COOPERATIVE ENDEAVOR AGREEMENT
BETWEEN LOUISIANA DEPARTMENT OF EDUCATION RECOVERY SCHOOL DISTRICT
AND THE ORLEANS PARISH SCHOOL BOARD

This COOPERATIVE ENDEAVOR AGREEMENT, made and entered into by and between the Louisiana Department of Education, through its Recovery School District (hereinafter referred to as the "RSD") and the Orleans Parish School Board (hereinafter referred to as "OPSB"), each makes the following declaration:

The RSD and OPSB desire to enter into a Cooperative Endeavor Agreement (hereinafter referred to as "CEA" or the "Agreement") for the purposes and on the terms set forth in this Agreement.

Preliminary Recitals

WHEREAS, Article VII, Section 14(c) of the Constitution of the State of Louisiana of 1974 provides that: "for a public purpose, the state . . . may engage in cooperative endeavors . . . with any public or private association, corporation, or individual"; and

WHEREAS, the RSD and OPSB are implementing the 2011 School Facilities Master Plan for Orleans Parish (hereinafter referred to as the "SFMP"), which involves the rebuilding, renovating, refurbishing and building of numerous public school facilities in Orleans Parish, including renovation of the former McDonogh #35 Senior High School located at 1331 Kerlerec Street, New Orleans, LA 70116; (hereinafter referred to as the “Kerlerec Site” or “CTE Center”); and

WHEREAS, OPSB is committed to ensuring all high school graduates are prepared for success in both career and post-secondary education and understands the importance of high-quality career and technical education to achieving this goal; and

WHEREAS, a centralized facility is an essential element to building a sustainable, diverse, and advanced career and technical education training program for all students; and

WHEREAS, the Kerlerec Site has been identified as a site well-suited to housing career and technical education training, in addition to other educational programming, for students citywide; and

WHEREAS, renovations to the Kerlerec Site are necessary to offer this programming to students; and

WHEREAS, the RSD, by virtue of Acts 2005, 1st Ex. Sess., No. 35, §1 (Act 35) of the Louisiana Legislature, has all the rights and responsibilities of ownership of many public schools in Orleans Parish; and

WHEREAS, OPSB holds title to and legal responsibility for the Kerlerec Site; and

WHEREAS, RSD has the ability to utilize funds through the SFMP to renovate the Kerlerec Site; and

WHEREAS, RSD and OPSB agree that the new CTE Center will be built by the RSD in accordance with the Educational Specifications and Performance Standards referenced in the SFMP; and

WHEREAS, this is a mutually beneficial transfer between both parties, as the Louisiana Department of Education through the Recovery School District has executed the majority of the projects within the SFMP, which further the governmental purpose of helping schools achieve excellence and equity in education for the
students of Orleans Parish and support OPSB in better utilizing resources throughout unification and the transfer of public school facilities to OPSB; and

WHEREAS, the site ownership of the CTE Center will continue to be owned by OPSB, and the RSD will continue to maintain all the rights and responsibilities of ownership of the facility in accordance with La. R.S. 17:10.7.1 until construction of the project is substantially complete, at which point the facility shall be transferred to OPSB in accordance with the provisions of La. R.S. 17:10.7.1; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

ARTICLE I
GENERAL TERMS

1.1 The foregoing Preliminary Recitals are incorporated herein by reference and are considered an integral part of this agreement.

1.2 Agreement. The OPSB and RSD desire to enter into this Cooperative Endeavor Agreement for the purpose of transferring legal responsibility for the Kerlerec Site to the RSD in order to renovate the public school at the site that will benefit the children of Orleans Parish.

1.3 Term. This Agreement shall commence on November ___, 2017, and shall terminate upon the completion of all obligations as provided herein, unless otherwise terminated as provided for in this Agreement.

1.4 Notice. Any notice required under this Agreement shall be in writing and shall be effective immediately upon personal delivery, subject to verification of service or acknowledgement or receipt, or three (3) days after mailing via Certified Mail, receipt requested, to the following addresses:

Recovery School District
Lona Hankins
Executive Director of Major Capital Projects
1615 Poydras St., Suite 400
New Orleans, LA 70112

Orleans Parish School Board
Sue Robertson
Deputy Chief of Facilities
3520 General DeGaulle Dr., Suite 5055
New Orleans, LA 70114

Each party shall immediately inform the other party of any changes in authorized representatives of essential personnel, address, or other contact information for the purpose of providing required notices.

1.5 Termination for Cause. Either OPSB and/or RSD can terminate this Agreement for cause based upon failure to comply with the terms and conditions of this Agreement, provided that OPSB and/or RSD shall give written notice specifying the failure. OPSB or RSD shall have thirty (30) days within which to make material progress toward issue reconciliation on a mutually-agreeable performance timeline.

1.6 Termination for Non-Availability of Funds. The continuation of this Agreement is contingent upon the availability of funds to fulfill the requirements of this CEA. If funding becomes unavailable to provide for the continuation of this agreement, or if such funding is reduced to prevent total funding of this agreement, and the effect of such reduction is to provide insufficient funding for continuation of the agreement, this agreement will terminate with no liability to RSD.

1.7 Termination for Convenience. The OPSB and/or RSD may terminate this Agreement at any time prior to commencement of the project by giving thirty (30) days written notice.
1.8 Assignment. The OPSB and/or RSD shall not assign any interest in this Agreement by assignment, transfer, novation, or any means, provided that the OPSP and/or RSD may transfer certain rights granted or retained hereunder as is necessary to finance the endeavors contemplated by the CEA including, without limitation, involvement in any tax credit financing transaction.

1.9 Controlling Law. This CEA shall be governed by the laws of the State of Louisiana; Exclusive jurisdiction and venue for any and all suits against the RSD arising out of, or related to, this CEA shall be in the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana. Exclusive jurisdiction and venue for any and all suits against the OPSB arising out of, or related to, this CEA shall be in the Civil District Court, Parish of Orleans, State of Louisiana.

1.10 Severability. The provisions of this CEA are severable. Any terms and/or conditions that are deemed illegal or invalid shall not affect any other term or condition of the CEA.

1.11 Obligation to Obtain and Maintain Insurance. The OPSB shall obtain and maintain all insurance—flood and non-flood property—for the renovated facilities at the Kerlerec Site which received FEMA public assistance funding as a result of flood and damages other than flood, in accordance with 44 CFR 206.250-253.

ARTICLE II
SPECIFIC OBLIGATIONS AND RESPONSIBILITIES OF OPSB

OPSB agrees to the following:

2.1 To remain the owner of the land in accordance with La. R.S. 17:1990.

2.2 To undertake to transfer full legal responsibility for renovation of the Kerlerec Site to the RSD.

2.3 To recognize the RSD’s full authority as the developer of the CTE Center with respect to all project management, building commissioning, design and construction decisions, and grants management.

2.4 To interact with any professional service firms, architects, and construction providers with the RSD’s designated Capital Program representatives with respect to the renovation of the CTE Center. The designated OPSB representatives and the RSD’s Capital Program Staff shall review the design with the Design Team at these milestones: a) completion of the Schematic Design; b) 50 percent Design Development; c) 100 percent Design Development; d) 50 percent Construction Documents; and, e) 95 percent Construction Documents.

2.5 To participate in collaborative planning meetings and in decision making pertaining to the design process, including but not limited to building massing and layouts, specialist accommodations, interior design elements, exterior design elements, and anticipated ground uses.

2.6 To fully and meaningfully participate in meetings involving key stakeholders, including but not limited to governing boards and community groups, and to respond to requests for information and dates in a timely manner.

2.7 To assume full responsibility for all interactions, presentations, and appearances with and before the Orleans Parish School Board related to the renovation of the Kerlerec Site.

2.8 To recognize the RSD’s responsibility and authority to execute all design and construction activities associated with the interior design and construction elements, after engaging with the OPSB as set forth in Paragraph 3.3 herein.
2.9 To assist the RSD in pursuing tax credits or other leveraged financing sources to support the funding of the project, including the management of approval of such transaction by the school board, should the RSD pursue such credits or transactions.

ARTICLE III
SPECIFIC OBLIGATIONS AND RESPONSIBILITIES OF RSD

The RSD agrees to the following:

3.1 To assume full legal responsibility for the renovation of the Kerlerec Site.

3.2 To provide program management, including project management and construction management professional services, and paying professional services firms and contractors upon receipt of funds.

3.3 To manage the design of the CTE center with input of OPSB representatives during the review with the Design Team of the design at the completion of: a) Schematic Design; b) 50 percent Design Development; c) 100 percent Design Development; d) 50 percent Construction Documents; and e) 95 percent Construction Documents.

3.4 To provide for commissioning of the CTE Center.

3.5 To provide for the renovation of the CTE Center. RSD specifically agrees to compile and retain copies of all documentation under its jurisdiction and control that relate to the CTE Center that RSD will be required to possess by FEMA, GOHSEP and/or the LLA for auditing purposes including documentation of procurement procedures, advertising and bidding if any, contracts, invoicing, payments to contractors for construction and design and project management. This documentation will be transmitted to OPSB upon turnover of the completed school to OPSB.

3.6 To have full authority to manage scope alignment requests related to applicable CTE Center funding and to manage negotiations regarding funding and/or eligibility issues.

3.7 Upon final completion of construction, to transfer responsibility of the facility itself to OPSB for their intended use, while RSD will maintain full responsibilities for grants management, in accordance with the provisions of La. R.S. 17:10.7.1.

3.8 RSD will exercise full grants management responsibilities for the renovation project, including but not limited to the submission of reimbursement requests, fiscal budget/audit and compliance, reimbursement monitoring and close-out related activities.

3.9 To participate in scheduled meetings with designated OPSB representatives, as necessary and appropriate.

3.10 To participate in activities associated with key milestones associated with the CTE Center design and development, including ground-breaking and ribbon-cutting events.

3.11 To ensure identified OPSB designees receive any and all training for proper maintenance and care of all electronic systems, including but not limited to energy systems, installed in the CTE Center.

ARTICLE IV
MISCELLANEOUS PROVISIONS
4.1 Indemnification by RSD. RSD shall defend, indemnify, and hold harmless OPSB, its officers, directors, agents, employees, partners, and subcontractors (collectively referred to as "OPSB Indemnitees") from any and all claims, demands, suits, actions, proceedings, losses, costs, judgments, damages or other forms of liability to third parties, of every kind and description, actual or claimed, including but not limited to attorneys' fees and/or litigation expenses, including, but not limited to injury to property or persons (including, but not limited to civil rights violations), occurring or allegedly occurring, in connection with the operation of RSD from conduct committed or omitted, or alleged to have been committed or omitted, on the premises of the Project or by RSD, or by its employees or agents, which may be brought or made against or incurred by OPSB on account of any action of RSD, its employees, agents or assigns, except when caused in whole or in part by the wanton, willful or intentional acts of OPSB Indemnitees. The provisions required under this CEA shall not limit the liability of RSD, which shall defend OPSB in any such action or proceedings brought thereon.

4.2 Indemnification by OPSB. OPSB shall defend, indemnify, and hold harmless RSD, its officers, directors, agents, employees, partners, and subcontractors (collectively referred to as "RSD Indemnitees") from any and all claims, demands, suits, actions, proceedings, losses, costs, judgments, damages or other forms of liability to third parties, of every kind and description, actual or claimed, including but not limited to attorneys' fees and/or litigation expenses, including, but not limited to injury to property or persons (including, but not limited to civil rights violations), occurring or allegedly occurring, in connection with the operation of OPSB from conduct committed or omitted, or alleged to have been committed or omitted, on the premises of the Project or by OPSB, or by its employees, directors, subcontractors, or agents, which may be brought or made against or incurred by the RSD on account of any action of OPSB, its employees, agents or assigns, except when caused in whole or in part by the wanton, willful or intentional acts of RSD Indemnitees. The provisions or limits of insurance required under this CEA shall not limit the liability of OPSB. OPSB shall defend RSD in any such action or proceedings brought thereon.

4.3 Entire Agreement. All terms and conditions agreed upon between the parties are contained herein, and no verbal commitments, except those reduced to writing in this Agreement, have any binding effect.

4.4 Amendments. Any amendments to this Cooperative Endeavor Agreement must be reduced to writing and signed by all parties.

4.5 Non-discrimination. RSD agrees to abide by the requirements of the following as applicable:

- Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972
- Federal Executive Order 11246
- Federal Rehabilitation Act of 1973, as amended
- Vietnam Era Veteran's Readjustment Assistance Act of 1974
- Title IX of the Education Amendments of 1972
- Age Act of 1975
- Americans with Disabilities Act of 1990

RSD agrees not to discriminate in its employment practices, and will render services under this MOU without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disabilities. Any act of discrimination committed by RSD or failure to comply with these statutory obligations when applicable shall be grounds for termination of this agreement.

IN WITNESSED WHEREOF, the parties have executed this Agreement as of November ___, 2017.