

CITY OF HAYWARD

Hayward City Hall
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Cover Memo

File #: CONS 15-303, **Version:** 1

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Ygrene Property Assessed Clean Energy (PACE) - Authorization to operate under SB 555

RECOMMENDATION

That Council approves the attached resolution to authorize Ygrene PACE to operate under SB 555.

BACKGROUND

Property Assessed Clean Energy (PACE) programs allow property owners to finance energy and water efficiency improvements and pay off the debt through annual installments on their property tax bill. On July 7, 2015, the City Council authorized Ygrene Works, a PACE program, to serve Hayward property owners. The resolution that Council passed in July allows Ygrene to operate under AB 811. This report introduces a resolution that would allow Ygrene to also operate under SB 555. They requested this addition because they feel SB 555 gives them more flexibility.

Council has approved the five PACE programs below, which all operate under AB 811. California AB 811 (July 21, 2008) amended the Streets and Highways Code to enable PACE financing. The Code allows assessment districts to be established to pay for public improvements. AB 811 includes renewable energy facilities and energy efficiency upgrades in the list of public improvements that can be financed through an assessment district.

<u>PACE Program</u>	<u>Approved by Hayward City Council on:</u>
CaliforniaFIRST	January 5, 2010 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2010/rp010510-07.pdf>
Figtree Financial	October 28, 2014 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca102814full.pdf>
Alliance NRG	July 7, 2015 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca070715full.pdf>
HERO Program	July 7, 2015 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca070715full.pdf>
Ygrene Works	July 7, 2015 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca070715full.pdf>

DISCUSSION

Ygrene Works has requested to operate under SB 555 in addition to AB 811. Staff is recommending that Council grant this request. Staff does not feel that this will pose any additional economic, fiscal, or customer risks and it is possible that it may result in benefits for Hayward customers, which are outlined below.

California SB 555 was passed in October 5, 2011 to provide a second mechanism to establish PACE programs due to some concerns about AB 811 at the time. The bill amended the Mello-Roos Community Facilities Act of 1982 to include renewable energy sources and energy and water efficiency upgrades in the list of public improvements that can be financed through a Mello-Roos Community Facility District.

Proponents of SB 555 feel that it is a better law, though from a consumer perspective, SB 555 is very similar to AB 811. Ygrene claims the following potential benefits to consumers; however, Ygrene always includes the disclaimer that they are not tax professionals and recommend that property owners consult with their tax professional regarding eligible tax write-offs.

- SB 555 allows districts to fund improvements to both public and private properties, whereas AB 811 only serves private property.
- Under SB 555, the PACE provider does not record bulk assessment liens against the title of the property. This allows customers to freely refinance their mortgage.
- Under SB 555, Ygrene would not have to generate bonds to fund their programs.
- Ygrene feels that a PACE assessment under SB 555 qualifies as fully tax deductible like a normal Mello Roos tax. Under AB 811, PACE providers record the bulk assessment lien on title, for which the IRS only allows deductibility of interest.

FISCAL IMPACT

Authorizing Ygrene to operate under SB 555 will not expose the City to financial or other liability. Participation in PACE programs does not impact the General Fund or any City funds. PACE programs use private sector capital to provide property owners with funding. JPA sponsored PACE programs offer little risk to local jurisdictions because the JPA assumes the legal liability.

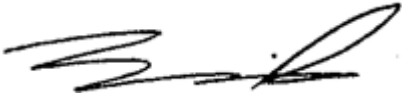
NEXT STEPS

To authorize Ygrene to operate under SB 555, Council needs to adopt the attached resolution to include properties within Hayward in the Authority CFD No. 2014-1 (Clean Energy). The City is already an associate member of the Golden State Finance Authority, the sponsoring JPA for the Ygrene Program.

Prepared by: Mary Thomas, Management Analyst

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution to Authorize Ygrene to Operate
Under SB 555