

**BILL NO. 6812**

**ORDINANCE NO. 6672**

**THE CITY OF CLAYTON, MISSOURI, PROPERTY ASSESSED CLEAN ENERGY ORDINANCE AUTHORIZING THE CITY TO JOIN THE *SHOW ME PACE CLEAN ENERGY DISTRICT*, THE *MISSOURI CLEAN ENERGY DISTRICT*, AND THE *MISSOURI ENERGY SAVINGS PROGRAM* PURSUANT TO THE MISSOURI "PROPERTY ASSESSED CLEAN ENERGY ACT"; STATING THE TERMS UNDER WHICH THE CITY WILL CONDUCT ACTIVITIES AS A MEMBER OF SUCH DISTRICTS, AND APPROVING RELATED COOPERATIVE AGREEMENTS AND BYLAWS**

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**WHEREAS**, the General Assembly of the State of Missouri has adopted the Property Assessment Clean Energy Act, Sections 67.2800 to 67.2835, RSMo. (the "PACE Act"); and

**WHEREAS**, it is in the best interests of the health, safety, and welfare of the City of Clayton, Missouri, and its 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 on 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**, on August 19, 2015, a clean energy development board now named the St. Louis County Clean Energy Development Board was created and now operates the *Missouri Energy Savings Program* with the intention that all Municipalities within the St. Louis County 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 Clayton, Missouri, and its businesses and residents to join and participate in the three PACE programs aforesaid;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:**

**SECTION 1:** The City of Clayton hereby approves and authorizes joining and participating in *Show Me PACE*, the *Missouri Clean Energy District*, and the *Missouri Energy Savings Program* based on the following:

A. Title and Definitions.

1. *Title.* This Ordinance shall be known and may be cited as "The City of Clayton, 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. "MO ESP" means the Missouri Energy Savings Program.
  - d. "Districts" means collectively the Show Me PACE, the Missouri Clean Energy District and the Missouri Energy Savings Program; and each being a "District."
  - e. "PACE Assessment" means a special assessment made against qualifying property in consideration of PACE Funding.

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

g. "Qualifying Property" means real property located in the City of Clayton, Missouri that satisfies the criteria set forth in the PACE Act.

B. Program Administration. Eligible Clayton Property owners may independently select either Show Me PACE, MCEd or MO ESP to serve as program administrator on a project by project basis. Each District shall independently administer the functions of a PACE program for its projects within the City by:

1. providing 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 City Officials; Liability of City. Notwithstanding any other provision of law to the contrary, the City and its employees, officers and elected and appointed officials, shall not be liable in either their personal or official capacity to any person for claims, of

whatever kind or nature, under or related to the City's participation in any PACE program, including, without limitation, claims for or related to uncollected PACE Assessments. The City of Clayton, Missouri, has no liability to a property owner for or related to energy savings improvements funded under a PACE Program. Each District shall for all purposes be considered an independent entity and shall not be considered a political subdivision of the City of Clayton, 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 Clayton, Missouri, shall not be a party to any PACE Funding agreement, loan, or other commitment, however denominated, executed between any District and the owner(s) (or their representatives, together with any successors and assigns) of any Qualifying Property.

**SECTION 2:** The City of Clayton, 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 Clayton, Missouri, reserves the right and authority to withdraw from ongoing participation in any District upon written notice, subject to the continuation of any outstanding Assessment Contracts until expiration or termination thereof.

**SECTION 3:** The City of Clayton, Missouri, does hereby request that it be approved by the Board of Directors of each District as a duly authorized participant in the Districts, subject to the terms and conditions hereof.

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

**SECTION 5:** The 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 Board of Aldermen further approves and authorizes execution on behalf of the City of any cooperative agreements and/or governance documents involving the City and the Districts necessary, desirable, convenient or proper to effectuate the City's participation in the Districts' respective programs as intended by this Ordinance.

**SECTION 7:** This Ordinance shall be in full force and effect from and after the date of its passage.

**PASSED this 8th day of December 2020, by the Board of Aldermen of Clayton, Missouri.**

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Michelle Harris  
Mayor

ATTEST:

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June Frazier  
City Clerk