

AN ORDINANCE AUTHORIZING THE CITY OF RICHMOND HEIGHTS, MISSOURI TO JOIN SHOW ME PACE AND TO JOIN MISSOURI CLEAN ENERGY DISTRICT, PURSUANT TO SECTIONS 67.2800 TO 67.2835 RSMO, THE “PROPERTY ASSESSED CLEAN ENERGY ACT,” STATING THE TERMS UNDER WHICH THE CITY WILL CONDUCT ACTIVITIES AS A MEMBER OF SUCH DISTRICT, AND APPROVING RELATED COOPERATIVE AGREEMENTS AND BYLAWS.

WHEREAS, the 95th General Assembly of the State of Missouri has adopted the Property Assessment Clean Energy Act, Sections 67.2800 to 67.2835, Revised Statutes of Missouri (the "PACE Act"); and

WHEREAS, it is in the best interests of the health, safety, and welfare of the City of Richmond Heights, Missouri and its local businesses and residents to encourage the development, production, and efficient use of clean energy and renewable energy, as well as the installation of energy efficiency improvements to eligible publicly and privately owned real property; and

WHEREAS, the primary intent of funding energy efficiency and renewable energy improvements pursuant to the PACE Act is to promote the public purposes described above; and

WHEREAS, Section §67.2810.1, RSMo authorizes one or more Municipalities (as defined in Section §67.2800.7, RSMo) to establish a Clean Energy Development Board to initiate and administer a Property Assessed Clean Energy (“PACE”) Program so that owners of qualifying property can access funding for energy efficiency improvements or renewable energy improvements to such properties located in such Municipalities; and

WHEREAS, on June 15, 2015, a clean energy development board named Show Me PACE was created with the intention that all Municipalities within the State of Missouri would be eligible to join and participate by approving an appropriate ordinance or resolution; and

WHEREAS, on January 3, 2011, a clean energy development board now named the Missouri Clean Energy District was created with the intention that all Municipalities within the State of Missouri would be eligible to join and participate by approving an appropriate ordinance or resolution; and

WHEREAS, it is in the best interests of the City of Richmond Heights, Missouri and its local businesses and residents to join and participate in Show Me PACE and join and participate in Missouri Clean Energy District;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, AS FOLLOWS:

SECTION 1: The City hereby approves and authorizes joining and participating in Show

Me PACE and joining and participating in the Missouri Clean Energy District based on the following:

A. Title and Definitions.

1. *Title.* This Ordinance shall be known and may be cited as “The City of Richmond Heights, Missouri Property Assessed Clean Energy Ordinance.”

2. *Definitions.* Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings. Words and phrases defined in Section 67.2800.2 of the Missouri Revised Statutes, as amended, shall have their defined meanings when used in this Ordinance. As used in this Ordinance, the following words and phrases shall have the meanings indicated.

- a. “Show Me PACE” means the Show Me PACE District.
- b. “MCED” means the Missouri Clean Energy District.
- c. “Districts” means both Show Me PACE and Missouri Clean Energy District.
- d. “PACE Assessment” means a special assessment made against qualifying property in consideration of PACE Funding.
- e. “PACE Funding” means funds provided to the owner(s) of Qualifying Property by the District for an energy efficiency or renewable energy improvement.
- f. “Qualifying Property” means real property located in the City of Richmond Heights, Missouri that satisfies the criteria set forth in the PACE Act.

B. Program Administration. Eligible Richmond Heights Property owners may independently select either Show Me PACE or MCED to serve as program Manager on a project by project basis. Both Districts shall each independently administer the functions of a PACE program for their projects within the City by:

1. providing owners with an application to apply for PACE Funding;
2. developing standards for the approval of projects submitted by Property owners;
3. reviewing applications and selecting qualified projects;
4. entering into Assessment Contracts with Qualifying Property owners;
5. providing a copy of each executed Notice of Assessment to the County Assessor and causing a copy of each such Notice of Assessment to be recorded in the real estate records of the Recorder of Deeds for the County;
6. authorizing and disbursing PACE Funding to the Qualifying Property owners;
7. receiving the PACE Assessment from the County Collector;
8. recording any lien, if needed, due to nonpayment of a PACE Assessment; and
9. exercising all powers granted by Section 67.2810.2 of the Missouri Revised Statutes, as amended, including but not limited to, the power to levy and collect the PACE Assessment pursuant to an Assessment Contract with a Qualifying Property owner.

C. Liability of City Officials; Liability of City. Notwithstanding any other provision of law to the contrary, the City and St. Louis County and their employees, officers and elected and appointed officials, shall not be liable to any person for claims, of whatever kind or nature, under or related to the City's participation in the PACE program, including, without limitation, claims for or related to uncollected PACE Assessments. The City of Richmond Heights, Missouri, has no liability to a property owner for or related to energy savings improvements funded under a PACE Program. The District shall for all purposes be considered an independent entity and shall not be considered a political subdivision of the City of Richmond Heights, Missouri.

D. Existing Laws Not Superseded. Any project or improvement at any Qualifying Property which is funded in whole or in part of PACE Funding shall be subject to all laws, ordinances, rules and regulations in effect at that time.

E. City as a Non-Party. The City of Richmond Heights, Missouri shall not be a party to any PACE Funding agreement, loan, or other commitment, however denominated, executed between the District and the owner(s) (or their representatives, together with any successors and assigns) of any Qualifying Property.

SECTION 2: The City of Richmond Heights, Missouri declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The City enacts this Ordinance pursuant to Sections 67.2800 to 67.2835 of the Missouri Revised Statutes, as amended. The City of Richmond Heights, Missouri, reserves the right and authority to withdraw from ongoing participation in either or both Show Me PACE and MCEd upon written notice, subject to the continuation of any outstanding Assessment Contracts until expiration or termination thereof.

SECTION 3: The City of Richmond Heights, Missouri does hereby request that it be approved by the Board of Directors of Show Me PACE and by the Board of Directors of MCEd as a duly authorized participant in the Districts, subject to the terms and conditions hereof.

SECTION 4: The election of the City of Richmond Heights, Missouri to join the Districts shall in no way constitute an obligation of the City necessitating any corresponding appropriation.

SECTION 5: The Deputy City Clerk is hereby authorized to deliver a duly executed copy of this Ordinance to the Board of Directors of each of the Districts or its designee, together with the jurisdictional and geographic boundaries of the City for inclusion in the jurisdictional and geographic boundaries of the Districts.

SECTION 6: The Cooperative Agreement between Show Me Pac and the City of Richmond Heights attached hereto as **Exhibit 1** and the bylaws referenced therein are hereby approved. The Mayor is authorized to execute the agreement and the Deputy City Clerk is authorized to attest thereto. The agreement as executed shall be in the form attached hereto as

Exhibit 1 subject to final changes consistent with the provisions and intent of this Ordinance, and necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The City Manager and her designated representatives are hereby authorized and directed to take any and all actions necessary, desirable, convenient or proper in order to carry out the intent of this Ordinance, the matters herein authorized, and the rights and duties of the City under the agreements.

SECTION 7: This Ordinance shall become effective after thirty days have passed since approval of this ordinance.

PASSED and APPROVED this 3rd day of April, 2017.

JIM THOMSON
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First reading: March 6, 2017
Second reading: April 3, 2017

EXHIBIT 1

SHOW ME PACE COOPERATIVE AGREEMENT

**SHOW ME PACE
COOPERATIVE AGREEMENT**

THIS COOPERATIVE AGREEMENT (this “Cooperative Agreement”) is made and entered into by Show Me PACE, a Missouri clean energy development board (“Show Me PACE”) and the City of Richmond Heights, Missouri ("Municipality").

RECITALS

WHEREAS, on April 3, 2017, the City Council of Richmond Heights, Missouri adopted Ordinance No. 5353, creating Show Me PACE, pursuant to Sections 67.2800 to 67.2835 of the Revised Statutes of Missouri (the “PACE Act”); and

WHEREAS, pursuant to Section 67.2810 of the PACE Act, more than one municipality may form a clean energy development board; and

WHEREAS, clean energy development boards serving more than one municipality are in the best interest of the participating municipalities because it allows for economies of scale and concentrations of expertise that will benefit the approval, financing and installation of energy efficient and renewable energy improvements pursuant to the PACE Act; and

WHEREAS, other municipalities may participate in Show Me PACE by adoption of an ordinance in accordance with the PACE Act and execution of this Cooperative Agreement;

AGREEMENT

NOW THEREFORE, in consideration of each municipality’s participation in Show Me PACE, Municipality and Show Me PACE hereby agree as follows:

- 1. Representations.** Municipality has taken all legislative actions necessary to approve such Municipality’s participation in Show Me PACE, and this Agreement is subject to the provisions thereof.
- 2. Approval of Bylaws.** The current bylaws of Show Me PACE (the “Bylaws”) have been provided to the Municipality and the Municipality approves such Bylaws.
- 3. Board of Directors.** The members of the Board of Directors of Show Me PACE shall be appointed in the manner described in the Bylaws.
- 4. Clean Energy Development Board Powers.** Municipality agrees that Show Me PACE is authorized to exercise all clean energy development board powers permitted by the PACE Act or other statute within the boundaries of the Municipality.

5. Counterparts. No action from any Municipality already participating in Show Me PACE shall be required for a new Municipality to participate in Show Me PACE.

6. Withdrawal. Municipality shall not withdraw from participation in Show Me PACE if such withdrawal will impact any existing property assessment clean energy financing undertaken by Show Me PACE in the Municipality's boundaries. However, Municipality may otherwise withdraw from and discontinue participation upon request, in writing, that Show Me PACE no longer undertake clean energy financing in the Municipality's boundaries.

IN WITNESS WHEREOF, Show Me PACE and Municipality have caused this Cooperative Agreement to be executed as of the dates shown below:

Date: _____, 2016

SHOW ME PACE

By: _____
Josh Campbell, J.D., President

Date: _____, 2016

City of Richmond Heights

Adopted Ordinance No. ____ joining
Show Me PACE on _____, 20__

By: _____
Name: Jim Thomson
Title: Mayor