



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

**SUBJECT: ACCEPTANCE OF DONATION
OF PROPERTY FOR
SIDEWALK IMPROVEMENTS**

DATE: 09-13-06

Approved

Date

9/16/06

COUNCIL DISTRICT: 5

RECOMMENDATION

Approval of an agreement for a transfer of property located at 3411 Rocky Mountain Drive / Harvest Drive, from the Mt. Pleasant School District to the City for constructed sidewalk improvements and adoption of a resolution authorizing the Director of Public Works to execute all documents related to the acceptance of the grant deed.

OUTCOME

The City will receive ownership placing this developed section into the public right-of-way and establish the City's maintenance responsibility for the sidewalk, curb and gutter improvements. The improvements better align the public right-of-way fronting the easterly section of the Robert Sanders Elementary School.

BACKGROUND

The City and Mt. Pleasant School District ("District") determined that a portion of property by the Robert Sanders Elementary School along Harvest Drive needed sidewalk improvements. The District decided to donate the property to the City so the City could improve the sidewalk. The new sidewalk, curb and gutter improvements better aligned the public right-of-way fronting the easterly section of the school. The project included the construction of curb, gutter, sidewalk, driveway apron, wheelchair ramps and pavement conform improvements and the relocation of a streetlight. However, in order to complete the sidewalk within the timeframe of the project, a special right-of-entry permitting construction was requested by the City and granted by the District prior to the conclusion of the transfer. The project has beneficial use and was completed as of August 9, 2004. Legal descriptions, plat maps and documentation necessary for completion of the real estate transaction has subsequently been completed so that the property may now be conveyed. The specific property interest is further shown in the Exhibit Map "A."

ANALYSIS

The District was approached in July 2003 to discuss the City's interest in obtaining fee interest for the purpose of constructing sidewalk improvements on school property at the Robert Sanders Elementary School site along Harvest Drive. The District was in agreement to convey the property interest and have the much-needed improvements done with a special right-of-entry until the formal paperwork could follow. Construction was performed and began July 2004 and the project was completed August 2004.

Approval of this agreement and acceptance of the fee property interest will permit the City to receive the proper transfer of the fee simple interest ownership.

POLICY ALTERNATIVES

Alternative #1: Not accept the donation

Pros: The Mt. Pleasant School District would remain be underlying fee owner.

Cons: The City would be without right to have its improvements upon School District land.

Alternative #2: Gift the improvements to the School District

Pro: Since the School District is already the fee owner, they would have to maintain the sidewalk and improvements upon acceptance.

Con: The improvements are part of the overall perceived public right of way, the public would be confused as to whom to address regarding any issue affecting the improvements, and acceptance of the School District donation simplifies the matter.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

While this agreement is below the \$1 million threshold for Criteria 1, this memorandum is posted on the City's website for the October 3, 2006 Council agenda.

City staff had met with District officials to inform them that the City's sidewalk improvement project would require a donation from the school in order to be able to install the sidewalk at a small parcel of land that is a school property. The school agreed to donate the parcel of land to

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the City and at the same time granted the City a right of entry to construct while the donation agreement is being processed.

COORDINATION

This memorandum and agreement have been coordinated with the Departments of Transportation and Planning, Building and Code Enforcement, the City Manager's Budget Office and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

Not applicable.

COST SUMMARY/IMPLICATIONS

There are no acquisition costs associated with this donation except for routine staff costs involved in handling the transaction and minimal escrow and closing costs to acquire the underlying fee simple property interest, estimated to not exceed \$2,000.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA : Exempt, PP02-01-011.

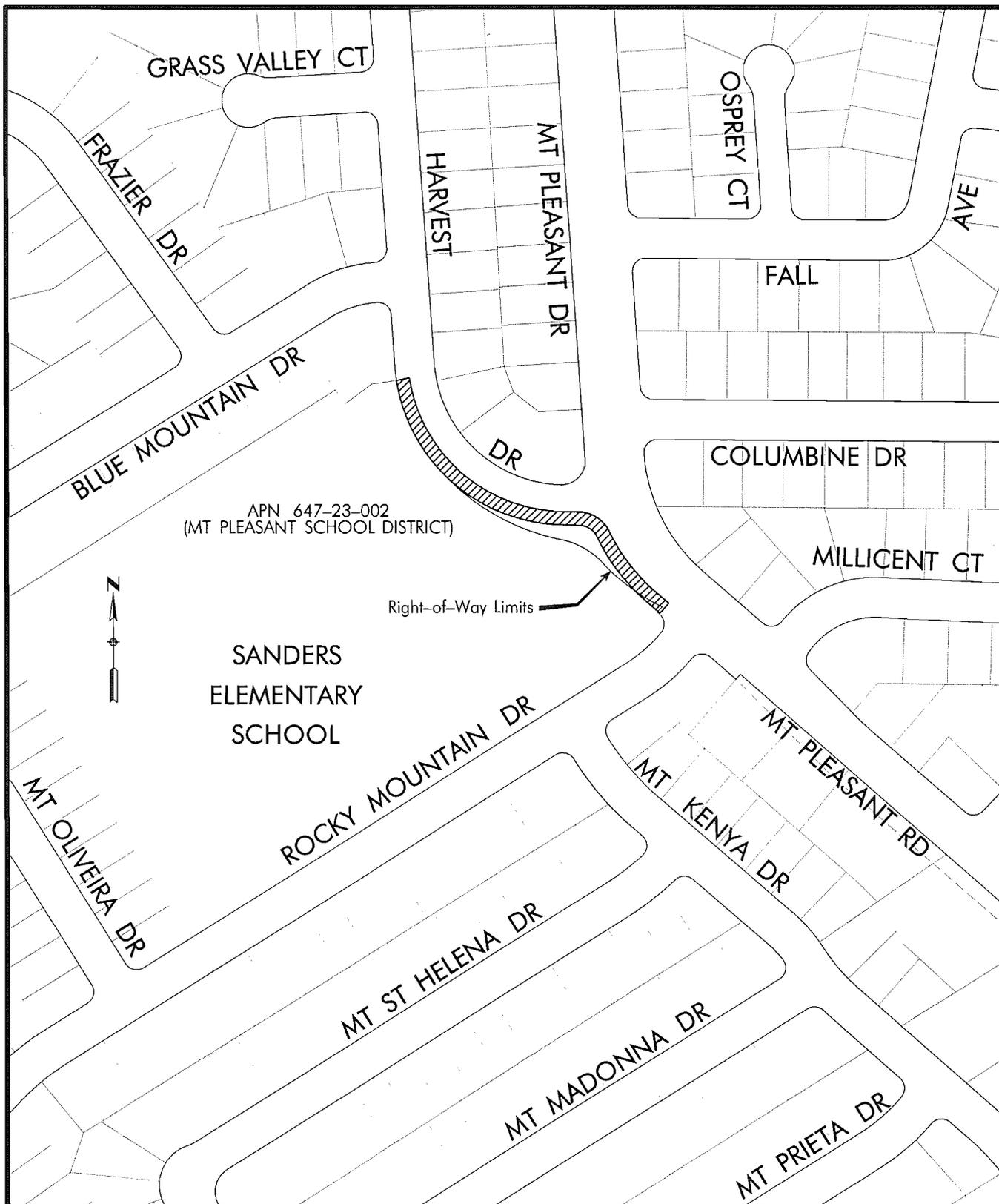


KATY ALLEN

Director, Public Works Department

For questions please contact PHILIP PRINCE, DEPUTY DIRECTOR, at (408) 535-8300.

EXHIBIT "A"

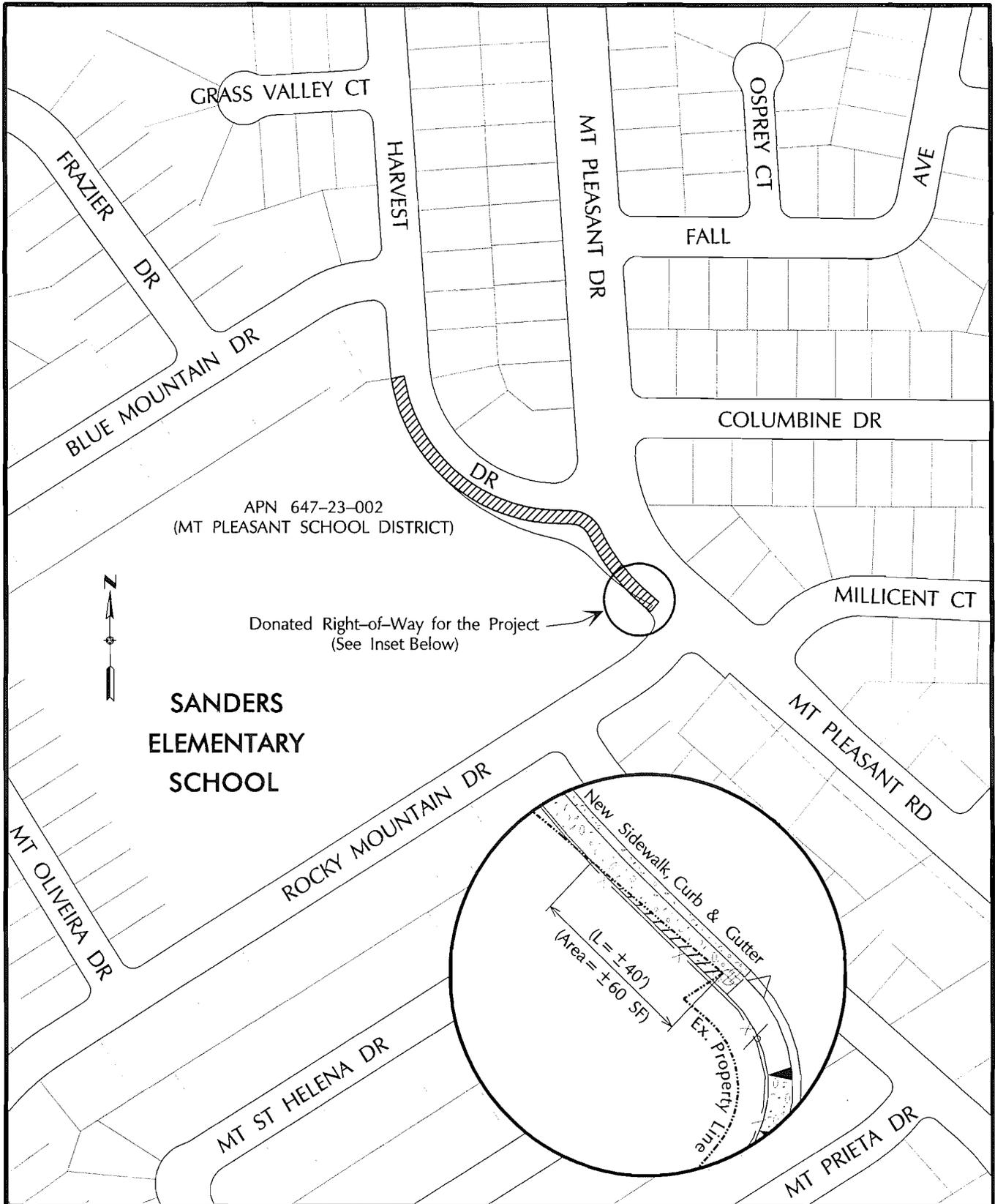


PROJECT DESCRIPTION

HARVEST DRIVE SIDEWALK IMPROVEMENT
(No Scale)

CITY OF SAN JOSE
DEPARTMENT OF TRANSPORTATION
APRIL 2004

EXHIBIT "A"



**SANDERS
ELEMENTARY
SCHOOL**

APN 647-23-002
(MT PLEASANT SCHOOL DISTRICT)

Donated Right-of-Way for the Project
(See Inset Below)



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HARVEST DRIVE SIDEWALK IMPROVEMENT
(No Scale)

CITY OF SAN JOSE
DEPARTMENT OF TRANSPORTATION
JUNE 2004