

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES



Addendum No. 2
To
Request for Proposals (“RFP”) No. DCAM-22-AE-RFP-0004
Architectural/Engineer Services for Crummell Community Center

Issued: July 28, 2022

This Addendum No. 2 is issued on the date mentioned above and except as modified hereby, the RFP remains unmodified.

Item #1: Revisions to the RFP are hereby issued and attached as **Exhibit A.**

Item #2: The list of the site visit attendees is hereby attached as **Exhibit B.**

Item #3: The questions and answers spreadsheet is attached as **Exhibit C.**

Item #4: The Drawings (Attachment A5 of the RFP) are hereby issued and attached as **Exhibit D.**

Item #5: The Form of Contract (Attachment F of the RFP) is hereby issued and attached as **Exhibit E.**

By:

Ahmad M. Stanekzai
Ahmad Stanekzai
DGS' Contracting Officer

Date: July 28, 2022

-End of addendum No. 2-

EXHIBIT A

REVISIONS TO THE RFP

Item #1: REMOVE section B.2.3.2 “Furniture Selection + Coordination” in its entirety.

Item #2: DELETE the last paragraph under Section C.4 in its entirety and REPLACE it with the following:

“The Offeror and all member firms, subcontractors, tier subcontractors, subconsultants, and suppliers with contracts in the amount of \$300,000 or more shall (i) comply with the Employment Services (“DOES”) upon execution of the Contract; (ii) submit an executed First Source Agreement to DOES prior to beginning work on the Project; (iii) make best efforts to hire at least 51% District residents for all new jobs created by the Project; (iv) list all employment vacancies with DOES; and (v) submit monthly compliance reports to DOES by the 10th of each month.”

Item #3: DELETE the paragraph under Section D.3.1 (B) in its entirety and REPLACE it with the following:

“The Offeror shall ensure that up to three (3) Past Performance Evaluation forms (Attachment K), are completed on behalf of the A/E and submitted directly to the Department through the DGS web portal by the due date for Proposals as specified in Section E.3. A minimum of two (2) Past Performance Evaluation forms for each sub consultant should be incorporated in the Offeror’s technical Proposal. To consider Past Performance evaluations, the evaluators must be prior clients (Owners) on fully completed projects.”

Item #4: DELETE the title of Attachment N and REPLACE it with the following:

“Attachment N – Conflict of Interest Disclosure Statement”

EXHIBIT B

LIST OF SITE VISIT ATTENDEES

<u>NAME</u>	<u>COMPANY</u>	<u>CONTACT INFO</u>
Megan Jancy	MTFA	meganj@mtfad-p.com
DAVID BELL	BELL	david.bell@bellarchitects.com
Joe Sandor	AMT	jsandor@amtengineering.com
Ryle Jagers	AMT	rjagers@amtengineering.com
Marcus Czulewicz	AMT	mczulewicz@amtengineering.com
PAUL BAGNOLI	STUDIO MB	d'bagnoli@studiombdc.com
Jen Fitch	LAB	jf@labindc.com
CHRISTIAN CALLERI	PERKINS EASTMAN	c.calleri@perkinseastman.com
DANIEL CURRY	DANIEL CURRY ARCHITECT, P.C.	dc@DANIELCURRYARCHITECT.COM
Jeffrey Loker	Quinn Evans	jloker@quinnevans.com
KATE MOONEY	FOX ARCHITECTS	KMOONEY@FOX-ARCHITECTS.COM
Suren Gera	Global Eng. Solutions	sureng@thesgs.com
Sara Alkhatib	ISTUDIO Architects	salkhatib@istudioarchitects.com
Ervin Rogers Jr.	DHA	erogers@delonhampton.com
Rhonda S Dahlkemper	Sage Studio	rdahlkemper@sagestudiodesign.com
BRUCE BEDDOW	EMX	bbeddow@emx-co.com
ALVARO GARAY	EMX	agaray@emx-co.com
José Castellanos	Bonstra/Haresign Architects	jcastellanos@bonstra.com
Candace Maloney	TBD Studio	candace@tbd-studio.org
Tim Bowden	Silman	tim.bowden@silman.com
Bryan Arias	STUDIOS	barias@studios.com
RORY HARPER	STUDIOS	rharper@studios.com
Alexandra Weil	Collective Architecture	aweille@collectivearchitecture.co
Leah Hong	Sorg Architects	leah@sorg.design
Sebrina Rhodes	ANC/Empower DC	sebrina5001@anc.dc.gov
Prashant Galvi	Galvi Assoc.	P.galvi@galvia440ciates.com

EXHIBIT C

QUESTIONS AND ANSWERS SHEET

Architectural/Engineering Services for Crummell Community Center

No.	Question	DGS Response
1	A.4. Form of Contract: Attachment F is missing from the RFP as indicated, and Amendment 1. Please confirm this attachment is forthcoming.	Attachment F (Form of Contract) is issued through this addendum.
2	Attachment N is labeled "Attachment P - Conflict Of Interest Disclosure Statement". Please confirm this should read "Attachment N".	The typo in Attachment P is rectified through this addendum.
3	In the RFP, the design-to-budget amount is stated as \$14,000,000. During the site visit a budget of \$20,000,000 was mentioned. Please confirm the design-to-budget amount.	\$14 Million is the current construction hard cost estimate that design teams should adhere to. Funds above \$14 million are allocated towards soft costs and contingency.
4	ATTACHMENT O is labeled "BIM REQUIREMENTS - CONSTRUCTION MANAGER @ RISK CONTRACT". Please confirm this document is relevant for the A/E solicitation	Affirmative. The mentioned attachment is part of this AE services solicitation.
5	Regarding the solicitation's attachments/certification forms, please specify if they are solely for the use of the Offeror at this stage - or if the Offeror's proposal should include specific forms for each subcontractor as well.	The RFP provides instructions on which documents offerors shall include in their proposals. Please refer to Section E for details. Some documents, such as Attachment K for sub-consultants (see Section D.3.1.B) are also needed. Offerors need to review the RFP in and its addenda in its entirety and thoroughly to ensure their proposal meets the requirements.
6	Is any information available about the concrete vault on the west side of the building?	Original drawings show a "Coal Vault" underneath, accessible from the basement level.
7	Are any geotechnical reports for the site available to share or circulate to the awarded team?	None are available at this time. The RFP notes that a geotechnical survey is required for this project.
8	Is tree preservation plan included in the scope of the project?	Yes, coordination with DDOT Urban Forestry is required which includes a tree preservation plan among other requirements.
9	Will gas service be required for the renovated building?	Coordination with Washington Gas is expected, if deemed necessary during design.
10	The RFP does not appear to call for any specific	Improvements to the public shall be

	improvements in public space (other than the use of public street parking for community center use). Please clarify if any improvements are proposed in public space, or if the public space features are to remain in as is condition and scope of work is limited to on site only.	made in coordination with DDOT throughout the design process. The AE shall comply with all agency regulations and requirements.
11	Does the scope of work include new fencing and gates around the site?	Yes, scope of work to include DPR standard fencing and gate.
12	Please verify that past performance evaluation forms are required as follows: <ol style="list-style-type: none"> 1. Prime architect: minimum of 3 2. Key subconsultants (civil, landscape, MEP, structural): minimum of 2 3. Secondary subconsultants (archaeology, estimating geotechnical, hazmat): not required if part of at least 2 of the prime's past performance examples 	Offerors must comply with the RFP requirements in Section D.3 for the Team Competency. Please note that the requirements are revised through this addendum.
13	The schedule seems to indicate only 9 months of construction after GMP approval. Does DGS expect to have early release package(s) for work under \$1m in order to start sooner?	Correction: Substantial Completion Date is May 13, 2025. All other dates in SOW remain the same.
14	The scope indicates the design shall explore the feasibility of water features. <ol style="list-style-type: none"> 1. Should design services for this be limited to feasibility/concept? 2. Should design services for schematic design through CA be identified as an Add Alt? 	1. The AE shall include the referenced scope item in at least one of the three conceptual designs outlined in the concept design phase (B.2.1.1.20.b). Based on budget, scope, and community engagement, DGS and DPR will provide the AE with a NTP on the conceptual design that best fits the stakeholders' needs.
15	The scope indicates the A/E shall explore the feasibility of a multi-functional playing field. <ol style="list-style-type: none"> 1. Should design services for this be limited to feasibility/concept? 2. Should design services for schematic design through CA be identified as an Add Alt? 	1. The AE shall include the referenced scope item in at least one of the three conceptual designs outlined in the concept design phase (B.2.1.1.20.b). Based on budget, scope, and community engagement, DGS and DPR will provide the AE with a NTP on the conceptual design that best fits the stakeholders' needs.
16	The scope indicates the A/E shall explore the feasibility of including parking spots in public space. <ol style="list-style-type: none"> 1. Should design services for this be limited to feasibility/concept? 	1. The AE shall include the referenced scope item in at least one of the three conceptual designs outlined in the concept design phase (B.2.1.1.20.b). Based on budget, scope, and community

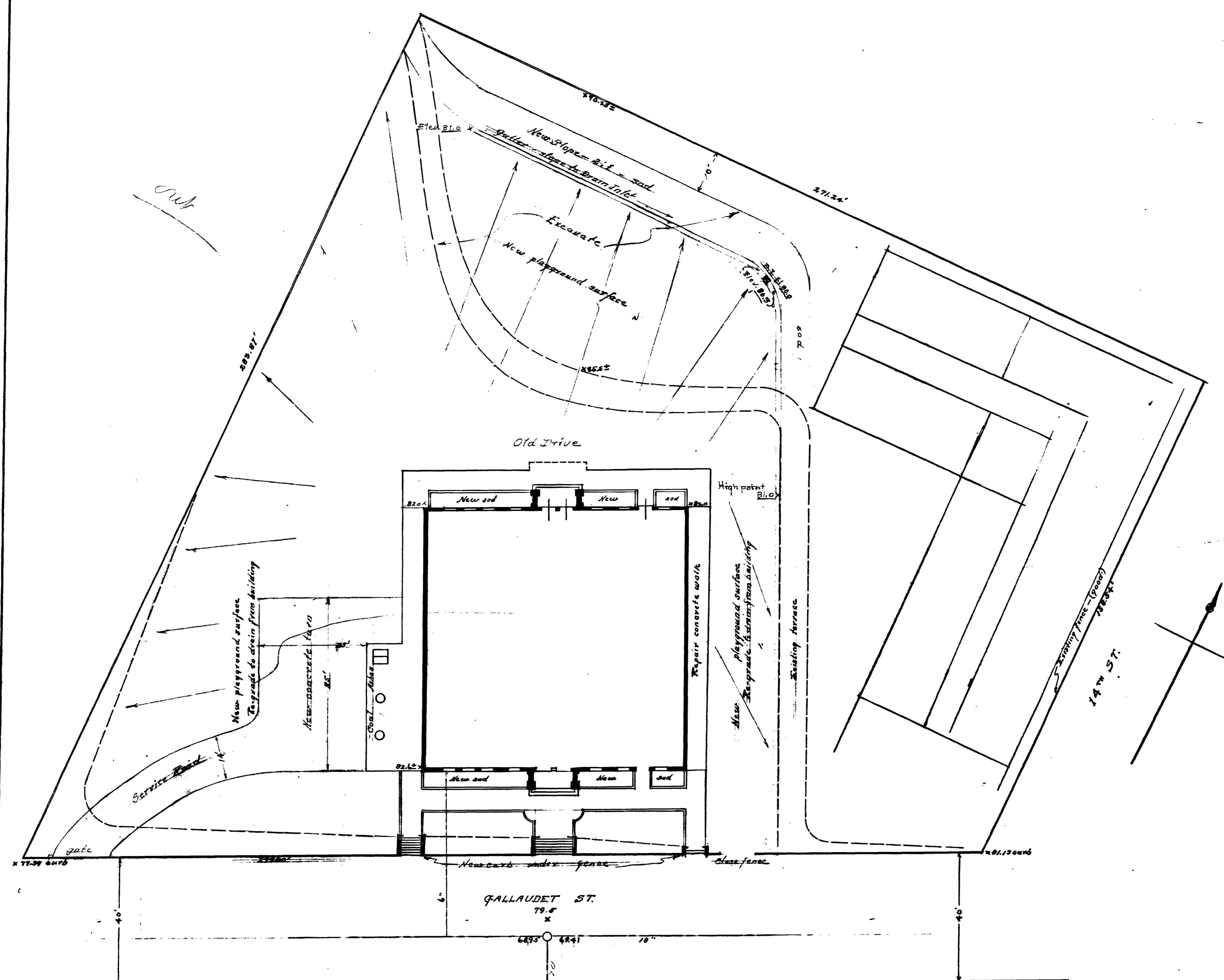
	2. Should design services for schematic design through CA be identified as an Add Alt?	engagement, DGS and DPR will provide the AE with a NTP on the conceptual design that best fits the stakeholders' needs.
17	The scope indicates the A/E shall explore the feasibility of skate park as an Add/Alt. 1. Should design services for this be limited to feasibility/concept? 2. Should design services for schematic design through CA be identified as a separate line item of the Add Alt?	1. The AE shall include the referenced scope item in at least one of the three conceptual designs outlined in the concept design phase (B.2.1.1.20.b). Based on budget, scope, and community engagement, DGS and DPR will provide the AE with a NTP on the conceptual design that best fits the stakeholders' needs.
18	Please confirm that archaeology investigation is limited to Phase 1A under the A/Es base contract and doesn't include Phase 1B or beyond (i.e. no shovel test pits or geomorphology on the existing flat paved site).	If a Phase 1B or beyond is required, vendor will submit a PCO to be funded under owner directed allowance within AE contract.
19	Please clarify if the RFP reflects the actual project budget. Comments received during the site visit were not aligned with the budget outlined in the RFP.	Reference Question #3
20	Are there existing drawings of the school building available for reference?	Yes – Issued through this addendum.
21	Is there a desire for the design to include an approach for a potential future indoor or outdoor pool addition? This was mentioned in community feedback.	Not at this time considering the budget does not allow for it.
22	Is there any information available on the structural integrity or level of structural renovation?	There is no information available on the structural integrity or level of structural renovation available. Per B.2.1.1, the AE is to perform a structural conditions assessment report prior to commencing any design services. This report should give the project team an understanding of both the current structural condition and how to approach the building modernization.
23	Has DGS or DPR completed an environmental site assessment Phase I for the site recently?	No, the AE is to provide an environmental site assessment Phase 1.
24	I wanted to follow up regarding the DC DGS Project - DCAM-22-AE-RFP-0004	DGS Facilities is working on a hazardous

	Architectural/Engineering Services for Crummell Community Center. I was at the site walk and they stated that it was not safe at that time to enter the building. I was wondering if there was a timeline, or another date set when we would be able to enter and assess the amount of work.	waste cleanup. A completion date has not been set at this time.
25	Are the two basketball courts and the playground to be retained?	Reference RFP Section B.1.4 and B.1.5. It is preferred that the basketball courts and playground remain in their existing location.
26	It is possible that the entire program for site improvements can't be accommodated on the site. Is it a <u>requirement</u> of the project that <u>all</u> of the outdoor elements listed in the RFP be accommodated on the site or is it more of a wish list?	DGS and DPR understand that space is limited; that said, the expectation is that the AE work with DGS and DPR to develop a design that incorporates most, if not all, site improvements.

EXHIBIT D

DRAWINGS (ATTACHMENT A5 OF THE RFP)

(The attachment will appear on the following page)

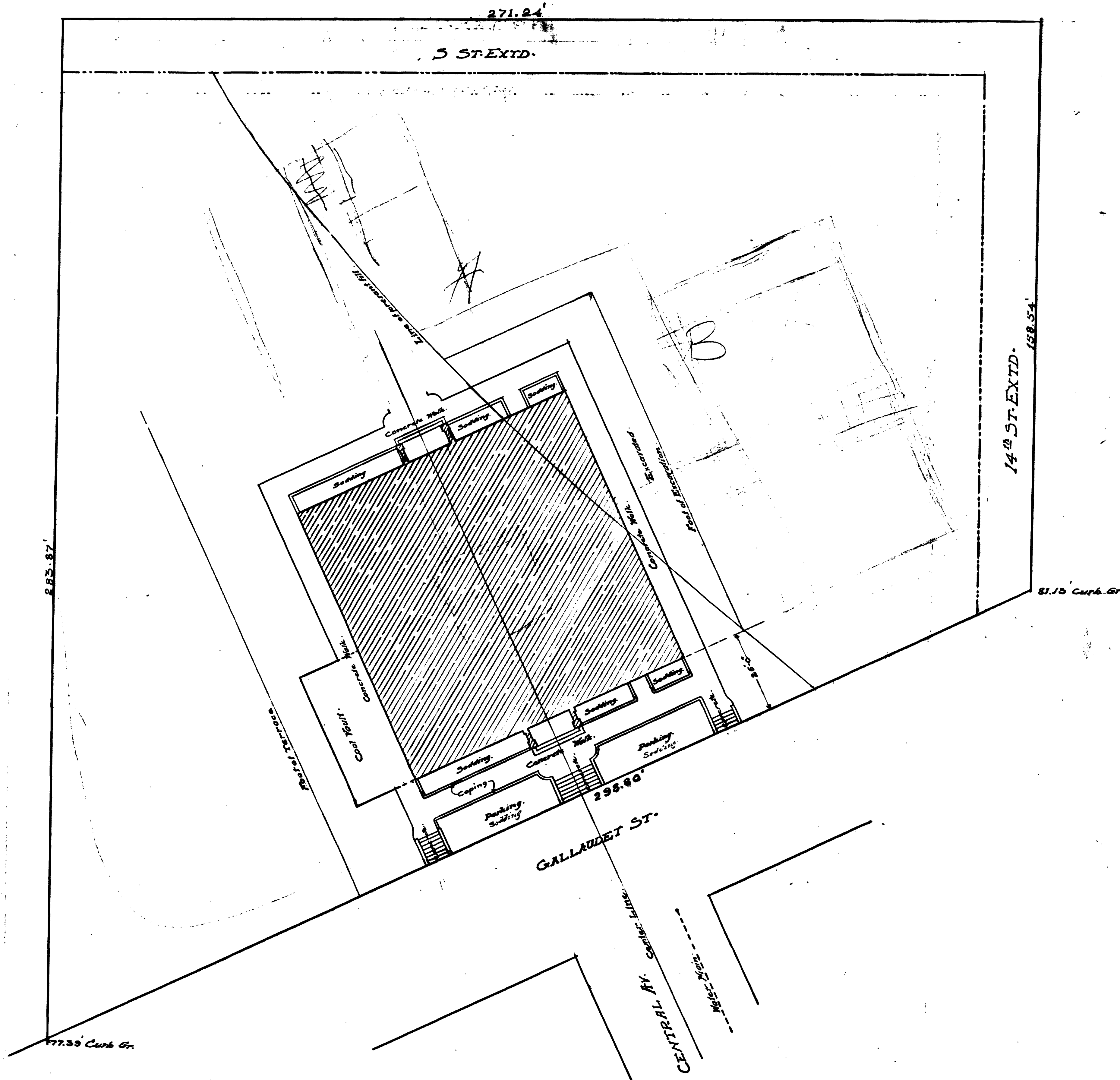


PLAN of GROUNDS
Scale 1"=16'

NOTE
 * 11.00 Existing elevations.
 x 11.00 Proposed elevations.

D.C. D.P.W. Archives Drawing No.
 1-0-3-670

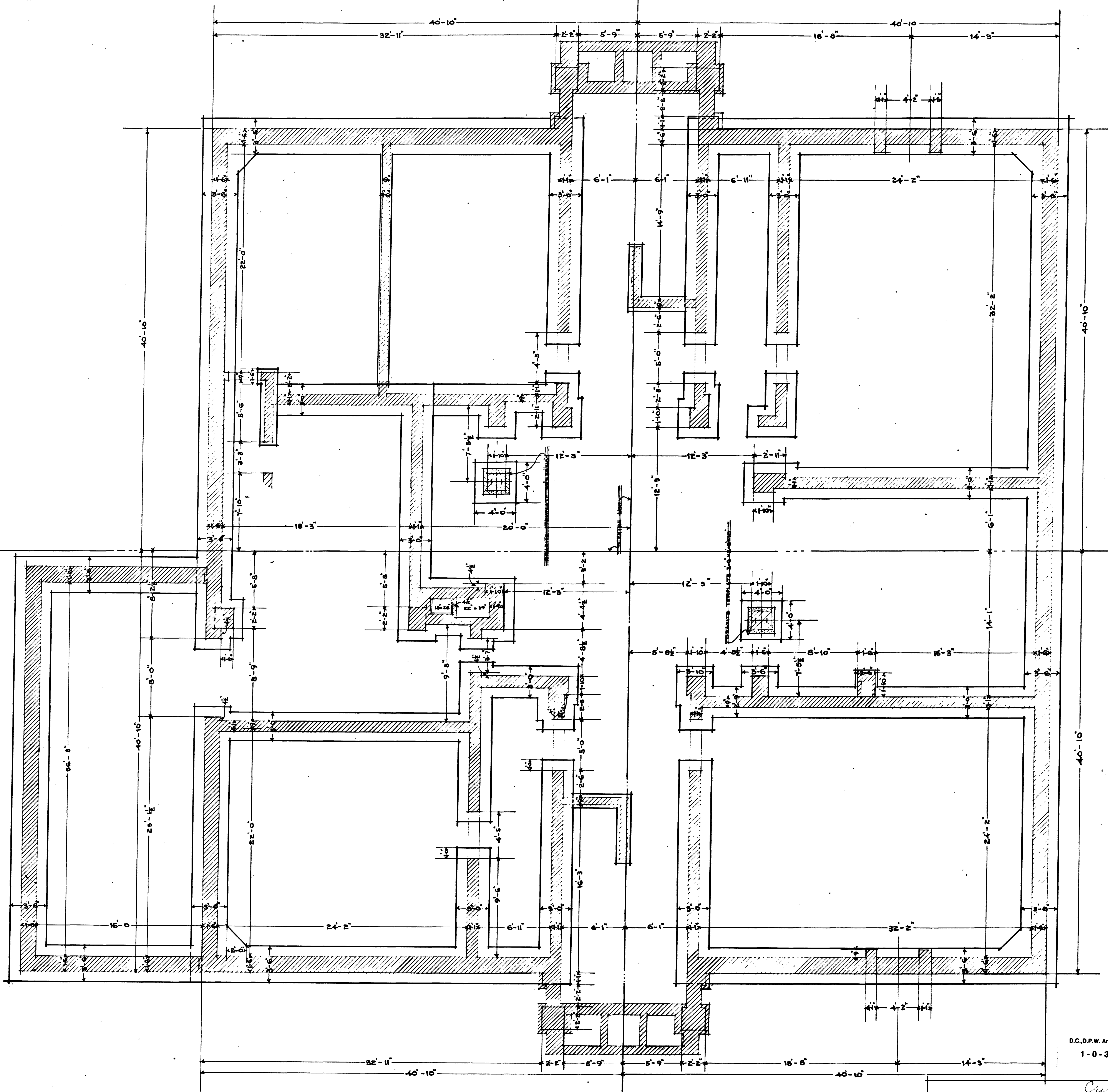
APPROVED	REVISIONS	WORK RECORD	BUILDING	FILE NO.
		DESIGNED BY <i>E.C.B.</i>	CRUMMEL SCHOOL	11-2A
		CHECKED BY	LOCATION GALLAUDET ST. at 14th N.E.	
		DATE <i>5/24/27</i>	OFFICE OF MUNICIPAL ARCHITECT, WASHINGTON, D.C.	DRWG. NO.
		SHEET	CHEF OF ARCHITECTURAL DIVISION	
			CHEF OF STRUCTURAL DIVISION	
			CHEF OF MECHANICAL DIVISION	
			MUNICIPAL ARCHITECT	



LOCATION PLAN
 SCALE: 1/8" = 1'-0"

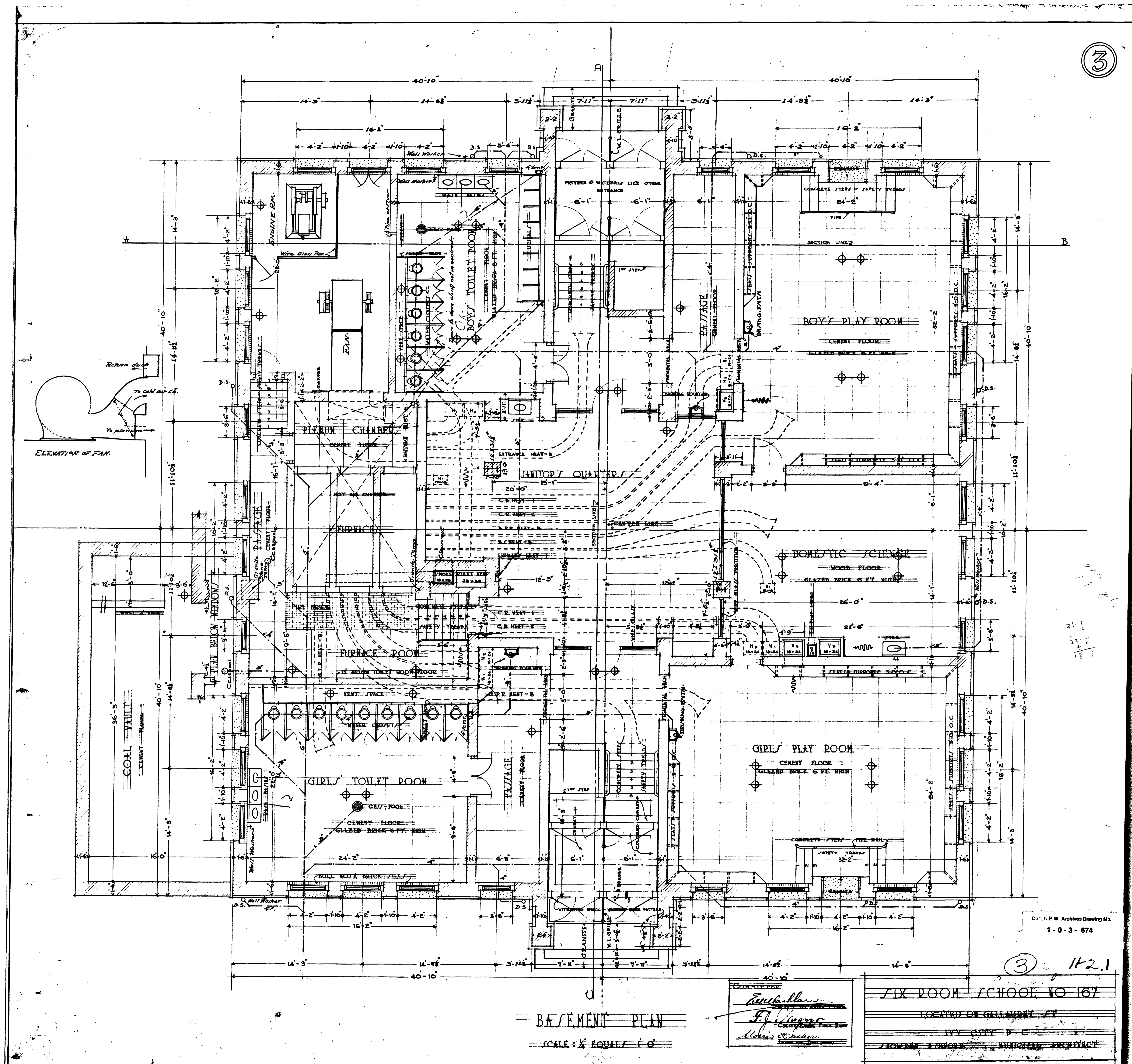
D.C. D.P.W. Archives Drawing No.
 1-0-3-672

①		11-2.1
SIX ROOM SCHOOL NO 167		
LOCATED BY GALLADET ST.		
CITY OF		
TOWNSHIP OF		



FOUNDATION PLAN
 SCALE: 1/4" EQUALS 1'-0"

171-1
 D.C.D.P.W. Archives Drawing No.
 1-0-3-673
 SIX ROOM SCHOOL NO 167
 LOCATED ON GALLAUDET ST
 IVY CITY D.C.
 FROST & ROSS ARCHITECTS

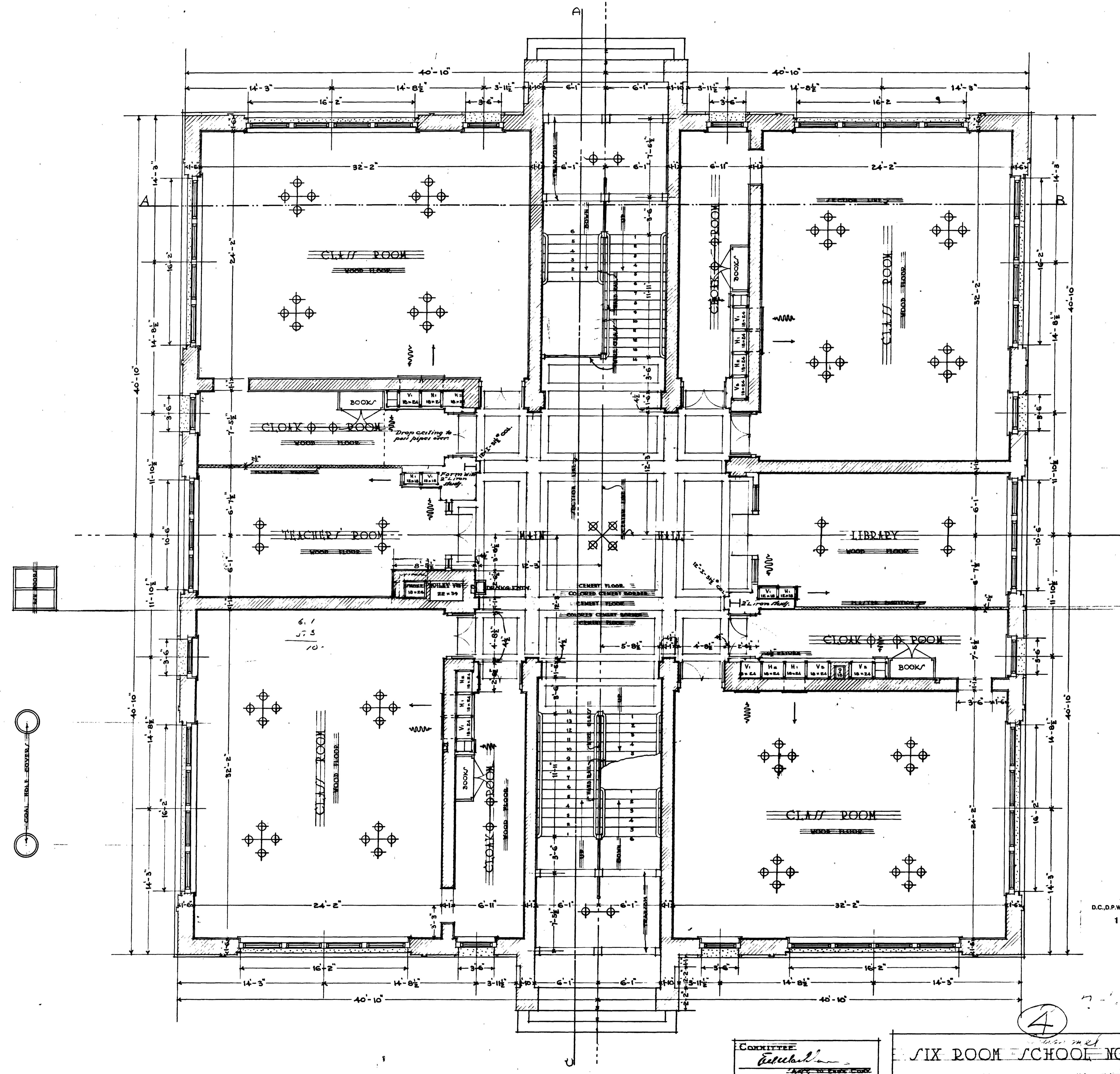


BASEMENT PLAN
 SCALE: 1/8" EQUAL TO 1'-0"

COOKINER
Emballer
J. J. ...
John ...

③ 142.1
 FIX ROOM SCHOOL NO 167
 LOCATED ON GILLBURY ST
 IVY CITY N. C.
 FOWLER & LOGGERS ARCHITECTS

D.S. G.P.W. Archives Drawing No. 1-0-3-674



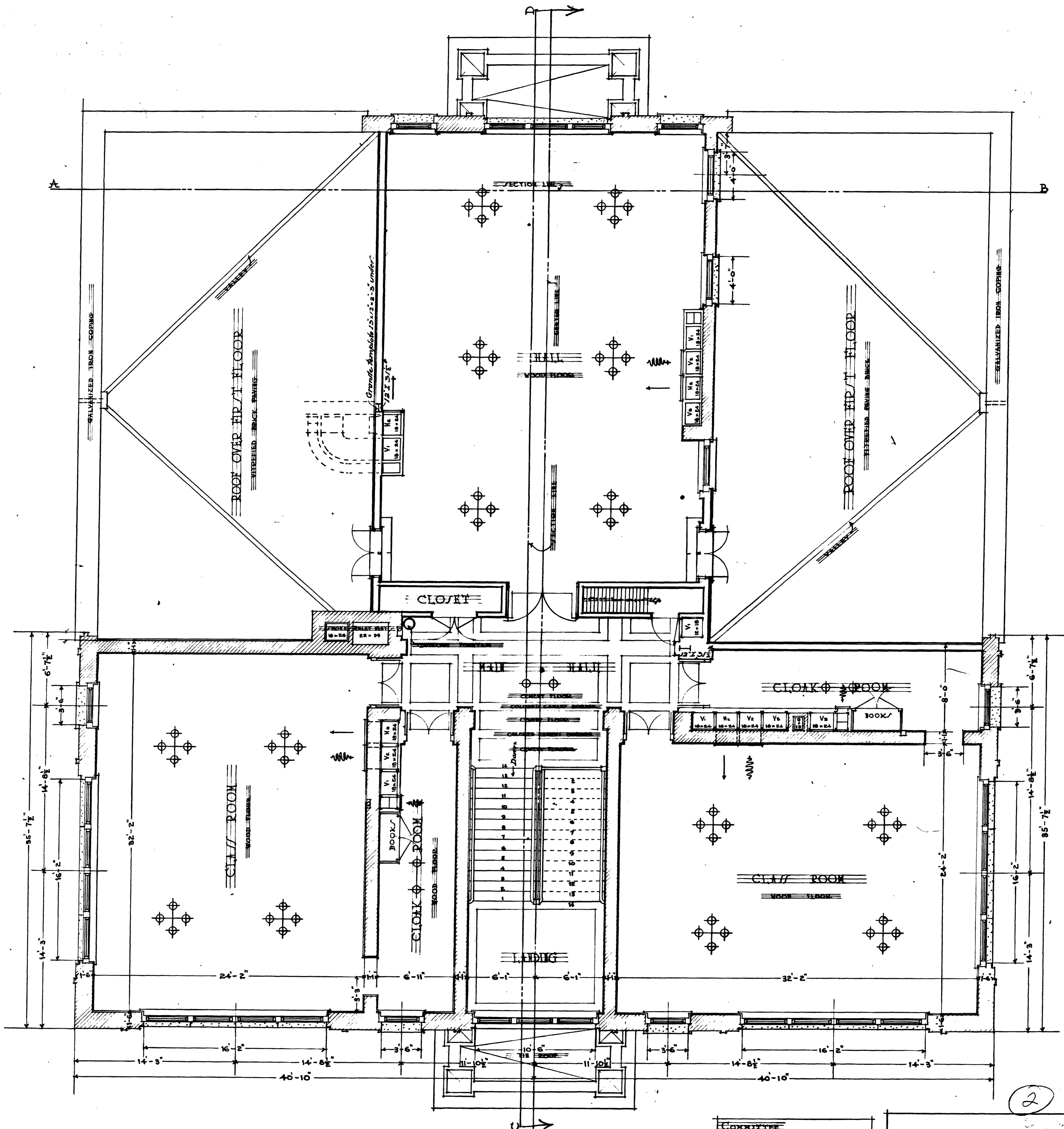
D.C. D.P.W. Archives Drawing No.
1-0-3-675

FIRST FLOOR PLAN

COMMITTEE
Edubal
FOR THE BOARD OF
SCHOOL DIRECTORS
Marie Tucker
Secretary

SIX ROOM SCHOOL NO 167
LOCATED ON GALLAUDE ST
FIVE CITY D.C.
FOWDER & HOPKINS ARCHITECTURAL ARCHITECTS

4 11-2-1



8/2/24
8/1/24
10/24

D.C.D.P.W. Archives Drawing No.
1-0-3-676

② 11-2.1

SECOND FLOOR PLAN

CONTRACTOR
Beckwith
 ARCHITECT
J. A. Johnson
 ARCHITECT
Wm. B. Brown

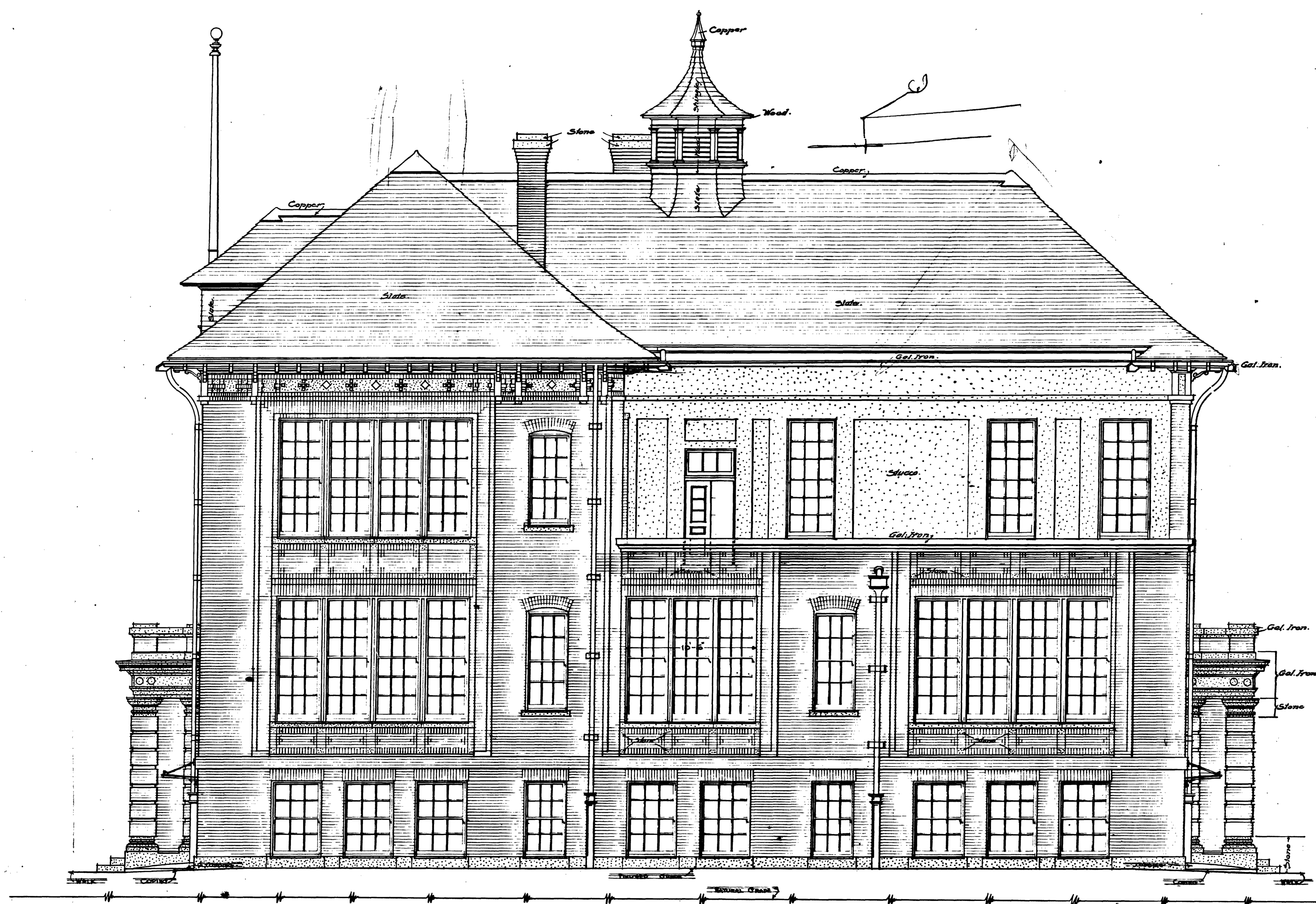
SIX ROOM SCHOOL NO 167
 LOCATED ON GALLAUDEY ST
 IVY CITY D. C.
 HOWDY LAYTON ARCHITECT



D.C.D.P.W. Archives Drawing No.
1-0-3-677

NORTH REAR ELEVATION
SCALE 1/4" EQUALS 1'-0"

SIX ROOM SCHOOL NO 107
LOCATED ON GLENDEN ST
IVY CITY D.C.
STODOLSKY & SONS ARCHITECTS
11-21

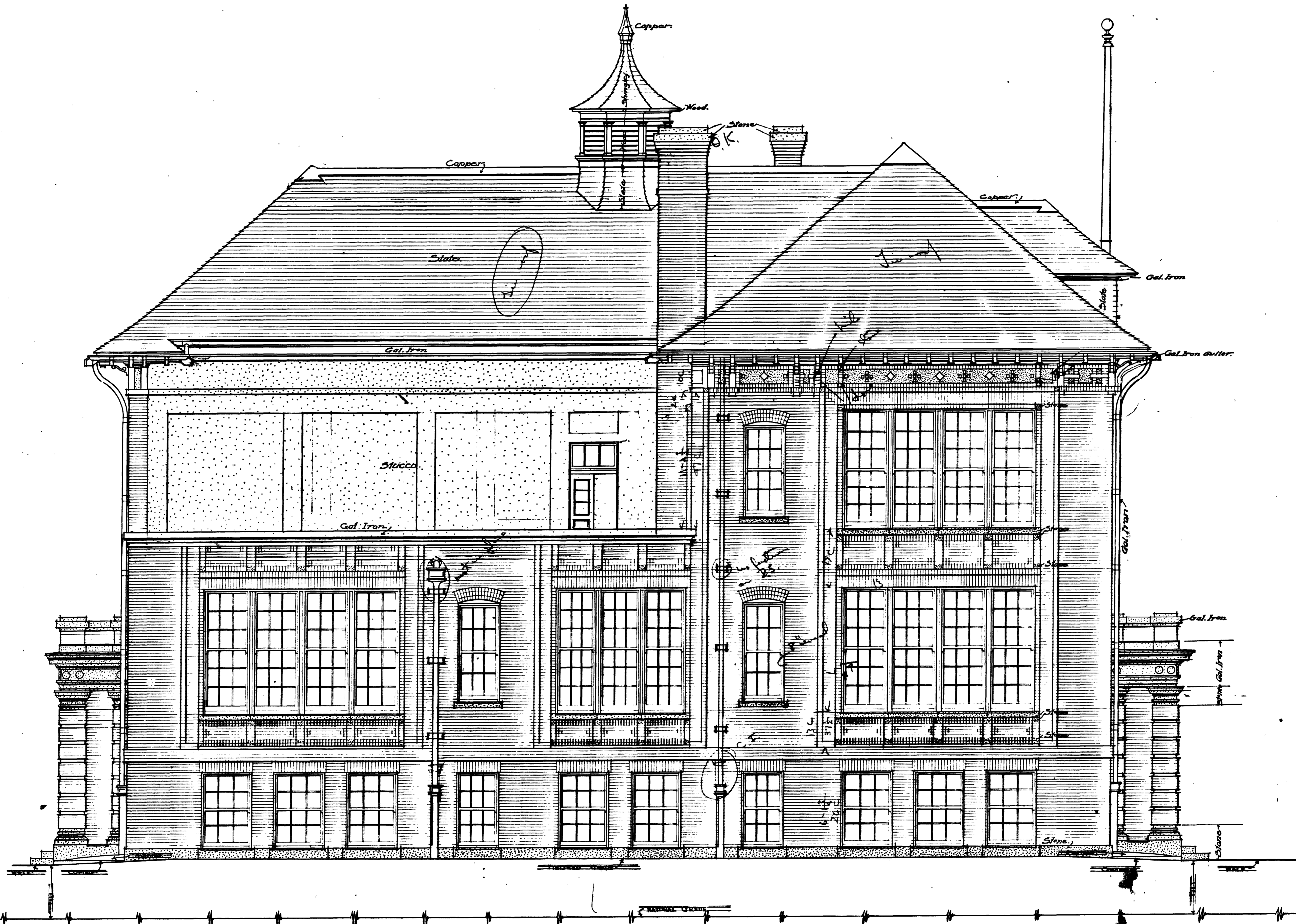


EAST SIDE ELEVATION
 SCALE: 1/4" = 1'-0"

D.C.D.P.W. Archives Drawing No.
 1-0-3-678

SIX ROOM SCHOOL NO 167
 LOCATED ON GALLAUDET ST
 BY CITY OF
 FREDERICK A. STODOLSKY MUNICIPAL ARCHITECT

11-2-1

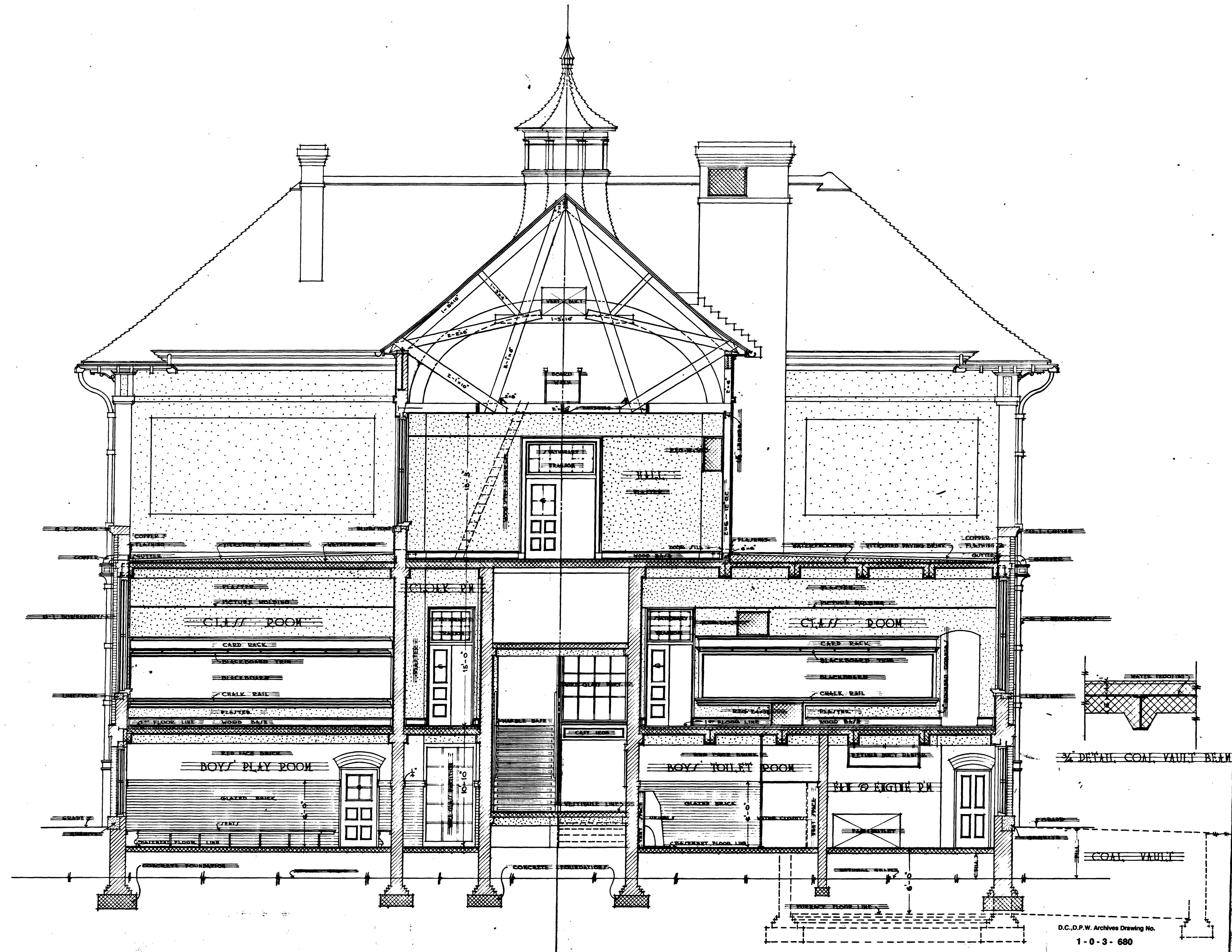


WEST SIDE ELEVATION
 JOHN W. ROBERTS & CO.

D.C.D.P.W. Archives Drawing No.
 1-0-3-679

SIX ROOM SCHOOL NO 167
 LOCATED ON GALLAUDET ST
 IVY CITY D.C.
 HOWARD L. FORD ARCHITECT

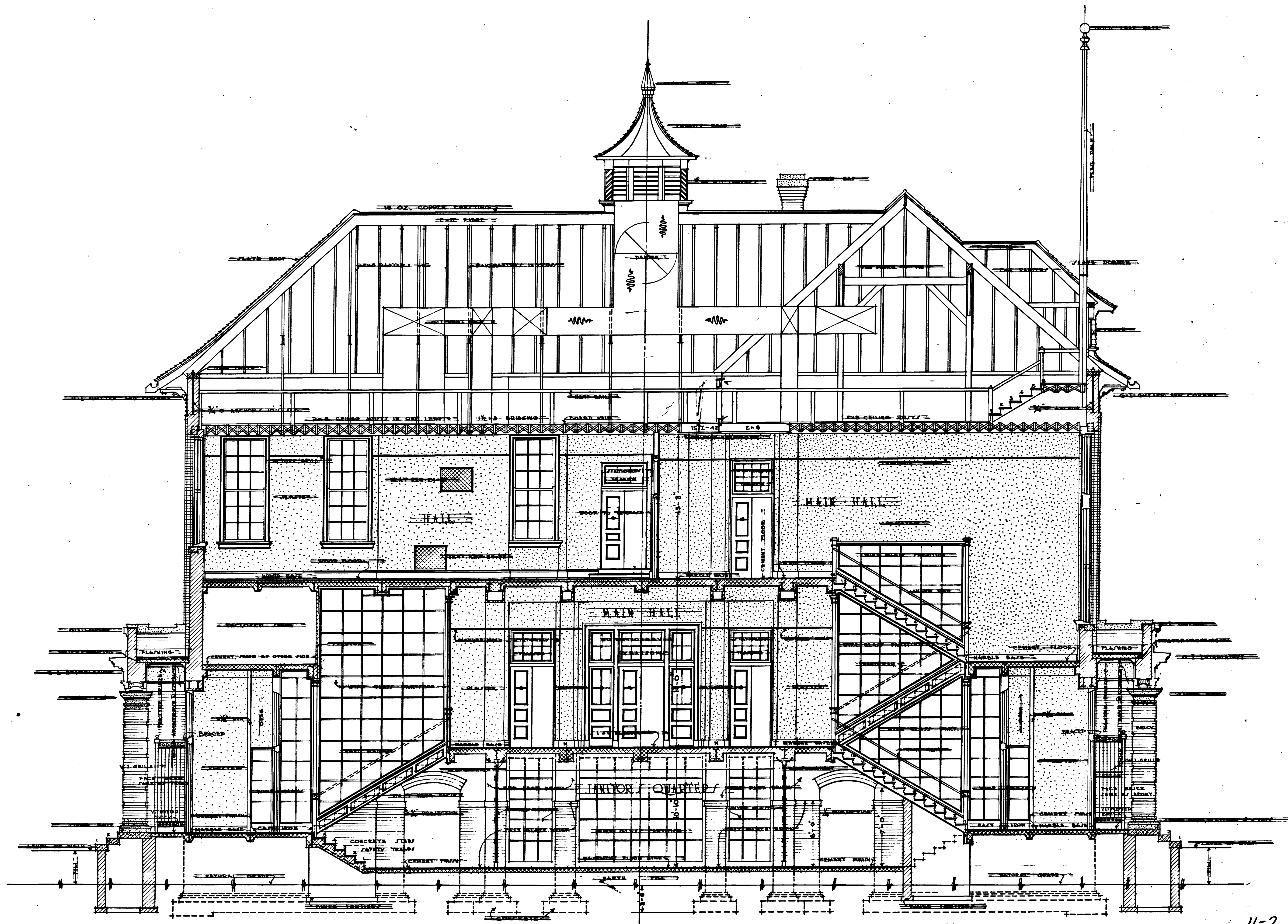
11-2.1



SECTION A-B
 1/4" = 1'-0"

D.C.D.P.W. Archives Drawing No.
 1-0-3-680

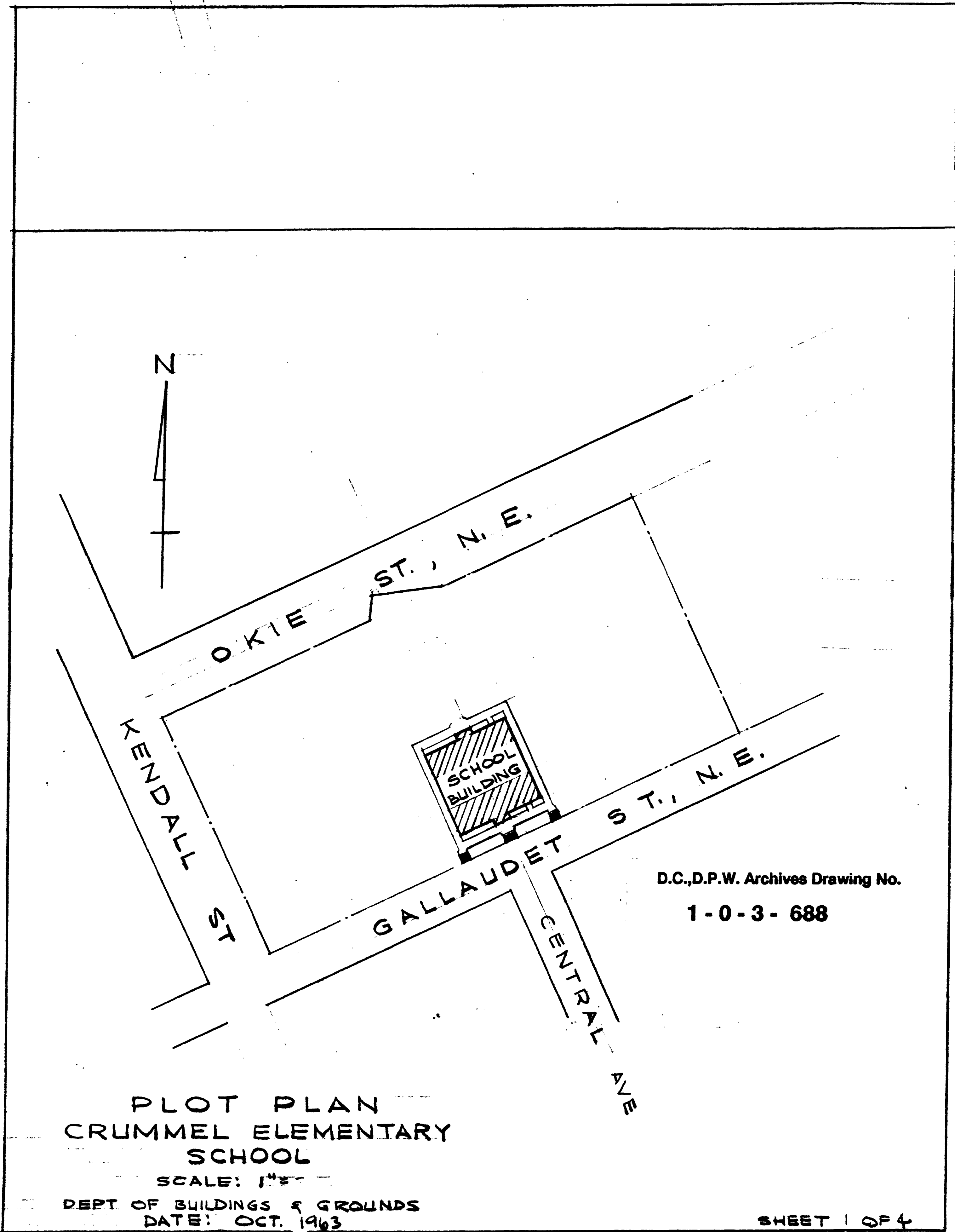
2-11-21
 SIX ROOM SCHOOL NO 167
 LOCATED ON GALLAUDEY ST
 IVY CITY D.C.
 HOWARD ARCHITECTS INC. ARCHITECTS



SECTION C-D
 1/4" = 1'-0"

D.C.D.P.W. Archives Drawing No.
 1-0-3-661

11-2.1
 SIX ROOM SCHOOL NO 167
 LOCATED ON GALLAUDET ST.
 IVY CITY D.C.
 GEORGE A. HORN
 ARCHITECT

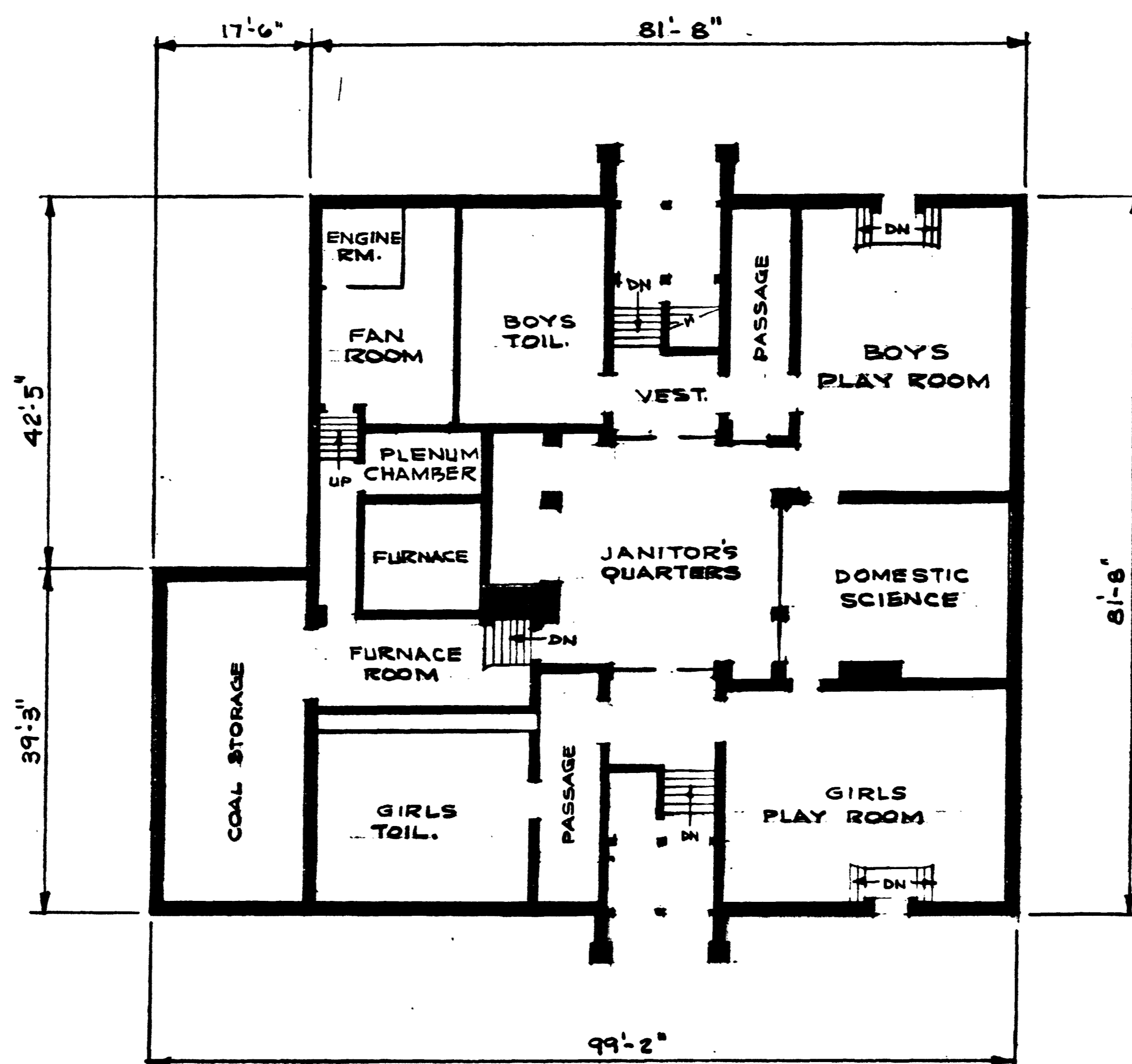


D.C., D.P.W. Archives Drawing No.
1-0-3-688

PLOT PLAN
CRUMMEL ELEMENTARY
SCHOOL

SCALE: 1" = 100'
DEPT OF BUILDINGS & GROUNDS
DATE: OCT. 1963

SHEET 1 OF 4



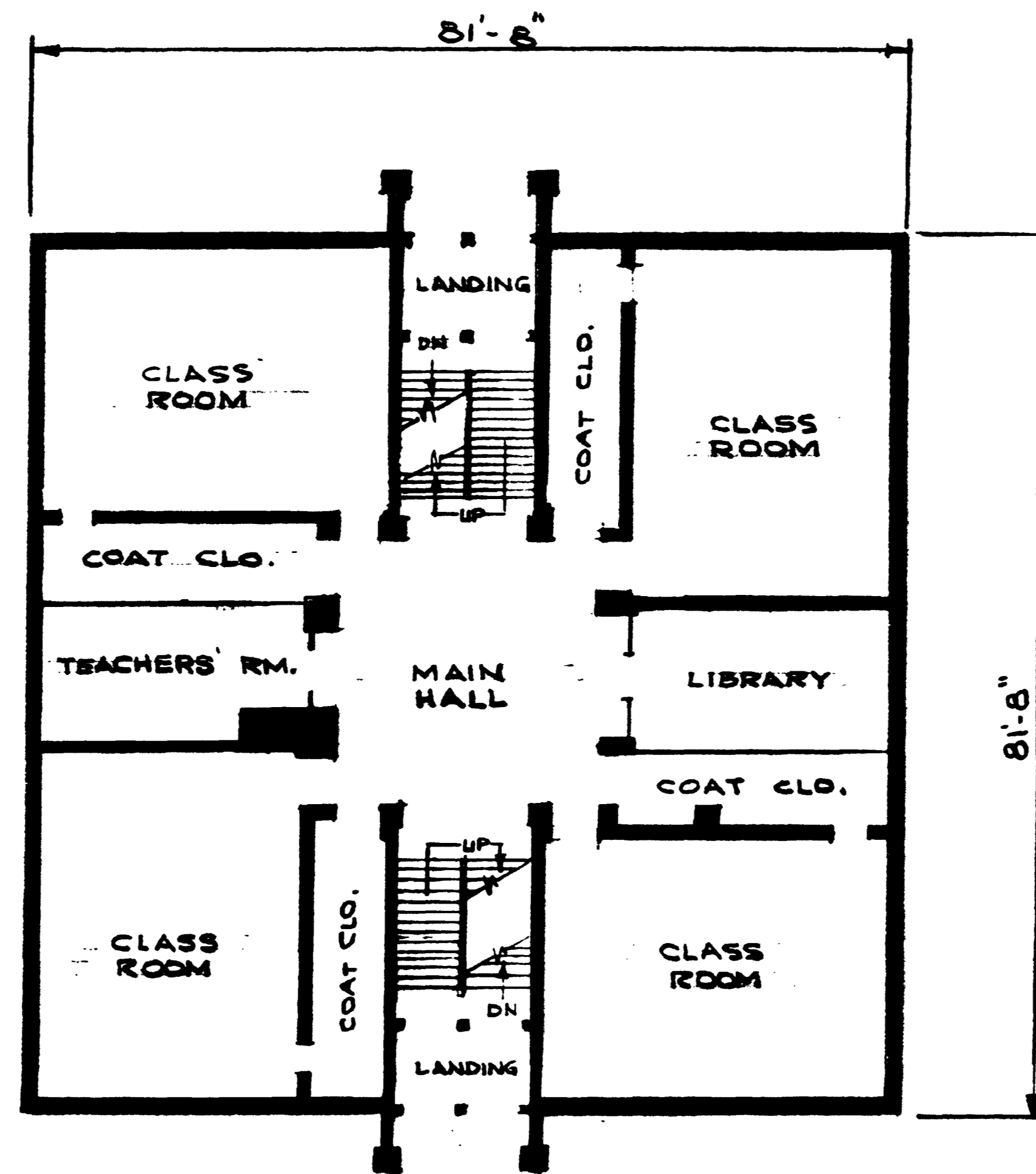
BASEMENT PLAN
 CRUMMEL ELEMENTARY
 SCHOOL

SCALE: 1" = 20'
 DEPT. OF BUILDINGS & GROUNDS
 DATE: OCT. 1963

D.C., D.P.W. Archives Drawing No.

1-0-3-689

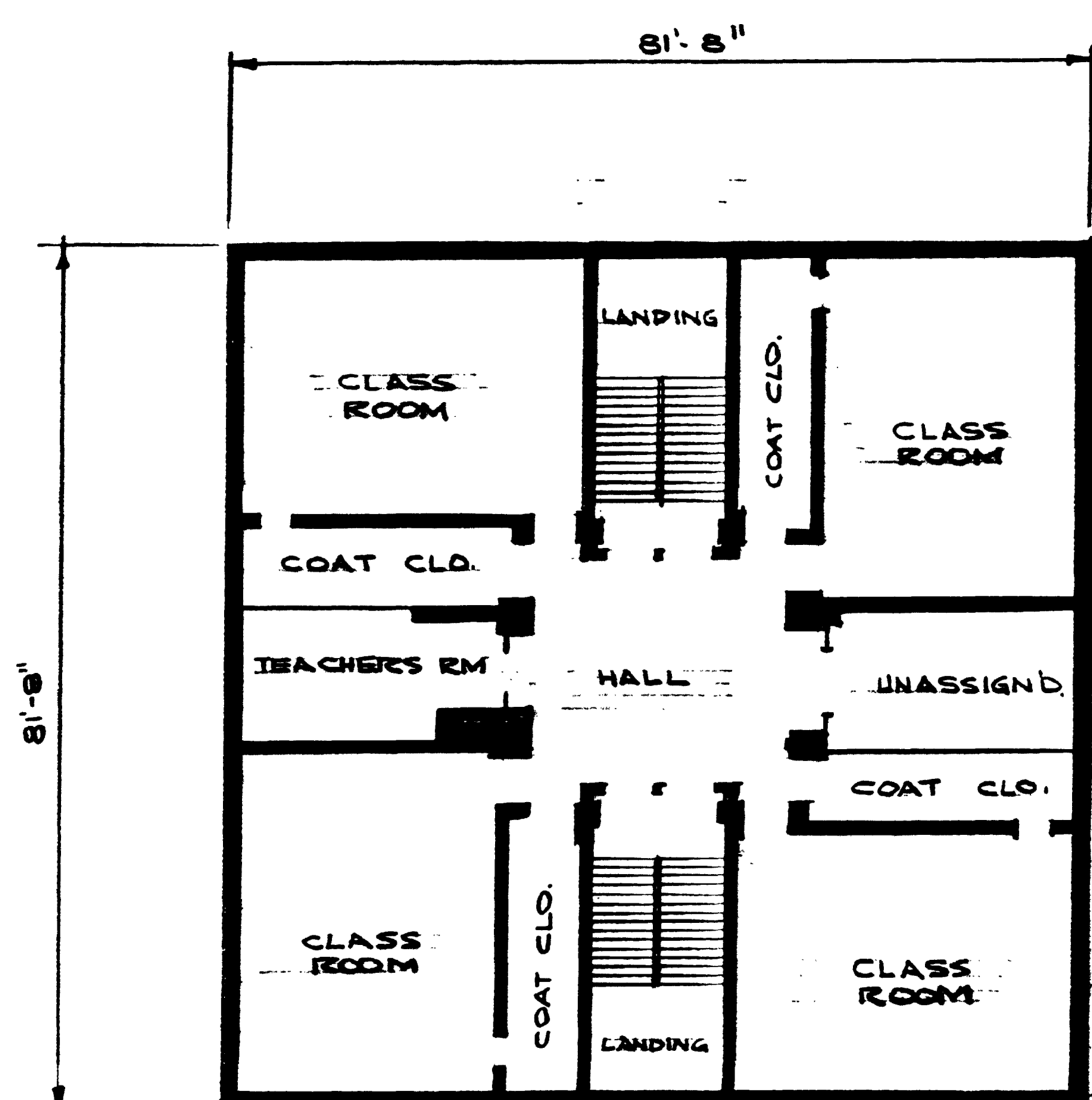
SHEET 2 OF 4



D.C.,D.P.W. Archives Drawing No.
1-0-3-690

FIRST FLOOR PLAN
CRUMMEL ELEMENTARY
SCHOOL
SCALE: 1" = 20'
DEPT. OF BUILDINGS & GROUNDS
DATE: OCT. 1963

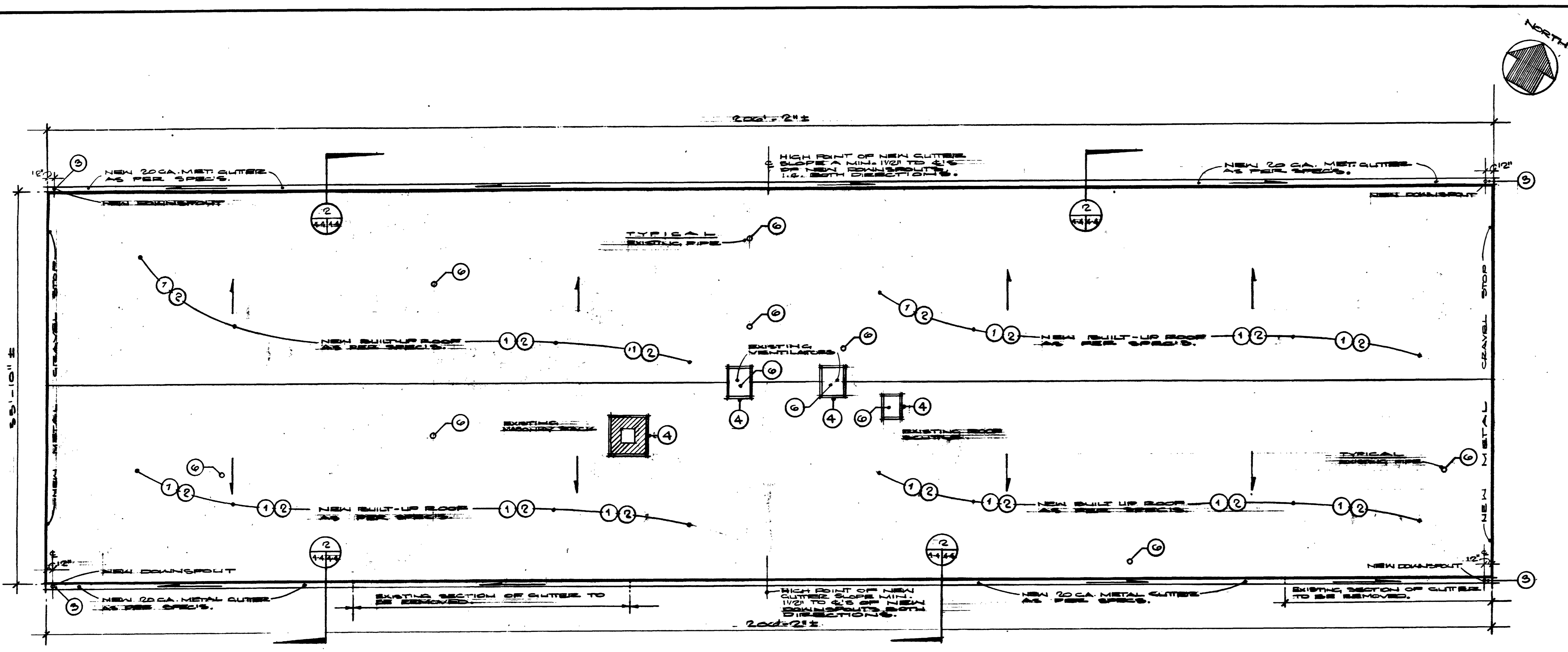
SHEET 3 OF 4



D.C., D.P.W. Archives Drawing No.
1-0-3-691

SECOND FLOOR PLAN
CRUMMEL ELEMENTARY
SCHOOL
SCALE: 1" = 20'
DEPT. OF BUILDINGS & GROUNDS
DATE: OCT. 1963

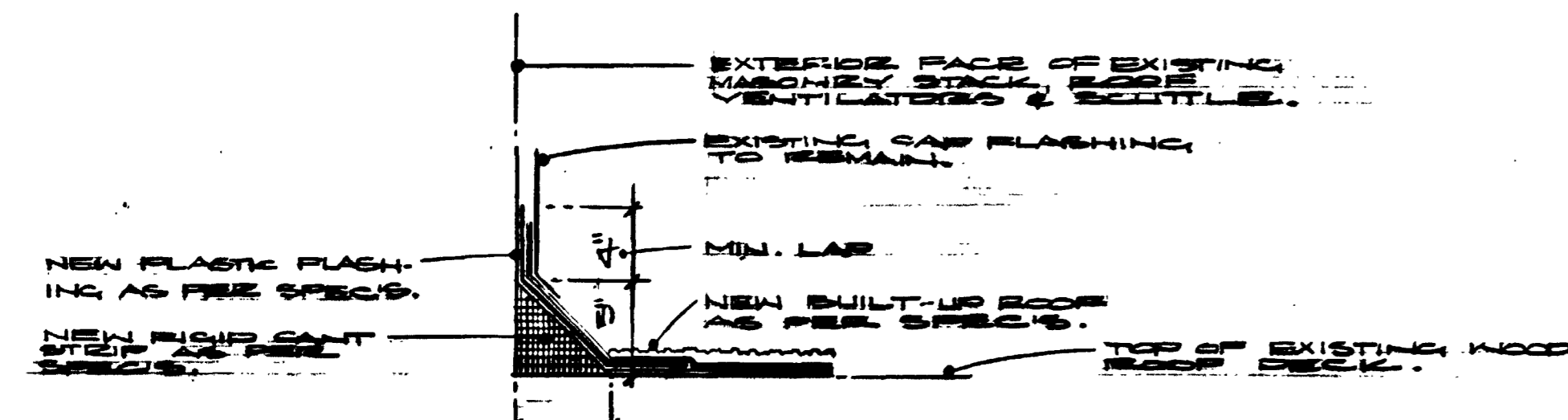
SHEET 4 OF 4



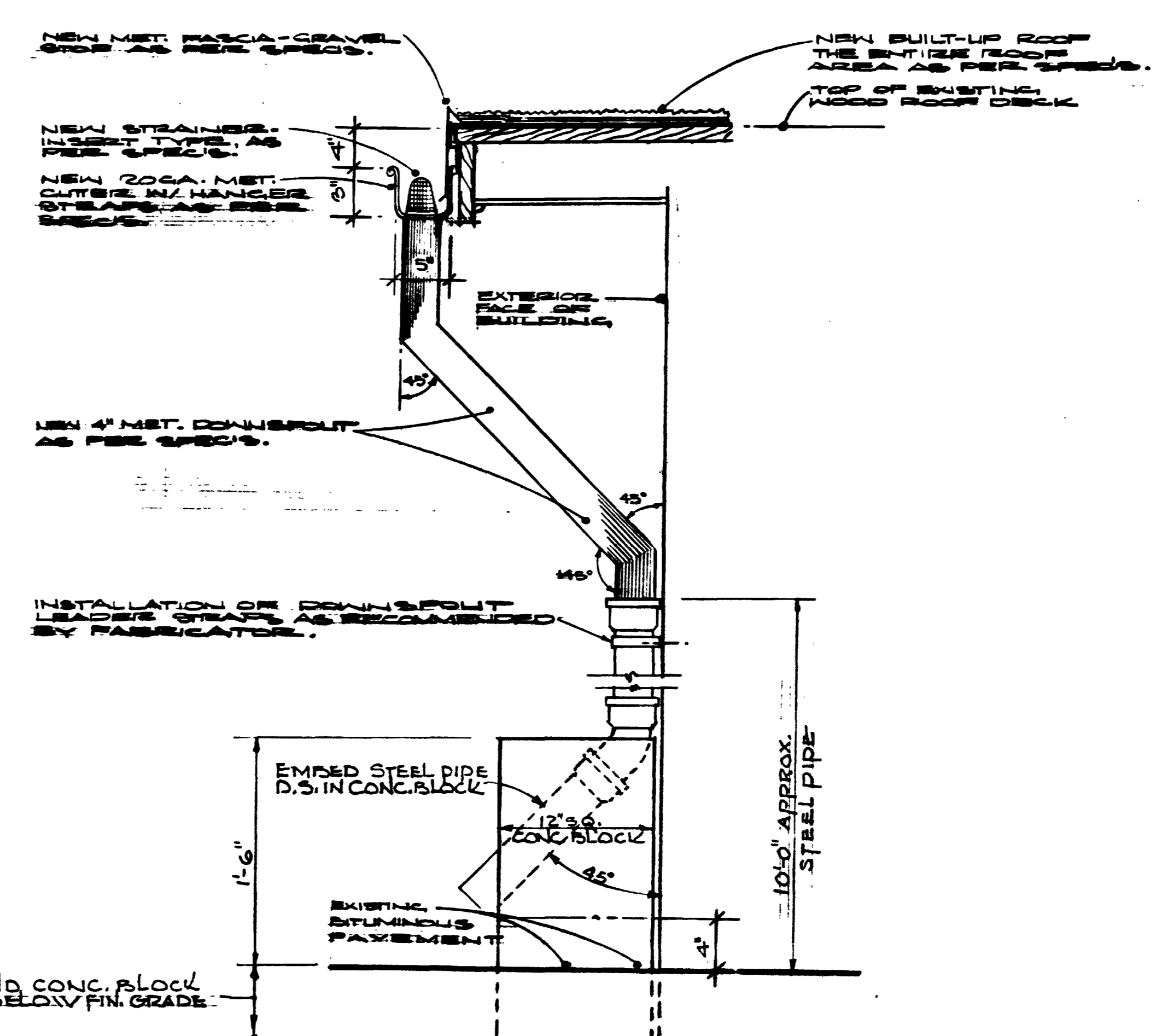
ROOF PLAN

75' x 11'-0" TEMPORARY BUILDING ONLY

NOTE: CIRCLED NUMBERS AS PER ROOF PLAN ABOVE ARE KEYED TO SCOPE OF WORK.



DETAIL 1
1/2" x 1'-0" APPLICABLE TO ROOF FLASHING AT ROOF EDGES



TYPICAL GUTTER & DOWNSPOUT
1/2" x 1'-0" (4-4-4)

SCOPE OF WORK

- 1 REMOVE ENTIRE EXISTING BUILDING ROOF
- 2 INSTALL ALL ENTIRE NEW BUILT-UP ROOF
- 3 INSTALL NEW 20 GA. METAL CUTTER & DOWNSPOUTS AS PER ROOF PLAN, DETAIL 1, THIS DRAWING & SPECIFICATIONS
- 4 INSTALL NEW PLASTIC BASE FLASHING & NEW CANT STRIPS @ DATE OF ALL ROOF PENETRATIONS AS PER ROOF PLAN, DETAIL 1, THIS DRAWING & SPECIFICATIONS
- 5 ALL ITEMS NOT SPECIFICALLY NOTED AS "NEW" AS SHOWN BY ROOF PLAN, AND/OR DETAILS ARE EXISTING
- 6 PAINT ALL EXISTING FLASHED PIPES, I.E. ABOVE ROOF SURFACE, ROOF VENTILATORS & ROOF SCUTTLES AS PER SPECIFICATIONS

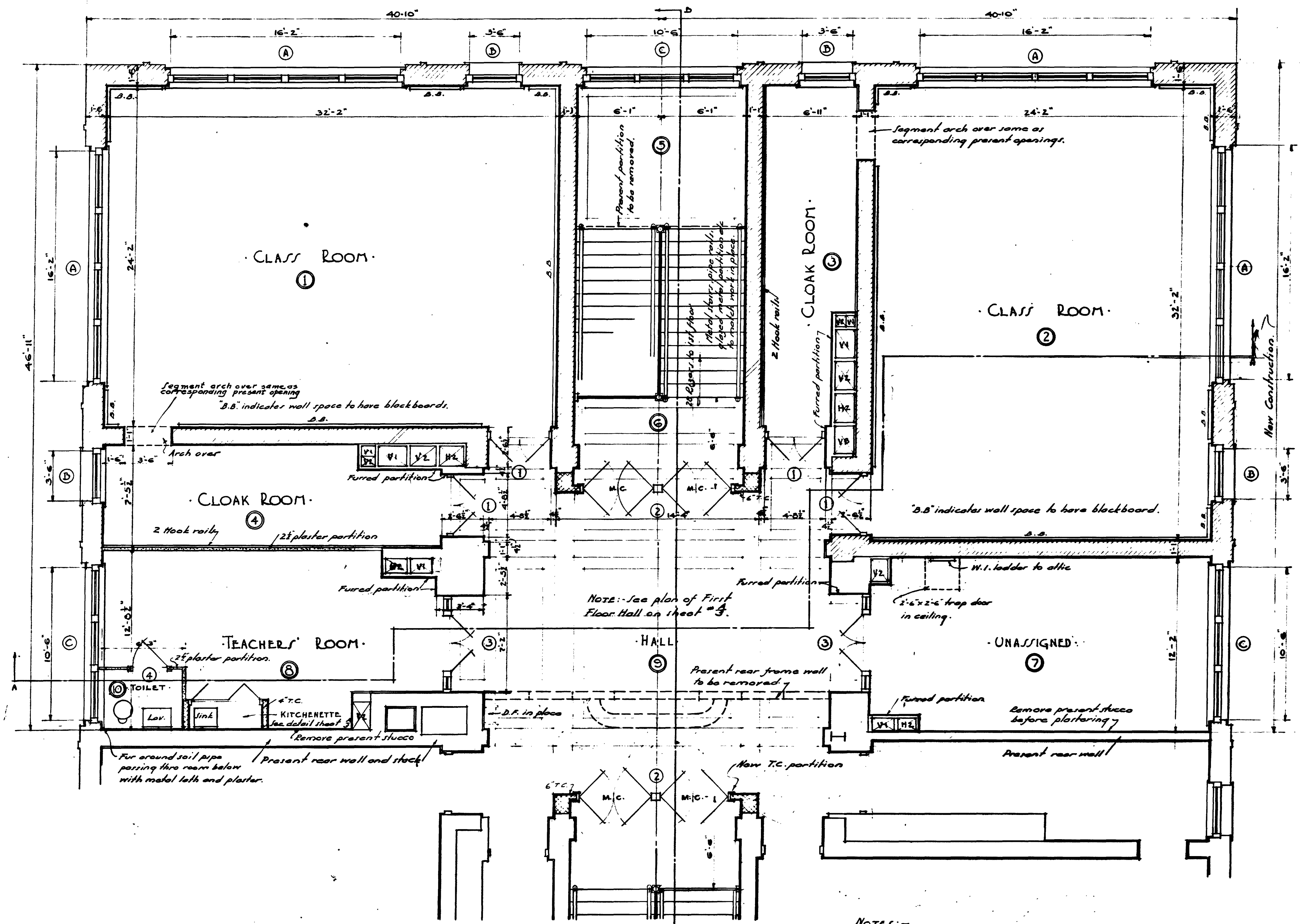
SHADED AREAS DENOTE WORK AS PER PLAN, SCOPE OF WORK NOTES ABOVE & SPECIFICATIONS.

D.C. D.P.W. Archives Drawing No. 1-0-3-692

REVISION	DATE	DESCRIPTION	BY	APP.
0-13-47		ISSUED FOR BIDS		
DESIGNED		CRUMMELL ELEM. SCHOOL		
DRAWN		BALLUDET & KUDALL ARCH. INC.		
CHECKED				
APPROVED		MAJOR ROOF REPAIR		
		VARIOUS SCHOOLS		
		INCREMENT NO. 4		
		BOARD OF EDUCATION		
		GOVERNMENT OF THE DISTRICT OF COLUMBIA		
		DEPARTMENT OF BUILDINGS AND GROUNDS		

444

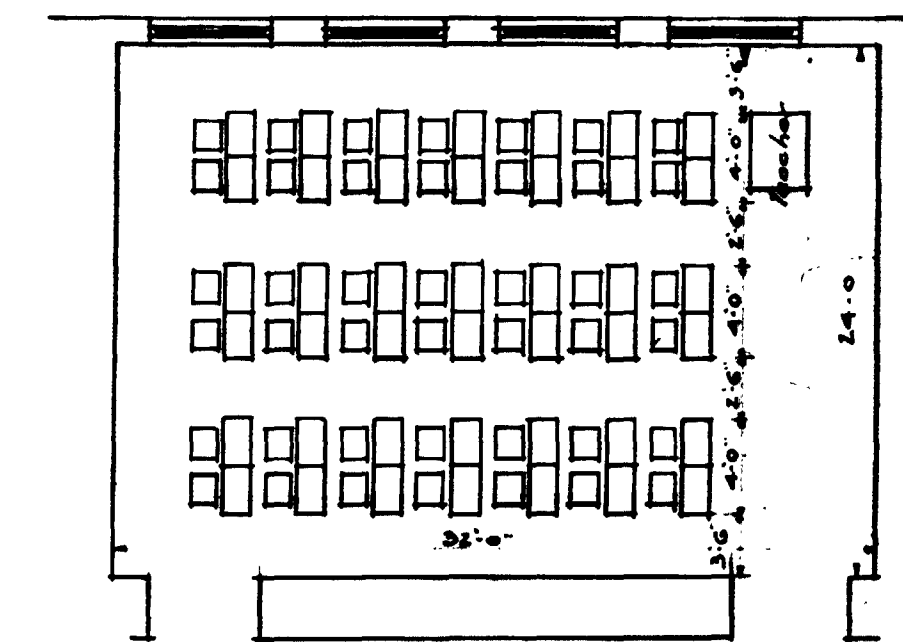
PRINTED AT: 10-27-67
MAY 20 1967
D.C. D.P.W.



SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

ROOM NO.	FLOOR	BORDER	BASE	WAIN/COT.	WALLS AND CEILING	REMARKS
1, 2	WOOD	WOOD	WOOD	PLASTER	PLASTER	PICTURE MOLD, BLACKBOARD/
3, 4	WOOD	WOOD	WOOD	PLASTER	PLASTER	Z HOOK RAILS ON LONG SIDE
5, 6	CEMENT	MARBLE	MARBLE	PLASTER	PLASTER	PICTURE MOLD
7, 8	WOOD	WOOD	WOOD	PLASTER	PLASTER	PICTURE MOLD
9	CEMENT	CEMENT	MARBLE	PLASTER	PLASTER	PICTURE MOLD
10	TILE	TILE	TILE	PLASTER	PLASTER	PERFORM WATERPROOFING

NOTE: - All millwork, exterior and interior, to match corresponding or similar work of present building. Contractor to obtain details of building.

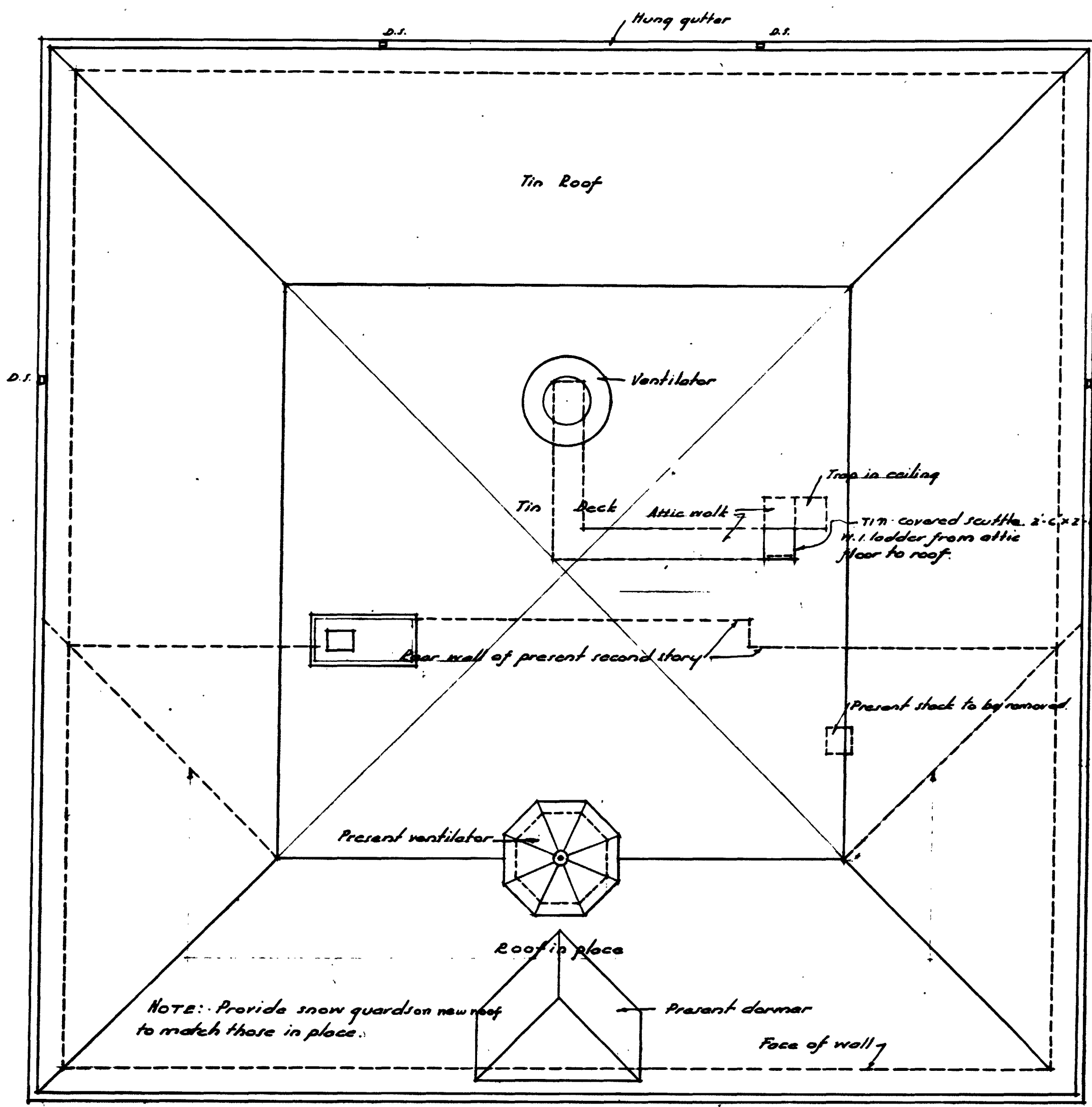


TYPICAL CLASS ROOM
SHOWING SEATING FOR MAXIMUM CLASS
42 FIXED SEAT.

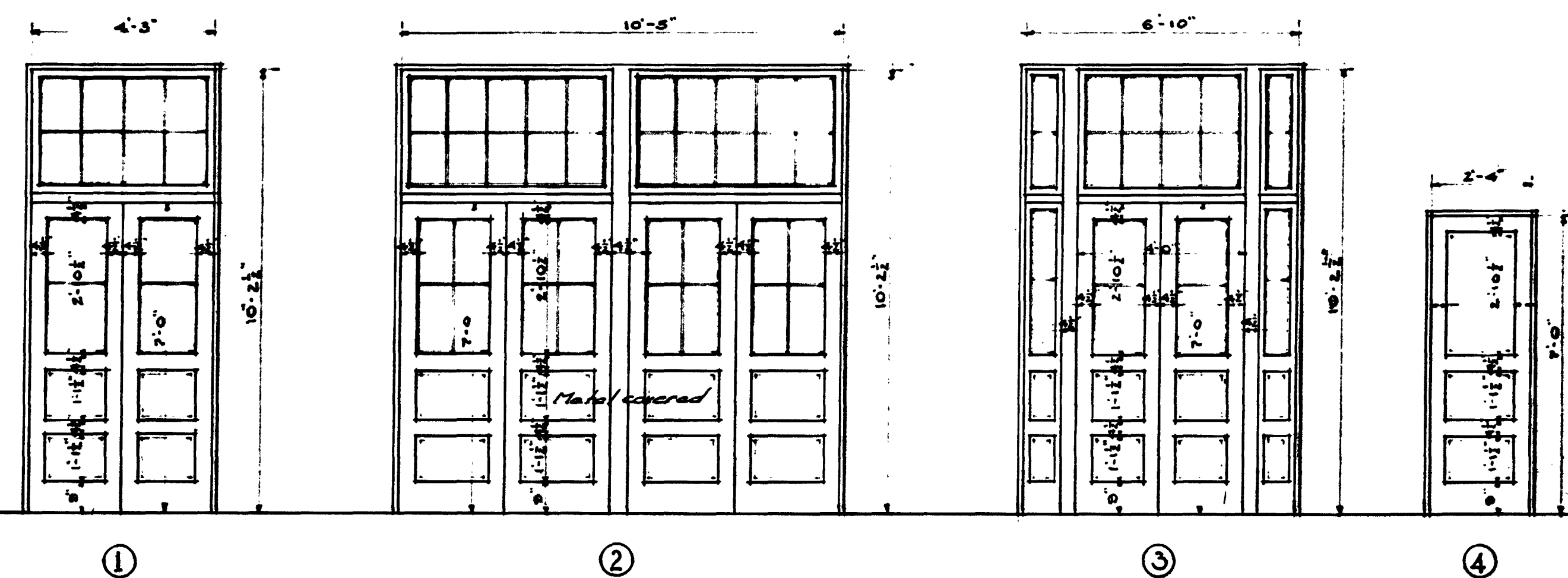
NOTE: - All new masonry walls are shown hatched on plan and sections. Contractor must check all dimensions here given of the building as it is intended that masonry walls and partitions, except partition between room "7 and Hall, be located directly over the corresponding one below.

WINDOW SCHEDULE			
NO.	WIDTH	HEIGHT	TYPE
A	16'-2"	5'-10"	DOUBLE HUNG
B	3'-6"	7'-6"	DOUBLE HUNG
C	10'-6"	5'-10"	DOUBLE HUNG

NOTE: - Check height of building.

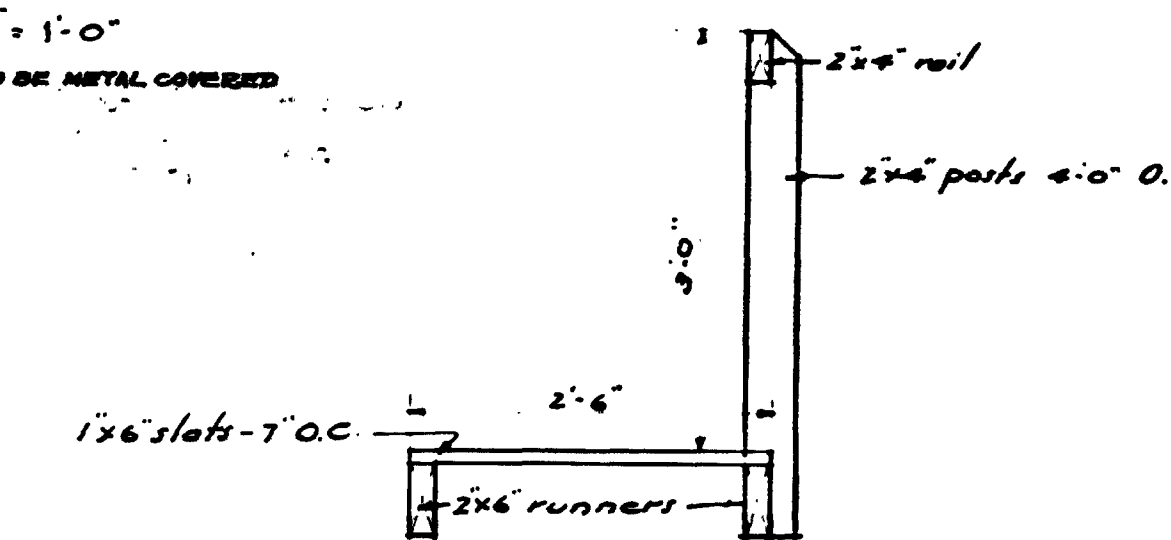


ROOF PLAN
SCALE: 1/8" = 1'-0"



DOOR SCHEDULE
SCALE: 1/8" = 1'-0"

NOTE: - DOORS MARKED H.C. ON PLANS TO BE METAL OPERED AND TO HAVE WIND CHAM.

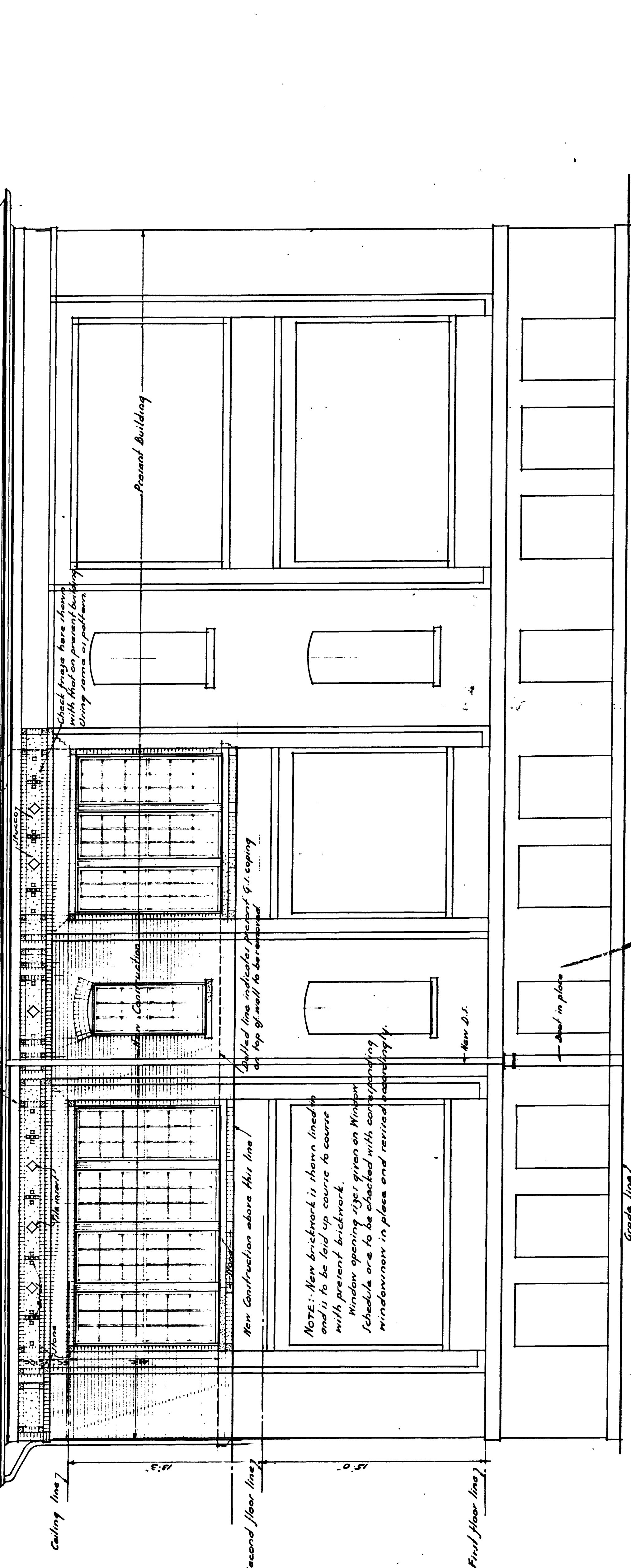
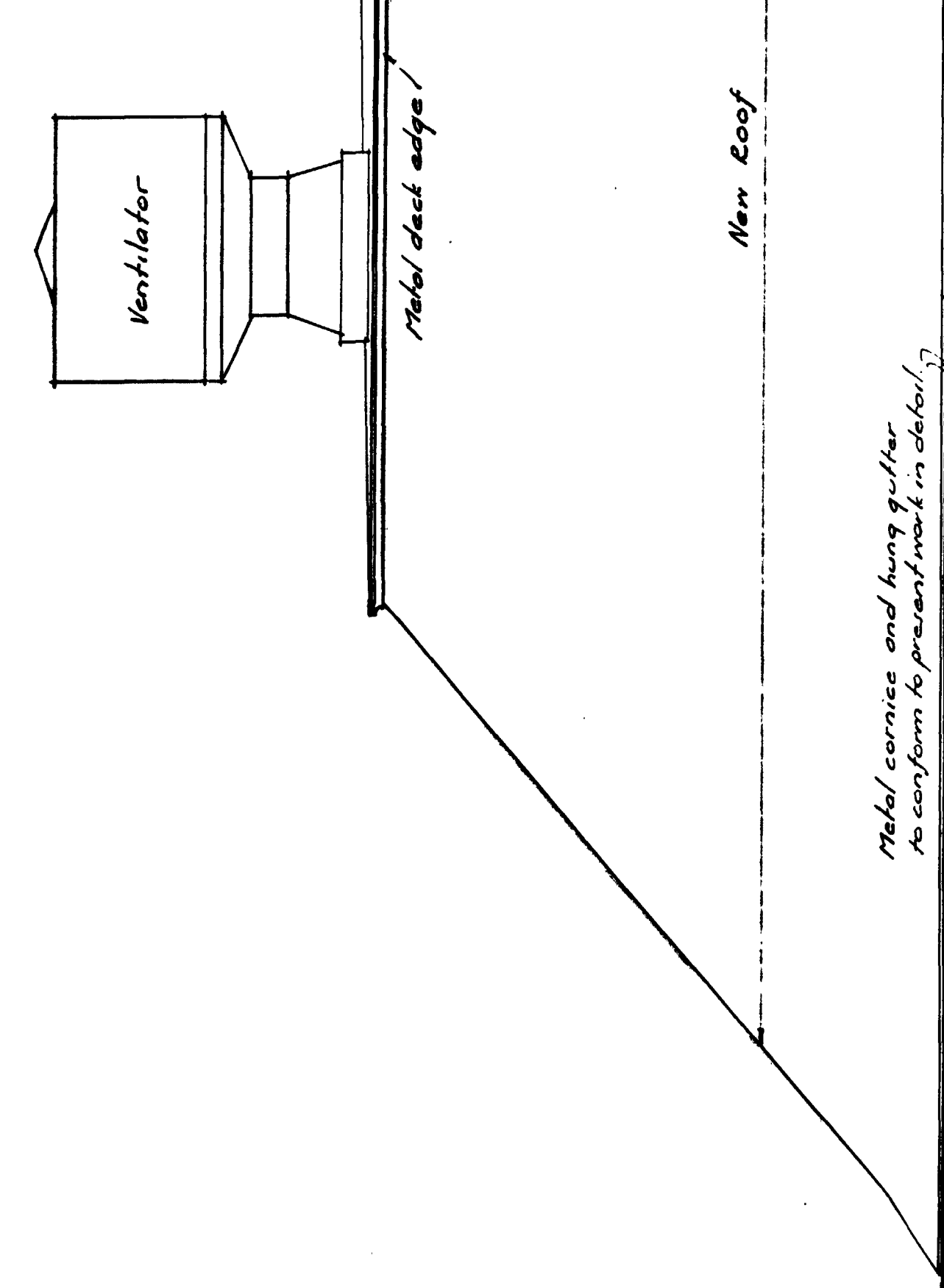
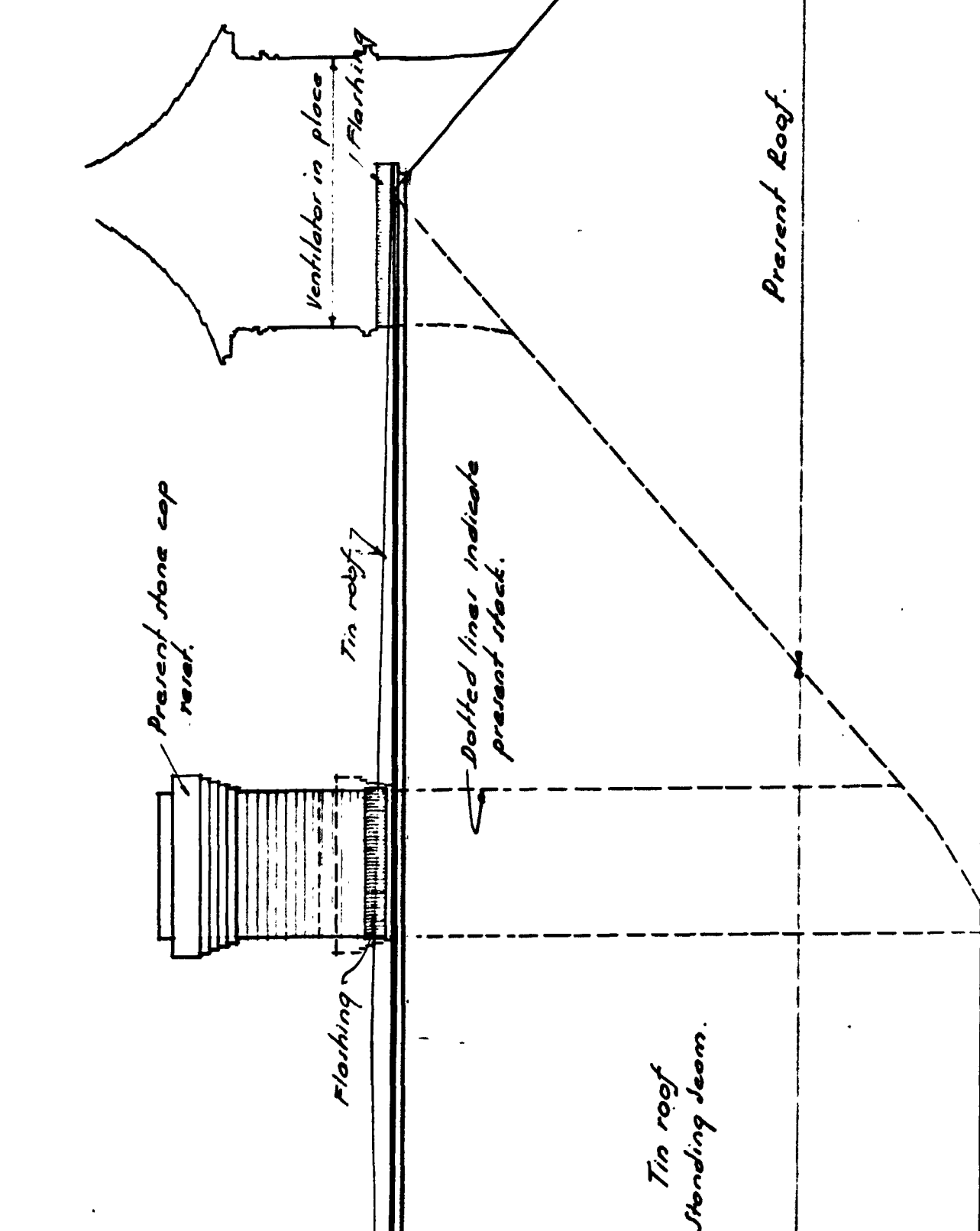
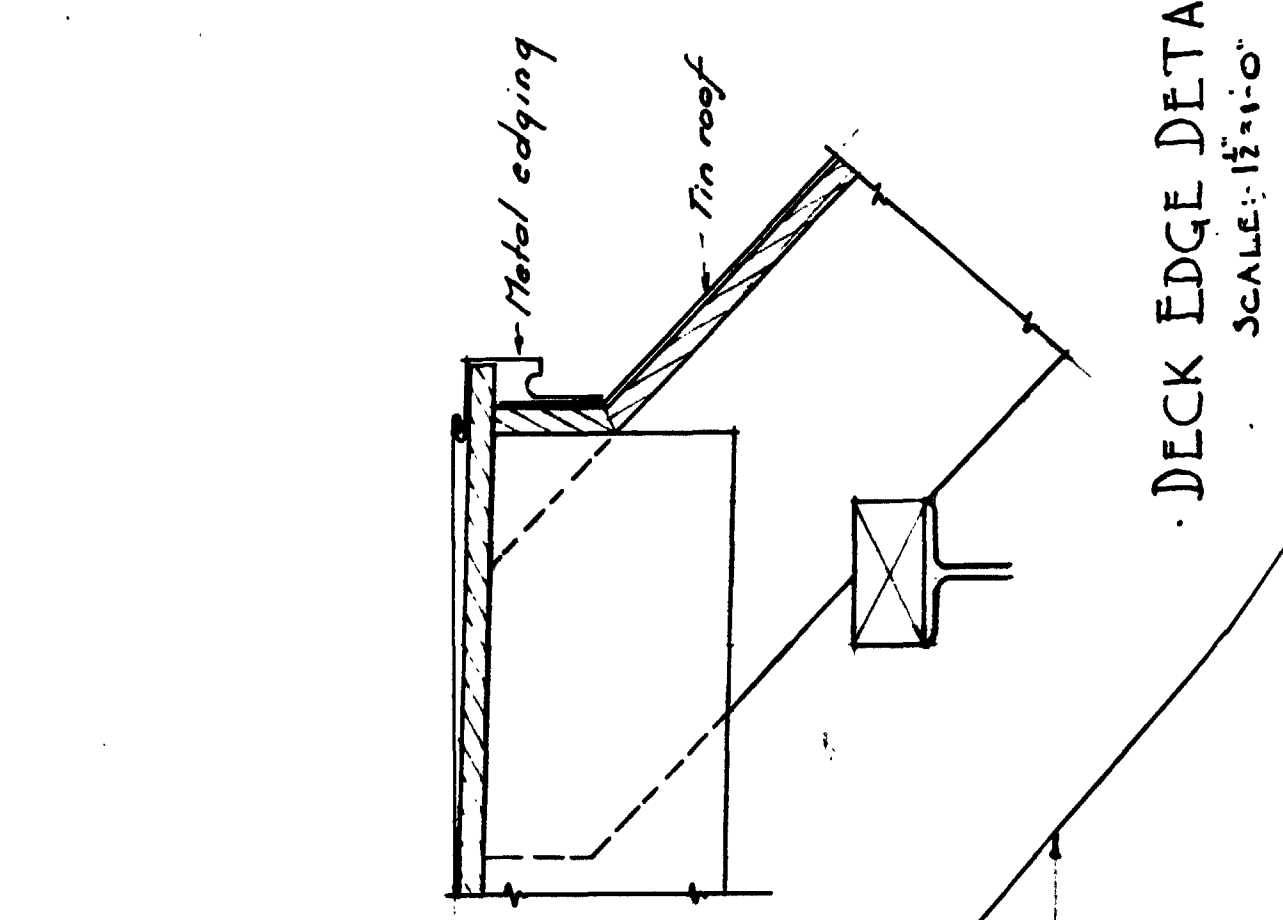


ATTIC WALK
SCALE: 1/8" = 1'-0"

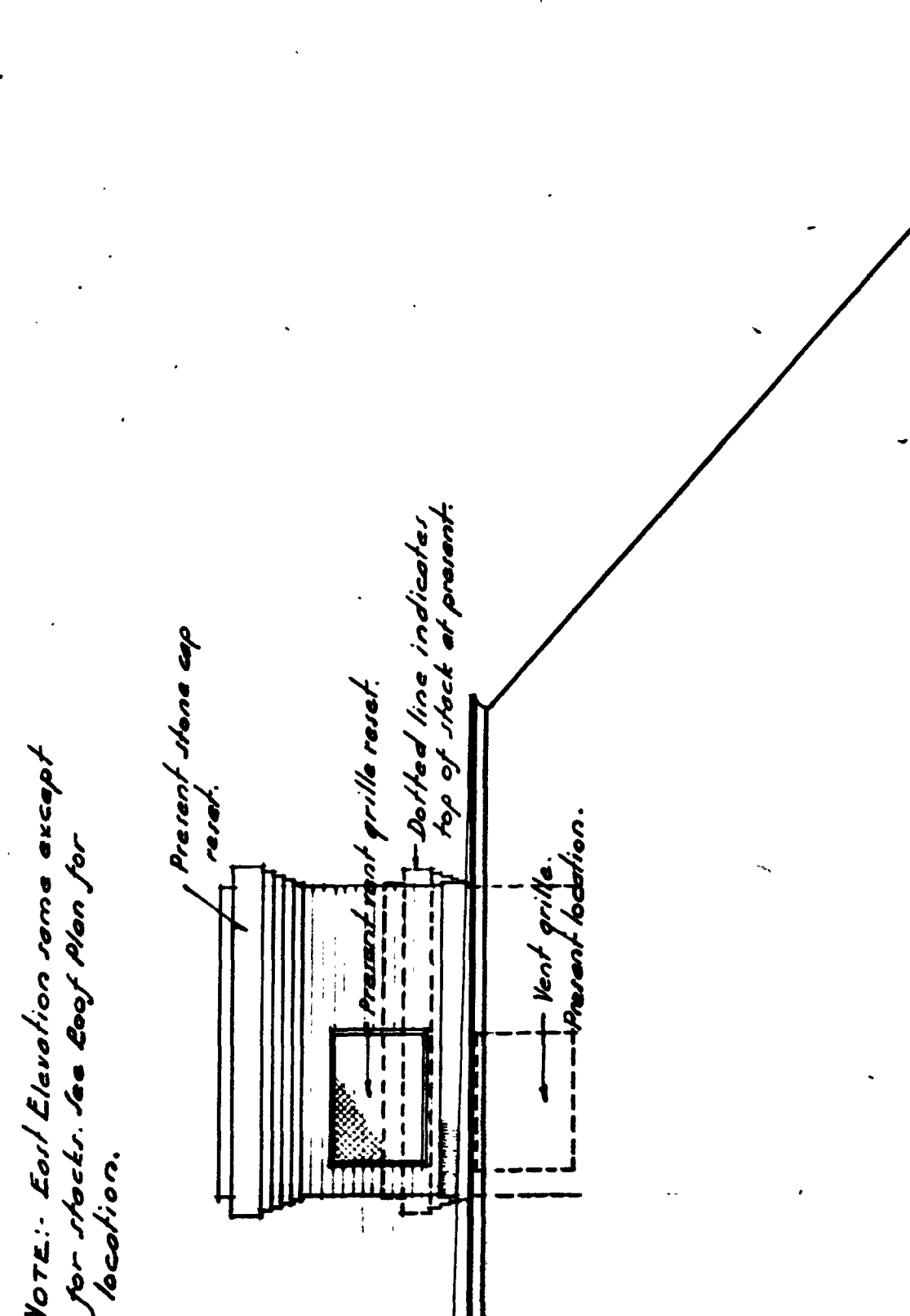
D.C.D.P.W. Archives Drawing No. 1-0-3-697

<p><i>R.H. Berne Jr.</i></p> <p>APPROVED BY THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA SITTING AS A BOARD SEP 8 1932</p>	REVISIONS	WORK RECORD	BUILDING - CRUMMELL SCHOOL ADDITION - LOCATION - CENTRAL AVE. AND GALLAUDET STREET N.E.	FILE NO. 11-2
		DRAWN BY: ...	OFFICE OF MUNICIPAL ARCHITECT - WASHINGTON, D.C.	DRWG. NO. A 1
		CHECKED BY: ...	CHIEF OF ARCHITECTURAL DIVISION	DATE 9/29/32
		DATE: 9/29/32	CHIEF OF STRUCTURAL DIVISION	DATE 9/29/32
		SHEET 1 OF 11	CHIEF OF MECHANICAL DIVISION	DATE 9/29/32
			MUNICIPAL ARCHITECT	DATE 9/29/32

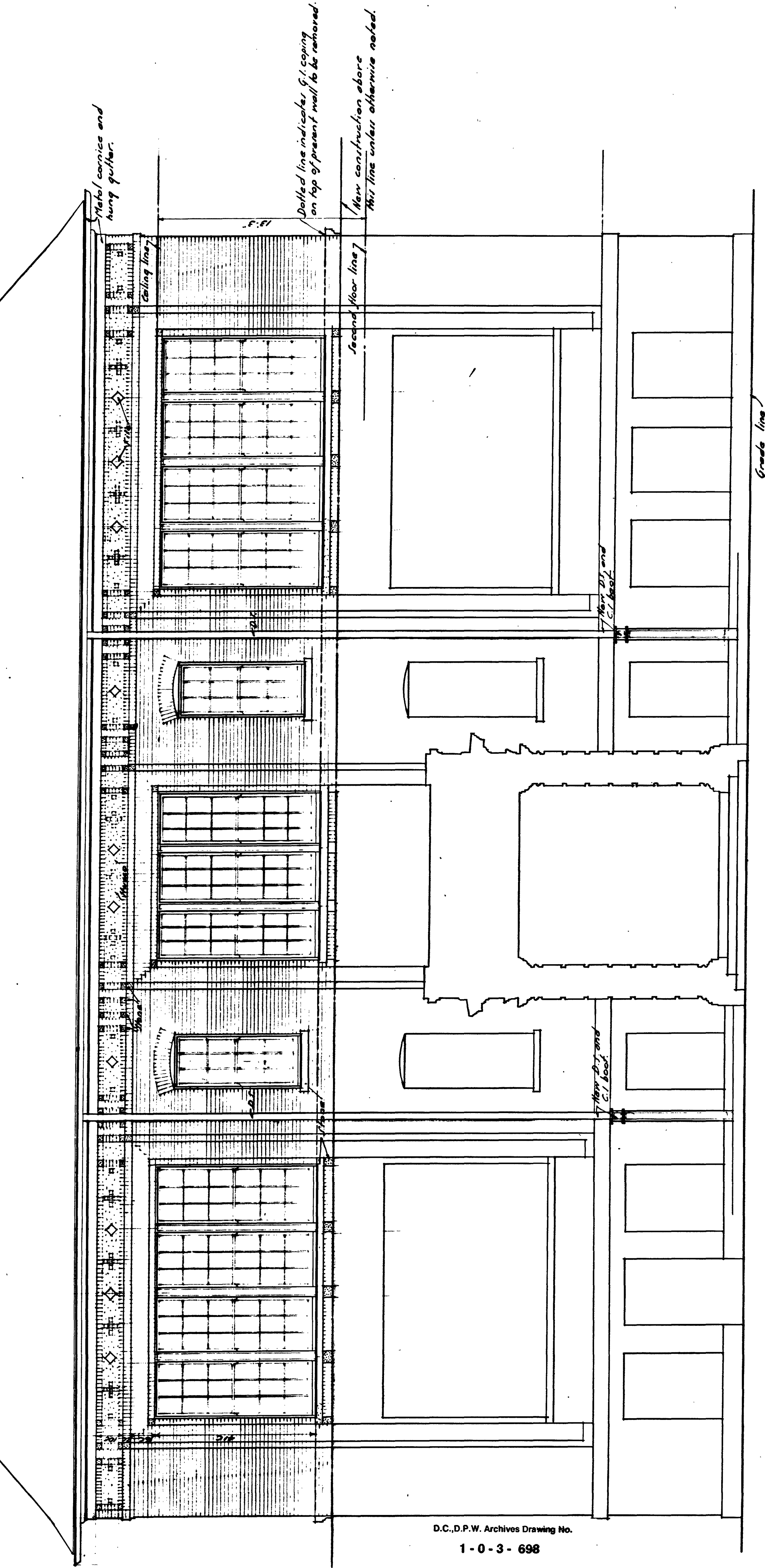
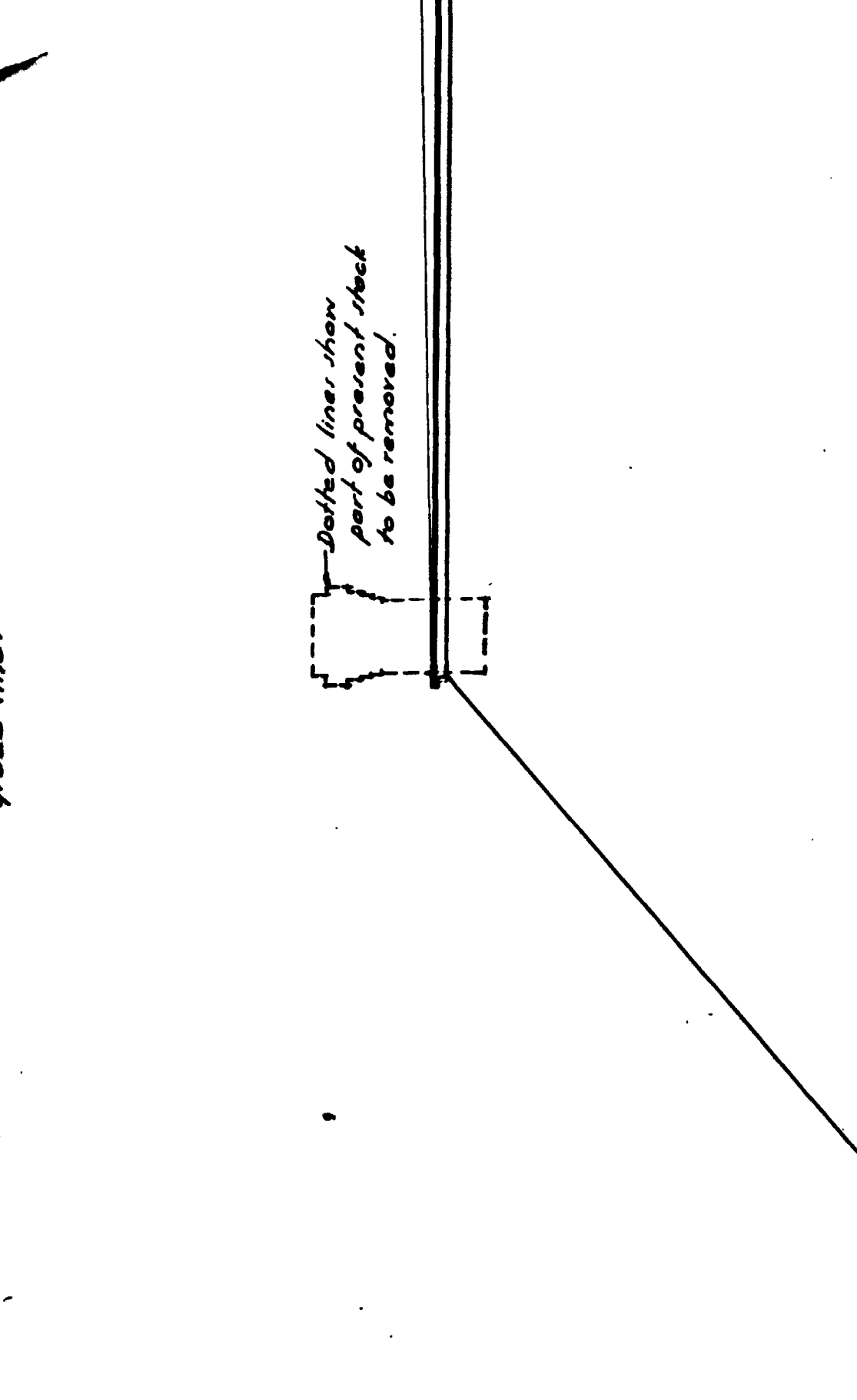
DECK EDGE DETAIL
SCALE: 1/8" = 1'-0"



WEST ELEVATION
SCALE: 3/8" = 1'-0"



DECK EDGE DETAIL
SCALE: 1/8" = 1'-0"



REAR ELEVATION
SCALE: 3/8" = 1'-0"

NOTE: New brickwork is shown, located and is to be laid up course to course with present brickwork. Window opening is set given on Window Schedule one to be checked with corresponding windower in place and revised accordingly.

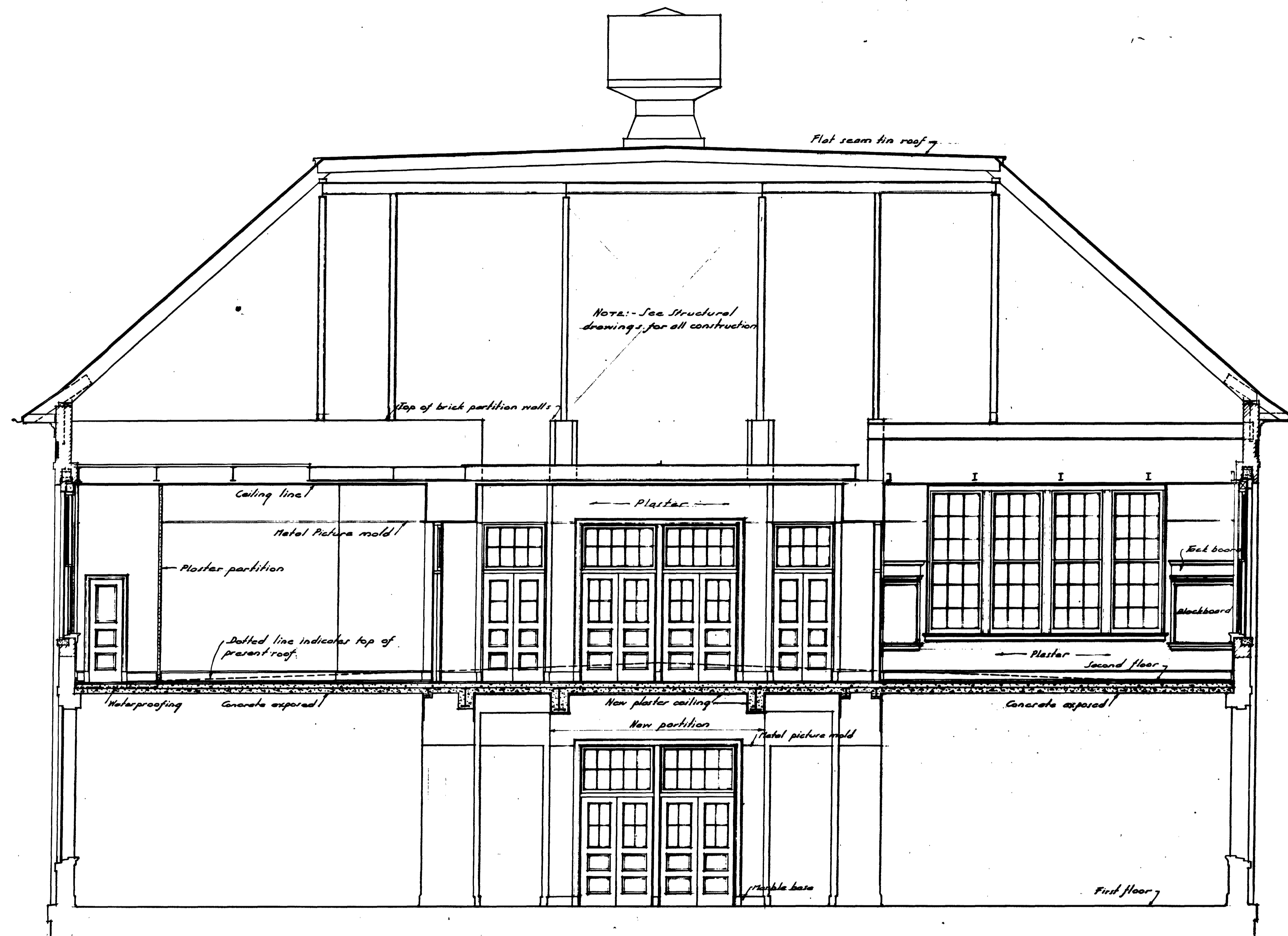
NOTE: East Elevation same except for roof. See Roof Plan for location.

NOTE: Vent stack on West elevation.

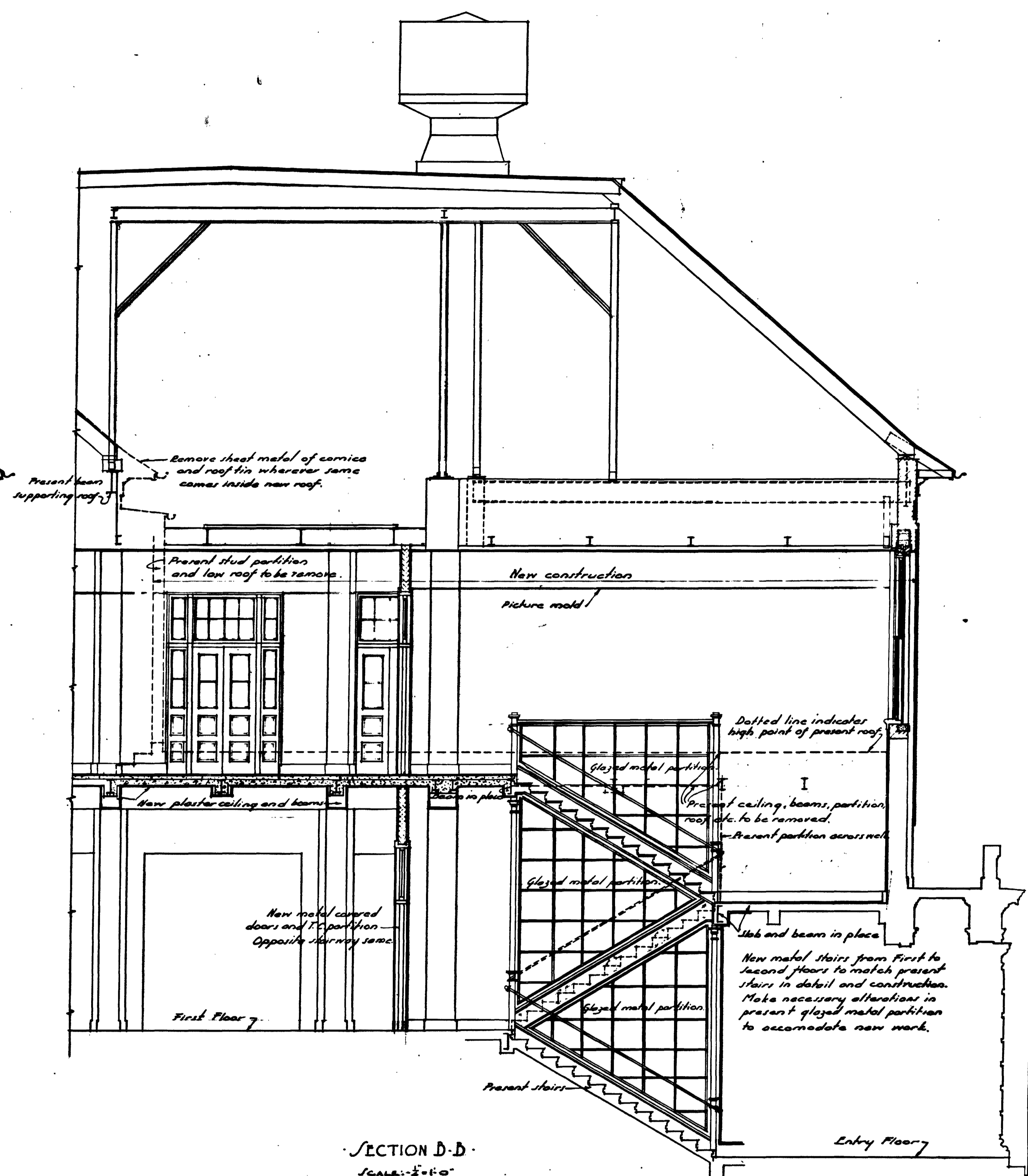
NOTE: New construction above this line unless otherwise noted.

D.C.D.P.W. Archives Drawing No. 1-0-3-698

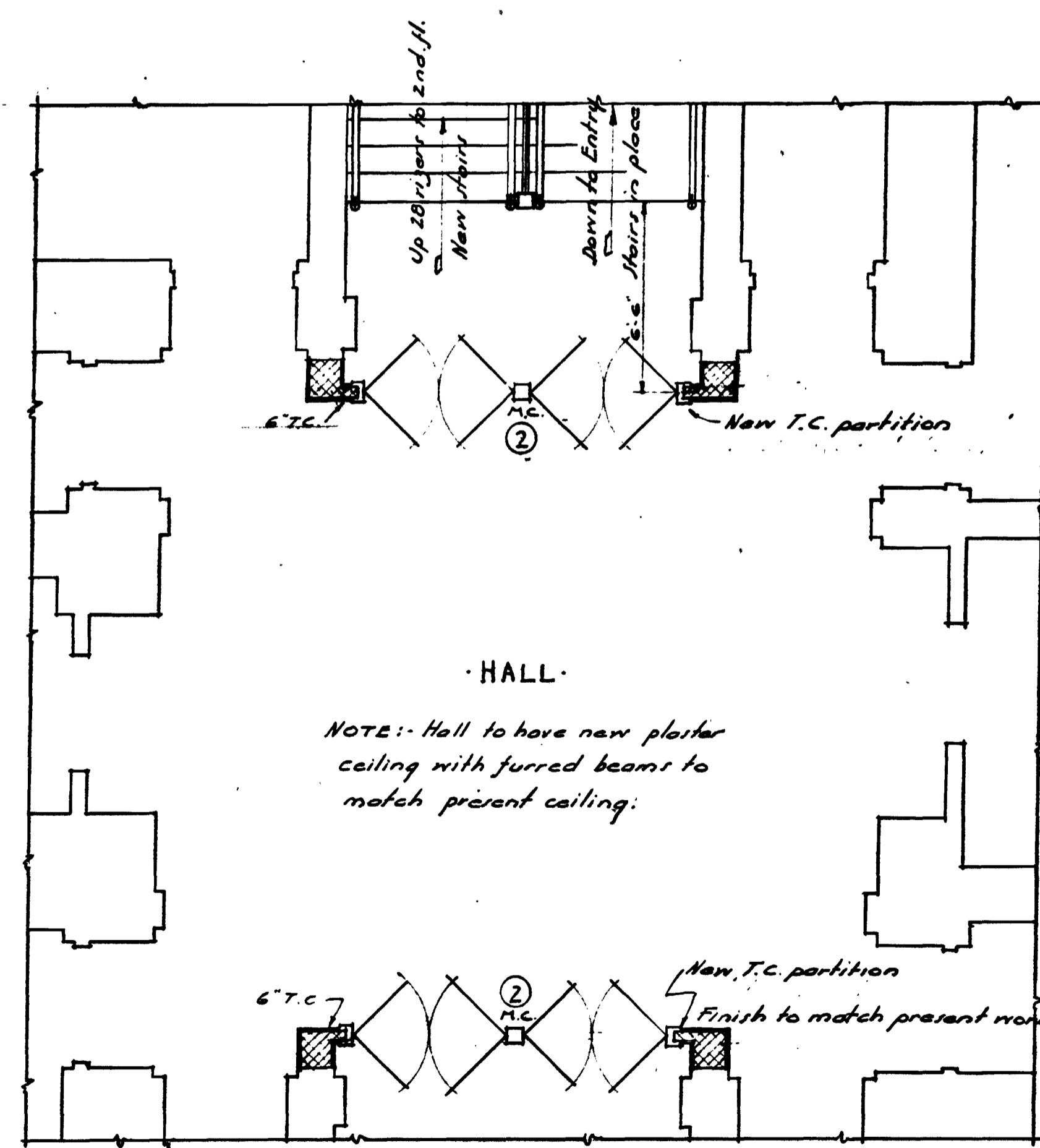
<p>APPROVED BY THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA SITTING AS A BOARD SEP 9 1922</p>	REVISIONS	WORK RECORD	BUILDING - CRUMMELL SCHOOL ADDITION	FILE NO.
		DRAWN BY: R.H.	LOCATION - CENTRAL AVE. AND GALLAUDET STREET N.E.	11-2-1
		CHECKED BY: G.H.	OFFICE OF MUNICIPAL ARCHITECT - WASHINGTON, D. C.	DRWG. NO.
		DATE: 7/17/22	CHEF OF ARCHITECTURAL DIVISION <i>M. J. ...</i>	DATE: 7/17/22
		SHEET	CHEF OF STRUCTURAL DIVISION <i>H. J. ...</i>	DATE: 7/17/22
		2 OF 11	CHEF OF MECHANICAL DIVISION <i>C. J. ...</i>	DATE: 7/17/22
			MUNICIPAL ARCHITECT <i>W. J. ...</i>	DATE: 7/17/22



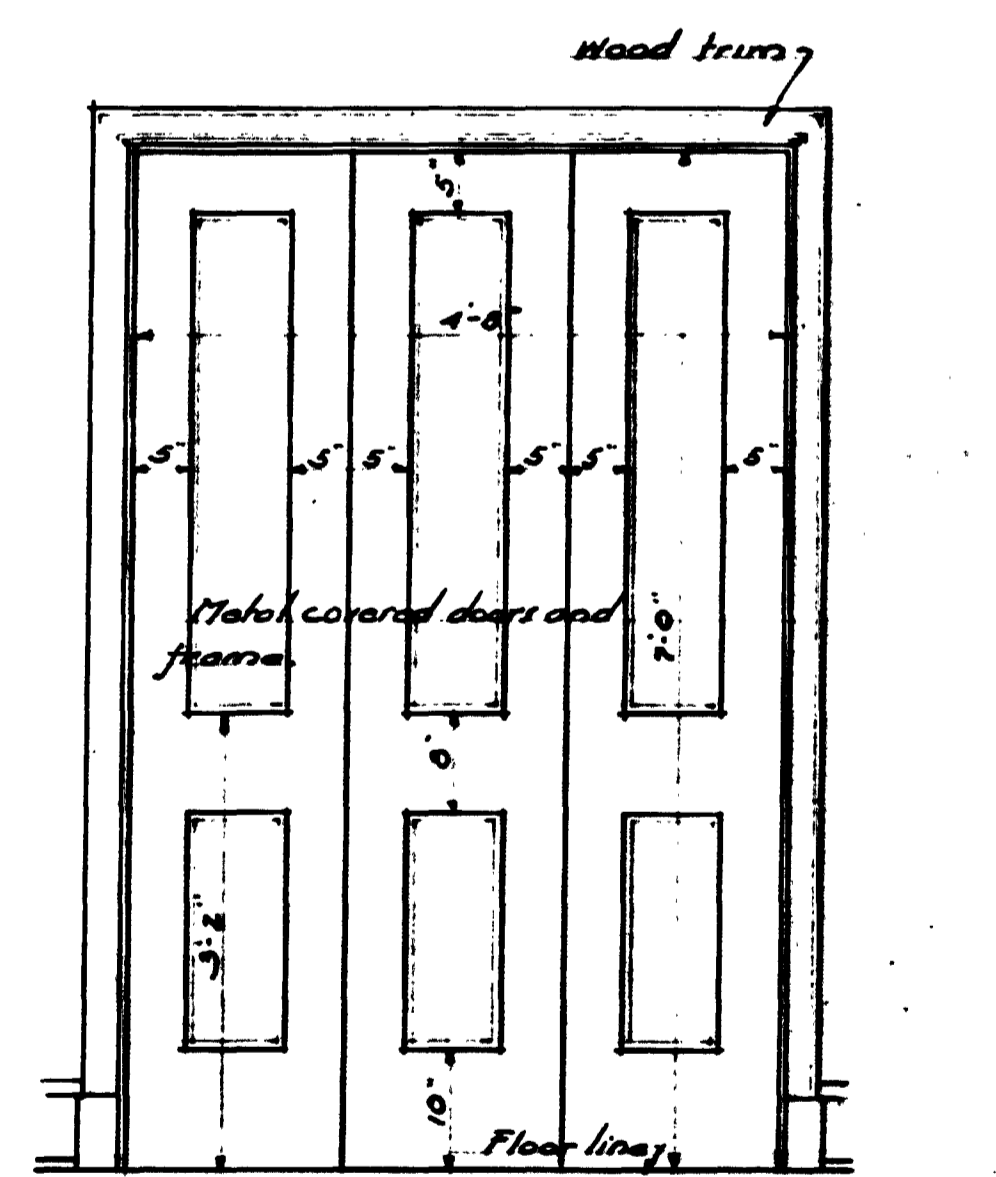
SECTION A-A
SCALE: 1/2" = 1'-0"



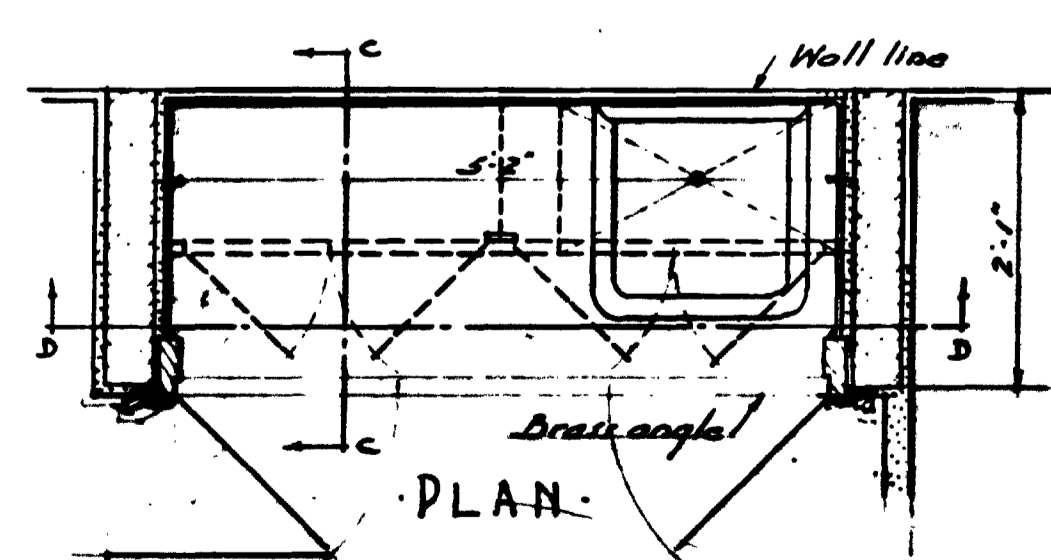
SECTION D-D
SCALE: 1/2" = 1'-0"



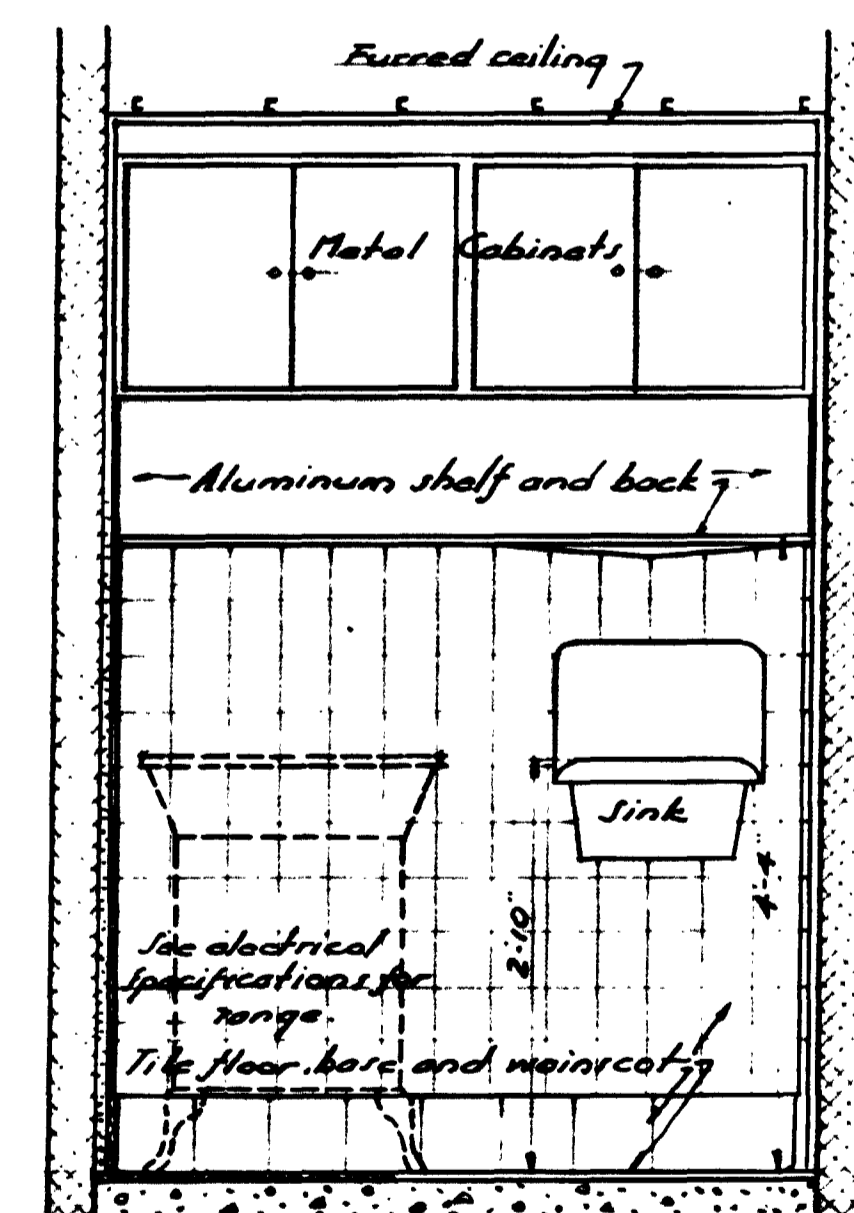
PLAN OF FIRST FLOOR HALL
SCALE: 1/2" = 1'-0"



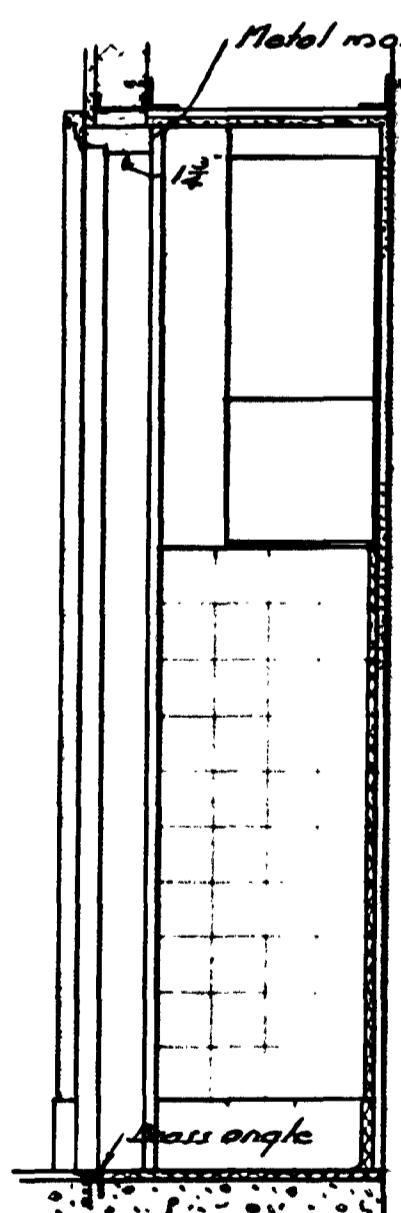
EXTERIOR ELEVATION



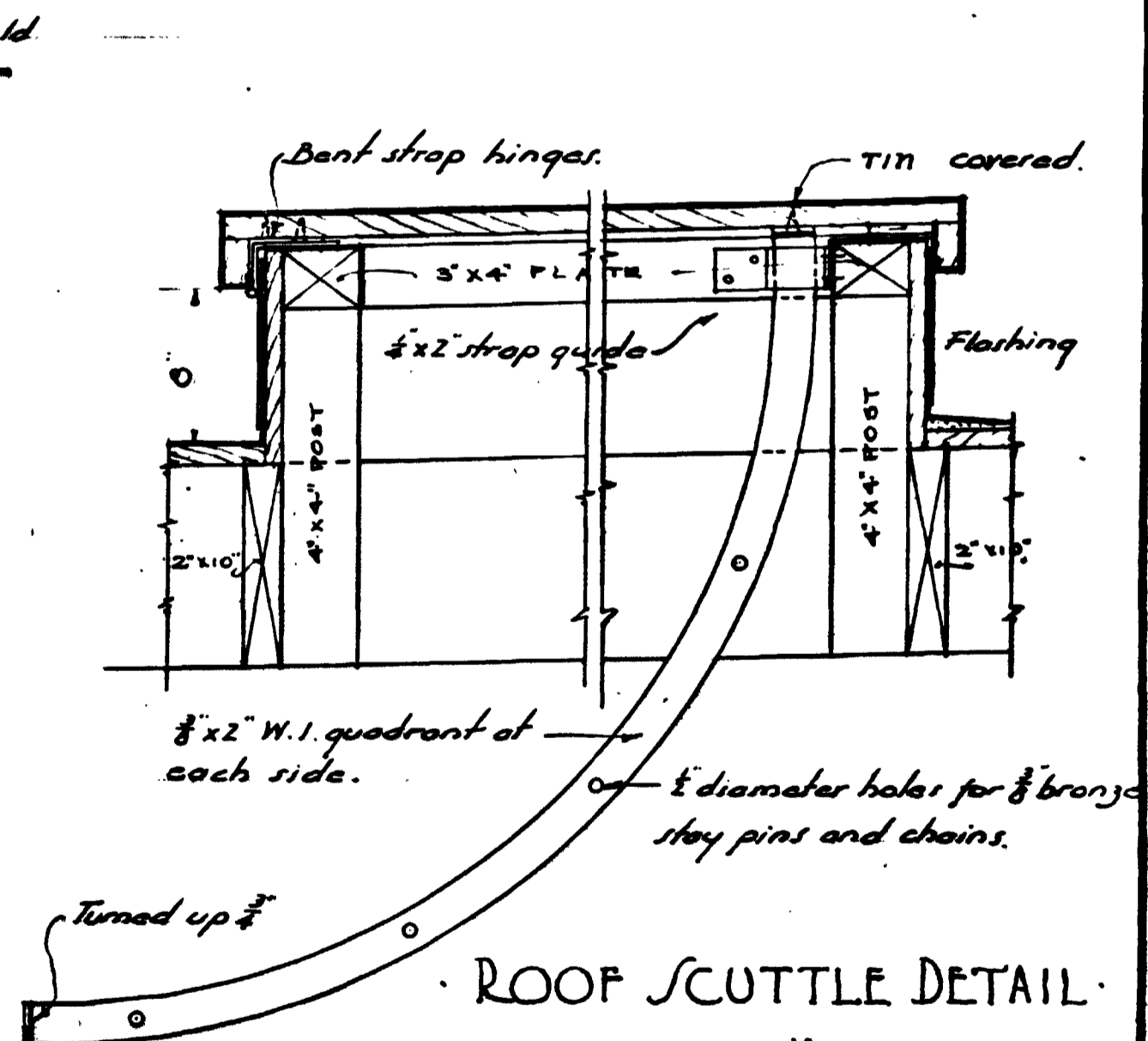
PLAN



SECTION D-D
KITCHENETTE DETAILS
SCALE: 1/2" = 1'-0"



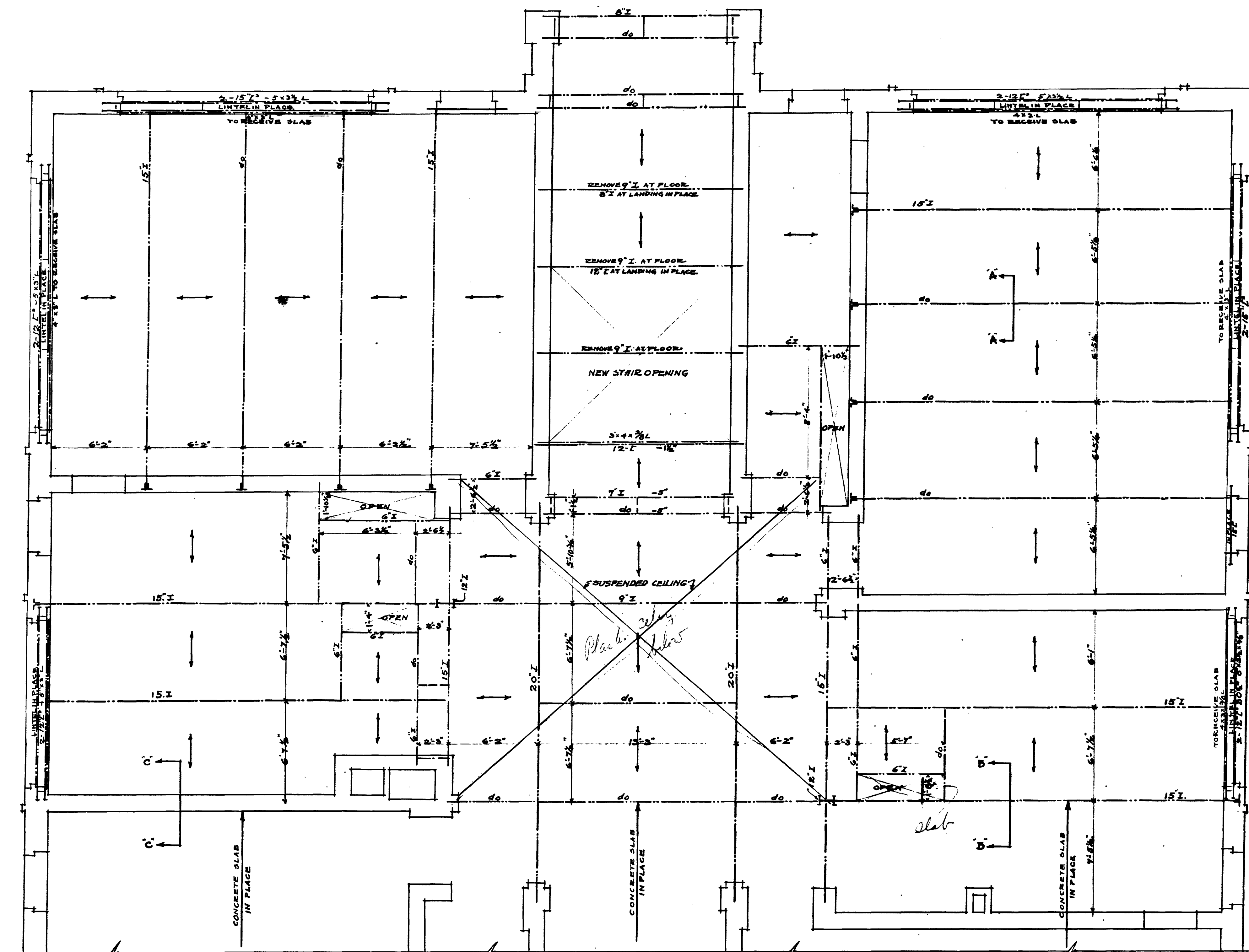
SECTION C-C



ROOF SCUTTLE DETAIL
SCALE: 1/2" = 1'-0"

D.C. D.P.W. Archives Drawing No. 1-0-3-699

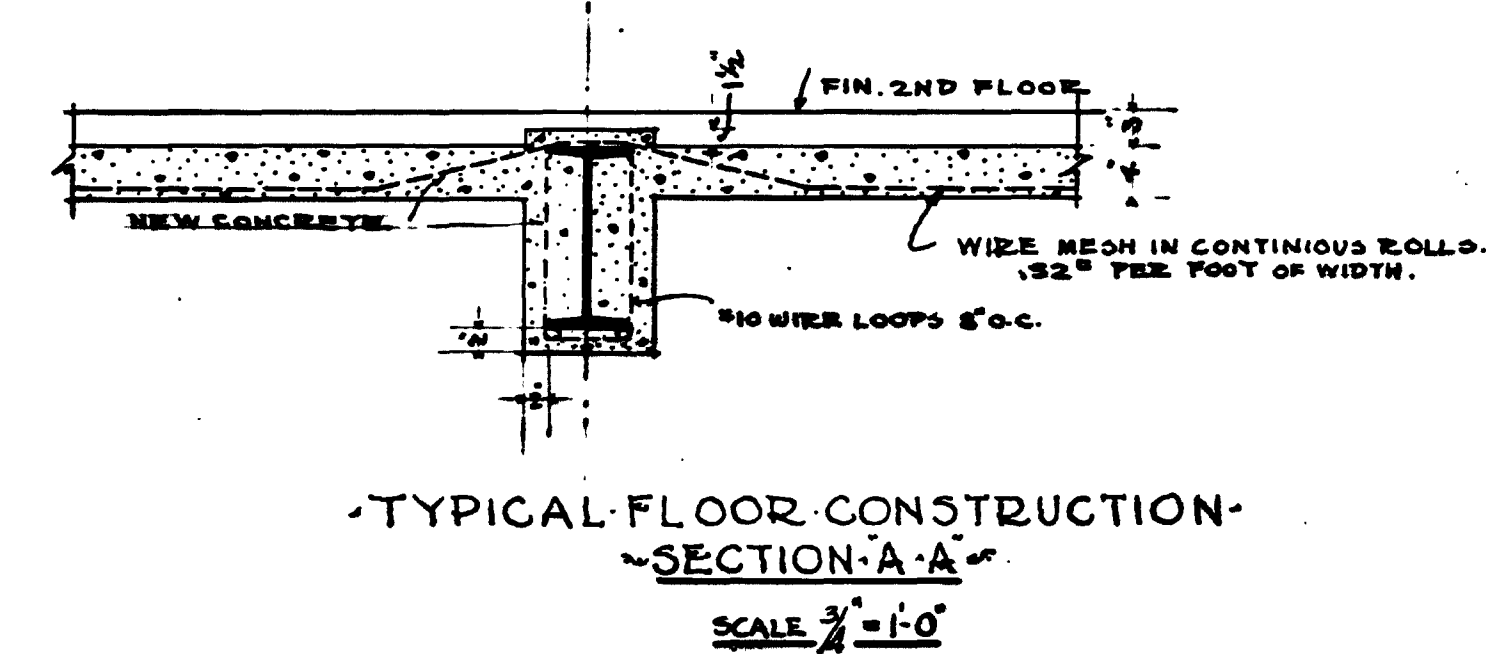
<p><i>F. D. Bennett</i></p> <p>APPROVED BY THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA SITTING AS A BOARD SEP 3 1922</p>	REVISIONS	WORK RECORD	BUILDING - CRUMMELL SCHOOL ADDITION -	FILE NO.
		DESIGNED BY: J. H. ...	LOCATION - CENTRAL AVE. AND GALLAUDET STREET N.E.	11-2
		CHECKED BY: G. C. ...	OFFICE OF MUNICIPAL ARCHITECT - WASHINGTON, D. C.	DRWG. NO.
		DATE: 8/12/22	CHIEF OF ARCHITECTURAL DIVISION: <i>J. H. Bennett</i>	A
		SHEET	CHIEF OF STRUCTURAL DIVISION: <i>A. Howard</i>	3
	3 OF 11	CHIEF OF MECHANICAL DIVISION: <i>F. D. Bennett</i>		
		MUNICIPAL ARCHITECT: <i>W. H. ...</i>		



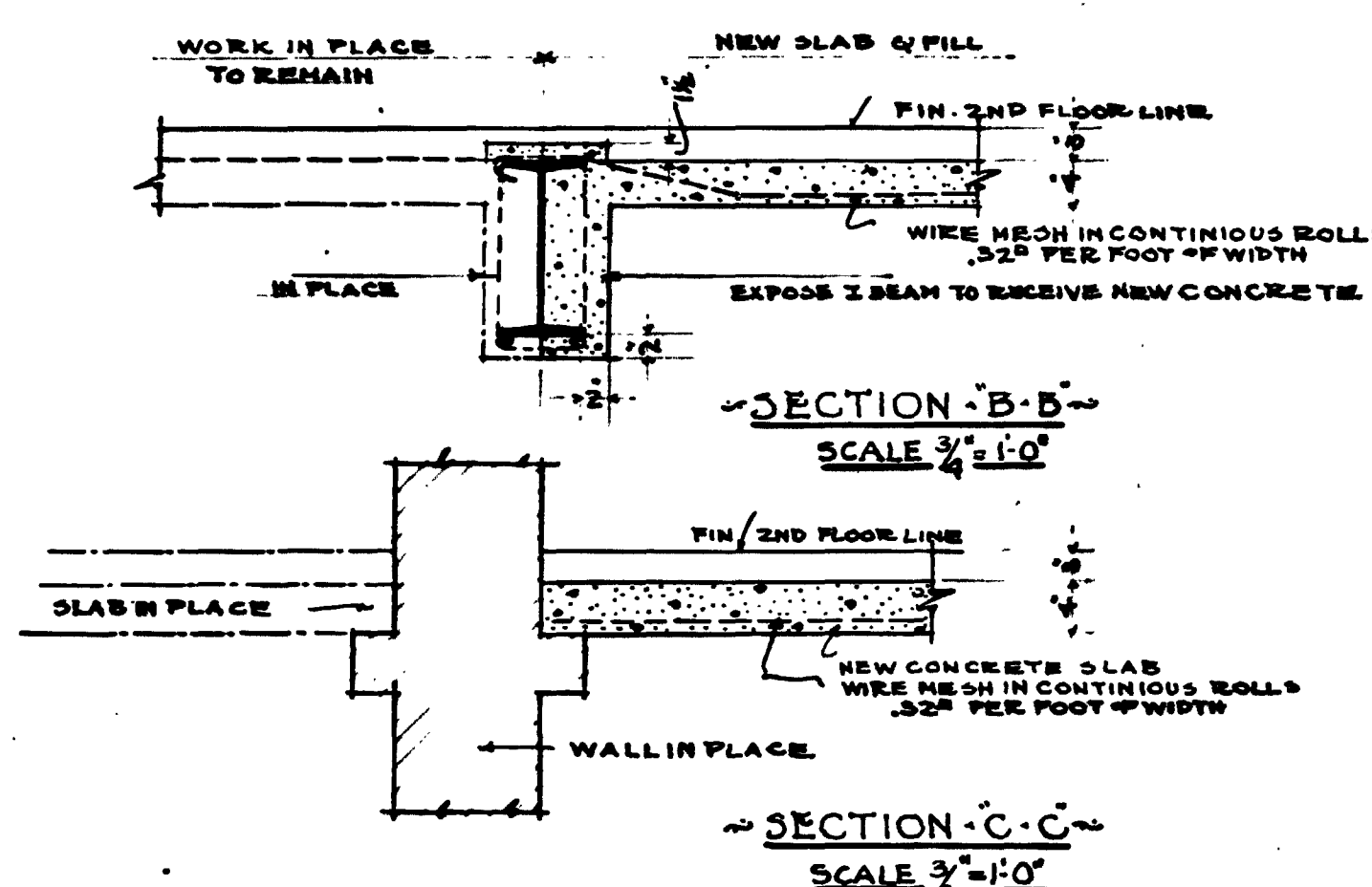
·SECOND FLOOR FRAMING PLAN·

·SCALE · 1/4" = EQUALS · 1'-0"

NOTE! ALL BEAMS ARE SET 5" UNLESS OTHERWISE NOTED.



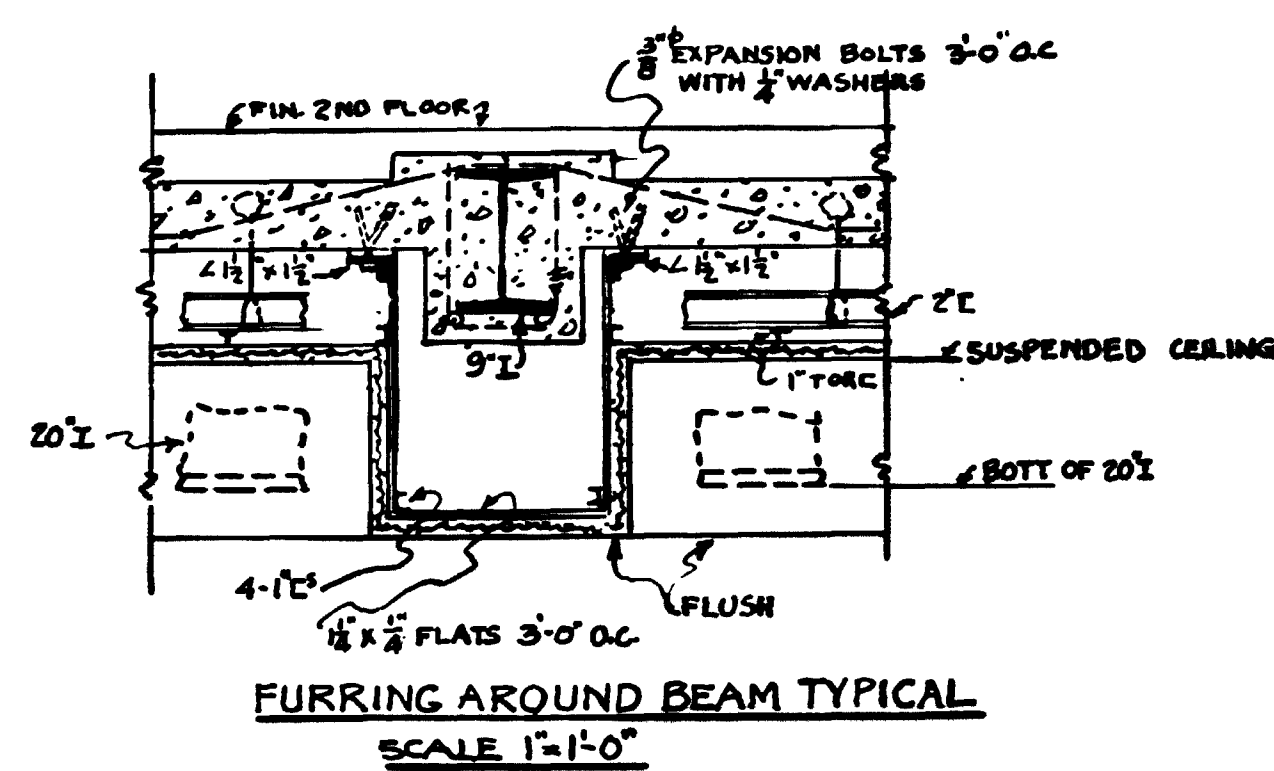
·TYPICAL FLOOR CONSTRUCTION·
·SECTION A-A·
SCALE 3/4" = 1'-0"



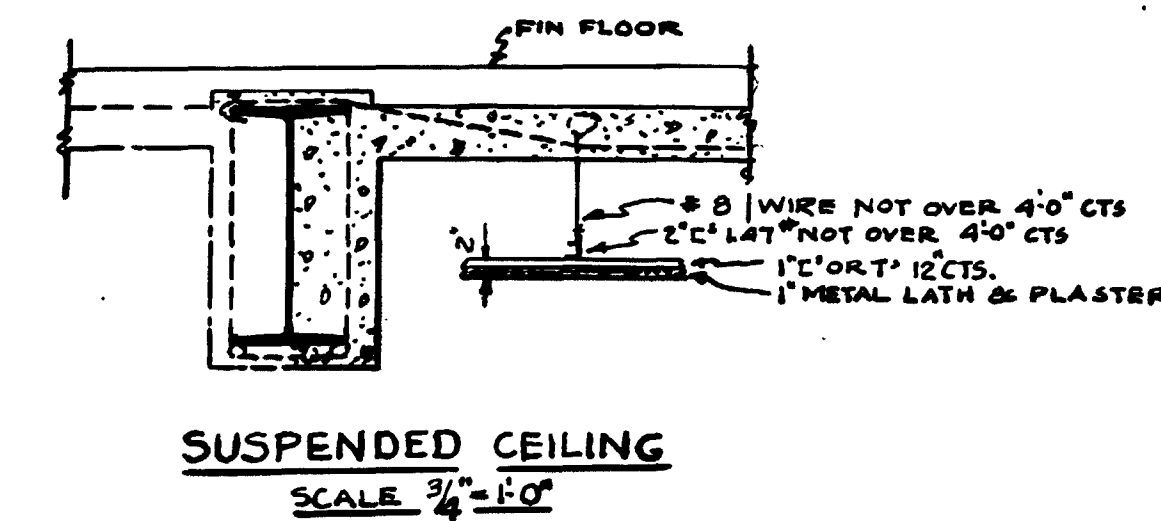
·SECTION B-B·
SCALE 3/4" = 1'-0"

·SECTION C-C·
SCALE 3/4" = 1'-0"

NOTE!
ALL SLABS TO BE 4" THICK REINFORCED WITH WIRE MESH 30" PER FT. OF WIDTH.
ALL BEAMS TO BE ENCASED IN CONCRETE, SEE TYPICAL DETAIL.
REMOVE WOOD PARTS & PLASTER CEILING SO THAT CONCRETE SLAB MAY BE INSTALLED.
ALL DIMENSIONS GIVEN ARE TO BE VERIFIED AT THE BUILDING BEFORE WORK IS COMMENCED.



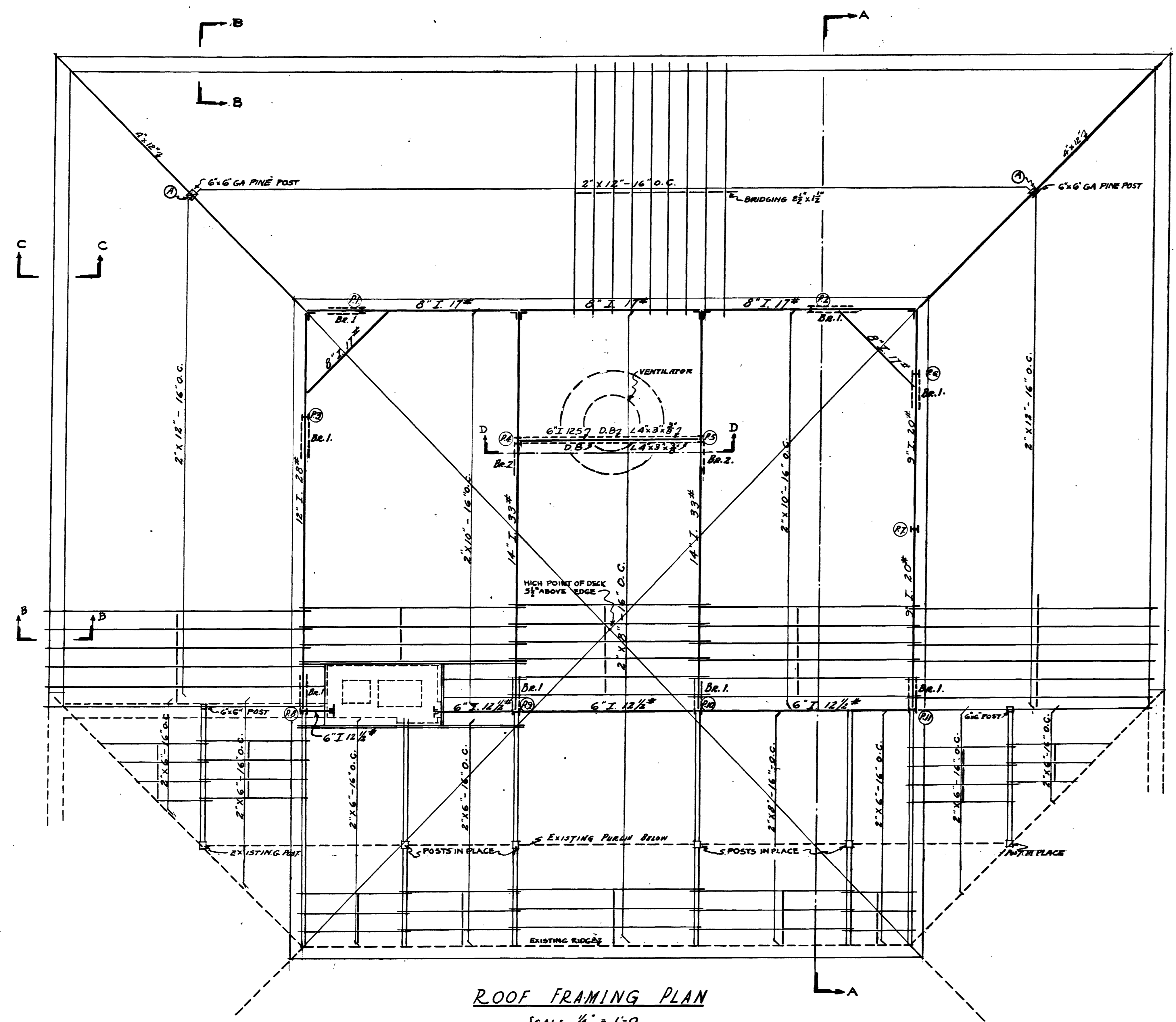
FURRING AROUND BEAM TYPICAL
SCALE 1" = 1'-0"



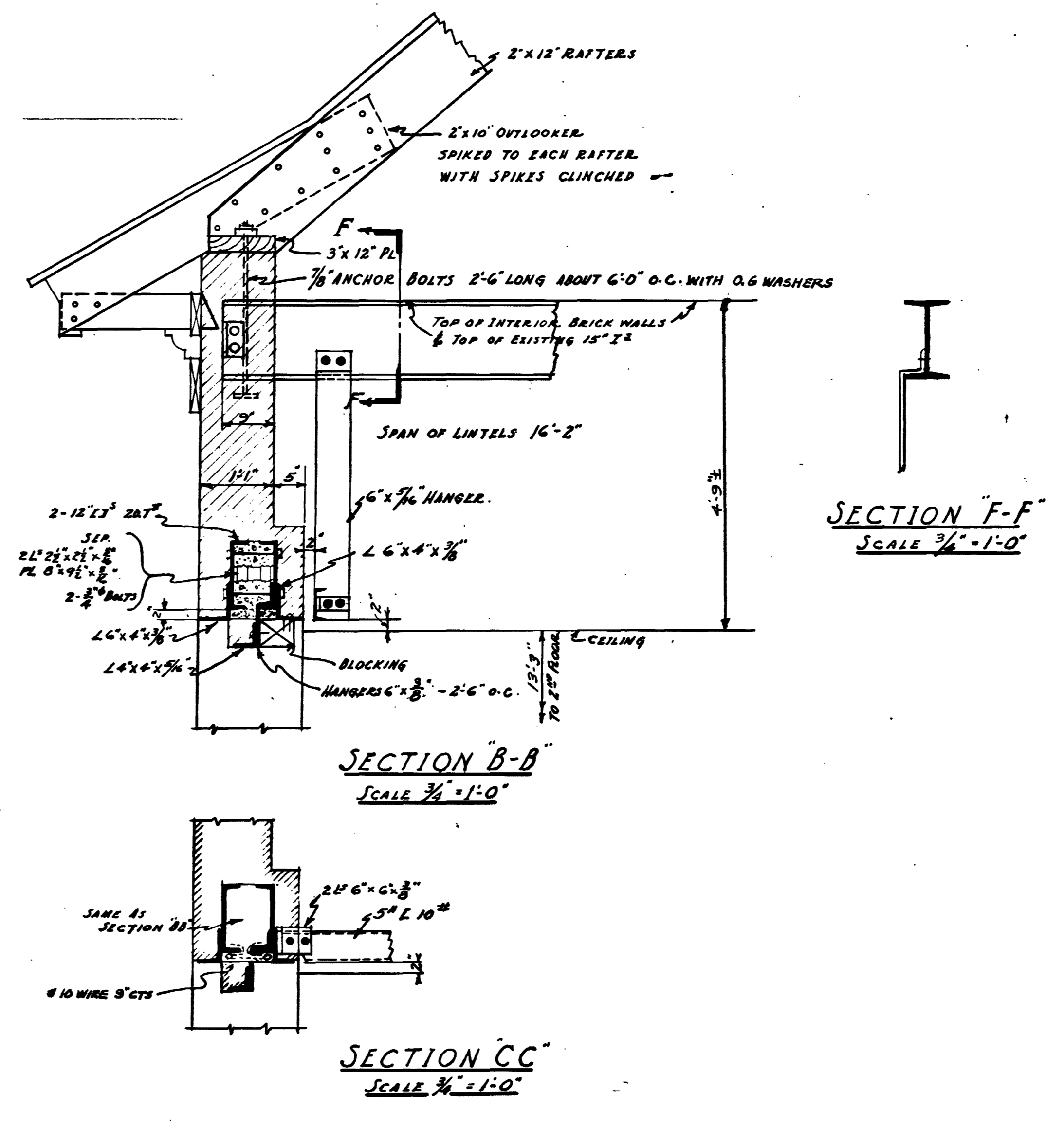
SUSPENDED CEILING
SCALE 3/4" = 1'-0"

D.C.D.P.W. Archives Drawing No.
1-0-3-700

REVISIONS	WORK RECORD	BUILDING - CRUMMELL SCHOOL ADDITION	FILE NO.
	DRAWN BY: D.H.H.	LOCATION CENTRAL AVE. AND GALLAUDET STREET N.E.	11-2.1
	TRACED BY: B.C.C.	OFFICE OF MUNICIPAL ARCHITECT - WASHINGTON, D. C.	DRWG. NO.
	CHECKED BY:	CHIEF OF ARCHITECTURAL DIVISION <i>[Signature]</i>	DATE 9/21/22
	DATE:	CHIEF OF STRUCTURAL DIVISION <i>[Signature]</i>	DATE 9/21/22
	SHEET	CHIEF OF MECHANICAL DIVISION <i>[Signature]</i>	DATE 9/21/22
	4 OF 11	MUNICIPAL ARCHITECT <i>[Signature]</i>	DATE 9/21/22

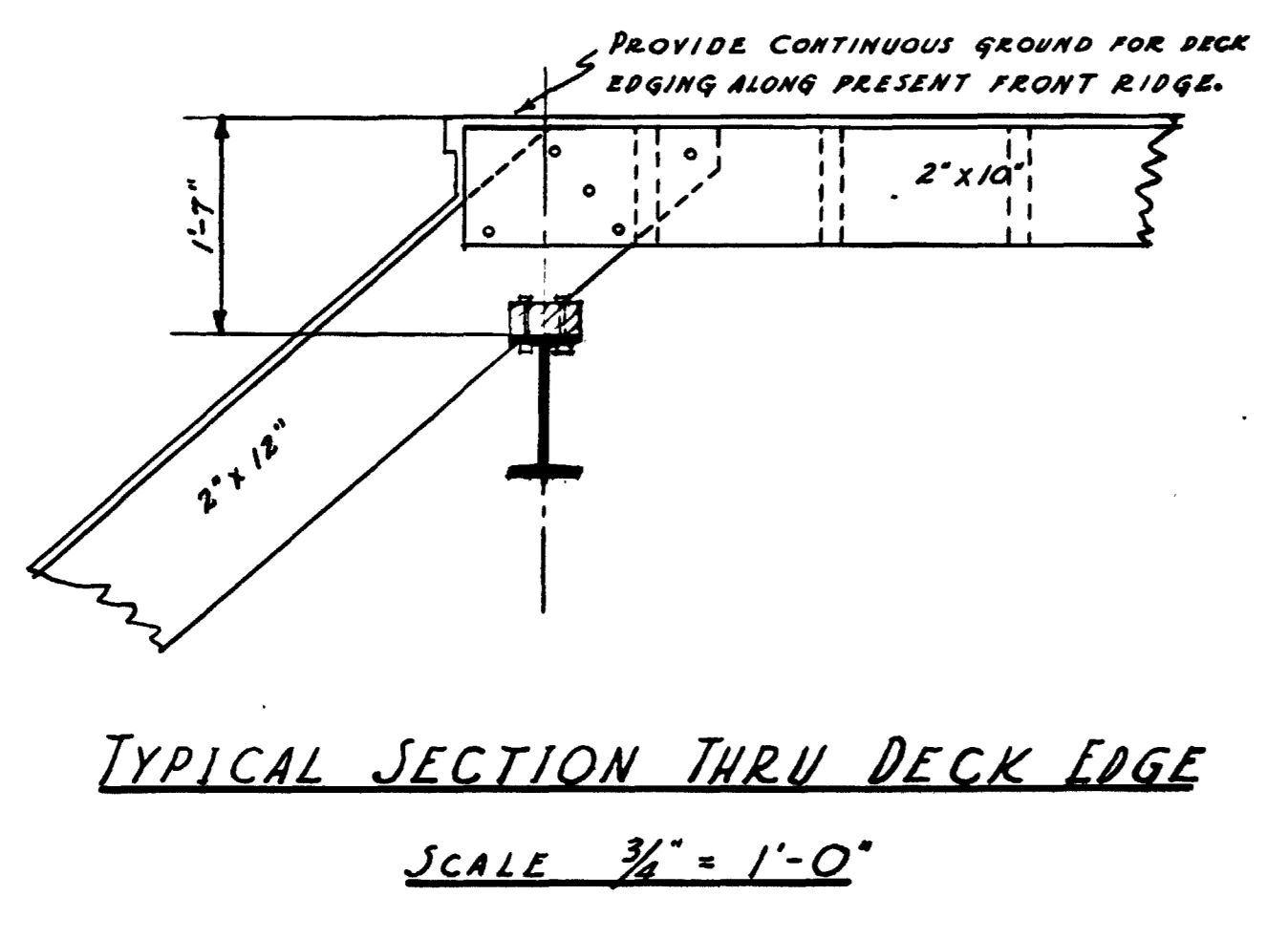


ROOF FRAMING PLAN
Scale 1/4" = 1'-0"



— GENERAL NOTES —

1. CONCRETE SLABS ON SECOND FLOOR TO HAVE TOP 3" BELOW FLOOR LINE.
2. CONCRETE IN SLABS TO BE 1:2:4 MIX COARSE AGGREGATE UNIFORMLY GRADED FROM 1/4" TO 3/4".
3. METAL REINFORCEMENT SHALL BE SUPPORTED ON APPROVED METAL CHAIRS SPACED NOT OVER 5'-0" O.C.
4. ALL SLEEVES FOR PIPES AND BOXES MUST BE IN PLACE BEFORE CONCRETE IS POURED.
5. BEARING ENDS OF STEEL POSTS AND COLUMNS MUST BE MILLER.
6. ANCHORS OF 2-0" x 3-1/4" x 1-5" LONG MUST BE RIVETTED ON THE ENDS OF ALL WALL BEARING BEAMS AND CHANNELS.
7. ALL FIELD CONNECTIONS MUST BE RIVETTED WITH 3/8" RIVETS 1/2" OPEN HOLES.
8. LINTELS SHALL HAVE AT LEAST 6" BEARING ON WALLS UNLESS NOTED.
9. LINTELS OVER OPENINGS IN 9"x13" WALLS, PARTITIONS ETC., SHALL BE 2-4"x4"x3/8" UNLESS OTHERWISE SHOWN.
10. BEFORE ANY WORK IS COMMENCED, COMPLETE SHOP DRAWINGS SHALL BE PREPARED AND SUBMITTED TO THE MUNICIPAL ARCHITECT FOR HIS APPROVAL AND NO WORK SHALL BE FABRICATED UNTIL THESE DRAWINGS ARE APPROVED BY HIM; EACH SUBMITTER MUST CONSIST OF AT LEAST ONE COMPLETE FLOOR.
11. FOR FURTHER DETAILS SEE THE ARCHITECTURAL DRAWINGS.

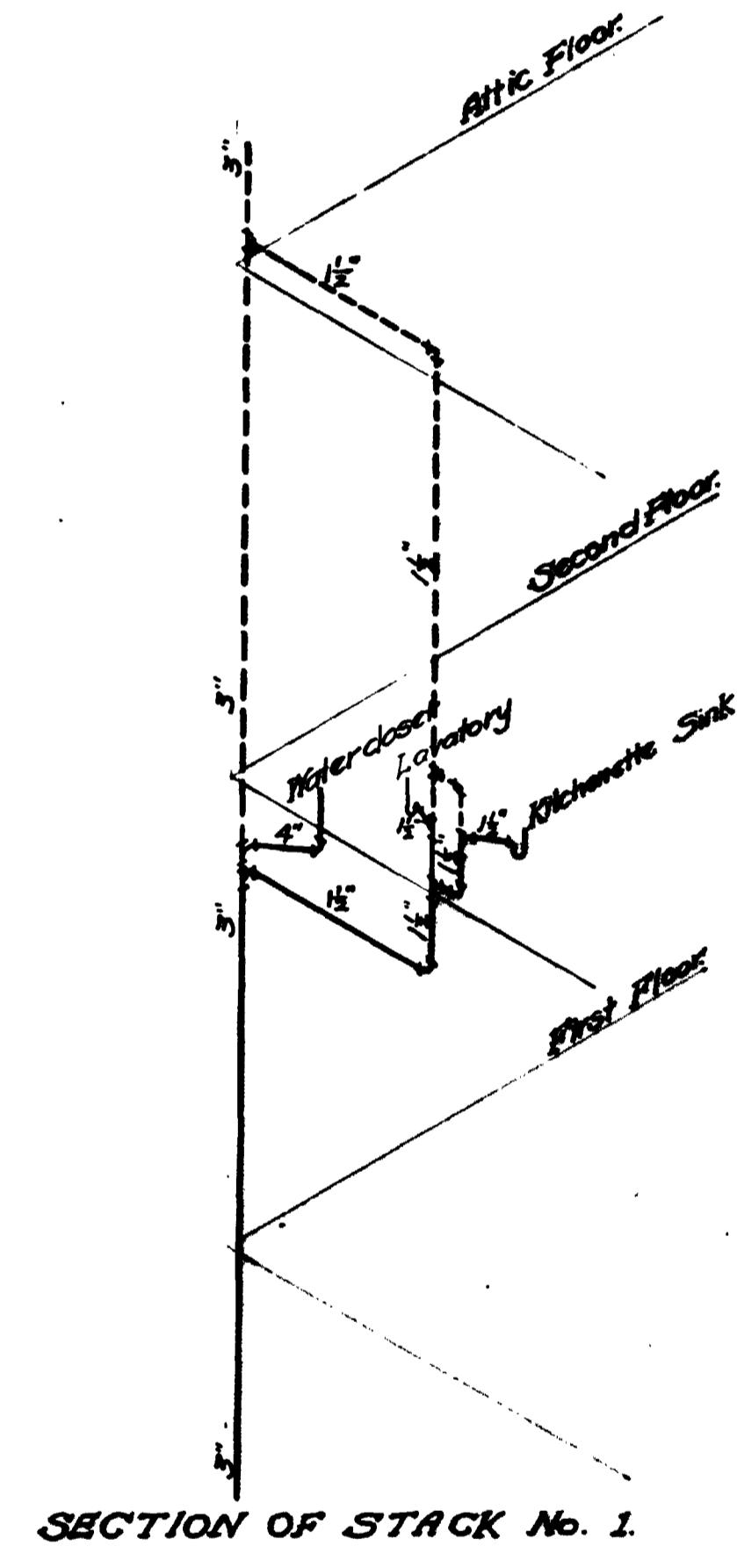
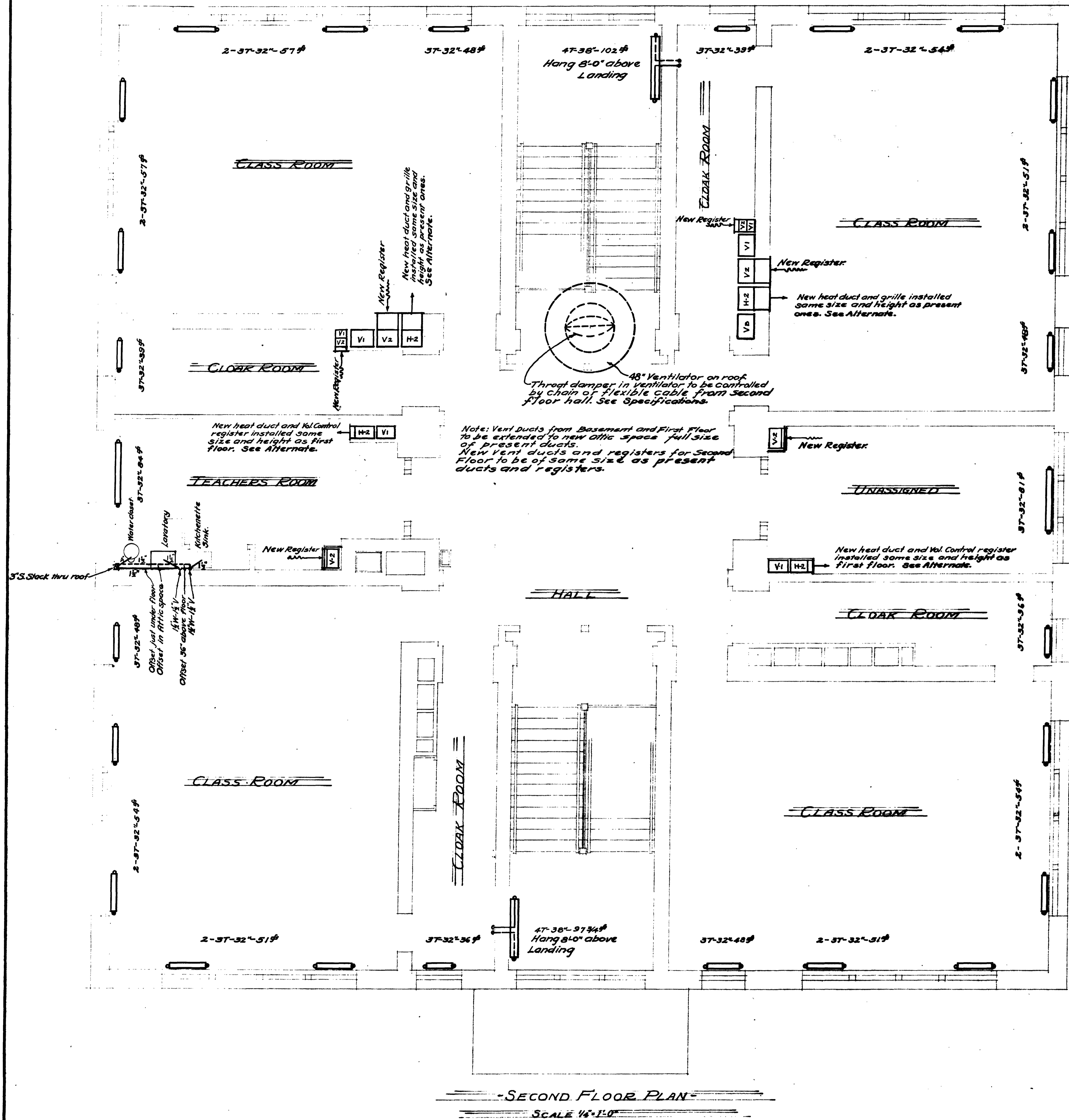


TYPICAL SECTION THRU DECK EDGE
Scale 1/4" = 1'-0"

D.C. D.P.W. Archives Drawing No. 1-0-3-702

REVISIONS	WORK RECORD	BUILDING - CRUMMELL SCHOOL ADDITION - LOCATION CENTRAL AVE. AND GALLAUDEY STREET N.E.	FILE NO. 11-2.1
	DRAWN BY [Signature]	OFFICE OF MUNICIPAL ARCHITECT - WASHINGTON, D. C.	DRWG. NO.
	TRACED BY [Signature]	CHEF OF ARCHITECTURAL DIVISION [Signature]	DATE 8/1/52
	CHECKED BY [Signature]	CHEF OF STRUCTURAL DIVISION [Signature]	DATE 8/1/52
	DATE [Date]	CHEF OF MECHANICAL DIVISION [Signature]	DATE 8/1/52
	SHEET 6 OF 11	MUNICIPAL ARCHITECT [Signature]	DATE 8/1/52

RETURN TRACINGS TO PLAN FILES



D.C.D.P.W. Archives Drawing No.
1-0-3-703

PLUMBING AND HEATING

REVISIONS	WORK RECORD	BUILDING	FILE NO.
	DRAWN BY: <i>R.H.K.</i>	CRUMMELL SCHOOL	11-2.1
	TRACED BY: <i>R.H.K.</i>	LOCATION: GALLAUDET ST AND CENTRAL AVE. N.E.	
	CHECKED BY: <i>C.H.L.</i>	OFFICE OF MUNICIPAL ARCHITECT - WASHINGTON, D. C.	DRWG. NO.
	DATE: <i>8/24/32</i>	CHIEF OF ARCHITECTURAL DIVISION: <i>M.A.C.</i>	DATE: <i>8/24/32</i>
	SHEET	CHIEF OF STRUCTURAL DIVISION: <i>H. H. H.</i>	DATE: <i>8/24/32</i>
	<i>1 OF 11</i>	CHIEF OF MECHANICAL DIVISION: <i>C.H.L.</i>	DATE: <i>8/24/32</i>
		MUNICIPAL ARCHITECT: <i>Wm. L. ...</i>	DATE: <i>8/24/32</i>

H-1

EXHIBIT E

THE FORM OF CONTRACT (ATTACHMENT F OF THE RFP)

(The attachment will appear on the following page)

**ARCHITECTURAL AND ENGINEERING SERVICES AGREEMENT
FOR
MODERNIZATION OF CRUMMELL COMMUNITY CENTER**

BY AND BETWEEN

**THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES**

AND

[Insert A/E]

CONTRACT NO. DCAM-22-AE-0004

**AGREEMENT BETWEEN OWNER AND ARCHITECT/ENGINEER FOR
ARCHITECTURAL/ENGINEERING SERVICES
FOR
MODERNIZATION OF CRUMMELL COMMUNITY CENTER
NO. DCAM-22-AE-0004**

THIS AGREEMENT (“Agreement” or “Contract”), effective on the date of the last signature of the Parties’ duly authorized representatives (“Effective Date”), is made by and between the **DISTRICT OF COLUMBIA GOVERNMENT**, acting by and through its **DEPARTMENT OF GENERAL SERVICES** (“Owner”, “District”, “DGS” or the “Department”) and **[INSERT A/E]** being duly organized under the laws of [Insert State of incorporated,] and with a place of business at [Insert the address] (the “Architect/Engineer”, “A/E”, “Prime Contractor” or “Contractor”, and collectively with the Department, the “Parties”, or individually, the “Party”).

WITNESSETH:

WHEREAS, the Department issued a Request for Proposals (“RFP”) dated **July __, 2022** for architectural and engineering services for the renovations and possible additions to the former Crummell School to serve as a community center at 1900 Gallaudet Street NE, Washington, DC 20002 (the “Project”);

WHEREAS, the Department of Parks and Recreation (“DPR”) recently decided to convert the former Crummell School to a community center with indoor and outdoor recreational amenities. Recently, improvements were made to Crummell School to add a basketball court and playground;

WHEREAS, the A/E submitted a proposal dated [INSERT], in response to the Department’s RFP to provide architectural and engineering services;

WHEREAS, the Department selected the A/E to provide all necessary design and related services for the Project pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, the A/E will provide all of the design and related services necessary for the Project pursuant to the terms and conditions set forth in this Agreement;

WHEREAS, the Department intends to procure a Construction Manager at Risk (“CMAR Contractor”) during the Schematic Design phase of the Project;

WHEREAS, the A/E is required to deliver to the Department a permit set of construction documents (“Permit Set”) to serve as the basis for trade bidding by the CMAR Contractor to develop a Guaranteed Maximum Price (“GMP”) for the renovation and possible additions to the former Crummell School to serve as a new community center;

WHEREAS, the Department requires that the Project’s Title I Services complete within 53-weeks after Notice to Proceed (“NTP”);

WHEREAS, the Department has retained the services of a Program Manager (the “Program Manager” or “PM”) to advise it concerning the Project; and

WHEREAS, the Parties entered into a letter contract dated [INSERT], (the “Letter Contract”) pursuant to which the A/E was authorized to provide preliminary services in furtherance of the Project.

NOW, THEREFORE, the Department and A/E, for the consideration set forth herein, mutually agree as follows.

ARTICLE 1 GENERAL PROVISIONS

Section 1.1 Relationship of Parties. The A/E accepts the relationship of trust and confidence established with the Department by this Agreement, and covenants with the Department to furnish the A/E’s reasonable skill and judgment and to cooperate with the Program Manager in furthering the interests of the Department. The A/E shall use its best efforts to perform and complete the Project in an expeditious and economical manner consistent with the interests of the Department. The Department shall endeavor to promote harmony and cooperation among the Department, A/E, CMAR Contractor and other persons or entities employed by the Department for the Project.

Section 1.2 Project Description. The existing building, formally known as the Alexander Crummell School, is approximately 20,000 square feet, was built in 1911, and has been vacant since the 1970s. The red brick building, which is in poor condition, is two stories high with a basement level and attic space. The building sits on an approximately 108,000 square-foot lot with open space behind and on the sides of the structure. In 2003, the Crummell School was listed on the National Register of Historic Places.

The A/E is required to design the modernization of the existing facility, annex to the existing facility, and park space to meet the Department’s programmatic requirements. The Project hard cost construction budget, which is also the design-to-budget amount that the A/E is expected to maintain throughout the design phase, is \$14,000,000.00. The A/E is required to conduct a preliminary conditions assessment and develop a program and concept design, schematic design, design development set, permit design set, a set of construction documents, as well as provide construction administration services, in accordance with the scope of work identified herein.

Section 1.3 Program Manager. At its discretion, the Department may hire a Program Manager to provide certain program management functions. The Program Manager shall, act solely for the benefit of the Department, not the A/E. The Program Manager shall not have the authority to modify any of the rights or obligations of the Department or the A/E pursuant to this Agreement, or to issue Change Orders, Contract Modifications or Change Directives. **The A/E hereby acknowledges and agrees that only a duly authorized Contracting Officer shall have the authority to issue Change Orders, Contract Modifications or Change Directives on the Department’s behalf. As of the date that this Agreement is signed, the Department’s duly authorized Contracting Officers are as set forth in Section 1.9 of the Agreement.** Unless otherwise provided herein, all deliverables hereunder shall be submitted to the PM.

The name of the Program Manager for this Project is, as follow:

Diego Martinez
Department of General Services
1250 U Street, NW, 2nd Floor
Washington, DC 20009
Office: (703) 586.2823
Email: diego.martinez@dc.gov

Section 1.4 General Description of A/E's Duties. The Parties agree that the A/E is responsible to provide all architectural, engineering and other services necessary to develop a design for the Project that is consistent with the Department's programmatic, budgetary and schedule requirements for the Project, and to produce the required deliverables. The A/E shall provide all required services in a timely manner to permit DPR to occupy the facility no later than the Substantial Completion Date achieved by the CMAR Contractor. Without limiting the generality of the foregoing, it is understood and agreed that the A/E shall be responsible for all aspects of the design. The design shall incorporate the following facilities and site amenities:

- 1.4.1. Crummell Community Center: The A/E will be required to modernize the existing, historic Crummell School into an all-inclusive facility catering to people of all ages and abilities. Given the limiting dimensional constraints of the existing facility, the A/E shall incorporate an annex into the design to accommodate the Department and community's programmatic requirements. Building amenities shall include, but not be limited to:
 - a. Multipurpose rooms designed to accommodate classes, community events, dance studio, performances, and other events.
 - b. Gymnasium for basketball and other recreational activities.
 - c. Fitness center with at minimum both cardio and weight equipment.
 - d. Demonstration kitchen with full commercial grade kitchen equipment to host events and classes.
 - e. Technology/Computer lounge that can support workforce development.
 - f. Senior Lounge.
 - g. Teen Lounge.
 - h. Climbing wall.
 - i. E-gaming room.
 - j. Arts & Crafts Space.
 - k. Support spaces such as restrooms, locker rooms, changing rooms, administrative spaces, reception area, and storage rooms.
- 1.4.2. Historical Features: Given the site's historical designation, the A/E shall incorporate in the design educational features that highlight and celebrate the legacy of Alexander Crummell.
- 1.4.3. Splash Pad: The design shall explore the feasibility of including a new ADA accessible

water feature with a splash pad and recirculating water system on the site. The splash pad equipment shall include, but is not limited to, ground water jets, a slide, climbable play equipment, and dumping buckets.

- 1.4.4. **Playground:** The Crummell Community Center recently installed a playground adjacent to the existing facility. The design shall explore the feasibility of keeping the existing playground equipment or dismantling, removing, and installing new play equipment. The Crummell Community Center shall feature an inclusive and ADA accessible playground for both younger (2-5 years old) and older (5-12 years old) children and provide a stable and fully ADA accessible surface at both playgrounds.
- 1.4.5. **Basketball/Multi-Functional Playing Court:** The Crummell Community Center recently installed new basketball courts adjacent to the existing facility. The A/E shall explore the feasibility of keeping the courts in the existing space versus relocating the courts to accommodate other recreational amenities. Regardless of location, the A/E shall evaluate the court lighting, fencing, and court equipment for any deficiencies.
- 1.4.6. **Multi-functional Playing Field:** The A/E shall explore the feasibility of including in the design and installing a multi-functional playing field with an irrigation system to support recreational sports including but not limited to soccer and football. The design team shall provide written recommendations on which age-group the potential multi-functional playing field would target considering the age group impacts the size of the field.
- 1.4.7. **Community Garden:** Furnish and install a new community garden that is partially ADA-compliant with raised garden beds and stable pathways.
- 1.4.8. **Site Furnishings:** The Crummell Community Center shall include ADA accessible picnic tables, benches, trash cans, bike racks, drinking fountains, interactive artwork, two-dimensional artwork, and outdoor fitness equipment for all ages.
- 1.4.9. **Parking Lot:** The A/E shall explore the feasibility of including parking spots in the public space area outside of the site to maximize recreation space within the project boundaries. If necessary after reviewing the above with DDOT, the Crummell Community Center shall include a re-graded and restriped parking lot, providing additional parking spaces and sufficient handicap parking spaces.
- 1.4.10. **Site Security:** For the community stakeholders, safety and security is a top priority. Site security shall include, but not be limited to security cameras, lighting, and fencing.
- 1.4.11. **Utilities:** Utility installation, including electric and storm-water management as required by the District Department of Energy & Environment. Currently, there is no active connection.
- 1.4.12 **Add Alternate for a Skate Park:** The A/E shall explore the feasibility of including a concrete skate park like the recently opened Shaw Skate Park. The Shaw Skate Park is

a 13,000 square foot park with a combination of cast-in-place concrete and shotcrete ramps, stairs, grind boxes, half-pipes, and more

1.4.13 Demolition/Removal of Existing Trailer: The Project shall include the demolition/removal of the existing trailer located on the NW corner of the parcel. The A/E shall secure all necessary permits and approvals to remove the trailer.

The A/E's services shall include, but are not limited to: (i) engineering services including the civil, structural, mechanical, electrical and plumbing engineering disciplines as well as any appropriate specialty sub-consultants; (ii) the design of furniture, fixtures, and equipment requirements ("FF&E"); (iii) providing a site survey; (iv) engaging the services of an industrial hygienist or similar specialist to survey existing structures on the Project Site so as to identify hazardous materials that require abatement in the existing building; (v) sustainable design initiatives; (vi) engaging the services of a geotechnical engineer; and (vii) engaging, consulting with, advising, and coordinating with the CMAR Contractor such that the Project is Substantially Complete by the Substantial Completion Date, unless otherwise subsequently amended herein or in the CMAR Contractor's agreement with the Department for completion of the Project.

The A/E shall be responsible for the professional quality, technical accuracy, and the coordination of all studies, reports, recommendations, and other deliverables furnished by the A/E and its Subcontractors and Subconsultants under this Agreement. The A/E shall, without additional compensation, correct or revise any non-conforming deliverables that are a result of errors and omissions in its deliverables. The A/E shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The A/E shall also perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project, review laws, codes, and regulations applicable to the A/E's services and respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

The A/E shall also work with the CMAR Contractor selected by the Department in an active and collaborative manner to address schedule, constructability, budget, and Value Engineering ("Value Engineering" or "VE") issues.

The A/E shall manage the A/E's services, consult with the Department, provide requested services, communicate with members of the Project team and report progress to the Department.

The design shall also meet or exceed the minimum threshold for Sustainability for DC-owned buildings that undergo major renovations. Building Information Modeling ("BIM") is required to be used throughout the facility lifecycle, including all Project phases from project planning and Concept Design through construction, as built and into facilities management. The A/E must work collaboratively with all Project stakeholders. It is expected by DGS that all A/E team members are to be committed to the use of BIM in the Project, share their ideas of BIM expertise with the team, provide BIM data as requested by other team members, look for cost savings and schedule improvements during the entire Project duration, and endeavor to leave as a legacy a fully updated, as built, facility management ready building information model. Additional details regarding requirements for incorporating BIM into the Project are

outlined in **Exhibit J**.

Section 1.5 Phases. In general, the A/E’s work shall include services as fully described in Articles 2 and Article 3 of this Agreement. These services include, but not limited to: (i) development of the Permit Set for the Project that will serve as the basis of the CMAR Contractor’s GMP for the Project; (ii) furthering the design documents for the Project into an Issued-For-Construction set of documents; and (iii) providing construction administration services. The services to be provided under Article 2 constitute the preliminary design and design phase services to be performed by the A/E (the “Design Phase Services”). The services to be provided under Article 3 constitute the Construction Documents and Construction Phase Services to be provided by the A/E (the “Construction Phase Services”).

Section 1.6 Project Delivery Method. The Department intends to implement the construction of the Project through a CMAR delivery method. The Department will engage a CMAR Contractor who will coordinate with the A/E to ensure that the design developed by the A/E is consistent with the Department’s budget and schedule for the Project. The Department envisions that the Permit Set shall be completed, at which point the CMAR Contractor will provide a GMP. It is contemplated that the Project’s GMP will be finalized within fifty-nine (59) weeks of NTP.

The A/E will work directly for the Department by supporting design oversight and implementation throughout the design and construction phases.

Section 1.7 Schedules. The schedule for the Project is set forth below. The A/E shall provide the services required hereunder in accordance with the following schedule:

- Issuance of NTP - on or about September 30, 2022
- Submit Program Verification and Concept Design - 12 weeks after NTP
- Submit Schematic Design - 25 weeks after NTP
- Notice to Proceed for CMAR Contractor - 25 to 29 weeks after NTP
- Submit 100% Design Development - 36 weeks after NTP
- Submit Permit Set to DCRA - 49 weeks after NTP
- Submit 100% Construction Documents - 53 weeks after NTP
- Trade Bidding - 51 to 57 weeks after NTP
- GMP Finalized - 59 weeks after NTP
- GMP Approved by Council - 67 weeks after NTP
- Substantial Completion Date - November 7, 2024

Section 1.8 Time is of the Essence. Time is of the essence in the performance of the A/E’s obligations under this Agreement.

Section 1.9 Department’s Designated Representatives. The Department’s duly authorized representatives for this Project are:

George Lewis
Chief Contracting Officer

Department of General Services
2000 14th Street NW
Washington, DC 20009
george.lewis@dc.gov

Ahmad Stanekzai
Contracting Officer
Department of General Services
2000 14th Street, NW, 4th Floor
Washington, DC 20009
Office: 202.644.6473
Email: ahmad.stanekzai@dc.gov

Section 1.10 A/E's Representative. The A/E's duly authorized representative for this Project shall be:

[INSERT NAME & CONTACT INFORMATION]

The A/E hereby represents and agrees that the representative specified in this **Section 1.10** is duly authorized and has the full legal authority to bind the A/E and to agree to changes to the terms of this Agreement.

Section 1.11 Project Budget. The Project hard cost construction budget, which is also the design-to-budget amount that the A/E is expected to maintain throughout the design phase, is \$14,000,000.00 (inclusive of all construction costs, FF&E and excluding design fees). The term "Work" refers to any and all work done in performance of the architectural and engineering services necessary, at any and all phases of the Agreement, to fully complete the Project. Such Design-to-Budget is intended to cover construction costs, FF&E, and the CMAR Contractor's fees and general conditions cost, and all cost estimates shall be prepared based on such components. Any increases to such Design-to-Budget must be approved by the Department's Budget Representative. As used herein, the term "Budget Representative" shall mean a Contracting Officer. Any increase to the Design-to-Budget shall only be effective if such authorization is signed by the Budget Representative. For the avoidance of doubt and as more fully set forth herein, the A/E further understands and agrees that it will manage its work in accordance with the budget requirements set forth herein.

Section 1.12 Land Use Entitlements. The Parties acknowledge that the design for the Project may require various land use approvals. The Parties anticipate that the approval of the following bodies may be required:

- a. Commission of Fine Arts ("CFA").
- b. Office of Zoning ("OZ").
- c. Office of Planning ("OP").
- d. Historic Preservation Office ("HPO").

The A/E shall endeavor to obtain from the agencies listed above the approvals required in order for the Project to proceed. The A/E shall utilize as part of their team necessary consultants, including land use attorneys to prepare such materials and make such presentations as necessary to obtain the required land use and entitlement approvals. The A/E acknowledges that the aspects of the design for the Project may need to be revised or redesigned in order to obtain such approvals, and the Design Fee set forth herein includes sufficient amounts for such redesign.

Section 1.13 Permits. In addition to securing land use approvals, the Parties anticipate that permits will be required from the following bodies:

- a. District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”).
- b. DOEE.
- c. District of Columbia Department of Transportation (“DDOT”).
- d. District of Columbia Water and Sewer Authority.
- e. National Park Service (“NPS”).

The A/E will be required to respond to comments provided by the regulatory agencies on the design documents as contemplated in this Agreement.

The A/E shall be responsible for preparing and submitting all of the required permit applications that are necessary to complete the Project. The A/E shall develop a list of the required permits and shall track the progress of all such permits through the review process. The A/E shall engage such permit expeditors as the A/E deems necessary or appropriate in light of the Project’s schedule. The A/E shall be responsible for obtaining any building permits and clearances.

Section 1.14 Letter Contract. It is understood and agreed that certain of the design services required by this Agreement may have been performed by the A/E while the Letter Contract was in place, and the terms of the Letter Contract shall automatically terminate and shall merge into and be superseded by the Agreement on its Effective Date; and any services provided or work performed pursuant to the merged Letter Contract, and prior to the Effective Date of this Agreement, shall be governed by the terms and conditions of this Agreement.

ARTICLE 2 DESIGN PHASE SERVICES (TITLE I SERVICES)

Section 2.1 Program Verification and Concept Design Phase

Section 2.1.1 Services & Deliverables. During this phase, the A/E shall be required to develop a complete program verification and concept design. The concept design shall contain such detail as is typically required for a concept design under standard industry practice. In general, the A/E shall be required to undertake the following tasks and submit any required deliverables to the Department:

1. Perform a preliminary historic and structural conditions assessment report of the existing facility. This assessment shall report on the structural integrity of the building and outline

any historic preservation goals to maintain throughout the project. The A/E shall provide determination and findings of the existing facility, along with programmatic recommendations to the DGS/DPR program team prior to commencing any design services.

2. Meet with the Department of Parks and Recreation (“DPR”) team to kick-off the Project. The purpose of the meeting will be to review the Project scope, schedule, goals and objectives, and expectations for the Project. The selected team will also collect and present any data available for the Project and study area including, but not limited to previously completed studies, current survey data, aerial photography, GIS data, etc. This kickoff meeting shall also include the DGS Turnover Manager and a representative from the DGS Facilities and Maintenance team as outlined in the 2016 DGS Projects Turnover Protocol (**Attachment K**). Complete a Meeting Summary from this meeting and distribute to meeting attendees for review.
3. Conduct workshops with DGS and DPR staff, as well as other stakeholders, to further clarify the goals, objectives, performance targets, service standards, responsibilities, and key agency actions necessary throughout the Department in order to fully realize the vision for the Crummell Community Center. Provide report of findings.
4. Conduct workshops with DGS and DPR staff, as well as other stakeholders to confirm program and verify facility requirements on a space-by-space basis.
5. Attend and participate in community meeting(s) to update the community regarding the Project and collect community input. Attend one (1) meeting with the Advisory Neighborhood Commission (“ANC”) Commissioner and community to provide a presentation and receive feedback on the concept design.
6. Coordinate with the HPO and other agencies, commissions, groups, etc. as required to assess and determine historic and/or archeological significance and requirements.
7. Attend meetings and hearings, if necessary. This includes an entitlement search to identify any development restrictions if applicable, zoning research and coordination (if applicable) with all other land owners/agencies.
8. Conduct a study of the storm water management changes/needs.
9. Conduct life safety/building code analysis to verify compliance of design with all current applicable codes recently adopted by Washington, DC.
10. Conduct LEED Workshops with the A/E and DGS representatives to identify sustainable design strategies to be included in the design, to the greatest extent possible to achieve LEED Silver Certification.
11. Confer with DGS Sustainability and Energy Management Division (“DGS-SE”) to implement sustainable features including but not limited to solar-ready infrastructure.

12. Request and receive hydrant flow test.
13. Perform mechanical systems evaluation and recommend selection.
14. Confer with audio-visual and acoustic consultants to establish design requirements for the Project.
15. Confer with the Department's IT representatives/consultants to verify technological requirements for the Project.
16. Conduct an ADA assessment to determine ways to increase ADA accessibility to the Crummell Community Center.
17. Confer with the District of Columbia Protective Services Division ("PSD") to establish security and safety requirements.
18. Conduct a photometric analysis to maximize visibility, safety, and efficiency.
19. Review reports provided by DGS managed industrial hygienist and provide any additional surveys and environmental assessments as required.
20. Draft Final Conceptual Plans
 - a. Based on input obtained through the process outlined in the Project Scope of Work, as well as information provided in the Program of Requirements, Stakeholder Interview, and Public Workshop, the A/E will work to determine the Concept Design.
 - b. Develop up to three (3) conceptual designs and cost estimates for the Crummell Community Center that provide alternatives to addressing the identified recreational, social, and cultural needs. The A/E will make any appropriate modifications based on DGS comments prior to presenting the concept(s) to the public.
21. The A/E will conduct Community Workshops to present the plan alternatives to the neighborhood.
22. Participate in Value Engineering workshops, as required, with DGS representatives.
23. Draft Final Conceptual Plan. The A/E will develop a draft final conceptual plan and cost estimate informed by the comments obtained throughout the program verification and concept design process. Submit the draft final conceptual site plan/response and cost estimate to DGS for review before presenting it to the public. The A/E will make any appropriate modifications prior to presenting the concepts to the public.

24. During this phase, the A/E will be required to prepare and submit to the Department the below-listed deliverables. All such deliverables shall be subject to review and approval by the Department, and the A/E's pricing should assume that revisions may be required to these documents to address concerns raised by the Department and/or other Project stakeholders.
- a. Concept Plan
 - i. Project Space Program
 - ii. Prepare three (3) conceptual floor plans and site plans. These shall include a comprehensive master plan for the site.
 - iii. Narratives for all major disciplines including civil, architectural, structural, mechanical, electrical, plumbing, and low voltage.
 - iv. Prepare three (3) cost estimates. Cost estimates should include a value engineering section for alternatives should the cost of construction need to be reduced.
 - v. Final Concept Plan
 - b. Project Schedule
 - c. Topographic Survey
 - d. Geotechnical Survey
 - e. Hazardous Materials Survey
 - f. Phase 1 Environmental Assessment
 - g. Environmental Impact Screening Form ("EISF")
 - h. Hydrant Flow Test
 - i. Historical Resources Analysis
 - j. Survey of Existing Conditions
 - k. Entitlement and Zoning Analysis
 - l. Record of accepted LEED Strategies
 - m. Record of accepted Value Engineering Strategies
 - n. Summary of required agency review and timetables, including but not limited to OP, CFA, National Capital Planning Commission ("NCPC"), and HPO to include a preliminary archeological study.

Section 2.1.2 Review and Revisions to Concept Design Submission. The A/E shall submit the Concept Design submissions to DGS for review and comment by DPR and DGS. Following review of the Concept Design submissions by DPR and the Department, the A/E shall make any further revisions to the Concept Designs submission as necessary to incorporate comments, feedback and other direction provided by DPR and the Department. The A/E's pricing shall assume that such revisions will be required, and such revisions shall not entitle the A/E to additional compensation.

Section 2.1.3 Concept Design Budget Estimate. While the Concept Design submissions are under review by DPR and the Department, the A/E shall prepare a detailed cost estimate of each preliminary Concept Design scheme. With regard to building systems (i.e. roofs, doors, HVAC, security, IT, etc.), the cost estimate shall be prepared on a "system" basis that identifies the key building systems or functions and allocates an estimated cost for each such system. CMAR fees, the Design Fee, the cost

of general conditions, and contingencies shall be broken out in separate line items. The primary purpose of such cost estimate is to aid the Department and DPR in understanding the costs associated with key elements of the Project to better prioritize and manage the use of the funding allocated to this Project. The cost estimate for each scheme shall be submitted within two (2) weeks of the submission of the initial Concept Design submissions. The cost estimates shall be updated to reflect any changes resulting from DGS' and DPR' review of the initial Concept Design schemes and incorporated into the approved Concept Design (such estimate, the (“**Approved Concept Design Estimate**”).

Section 2.2 Schematic Design Services:

During this phase, the A/E shall develop Schematic Design Documents (“Schematic Design Documents”, “SD Documents” or “Schematic Design”) that meet the Department’s programmatic requirements and the Department’s schedules and budget requirements for the Project, (*i.e.* Design- to- Budget). For the avoidance of doubt, the Department, has established a Design-To-Budget of \$14,000,000. The SD Documents shall contain such detail as is typically required by standard industry practice for schematic designs.

Section 2.2.1 Services and Deliverables: In general, the A/E shall complete the following tasks and submit to the Department during this phase:

1. Utilize findings and final concept plans, perform site visits as necessary, attend and/or facilitate meetings with stakeholders and District staff to review program of requirements, required utilities, drainage, zoning, and traffic needs where/when necessary to develop Schematic Design Documents. This includes coordination with the DGS Turnover Manager and a representative from the DGS Facilities and Maintenance team in compliance with the 2016 DGS Projects Turnover Protocol.
2. Obtain and review applicable District standards and guidelines for design (Design Criteria Manual, Unified Development Code, DPR Standards), where applicable, and provide a complete design that meets all applicable District codes. Coordinate security requirements with DC Protective Services Police Department (“PSPD”). Coordinate IT and Telecom requirements with DC Office of the Chief Technology Officer (“OCTO”) and DC Net. Coordinate sustainability requirements with DGS-SE.
3. Coordinate with CFA and the NCPC for review and approval as necessary.
4. Coordinate with HPO and other agencies, commissions, groups, etc. as required to assess and determine historic and/or archeological significance and requirements. Attend meetings and hearings, if required.
5. Coordinate a Preliminary Design Review Meeting (“PDRM”) with the Department of Consumer and Regulatory Affairs (“DCRA”), Department of Energy and Environment (“DOEE”), Department of Transportation (“DDOT”) including but not limited to Urban Forestry Division (“UFD”), and DC Water.

6. Coordinate meetings with applicable utility companies, including but not limited to Potomac Electric Power Company (“PEPCO”), Washington Gas, and Verizon.
7. Attend one (1) Community Meeting to provide a presentation and receive feedback of the Schematic Design Documents. Highlight changes since the concept design, identifying what has been incorporated based on feedback received and in cases where incorporation was not feasible, explaining why.
8. Act as scribe for all design related meetings. Distribute meeting minutes to all attendees.
9. Progress LEED certification work as required.
10. Perform comprehensive Value Engineering effort (“VE”) utilizing 30% Plan Review submission. Provide report of findings to DGS. Conduct a meeting with DGS and other stakeholders as necessary to present and discuss VE options.
11. Upload all design documentation and deliverables as required utilizing the online DGS Project Management Information System (ProjectTeam) and guidelines.
12. Baseline Schedule bi-weekly update in the format requested by the Department.
13. During this phase, the A/E will be required to prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department and the A/E’s pricing should assume that revisions may be required to these documents to address concerns raised by the Department and/or other Project stakeholders.
 - a. Schematic Design Documents – Two (2) hard copy sets and one (1) electronic copy (30% Complete Level).
 - i. Site plans, paving layouts, traffic circulation.
 - ii. Digital floor plans, building circulation, ADA requirements, etc.
 - iii. Design narrative.
 - iv. Plan-to-program comparison.
 - v. Exterior elevations, rendering, and color palette.
 - vi. Critical building sections and details.
 - vii. Relevant right-of-way information such as easements, building set-backs, etc.
 - viii. Location of utilities and sizes.
 - ix. Stormwater management.
 - x. Preliminary MEP systems.
 - xi. LEED information as appropriate, including preliminary LEED Scorecard.
 - xii. Copies of all surveys and reports
 - xiii. Preliminary Specifications
 - b. Presentation and three (3) presentation boards for community meetings. Presentation boards shall be in full color and include at least one (1) 3-D rendering.

- c. Updated schedule and cost estimates. Submit an early estimate for the modernization with a magnitude of error of Not to Exceed +/- 10% of the Project hard cost budget.
- d. Value Engineering Report. If Value Engineering is necessary (in particular for the HVAC System selection) it should be executed at this stage of the design submission with all the stakeholders.
- e. Meeting minutes of Preliminary Design Review Meetings.

14. Memo response to all District comments on Schematic Documents.

Section 2.2.2 Schematic Design Budget Estimate. While the preliminary Schematic Design submission is under review by DPR and the Department, the A/E shall prepare a detailed cost estimate of the Schematic Design with a magnitude of error of Not to Exceed +/- 10% of the Project hard cost budget. With regard to building systems (i.e. roofs, doors, HVAC, security, IT, etc.), the cost estimate shall be prepared on a “system” basis that identifies the key building systems or functions and allocates an estimated cost for each such system. The primary purpose of such cost estimate is to aid the Department and DPR in understanding the costs associated with key elements of the Project to better prioritize and manage the use of the funding allocated to this Project. The cost estimate shall be submitted within two (2) weeks of the submission of the Schematic Design submission. The cost estimate shall be updated to reflect any changes resulting from DGS’ and DPR’ review of the Schematic Design and incorporated into the approved Schematic Design (such estimate, the “**Approved Schematic Design Estimate**”).

Section 2.2.3 Review and Revisions to Schematic Design Submission. The A/E shall submit the Schematic Design submission to DGS for review and comment by DGS and DPR. Following review of the Schematic Design submission by DPR and the Department, the A/E shall make revisions to the Schematic Design submission as necessary to incorporate comments, feedback and other direction provided by DPR and the Department. The A/E’s pricing shall assume that such revisions will be required, and such revisions shall not entitle the A/E to additional compensation.

Section 2.2.4 Value Engineering Memorandum. To the extent that the Schematic Design budget estimate exceeds the available funding or the A/E believes that there a Value Engineering ideas that could materially reduce the Project’s overall cost without adversely impacting the Project’s intended functionality, the A/E shall prepare and submit a memorandum that outlines potential Value Engineering ideas. Such memorandum shall be submitted to the Department no later than one (1) week after the submission of the Schematic Design Budget Estimate. The A/E shall meet with the Department as necessary to reach agreement on which, if any, of the Value Engineering options should be pursued. To the extent the Department directs the A/E to proceed with one or more of the Value Engineering options, the A/E shall revise its Schematic Design Budget Estimate to reflect the inclusion of such items, and to the extent requested by the Department, the Schematic Design shall also be revised to reflect such approved Value Engineering.

Section 2.3 Design Development Phase.

During this phase, the A/E shall progress the Schematic Design into Design Development Drawings. The DDs shall represent the logical development of the approved SD Documents, any oral or written feedback provided by the Department, and shall be advanced in a manner consistent with the Department's budget for the Project. A complete set of coordinated drawings between each discipline is expected to be submitted at this stage of the Design Phase.

Section 2.3.1 Services and Deliverables. The specific services and deliverables required during this phase are:

1. Coordinate with the CMAR Contractor selected for this Project, and at a minimum shall meet with the CMAR Contractor twice a month to discuss the status of the design and key issues.
2. Perform site visits as necessary and attend/facilitate meetings with District staff as necessary to develop and progress Design Development Documents. This includes coordination and review with the DGS Turnover Manager and a representative from the DGS Facilities and Maintenance team in compliance with the 2016 DGS Projects Turnover Protocol.
3. Develop Design Development Documents including outline specifications for materials, systems and equipment, detailed dimensional plans, wall sections, elevations, and schedules. Incorporate VE options chosen by DGS.
4. Prepare detailed and coordinated drawings and specifications for bidding purposes as needed by the CMAR Contractor.
5. Complete code compliance analysis and drawings.
6. Meet and coordinate with regulatory, reviewing, and stakeholder agencies, as necessary. This includes the following actions:
 - a. Present the design to CFA, NCPC, DC Office of Planning, and other regulatory agencies, as required.
 - b. Achieve CFA approval and NCPC preliminary approval.
7. Progress LEED Certification work, as required.
 - a. Register the Project with U.S. Green Building Council ("USGBC") to obtain LEED certification and pay all registration fees.
8. Manage and coordinate the furniture, fixtures, and equipment ("FF&E") requirements for the Department and DPR. Review the FF&E procurement schedule to be developed by the CMAR Contractor. All FF&E shall be subject to review and approval by the Department and DPR.

9. Attend one (1) Community Meeting to provide a presentation and receive feedback of the Design Development documents. Highlight changes since the Schematic Design, identifying what has been incorporated based on feedback received and in cases where incorporation was not feasible, explaining why.
10. Prepare a presentation and provide a minimum of three (3) presentation boards for each community meeting to present/display onsite. Presentation boards shall be in full color and include at least one (1) 3-D rendering.
11. Coordinate with utility companies and develop final utility plans, as required.
12. Act as scribe for all design related meetings. Distribute meeting minutes to all attendees.
13. Upload all design documentation and deliverables as required utilizing the online DGS Project Management Information System (Project Team) and guidelines.
14. Baseline Schedule with bi-weekly updates in the format required by the Department.
15. During this phase, the A/E will be required to prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department and the A/E's pricing should assume that revisions may be required to these documents to address concerns raised by the Department and/or other Project stakeholders.
 - a. Design Development Documents – Two (2) hard-copy sets and one (1) electronic copy. (60% Complete Level)
 - i. Site plans, paving layouts, traffic circulation, lighting, signage, and utilities.
 - ii. Floor plans, structural, civil, architectural, MEP, fire protection, and landscaping.
 - iii. Exterior elevations, rendering, and color palette.
 - iv. Building sections and details.
 - v. Interior elevations, casework, and millwork elevations, as required.
 - vi. Playground equipment.
 - vii. Stormwater management.
 - viii. Confirm space-by-space equipment layouts with representatives from DGS.
 - ix. Food service and other equipment, as required.
 - x. LEED information, as appropriate.
 - xi. Specifications for materials, systems, and equipment.
 - xii. Updated Schedule.
 - xiii. Draft Specifications.
16. Submit the A/E's cost estimate for the hard cost of the Project with a Maximum +/- 5% of the Project hard cost budget.
17. Submit the Value Engineering Report or log, if necessary.

18. Respond in writing to all District and Regulatory Agency comments on plans.
19. A reconciliation report that addresses issues raised by the Contractor as a result of the 60% progress printing.
20. CFA Submission Materials.
21. All required deliverables shall be subject to review and approval by the Department and the A/E's pricing should assume that revisions may be required to these documents to address concerns raised by the Department and/or other Project stakeholders.

Section 2.4 A/E Key Personnel. The following individuals shall be considered Key Personnel: (i) the Design Principal; (ii) the Project Architect; (iii) the Project Designer or Manager; (iv) the lead MEP engineers; and (v) the lead structural engineer as identified in **Exhibit F ("Key Personnel")**. **The A/E shall not be permitted to reassign or replace any of the key personnel unless the Department approves the proposed reassignment and the proposed replacement, in writing and by an authorized Contracting Officer ("CO").** The Key Personnel specified in the Contract are considered to be essential to the Work being performed hereunder. Prior to diverting any of the specified Key Personnel, the A/E shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the Contract.

The A/E will not be permitted to reassign or replace any of the Key Personnel unless the Department approves the proposed reassignment and the proposed replacement. In the event that any of the Key Personnel become unavailable to work on this Project for reasons beyond the control of the A/E or its principal consultants (i.e. due to retirement, resignation, termination, etc.), the A/E shall propose a substitute for any such individual and obtain the Contracting Officer's consent to such substitute.

All members of the A/E's Key Personnel in **Exhibit F** shall be subject to a replacement disincentive fee for their removal or reassignment by the A/E except in circumstances arising from reasons beyond the A/E's control (due to death or disability). In each instance where the A/E removes or reassigns one of the Key Personnel as being subject to such disincentive payment (but excluding instances where such personnel become unavailable due to death or disability) without the prior written consent of the Contracting Officer, the A/E shall owe to the Department the sum of Twenty Five Thousand dollars (\$25,000) as a disincentive payment, to reimburse the Department for its administrative costs arising from the A/E's failure to provide the Key Personnel and remittance of replacement disincentive fees may be effected via deductions from payments owed to the A/E. The foregoing disincentive payment amount shall not bar recovery of any other damages, costs or expenses other than the Department's internal administrative costs. In addition, the Department shall have the right, to be exercised in its sole discretion, to remove, replace or to reduce the scope of services of the A/E in the event that a member of the Key Personnel has been removed or replaced by the A/E without the consent of the Department's Contracting Officer. In the event the Department exercises the right to remove, replace or to reduce the scope of services of the A/E, the Department shall have the right to enforce the terms of this Agreement and to keep-in-place those members of the A/E's team not removed or replaced and the remaining members shall complete the services required under this Agreement in conjunction with the new members of the A/E's

team approved by the Department.

ARTICLE 3 CONSTRUCTION DOCUMENTS AND CONSTRUCTION PHASE SERVICES

Section 3.1 Permit Set

Section 3.1.1 Services and Deliverables: The A/E shall develop a set of documents for permitting Permit Set (“Permit Set”). The Permit Set shall represent the further progression of the approved DDs together with any Value Engineering strategies approved by the Department. The Permit Set shall be construction documents progressed to approximately 90% completion of those required in a traditional Design/Bid/Build delivery method; however, the Permit Set shall nevertheless be code compliant and permit ready, with all major systems sufficiently designed, detailed, specified, coordinated, and developed. During this phase, the A/E shall prepare and submit the following deliverables for Department’s review and approval. The A/E shall provide revisions as necessary to these documents to address concerns raised by the Department and/or other Project stakeholders.

1. Progress design and Design Development Documents and prepare construction documents.
2. Prepare detailed and coordinated drawings and specifications for bidding purposes.
3. Prepare application, submit documents for building permit according to DCRA requirements, and file with other regulatory and reviewing agencies including DC Water, DDOT, and DOEE. The permit application process will include progress printing of a “Permit Set”.
4. Correct plans to reflect issues noted by regulatory agencies and permit reviewers, as required. Resubmit for additional review and approval, as required.
5. An Environmental Impact Screening Form (“EISF”) will be required and shall be the responsibility of the selected Offeror.
6. Complete Platting and record Plat.
7. Obtain all required signatures on plans.
8. Complete final coordination with utilities and service providers, as necessary.
9. Prepare and submit early-release excavation, foundation, concrete, and steel packages, if necessary.
10. Progress LEED Certification Work, as required.
11. Attend follow up meetings and coordinate with regulatory agencies, Fire Marshall, DGS Facilities personnel, and other stakeholders, as necessary.

12. Attend and participate in community meeting(s) to update the community regarding the Project.
13. Prepare a presentation, provide a minimum of three (3) presentation boards for each community meeting, and present/display onsite. Presentation boards shall be in full color and include at least one (1) 3-D rendering.
14. Act as scribe for all design related meetings. Distribute meeting minutes to all attendees.
15. Upload all design documentation and deliverables as required utilizing the online DGS Project Management Information System (ProjectTeam) and guidelines.
16. During this phase, the A/E will be required to prepare and submit to the Department the following deliverables. All such deliverables shall be subject to review and approval by the Department and the A/E's pricing should assume that revisions may be required to these documents to address concerns raised by the Department and/or other Project stakeholders.
 - a. Construction / Permit Documents
 - i. Submit two (2) hard-copy sets and one (1) electronic copy of the complete sets of Permit Documents (90% Complete Level).
 - ii. Specifications.
 - iii. Cost Estimate.
 - iv. Updated Schedule.

Section 3.1.2 The A/E shall incorporate into the Permit Set the design requirements of governmental authorities having jurisdiction over the Project. In addition, the A/E shall (a) define, clarify, or complete the concepts and information contained in the Permit Set; (b) correct design errors or omissions, ambiguities, and inconsistencies in the Permit Set (whether found prior to or during the course of construction); and (c) correct any failure of the A/E to follow written instructions of the Department during any phase of design services or the construction of the Project provided they are compatible with industry standards. The design shall also incorporate any value engineering strategies approved by the Department.

Section 3.1.3 Following the Department's review and approval of the Permit Set, the CMAR Contractor will solicit bids from trade subcontractors based on these documents. The A/E shall respond RFIs and provide ASIs during such bidding process without additional cost to the Department or the CMAR Contractor. Based upon the trade pricing received by the CMAR Contractor, the A/E shall engage in additional Value Engineering efforts to return the Project to budget. The Permit Set phase shall not be considered complete unless and until the GMP for the Project is agreed upon by the Department and the CMAR Contractor.

Section 3.1.4 Code Review. The A/E shall submit the Permit Set of documents to DCRA in order to obtain the necessary building permits to construct the Project. The A/E shall monitor the permit process and shall incorporate any changes or adjustments required by the Code Official. The A/E shall also issue any such changes to the Department for its review and approval. In this submittal, the A/E shall highlight

(or bubble) any aspect of the design that represents a material deviation from the Permit Set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance

Section 3.1.5 Value Engineering. To the extent that the proposed Project's cost exceeds the available funding, the A/E understands and agrees that it shall be required to work with the Department and that such efforts may involve redesigning portions of the Project or its systems and that the A/E shall not be entitled to any additional compensation as a result of such efforts. The A/E further understands and agrees that the Permit Set phase shall not be considered complete until and unless the Department is agreed upon. The A/E understands and agrees that any such redesign may need to be completed on an expedited basis or in multiple packages in order to keep the Project on schedule and the A/E shall use its best efforts to meet the Project's schedule requirements in performing such redesign. It is understood and agreed by both the Department and the A/E that the A/E's redesign obligations under this Section 3.1.5 shall be the limit of the A/E's liability for the failure to meet its Design to Budget obligations.

Section 3.2 Issued for Construction ("IFC") Documents.

Upon review and approval of the Permit Set, the CMAR Contractor will construct the Project. The A/E shall provide such additional design services as are requested by the Department, including, but not limited to, the preparation of more developed CDs ("Issued for Construction" or "IFC Set"). The IFC Set shall represent the further progression of the approved Permit Set together with any Value Engineering strategies approved by the Department. The IFC Set shall be progressed to One Hundred Percent (100%) completion of those required in a traditional Design-Bid-Build delivery method. The CDs shall be coordinated and shall contain at a minimum the level of detail typically required by standard industry best practices for CDs. The A/E shall respond to and revise the CDs as may be necessary in order to address any concerns raised by the Code Official. Additionally, the A/E and DGS shall agree on appropriate conference or industry publication to present/profile the Project, awards to apply for the A/E to prepare submissions for DGS.

Section 3.2.1 If it should become necessary to amend any of the approved construction drawings, the A/E shall prepare an amendment to the drawings and shall submit such amendment to the Department for its review and approval. In this submittal, the A/E shall highlight (or bubble) any aspect of the design that represents a material deviation from the Permit Set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance.

Section 3.3 Bidding and Construction Administration Services

Section 3.3.1 Bidding. The A/E shall provide support to the CMAR Contractor and the Department as necessary to support the bidding of trade subcontracts. These services shall include, but are not necessarily limited to:

- a. Assist with distribution of documents, as needed.
- b. Consider and evaluate requests for substitutions.
- c. Respond to bidding questions and issue clarifications and requests for substitutions, as needed.
- d. Prepare and issue bidding phase addenda.

Section 3.3.2 Construction Administration (Title II Services). The A/E shall provide support to the CMAR Contractor, and the Department as may be necessary to support the Construction Phase of the Project. Prior to the completion of the Permit Set, the Department and the A/E shall agree upon a plan for how construction administration services will be performed (the “**Construction Administration Plan**”). The Construction Administration Plan shall specifically address: (i) whether the A/E will be required to assign staff on-site; (ii) turn-around time for submittals; and (iii) such other matters as the A/E and the Department consider relevant to the orderly administration of the Project. The A/E shall submit to the Department a signed copy of the Construction Administration Plan. Throughout the construction administration phase of the Project, the A/E shall comply with the Construction Administration Plan.

Section 3.3.2.1 Services and Deliverables. The A/E’s services and deliverables during this phase will include, but are not necessarily limited to:

1. Attend biweekly progress meetings and provide meeting minutes. A/E site visits are included in base fee.
2. Review and process shop drawing submissions, submittals, RFI’s, etc.
3. ASI’s or other clarification documents.
4. Prepare meeting notes and records of decisions/changes made.
5. Conduct punch list inspections.
6. Review closeout documents for completeness. Close-out documentation shall comply with the 2016 DGS Project Turnover Protocol.
7. Provide As-Built Drawings based on the Contractor’s red line drawings and/or coordinated set developed during the subcontractor coordination process. As-Built Drawings should be transmitted to DGS in hard copy, PDF, and CAD formats. Close-Out documentations shall comply with the 2016 DGS Project Turnover Protocol.

Section 3.4 Continued Design-to-Budget Obligations. In general, the A/E shall use its best efforts to develop the Construction Documents in a manner that is consistent with the Design-to-Budget that was established at the GMP. In furtherance of the A/E’s Design to Budget obligations, the A/E hereby agrees as follows:

- a. With regard to any bid package that was purchased at the GMP on a design-assist basis or with a mini-GMP, the A/E shall work with the CMAR Contractor and the relevant trade subcontractor to develop a design that can be accommodated by such mini-GMP or other subcontract structure. The A/E understands and agrees that this may require redesign and that any such redesign is included within its Design Fee.

- b. With regard to Work that will be purchased subsequent to the formation of the GMP, the A/E shall be required to work with the Department and the CMAR Contractor should the trade bids for any such package exceed the Design to Budget figure established at the time the GMP was agreed upon for such package at no additional cost to either the Department or the CMAR Contractor.

The A/E understands and agrees that any such redesign may need to be completed on an expedited basis or in multiple packages in order to keep the Project on schedule and the A/E shall use its best efforts to meet the Project's schedule requirements in performing such redesign. It is understood and agreed by both parties to this Agreement that the A/E's redesign obligations under this Section 3.4 shall be the limit of the A/E's liability for the failure to meet its design to budget obligations.

Section 3.5 Design Changes. If, should become necessary to amend any of the approved construction drawings, the A/E shall prepare an amendment to the drawings and shall submit such amendment to the Department for its review and written approval. In this submittal, the A/E shall highlight (or bubble) any aspect of the design that represents a material deviation from the Permit Set documents and shall address in a narrative format the impact, if any, such departure shall have on the Project's aesthetics, functionality or performance.

ARTICLE 4 COMPENSATION

Section 4.1 Compensation.

Section 4.1.1 Value of Agreement The value of this Agreement is \$[Insert Amount]. This value includes a fixed fee of \$[Insert Amount] for that covers all of the A/E's costs associated with the preparation of the (i) Concept Design; (ii) Schematic Design; (iii) a set of Design Development Documents; (iv) a Permit Set of Construction Documents; (v) complete Construction Documents; and (vi) Bidding and Construction Administration Services. The Design Fee shall be fair and reasonable and subject to the Independent Government cost estimate.

Section 4.1.2 Compensation for Reimbursable Expenses. Reimbursable Expenses are in addition to compensation for Design Phase Services and Construction Document and Construction Phase Services and include expenses incurred by the A/E and the A/E's consultants directly related to the Project. An allowance in the amount of \$[Insert Amount] is established for such reimbursable expenses. In the event reimbursable expenses reach the allowance amount, A/E shall notify the District, and shall not incur any additional Reimbursable Expense unless the District authorizes an increase in the allowance amount via Change Order, Change Directive or Contract Modification executed by an authorized Contracting Officer. Such expenses shall be reimbursed without markup of any kind and records of Reimbursable Expenses and services performed on the basis of hourly rates herein established shall be available to the Department at mutually convenient times. Reimbursable expenses shall include the following:

- a. Transportation and authorized out-of-town travel and subsistence, provided, however, that local transportation costs (i.e. taxis, parking, etc.) shall not be reimbursable;
- b. Fees paid for securing approval of authorities having jurisdiction over the Project;
- c. Reproductions, plots, standard form documents;
- d. Postage, handling and delivery;
- e. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Department, provided, however, that such expenses shall only be reimbursable to the extent that they were caused by the failure of the Department to act within timeframes agreed to by the Parties in advance and in writing;
- f. Additional renderings, models, and mock-ups, requested by the Department; and
- g. Permit fees.

Section 4.2 Retention. Five percent (5%) of the Design Fee (but not expenses) shall be withheld as retention from all progress payments that are due to the A/E. This 5% retention will only be due to the A/E if: (i) the Project's complete design is Substantially Complete on or before ____, 2022 and (ii) the total estimated hard construction costs (inclusive of the CMAR Contractor's fees, general conditions cost and FF&E cost) do not exceed One Hundred Three Percent (103%) of the GMP from the CMAR Contractor's agreement. The determination as to whether these goals have been achieved shall be measured irrespective of fault, only if both goals are met irrespective of whether the reason these goals were not met was caused by the A/E, the CMAR Contractor, the Department, the District, the Code Official or any other person or cause. In the event the Project does not meet the requirements detailed in this section, the A/E will forfeit the retention amount will not be provided to the A/E.

Section 4.3 Payments. Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the A/E's invoice. Amounts unpaid thirty (30) days after a proper invoice is received shall bear interest in accordance with the Quick Payment Act

Section 4.4 Payment Disputes. Disputes or questions regarding a portion of an invoice shall not be cause for withholding payment for the remaining portion of the invoice.

ARTICLE 5 INSURANCE

- A. **GENERAL REQUIREMENTS.** The Contractor at its sole expense shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. Should the Contractor decide to engage a subcontractor for segments of the work under this contract and wish to propose different insurance requirements than outlined below, then, prior to commencement of work by the subcontractor, the Contractor shall submit in writing the name and brief description of work to be performed by the subcontractor on the Subcontractors Insurance Requirement Template provided by the CA, to the Office of Risk Management (ORM). ORM will determine the insurance requirements applicable to the subcontractor and promptly deliver such requirements in writing to the Contractor and the CA. The Contractor must provide proof of the subcontractor's required insurance prior to commencement of work by the subcontractor. If the Contractor decides to engage a subcontractor without requesting from ORM specific insurance requirements for the subcontractor, such subcontractor shall have the same insurance requirements as the Contractor.

General liability, commercial auto, workers' compensation and property insurance policies (if applicable to this agreement) shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation and professional liability insurance) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be

effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. All of the Contractor's and its subcontractors' liability policies (except for workers' compensation and professional liability insurance) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor and subcontractors.

B. INSURANCE REQUIREMENTS

1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.

The vendor should be named as an additional insured on the applicable manufacturer's/distributor's Commercial General Liability policy using Insurance Services Office, Inc. ("ISO") form CG 20 15 04 13 (or another occurrence-based form with coverage at least as broad).

DGS should collect, review for accuracy and maintain all warranties for goods and services.

1. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits

set forth in the Contractor's commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.

2. Workers' Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

All insurance required by paragraphs 1,2 and 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

3. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to the Office of Risk Management (ORM) for compliance review.
4. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$1,000,000 per claim or per occurrence for each wrongful act and \$2,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Limits may not be shared with other lines of coverage.
5. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this

paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the “other insurance” provision must be amended in accordance with this requirement and principles of vertical exhaustion.

C. PRIMARY AND NONCONTRIBUTORY INSURANCE

The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.

D. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.

E. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. However, the required minimum insurance requirements provided above will not in any way limit the contractor’s liability under this contract.

F. CONTRACTOR’S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

G. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

H. NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.

I. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

And mailed to the attention of:

Ahmad Stanekzai/Department of General Services

1250 U Street, 2nd Floor
Washington, DC 20009
(202) 644-2554
ahmad.stanekzai@dc.gov

The CO may request and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

- J. **DISCLOSURE OF INFORMATION.** The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this contract.
- K. **CARRIER RATINGS.** All Contractor's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the District.

ARTICLE 6 OWNERSHIP OF DOCUMENTS

Section 6.1 Ownership of Documents. Regardless of whether the Project is completed, any design documents prepared by the A/E and the architectural, engineering or other consultants engaged by the A/E, any copies thereof furnished to the CMAR Contractor, and all other documents created in association with the Project shall become the sole property of the Department upon full payment of A/E's fees then due under this Agreement, and shall not be used by the A/E, its sub-consultants on other projects, or for additions to this Project outside the scope of the work, without the specific written consent of the Department. However, the Department expressly acknowledges and agrees that the documents to be provided by the A/E under this Agreement will contain design details, features and concepts including some from the A/E's library, which collectively form part of the design for the Project, but which separately are and shall remain the sole and exclusive property of the A/E. These details are repetitive in nature, not Project specific, function rather than form-oriented, and were not developed for or identifiable with the Project. Nothing herein shall be construed as a limitation on the A/E's absolute right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

The Department shall be under no obligation to account to the A/E for any profits obtained by the Department as a result of the Project, or the use of such drawings, specifications and other documents in connection with the Project. In the event that the Agreement is terminated prior to

completion of the Project or the A/E is unable to complete this Project for any reason, the Department shall have the right to use without the A/E's consent, and the A/E shall deliver to the Department and/or its designee within two (2) calendar days after such termination or inability, all such drawings, specifications and other documents as well as design concepts and details in connection with the Project or necessary for the Department's completion of this Project (including subsequent phases thereof), so long as the Department has paid the A/E the fees then owed to the A/E under this Agreement up to the date of termination or inability. The Department's rights hereunder shall extend to its successors and assigns and the A/E's obligation to deliver such drawings, specifications, and documents. Any use of the documents without the A/E or the A/E's consultants' involvement shall be at the Department's sole risk and without liability to the A/E or the A/E's consultants. The Department shall be deemed the Owner of such drawings, specifications, and other documents and shall have and retain all rights therein. In the event Department is adjudged to have failed hereunder to pay A/E for such drawings, specifications or other documents, ownership thereof, and all rights therein, shall revert to the A/E. This provision shall survive termination of this Agreement.

ARTICLE 7 MISCELLANEOUS PROVISIONS

Section 7.1 This Agreement shall be governed by the laws of the District of Columbia.

Section 7.2 Terms in this Agreement shall have the same meaning as construed under District law.

Section 7.3 The Department and A/E, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns of such other party with respect to all covenants of this Agreement. The A/E shall not assign this Agreement without the written consent of the Department.

Section 7.4 If the Department requests the A/E to execute certificates, the proposed language of such certificates shall be submitted to the A/E for review at least fourteen (14) days prior to the requested dates of execution. The A/E shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

Section 7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Department or the A/E.

Section 7.6 Unless otherwise required in this Agreement, the A/E shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

Section 7.7 The A/E shall have the right to include photographic or artistic representations of the design of the Project among the A/E's promotional and professional materials. The A/E shall be given reasonable access to the completed Project to make such representations. However, the A/E's materials shall not include the Department's confidential or proprietary information if the Department has previously advised the A/E in writing of the specific information considered by the Department to

be confidential or proprietary. The Department shall provide professional credit for the A/E in the Department's promotional materials for the Project.

Section 7.8 If the A/E receives information specifically designated by the Department as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to: (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

Section 7.9 The A/E shall utilize the Department's ProjectTeam system to submit any and all documentation required to be provided by the A/E for the Project, including, but not limited to: (i) requests for information; (ii) submittals; (iii) meeting minutes; (iv) invoices/applications for payment (full package including all forms required by the Department); (v) certified payrolls (in addition to upload via LCP Tracker); (vi) drawings and specifications; (vii) punchlist; and (viii) other documents as may be designated by the Department. The A/E shall also require all subcontractors and subconsultants to utilize ProjectTeam for the Project.

Section 7.10 The A/E agrees to indemnify and hold the Department, the Department's Representative and the Department's officers, agents and employees harmless from and against all claims, liabilities, demands, losses, damages, judgments, costs, or expenses, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the A/E, its employees and its consultants in the performance of services pursuant to this Agreement.

Section 7.11 The A/E agrees to indemnify and hold the Department and the Department's Representative harmless from and against any and all claims, liabilities, demands, losses, damages, costs, or expenses arising from the A/E's failure to perform its obligations pursuant to agreements with third parties, including, but not limited to, Subcontractors and Subconsultants, made in order to provide the services required of the A/E under this Agreement.

Section 7.12 The A/E shall pay for and defend all such suits or claims arising out of the Work for infringement of any patent rights or copyrights and hold the Department and Department's Representative harmless from loss on account thereof.

Section 7.13 Extent of Agreement. This Agreement represents the entire and integrated agreement between the Department and the A/E and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Department and the A/E.

Section 7.14 Confidentiality. The A/E shall maintain the confidentiality of information specifically designated as confidential by the Department, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the A/E from establishing a claim or defense in an adjudicatory proceeding. The A/E shall require of the A/E's consultants similar

agreements to maintain the confidentiality of information specifically designated as confidential by the Department.

Section 7.15 Except with the knowledge and consent of the Department's designated representative, the A/E shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the A/E's professional judgment with respect to this Project.

Section 7.16 The A/E shall manage the A/E's services, consult with the Department, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Department. The A/E shall review the Department's Program and other information furnished by the Department, and shall review laws, codes, and regulations applicable to the A/E's services.

Section 7.17 Upon request of the Department, the A/E shall make periodic presentations to explain the design of the Project to representatives of the Department and to others in support of the Department's efforts for the Project.

Section 7.18 Notices. All notices or communications required or permitted under the Agreement shall be in writing and shall be hand delivered or sent by tele-copier or by recognized overnight carrier to the intended recipient at the address stated below, or to such other address as the recipient may have designated in writing. Any such notice or communication shall be deemed delivered as follows: if hand delivered, on the day so delivered, if sent by tele-copier, on confirmation of successful transmission, and if sent by recognized overnight carrier, the next business day.

If to the Department:

George G. Lewis
Associate Director/Chief Contracting Officer
Department of General Services
2000 14th Street, NW – 8th Floor
Washington, DC 20009

If to the A/E:

[INSERT]

This **Section 7.18** shall be read as imposing minimum requirements for distribution of required contractual notices, and not as displacing distribution requirements with respect to design documents, construction submittals, periodic reports, and other documents.

The A/E agrees that any statute of limitations applicable to any claim or suit by the Department arising from this Contract or its breach shall not begin to run, or shall be deemed to be tolled, until Final Completion or, with respect to latent defects or nonconformities, such later time as the Department knew or should have known of the defect or nonconformity.

ARTICLE 8 GOVERNMENTAL PROVISIONS

Section 8.1 Buy American Act Provision. The A/E shall not design or specify a proprietary product that does not comply with the provisions of the Buy American Act (41 U.S.C. §§ 10a-10d). The Trade Agreements Act and the North American Free Trade Agreement (“NAFTA”) provide that designated country (as defined in FAR 25.401) and NAFTA country construction materials are exempted from application of the Buy American Act and are therefore acceptable hereunder.

Section 8.1.1 In accordance with the Buy American Act (41 U.S.C. § 10a-10d), and Executive Order 10582, December 17, 1954 (3 CFR, 1954-58 Comp., p. 230), as amended by Executive Order 11051, September 27, 1962 (3 CFR, 1059—63 Comp., p. 635), the A/E agrees that only domestic construction material will be used by the A/E and its Subcontractors specified in the performance of the Agreement, except for non-domestic material listed in the Agreement.

“Components” as used in this Section, means those articles, materials and supplies incorporated directly into the end products.

“Domestic end product”, as used in this section, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components.

Components of foreign origin of the same class or kind as the products shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

“End Products”, as used in this Section, means those articles, materials, and supplies to be acquired for public use under this Contract.

The A/E shall specify only domestic end products, except those:

- i. For use outside the United States;
- ii. That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
- iii. For which the District determines that domestic preference would be inconsistent with the public interest; or
- iv. For which the District determines the cost to be unreasonable.

Section 8.1.2 Domestic Construction Material. “Construction material” means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a “domestic construction material” if it has been mined or produced in the United States. A manufactured construction material is a “domestic construction material” if it has been manufactured in the United States and if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50

percent of the cost of all its components. “Component” means any article, material, or supply directly incorporated in a construction material.

Section 8.1.3 Domestic Component. A component shall be considered to have been “mined, produced, or manufactured in the United States” regardless of its source, in fact, if the article, material or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Section 8.1.4 Foreign Material. When steel materials are used in a project a minimal use of foreign steel is permitted. The cost of such materials cannot exceed one-tenth of one percent of the total project cost, or \$2,500,000, whichever is greater.

Section 8.2 False Claims Act. The A/E shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to DC government, including the prescriptions set forth in D.C. Official Code §§ 22-2405 and 2-381.02 et seq. In the event that it is discovered that the A/E has made a false, fraudulent or unsupported statement or claim to the District or the Department, the Department may terminate this Contract without liability.

Section 8.3 Retention of Records: Inspections and Audits.

8.3.1 As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

8.3.2 Examination of Costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable contract, or any combination of these, the A/E shall maintain and the CO, or an authorized representative of the CO, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this Contract. This right of examination shall include inspection at all reasonable times of the A/E’s plants, or parts of them, engaged in performing the Contract.

8.3.3 Cost or pricing data. If the A/E has been required to submit cost or pricing data in connection with any pricing action relating to this Contract, the CO, or an authorized representative of the CO, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the A/E’s records, including computations and projections, related to:

- a. The proposal for the contract, subcontract, or modification;
- b. The discussions conducted on the proposal(s), including those related to negotiating;
- c. Pricing of the contract, subcontract, or modification; or
- d. Performance of the contract, subcontract or modification.

8.3.4 Comptroller General

- a. The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the A/E's directly pertinent records involving transactions related to this Contract or a subcontract hereunder.
- b. This paragraph may not be construed to require the A/E or subcontractor to create or maintain any record that the A/E or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

8.3.5 Reports. If the A/E is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

- a. The effectiveness of the A/E's policies and procedures to produce data compatible with the objectives of these reports; and
- b. the data reported.

8.3.6 Availability. The A/E shall make available at its office at all reasonable times the records, materials, and other evidence described in **Section 8.3**, for examination, audit, or reproduction, until three (3) years after final payment under this Contract or for any shorter period specified in the RFP, or for any longer period required by statute or by other section of this Contract. In addition:

- a. If this Contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
- b. The A/E shall make available records relating to appeals under Article 11 of this Contract (Disputes and Claims) or to litigation or the settlement of claims arising under or relating to this Contract until such appeals, litigation, or claims are finally resolved.

8.3.7 The A/E shall insert a clause containing all the terms of this **Section 8.3**, including this **Section 8.3.7** in all subcontracts under this Contract that exceed the small purchase threshold of \$100,000.00 and:

- a. That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price re-determinable type or any combination of these;
- b. For which cost or pricing data are required; or
- c. That requires the subcontractor to furnish reports as discussed in **Section 8.3.5** of this Contract.

8.3.8 The Inspector General, District of Columbia Auditor, or Director shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract, other than a firm fixed-price contract, to the extent that the books and records relate to the performance of the contract or subcontract. Books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years

from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing. The Inspector General, District of Columbia Auditor, or Director may, at reasonable times, inspect the part of the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the District.

Section 8.4 Gratuities Not to Benefit Provisions. If it is found, after notice and hearing, by the Department that gratuities (in the form of entertainment, gifts, payment, offers of employment or otherwise) were offered or given by the A/E, or any agent or representative of the A/E, to any official, employee or agent of the Department or the District with a view toward securing the Agreement or any other contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the Agreement, the Department may, by written notice to the A/E, terminate the right of the A/E to proceed under the Agreement and may pursue such other rights and remedies provided by law and under the Agreement.

Section 8.4.1 In the event the Agreement is terminated as provided in Section 8.4, the Department shall be entitled:

- a. to pursue the same remedies against the A/E as it could pursue in the event of a breach of the Agreement by the A/E; and
- b. as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Department) which shall be not less than ten times the costs incurred by the A/E in providing any such gratuities.

Section 8.4.2 No member of, nor delegate to Congress, Mayor or City Council Member, nor the Department nor employee of the District or employee of the Department shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom, and all agreements entered into by the CO of the Department in which he or she be personally interested as well as all agreements made by the Department in which the Mayor or City Council Member or employee of the District shall be personally interested shall be void and no payments shall be made on any such contracts by the Department; but this provision shall not be construed or extend to the agreement if the share of or benefit to the member of, or delegate to Congress, Mayor or City Council Member, or employee of the District is de minimis.

Section 8.5 Ethical Standards for the Department's Employees And Former Employees. The Department expects the A/E to observe the highest ethical standards and to comply with all applicable law, rules, and regulations governing ethical conduct or conflicts of interest. Neither the A/E, nor any person associated with the A/E, shall provide (or seek reimbursement for) any gift, gratuity, favor, entertainment, loan or other thing of value to any employee of the District or the Department not in conformity with applicable law, rules or regulations. The A/E shall not engage the services of any person or persons in the employment of the Department or the District for any Work required, contemplated or performed under the Agreement. The A/E may not assign to any former employee or District employee or agent who has joined the A/E's firm any matter on which the former employee, while employed by the Department, had material or substantial involvement in the matter. The A/E may request a waiver to permit the assignment of such matters to former personnel on a case-by-case basis. The A/E shall include

in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each A/E or vendor.

Section 8.6 Anti-Deficiency Acts. The obligations and responsibilities of the Department under the terms of the Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein (to which the Department is a party), are and shall remain subject to the provisions of: (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351, 1511-1519 (2004) (the “**Federal ADA**”), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2001); (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2004 Supp.) (the “**D.C. ADA**” and (i) and (ii) collectively, as amended from time to time, the “**Anti- Deficiency Acts**”); and (iii) Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2001). Pursuant to the Anti-Deficiency Acts, nothing in this Agreement shall create an obligation of the Department in anticipation of an appropriation by Congress for such purpose, and the Department’s legal liability for payments and other charges under this Agreement shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress. **IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE AGREEMENT OR CONTRACT DOCUMENTS UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

Section 8.6.1 The Department agrees to exercise all lawful authority available to it to satisfy the financial obligations of the Department that may arise under this Agreement. During the term of this Agreement, the Mayor of the District of Columbia or other appropriate official shall, for each fiscal period, include in the budget application submitted to the Council of the District of Columbia the amount necessary to fund the Department’s known potential financial obligations under this Agreement for such fiscal period. In the event that a request for such appropriations is excluded from the budget approved by the Council and submitted to Congress by the President for the applicable fiscal year or if no appropriation is made by Congress to pay any amounts due under this Agreement for any period after the fiscal year for which appropriations have been made, and in the event appropriated funds for such purposes are not otherwise lawfully available, the Department will not be liable to make any payment under this Agreement upon the expiration of any then-existing appropriation, the Department shall promptly notify the A/E , and this Agreement shall immediately terminate upon the expiration of any then-existing appropriation.

Section 8.6.2 Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of the District or Department shall have any personal liability in connection with the breach of the provisions of this Section or in the event of non-payment by the Department under this Agreement.

Section 8.6.3 This Agreement shall not constitute an indebtedness of the District and/or the Department nor shall it constitute an obligation for which the Department is obligated to levy or pledge any form of taxation or for which the District has levied or pledged any form of taxation. No District of Columbia Official or employee is authorized to obligate or expend any amount under this Agreement unless such amount has been appropriated by Act of Congress and is lawfully available.

Section 8.7 RESERVED

Section 8.8 RESERVED

Section 8.9 Laws and Regulations Incorporated by Reference. All federal and District of Columbia laws and regulations, and all Department procedures now or hereafter in effect, whether or not expressly provided for or referred to in the Agreement, are incorporated by reference herein and shall be binding upon the A/E and the Department. It shall be the responsibility of the A/E to perform the Agreement in conformance with the Department's procurement regulations and all statutes, laws, codes, ordinances, regulations, rules, requirements, and orders of governmental bodies, including, without limitation, the U.S. Government and the District of Columbia government; and it is the sole responsibility of the A/E to determine the procurement regulations, statutes, laws, codes, ordinances, regulations, rules, requirements, and orders that apply and their effect on the A/E's obligations thereunder. However, if the application of a future law or regulation requires the A/E to undertake additional Work that is materially different in scope than that presently contemplated or required, the A/E shall be entitled to an equitable adjustment for such additional Work.

Section 8.10 Tax Exemption Provision. Any tax exemptions applicable to the District of Columbia, including the gross receipts sales tax exemption for the sale of tangible personal property to the District, codified in D.C. Code § 47-2005, shall apply to the performance of the Agreement.

Section 8.11 Covenant Against Contingent Fees Provisions. The A/E warrants that no person or selling agency has been employed or retained to solicit or secure the Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the A/E for the purpose of securing business. For breach or violation of this warranty, the Department shall have the right to terminate the Agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of the Department, percentage, brokerage of contingent fee.

Section 8.12 Non-Discrimination in Employment Provisions.

8.12.1 District of Columbia Human Rights Act

a. The A/E shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*) ("Act", as used in this clause). The A/E shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, the A/E agrees, and any subcontractor shall agree, to post in conspicuous places, available to employees and applicants for employment, a notice setting forth the provisions of this non-discrimination clause as provided in section 251 of the Act.

b. Pursuant to Mayor's Order 85-85, (6/10/85), Mayor's Order 2002-175 (10/23/02), Mayor's Order 2011-155 (9/9/11) and the rules of the Office of Human Rights, Chapter 11 of Title 4 of the D.C. Municipal Regulations, the following clauses apply to the Contract:

1. The A/E shall not discriminate against any employee or applicant for employment because

- of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap.
2. The A/E agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to, the following:
 - i. Employment, upgrading, or transfer;
 - ii. Recruitment or recruitment advertising;
 - iii. Demotion, layoff, or termination;
 - iv. Rates of pay, or other forms of compensation; and
 - v. Selection for training and apprenticeship.
 3. Unless otherwise permitted by law and directed by the Department, the A/E agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department setting forth the provisions paragraphs 1 and 2 of Section 8.12.1(b) of this Agreement, concerning non-discrimination and affirmative action.
 4. The A/E shall, in all solicitations or advertisements for employees placed by or on behalf of the A/E, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in **Section 8.12.1**.
 5. The A/E agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice to be provided by the Department, advising each labor union or workers' representative of the A/E's commitments under this **Section 8.12.1**, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 6. The A/E agrees to permit access by the Department to all books, records and accounts pertaining to its employment practices for purposes of investigation to ascertain compliance with this **Section 8.12.1**, and to require under terms of any Subcontractor agreement each Subcontractor to permit access of the Subcontractors, books, records, and accounts for such purposes..
 7. The A/E shall include in every subcontract this **Section 8.12.1** so that such provisions shall be binding upon each Subcontractor or vendor.
 8. The A/E shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the A/E becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department, the A/E may request the District to enter into such litigation to protect the interest of the District.

Section 8.12.2 PREGNANT WORKERS FAIRNESS

- a. The A/E shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 *et seq.* (PPWF Act).
- b. The A/E shall not:

1. Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the A/E can demonstrate that the accommodation would impose an undue hardship;
 2. Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:
 - i. Pay;
 - ii. Accumulated seniority and retirement;
 - iii. Benefits; and
 - iv. Other applicable service credits;
 3. Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;
 4. Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;
 5. Require an employee to take leave if a reasonable accommodation can be provided; or
 6. Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.
- c.** The A/E shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to the PPWF Act to:
- a. New employees at the commencement of employment;
 - b. Existing employees; and
 - c. An employee who notifies the employer of her pregnancy, or other condition covered by the PPWF Act, within 10 days of the notification.
- d.** The A/E shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.
- e.** Violations of the PPWF Act shall be subject to civil penalties as described in the PPWF Act.

8.12.3 UNEMPLOYED ANTI-DISCRIMINATION

- a.** The A/E shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq.* (“Anti- Discrimination Act”).

b. The A/E shall not:

1. Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or
2. Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:
 - i. Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or
 - ii. Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

c. Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Anti- Discrimination Act.

8.13 RESERVED

Section 8.14 Interpretation of Contract. All of the documents comprising the Agreement should be read as complementary, so that what is called for by one is called for by all. Ambiguities should be construed in favor of a broader scope of work for the A/E, as the intent of the Agreement is, with specific identified exceptions, to require the A/E to assume entire responsibility for construction of the Project. If there is any inconsistency among the documents comprising the Agreement, the order of precedence among them is as follows, with the first listed document having the highest priority: this Agreement and its Exhibits, the General Conditions, and the Construction Documents released by the Department. Any Change Order issued and executed by the Department shall supersede those portions of earlier dated Contract documents to which it pertains.

Section 8.15 Independent Contractor. The A/E and the A/E's employees: (1) shall perform the services specified herein as independent contractors, not as employees or agent of the District, or joint venture or partner with the District; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this Agreement; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the government's right and obligation to inspect, accept or reject work, comply with such general direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the Agreement objectives. The A/E shall have exclusive authority to manage, direct, and control the work, and shall be responsible for all means, methods, techniques, sequences, and procedures, as well as for Project safety.

Section 8.16 Confidentiality of Information. The A/E shall keep all information relating to any employee or customer of the District in absolute confidence and shall not use the information in connection with any other matters; nor shall it disclose any such information to any other person, firm or corporation, in accordance with the District and federal laws governing the confidentiality of records. In the course of the A/E's performance of the Work, the Department may make available to the A/E information that the Department designates as trade secrets or other confidential engineering, technical and business information. As long as, and to the extent that, such information remains confidential and

available to others only with the consent of the Department, or is not generally available to the public from other sources, the A/E shall maintain such information in strict confidence and shall not disclose any such information to others (including its employees or Subcontractors), except to the extent necessary to enable the A/E to carry out the Project. The A/E shall similarly obligate any and all persons to whom such information is necessarily disclosed to maintain the information in strict confidence. The A/E agrees that, in the event of any breach of this confidentiality obligation, the Department shall be entitled to equitable relief, including injunctive relief or specific performance, in addition to all other rights or remedies otherwise available.

Section 8.17 No Third-Party Beneficiary Rights. Nothing in this Agreement shall be construed as creating third-party beneficiary rights in any person or entity, except as otherwise expressly provided in this Agreement.

Section 8.18 Media Releases. Neither the A/E, its employees, agents or Subcontractors or material suppliers shall make any press release or similar media release related to the Project unless such press release have been discussed with the Department prior to its issuance.

Section 8.19 Construction. This Agreement shall be construed fairly as to all parties and not in favor of or against any party, regardless of which party prepared the Agreement.

Section 8.20 Limitations. The A/E agrees that any statute of limitations applicable to any claim or suit by the Department arising from this Agreement or its breach shall be controlled by applicable District of Columbia law.

Section 8.21 Binding Effect; Assignment. The Agreement shall inure to the benefit of, and be binding upon and enforceable by, the parties and their respective successors and permitted assigns. The A/E acknowledges that, in entering into the Agreement, the Department is relying on the particular qualifications of the A/E, and the A/E therefore shall not delegate or assign any of its duties or obligations under the Agreement, except in accordance with the Agreement's provisions relating to subcontracting, or pursuant to the Department's prior written consent. The A/E shall not assign its rights under the Agreement, including the right to all or a portion of its compensation per Section 8.21.1, without the Department's prior written consent. Any delegation or assignment made contrary to the provisions of this Section shall be null and void.

Section 8.21.1 ASSIGNMENT OF CONTRACT PAYMENTS

- a. Subject to **Section 8.21** of this Contract, in accordance with Title 27 DCMR Section 3250, the A/E may assign due or to become due as a result of the performance of this A/E to a bank, trust company, or other financing institution funds.
- b. Any assignment shall cover all unpaid amounts payable under this Agreement and shall not be made to more than one party.
- c. Notwithstanding an assignment of Contract payments, the A/E, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

“Pursuant to the instrument of assignment dated _____, make payment of this invoice to (name and address of assignee).”

Section 8.22 Survival. All agreements warranties, and representations of the A/E contained in the Agreement or in any certificate or document furnished pursuant to the Agreement shall survive termination or expiration of the Agreement.

Section 8.23 No Waiver. If the Department waives any power, right, or remedy arising from the Agreement or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the Department shall be deemed to constitute the Department's waiver, which may be affected only by an express written waiver signed by the Department.

Section 8.24 Remedies Cumulative. Unless specifically provided to the contrary in the Agreement, all remedies set forth in the Agreement are cumulative and not exclusive of any other remedy the Department may have, including, without limitation, at law or in equity. The Department's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the Department's to exercise those rights or remedies for the benefit of the A/E or any other person or entity.

Section 8.25 Headings/Captions. The headings or captions used in this Agreement or its table of contents are for convenience only and shall not be deemed to constitute a part of the Contract, nor shall they be used in interpreting the Contract.

Section 8.26 Entire Agreement; Modification. The Contract supersedes all contemporaneous or prior negotiations, representations, course of dealing, or agreements, either written or oral. No modifications to the Contract shall be effective against the Department unless made in writing signed by both the Department and the A/E, unless otherwise expressly provided to the contrary in the Contract. Notwithstanding the foregoing, nothing herein shall be construed to limit the Department's ability to unilaterally modify the Contract. The Agreement, which includes the terms set forth in the RFP, the Exhibits hereto, and other documents incorporated herein by reference, represents the entire and integrated agreement between the Department and A/E.

Section 8.27 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of this Agreement is intended to be severable.

Section 8.28 The Quick Payment Act

Section 8.28.1 Interest Penalties to Contractors

Section 8.28.1.1 The District will pay interest penalties on amounts due to the A/E under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1.5% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:

- a. The date on which payment is due under the terms of the Contract;
- b. Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;
- c. Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or
- d. 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract;

Section 8.28.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

Section 8.28.1.3 No interest penalty shall be due to the A/E if payment for the completed delivery of goods or services is made on or after:

- a. 3rd day after the required payment date for meat or a meat food product;
- b. 5th day after the required payment date for an agricultural commodity; or
- c. 15th day after any other required payment date in the case of any other item.

Section 8.28.2 Payments to Subcontractors

Section 8.28.2.1 The A/E must take one of the following actions within seven (7) days of receipt of any amount paid to the A/E by the District for work performed by any subcontractor under this contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the Contract; or
- b. Notify the Contracting Officer and the subcontractor, in writing, of the A/E's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

Section 8.28.2.2 The A/E must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1.5% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:

- a. The 3rd day after the required payment date for meat or a meat product;
- b. The 5th day after the required payment date for an agricultural commodity; or
- c. The 15th day after the required payment date for any other item.

Section 8.28.2.3 Any amount of an interest penalty which remains unpaid by the A/E at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

Section 8.28.2.4 A dispute between the A/E and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

Section 8.28.3 Subcontractor Quick Payment Clause Flow-Down Requirements

Section 8.28.3.1 The A/E shall include in each subcontract under this Contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

Section 8.28.4 Requirements for Change Order Payments

Section 8.28.4.1 The Department and the A/E are prohibited from requiring the a Prime Contractor or a subcontractor to undertake any work that is determined to be beyond the original scope of the Prime Contractor's or a subcontractor's contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the underlying contract, unless the Contracting Officer:

- a. Agrees with the Prime Contractor and, if applicable, the subcontractor on a price for the additional work;
- b. Obtains a certification from the Chief Financial Officer that there are sufficient funds to compensate the Prime Contractor and, if applicable, the subcontractor for the additional work;
- c. Has made a written, binding commitment with the Prime Contractor to pay for the additional work within 30 days after the Prime Contractor submits a proper invoice for the additional work to the CO; and
- d. Gives written notice of the funding certification from the Chief Financial Officer to the Prime Contractor;

Section 8.28.4.2 The A/E is required to include in its subcontracts a clause that requires the Prime Contractor to:

- a. Within 5 business days of receipt of the notice required under subparagraph (A)(iv) of this paragraph, provide the subcontractor with notice of the approved amount to be paid to the subcontractor based on the portion of the additional Work to be completed by the subcontractor;

- b. Pay the subcontractor any undisputed amount to which the subcontractor is entitled for any additional work within 10 days of receipt of payment for the additional Work from the District; and
- c. If the Prime Contractor withholds payment from a subcontractor, notify the subcontractor in writing and state the reason why payment is being withheld and provide a copy of the notice to the CO.

Section 8.28.4.3 The Department, A/E, CMAR Contractor, or a subcontractor are prohibited from declaring another party to the contract to be in default or assessing, claiming, or pursuing damages for delays in the completion of the construction due to the inability of the parties to agree on a price for the additional work.

Section 8.28.4.4 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

- a. The CO is the only person authorized to approve changes in any of the requirements of this Contract.
- b. The A/E shall not comply with any order, directive or request that changes or modifies the requirements of this Contract, unless issued in writing and signed by the CO.
- c. In the event the A/E effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the Contract price to cover any cost increase incurred as a result thereof.

Section 8.29 General Conditions. To the extent that this Agreement is silent on an action or requirement of the A/E the Department's Standard Contract Provisions for Architectural and Engineering Services dated October 2018 attached as **Exhibit G** ("General Conditions" or "Standard Contract Provisions") shall govern the A/E's obligations with respect to such action or requirement under this Agreement.

Section 8.30 FREEDOM OF INFORMATION ACT (“FOIA”)

The District of Columbia Freedom of Information Act, at *D.C. Official Code § 2-532 (a-3)*, requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the A/E receives a request for such information, the A/E shall immediately send the request to the PM designated in **Section 1.3** of this Agreement who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the A/E pursuant to the Contract, the PM will forward a copy to the A/E. In either event, the A/E is required by law to provide all responsive records to the PM within the timeframe designated by the PM. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the A/E for the costs of searching and copying the records in accordance with *D.C. Official Code §2-532* and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

Section 8.31 AMERICANS WITH DISABILITIES ACT OF 1990 (“ADA”)

During the performance of this Contract, the A/E and any of its Subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See *42 U.S.C. §12101 et seq.*

Section 8.32 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the Contracting Officer.

Section 8.33 SPECIAL PROVISIONS RELATED TO THE COVID-19 EMERGENCY

8.33.1 The A/E is required to comply with Mayor’s Order 2021-099, COVID-19 Vaccination Certification Requirement for District Government Employees, Contractors, Interns, and Grantees, dated August 10, 2021, and all substantially similar vaccine requirements, including any modifications to this Order, unless and until they are rescinded or superseded. At the request of the District government, Contractors may be asked to provide certification of compliance with this requirement and/or documents and records in support of this certification.

8.33.2 The A/E is required to comply with City Administrator’s Order 2021-4, Resumption of Requirement for All Persons to Wear a Mask Inside District Government Buildings and While on Duty as a District Government Employee or Contractor, dated July 30, 2021, and all substantially similar mask requirements including any modifications to this Order, unless and until they are rescinded or superseded.

ARTICLE 9 ECONOMIC INCLUSION

Section 9.1 If the A/E subcontracts any work, at least (35%) of the dollar volume of the Agreement shall be subcontracted with small business enterprises (“SBE”), and if there are insufficient qualified SBEs then the subcontracting requirements may be satisfied by subcontracting (35%) of the dollar volume to any qualified, certified business enterprises (“CBE”) in accordance with D.C. Official Code § 2-218.46. The A/E has submitted a subcontracting plan with its proposal that is attached hereto as **Exhibit I**.

Section 9.2 Mandatory Subcontracting Requirements.

9.2.1 Unless the Director of DSLBD has approved a waiver in writing, in accordance with D.C. Official Code § 2-218.51, for all contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises (SBEs).

9.2.2 If there are insufficient SBEs to completely fulfill the requirement of Section 9.2.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises (CBEs); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.

9.2.3 A prime contractor that is certified by DSLBD as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections 9.2.1 and 9.2.2.

9.2.4 Except as provided in Sections 9.2.5 and 9.2.7, a prime contractor that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

9.2.5 A prime contractor that is a certified joint venture and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A certified joint venture prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

9.2.6 Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.

9.2.7 A prime contractor that is a CBE and has been granted a proposal preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is \$1 million or less.

Section 9.3 Subcontracting Plan Requirements.

If the A/E required by law to subcontract under this Contract, it shall submit a subcontracting plan as part of its Proposal in accordance with D.C. Official Code § 2-218.91, and Section 9.2 of this Agreement. The SBE Subcontracting Plan must list all subcontractors at every tier and shall include the following:

- (a) The name and address of each subcontractor;
- (b) A current certification number of the small or certified business enterprise;
- (c) The scope of work to be performed by each subcontractor;
- (d) The price to be paid by the Prime Contractor to each subcontractor; and
- (e) Meet the subcontracting requirements as further described in Section 9.2 of this Agreement.

Once the Subcontracting Plan is approved by the Department's CO, changes to the plan will only occur with the prior written approval of the CO and the Director of DSLBD.

Section 9.4 Copies of Subcontracts. Within twenty-one (21) days of the date of award, the Prime Contractor shall provide fully executed copies of all subcontracts identified in the subcontracting plan to the CO, District of Columbia Auditor, and the Director of Department of Small and Local Business Development.

Section 9.5 Subcontracting Plan Compliance Reporting

- a) The Prime Contractor has a subcontracting plan required by law for this Agreement; the Prime Contractor shall submit a quarterly report to the CO, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:
 - 1. The price that the Prime Contractor will pay each subcontractor under the subcontract;
 - 2. A description of the goods procured, or the services subcontracted for;
 - 3. The amount paid by the Prime Contractor under the subcontract;
 - 4. A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report.
- b) If the fully executed subcontract is not provided with the quarterly report, the Prime Contractor will not receive credit toward its subcontracting requirements for that subcontract.

Section 9.6 Annual Meetings. Upon at least 30-days written notice provided by DSLBD, the Prime Contractor shall meet annually with the CO, contract administrator ("CA"), District of Columbia Auditor and the Director of Department of Small and Local Business Development to provide an update on its subcontracting plan.

Section 9.7 DSLBD Notices. The Prime Contractor shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the Agreement and when the Agreement is completed.

Section 9.8 Enforcement and Penalties for Breach of Subcontracting Plan. A Prime Contractor

shall be deemed to have breached a subcontracting plan required by law, if the Prime Contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements. A Prime Contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63. If the CO determines the Prime Contractor's failure to be a material breach of the Agreement, the CO shall have cause to terminate the Agreement under the default provisions in the Standard Contract Provisions. Neither the Prime Contractor nor its subcontractor may remove a subcontractor or tier-subcontractor if such subcontractor or tier-subcontractor is certified as a Local Small Disadvantaged Business Enterprise ("LSDBE") business unless the Department approves of such removal, in writing. The Department may condition its approval upon the Prime Contractor developing a plan that is, in the Department's sole and absolute judgment, adequate to maintain the level of LSDBE participation on the Project.

Section 9.9 Residency Hiring Requirements for Contractors and Subcontractors.

9.9.1 For contracts for services in the amount of \$300,000 or more, the A/E shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. ("First Source Act").

9.9.2 The A/E shall enter into and maintain during the term of the Contract, a First Source Employment Agreement (Employment Agreement) (**Exhibit D**) with the District of Columbia Department of Employment Services ("DOES"), in which the A/E shall agree that: (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

9.9.3 If applicable, the A/E shall comply with subchapter X of Chapter II of Title 2, and all successor acts thereto, including by not limited to the **Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011**, and the rules and regulations promulgated thereunder, including, but not limited to the following requirements:

- a) At least twenty percent (20%) of journey worker hours by trade shall be performed by District residents;
- b) At least sixty percent (60%) of apprentice hours by trade shall be performed by District residents;
- c) At least fifty one percent (51%) of the skilled laborer hours by trade shall be performed by District residents; and
- d) At least seventy percent (70%) of common laborer hours shall be performed by District residents.

9.9.4 The A/E shall not begin performance of the Contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

9.9.5 The A/E agrees that at least 51% of the new employees hired to perform the Contract shall be District residents. The A/E shall ensure that at least fifty-one percent (51%) of the A/E's team and every sub-consultant's and subcontractor's employees hired after the effective date of the Agreement, or after such subconsultant or subcontractor enters into a contract with the A/E, to work on the Project shall be residents of the District of Columbia. This percentage shall be applied in the aggregate, and not trade by trade.

9.9.6 The A/E's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the Contract.

9.9.7 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the Contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.

9.9.8 If the A/E does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the A/E fails to meet its hiring requirements.

9.9.9 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.

9.9.10 The A/E may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board located at 441 4th Street, N.W., Suite 350N, Washington, D.C. 20001.

9.9.11 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

Section 9.10 Apprenticeship Act. The District of Columbia Apprenticeship Act of 1946, D.C. Official Code §§ 32-1401 *et seq.* ("Apprenticeship Act"), as amended, may apply to this Project. All subcontractors selected to perform work on the Project on a craft-by-craft basis shall be required to comply with this Apprenticeship Act. All terms and conditions of the Apprenticeship Act, D.C. Apprenticeship Council Rules and Regulations, as well as any federal requirements, shall be implemented. The Prime Contractor shall be liable for any subcontractor non-compliance.

Section 9.11 Equal Employment Opportunity and Hiring of District Residents

Section 9.11.1 In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, "on compliance with Equal Opportunity Requirements in District government contracts," each contracting shall submit the forms for completion of the Equal Employment Opportunity Information Report incorporated herein as **Exhibit H**. Failure to comply with the implementing rules shall result in rejection of the respective proposal. An award cannot be made to any contractor who has not satisfied the Equal Employment Requirements. The A/E shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs. In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as **Exhibit H**. A contract award cannot be made to any contractor

that has not satisfied the equal employment requirements.

Section 9.11.2 The A/E shall ensure that at least fifty-one percent (51%) of the A/E's team and every sub-consultant's and subcontractor's employees hired after the effective date of the Agreement, or after such subconsultant or subcontractor enters into a contract with the A/E, to work on the Project shall be residents of the District of Columbia. This percentage shall be applied in the aggregate, and not trade by trade.

Section 9.12 Economic Inclusion Reporting Requirements

Section 9.12.1 Upon execution of the Agreement, the A/E and all its member firms, if any, and each of its Subcontractors shall submit to the Department a list of current employees and apprentices that will be assigned to the Agreement, the date they were hired and whether or not they live in the District of Columbia.

Section 9.12.2 The A/E and its constituent entities shall comply with subchapter X of Chapter II Title 2, and subchapter II of Chapter 11 of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The A/E and its Subcontractors shall execute a First Source Agreement (**Exhibit D**) with the District of Columbia Department of Employment Services ("DOES") prior to beginning work at the Project site.

Section 9.12.3 The A/E shall maintain detailed records relating to the general hiring of District of Columbia and community residents.

Section 9.12.4 The A/E shall be responsible for: (i) including the provisions of Section 9.12 in all subcontracts; (ii) collecting the information required in Section 9.12 from its Subcontractors; and (iii) providing the information collected from its Subcontractors in the reports required to be submitted by the A/E pursuant to Section 9.12.

Section 9.13 Service Contract Act Provision. The A/E agrees that the work performed under this Agreement shall be subject to the Service Contract Act Wage Determination in effect on the date this Agreement is executed by an authorized Contracting Officer. The A/E shall be bound by the wage rates for the term of the Contract. Service Contract Wage Schedules are available at wdol.gov, **Exhibit E**. Notwithstanding the terms of the Standard Contract Provisions, the Davis-Bacon Act is not applicable to this Agreement.

Section 9.14 Living Wage Act. In addition to the requirements set forth in the First Source Employment Agreement, the A/E shall comply with all applicable provisions of the Living Wage Act of 2006, **Exhibit C**, as amended (codified at D.C. Official Code §§ 2-220.01 et seq.) and its implementing regulations. The Living Wage Act is applicable to this Contract. As such, the A/E and its subcontractors shall comply with the wage and reporting requirements imposed by that Act **Exhibit C**.

Section 9.15 WAY TO WORK AMENDMENT ACT OF 2006

9.15.1. Except as described in **Section 9.15.8** below, the A/E shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 et seq.) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

9.15.2 The A/E shall pay its employees and subcontractors who perform services under the Contract no less than the current living wage.

9.15.3 The A/E shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the Contract no less than the current living wage rate.

9.15.4 The DOES may adjust the living wage annually and A/E will find the current living wage rate on its website at www.does.dc.gov.

9.15.5 The A/E shall provide a copy of the Fact Sheet attached as **Exhibit C** to each employee and subcontractor who performs services under the contract. The A/E shall also post the Notice attached as **Exhibit C** in a conspicuous place in its place of business. The A/E shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

9.15.6 The A/E shall maintain its payroll records under the Contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the Contract.

9.15.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 et seq.

9.15.8 The requirements of the Living Wage Act of 2006 do not apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
- (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
- (4) Contracts for services needed immediately to prevent or respond to a disaster or imminent threat to public health or safety declared by the Mayor;
- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;

- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

9.15.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

ARTICLE 10 CHANGES

Section 10 Changes In The Work

Section 10.1 Changes Authorized. In accordance with the Standard Contract Provisions, the Department may, without invalidating the Agreement, and without notice to or approval of any surety, order changes in the design service, including additions, deletions or modifications. Any such change must be conveyed by the Department to the A/E via written Change Directive or Change Order.

Section 10.2 Executed Change Directive/Change Order Required. Only a written Change Directive or Change Order, executed by the Department, may make changes to the Agreement. In particular, but without limitation, a written Change Directive or Change Order executed by the Department is the only means by which changes may be made to the Substantial or Final Completion Dates, or the Final Design Fee.

Section 10.3 Department-Initiated Changes

1. If the Department wishes to make a change in the Work or to accelerate the Work, it will execute and issue to the A/E a written Change Directive, either directing the A/E to proceed at once with the changed Work or directing it to not to proceed, but to inform the Department, in writing, of the amount, if any, by which the A/E believes that Substantial or Final Completion Dates and/or the Design Fee should be adjusted to take the Change Order or Change Directive into account.

2. Within ten (10) days of receiving a Change Directive, the A/E shall provide the Department with a written statement of all changes in the Agreement, including, without limitation, any changes to the Substantial or Final Completion Dates or the Final Design Fee to which the A/E

believes it is entitled as a result of the Change Directive. If additional time is sought, a schedule analysis supporting the requested extension should be included. The schedule analysis should include a written narrative explanation. If a change in the Final Design Fee is sought (or if the Department has requested a deduct change), the statement should include a breakdown, by line item, of the estimated cost changes attributable to the proposed change. The Department may request, and the A/E shall provide, further cost breakdowns, clarifications, documentation or back-up if the Department reasonably believes such additional information is needed to understand and evaluate the request. The additional information required may include cost and pricing data in accordance with the Department's regulations.

3. If the Department has not yet directed the A/E to proceed with the change described by a Change Directive, the Department may rescind it. If the Department wishes to proceed, or has already directed the A/E to proceed, the A/E shall immediately proceed with the changed Work and, the Department and the A/E shall use their good faith best efforts to reach an agreement upon the modifications to the Substantial or Final Completion Dates, and/or the Final Design Fee that are justified by the Change Directive. If the Department and the A/E reach agreement, the agreement shall be set forth in a Change Order and the A/E shall also execute it, at which point it will become binding on both Parties.

4. If the Parties fail to reach an agreement within sixty (60) days after the Department receives the A/E's detailed cost statement, and such other documentation as the Department may request, the A/E may assert a claim in accordance with the Agreement. In such a case, and subject to adjustment via the claims and disputes process, the Department shall unilaterally grant the A/E such adjustments, if any, to the Substantial or Final Completion Dates, or the Final Design Fee as the Department has judged to be appropriate.

Section 10.4 Notice of Change Event. The A/E must give the Department written notice of any Change Event within ten (10) calendar days of the date on which the A/E knew, or reasonably should have known, of the Change Event. To the extent available, the notice must state the nature of the Change Event and describe, generally, all changes in the Agreement to which the A/E believes it is entitled. Such notice is an express condition precedent to any claim or request for adjustment to the Substantial or Final Completion Dates, or the Final Design Fee arising from the Change Event and, if the notice is not given within the required time, the A/E will have waived the right to any adjustment to the Substantial or Final Completion Dates, or the Final Design Fee arising from the Change Event.

Section 10.5 Detailed Change Request. Within twenty (20) days after giving notice of a Change Event, the A/E shall submit a written Change Request to the Department describing, in reasonable detail, all adjustments it seeks to the Substantial or Final Completion Dates or the Final Design Fee as a result of the Change Event. The Change Request shall include the same information as described in **Section 10.3** with respect to any Agreement changes the A/E seeks due to the Change Event, and the amount of any requested adjustment to the Final Design Fee shall be limited in accordance with that **Section 10.3**.

Section 10.6 Changes to the Final Design Fee. Subject to the condition precedent that the A/E has complied with the notice and documentation provisions of this Article 10, and subject to the

limitations stated in this Agreement, the A/E is entitled to an adjustment to the Final Design Fee if the Department issues a Change Directive or Change Order that directs the A/E to proceed with work which is beyond the scope of Work included within this Agreement.

Section 10.7 Deductive Change Orders. The Department reserves the right to issue deductive Change Orders (reducing the Final Design Fee or modifying the Substantial or Final Completion Dates to an earlier date) when changes are effected, by Change Directive or otherwise, which will decrease the cost of completing the Work or the time within which it can be completed.

Section 10.8 Executed Change Orders Final. The A/E agrees that any Change Order executed by the Department and the A/E constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the change in question, whether a Change Directive, or a Change Event, or from any claimed cumulative effect of changes made to the date of the Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the Change Directive or the Change Event giving rise to the Change Order.

Section 10.9 Failure to Agree. If the A/E claims entitlement to a change in the Agreement, and the Department does not agree that any action or event has occurred to justify any change in time or compensation, or if the Parties fail to agree upon the appropriate amount of the adjustment in time or compensation, the Department will unilaterally make such changes, if any, to the Agreement, as it determines are appropriate pursuant to the Agreement. The A/E shall proceed with the work and the Department's directives, without interruption or delay, and shall make a claim as provided in Article 11 of this Agreement. Failure to proceed due to a dispute over a change request shall constitute a material breach of the Contract and entitle the Department to all available remedies for such breach, including, without limitation, termination for default.

ARTICLE 11 CLAIMS & DISPUTES

All claims or disputes arising out of or under this Agreement shall be governed by the terms of the Standard Contract Provisions (**Exhibit G**), Article 9.

ARTICLE 12 TERMINATION OR SUSPENSION

Any terminations or suspensions arising out of or under this Agreement shall be governed by the terms of the Standard Contract Provisions (**Exhibit G**), Article 8.

ARTICLE 13
DEFINITIONS

Section 13.1 Administrative Term. The Agreement shall have an Administrative Term that runs from the date of execution of the Letter Contract and NTP by the Department and shall terminate on the earlier of the following: (i) (DATE); or (ii) the A/E obtaining a minimum certification of LEED Silver for the Project, which shall be no later than eight months after the Substantial Completion Date, as achieved by the CMAR, and submitting a Final release of Liens and Claims in the form and format required by the Contracting Officer.

The Administrative Term is established for the sole purpose of permitting the Department's Office of the Chief Financial Officer to process payments in the event any payments become due. Notwithstanding the foregoing, nothing herein shall be construed to: extend the Substantial Completion Date, as achieved by the CMAR; extend the Final Completion Date; or, limit the Department's ability to assess liquidated damages thereon.

Section 13.2 Agreement or Contract. The term "Agreement" or "Contract" shall mean this entire, integrated agreement between the Department and the A/E with respect to the Project, consisting of this document and the Exhibits thereto, including but not limited to the Standard Contract Provisions, and any Change Orders, Contract Modifications or Change Directives executed by the Department's CO.

Section 13.3 Client Agency. The governmental or quasi-governmental entity, represented by the Department, requesting the Project.

Section 13.4 Construction Phase Services. Services provided by the A/E during the Construction Phase as further described throughout this Agreement and Article 3.

Section 13.5 Design Phase Services. Services provided by the A/E during the Design Phase as further described throughout this Agreement and Article 2.

Section 13.6 Final Completion Date. The Final Completion Date of the Project is 30 days from the Substantial Completion Date. The Final Completion Date may be modified only by Change Order or Change Directive to the CMAR Contractor.

Section 13.7 Guaranteed Maximum Price or GMP. The maximum amount the CMAR Contractor will be paid to complete the Project as set forth in the CMAR Contractor's agreement.

Section 13.8 Notice to Proceed. A written notice to proceed, signed by the Department's CO, directing the A/E to proceed with the Project or any portion of the Project ("Notice to Proceed" or "NTP").

Section 13.9 Project Schedule. The schedule for the Project agreed to by the Department and all relevant Parties, including the Client Agency, the A/E and the CMAR Contractor. The Substantial Completion Date and Final Completion Date upon which the Project Schedule are premised shall not be

changed except by a Change Order, Contract Modification or Change Directive issued by the Department's CO to the CMAR contract. The Project Schedule shall be in a form and contain such detail as may be agreed upon by the Parties.

Section 13.10 Subcontractor. Any person, natural or legal, to whom the A/E delegates performance of any portion of the Work required by the Agreement. The term "Subcontractor," used without a qualifier, shall mean a subcontractor and subconsultant in direct privity with the A/E at all tiers, to include, but not limited to, those Subcontractors performing Work pursuant to sub-subcontracts, sub-sub-subcontracts, and so on. "Subcontractors" shall include both those who are retained to perform labor only and those who are retained both to perform labor and to supply material or equipment. For purposes of this Agreement, Subconsultant shall be synonymous with Subcontractor.

**ARTICLE 14
EXHIBITS**

- Exhibit A** Educational Specifications
- Exhibit B** A/E's price proposal
- Exhibit C** 2022 Living Wage Act
- Exhibit D** First Source Employment Agreement and Employment Plan
- Exhibit E** Service Contract Act Wage Schedule
- Exhibit F** Key Personnel
- Exhibit G** Standard Contract Provisions for Architectural and Engineering Services contracts
- Exhibit H** Equal Employment Opportunity
- Exhibit I** SBE Subcontracting Plan
- Exhibit J** BIM Requirements
- Exhibit K** Turnover Protocol

IN WITNESS WHEREOF, the Parties duly authorized representatives have executed this Agreement (No. DCAM-22-AE-0004) as of the dates signed below:

DEPARTMENT OF GENERAL SERVICES

INSERT A/E

An agency within the executive branch of the Government of the District of Columbia

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____