

**STATE OF NORTH CAROLINA
COUNTY OF ORANGE**

**SECOND AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING
SOUTH GREENSBORO STREET PROPERTY
BY AND BETWEEN
THE TOWN OF CARRBORO, NORTH CAROLINA
AND
THE COUNTY OF ORANGE, NORTH CAROLINA**

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (the “*Second Amendment*”), amends the original DEVELOPMENT AGREEMENT REGARDING SOUTH GREENSBORO STREET PROPERTY BY AND BETWEEN THE TOWN OF CARRBORO, NORTH CAROLINA AND THE COUNTY OF ORANGE, NORTH CAROLINA dated December 4, 2017, as amended by the First Amendment to Development Agreement dated May 1, 2020, is made and entered into as of the _____ day of _____, 2022, by and between the **TOWN OF CARRBORO**, a North Carolina municipal corporation, hereafter referred to as the “*Town*”, and **THE COUNTY OF ORANGE**, a North Carolina county, hereafter referred to as the “*County*”. Collectively, the Town and the County are sometimes referred to in this Agreement as the “Parties”.

W I T N E S S E T H:

WHEREAS, the County and the Town entered into the original Agreement dated as of December 4, 2017; and

WHEREAS, pursuant to the original Agreement, the Town has entered into contracts for the design and construction of the proposed improvements for the Project on the Property; and

WHEREAS, significant changes have been made to the plan for development of the Property which is the subject of the Agreement; and

WHEREAS, the Parties entered into a First Amendment to Development Agreement (“First Amendment”) dated May 1, 2020, to reflect previous changes to the design and plan for development of the Property; and

WHEREAS, the Town and the County have each received, reviewed and on March 15, 2022 approved the Guaranteed Maximum Price (“GMP”; copy of GMP dated March 8, 2022 is attached hereto and incorporated by reference herein) for the Project and have determined to proceed with completion of the Project based on the GMP approved for the Project in the amount of Thirty Four Million Six Hundred Ninety Two Thousand Sixty Seven and no Hundredths Dollars (\$34,692,067.00); and

WHEREAS, the Parties wish to further amend the Agreement as set forth herein to reflect the change in circumstances which have occurred since the execution of the First Amendment; and

WHEREAS, it is the intent of the Parties that except as further amended by this Second Amendment, the terms of the Original Agreement shall remain in full force and effect; and

WHEREAS, the Town is authorized to enter into this contract pursuant to, *inter alia*, the North Carolina General Statutes (“**N.C.G.S.**”) 160A-16, and the County is authorized to enter into this contract pursuant to, *inter alia*, North Carolina General Statutes 153A-11, *et seq.*, and the Town’s Town Council and the County’s Board of County Commissioners have each determined that it is in the best interests of their citizens to do so.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the County intending to be legally bound do hereby agree as follows:

1. The Parties substitute the attached Partner Cost Allocation Plan prepared by Perkins & Will and dated February 23, 2022 as Exhibit C to the Agreement. To the extent that there is any discrepancy between the project cost reflected in the Partner Cost allocation Plan (Exhibit C) and the GMP, the GMP shall control; however, the Partner Cost Allocation percentages as shown on Exhibit C controls as to allocation of the GMP). All previous cost allocations for the Project are null and void.
2. Either Party may decide to seek bid alternates affecting their allocated space in the Project. In the event that a Party does award an alternate bid affecting its space only, then that Party shall bear 100% of any additional cost or of any savings realized as a result of the bid alternate.
3. Notwithstanding anything in the Agreement or the First Amendment to the contrary, the Parties each agree to pay their proportionate share of the Project costs as reflected on Exhibit C. The Town shall invoice the County Finance Office on a regular basis, not more frequently than once each month, for reimbursement of Project costs, and the County shall pay its share of such costs pursuant to the invoice within thirty (30) days of receipt of the Town’s invoice.
4. Except as specifically amended by this Second Amendment, the terms of the Agreement (as amended by the First Amendment), remain in full force and effect.

[signatures contained on next page]

IN WITNESS WHEREOF, the parties have executed this First Amendment the day and year first above written.

TOWN OF CARRBORO

(Town Seal)

BY: _____
Richard White, Town Manager

ATTEST:

Mary Bryant, Town Clerk

This document is sufficient as to form.

Town Attorney

This instrument has been pre-audited in the manner proscribed by the Local Government Finance Act.

Finance Director

COUNTY OF ORANGE

(County Seal)

BY: _____
Bonnie Hammersley, County Manager

ATTEST:

_____, County Clerk

_____County, North Carolina

I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Town Clerk/Deputy Town Clerk of the Town of Carrboro, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Town, and that said writing was signed and sealed by her in behalf of said corporation by its authority duly given and the said person acknowledged this writing to be the act a deed of said corporation.

WITNESS my hand and official stamp (or seal), this the ____ day of _____, 2022.

(S E A L)

Notary Public

My Commission Expires: _____

_____County, North Carolina

I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Clerk of the County of Orange, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said County, and that said writing was signed and sealed by her in behalf of said corporation by its authority duly given and the said person acknowledged this writing to be the act a deed of said corporation.

WITNESS my hand and official stamp (or seal), this the ____ day of _____, 2022.

(S E A L)

Notary Public

My Commission Expires: _____

Partner Cost Allocation Plan

Level 1

LEGEND - Cost Allocation Plan

- Town of Carrboro Spaces
- Orange County Spaces
- WCOM
- Shared Space

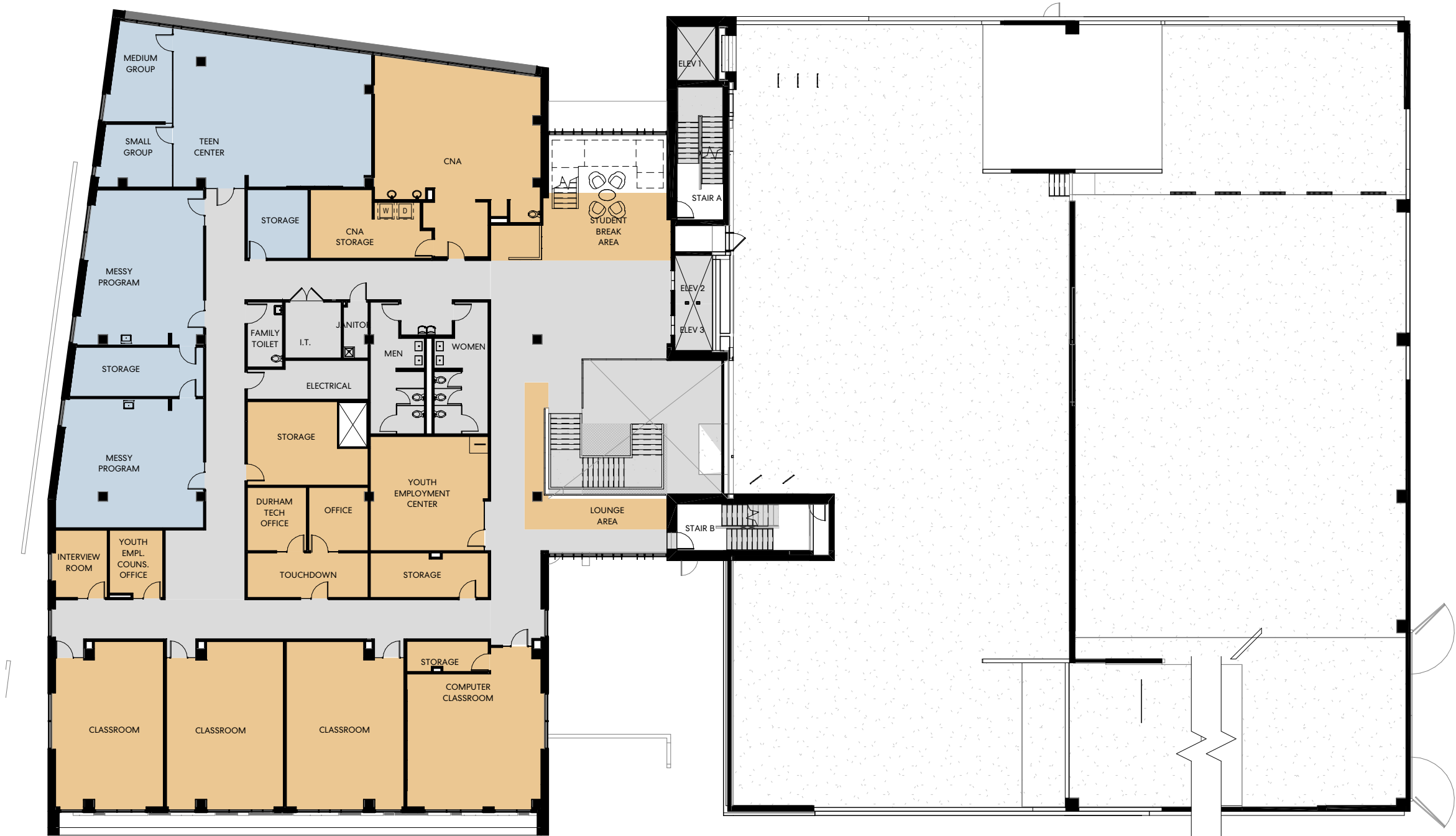


Partner Cost Allocation Plan

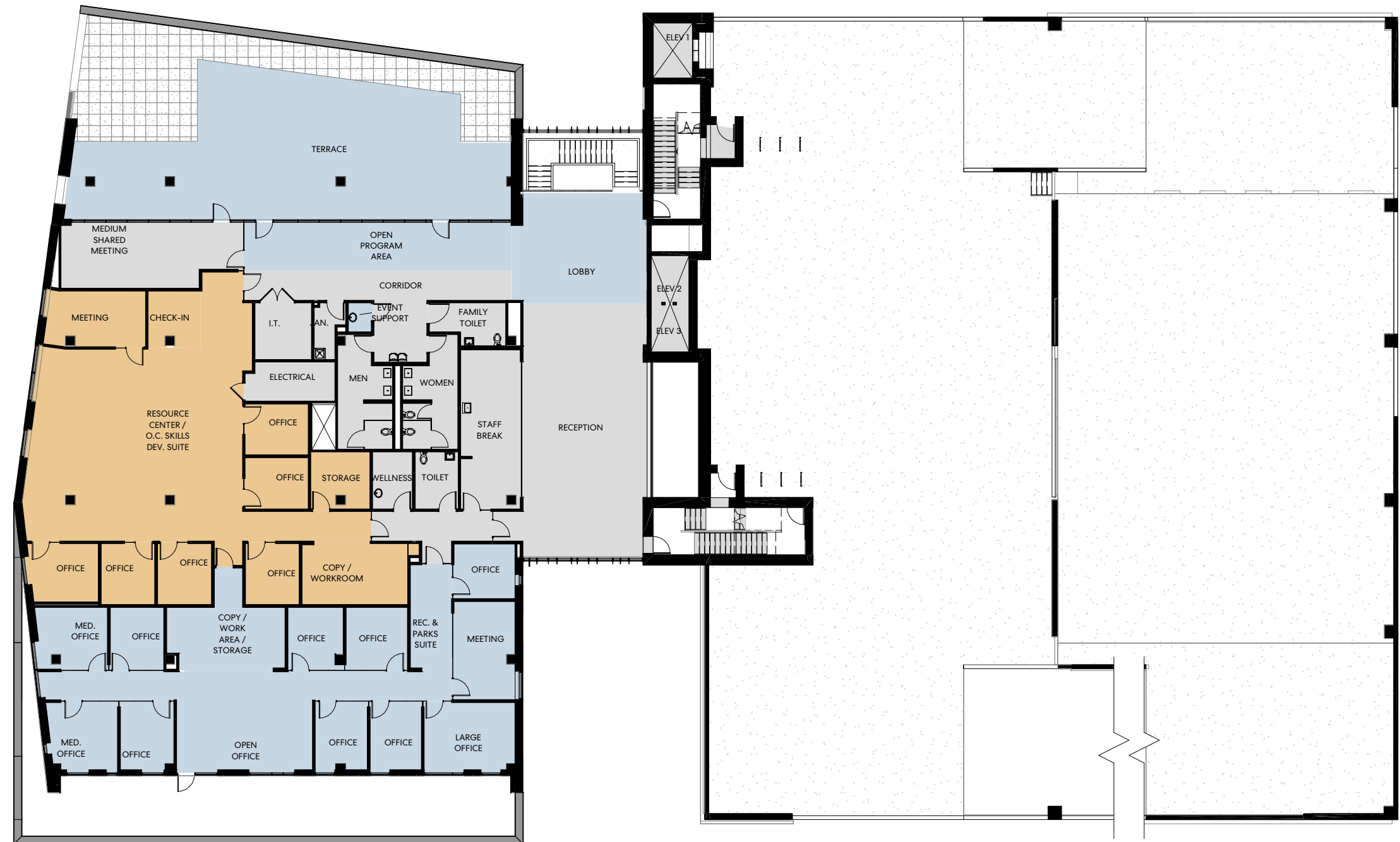
Level 2

LEGEND - Cost Allocation Plan

- Town of Carrboro Spaces
- Orange County Spaces
- Shared Space



Level 3



Partner Cost Allocation

Summary

Allocation from Bid Tab 2/232022 using Building/Sitework/Parking % from 12/10/21 BCC estimate

SUMMARY				
Orange County Spaces (SF)	18,811.26		52.72%	
Town of Carrboro Spaces (SF)	16,871.88		47.28%	
Total Allocated Space (SF)	35,683.14			
Total GSF (not including deck)	51,884.00			
Total Shared space (SF)	16,200.86			
Orange County portion of Shared	8,540.69			
Town of Carrboro portion of Shared	7,660.17			
Total Orange County Building Space	27,351.95	\$	460.24	\$ 12,588,490.20
Total Town of Carrboro Building Space	24,532.05	\$	460.24	\$ 11,290,657.61
				\$ 23,879,147.81
Sitework				
Total Orange County portion of Sitework			\$	1,316,588.76
Total Town of Carrboro portion of Sitework			\$	1,180,852.72
			\$	2,497,441.48

Parking				
Cost per Space	\$	48,153.19		
Orange County- Library per LUO	28	\$	1,348,289.19	
Orange County- Library over LUO reqt	18	\$	866,757.34	
Orange County- Skills per LUO	45	\$	2,166,893.34	
Town of Carrboro per LUO	42	\$	2,022,433.79	
Town of Carrboro- WCOM per LUO	2	\$	96,306.37	
OC Portion of Shared (36) per LUO	19	\$	913,865.63	
ToC Portion of Shared (36) per LUO	17	\$	819,649.04	
	171	\$	8,234,194.70	
Total Orange County Parking Spaces	110	\$	5,295,805.50	
Total ToC Parking Spaces	61	\$	2,938,389.20	

Total Cost Allocation				
<i>Orange County</i>				
Building	\$	12,588,490.20		
Sitework	\$	1,316,588.76		
Parking	\$	5,295,805.50		
Portion of rounding error	\$	5.27		
Total Orange County Cost	\$	19,200,889.73		55.48%
<i>Town of Carrboro</i>				
Building	\$	11,290,657.61		
Sitework	\$	1,180,852.72		
Parking	\$	2,938,389.20		
Portion of rounding error	\$	4.73		
Total Town of Carrboro Cost	\$	15,409,904.26		44.52%
	\$	34,610,793.99		