City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: February 20, 2018

Item: Council Bill 2018-602 – An ordinance enabling the City of Joplin to join Show Me PACE
Originating Department: City Manager

Attachments: 1) Council Bill 2018-602
2) Show Me PACE Bylaws

PD&NS Director: Troy Bolander	Date:
Public Works Director: David Hertzberg	Date:
Finance Department: Leslie Haase	Date:
City Attorney: Peter C. Edwards	Date:
City Manager: Sam L. Anselm	Date:

Recommended Action: Approval of Council Bill 2018-602, allowing the City of Joplin to join the Show Me PACE District.

SUMMARY:

Property Assessed Clean Energy (PACE) is a means of financing energy efficiency upgrades or renewable energy installations property owners. PACE financing is a tool that allows property owners to borrow money for renewable energy and energy efficiency property improvements with no upfront cost. PACE financing can pay for new heating and cooling systems, lighting improvements, solar panels, water pumps, insulation, and other energy efficient improvements.

The financing pays for 100% of a project's costs and is repaid for up to 20 years with an assessment added to the property's tax bill. The cost of the energy saving improvement is then repaid through an assessment on the owner's annual property tax bill. Assessments are tied by a lien to the specific property. If the property is later sold, the assessment and lien stay with the property and become the obligation of the new owner.

In order for any Joplin projects to be eligible for PACE financing, the City of Joplin must join a PACE district by ordinance. By joining a PACE district, the City of Joplin assumes no legal or financial responsibility for any project or developer. Pending the adoption of this ordinance, PACE financing will be available only for commercially zoned properties in the City of Joplin.

RECOMMENDATION:

Staff recommends approval of this ordinance in order to allow owners of commercially zoned property to finance energy efficient improvement projects.

EXHIBIT A

SHOW ME PACE
COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("Cooperative Agreement") is made and entered into by Show Me PACE, a Missouri Clean Energy Development Board ("Show Me PACE") and the municipalities of the State of Missouri that, from time-to-time, may execute this Cooperative Agreement (each, a "Municipality," and together, the "Municipalities").

RECITALS

WHEREAS, on _____, 2018, the City Council of the City of Joplin, Missouri, adopted Ordinance No. 2018-_____, authorizing participation in 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, each Municipality hereby agrees as follows:

1. Representations. Each Municipality has taken all legislative actions necessary to approve such Municipality's participation in Show Me PACE.

2. Approval of Bylaws. The current bylaws of Show Me PACE (the "Bylaws") have been provided to the Municipality in an acceptable form.

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. Each 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. This Cooperative Agreement is intended to be signed in counterparts as Municipalities, from time-to-time, elect to participate in Show Me PACE. 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. No Municipality shall 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, a Municipality may request, in writing, that Show Me PACE no longer undertake clean energy financing in the Municipality's boundaries, and upon receipt of written notice, Show Me PACE shall no longer undertake any clean energy financing with the City Joplin.

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

Date: _____, 20__ **SHOW ME PACE**

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

Date:_____, 20__ **CITY OF JOPLIN, MISSOURI,**
a Municipal Corporation

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

By: _____
Name: Michael L. Seibert,_____
Title: Mayor_____

COUNCIL BILL NO. 2018-602 ORDINANCE NO. _____

AN ORDINANCE to enable the City of Joplin, Missouri, to join Show Me PACE, pursuant to Sections §67.2800 to §67.2835, RSMo., the "Property Assessment Clean Energy Act," and stating the terms under which the City of Joplin will conduct activities as a member of such district.

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 Joplin, Missouri, and its 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 commercially zoned publicly and privately owned real property; and,

WHEREA**S**, 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 the 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 (as defined in the PACE Act) 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 Joplin, Missouri, and its residents to join and participate in Show Me PACE.

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

Section 1. That the City of Joplin, Missouri, hereby approves and authorizes joining and participating in Show Me PACE based on the following:

A. Title and Definitions.

1. *Title*. This Ordinance shall be known and may be cited as "the City of Joplin, Missouri's 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" or "District" means the Show Me PACE Clean Energy Development Board.

   b. "PACE Assessment" means a special assessment made against qualifying property in consideration of PACE Funding.

   c. "PACE Funding" means funds provided to the owner(s) of Qualifying Property by the District for an energy efficiency, water conservation or renewable energy improvement.

   d. "Qualifying Property" means commercially zoned real property located in the city of Joplin, Missouri, that satisfies the criteria set forth in the PACE Act.

B. Program Administration. Show Me PACE shall administer the functions of a PACE program within the City/County by:

1. Providing Qualifying Property owners with an application to apply for PACE Funding;

2. developing standards for the approval of projects submitted by Qualifying 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 the City of Joplin, Missouri Officials; Liability of the City of Joplin. Notwithstanding any other provision of law to the contrary, officers and other officials of the City of Joplin, Missouri shall not be personally liable to any person for claims, of whatever kind or nature, under or related to the City of Joplin's participation in the PACE program, including, without limitation, claims for or related to uncollected PACE Assessments. The City of Joplin, Missouri, has no liability to a property owner for or related to energy savings improvements funded under a PACE Program. Pursuant to the PACE Act, the District is a separate political subdivision and is not a unit of the City of Joplin.

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 ordinances, rules and regulations in effect at that time.

E. The City of Joplin, Missouri as a Non-Party. The City of Joplin, 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. That the City of Joplin, Missouri declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The County enacts this Ordinance pursuant to Sections 67.2800 to 67.2835 of the Missouri Revised Statutes, as amended.

Section 3. That the City of Joplin, Missouri does hereby request that it be approved by the Board of Directors of Show Me PACE as a duly authorized participant in the District. The City of Joplin, Missouri, hereby approves the Show Me PACE Cooperative Agreement among the District and the participating Municipalities in substantially the form attached hereto as **Exhibit A** (the "Cooperative Agreement"). The Mayor of the City of Joplin, Missouri, is hereby authorized and directed to execute the Cooperative Agreement on behalf of the City of Joplin, Missouri.

Section 4. That the election of the City of Joplin, Missouri, to join the District shall in no way constitute an obligation of the City of Joplin, Missouri, necessitating any corresponding appropriation.

Section 5. That the City of Joplin's City Clerk is hereby authorized to deliver a duly executed copy of this Ordinance to the Board of Directors of the District or its designee, together with the jurisdictional and geographic boundaries of the City of Joplin, Missouri, for inclusion in the jurisdictional and geographic boundaries of the District.

Section 6. That the officials and agents of the City of Joplin, Missouri, are hereby authorized and directed to, take such actions and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7. That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2018, by vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara J. Golhoffer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney