



## Legislation Text

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**File #:** 17-641, **Version:** 1

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**SUBJECT:** Agreement for Use of Easement with Porges Properties 1, LLC, a California Limited Company for a Proposed Prime Shine Car Wash on 16th Street

### REPORT IN BRIEF

Consider approving the Agreement for Use of Easement with the property owner to allow certain private improvements, as specified in the attached agreement, to be installed on the existing City easement for a future development project.

### RECOMMENDATION

**City Council** - Adopt a motion approving the Agreement for Use of Easement with Porges Properties 1, LLC, a California Limited Company; and, authorizing the City Manager or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve subject to modifications as conditioned by Council; or,
3. Deny the request; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in City Council motion); or,
5. Continue to a future City Council meeting (date and time to be specified in City Council motion).

### AUTHORITY

Charter of the City of Merced, Section 200.

### CITY COUNCIL PRIORITIES

As provided for in the 2017-18 Adopted Budget.

### DISCUSSION

The City of Merced has acquired multiple easements throughout the years. These easements give the City certain rights to use the property owner's land. Examples of easements include the right to install and maintain water mains, sewer mains, storm drains and other public utilities. These easements may also include roads. These easements are created by deed, map, or other written instruments.

An easement is a nonpossessory property right that allows the holder of the easement to use property that he or she does not own or possess. An easement does not allow the easement holder to occupy the land, or to exclude others from the land, unless they interfere with the easement

holder's use.

With the increase of development, the City is encountering more and more development projects placing private improvements onto City easements. As with all development projects, they must be approved and plan checked by the City. In essence, if the City approves a project that has private utilities encroaching onto the City's easement, the City is, by default, acknowledging approval of their location.

This Agreement for Use of Easement allows the property owner to place and maintain certain improvements on the City's easement and also protects the City's interests. It also helps the City because the City (holder of the easement) is responsible for maintaining their easement.

Therefore, staff recommends Council approve the Agreement for Use of Easements with Porges Properties 1, LLC, a California Limited Company.

### **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed.

### **ATTACHMENTS**

1. Agreement for Use of Easement with Porges Properties 1, LLC