

MEMORANDUM OF AGREEMENT AMONG THE UNITED STATES GENERAL SERVICES ADMINISTRATION, THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION REGARDING THE CONVEYANCE, PROPOSED REHABILITATION, AND PRESERVATION OF THE MODESTO FEDERAL BUILDING AND POST OFFICE

WHEREAS, this Memorandum of Agreement ("MOA"), inclusive of all exhibits, is made as of this 31 day of October, 2013, by the U.S. General Services Administration ("GSA" or "Grantor"), the California State Historic Preservation Office ("SHPO"), and the Advisory Council on Historic Preservation ("ACHP") (all referred to collectively herein as the "Signatories" or "Parties" or individually as a "Signatory" or "Party"), pursuant to Sections 106 and 110 of the National Historic Preservation Act ("NHPA") 16 U.S.C. §§ 470f and 470h-2, and the Section 106 implementing regulations at 36 CFR Part 800; and

WHEREAS, the United States, acting by and through GSA, owns and operates the real property located at 1125 "I" Street, Modesto, California, including the building located thereon and commonly known as the "Modesto Federal Building and Post Office" (the "Property"). The Property is listed in the National Register of Historic Places ("National Register") and is a City of Modesto designated Landmark Preservation Site; and

WHEREAS, the Modesto Federal Building and Post Office building, on the Property, was built between 1932 and 1933 in the Mediterranean Classical Style with regional California influences, is one-story with mezzanine and basement, a structural steel frame, reinforced concrete floor and roof systems, and masonry exterior walls, and Character Defining Elements (hereinafter defined); and

WHEREAS, in consultation, GSA determined that the Area of Potential Effect ("APE") is the boundaries of the Property, referred to as Assessor's Parcel Number: 105-026-002, Modesto, Stanislaus County, CA; and

WHEREAS, GSA completed an Historic Structures Report ("HSR") prepared by Architectural Resources Group, San Francisco, CA, 1988, including a 2006 Amendment. The HSR is a guide that has specified what aspects of the Property are considered historic and fall under the authority of this MOA and the Historic Covenant (hereinafter defined); and

WHEREAS, in 2003, GSA determined that the Property was surplus to the federal government's needs and, in accordance with the procedures outlined in the Property Act, Title 40 of the U.S. Code, Section 101, et seq., sought to transfer the Property to a reliable steward committed to ensuring compatible use or uses and continuing responsible long-term stewardship of the Property; and

WHEREAS, based on the results of the above-mentioned procedures, GSA is conveying the Property through public sale to the Finch Fund, LLC and its successors and assigns and every successor-in-interest to the Property (the "Grantee"), with the Historic Covenant excerpted

herein ("Historic Covenant") ("Undertaking"), which references the Secretary of the Interior's Standards for Rehabilitation ("Secretary's Standards"), the Project Documents ("Project Documents") (Attachment 2), and prevailing applicable codes including the California Historical Building Code, California Code of Regulation ("C.C.R.") Title 24, Part 8 ("CHBC"); and

WHEREAS, in 2011, under a Revocable License For Non-Federal Use of Real Property, issued by GSA to the Grantee for the purpose of non-invasive site investigation and planning activities, the Grantee removed non-original light fixtures, original travertine wall panels, and original floor tiles from their original locations on the Property; and

WHEREAS, in 2013, the U.S. Environmental Protection Agency conducted an investigation into asbestos work being done on the Property which resulted in GSA conducting certain abatement activities on the Property; and

WHEREAS, the Modesto Federal Building and Post Office once contained twelve (12) lunettes and one rectangular mural, which were commissioned in 1936 by the Department of the Treasury under the Treasury Relief Arts Project, and which helped qualify the Property for inclusion in the National Register; and

WHEREAS, at this time, six (6) of the lunettes and the rectangular mural remain in situ (hereinafter defined) at the Property. Four (4) of the lunettes remain the property of the U.S. Government but are missing (hereinafter defined); and

WHEREAS, the Grantee independently obtained temporary custody of two (2) lunettes (hereinafter defined) previously removed from the Property, which GSA will stabilize and store in its art storage facility until such time as the Grantee is able to reinstall in the Property; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a) (1), GSA consulted with the SHPO and notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a) (1) (iii); and

WHEREAS, the Grantee, the Modesto Landmarks Preservation Commission ("Commission") and the City of Modesto ("City") participated in consultation and are invited signatories ("Invited Signatories" or "Invited Signatory") to the MOA (36 CFR § 800.6(c) (2)); and

WHEREAS, the Grantee and the Commission have received electronic copies of the original 1932 construction drawings for the Property and the HSR; and

WHEREAS, together with the Signatories and Invited Signatories, the Grantee is a Consulting Party ("Consulting Party") (collectively the "Consulting Parties"); and

NOW THEREFORE, the Signatories agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effects of this project on historic properties.

GSA shall ensure that the following stipulations are carried out:

STIPULATIONS

I. HISTORIC PRESERVATION COVENANT. Grantor shall include the Historic Covenant substantially in the form set forth below in any conveyance instrument:

Historic Preservation Covenant. The Grantee covenants and agrees for itself, its successors and assigns and every successor in interest to the Property, or any portion thereof, to be bound by the terms, conditions and restrictions of this preservation covenant. For purposes of this covenant, the term "Property" means the real property conveyed in this instrument together with any improvements thereon, and the term "Grantee" means the Grantee, its successors, and assigns, and every successor in interest to the Property or any portion thereof. Unless otherwise noted, this covenant utilizes the definitions found in 36 CFR part 800 (2004), and particularly 36 CFR § 800.16 (2004).

A. Property Description. Grantee covenants, acknowledges, and agrees to preserve the Property and setting in accordance with the terms and conditions of this covenant. In particular, the following facts are noted:

1. The Property is significant on a local level to the City of Modesto under National Register Criterion A within the context of politics/government and art, and under Criterion C for its architecture. Architecturally, the building is a locally prominent and well-preserved example of its genre: a small public building sensitively designed in a classical idiom by the Supervising Architect's Office of the Treasury Department. It is also one of few in California designed by the Supervising Architect's office. Similarly, the original lobby murals are locally important examples—the only ones in Modesto—of the type of federally-sponsored decorative artwork produced during the Depression. The building was the first federal building erected in the city and it was a source of pride for Modestans and a locally prominent symbol of the federal government. Throughout its history, the building has been occupied by the Post Office (the U.S. Postal Service), as well as various other federal agencies. This post office was demoted from a main office to station status upon completion of a new post office in 1967. Custody of the property was transferred from the Post Office to the U.S. General Services Administration in 1968.
2. The structure was designed by James A. Wetmore, Acting Supervisory Architect of the Supervising Architect's Office of the United States Treasury Department, Washington, D.C. The building is an example of Classicism favored by the Supervising Architect's Office well into the early 1930's. Each façade is organized horizontally into an arcade flanked by two slightly projecting end pavilions. Vertically, each façade is organized along the Classical hierarchy of base, shaft and capital. Richly-defined Classical decorative elements abound, including the terra cotta entablature, arcades with Corinthian pilasters, the quoins defining the edges of the end pavilions, and the well-proportioned windows set within each end pavilion. A Mediterranean influence is evident in the "Mission" clay tile roof edges.

3. Construction of the Property was completed in 1933 by Murch Brothers, a St. Louis firm experienced in federal building construction. The structure is a 23,770 gross square foot, single story building, with full basement.
4. The building is set back from the street at least 20 feet on three sides and is mostly situated along the southern portion of its site, taking up most of the 0.64-acre site, leaving space for small lawn areas and other landscaping to the east, south and west sides of the building. The building features a granite staircase, flanked by low granite plinths, that extends along the full length of the arcade on the south façade. Four handrails are spaced approximately equally across the width of the stairs. Low walls extend from each side of the staircase along the sidewalk to the edges of the building. Behind the walls are concrete ramps that lead from the sidewalk to the upper stair landing.
5. Character defining features ("Character Defining Elements" or "CDE(s)") of the Property include: elaborately cast, ornamental iron light fixtures with Classical column and winged griffins at the base and glass globes at the top; a wooden flagpole and base; original exterior doors both at the front of the building and the loading dock; exposed exterior drainage fixtures and lines, terra cotta entablature; entry loggia; granite water table and cornerstone; terra cotta Tuscan pilasters; tripartite double-hung wood windows with a six-over-six central window and wide three-over-three windows on each side; decorative wrought iron grilles; arched entryways separated by travertine columns with moulded travertine bases and cast-plaster composite capitals; a barrel vaulted plaster ceiling; travertine wainscot wall surfaces; wood panel interior doors; unglazed quarry tile flooring bordered by terrazzo and divided by brass strips; vault room; original relocated bronze postal boxes; ornate metal writing table in lobby; a Lookout Gallery; an exterior postal scale and wood block flooring on the original loading dock; a postal counter and roll-up door; terra cotta clay tile roof edging; and an original women's toilet room.
6. The majority of changes to the Property occurred in the 1960's when spaces were altered to modernize and add offices, restrooms, a mechanical room, or to allow for more postal operations space. The original postal boxes were relocated and the lobby was reduced in size. The electrical and plumbing systems were upgraded during this time. Landscaping sprinkler systems were added in 1978. An elevator and fire sprinkler main were added in 1981. Disabled-access ramps were added to the exterior, but are mostly hidden from the street view by the ramp walls. In 2013, in anticipation of the proposed rehabilitation, original wood floor tiles throughout the Basement and First Floor were removed, travertine wall panels from the historic lobby were removed, and non-original light fixtures throughout the building were removed. At the time of Consultation the property was in a partially finished condition.

B. Artwork. Grantee covenants, acknowledges, and agrees to preserve the murals described in this paragraph in accordance with the terms and conditions of this covenant. In particular, the following facts are noted:

1. Description of Artwork. There were originally twelve lunette murals and one rectangular mural in the Post Office lobby and business window areas, by artist **Ray Boynton**, who

was assisted by other local artists, including: Mallette Dean, Suzanne Scheuer, Thomas Hayes, Robert Nurok, Luke Gibney, and Milo Anderson.

a. The In Situ Murals ("In Situ Murals") are identified as:

Title and Date: **Plowing**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-A

Title and Date: **Dehydrating Fruit**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-B

Title and Date: **Orchards and Cattle**, 1937
Medium: Oil painting
Dimensions: 5' x 17'7" rectangular
Deaccessioned GSA Identification Number: FA342-C

Title and Date: **Meat Packing**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-D

Title and Date: **Grain Harvesting**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-E

Title and Date: **Creameries**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-F

Title and Date: **Symbol of Plenty**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-G

b. The Recovered Murals ("Recovered Murals") are identified as:

Title and Date: **Water and Wealth**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-K

Title and Date: **Gathering Fruit**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-J

c. The Missing Murals ("Missing Murals") are identified as:

Title and Date: **Wineries**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-H

Title and Date: **Hay Cutting and Stacking**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-I

Title and Date: **Mining**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-L

Title and Date: **Gold Dredging**, 1937
Medium: Oil painting
Dimensions: 3' x 5' lunette
Deaccessioned GSA Identification Number: FA342-M

2. Preservation of In Situ Murals. Grantee hereby covenants and agrees to comply with the following terms and conditions regarding the display and ultimate disposition of the In Situ Murals.
- a. Protection & Maintenance: The Grantee shall be responsible for the protection and maintenance of the In Situ Murals.
 - b. Public Access: The Grantee shall provide for public viewing access of the In Situ Murals.
 - c. Attribution: The Grantee shall ensure that the murals will be accompanied by an interpretive plaque, provided by Grantor, identifying the artists and noting that it was commissioned for the people of the United States by the Federal Government.
 - d. Disposition: The Grantee acknowledges that the murals are significant, Character Defining Elements ("CDEs") of the Property that will remain with the Property and not be removed, sold, or otherwise conveyed by the Grantee. In the event

demolition of the Property is necessary pursuant to Paragraph F and/or Paragraph G, the murals shall be offered as a donation to the Grantor. In the event that the Grantor accepts the donation, Grantor will bear the reasonable cost of removal and transportation to an appropriate place; provided, however, that Grantor will not be responsible for costs to restore the Property resulting from the removal of the murals. If, after a period of thirty (30) calendar days following receipt of notice of proposed donation from the Grantee, Grantor declines to accept the murals, then the Grantee must:

- i. convey the murals to a local municipality, local public museum or local non-profit organization with a charitable and/or educational mission on condition that if the murals cease to be displayed or used for public purposes, the Grantor will be promptly notified in writing and may reclaim the murals; or
- ii. in the event the Grantee is unable to perform under (i); if authorized in writing by Grantor, the Grantee may sell the murals and remit the net proceeds from such sale to Grantor.

3. Disposition of Recovered Murals and Missing Murals. Grantee hereby covenants and agrees to comply with the following terms and conditions regarding the Recovered Murals.

- a. The Recovered Murals are the property of the United States of America. The Grantee returned the Recovered Murals to the United States of America. All communication regarding the Recovered Murals will be handled in accordance with Paragraph J.
- b. Recovered Murals may be loaned by Grantor to the Grantee and reinstalled in their original locations, or other such locations approved in writing by Grantor. Installation methods for the reinstallation of the murals must be in conformance with professional museum practices and be approved by Grantor in writing. If any of the four Missing Murals are discovered at a future date, each will be considered a Recovered Mural and treated in accordance with this provision.

C. Alterations to the Property. Grantee hereby covenants and agrees to comply with the following terms and conditions regarding any alterations to the Property.

1. Initial Project. The Initial Project ("Initial Project") means that initial preservation and rehabilitation project considered during consultation on the *Memorandum of Agreement (MOA) among the United States General Services Administration, the California State Historic Preservation Office, and the Advisory Council on Historic Preservation Regarding the Conveyance, Proposed Rehabilitation, and Preservation of the Modesto Federal Building and Courthouse* and described in the Project Documents ("Project Documents"), a copy of the Project Documents is attached hereto and marked Attachment 2. Grantee covenants and agrees to perform the Initial Project in accordance with the approved Project Documents and compliant with the Secretary of the Interior's Standards for Rehabilitation ("Secretary's Standards") and prevailing applicable codes

including the California Historical Building Code, California Code of Regulations ("C.C.R.") Title 24, Part 8 ("CHBC"). Any substantive changes to the Project Documents, as noted in Attachment 2, shall be reviewed in accordance with Paragraph C.2.

2. Plan Review. Grantee covenants and agrees to submit to the Modesto Landmarks Preservation Commission ("Commission"), for review and approval, all plans and applications for alteration of the Property as required by Paragraphs C, D, E, F, or G of this covenant. The Commission will review the plans in accordance with Modesto Municipal Code, Title 9, Chapter 10 (attached hereto and marked Attachment 1), the Project Documents, the Secretary's Standards and prevailing applicable codes including the CHBC. If, within five (5) calendar days of receipt of any plan or application received from the Grantee, the Commission determines it may benefit from additional technical assistance, the Commission may seek such assistance from the California State Historic Preservation Office ("SHPO") via electronic correspondence or in accordance with Paragraph J, copying the Grantee on the correspondence. The SHPO may respond within fifteen (15) calendar days of receipt of the request for additional technical assistance. If the SHPO does not respond to the Commission within the allotted timeframe, the Commission may proceed with its review.
3. Prohibition on Alterations to the Property.
 - a. Grantee covenants and agrees to not perform any alteration (e.g. removal of significant and original historic materials, addition of material which may affect historic materials, or new construction), or permit any inaction that would materially affect the Property without the prior written approval of the Commission, in accordance with Paragraph C.2. Grantee shall ensure that all alterations to the Property not expressly approved in Paragraph C.1 above, are planned, developed, and executed in accordance with the Secretary's Standards, and prevailing applicable codes including the CHBC, and in a manner consistent with any recommended approaches contained in the Historic Structures Report ("HSR") prepared by Architectural Resources Group, San Francisco, CA, 1988, including a 2006 Amendment. The HSR is a guide that has specified what aspects of the Property are considered historic and fall under the authority of this covenant. Written approval of the Commission shall be required prior to installing any signage, undertaking any work which requires a permit, or altering paint colors on original materials or within CDEs. If the Commission's approval is not provided, such activities may not occur.
 - b. Grantee covenants and agrees to not perform material disturbance of any ground surface not already excavated as part of previous construction of the existing facility without first having a qualified archaeologist obtain a site records check from the California Historical Resources Information System ("CHRIS"), which includes the statewide Historical Resources Inventory database and the records maintained and managed, under contract, by eleven (11) independent regional Information Centers, and perform a sensitivity analysis. The sensitivity analysis shall be provided to SHPO prior to performing the ground disturbance.

D. Professional Qualifications Standards. Grantee hereby covenants and agrees that all historical, archaeological, architectural history, architectural, and historic architectural work carried out pursuant to this covenant shall be conducted by or under the direct supervision of an individual or individuals who meets, at a minimum, the applicable Secretary of the Interior's Professional Qualifications Standards for conducting the appropriate work (48 FR 44738-9, September 29, 1983), as it may be amended.

E. Maintenance Program. Grantee hereby covenants and agrees that:

1. Grantee shall preserve and maintain the Property in a manner that preserves and maintains its attributes that contribute to the eligibility of the Property for inclusion in the National Register of Historic Places, including the CDEs. Grantee agrees at all times to maintain the Property in good repair and in a clean and safe condition and in a manner that will not exacerbate the normal aging of the Property or accelerate its deterioration, all in accordance with the recommended approaches set forth in the Secretary's Standards and as described in the HSR.
2. Commencing upon the effective date of this covenant, Grantee shall promptly take commercially reasonable efforts to secure the Property from the elements, vandalism and arson, and shall carefully undertake any stabilization that is necessary to prevent deterioration, using the Secretary's Standards.
3. Grantee covenants and agrees to make every effort to maintain reasonable public access to the Property, while providing appropriate security for Property tenants. Before the Property may be used for purposes other than professional office space, Grantee will consider those alternatives that continue to meet the public access and stewardship goals of this covenant as well as invite and consider comments from the Commission on those options. Grantee further covenants and agrees to give first preference to those uses that meet the public access and stewardship goals of this covenant.
4. Grantee shall conduct seismic analyses of the Property, if necessary, prior to any ground disturbing activity on the Property that may affect the structural integrity of the Property, and as warranted thereafter. Grantee shall take into consideration the results of seismic analyses, so that the structural integrity of the Property is not adversely affected by such activities, and shall provide the results of seismic analyses to the Commission.

F. Casualty Damage to the Property. Grantee hereby covenants and agrees that:

1. Immediate rescue and salvage operations are not subject to this paragraph, but rather are subject to Paragraph G.4 below. Subject to Paragraph F.2 below, if there is damage to the Property resulting from casualty loss, the Grantee shall repair or restore, as appropriate, the Property in compliance with the Secretary's Standards unless it is not feasible to do so because of commercial or physical infeasibility, legal requirements or other circumstances. If it is not feasible because of commercial or physical infeasibility, legal requirements or other circumstances to repair or restore the Property in compliance with the Secretary's Standards, Grantee shall engage in consultation with the

Commission on other redevelopment alternatives and modification of the Property, which must adhere to the Secretary's Standards. All cost and expense of the design and construction of any such redevelopment alternative shall be borne by Grantee.

2. In the event of damage to the Property, whether covered by Paragraph F.1 above or by any other provision of the covenant, Grantee shall, in addition to all other obligations of this covenant, promptly take all steps necessary to render any remains of the Property in a reasonably safe condition and promptly take all commercially reasonable efforts to render any remains of the Property in secure and watertight condition and to minimize additional damage to such structure.

G. Discoveries, Unanticipated Adverse Effects Situations, and Emergencies. Grantee hereby covenants and agrees that:

1. In accordance with 14 C.C.R. § 15064.5(f), the Grantee will provide for the protection, evaluation and treatment of any historic property discovered prior to or during future construction on the Property. Should a discovery occur, the Grantee will notify the Commission and the SHPO within two (2) business days (not including a federal or state holiday) to develop and implement an appropriate treatment plan prior to resuming construction operations in the vicinity of the discovery.
2. All materials and records resulting from the data recovery shall be curated by an institution or organization selected by the Grantee in consultation with the Commission. Any reports generated shall be prepared according to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42 FR 537-79) and shall be provided to the institution or organization and to SHPO.
3. If unanticipated adverse effects occur to the Property, the Grantee shall notify the Commission and the SHPO of the unanticipated adverse effect within two (2) business days (not including a federal or state holiday) of learning of such unanticipated adverse effect, and for any efforts in response to these unanticipated adverse effects, Grantee shall comply with relevant stipulations of the covenant.
4. Grantee shall ensure that any immediate rescue and salvage operations it undertakes on the Property are reviewed in accordance with Modesto Municipal Code 9-10.06(h).

H. Inspection. Grantee hereby covenants and agrees that the Commission, SHPO, or Grantor may, subject to reasonable prior notice in writing to the Grantee, periodically perform reasonable visits of the Property to ascertain whether Grantee is complying with the conditions of this covenant. The Commission, SHPO, or Grantor and Grantee shall cooperate in scheduling such visits.

I. Dispute Resolution. Grantee hereby covenants and agrees that if a dispute arises out of or relates to this covenant, or the breach thereof, and if said dispute cannot be settled through negotiation, Grantee or any other party seeking to enforce the protections afforded by this covenant hereby agree first to attempt in good faith to settle the dispute by mediation, before

resorting to litigation. Grantee's responsibilities to carry out all other actions subject to the terms of this covenant that are not the subject of the dispute remain unchanged.

J. Communications. Grantee hereby covenants and agrees that any notice or other communication required or permitted to be given under this covenant shall be sufficiently given or delivered if provided in writing and transmitted by personal messenger, certified mail, return receipt requested, or overnight delivery service with receipt confirmation, and addressed as follows:

1. In the case of a notice or communication to GSA:

U.S. General Services Administration
50 United Nations Plaza
San Francisco, CA 94102-4912
Attn: Regional Historic Preservation Officer (9PH)

2. With courtesy copy to:

U.S. General Services Administration
50 United Nations Plaza
San Francisco, CA 94102-4912
Attn: Regional Counsel (9L)

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405
Attn: Federal Preservation Officer (PCAB)

3. In the case of a notice or communication to the SHPO:

State of California
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816

4. In the case of a notice or communication to the City of Modesto, California or to the Modesto Landmark Preservation Commission:

City of Modesto
P.O. Box 642
Modesto, CA 95353

or to such other address as any party from time to time shall designate by written notice to the others.

II. FEDERAL ACTIONS

A. Historic Covenant. GSA shall record the Historic Covenant, referenced in Stipulation I above, as part of the conveyance documents in the permanent real estate records of Stanislaus County, California, as described herein. Upon notice of the recordation of the deed containing the Historic Covenant in Stanislaus County, California, as described herein, and of the Property's transfer from GSA to Grantee, GSA will send the SHPO and the Commission an official copy of

the transfer document (e.g. complete copy of recorded deed) and any other papers deemed necessary by GSA.

B. Artwork.

1. Unless already provided, within 120 days of conveyance, GSA shall provide an interpretive plaque, identifying the artists and noting that it was commissioned for the people of the United States by the Federal Government. Grantee shall install the plaque, in the location noted on the Project Documents, within 120 days of receipt.
2. Grantor will bear costs to stabilize Recovered Murals and transport them to a long-term storage facility. Grantor is not responsible for costs incurred by the Grantee while the Recovered Murals were in the possession of the Grantee.

C. Professional Qualifications Standards. Prior to conveyance GSA shall ensure that all historical, archaeological, architectural history, architectural, and historic architectural work carried out pursuant to this MOA shall be conducted by or under the direct supervision of an individual or individuals who meets, at a minimum, the applicable Secretary of the Interior's Professional Qualifications Standards for conducting the appropriate work (48 FR 44738-9, September 29, 1983), as it may be amended.

D. Maintenance Program. Prior to conveyance, GSA shall preserve and maintain the Property in a manner that preserves and maintains its attributes that contribute to the eligibility of the Property for inclusion in the National Register of Historic Places. GSA shall maintain the Property in good repair and in a clean and safe condition and in a manner that will not exacerbate the normal aging of the Property or accelerate its deterioration, all in accordance with the recommended approaches set forth in the Secretary's Standards and as described in the HSR.

E. Inspection. Subject to reasonable prior notice in writing to GSA, the Parties may periodically perform reasonable visits of the Property.

F. Communications. Any notice or other communication required or permitted to be given under this MOA shall be sufficiently given or delivered if provided in writing and transmitted by personal messenger, certified mail, return receipt requested, or overnight delivery service with receipt confirmation, and addressed as follows:

1. In the case of a notice or communication to GSA:
U.S. General Services Administration
50 United Nations Plaza
San Francisco, CA 94102-4912
Attn: Regional Historic Preservation Officer (9PH)
2. With courtesy copy to:

U.S. General Services Administration
50 United Nations Plaza
San Francisco, CA 94102-4912
Attn: Regional Counsel (9L)

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405
Attn: Federal Preservation Officer (PCAB)

3. In the case of a notice or communication to the SHPO:

State of California
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd St, Suite 100
Sacramento, CA 95816

4. In the case of a notice or communication to ACHP:

Advisory Council on Historic Preservation
The Old Post Office Building
1100 Pennsylvania Avenue, NW
Washington, D.C. 20004-2501
Attn: Executive Director

5. In the case of a notice or communication to the City of Modesto, California or to the Modesto Landmark Preservation Commission:

City of Modesto
P.O. Box 642
Modesto, CA 95353

or to such other address as any party from time to time shall designate by written notice to the others.

G. Dispute Resolution. If, prior to conveyance, any Signatory or Invited Signatory objects to any actions proposed, or the manner in which the terms of this MOA are implemented, over the duration of this MOA, GSA shall consult with them to resolve the objection. If GSA determines that such objection cannot be resolved, GSA shall:

1. Forward all documentation relevant to the dispute, including GSA's proposed resolution, to the ACHP. The ACHP shall provide GSA with its advice on the resolution of the objection within thirty (30) calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, GSA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, the Signatories, the Invited Signatories, and the Consulting Parties, and provide them with a copy of this written response. GSA will then proceed according to its final decision.
2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, GSA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, GSA shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories, Invited

Signatories, and Consulting Parties to the MOA, and provide them and the ACHP with a copy of such written response.

GSA's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

H. Duration. This MOA shall expire if its terms are not carried out within one (1) year from the date of its execution. Prior to such time, GSA may consult with the other Signatories and Invited Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation I. below.

I. Amendments. This MOA may be amended when such an amendment is agreed to in writing by all Signatories and Invited Signatories that signed this MOA. The amendment will be effective on the date a copy signed by all of the Signatories and those Invited Signatories that signed this MOA is filed with the ACHP.

J. Termination. If any Signatory or Invited Signatory that signed this MOA determines that the MOA's terms will not or cannot be carried out, that party shall immediately consult with the other Signatories, and the Invited Signatories that have signed the MOA, to attempt to develop an amendment per Stipulation I., above. If within thirty (30) calendar days (or another time period agreed to by all Signatories and Invited Signatories that signed the MOA) an amendment cannot be reached, any Signatory or Invited Signatory that signed the MOA may terminate the MOA, upon written notification to the others.

Once the MOA is terminated, and prior to work continuing on the Undertaking, GSA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. GSA shall notify the Signatories, the Invited Signatories, and the Consulting Party as to the course of action it will pursue.

This MOA shall become effective immediately upon signature of all Signatories, and a copy filed with ACHP. GSA shall provide all Signatories, the Invited Signatories, and the Consulting Party with a complete copy of this Agreement, including original signature pages, within fourteen (14) days of execution.

EXECUTION of the MOA and implementation of its terms evidences that GSA has afforded ACHP a reasonable opportunity to comment on the Undertaking and its effects on historic properties and that GSA has taken into account the effects of the Undertaking on historic properties.

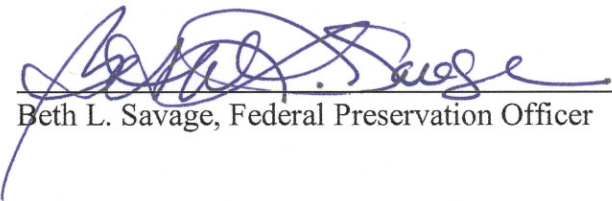
SIGNATURES APPEAR ON FOLLOWING PAGE

The parties hereto execute this MOA on the dates hereinafter identified.

U.S. GENERAL SERVICES ADMINISTRATION

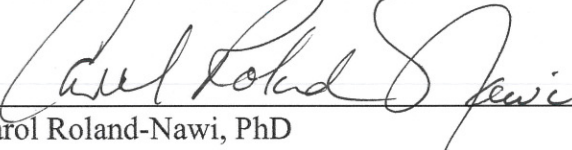
By: 
Dorothy Robyn, Commissioner
Public Buildings Service

Date: 10/22/13

By: 
Beth L. Savage, Federal Preservation Officer

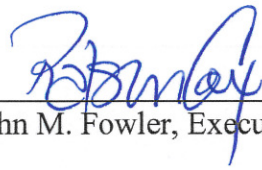
Date: 10/22/13

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: 
Carol Roland-Nawi, PhD

Date: 10-28-13

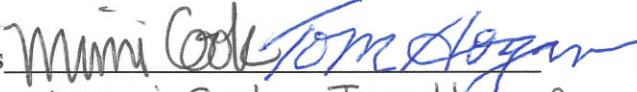
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: 
John M. Fowler, Executive Director

Date: 10/31/13

Concur:

GRANTEE

By: Signatures  Date: 10.25.13
Print Names mimi cook Tom Hegan
Title Finch Fund Co-Managers
Organization Finch Fund, LLC

INVITED SIGNATORIES APPEAR ON FOLLOWING PAGE

Invited Signatories:

MODESTO LANDMARKS PRESERVATION COMMISSION

By: _____

Date: _____

THE CITY OF MODESTO

By: _____

Date: _____

ATTACHMENTS:

1. Modesto Landmark Preservation - Modesto Municipal Code - Title 9, Chapter 10
2. Project Documents

ATTACHMENT 1 – MODESTO M.O.A.

TITLE 9 - BUILDING REGULATIONS
Chapter 10 - MODESTO LANDMARK PRESERVATION

Chapter 10 - MODESTO LANDMARK PRESERVATION

[9-10.01 - Public Policy and Purpose.](#)

[9-10.02 - Definitions.](#)

[9-10.03 - Modesto Landmark Preservation Commission Established.](#)

[9-10.04 - Designation of Modesto Landmark Preservation Sites.](#)

[9-10.05 - Additional Powers and Duties of the Commission.](#)

[9-10.06 - Review of Permits.](#)

[9-10.07 - Penalty for Violation.](#)

[9-10.08 - Repository for Documents.](#)

[9-10.09 - Landmark Preservation Contracts.](#)

9-10.01 - Public Policy and Purpose.

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, perpetuation and use of structures, natural features, sites and areas within the City of Modesto having historic, architectural, archeological, cultural, engineering or aesthetic significance is required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this chapter is to:

- (a) Safeguard the heritage of the City by providing for the protection of landmarks representing significant elements of its history;
- (b) Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles on or adjacent to landmark preservation sites reflecting unique and established architectural traditions;
- (c) Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;
- (d) Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;
- (e) Stabilize and improve property values within the City;
- (f) Promote the private and public use of landmarks and landmark sites for the education, prosperity and general welfare of the people.

(Added by Ord. 2619-C.S., § 1, effective 12-15-88)

9-10.02 - Definitions.

For purposes of this chapter the following words or phrases shall have the meanings respectively ascribed to them by this section:

- (a) Significance: The quality of the information, example, interest or meaning represented by the site for understanding and appreciating the past, development or culture.

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- (b) Historic Significance: Associated with activities, processes, events, trends or persons of importance to the community, state or nation.
- (c) Architectural Significance: Possessing distinctive characteristics of a style, place, period, method or materials of construction, builder or architect.
- (d) Cultural Significance: A significant setting of manmade or natural features (including significant trees or other plant life located thereon), or a combination, possessing meaning primarily by long association or identification with the community and/or its citizens.
- (e) Archaeological Significance: A setting possessing the potential to reveal information important to historic or prehistoric studies.
- (f) Engineering Significance: A work demonstrating a technology, design or method characteristic of a historic period or activity.
- (g) Modesto Landmark Preservation Site: An area, district, building, structure or object, which has been designated for preservation for reasons of its significance by the City Council.

(Added by Ord. 2619-C.S., § 1, effective 12-15-88)

9-10.03 - Modesto Landmark Preservation Commission Established.

- (a) This chapter establishes the Modesto Landmark Preservation Commission with the following responsibilities:
 - (1) To promote public recognition and appreciation for Modesto Landmark Preservation Sites;
 - (2) To conduct continuing surveys and research in order to identify and classify, as to their relative importance, properties which have historic, architectural, archaeological, engineering or cultural significance to the community;
 - (3) To recommend properties which meet the criteria of significance stated herein for designation as Modesto Landmark Preservation Sites;
 - (4) To protect Modesto Landmark Preservation Sites by public review of all proposed alterations, relocations, demolitions or new construction within designated site boundaries;
 - (5) To advise property owners and educate the public in appropriate maintenance, rehabilitation or restoration methods. To encourage continued uses, compatible with their character, of Modesto Landmark Preservation Sites.
- (b) The Modesto Landmark Preservation Commission, hereinafter the "Commission," shall consist of five (5) or seven (7) voting members appointed by the Modesto City Council in conformance with [Section 1102](#) of the Charter of the City of Modesto. All said members shall be registered voters residing in the City of Modesto. The said voting members should be selected from the following if possible:
 - (1) At least one (1) member should be an architect, or if an architect should not be available, an experienced person of the building trades.
 - (2) At least one (1) member should be a professional or experienced person in the areas of history, architectural history, archaeology, planning, real estate, design, building trades, landscape architecture or law.
 - (3) At least one (1) member should be a person with a background in finance, accounting, appraising or related fields.
 - (4) At least one (1) member should be a member of the McHenry Museum and Historical Society.

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TITLE 9 - BUILDING REGULATIONS Chapter 10 - MODESTO LANDMARK PRESERVATION

- (5) The other members shall be drawn from persons with a demonstrated interest and/or expertise in historic preservation.
- (6) One (1) member should also be a member of the Modesto Culture Commission and would serve on both commissions Alternatively, a person recommended by the Culture Commission may be appointed by the City Council to serve only on the Landmark Preservation Commission.
- (c) The Commission, when formed, shall be organized and operated pursuant to the rules and regulations set forth in the Modesto Municipal Code for the purpose of carrying out the intent of this chapter, which rules and regulations are not inconsistent with the laws of the City of Modesto and the State of California.
- (d) The Commission shall make an annual report by June 30th, containing a statement of its activities and plans to the Mayor, the City Council and the City Manager.
- (e) The Commission shall meet monthly to initiate surveys and nominations of properties, to review potential Modesto Landmark Preservation Sites, to make recommendations of properties to City Council for designation, and to prepare the Commission's annual report.

In addition, the Commission will meet at its earliest convenience, when called by the Chairman, to review such building permits or applications as are referred to it by the City Chief Building Official or Community Development Director. The City Chief Building Official or Community Development Director shall refer to the Commission such building permits or applications on projects which they determine should be considered for preservation in accordance with the intent of this chapter.

- (f) To accomplish the intent and purpose of this chapter, the City of Modesto shall provide the Commission with adequate staff support and supplies, including the assistance designated by the City Manager to perform the duties prescribed under this chapter.

(Added by Ord. 2619-C.S., § 1, amended by Ord. 3021-C.S., § 1, and Ord. 3131-C.S., § 5, effective 5-27-99)

9-10.04 - Designation of Modesto Landmark Preservation Sites.

- (a) The Commission shall conduct a continuing survey of properties and shall provide procedures for citizens to nominate properties for consideration as Modesto Landmark Preservation Sites. The Commission shall conduct research and documentation of properties which it has reason to believe are significant to the community.
- (b) The Commission shall recommend sites to the City Council for designation as Modesto Landmark Preservation Sites. In order to be recommended for designation, the Commission must determine that the site being considered possesses historic, architectural, cultural, archaeological or engineering significance as defined above. Furthermore, in making its recommendation, the Commission shall consider the following conditions:
 - (1) That the location and setting is compatible with future preservation and use;
 - (2) That the physical condition is such that preservation, maintenance or adaptive use is economically feasible;
 - (3) That the distinguishing characteristics of significance are for the most part original and intact or capable of restoration;
 - (4) That the existing or proposed use is compatible with the preservation and maintenance of the site.
- (c) The eligibility of a site for designation as a Modesto Landmark Preservation Site shall be determined by the Modesto Landmark Preservation Commission in a public hearing. The Modesto Landmark

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Preservation Commission shall adopt a resolution of recommendation for each site or for a district. Notice of the public hearing shall be as follows:

- (1) A public notice of the hearing shall be prepared which identifies the hearing body, describes the location of the property, describes the significance of the site, and the date, the time and place of the hearing. The notice shall be distributed as follows:
 - (i) Mailing of a notice to the owner or authorized agent of the property owner and the project applicant. Mailing of a notice to every property owner as shown on the updated equalized assessment role of the County of Stanislaus, who owns property any part of which is within three hundred (300) feet of the subject property. Mailing of a notice to the elementary and high school districts serving the area. The notice shall be deposited in the United States mail not less than ten (10) days prior to the hearing.
 - (ii) Additional means of distribution may be used at the discretion of the secretary or City Clerk. Additional means of distribution may include mailing of notices not otherwise required or posting notices in the immediate area of the property.
- (d) The Commission shall forward its recommendations, together with its findings of significance and eligibility, to the City Council.

The City Council, upon recommendation of the Commission, may, by resolution, designate a Modesto Landmark Preservation Site, and an appropriate presentation and/or identifying plaque may be provided for. Prior to such designation, the City Council shall hold a public hearing pursuant to the same notice provisions as required for the Landmark Preservation Commission meeting in accordance with the Modesto Municipal Code.

- (e) The Modesto Landmark Preservation Sites shall be recorded as follows:
 - (1) The office of the City Clerk shall record with the Stanislaus County Recorder the legal description of all buildings, lands, sites or areas designated as Modesto Landmark Preservation Sites by the Council, and shall send a copy to the Chief Building Official. In addition, the same may be made available to the public in form and fashion as the Commission or City Council deems appropriate.
 - (2) Modesto Landmark Preservation Records.
 - (i) The Commission shall keep current and public a list of all properties designated as Modesto Landmark Preservation Sites, or included in the State or National Register of Historic Places and make the same available to the public in form and fashion as the Commission or City Council deems appropriate.
 - (ii) The Commission will provide the Chief Building Official and the Community Development Director with current lists and maps showing Modesto Landmark Preservation Sites and Districts for their use in referring applications to the Commission.

(Added by Ord. 2619-C.S., § 1, amended by Ord. 3131-C.S., § 5, effective 5-27-99)

9-10.05 - Additional Powers and Duties of the Commission.

The Commission shall have the following powers and duties in addition to those otherwise specified in this chapter:

- (a) The Commission shall request, as needed, the Planning Commission, the Board of Zoning Adjustment, various City departments or the City Council to adopt measures required or appropriate for the preservation, protection or maintenance of Modesto Landmark Preservation Sites, including but not limited to variances or amendments to the Zoning Code, rules governing construction, demolition, alteration or use, or the removal or repair of blighting influence incompatible with the physical well-being of designated properties.

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- (b) The Commission shall have the authority to provide general preservation plans and guidelines to owners of Modesto Landmark Preservation Sites regarding maintenance, restoration, and rehabilitation.
- (c) The Commission shall have the authority to promote public recognition and appreciation for Modesto Landmark Preservation Sites. It shall periodically publish a register of designated and potential Modesto Landmark Preservation Sites and Districts, along with guidelines and preservation programs available at that time.
- (d) The Commission shall have the authority to initiate solicitation of gifts and contributions to be made to the City to support the activities and purposes of the Commission. The Commission shall assist the City staff in the preparation of applications for grant funds made by the City for the purpose of City Landmark Preservation.

(Added by Ord. 2619-C.S., § 1, effective 12-15-88)

9-10.06 - Review of Permits.

- (a) The Chief Building Official or the Community Development Director shall immediately refer applications for rezonings, variances, plot plan approvals and tentative or parcel map approvals, or applications for building permits for proposed alterations, relocations, demolition or new construction within the boundaries of designated Modesto Landmark Preservation Sites of the City of Modesto to the Modesto Landmark Preservation Commission for their review and written approval or disapproval. "Alteration" includes but is not limited to remodeling, repair, signs or fences that will change the exterior appearance. "Demolition" may include the whole or any part of a building.
- (b) Every application for approval in relation to property designated as a Modesto Landmark Preservation Site shall be accompanied by plans, photographs, specifications or a written description fully describing the proposed work which shall be provided to the Modesto Landmark Preservation Commission.
- (c) Permits for these applications shall not be issued until receiving written approval from the Modesto Landmark Preservation Commission, subject however, to subsections (g), (h), and (j) of this section.
- (d) At its next regular meeting the Modesto Landmark Preservation Commission may consider the application to determine if the work adversely affects the preservation and architectural character of the Modesto Landmark Preservation Site.
 - (1) The Modesto Landmark Preservation Commission shall conduct a public hearing for the purpose of receiving the recommendations from concerned citizens and the applicant. Notice of the public hearing shall be as follows:
 - (i) A public notice of the hearing shall be prepared which at a minimum identifies the hearing body and describes the location of the property, nature of the historical designation, and the date, the time and place of the hearing. The notice shall be distributed as follows:
 - (A) Mailing of a notice to the owner or authorized agent of the property owner and the project applicant. Mailing of a notice to every property owner as shown on the updated equalized assessment role of the County of Stanislaus, who owns property, any part of which is within three hundred (300) feet of the property involved. Mailing of a notice to the elementary and high school districts serving the area. The notice shall be deposited in the United States mail not less than ten (10) days prior to the hearing.
 - (B) Additional means of distribution may be used at the discretion of the secretary or City Clerk. Additional means of distribution may include mailing of notices not otherwise required or posting notices in the immediate area of the property.

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- (2) If it is determined that the work to be performed does not adversely affect the site, the application shall be approved and the Chief Building Official or Community Development Director shall be informed in writing within ten (10) working days of the Commission's action.
 - (3) If it is determined that the work to be performed does adversely affect the site or district, the application shall be disapproved and the Chief Building Official or Community Development Director shall be informed in writing within ten (10) working days of the Commission's action. The Commission shall furnish the permit applicant with a copy of the decision together with recommendations for changes necessary before the Commission will reconsider the permit application.
- (e) When reviewing an application as described under subsection (d) of this section, the Commission shall consider the following criteria to decide whether the work affects the Modesto Landmark Preservation Site in the following cases:
- (1) Proposed Alteration or Addition to an Existing Building, Structure or Site. The Commission will consider whether or not the work will adversely impair the significance or character of the Modesto Landmark Preservation Site. The Commission's written findings shall refer to the following criteria:
 - (i) The distinguishing original qualities, character or appearance shall not be destroyed. The removal or alteration of historic or original material, or distinctive architectural features shall be avoided. In the event that removal or alteration of historic or original material is determined to be necessary, the work shall be done in such a way as to minimize the adverse effect.
 - (ii) Deteriorated architectural features shall be repaired rather than replaced. In the event that replacement is determined to be necessary, the replacement shall be an accurate duplication of the design, color, texture and other visual qualities of the original, substantiated by historic, physical or pictorial evidence rather than on conjecture.
 - (iii) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting, other cleaning methods, sealants, coating and paints shall not damage or appreciably change the material, color and texture of original surfaces.
 - (iv) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy original, historic, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
 - (v) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
 - (2) Proposed Demolition or Removal of a Building or Structure. The Commission will consider whether or not the demolition or removal is necessary, and its effect on the surrounding buildings and neighborhood. The Commission's written finding shall refer to the following criteria:
 - (i) Consideration shall be given to the significance or architectural merit of the building itself, and the contribution the building makes to the historic or architectural character of the neighborhood or district.
 - (ii) Consideration will be given to the economic value, usefulness and replacement cost of the building as it now stands and as remodeled or rehabilitated, in comparison to the value or usefulness of any proposed structures designated to replace the present building or buildings.

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- (iii) Consideration will be given to the present structural integrity of the building to determine whether or not it constitutes a clear and present danger to the life and safety of the public. The Commission may contract for a professional estimate of the structural integrity and an estimate of the cost of correcting dangerous deficiencies, with Council approval.
 - (iv) Consideration will be given to the effect of demolition and of proposed new construction on the adjacent buildings and on the architectural and historic character of the neighborhood or district.
- (3) Proposed New Construction or Relocation. The Commission will consider the effect of the work on the historic and architectural character of the surrounding buildings and neighborhood. The Commission's written findings shall refer to the following criteria:
- (i) Contemporary design for new construction shall not be discouraged, but should be compatible with scale, color, texture, materials and other visual qualities of the surrounding buildings and neighborhood.
 - (ii) The new building should be compatible with the height, width, depth, massing and setback of the surrounding buildings.
 - (iii) The amount of solid wall to window and door openings, and the placement of window and door openings, should be proportional to that of the surrounding buildings and neighborhood.
- (f) The recommendations of the Commission will be consistent with the California State Historical Building Code; and to the extent that a recommendation is inconsistent, the standards of the California State Historical Building Code shall prevail.
- (g) If within forty-five (45) days from the filing of application, the Commission has neither approved or denied the building permit application, the plans and permit application shall be deemed to have been approved by the Commission, and if all other requirements of the City have been met, the appropriate department head shall authorize a permit for the proposed work. By vote of the Commission and notification of the department head, the forty-five (45) day period may be extended by fifteen (15) days in cases where professional study or recommendation is required and the forty-five (45) day period is not sufficient to do the work. No permit shall be issued or work commenced in the event the Commission disapproves the application in accordance with this chapter.
- (h) In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the Chief Building Official may approve temporary or limited repair without prior Modesto Landmark Preservation Commission action. In the case of a permit issued pursuant to this paragraph, the Chief Building Official shall immediately notify the Modesto Landmark Preservation Commission of its action and specify the facts or conditions constituting the emergency situation.
- (i) If the approval of any board or commission other than the City Council alters, amends or modifies any condition of approval established by the Landmark Preservation Commission, that board or commission shall notify the Landmark Preservation Commission of the change and the reasons for the change within five (5) days of that approval.
- (j) The permit applicant or any party aggrieved by the decision of the Modesto Landmark Preservation Commission shall, within fifteen (15) days of the date of the Modesto Landmark Preservation Commission's order and decision, have a right to appeal such order and decision to the City Council. The appeal shall be made by delivering to the City Clerk two (2) copies of a Notice of Appeal and statement of reasons setting forth the grounds for the appeal. The City Clerk shall transmit one (1) copy of the Notice of Appeal and statement to the City Council and one copy to the Modesto Landmark Preservation Commission. The Modesto Landmark Preservation Commission, in any written order denying a permit application, shall advise the applicant of this right to appeal to the City Council and include this paragraph in all such orders.

(Added by Ord. 2619-C.S., § 1, amended by Ord. 3131-C.S., § 5, effective 5-27-99)

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TITLE 9 - BUILDING REGULATIONS Chapter 10 - MODESTO LANDMARK PRESERVATION

9-10.07 - Penalty for Violation.

In addition to any and all remedies which the City may be entitled to by way of obtaining temporary restraining orders, preliminary injunctions and permanent injunctions in connection with the enforcement of this chapter, an owner or occupant of any area, place, building, structure or other object within a duly designated Modesto Landmark Preservation Site who violates the provision of this chapter shall be guilty of an infraction. Any architect, builder, contractor, agent, person or corporation who assists in the commission of a violation of this chapter shall be guilty of an infraction. For each day an owner or occupant of any area, place, building, structure or other object within a duly designated Modesto Landmark Preservation Site allows any work to be performed on any area, place, building, structure or other object in violation of this chapter, it shall constitute a separate violation and separate infraction, and shall be punishable as such. A Modesto Landmark Preservation Site on which there exists any remodeling, repairing, construction, demolition, or a building moved in violation of this chapter is hereby declared a nuisance; and the imposition of the penalties herein prescribed shall not prevent the City of Modesto from instituting an appropriate action or proceeding to prevent an unlawful remodeling, repair, construction, building, building moving or demolition, or to restrain, correct or abate a violation.

(Added by Ord. 2619-C.S., § 1, effective 12-15-88)

9-10.08 - Repository for Documents.

A separate file shall be kept by the Secretary to the Commission which shall be the repository for at least one (1) copy of all Commission minutes, forms, studies, reports, recommendations and correspondence. All minutes and records will be, available for public inspection during normal business hours.

(Added by Ord. 2619-C.S., § 1, effective 12-15-88)

9-10.09 - Landmark Preservation Contracts.

Any owner of a property which has been designated as a Modesto Landmark Preservation Site shall be eligible to apply for the property tax incentive program through the use of an Historical Property Contract pursuant to Sections 50280 through 50290 of the California Government Code. All applications filed for Landmark Preservation Contracts shall be considered by the Landmark Preservation Commission at a public hearing. The recommendation of the Landmark Preservation Commission shall be forwarded to the City Council for consideration at a public hearing.

(Added by Ord. 2864-C.S., § 1, effective 9-16-93)

Modesto Federal Building and Post Office (MOA/Covenant)

Attachment 2 - Initial Project Documents

EXHIBIT A: Location Map

EXHIBIT B: Existing Site Plan

EXHIBIT C: Proposed Project Designs

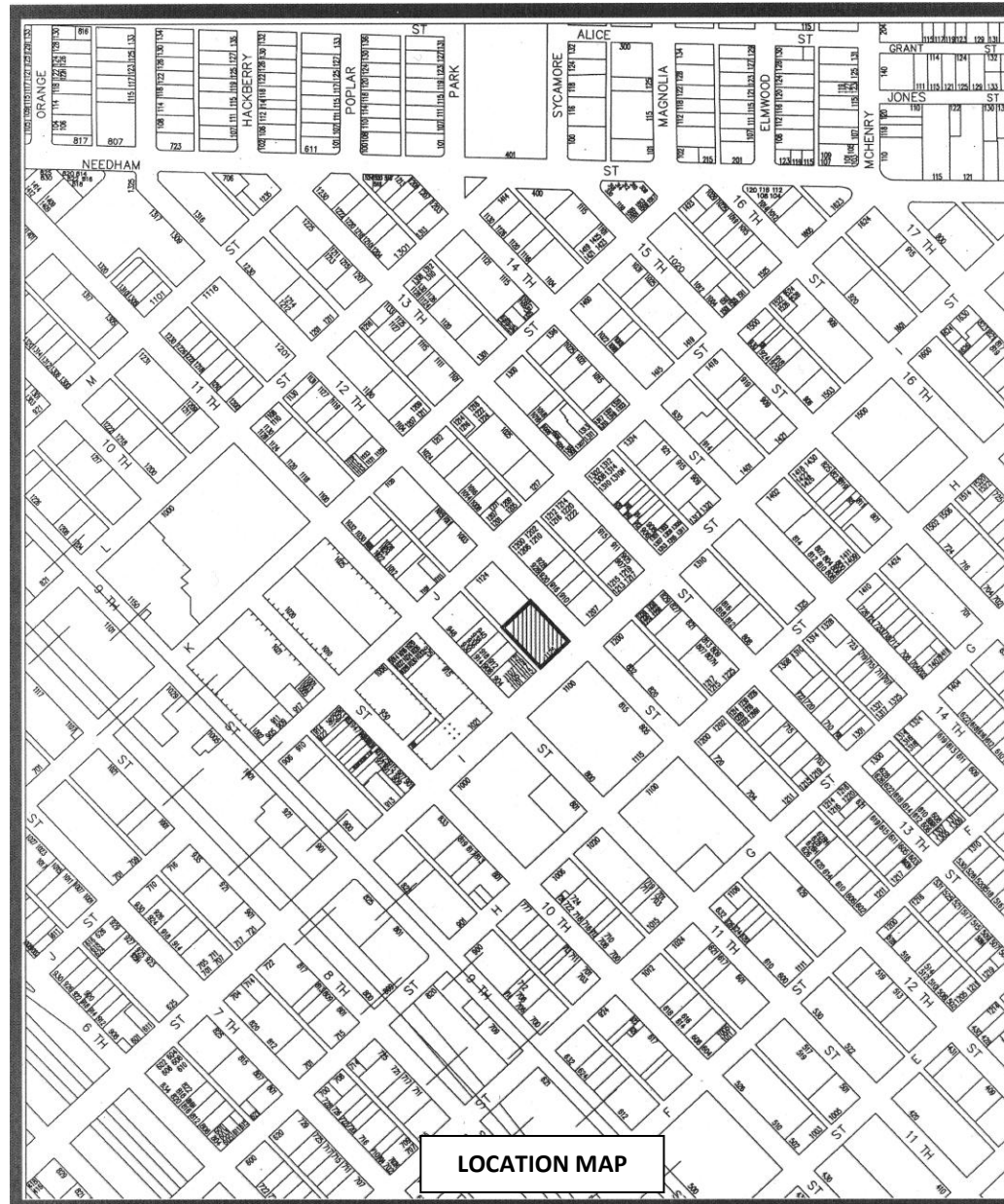
EXHIBIT D: Recommended National Park Service Preservation Briefs

EXHIBIT E: Illustrated Summary of Adverse Effects

EXHIBIT F: United States Post Office, Modesto, California - 1932 Plans

Grantee covenants and agrees to perform the Initial Project in accordance with the approved Project Documents and compliant with the Secretary of the Interior's Standards for Rehabilitation ("Secretary's Standards") and prevailing applicable codes including the California Historical Building Code, California Code of Regulations ("C.C.R.") Title 24, Part 8 ("CHBC").

Exhibit A : Modesto Federal Building and Post Office Location Map



----- Modesto FB & PO
1125 I STREET,
MODESTO, CA

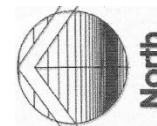


Exhibit B: Modesto Post Office and Federal Building Site Plan

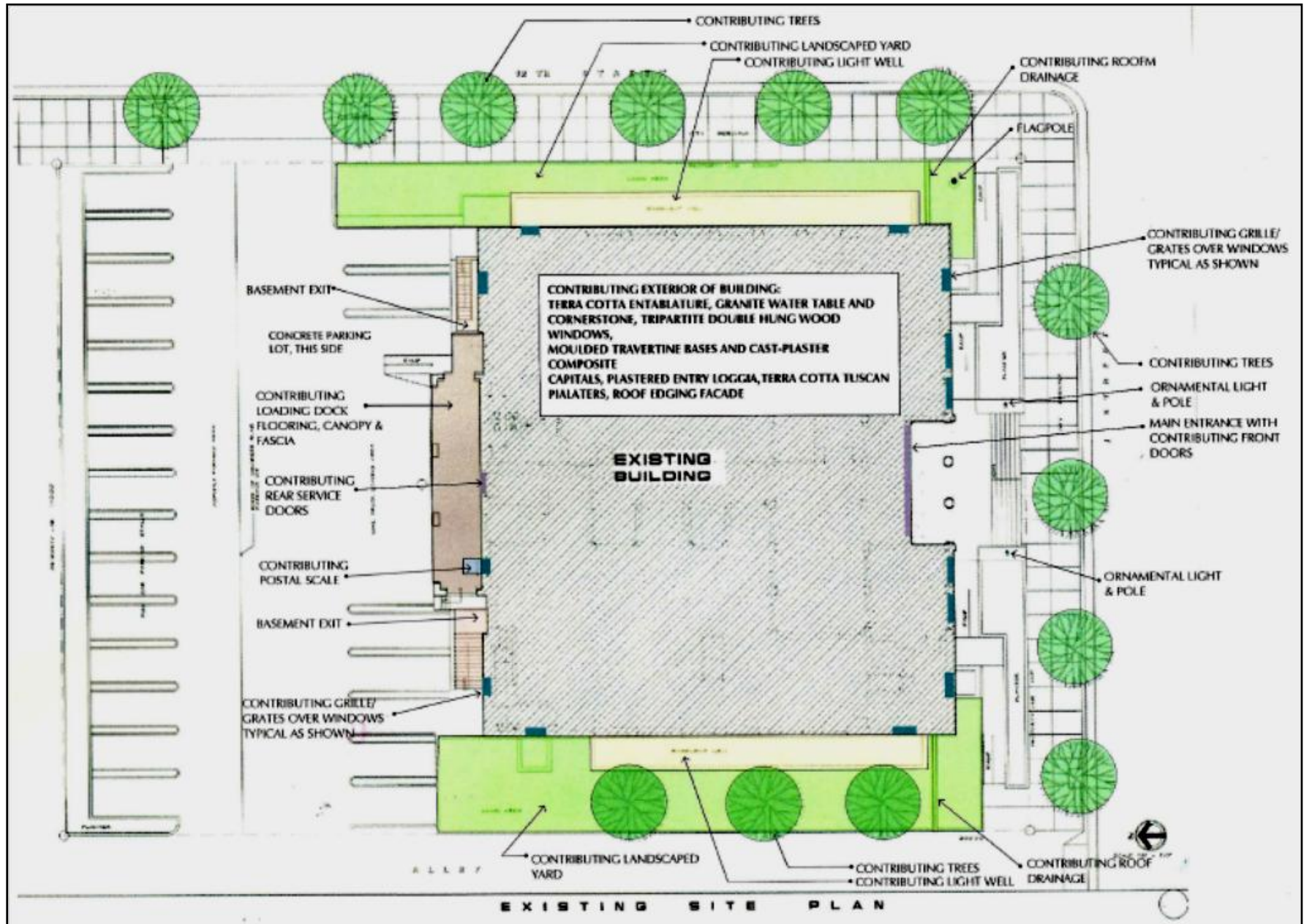
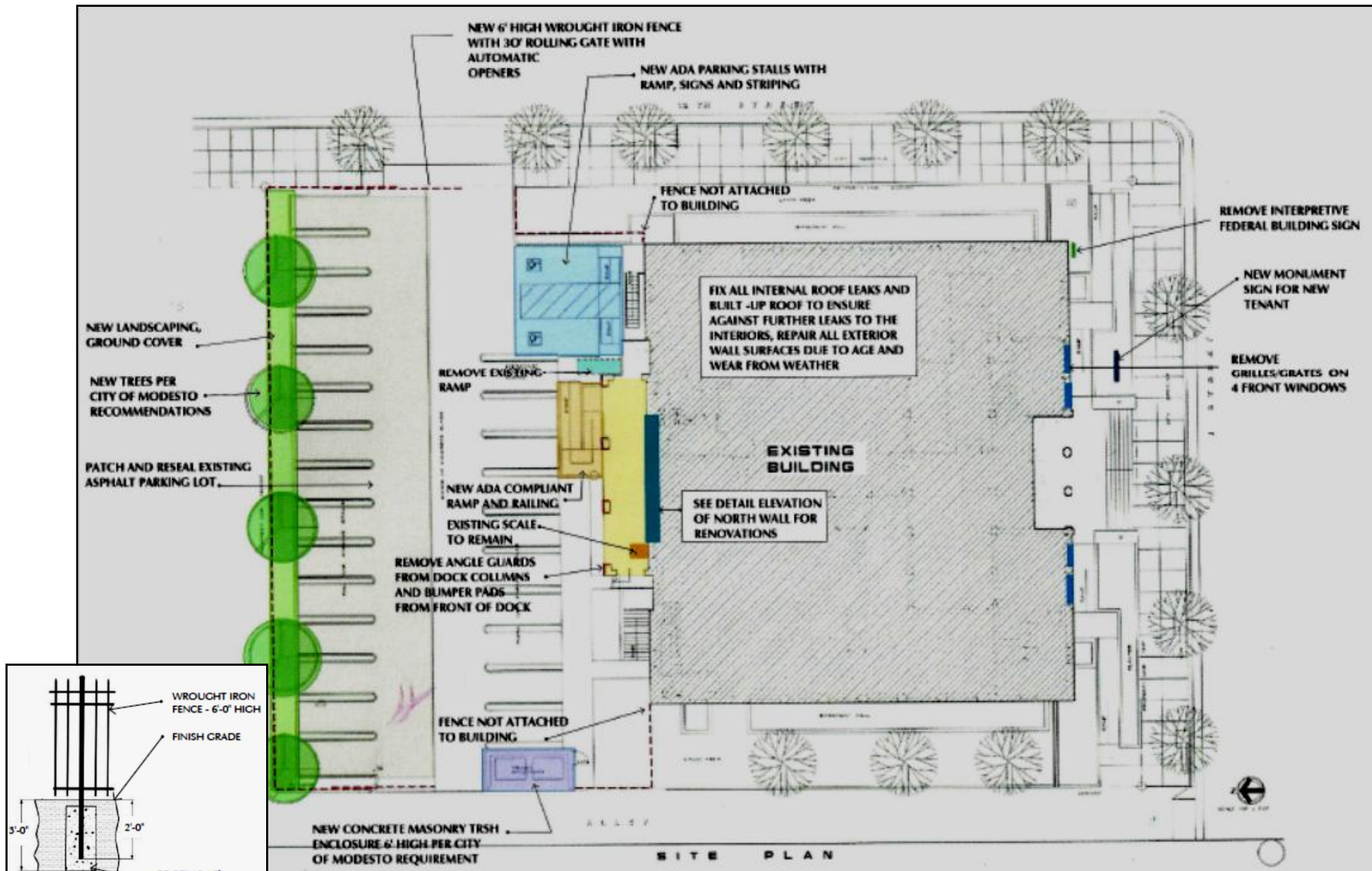


Exhibit C: Modesto Post Office and Federal Building Site Plan

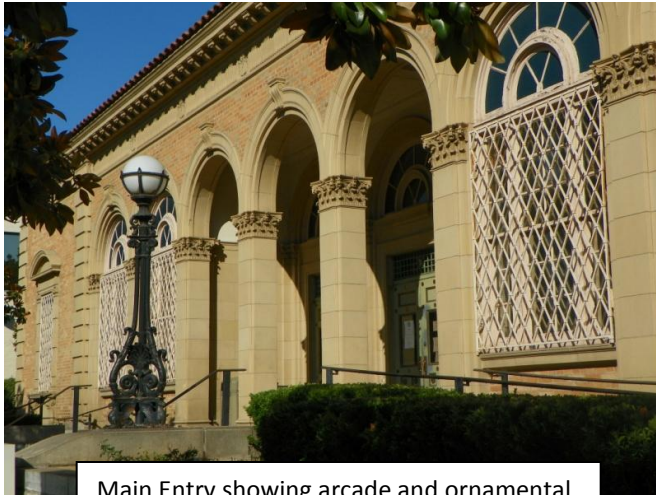


Proposed Project Site Plan

(Modesto Landmark Preservation Commission "Commission" to review project details.)

Figure 1

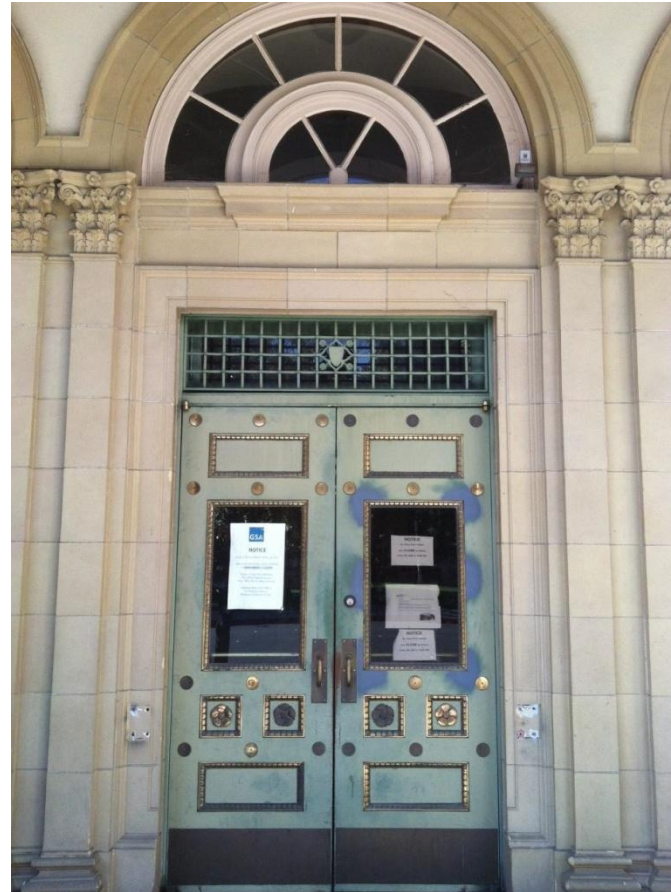
Exhibit C



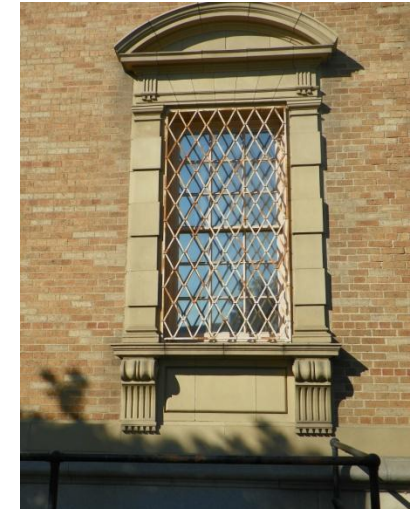
Main Entry showing arcade and ornamental iron light fixture. Fixtures to be refurbished.



Pair of large tripartite, double-hung, wood windows (6/6, central window flanked by 3/3 windows on each side). Semicircular fanlights above each window, terra cotta sill below. Covered with decorative wrought-iron grilles. Grilles to be removed, windows to be restored.



Main Entry Doors: Hollow steel panel with glass upper panels, richly ornamented with cast bronze applied ornamentation and bronze kick plates. Rectangular transom windows, hinged at tops and faced with ornamental wrought iron screens, are located above the main entry doors. Semi-circular fanlights located in arches above the doors and transoms. All to be restored.



Corner pavilion double-hung wood window with hinged wrought iron grille. To be restored.



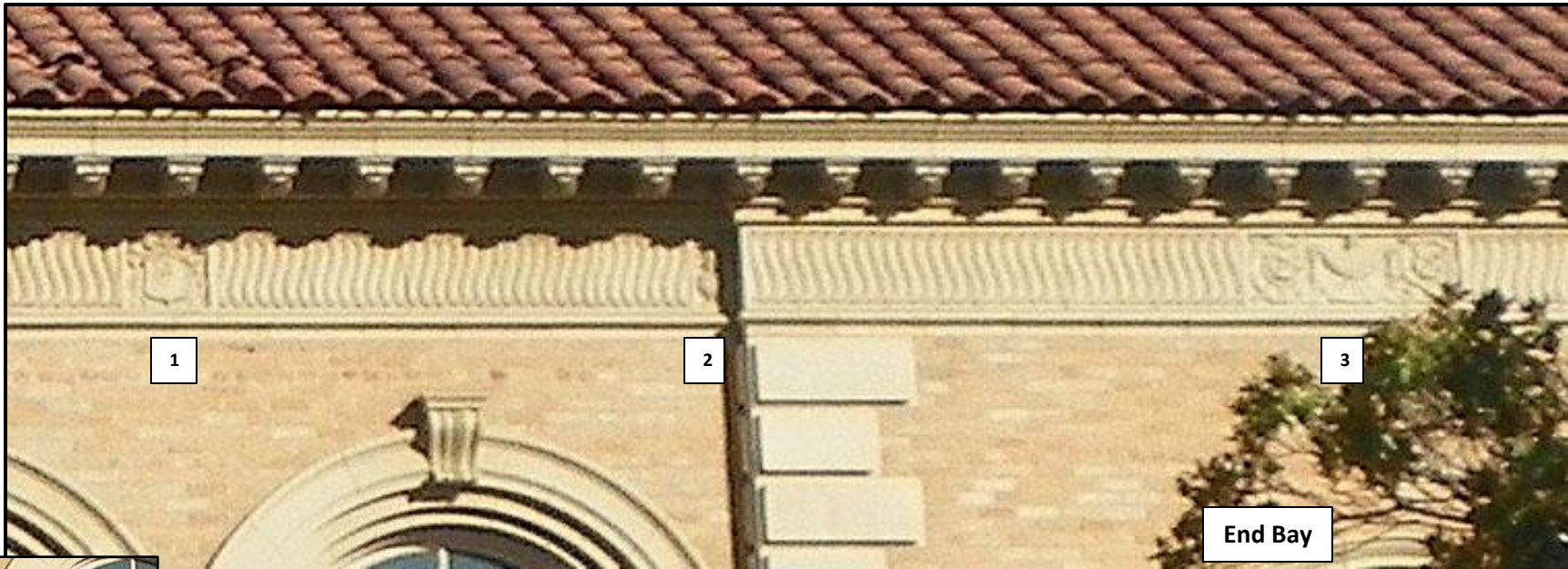
Existing Federal Building U S Post Office sign. To be removed.

South (Front) Elevation Details

(Commission to review project details.)

Exhibit C

Shown below: outside of parapet surfaced in "straight barrel Mission tile (reddish terra cotta colored clay tile). Any damaged tiles to be replaced.



(Pictured above) is the entablature consisting of a terra cotta cornice, with scrolled modillions and a terra cotta frieze. The frieze is designed in a wave pattern with decorative panels above the pilasters ornamented with shields (1) and a lamp motif (2) at the edges of the arcade; panels above the end bays are decorated with a foliated scroll motif (3). Also illustrated is the buff-to-light red colored brick, which sheathes the body of the building above the granite water table; the smooth terra cotta blocks, surfaced with stucco, designed to appear like dressed stone and the top of the semi-circular fanlights that are faced with molded terra cotta voussoirs, with keystones in the shape of scrolled consoles.

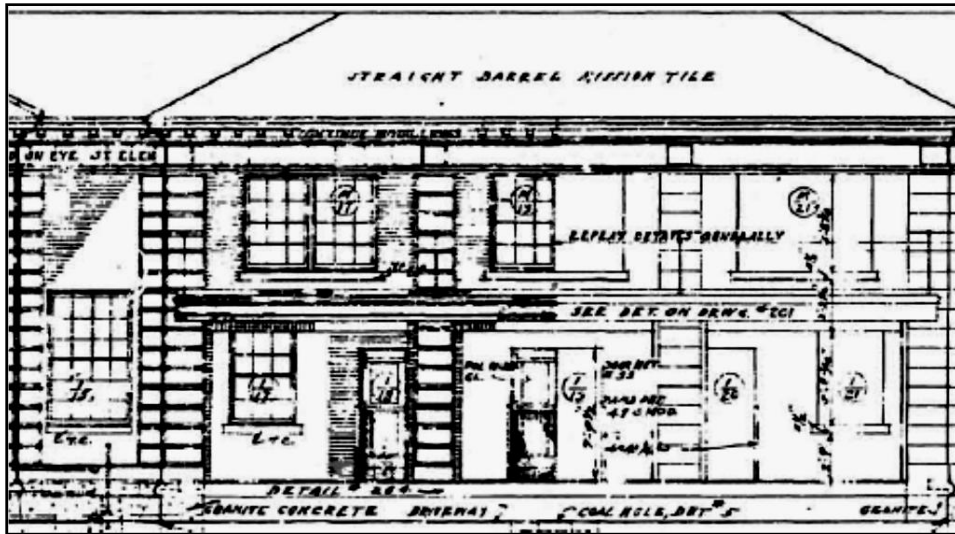
Photo to the left shows one of the pilasters with its acanthus leaf capital and classical base with a molded top.

All features to be cleaned and restored as necessary.

Entablature and Pilaster Details

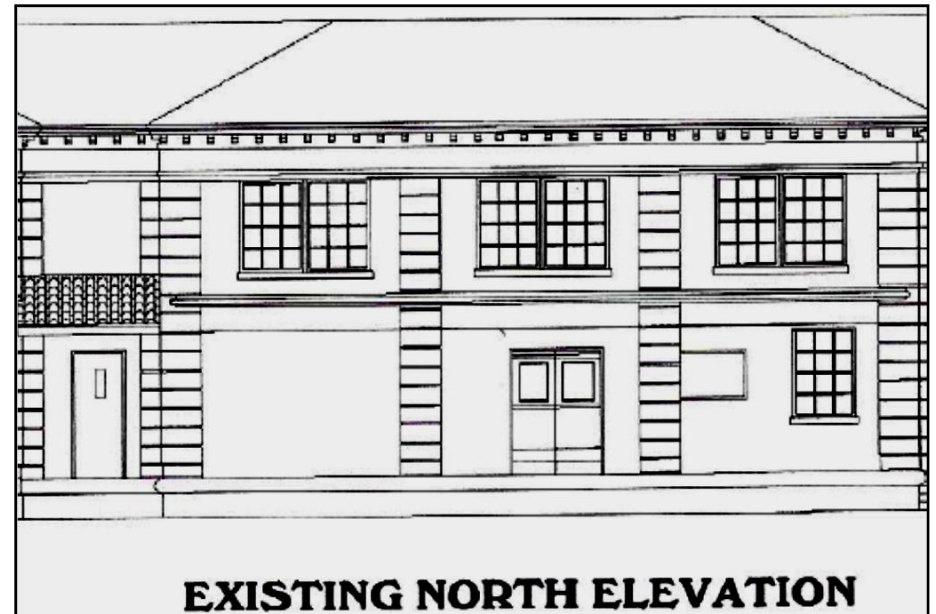
(Commission to review project details.)

Exhibit C



1932 Rear (North) Elevation

(Note: 3 sets of double doors & window to left where single door is today)

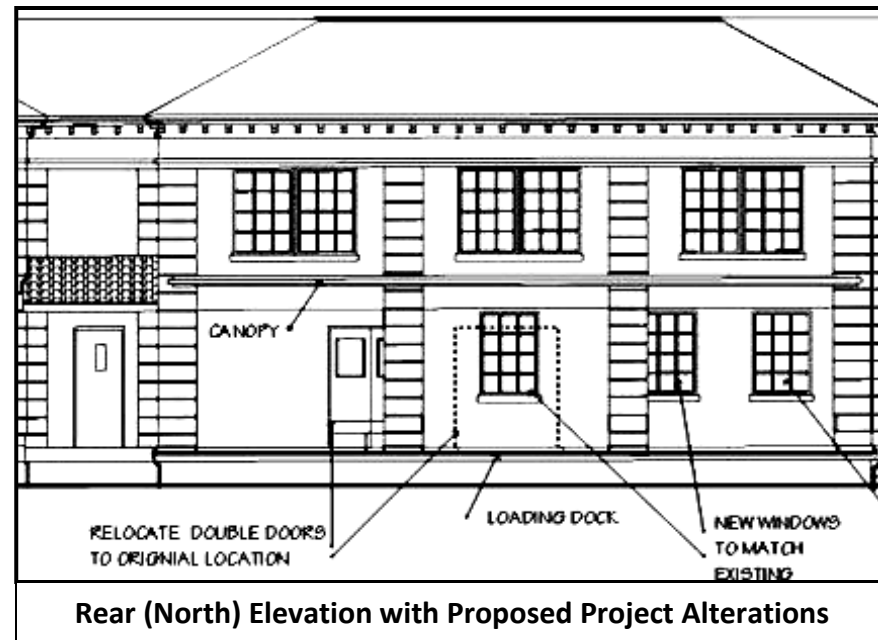


EXISTING NORTH ELEVATION

Originally 3 sets of double doors led into the mail sorting area (illustrated above left in the 1932 plan). The existing north elevation (above right) shows the changes made by 1967 renovation; the set of doors to either side of the central pair removed and the opening to the left bricked in with a window added to the opening on the right.

The proposed plan (drawing to the right) would remove the existing set of double doors and relocate them into the original location of the previously removed left set of double doors. A new window will be added where the central set of doors had been located. The existing 1967 window to the right of the current location of the double doors will be replaced. Both new windows will be compatible with the existing original dock area window. No original facade material will be removed, just the existing brick used for patching in the 1967 remodel.

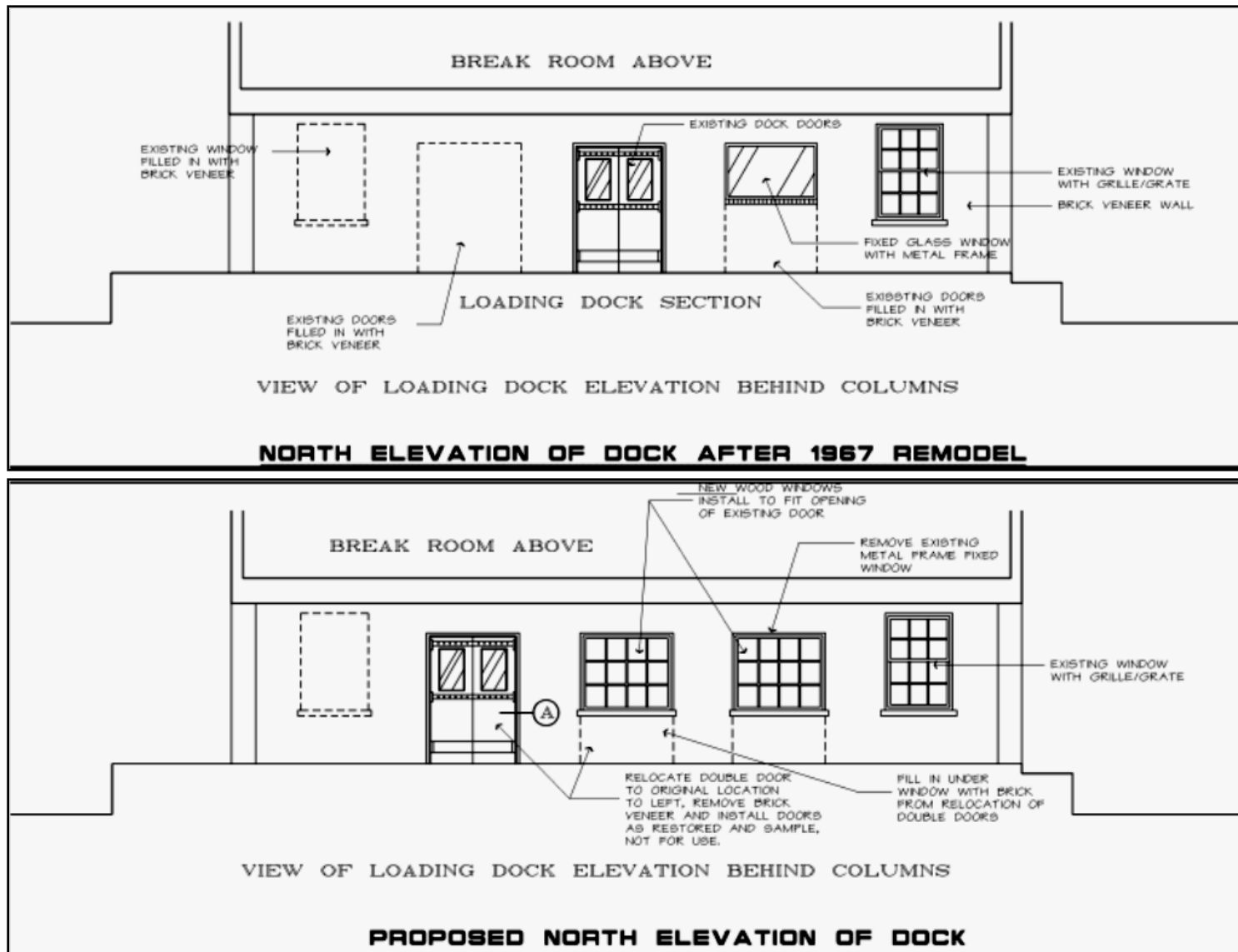
The loading dock to be used as a covered patio; no changes made to the dock floor, fascia or canopy. Existing scale to remain (see Figure 1)
(Commission to review project details.)



Rear (North) Elevation with Proposed Project Alterations

Figure 4

Exhibit C

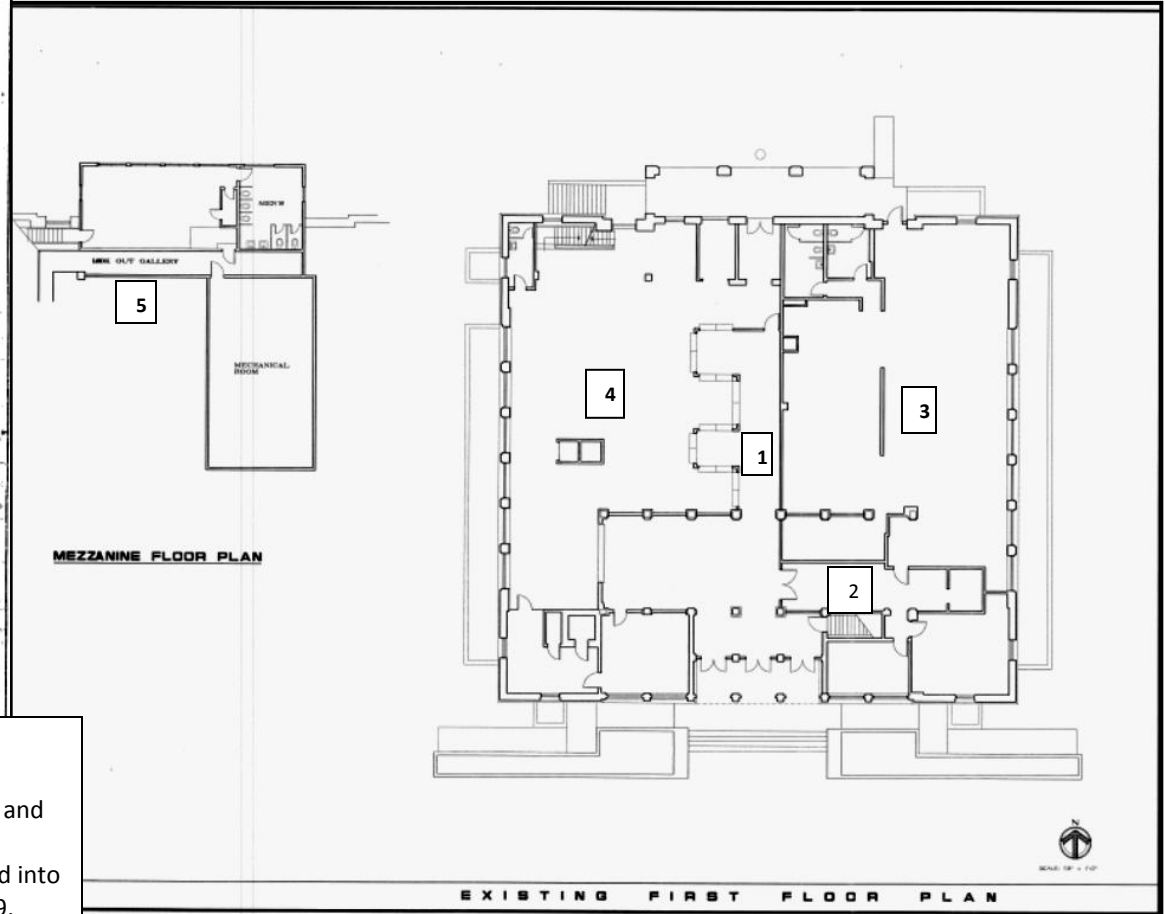
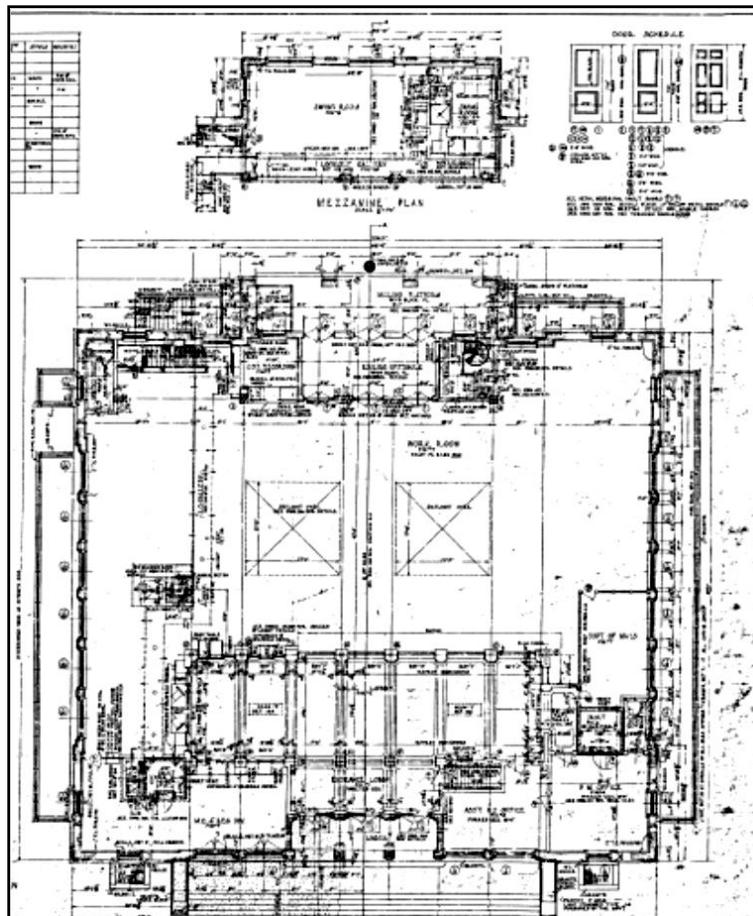


Details: North (Rear) Elevation with Proposed Alterations
(Commission to review project details.)

Figure 4.5

Exhibit C

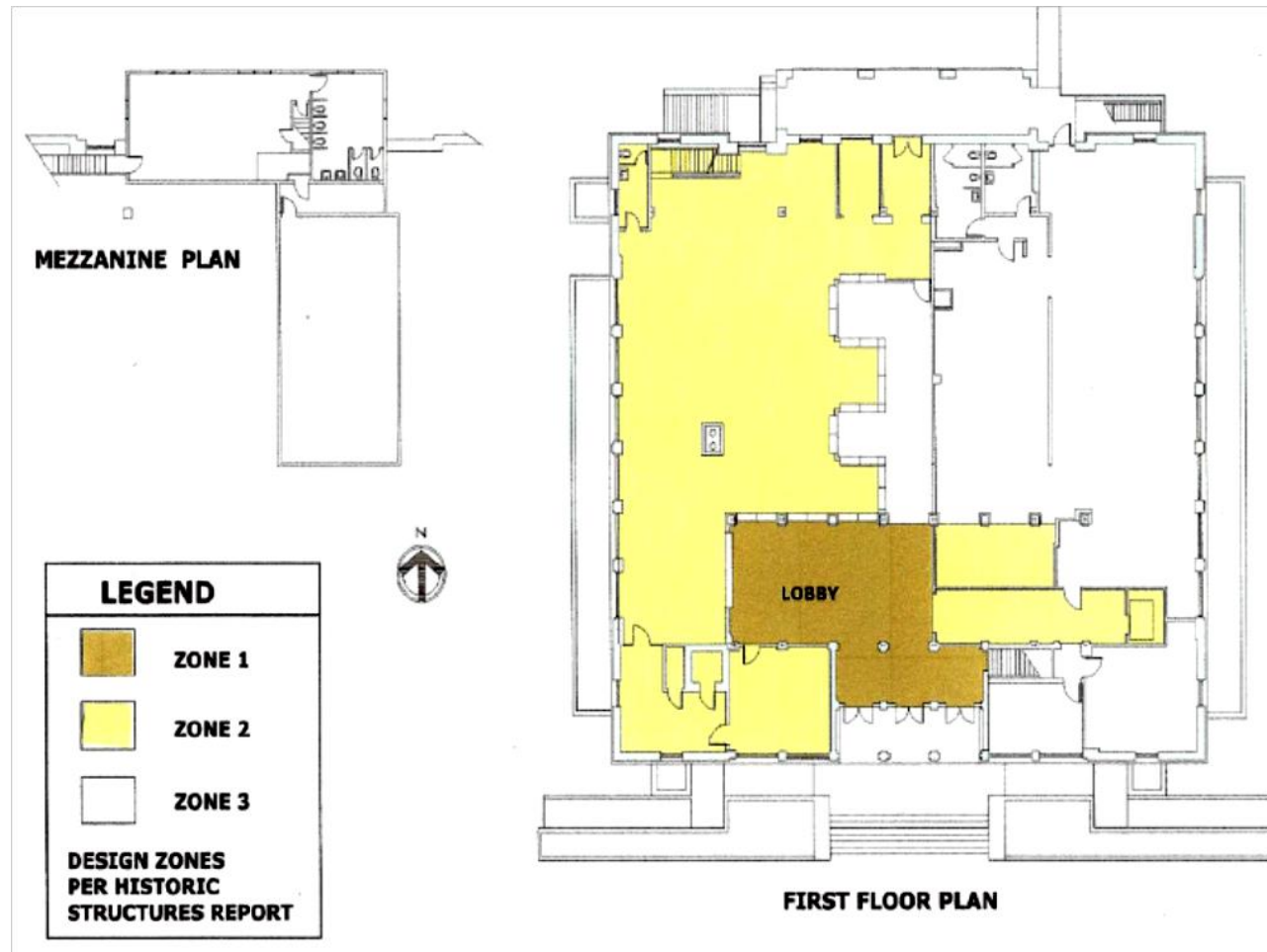
1932 First Floor and Mezzanine Plans (shown to left)



- 1967 Alterations**
1. Box Lobby and Mailing Vestibules added.
 2. South Corridor; original east end of lobby, separated by a wall and turned into a passage.
 3. Post Office Sorting Area; East half of original work room divided into offices 1960s, subsequently opened up into single space by 1989.
 4. Post Office Work Room; Originally entire north two-thirds of building, divided in the 1960s. Work room in western half of space.
 5. Lookout Gallery: Modified when access to the newly constructed mechanical room was cut through a portion of the original gallery.

Current Floor Plans (showing alterations resulting from 1967 remodel)

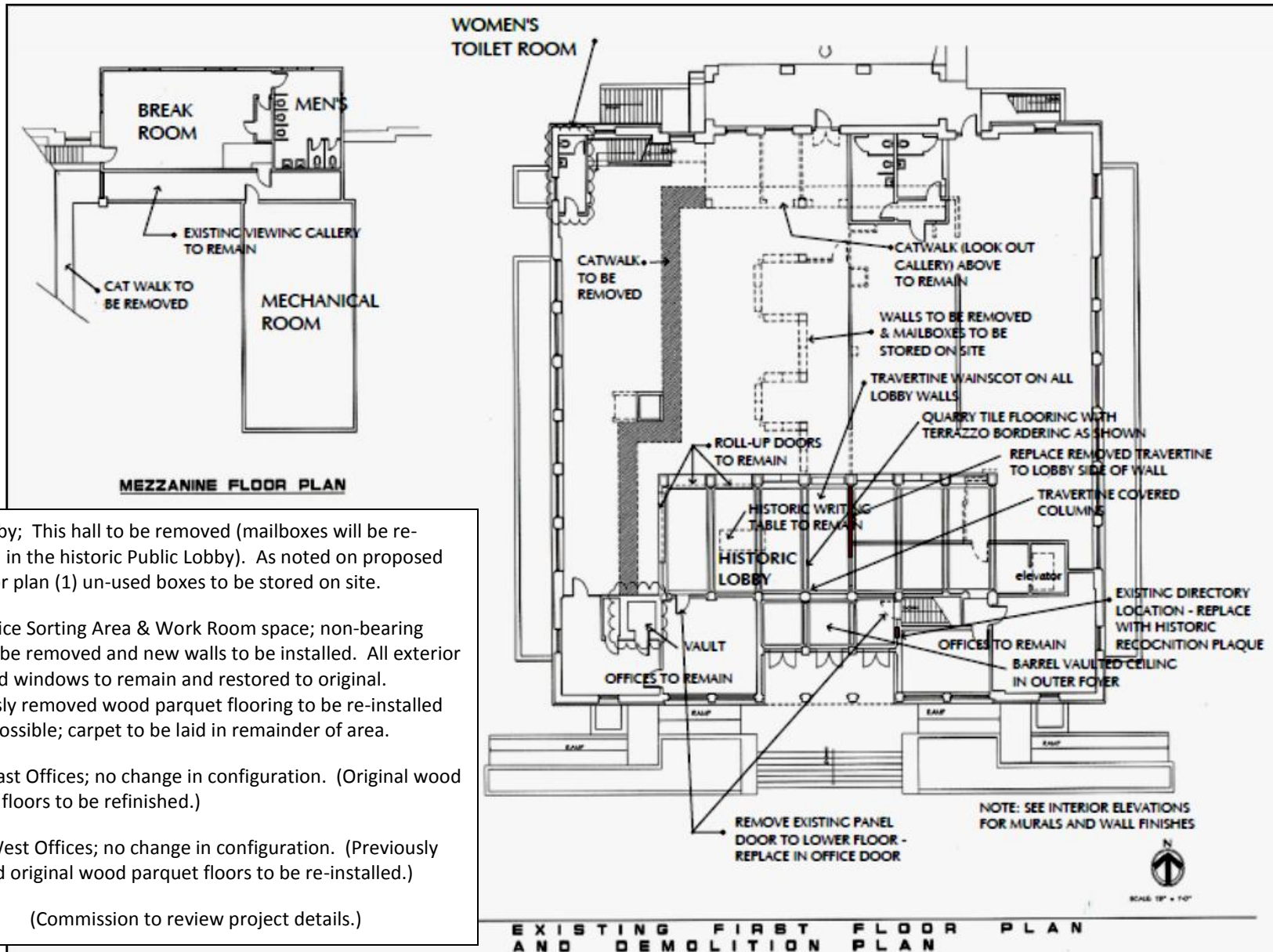
Exhibit C



First Floor and Mezzanine Design Zones

The 1989 (amended 2006) Historic Structures Report of the United States Federal Building and Post Office in Modesto, California, divided the building into three design zones with recommended treatments for each. They were Zone 1: Preservation Restoration; Zone 2: Preservation/Rehabilitation; Zone 3: Maintenance/Remodeling. Most of the changes made by the proposed project will occur in zones 2 and 3.

Exhibit C: Modesto Post Office and Federal Building Site Plan



Box Lobby; This hall to be removed (mailboxes will be re-installed in the historic Public Lobby). As noted on proposed first floor plan (1) un-used boxes to be stored on site.

Post Office Sorting Area & Work Room space; non-bearing walls to be removed and new walls to be installed. All exterior walls and windows to remain and restored to original. Previously removed wood parquet flooring to be re-installed where possible; carpet to be laid in remainder of area.

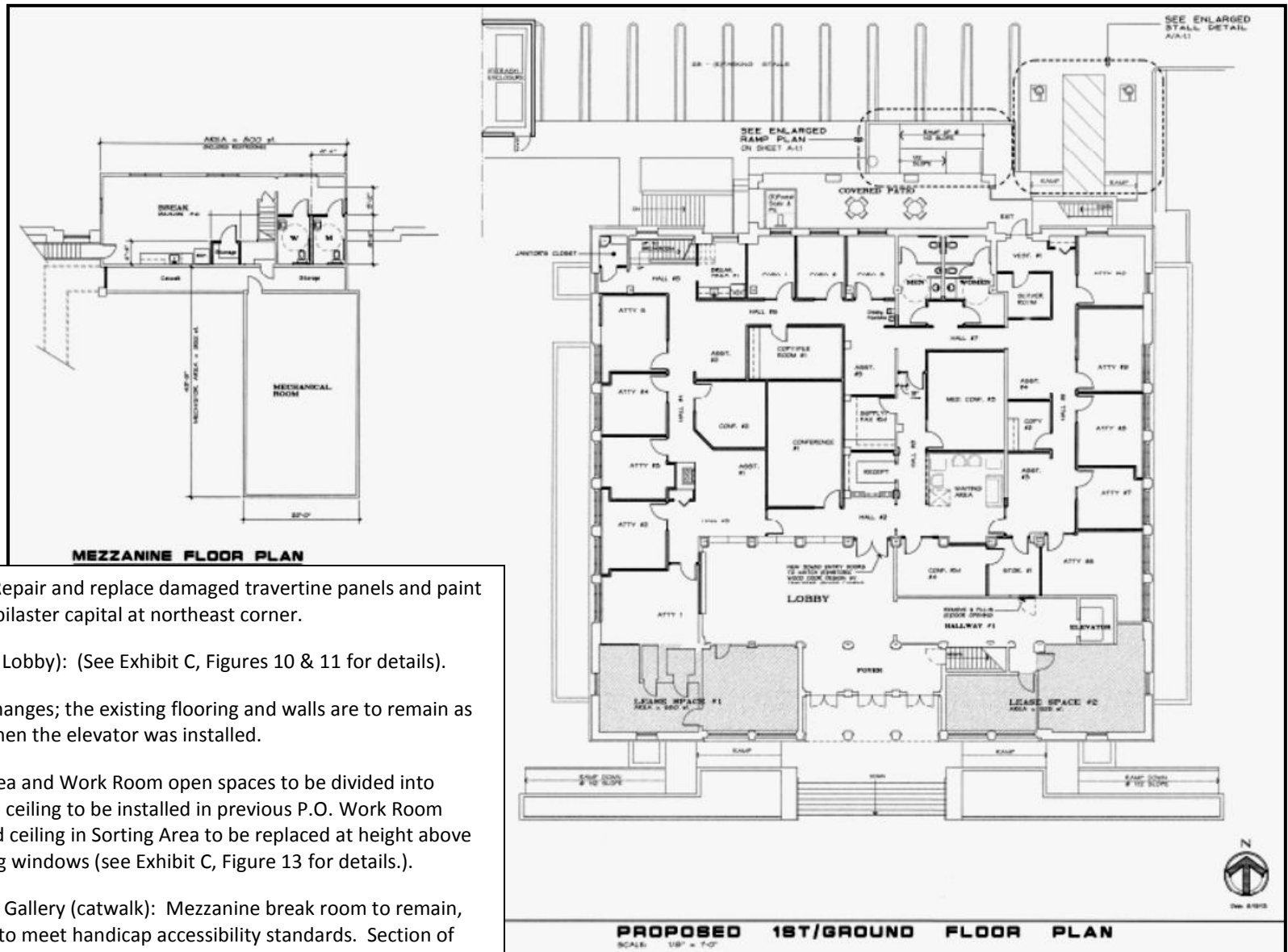
South-East Offices; no change in configuration. (Original wood parquet floors to be refinished.)

South-West Offices; no change in configuration. (Previously removed original wood parquet floors to be re-installed.)

(Commission to review project details.)

Proposed Project First Floor and Mezzanine Plan (1)

Exhibit C



Proposed Project First Floor and Mezzanine Plan (2)

(Commission to review project details.)

Figure 8

Entry Lobby (Foyer); Repair and replace damaged travertine panels and paint plaster walls. Repair pilaster capital at northeast corner.

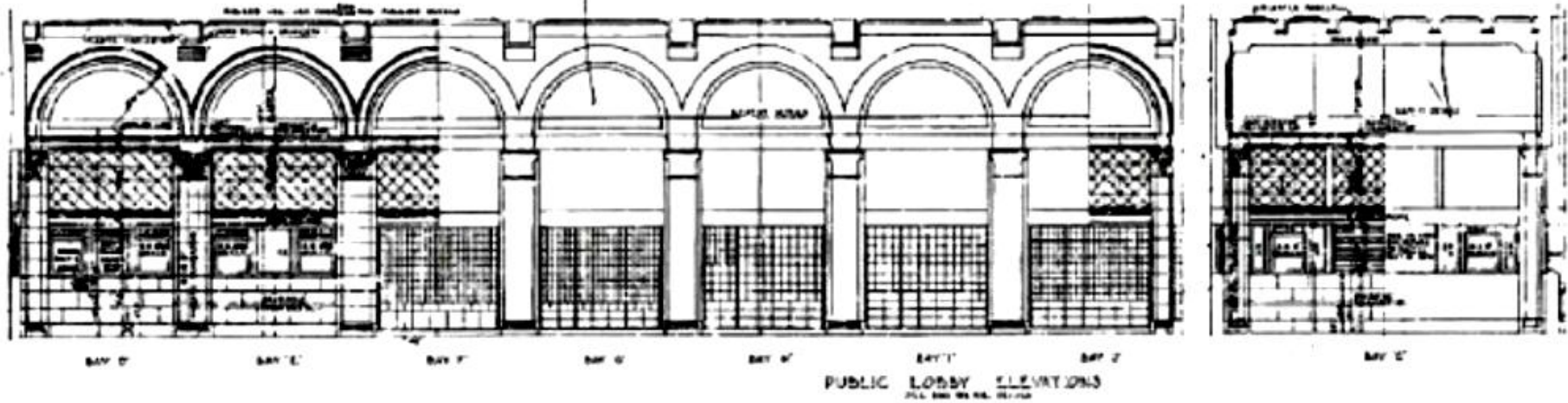
Public Lobby (Historic Lobby): (See Exhibit C, Figures 10 & 11 for details).

South Corridor; No changes; the existing flooring and walls are to remain as remodeled in 1978 when the elevator was installed.

Post Office Sorting Area and Work Room open spaces to be divided into offices. New dropped ceiling to be installed in previous P.O. Work Room area; existing dropped ceiling in Sorting Area to be replaced at height above arched tops of existing windows (see Exhibit C, Figure 13 for details.).

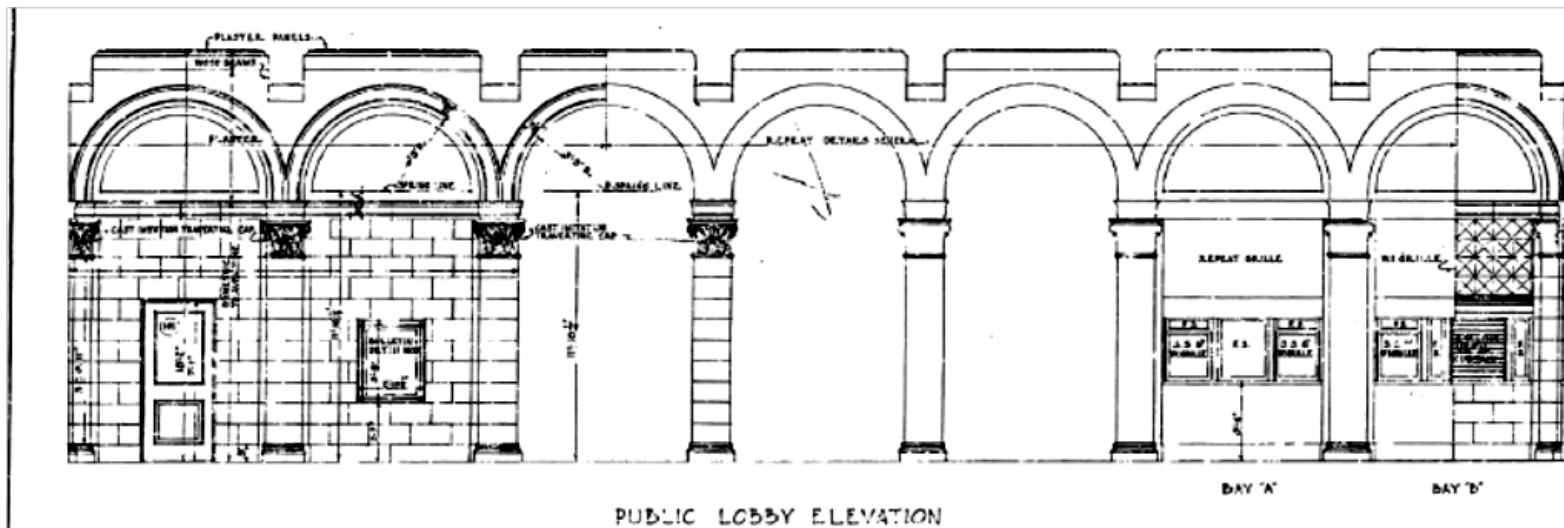
Mezzanine & Lookout Gallery (catwalk): Mezzanine break room to remain, restrooms renovated to meet handicap accessibility standards. Section of Lookout Gallery along mezzanine to remain; section running north and south to be removed (See Exhibit C, Figure 12 for details).

Exhibit C



North Elevation

West Elevation



South Elevation

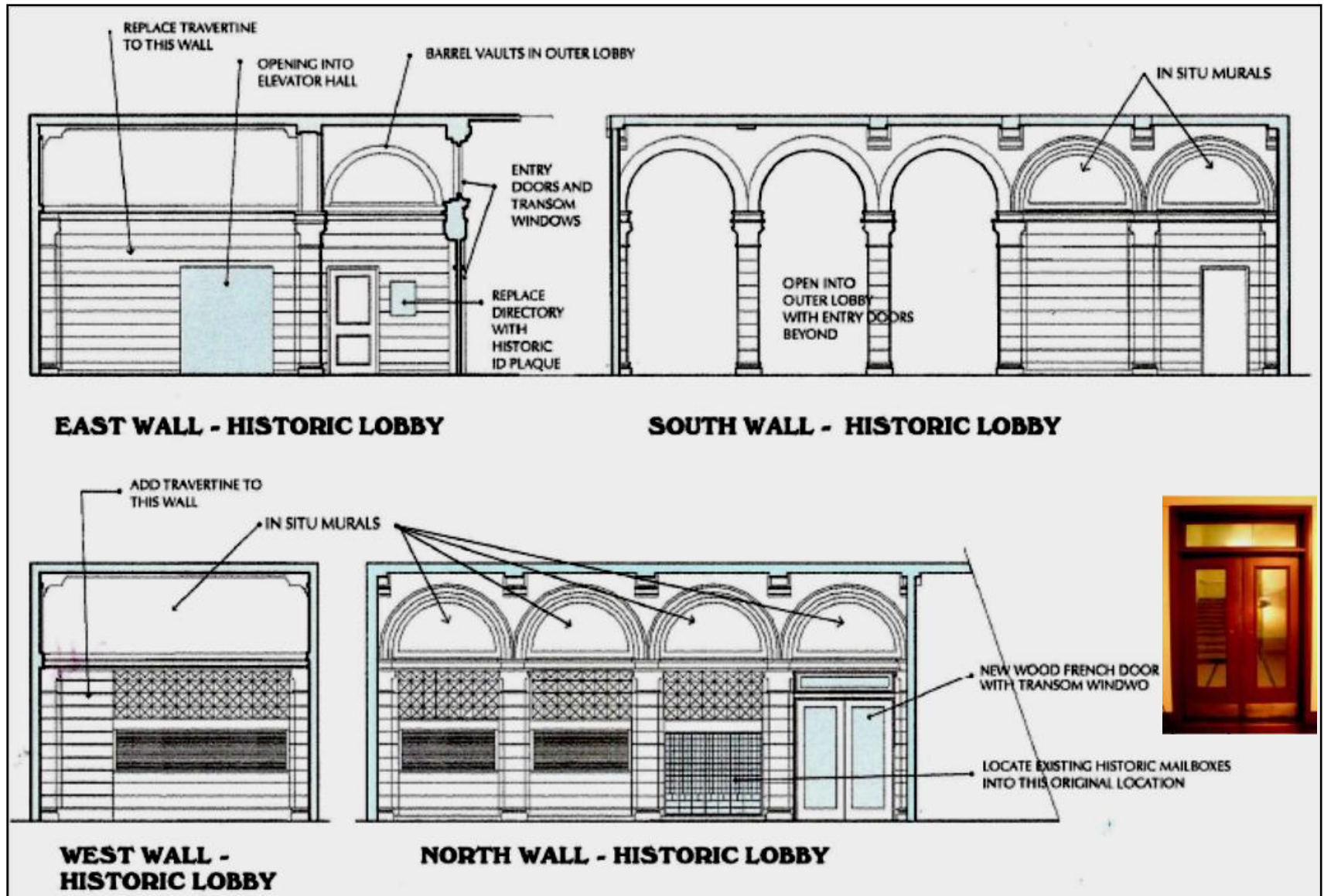
(Historic) Public Lobby - 1932 Plans

Exhibit C

Public Lobby;
Travertine tiles previously removed from east lobby wall (erected 1967 remodel) to be re-installed.

New wood framed glass door with transom (where entry to Box Lobby existed in north elevation) to be installed as entry into new office suite.

Some mailboxes salvaged from 1967 Box Lobby and Mailing Vestibules to be relocated to an original bay in Public Lobby.

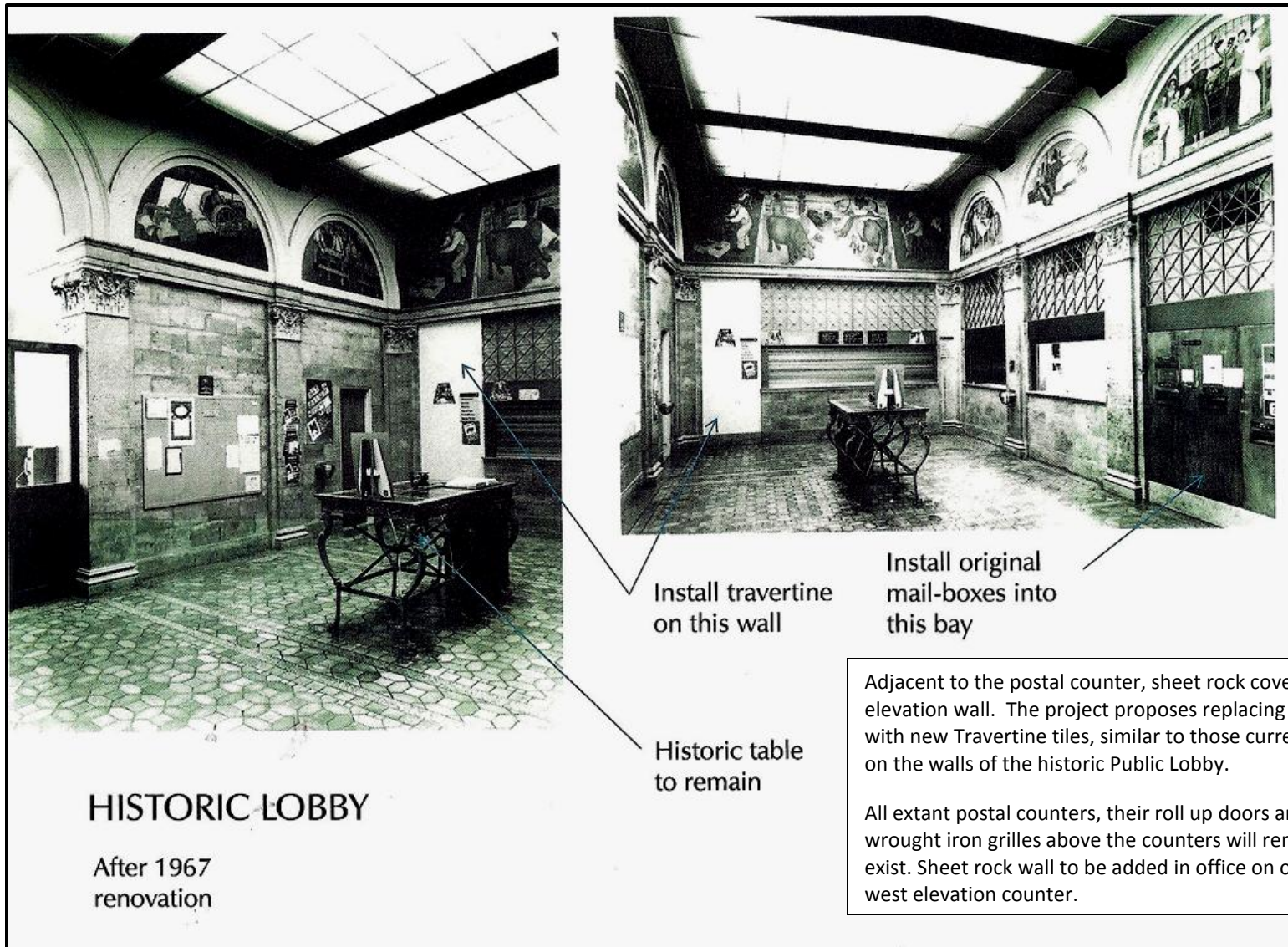


Proposed Project - Public Lobby Alterations (1)

(Commission to review project details.)

Figure 10

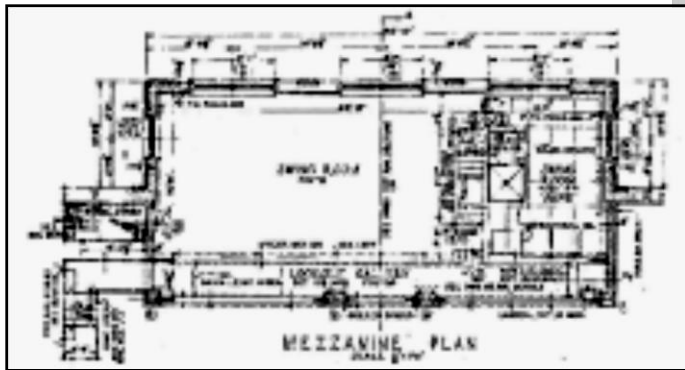
Exhibit C



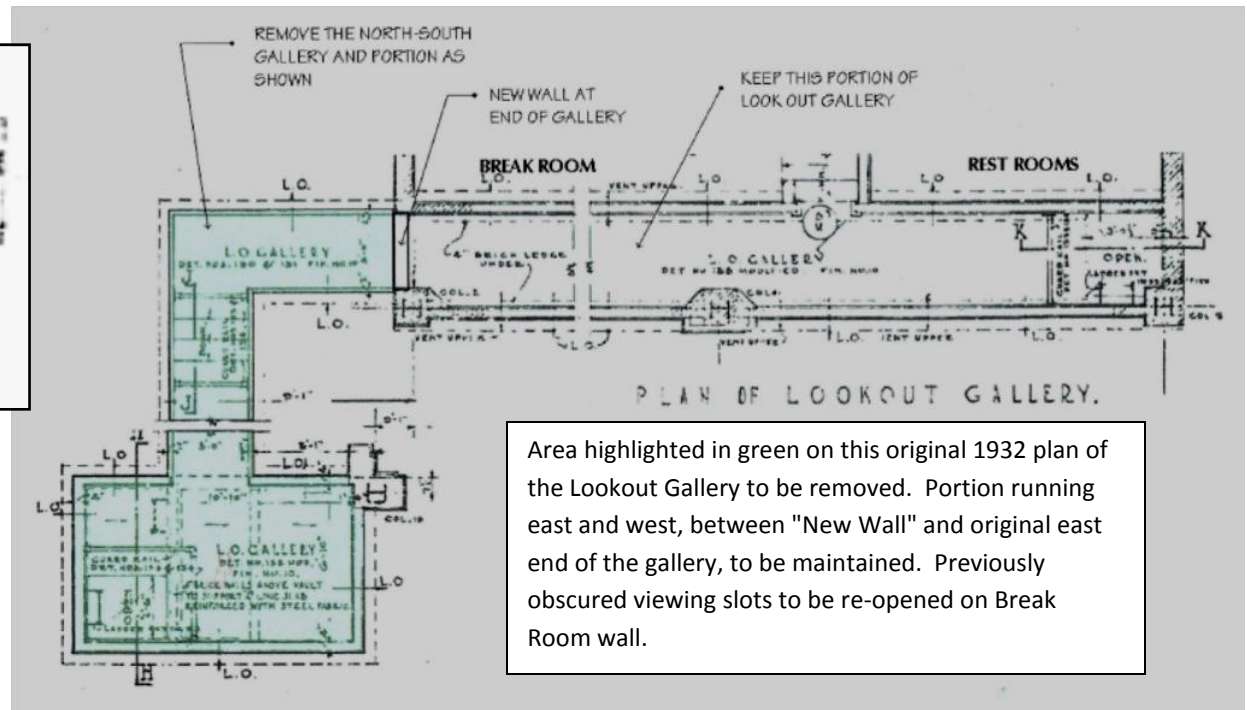
Proposed Project - Public Lobby Alterations (2)

(Commission to review project details.)

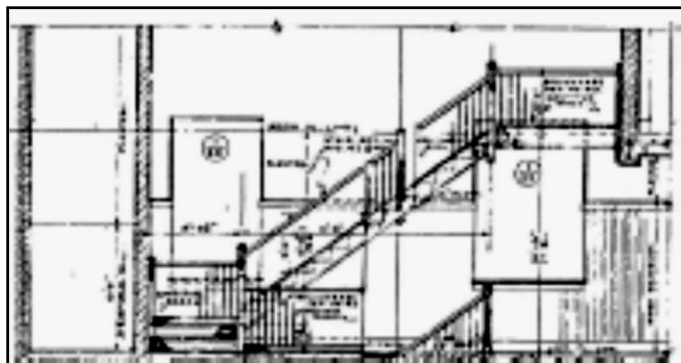
Exhibit C



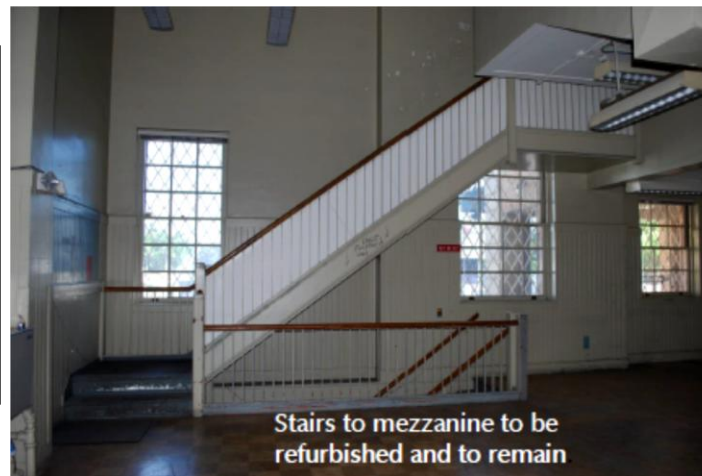
The above 1932 plan shows the Lookout Gallery abutting the Mezzanine.



Area highlighted in green on this original 1932 plan of the Lookout Gallery to be removed. Portion running east and west, between "New Wall" and original east end of the gallery, to be maintained. Previously obscured viewing slots to be re-opened on Break Room wall.



Shown above, are the stairs leading to the Mezzanine as drawn in the original plans.



Stairs to mezzanine to be refurbished and to remain

Mezzanine Staircase and Lookout Gallery

(Commission to review project details.)

Exhibit C



Remove existing suspended ceiling and raise height to Be above the arches of the exterior windows which are currently covered by the ceiling.



The exterior windows on both the east and west sides of the original sorting room were large tripartite, double-hung, wood 6/6, with a central window flanked by 3/3 windows on each side and semicircular fanlights located above each window (seen in the rear of the photo above left, dated December 17, 1934). Currently a suspended ceiling obscures the window fanlights in the area that is today the eastern half of the original room. The proposed project's intention is to restore the interior view of the windows on the east side of the building to the original view by replacing the existing ceiling with a new one that ensures the ceiling height is above the top of the fanlights.

East Side of Post Office Sorting Area - Exterior Windows and Ceiling Project Proposals

Figure 13

EXHIBIT D: Recommended National Park Service Preservation Briefs

The National Park Service (NPS) Preservation Briefs provide guidance on preserving, rehabilitating, and restoring historic buildings, aiding in the recognition and resolution of common problems prior to work. Using methods and approaches for rehabilitating historic buildings that are consistent with their historic character, the following NPS Publications are recommended for work on Character Defining Elements of the Modesto Federal Building and Post Office.

Available at : <http://www.nps.gov/tps/how-to-preserve/briefs.htm>

EXTERIOR

No. 1. Cleaning and Water-Repellent Treatments for Historic Masonry Buildings **and No. 2., Repointing Mortar Joints** in Historic Masonry Buildings
EXTERIOR BRICK WALLS

No. 7. The Preservation of Historic Glazed Architectural **Terra-Cotta**
ALL TERRA COTTA ORNAMENTAL DETAILS including the following:

EMBALATURE

PILASTERS

CAPITALS AND BASES

CORNER BLOCKS

MOLDED VOUSOIRS AND KEYSTONES

WINDOW SILLS

No. 9. The Repair of Historic **Wooden Windows**
ALL WINDOWS

No. 27. The Maintenance and Repair of Architectural **Cast Iron**
ORNAMENTAL CAST IRON LIGHT FIXTURES

No. 30. The Preservation and Repair of Historic **Clay Tile Roofs**
PARAPET

INTERIOR

No. 21. Repairing Historic **Flat Plaster** --Walls and Ceilings
ENTRY LOBBY
LOBBY
SOUTH CORRIDOR (South Wall)
VAULT

Also useful are **No. 24., Heating, Ventilating, and Cooling** Historic Buildings; Problems and Recommended Approaches and **No. 30., Removing Graffiti** from Historic Masonry.

Exhibit E: Illustrated Summary of Adverse Effects

Summary

Exterior

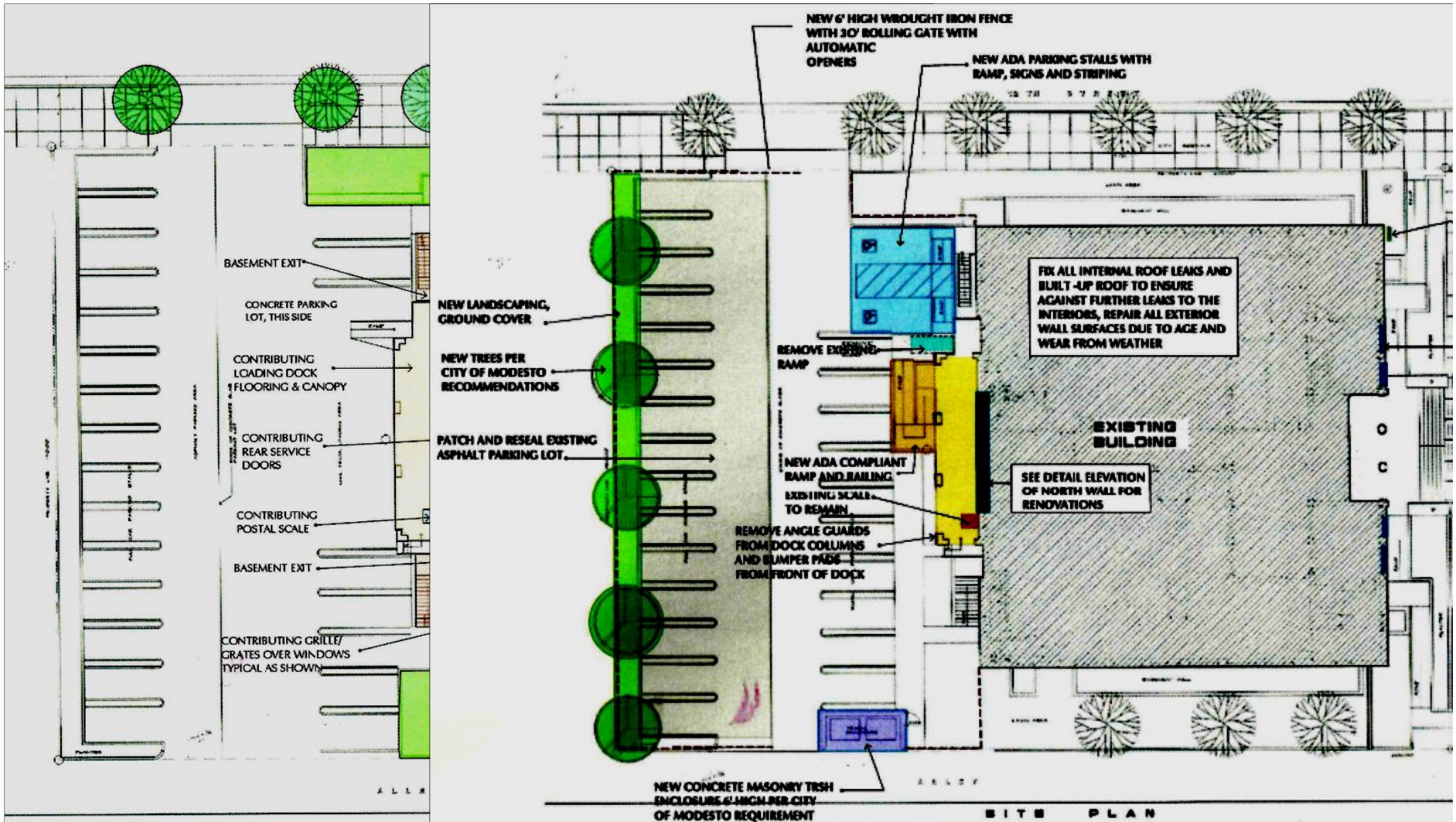
- The addition of new wrought iron fencing enclosing the original open rear parking area will alter the historic site plan.
- Removal of decorative wrought-iron grilles covering the tripartite windows on the front facade will remove original materials and alter an historic feature of the building.
- Relocation of original set of double doors and insertion of new window into rear facade will alter original materials and affect the current arrangement of windows, doors and walls, voids and solids.

Interior

- Insertion of a new door on the north wall of the historic Public Lobby will alter original design. affecting the Public Lobby's historic arrangement of openings and walls, voids and solids.
- Construction of office spaces in the original Post Office work room, sorting area and box lobby will subdivide character-defining interior space, altering the historic floor plan and original circulation pattern and diminishing the overall historic character of the building.
- The addition of a suspended ceiling into the original work room area will obscure original architectural elements and finishes.
- Removal of original flooring results in the removal of original materials and the loss of a character defining finish.
- Removal of a section of the Lookout Gallery will alter an original feature.

Illustrations Exterior

Adverse Effect: The addition of new wrought iron fencing will alter the historic site plan.



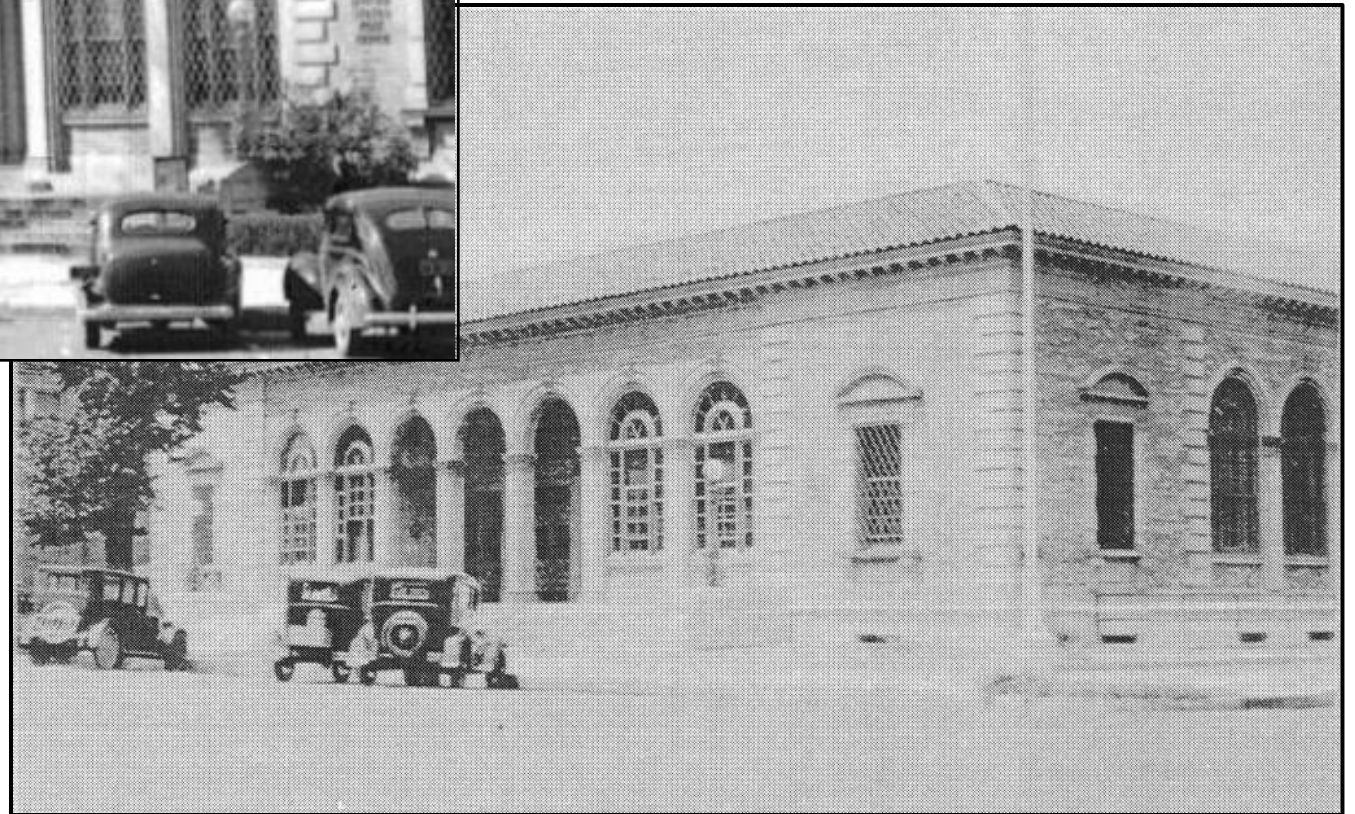
Existing parking area

Proposed fenced in parking area (dotted line indicates wrought iron fence)

As shown in the above site plans, installation of a wrought iron fence that completely encircles the original open rear parking area will alter the existing site plan by enclosing an historically open space.

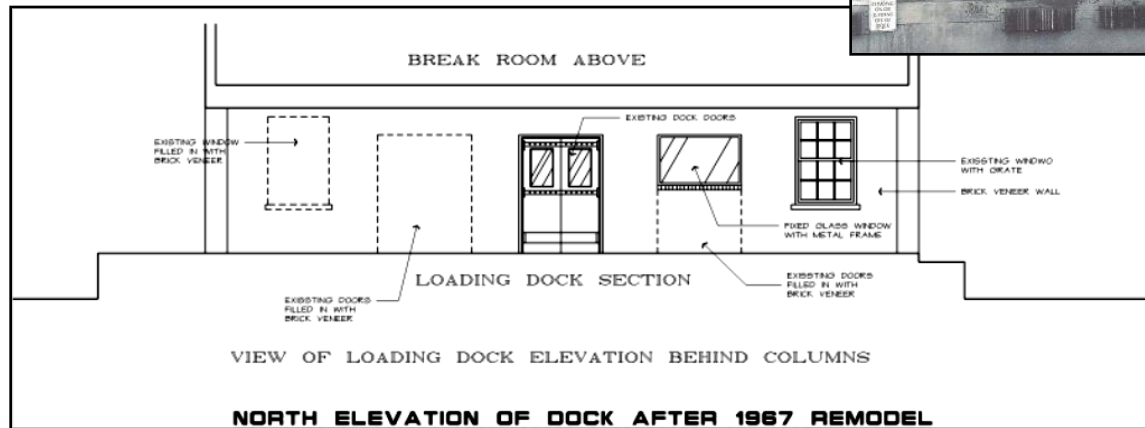
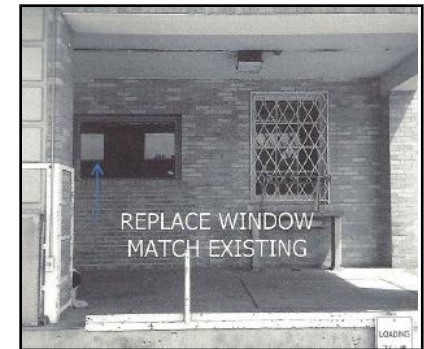
Exhibit E: Illustrated Summary of Adverse Effects

Adverse Effect: Removal of decorative wrought-iron grilles covering the tripartite windows on the front facade will remove original materials and alter an historic feature of the building.



As illustrated by the mid-1930s postcard to the right, when the Post Office was opened in 1933, only the windows set into the corner pavilions were protected by decorative hinged wrought iron grilles. By the 1940s, grilles had been added to cover the tripartite windows, set to either side of the front entry arcade (shown in the photo above). The current view (above right) shows the grilles are still in place. The project proposes removing the grilles from the tripartite windows, thus restoring these windows to their original appearance at the time of the building's opening. The grilles will be salvaged and stored on site if needed for later reinstallation.

Adverse Effect: Relocation of original set of double doors and insertion of new window into the rear elevation (dock area) will alter original materials and affect the current arrangement of windows, doors and walls, voids and solids.

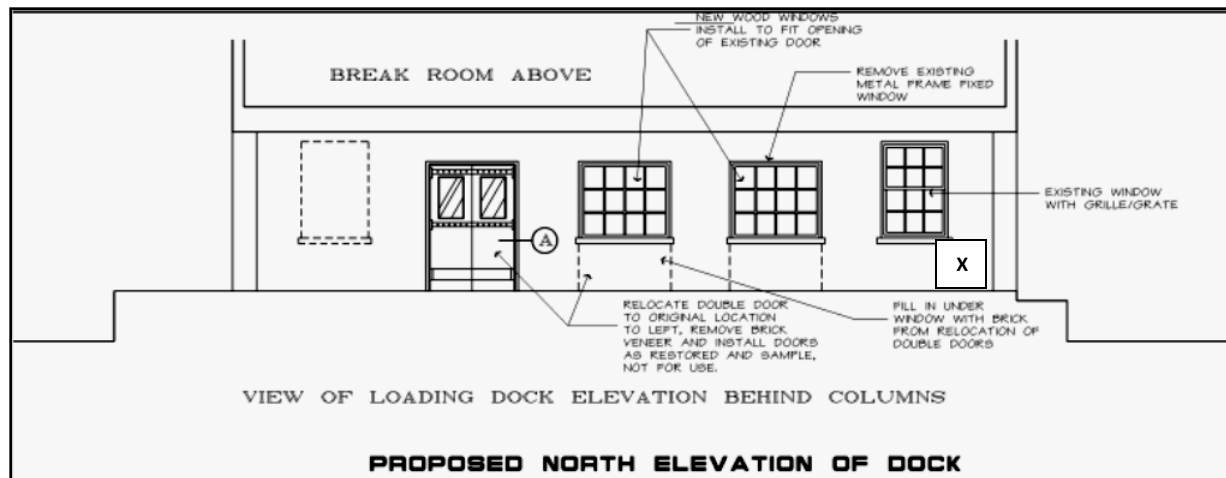


Notes:

As well as the angle corner guards on the loading dock columns (shown above), the loading dock bumpers will be removed.

X (drawing below left) indicates Postal Scale to remain

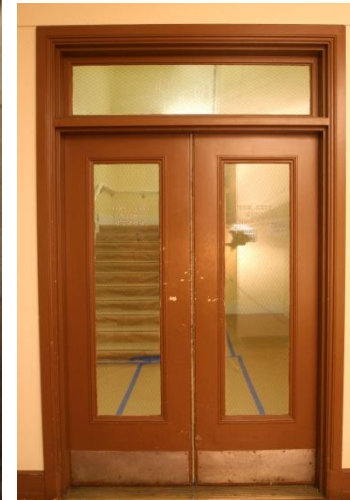
Existing Rear Elevation (Dock Area) shown in drawing to left. Columns in drawing removed for clarity of view.



Originally 3 sets of double doors led into the mail sorting area. As the result of the 1967 renovation, the set of doors to either side of the central pair were removed. The opening to the left was bricked in and a window added to the opening on the right.) As shown in the drawing to the right, the proposed plan would remove the existing set of double doors (illustrated in the photograph top center) and relocate them into the original location of the previously removed left set of double doors (A). A new window will be added where the central set of doors had been located. The existing 1967 window to the right (shown in upper right photo) will be replaced. Both new windows will be sized to fit within original door openings with brick salvaged from previously filled in door opening used to fill in spaces under new windows.

Interior

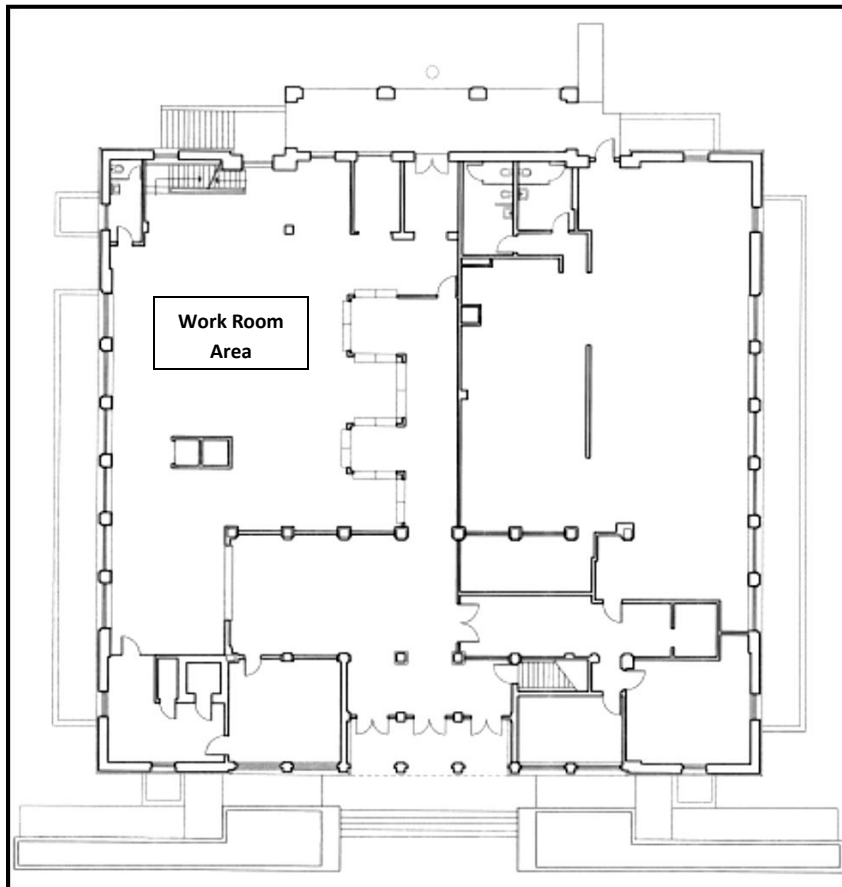
Adverse Effect: A new door on the north wall of the historic Public Lobby will alter original design. affecting the Public Lobby's historic arrangement of openings and walls, voids and solids.



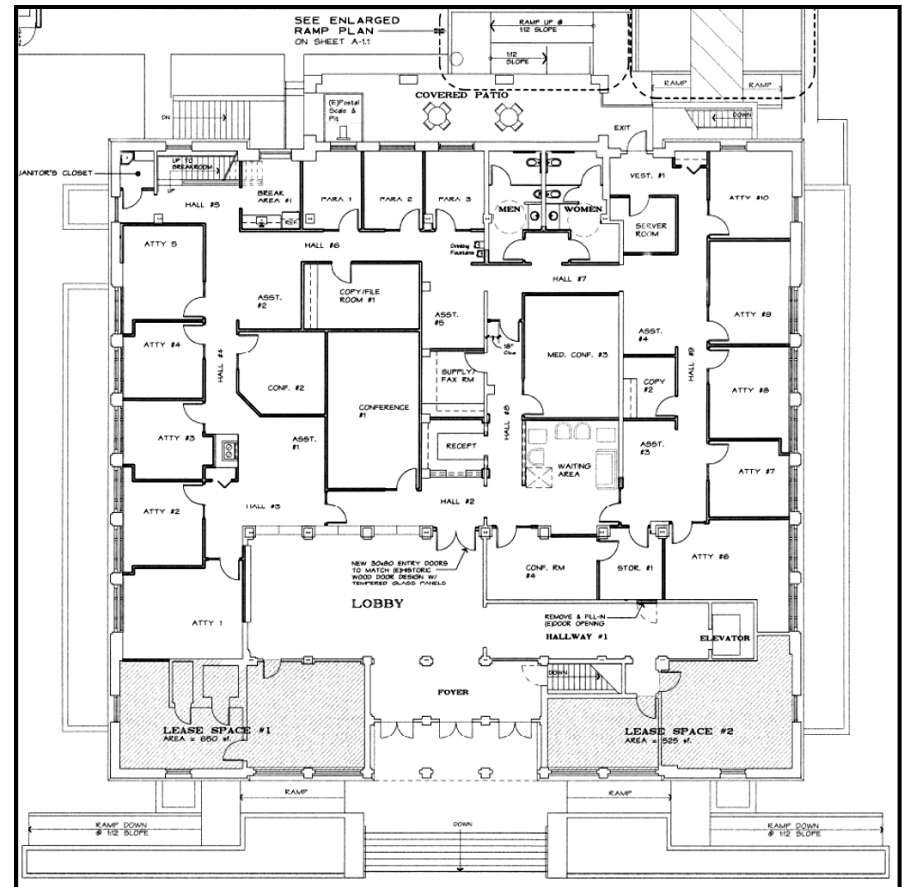
Shown in the above photograph is the north wall of the Public Lobby with the opening between the pilasters that leads into the current Box Lobby and mailing vestibules area. Illustrated by the photo to the left is an example of the wood framed glass double door, with transom, proposed to be placed into the existing opening to create an entry into the new office suite.

Adverse Effect: Construction of office spaces in the original Post Office work room, sorting area and box lobby will subdivide character-defining interior space, altering the historic floor plan and original circulation pattern and diminishing the overall historic character of the building.

Adverse Effect: The addition of a suspended ceiling into the original work room area will obscure original architectural elements and finishes.



Existing Floor Plan

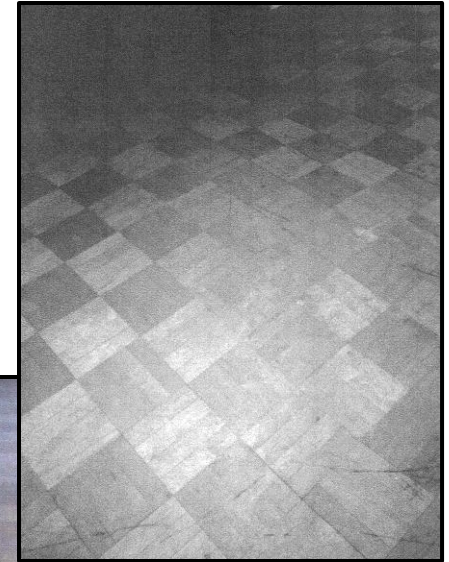
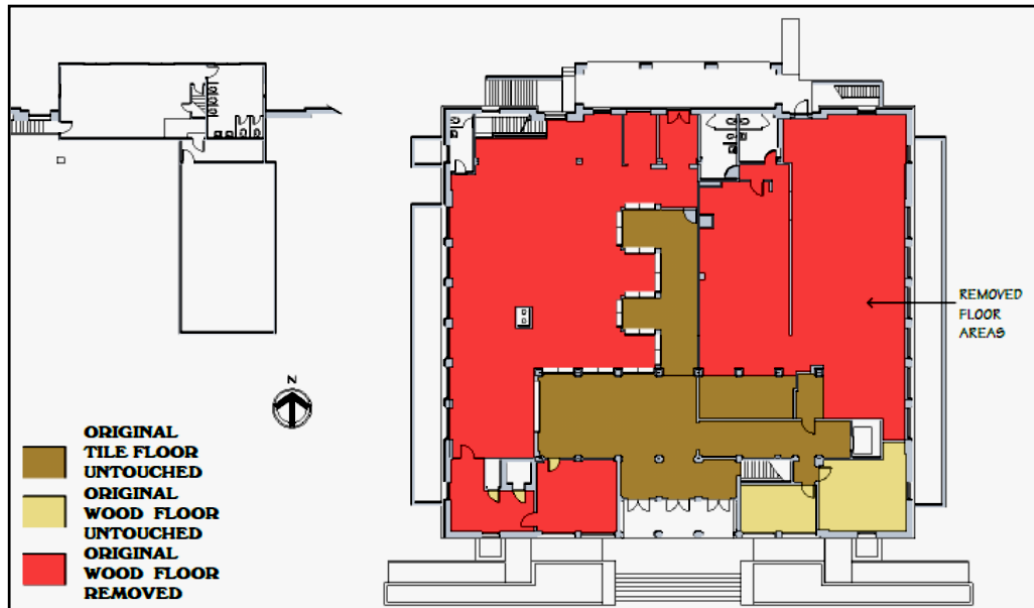


Proposed Floor Plan

All non-load bearing walls that currently delineate the work room, sorting area, box lobby and mailing vestibules, in the area of the building beyond the historic lobby are to be removed. New walls and suspended ceilings, to partition the area into office spaces, to be installed (see diagram to the right).. The new suspended ceiling in the work room area will obscure the original high plaster ceiling. All exterior walls and windows to remain and restored to original condition.

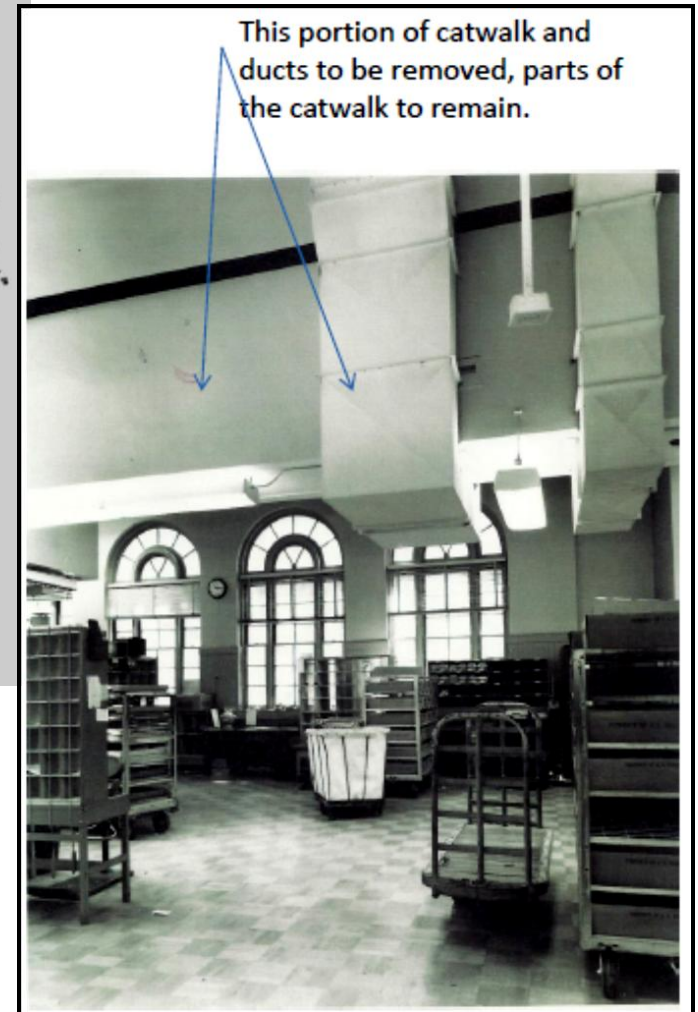
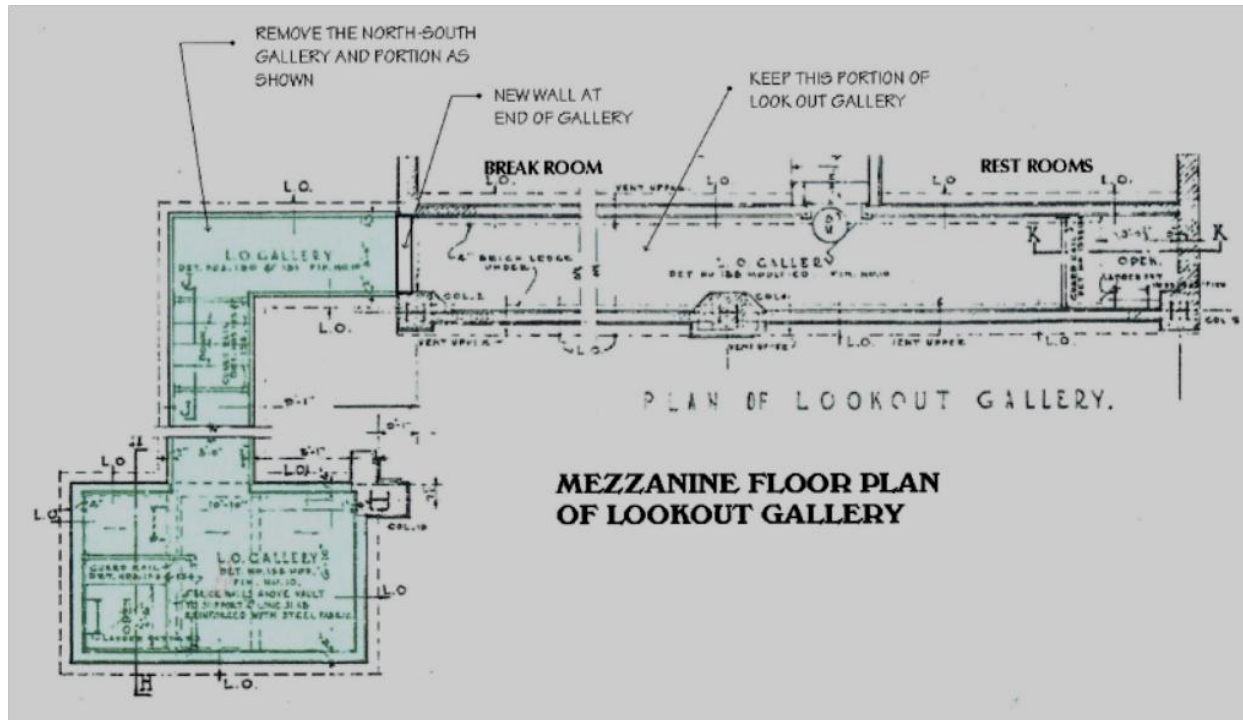
Exhibit E: Illustrated Summary of Adverse Effects

Adverse Effect: Removal of original flooring results in the removal of original materials and the loss of a character defining finish.



When constructed, the Post Office's work Room, sorting area, west and east offices were floored with oak and hard maple parquet (illustrated by the photographs to the right). Due to water damage, the parquet floor was removed in the work room and sorting area (see above diagram). About 40% of the flooring is too deteriorated to repair. At the same time the flooring was removed in the west office. The project will reinstall the wood parquet flooring in the west office, refinish the existing wood parquet flooring in the east office and reinstall the parquet flooring in the new office suite area in areas yet to be determined.

Adverse Effect: Removal of a section of the Lookout Gallery will alter an original feature.



The Lookout Gallery (catwalk) is a long passageway with a continuous wood shelf on both sides. Originally there were small glass and metal viewing slots that overlooked the floor below, and have since been covered up. A portion of this gallery is accessible from the mezzanine level. Area highlighted in green on this original 1932 plan of the Lookout Gallery is to be removed (see photograph to the right) in order to install a dropped ceiling for the new office space.

The portion running east and west, between the "New Wall" and the original east end of the gallery, and which is accessible from the mezzanine, is the section proposed to be maintained. The viewing slots, which open into the Mezzanine break room will be uncovered.

EXHIBIT F:
United States Post Office, Modesto, California - 1932 Plans
(5 Sheets)

