the City's oversight is very significant through our contractual agreement. Noted that their audits are reviewed by the City's Finance Department and all agreements are reviewed by the City's Legal Department.

Carol Maher suggested the consideration of changing the purposes of the SSMID to reflect what's going on downtown now.

Mike Ludwig stated this is a special purpose taxing district and is driven by what the owners are agreeing to sign.

Johnny Alcivar asked if City Council could make changes to the agreement on a yearly basis.

Mike Ludwig stated City Council cannot change the purposes of the petition, they review their budget and making sure it falls within the purposes of the SSMID district.

Abby Chungath asked if the petition language can be amended during the public hearing process.

Mike Ludwig stated no.

CHAIRPERSON OPENED THE PUBLIC HEARING

No one was present or requested to speak.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Will Page made a motion for approval of the evaluative report and the petition to expand and continue the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) and associated operation tax for a period of ten years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2024, and continuing until June 30, 2034.

Motion passed: 9-0-1-1

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jason Van Essen".

Jason Van Essen, AICP
Planning & Urban Design Administrator

JMV:tjh

Evaluation of 2023 Petition to Expand and Continue the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) and Recommendation to City Council

Property owners have submitted a petition to the City Council to expand and continue the Downtown Des Moines Self-Supported Municipal Improvement District (SSMID). The overall purposes of the SSMID are:

- the undertaking of actions and the design and construction of all improvements authorized by the Act and the performance of administration, redevelopment, and revitalization of the District, as authorized by the Act, all which actions and improvements are intended to benefit the property within the District

The petition includes a request to expand and continue the “Downtown Des Moines Self-Supported Municipal Improvement District Operation Fund” by levying an annual operation tax on property within the district (excluding residentially assessed property except Multi-Residential 3+ properties) for the purposes of: (a) paying the administrative expenses of the District, as defined and authorized in the Act, or (b) paying part or all of the maintenance expenses of “improvements” or “self-liquidating improvements” as defined in the Act, with respect to the District. The SSMID and associated operation tax would exist for a period of 10 years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2024, and continuing until June 30, 2034. The operation tax levy would not exceed \$2.25 per thousand dollars of taxable valuation.

The petition includes a request to continue to hold and disburse all amounts collected in the Operation Fund for any one or more of the following purposes, at such times, in such amounts and under such conditions as shall be recommended to the City Council by the Downtown Des Moines Self-Supported Municipal Improvement District:

- a. Enhanced maintenance, cleaning and upkeep of public spaces within the District:
- b. Graffiti removal on public property and private buildings within the District.
- c. Enhanced public and property safety and crime prevention within the District, including the operation of a “Goodwill Ambassador” program as determined and operated from time to time by the Downtown Des Moines Self-Supported Municipal District.
- d. Development, marketing, promotion and management of activities and events within the District.
- e. Capital, physical or other improvements designed to enhance the image and appearance of the District, including but not limited to improvements to the skywalk system.
- f. Management and operation of public spaces within the District, including public parking facilities.
- g. Research and planning services benefiting the District.
- h. Parking and transportation management benefiting the District.
- i. Activities and operations benefiting the District under any agreements with the City of Des Moines or other public or quasi-public entities.
- j. Recommendations regarding, and the promotion of, the District and the advancement of the District, including with respect to the use of public spaces within the District, the types of public spaces and services within the District, the services and improvements within the District, policies and practices for the District, business retention and attraction within the District, and activities and events within in the District.

- k. Other activities intended to benefit or further the purposes or interests of the District and the development and advancement of the District.

The petition states the intent to continue the operating agreement between the City of Des Moines and Downtown Des Moines Self-Supported Municipal Improvement District with respect to managing and undertaking the services, improvements and activities described in the Petition and in the annual budget for such services, improvements and activities, and to appropriate and provide funds held from time to time in the Operation Fund to Downtown Des Moines Self-Supported Municipal Improvement District to be utilized for the purposes described in the Petition.

The petition states the intent to require Downtown Des Moines Self-Supported Municipal Improvement District, as a condition to the disbursement of funds from the Operation Fund, to submit to the Des Moines City Council, no later than December 1 of each year, a budget showing, in general terms, the proposed expenditures of such funds for the fiscal year beginning on the next July 1.

The petition states the intent that all taxes levied and collected on behalf of the District shall be expended for new, additional or enhanced services implemented within the District after the District was originally established, and that the City shall not diminish the type and extent of governmental services described in this Petition that existed at the time the District was originally established, with the intention of transferring the cost of providing such services from the City budget to the Operation Fund.

The District is located within the boundaries of Tax Increment Finance Districts which have been created by the City. Notwithstanding that fact, it is the further intent of the Petition that an amount of funds which would be derived from the annual levy of the Operation Tax against property within the District if the District were not located within such Tax Increment Finance Districts shall be made available annually for the services, improvements and activities set out in the Petition. It is requested that the City take all actions necessary to accomplish this purpose, including allocation to these services, improvements and activities of a portion of the incremental property taxes which are attributable to properties within the District. The Petitioners represent and warrant to the City Council that the expansion and continuation of the District and the undertaking of the services, improvements and activities described are considered essential to the petitioners' efforts to create new jobs and income in the City of Des Moines and to retain jobs and income in the City that would otherwise be lost.

Finally, the petition requests that the City take no action which would make it impossible or illegal for Downtown Des Moines Self-Supported Municipal Improvement District to receive voluntary contributions from tax exempt properties within the District or from any other properties which may benefit from or contract for services from the Downtown Des Moines Self-Supported Municipal Improvement District.

Plan and Zoning Commission Role

The City Council has referred the petition to the Plan and Zoning Commission in accordance with Section 386.3 of the Iowa Code. The Plan and Zoning Commission, with due diligence, prepares an evaluative report for the City Council addressing the merit and feasibility of the proposed District. Further, it would be appropriate for the Commission to make a recommendation on the validity of the petition. After the Plan and Zoning Commission has evaluated the petition, the City Council will set a time and place for the public hearing at which the City Council will consider the expansion and continuation of the District. If the City Council decides that it is appropriate to expand and continue the District, the City Council must

wait another 30 days after that hearing before it may adopt an ordinance expanding and continuing the District.

Validity of the Petition

The petition submitted to the City Council and referred to the Plan and Zoning Commission has been evaluated for the following:

1. The SSMID District meets all the criteria set forth in Section 386.3(1) of the Iowa Code including:
 - a. The SSMID is comprised of contiguous property wholly within the boundaries of the City of Des Moines. It is comprised only of property in districts which are zoned for commercial or industrial uses.
 - b. The SSMID shall continue to have a descriptive name: "Downtown Des Moines Self-Supported Municipal Improvement District."
 - c. The property in the District as expanded, comprises the downtown core area of the City. All property is zoned DX2, DX1, DXR, MX3, MX2, NX2, RX2, PUD, P2 or P1 which are mixed-use or public districts that allow commercial and/or industrial uses. Accordingly, the property in the District is similarly related so that the present and potential use or enjoyment of the property is benefited by the condition, performance of administration, redevelopment, revitalization and maintenance of the District. Further, the owners of property in the District have a present and potential benefit from the condition, performance of administration, redevelopment, revitalization and maintenance of the District. The petitioners represent and warrant to the City Council the continuation of the District and the undertaking of the services, improvements and activities described in the petition are considered essential to the petitioners' efforts to create new jobs and income in the City of Des Moines and to retain jobs and income in the City that would otherwise be lost.
2. The petition contains signatures from more than 25% of all owners of property within the proposed District. As of May 24, 2023, the petition has been signed by 30.23% of all owners of property within the district (1065 of 3523 parcels). The signatures also represent ownership of property with an assessed value of 25% or more of the assessed value of all of the property in the District. As of May 24, 2023, the signatures represent ownership of property with an assessed value of 71.89% of the assessed value of all property in the District (\$1,262,342,229 of \$1,755,865,947).
3. The petition provides a valid map and legal description for the boundaries of the proposed Downtown SSMID District. The existing Downtown Des Moines SSMID boundary is expanded to include parcels abutting I-235 Avenue east of Keo Way, parcels north of Park Street and south of I-235 between 7th Street and 12th Street, parcels north of Des Moines Street and south of I-235 between East 4th Street and Pennsylvania Avenue.
4. The petition states that the SSMID shall exist for a period of 10 years, commencing with the levy of taxes for collection in the fiscal year beginning July 1, 2024, and conclude in the

fiscal year ending June 30, 2034. The petition also states that the maximum rate of the operation tax shall not exceed \$2.25 per thousand dollars of taxable valuation.

5. The petition states that the purpose of the SSMID shall be the undertaking of actions and the design and construction of all improvements authorized by the Act and the performance of administration, redevelopment, and revitalization of the District, as authorized by the Act, all which actions and improvements are intended to benefit the property within the District.
6. The petition proposes to continue an operation fund with respect to the District to be known as the "Downtown Des Moines Self-Supported Municipal Improvement District Operation Fund" (the "Operation Fund"), and levy an annual tax (the "Operation Tax") upon the property, as allowed and defined in the Act, within the District (the "Property") for the purposes of:
 - a. Paying the administrative expenses of the District, as defined and authorized in the Act, or
 - b. Paying part or all of the maintenance expenses of "improvements" or "self-liquidating improvements" as defined in the Act.

Parcels that are tax exempt or which are assessed as residential property for tax purposes, excluding Multi-Residential 3+ assessed properties, are exempt from such levies.

7. The petition proposes to continue to hold and disburse all amounts collected in the Operation Fund to be utilized for any one or more of the following purposes, at such times, in such amounts and under such conditions as shall be recommended to the City Council by the Downtown Des Moines Self-Supported Municipal Improvement District:
 - a. Enhanced maintenance, cleaning and upkeep of public spaces within the District:
 - b. Graffiti removal on public property and private buildings within the District.
 - c. Enhanced public and property safety and crime prevention within the District, including the operation of a "Goodwill Ambassador" program as determined and operated from time to time by the Downtown Des Moines Self-Supported Municipal District.
 - d. Development, marketing, promotion and management of activities and events within the District.
 - e. Capital, physical or other improvements designed to enhance the image and appearance of the District, including but not limited to improvements to the skywalk system.
 - f. Management and operation of public spaces within the District, including public parking facilities.
 - g. Research and planning services benefiting the District.
 - h. Parking and transportation management benefiting the District.
 - i. Activities and operations benefiting the District under any agreements with the City of Des Moines or other public or quasi-public entities.
 - j. Recommendations regarding, and the promotion of, the District and the advancement of the District, including with respect to the use of public spaces within the District, the types of public spaces and services within the District, the services and improvements within the District, policies and practices for the District, business retention and attraction within the District, and activities and events within in the District.

- k. Other activities intended to benefit or further the purposes or interests of the District and the development and advancement of the District.
8. The petition proposes to continue the operating agreement between the City of Des Moines and Downtown Des Moines Self-Supported Municipal Improvement District with respect to managing and undertaking the services, improvements and activities described in the Petition and in the annual budget for such services, improvements and activities, and to appropriate and provide funds held from time to time in the Operation Fund to Downtown Des Moines Self-Supported Municipal Improvement District to be utilized for the purposes described in the petition.
9. The petition proposes to require Downtown Des Moines Self-Supported Municipal Improvement District, as a condition to the disbursement of funds from the Operation Fund, to submit to the Des Moines City Council, no later than December 1 of each year, a budget showing, in general terms, the proposed expenditures of such funds for the fiscal year beginning on the next July 1.
10. The petition states the intent that all taxes levied and collected on behalf of the District shall be expended for new, additional or enhanced services implemented within the District after the District was originally established, and that the City shall not diminish the type and extent of governmental services described in this Petition that existed at the time the District was originally established, with the intention of transferring the cost of providing such services from the City budget to the Operation Fund.
11. The petition states that the District is located within the boundaries of Tax Increment Finance Districts which have been created by the City. Notwithstanding that fact, it is the further intent of the Petition that an amount of funds which would be derived from the annual levy of the Operation Tax against property within the District if the District were not located within such Tax Increment Finance Districts shall be made available annually for the services, improvements and activities set out in the Petition, and that the City shall take all actions necessary to accomplish this purpose, including, if necessary and to the extent permitted by applicable law, allocation to these services, improvements and activities of a portion of the incremental property taxes which are attributable to properties within the District.
12. The petition requests that the City take no action which would make it impossible or illegal for Downtown Des Moines Self-Supported Municipal Improvement District to receive voluntary contributions from tax exempt properties within the District or from any other properties which may benefit from or contract for services from the Downtown Des Moines Self-Supported Municipal Improvement District.
13. The services and activities identified in the purposes of the SSMID further the objectives of the Metro Center Urban Renewal Project particularly:

General

- a. Preserve and create an environment which will protect the health, safety, and general welfare of city residents and maintain and expand taxable values of property within the area.

Economic Development

- a. Provide for orderly expansion of downtown Des Moines as a retail, financial, business, administrative, governmental, and cultural center of the metropolitan area and the region.
- b. Encourage and support development which will enhance and make the best possible use of riverfront, cultural, and other public facilities, resources and investments.
- c. Ensure that the area is adequately serviced with public utilities and services to support contemporary development requirements.

Further the services and activities identified under the purposes of the SSMID are consistent with the economic development activities identified in the Metro Center Urban Renewal Project plan and further the economic development public purposes defined in Iowa Code Chapter 15A. As represented and warranted in the SSMID petition, the activities, improvements and services provided by the Downtown SSMID are essential to the City's efforts to create new jobs and income in the City and to retain jobs and income in the City that would otherwise be lost.

Feasibility of the Project

Approximately \$3,695,681 of SSMID revenue will be generated annually based upon total taxable value for all commercial, industrial and multi-residential (3+) taxable properties within the proposed SSMID boundary of \$1,642,525,047 as of March 2023 and a maximum allowable assessment of \$2.25 per \$1,000 of valuation as stated in the petition. The actual levy will be set annually by the City Council. The Downtown Des Moines Self-Supported Municipal Improvement District will submit to the Des Moines City Council, no later than December 1 of each year, a budget showing, in general terms, the proposed expenditures of such funds for the fiscal year beginning on the next July 1.

Recommendation

The petition to expand and continue the "Downtown Des Moines Self-Supported Municipal Improvement District" meets the criteria as outlined in Chapter 386 of the Iowa Code for such districts. The petition is valid and the Downtown Des Moines SSMID has merit and is feasible. The Plan and Zoning Commission forwards this report to City Council on June 26, 2023, at which time the City Council may set the date of public hearing for July 17, 2023 to consider expansion and continuation of the District.

2023 PETITION TO EXPAND AND CONTINUE

Downtown SSMID

Background

- ▶ Property owner initiated special taxation district
- ▶ First approved in 2008
- ▶ Subsequent petitions for boundary adjustments and continuations in 2001, 2004, 2006, 2009, 2013, 2018 and now 2023
- ▶ Commercial and Industrial Assessed property pays SSMID tax
- ▶ Residential assessed property does not pay SSMID tax except Multi-Res 3+ classifications
- ▶ 25-year track record for provision of additional and valued services to the Downtown

Summary of Proposed Changes

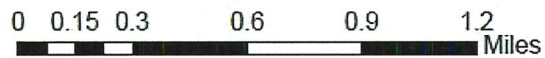
- ▶ Boundary expansion on northern edge to I-235
- ▶ Max levy increase from \$2.00 to \$2.25 / 1000
 - \$2.00 maximum has been in place since at least 2013
 - necessary to accommodate for inflation and demand for additional services
 - Actual levy set by City Council annually upon review and approval of SSMID budget
- ▶ Term extended from 5 years to 10 years
 - no auto renewal like other SSMID's
 - minimum 10-month process to renew each time
 - certified mailing of hearing notice to all property owners each time SSMID is modified or continued --- costs \$9,544 in 2023

Proposed 2023 Downtown SSMID Boundary

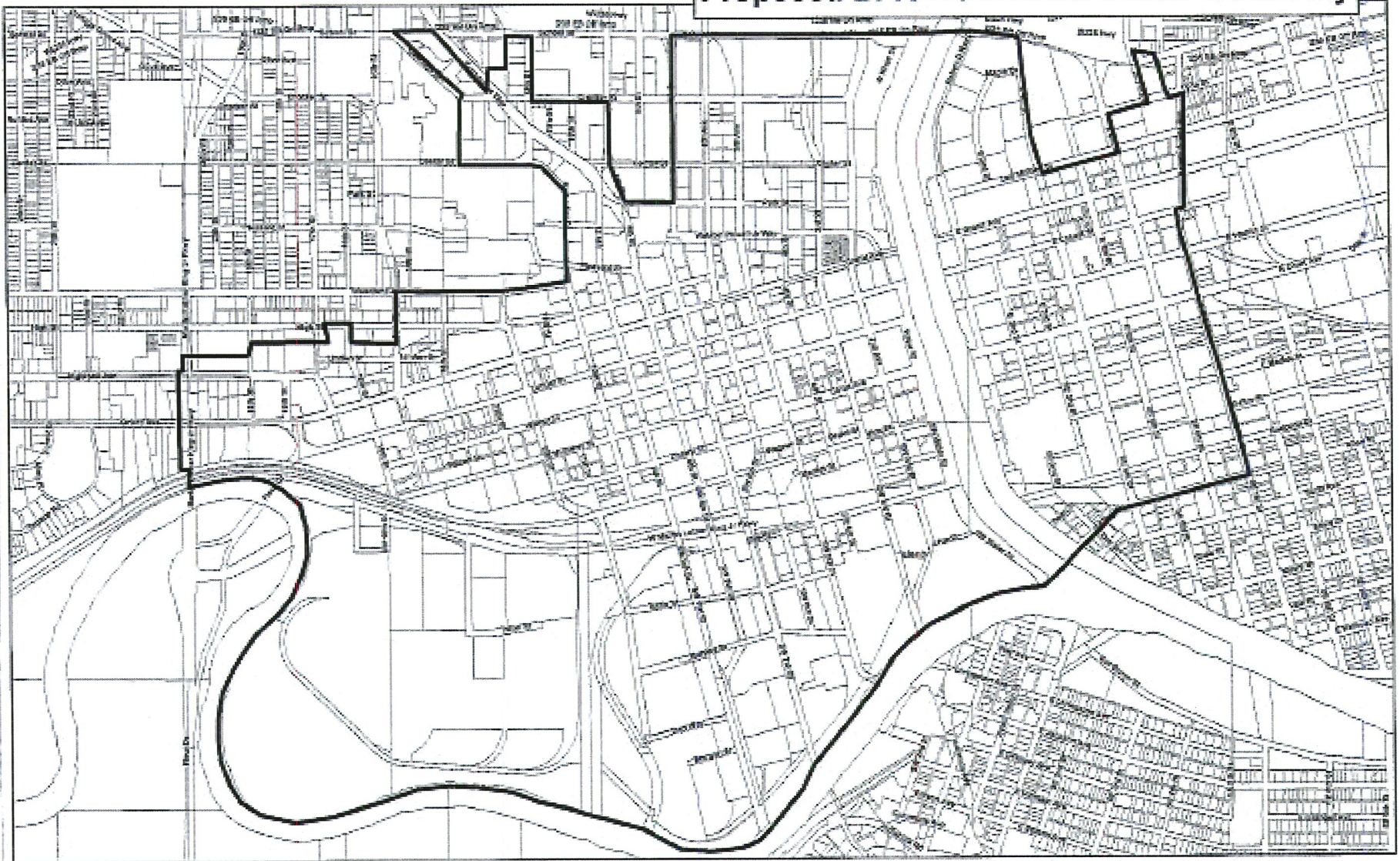


Legend

 SSMID Boundary 2023



Proposed 2018 Downtown SSMID Boundary



CHAPTER 386

SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICTS

Referred to in §376.1

386.1	Definitions.	386.9	Capital improvement tax.
386.2	Authorization.	386.10	Debt service tax.
386.3	Establishment of district.	386.11	Self-supported municipal improvement district bonds.
386.4	Amendments to district.		
386.5	Dissolution.	386.12	Payment for improvements.
386.6	Improvements.	386.13	Parking fee abatements.
386.7	Self-liquidating improvements.	386.14	Independent provisions.
386.8	Operation tax.		

386.1 Definitions.

As used in [this chapter](#), unless the context requires otherwise:

1. "Book", "list", "record", or "schedule" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in [section 445.1](#).
2. "Cost" of any improvement or self-liquidating improvement includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights-of-way, supervision, inspection, testing, publications, printing and sale of bonds, interest during construction and for not more than six months thereafter, and provisions for contingencies.
3. "District" means a self-supported municipal improvement district which may be created and the property therein taxed in accordance with [this chapter](#).
4. "Improvement" means any of the following:
 - a. All or any part of a city enterprise as defined in [section 384.24, subsection 2](#).
 - b. Public improvements as defined in [section 384.37, subsection 19](#).
 - c. Those structures, properties, facilities or actions, the acquisition, construction, improvement, installation, reconstruction, enlargement, repair, equipping, purchasing, or taking of which would constitute an essential corporate purpose or general corporate purpose as defined in [section 384.24, subsections 3 and 4](#).
5. "Property" means real property as defined in [section 4.1, subsection 13](#), and in [section 427A.1, subsection 1](#), paragraph "h".
6. "Property owner" or "owner" means the owner of property, as shown by the transfer books in the office of the county auditor of the county in which the property is located.
7. "Self-liquidating improvement" means any facility or property proposed to be leased in whole or in part to any person or governmental body to further the corporate purposes of the city and:
 - a. To aid in the commercial development of the district.
 - b. To further the purposes of the districts; or
 - c. Not substantially reduce the city's property tax base.
8. The use of the conjunctive "and" includes the disjunctive "or" and the use of the disjunctive "or" includes the conjunctive "and", unless the context clearly indicates otherwise.
9. All definitions in [section 362.2](#) are incorporated by reference as a part of [this chapter](#), except as provided in [subsection 5](#).

[C77, 79, 81, §386.1]

84 Acts, ch 1179, §1; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201

386.2 Authorization.

A city which proposes to create a district, to provide for its existence and operation, to provide for improvements or self-liquidating improvements for the district, to authorize and issue bonds for the purposes of the district, and to levy the taxes authorized by [this chapter](#) must do so in accordance with the provisions of [this chapter](#).

[C77, 79, 81, §386.2]

386.3 Establishment of district.

1. Districts may be created by action of the council in accordance with the provisions of [this chapter](#). A district shall:

a. Be comprised of contiguous property wholly within the boundaries of the city. A self-supported municipal improvement district shall be comprised only of property in districts which are zoned for commercial or industrial uses and properties within a duly designated historic district.

b. Be given a descriptive name containing the words "self-supported municipal improvement district".

c. Be comprised of property related in some manner, including but not limited to present or potential use, physical location, condition, relationship to an area, or relationship to present or potential commercial or other activity in an area, so as to be benefited in any manner, including but not limited to a benefit from present or potential use or enjoyment of the property, by the condition, development or maintenance of the district or of any improvement or self-liquidating improvement of the district, or be comprised of property the owners of which have a present or potential benefit from the condition, development or maintenance of the district or of any improvement or self-liquidating improvement of the district.

2. The council shall initiate proceedings for establishing a district upon the filing with its clerk of a petition containing:

a. The signatures of at least twenty-five percent of all owners of property within the proposed district. These signatures must together represent ownership of property with an assessed value of twenty-five percent or more of the assessed value of all of the property in the proposed district.

b. A description of the boundaries of the proposed district or a consolidated description of the property within the proposed district.

c. The name of the proposed district.

d. A statement of the maximum rate of tax that may be imposed upon property within the district. The maximum rate of tax may be stated in terms of separate maximum rates for the debt service tax, the capital improvement fund tax, and the operation tax, or in terms of a maximum combined rate for all three.

e. The purpose of the establishment of the district, which may be stated generally, or in terms of the relationship of the property within the district or the interests of the owners of property within the district, or in terms of the improvements or self-liquidating improvements proposed to be developed for the purposes of the district, either specific improvements, self-liquidating improvements, or general categories of improvements, or any combination of the foregoing.

f. A statement that taxes levied for the self-supported improvement district operation fund shall be used for the purpose of paying maintenance expenses of improvements or self-liquidating improvements for a specified length of time, along with any options to renew, if the taxes are to be used for this maintenance purpose.

3. a. The council shall notify the city planning commission upon the receipt of a petition. It shall be the duty of the city planning commission to make recommendations to the council in regard to the proposed district. The city planning commission shall, with due diligence, prepare an evaluative report for the council on the merit and feasibility of the project. The council shall not hold its public hearings or take further action on the establishment of the district until it has received the report of the city planning commission. In addition to its report, the commission may, from time to time, recommend to the council amendments and changes relating to the project.

b. If no city planning commission exists, the council shall notify the metropolitan or regional planning commission upon receipt of a petition, and such commission shall have the same duties as the city planning commission set forth in [this subsection](#). If no planning commission exists, the council shall notify the zoning commission upon receipt of a petition, and such commission shall have the same duties as the city planning commission set forth in [this subsection](#). If no planning or zoning commission exists, the council shall call a hearing on the establishment of a district upon receipt of a petition.

4. Upon the receipt of the commission's final report the council shall set a time and place for a meeting at which the council proposes to take action for the establishment of the district, and shall publish notice of the meeting as provided in [section 362.3](#), and the clerk shall send a copy of the notice by certified mail not less than fifteen days before the meeting to each owner of property within the proposed district at the owner's address as shown by the records of the county auditor. If a property is shown to be in the name of more than one owner at the same mailing address, a single notice may be mailed addressed to all owners at that address. Failure to receive a mailed notice is not grounds for objection to the council's taking any action authorized in [this chapter](#).

5. In addition to the time and place of the meeting for hearing on the petition, the notice must state:

- a. That a petition has been filed with the council asking that a district be established.
- b. The name of the district.
- c. The purpose of the district.
- d. The property proposed to be included in the district.
- e. The maximum rate of tax which may be imposed upon the property in the district.

6. At the time and place set in the notice the council shall hear all owners of property in the proposed district or residents of the city desiring to express their views. The council must wait at least thirty days after the public hearing has been held before it may adopt an ordinance establishing a district which must be comprised of all the property which the council finds has the relationship or whose owners have the interest described in [subsection 1, paragraph "c"](#). Property included in the proposed district need not be included in the established district. However, no property may be included in the district that was not included in the proposed district until the council has held another hearing after it has published and mailed the same notice as required in [subsections 4 and 5 of this section](#) on the original petition to the owners of the additional property, or has caused a notice of the inclusion of the property to be personally served upon each owner of the additional property, or has received a written waiver of notice from each owner of the additional property.

7. Adoption of the ordinance establishing a district requires the affirmative vote of three-fourths of all of the members of the council, or in cities having but three members of the council, the affirmative vote of two members. However if a remonstrance has been filed with the clerk signed by at least twenty-five percent of all owners of property within the proposed district representing ownership of property with an assessed value of twenty-five percent or more of the assessed value of all of the property in the proposed district, the adoption of the ordinance requires a unanimous vote of the council.

8. The clerk shall cause a copy of the ordinance to be filed in the office of the county recorder of each county in which any property within the district is located.

9. At any time prior to adoption of an ordinance establishing a district, the entire matter of establishing such district shall be withdrawn from council consideration if a petition objecting to establishing such district is filed with its clerk containing the signatures of at least forty percent of all owners of property within the proposed district or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the proposed district.

10. The adoption of an ordinance establishing a district is a legislative determination that the property within the district has the relationship or its owners have the interest required under [subsection 1, paragraph "c"](#) and includes all of the property within the area which has that relationship or the owners of which have that interest in the district.

11. Any resident or property owner of the city may appeal the action and the decisions of the council, including the creation of the district and the levying of the proposed taxes for the district, to the district court of the county in which any part of the district is located, within thirty days after the date upon which the ordinance creating the district becomes effective, but the action and decision of the council are final and conclusive unless the court finds that the council exceeded its authority. No action may be brought questioning the regularity of the proceedings pertaining to the establishment of a district or the validity of the district, or the propriety of the inclusion or exclusion of any property within or from the district, or the



Process Summary

- ▶ Petition and legal description were reviewed and approved by the City Legal Department prior to distribution by the SSMID Board for signatures
- ▶ Boundary map prepared by Development Services
- ▶ Evaluative report outlines compliance of petition with State Code
- ▶ Notice of City Council hearing by certified mail to all property owners will be mailed June 27, 2023
- ▶ Council Hearing July 17, 2023
- ▶ First reading August 21, 2023 (minimum 30 days after hearing)
- ▶ Must be approved by October 1, 2023 per County Auditor
- ▶ Staff recommends approval of the Evaluative Report by P&Z

Proposed 2023 Downtown SSMID Boundary



Legend

 SSMID Boundary 2023

