



*Inspire. Prepare. Support.*

## **PROGRAM GRANT AGREEMENT**

Between

The SME Education Foundation

and

San Antonio Independent School District

This Program Grant Agreement (the "Agreement") is entered into as of the 1st day of December, 2020 (the "Effective Date"), by and between SME Education Foundation ("SME-EF"), a Michigan nonprofit corporation, and the San Antonio Independent School District ("SAISD"), a political subdivision of the State of Texas. The purpose of this Agreement is to set forth the terms and conditions of a grant to support the establishment of a PRIME® (Partnership Response In Manufacturing Education) program at Highlands High School.

In consideration of the mutual covenants and promises of the parties, the parties agree as follows:

### **I. The Program Grant and Grant Purposes**

- a. Supported and informed by private industry, the PRIME® program builds cost-effective and tailored manufacturing and engineering programs in high schools across the country, providing equipment, curriculum, professional development, scholarships, and STEM-focused extra-curricular activities to a school's students and teachers. SME-EF has approved a program grant to the Highlands High School in the SAISD for the charitable purpose of implementing a PRIME® program at Highlands High School to provide students with opportunities to acquire training and industry-relevant competencies to prepare them for skilled careers in manufacturing.

This Agreement shall be effective as of the Effective Date and shall continue until the third anniversary of the Effective Date or, at the election and notice of SME-EF, a later date that shall not exceed the fourth anniversary of the Effective Date (the "Term"), unless this Agreement is terminated earlier in accordance with Section VI. SME-EF shall provide grant resources to SAISD for the purposes identified in this Agreement over the three-year time period immediately following the date SME-EF has secured all of the necessary funds to establish a PRIME® program at Highlands High School, as determined in SME-EF's sole discretion.

- b. This grant is for the express purposes described herein and is intended to be made in accordance with current and applicable laws and regulations of the Internal Revenue Code of 1986 (the "Code"). Resources granted to SAISD shall not be used to: (i) influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive within the meaning of Section 4945(d)(2) of the Code, (ii) make any contribution which does not comply with Section 4945(d)(3) or (4) of the Code, or (iii) undertake any activity for any purpose other than one specified in Section 170(c)(2)(B) of the Code.
- c. SME-EF will grant to SAISD for use at Highlands High School manufacturing and engineering equipment and/or software, industry informed manufacturing and/or engineering curriculum, professional development services for Highlands High School's teachers, reimbursement of STEM-based extracurricular activities, and marketing support.

- d. SME-EF's grant is contingent upon SME-EF securing the necessary funds to establish a PRIME® program, as determined in SME-EF's sole discretion. SME-EF's fundraising efforts will be as follows:
- SME-EF's fundraising efforts begin upon the Effective Date, unless otherwise noted, and shall extend for 90 days from the Effective Date.
  - If after 90 days the necessary funds have not been raised, SME-EF will determine, in its sole discretion, whether an additional 45 days of fundraising activity is warranted. If SME-EF determines that such additional 45 days of fundraising is not warranted, this Agreement shall be automatically terminated and all efforts to establish a PRIME® program at Highlands High School shall be discontinued. In that event, SME-EF shall not have further obligations to SAISD under this Agreement or otherwise.
  - If SME-EF determines that an additional 45 days of fundraising is warranted, but the necessary funds are not raised within 135 days, this Agreement shall automatically terminate and all efforts to establish a PRIME® program at Highlands High School shall be discontinued. In that event, SME-EF shall not have further obligations to SAISD under this Agreement or otherwise.

## **II. Program Grant Conditions**

SAISD agrees to provide a W9 Form within seven business days of the Effective Date and, subject to applicable COVID-19 restrictions, host visits by SME-EF staff, volunteers, and industry/business/community/education partners (with advanced notice).

After SME-EF secures the necessary funds to establish a PRIME® program at Highlands High School and begins providing the grant identified in Section I(c) above, SAISD agrees to the following:

- a. To implement and execute the tailored PRIME® program within Highlands High School's classrooms.
- b. To use the curriculum, equipment, professional development, and other resources solely for the educational purposes described in this Agreement. SAISD shall not reproduce, disseminate, or otherwise share such resources with third parties, except in accordance with this Agreement.
- c. To return any portion of the curriculum, equipment, professional development, or other resources which are not used for the purpose of this grant, unless SME-EF expressly agrees, in writing, to a different use.
- d. To maintain books and records adequate to verify activities taken related to this grant.
- e. To ensure that Highlands High School's representatives and participants in the PRIME® program conduct themselves in a professional, respectable manner at all times.
- f. To collaborate with SME-EF staff and volunteers in the production of a PRIME® launch event, which will take place at the school.
- g. To engage with SME-EF's PRIME® network through various methods. This can include, but is not limited to, sharing stories, pictures/videos and best practices.
- h. To make extracurricular activities available for students. These can include, but are not limited to, the following:

- Competitions
  - Clubs
  - Community involvement
  - Camps
- i. To complete the SME-EF year-end report/survey and/or related documentation at the request of SME-EF.
  - j. To provide available meeting space for SME-EF to host the Body of Knowledge Workshop.

### **III. Review of Grant Activity**

Upon the request of SME-EF, SAISD will provide SME-EF with periodic written reports showing the use of grant resources for the purposes of this grant and/or progress towards satisfying and complying with this Agreement during the Term. Periodic reports will be required annually or on a more frequent basis as determined by SME-EF, in its sole discretion. SME-EF may request that such periodic reports be prepared in a specific manner or may be in the form of a survey. SME-EF is entitled to request periodic written reports during the Term of this Agreement. If SAISD fails to comply with SME-EF's requests for periodic written reports, SME-EF may withhold additional grant resources until such time as SAISD satisfactorily complies with the periodic report request. After the Term of this Agreement, SAISD may agree to provide data or information reports to SME-EF for the purpose of sharing successful information for the benefit of future PRIME® programs at other schools.

### **IV. Intellectual Property**

- a. Subject to Section VI, below, for the Term of this Agreement and provided SAISD is operating its PRIME® program at Highlands High School, SME-EF hereby grants to SAISD a nonexclusive, royalty free license to use SME-EF's Intellectual Property (as approved by SME-EF or SME-EF's affiliates) in connection with Highlands High School's PRIME® school designation and the performance of SAISD's obligations under this Agreement. The term "SME-EF's Intellectual Property" means the registered or common law protected copyright, trademarks, service marks, trade names, commercial symbols or indicia of the SME-EF or SME-EF's affiliates and all information and materials made available to SAISD by SME-EF pursuant to this Agreement, specifically including PRIME® and the PRIME® curriculum and any related marketing materials provided to SAISD by SME-EF which are owned and/or created by SME-EF.
- b. Similarly, subject to Section VI, below, for the Term of this Agreement and provided that SAISD is operating its PRIME® program at Highlands High School, SAISD hereby grants to SME-EF and its affiliates, a nonexclusive, royalty free license to use SAISD's Intellectual Property (as approved by SAISD) in connection with Highlands High School's PRIME® school designation and the performance of SME-EF's obligations under this Agreement. The term "SAISD's Intellectual Property" means the registered or common law protected copyright, trademarks, service marks, trade names, commercial symbols or indicia of SAISD and/or Highlands High School and, subject to applicable law, all information made available to SME-EF by SAISD pursuant to this Agreement.
- c. Each party expressly reserves all rights not expressly granted to the other under this Agreement.
- d. Each party further expressly agrees that use of any party's Intellectual Property will be limited strictly to educational purposes described in this Agreement, and shall not be reproduced or shared with third parties except in accordance with this Agreement.
- e. Upon the expiration of the Term of this Agreement, SME-EF may, in its sole discretion, extend a nonexclusive royalty free license to SAISD to use SME-EF's Intellectual Property in connection with Highlands High School's continued operation of its PRIME® program. The parties

acknowledge that they hope the PRIME® program at Highlands High School continues to operate after the expiration of the Term.

## **V. Release and Waiver**

- a. Equipment donations provided to SAISD and Highlands High School are made with the express understanding and agreement that SME-EF and its related parties (for purposes of this Agreement, “related parties” include, without limitation, SME-EF’s affiliates, related entities, program partners, sponsors, board members, volunteers, donors, and its and their respective employees, contractors, subcontractors and agents at any tier, grantees, investigators, customers, users, and their respective contractors and subcontractors, at any tier) assume no responsibility for the condition, use, operation or performance of the donated equipment. Any equipment and services being provided to SAISD and Highlands High School under this Agreement are being provided on an **“as is, where is”** and **“as available”** basis, without any express or implied warranties from SME-EF, its affiliates and its donors. SME-EF and its affiliates and donors disclaim all warranties of any kind, whether express or implied, statutory or otherwise, including, but no limited to, any warranty of fitness for a particular purpose.
- b. To the fullest extent permitted under Texas law, as consideration for acceptance and receipt of the donated equipment and the opportunity to participate in the PRIME® program, SAISD and Highlands High School hereby waive(s) and forever release(s) any and all claims it/they may have against SME-EF and its related parties arising out of SAISD’s and Highlands High School’s receipt or use of such equipment or otherwise arising from or related to SAISD’s and Highland High School’s participation in the PRIME® program or activities conducted under or in connection with this Agreement, including, without limitation, claims for damage or loss to any real or personal property of SAISD and Highlands High School or any of its and their related entities, employees, contractors or students, damage to any donated equipment, and/or injury to, or death of, any of SAISD and/or Highlands High School’s or any of its and their related entities’ employees, contractors and/or students, whether such claim, damage, loss, injury or death arises from negligence or otherwise, except in the case of SME-EF’s willful misconduct.

## **VI. Termination: Cessation of School/PRIME® Program**

- a. This Agreement shall automatically terminate upon the expiration of the Term.
- b. This Agreement shall automatically terminate if SME-EF is unable to secure the necessary funds to establish a PRIME® program in accordance with Section I(d) of this Agreement.
- c. SME-EF may terminate this Agreement if SAISD fails to comply with this Agreement, including, but not limited to, any of the grant conditions described in Section II, (a) through (k), and fails to cure such non-compliance within twenty (20) days of written notice from SME-EF.
- d. This Agreement shall automatically terminate in the event that Highlands High School ceases to be operated as a school or ceases its PRIME® program during the Term. In such an event, SAISD agrees to notify SME-EF in writing within seven days of such cessation of operation or cessation of the PRIME® program and facilitate the return of grant resources, identified in Section VI(e), within thirty (30) days.
- e. In the event of termination pursuant to Section VI(c) and/or Section VI(d), SAISD must: (i) immediately return all grant resources received up to the date of termination, including but not limited to, materials containing “SME-EF’s Intellectual Property”, curriculum or educational materials, donated equipment, marketing materials, and other resources, and all copies thereof; (ii) not retain any copies of any such materials and resources described in subsection (i); and (iii) cease any and all use of SME-EF’s Intellectual Property. For clarification purposes, as used in this section, “grant resources” shall not include resources that have been consumed in connection

with the Prime program at Highlands High School or funds donated or spent by SME-EF in connection with the PRIME® program at Highlands High School.

- f. In the event of termination of this Agreement for any reason other than expiration of the Term pursuant to Section VI(a), allocated but unused funds raised by SME-EF for Highlands High School shall be re-allocated to a general PRIME® program fund or a PRIME® program scholarship fund, in SME-EF's discretion, for the benefit of future PRIME® program schools and students.
- g. SAISD's obligations and SME-EF's rights under Sections II(b), IV, V, VI(d), VI(e), VI(f), VII, and VIII shall continue following the termination of this Agreement for any reason.

**VII. Governing Law and Venue**

This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Texas. Venue for all legal proceedings arising out of this Agreement must be in the appropriate state court in Bexar County, Texas. The parties acknowledge that they intend for the Texas Charitable Immunity and Liability Act (the "Act"), Tex. Civ. Prac. Rem. Code, Chapter 84, to govern the conduct of SME-EF under this Agreement and that SME-EF asserts that it has satisfied all preconditions for application of the Act.

**VIII. Entire Agreement, Modification and Execution**

The Agreement is the complete, final and exclusive agreement between the parties with respect to the subject hereof and supersedes and cancels any and all other prior and contemporaneous negotiations, representations, understandings, statements, and agreements, whether oral or written, between them relating to the subject matter hereof. This Agreement may not be varied, modified, altered, or amended except in a subsequent written amendment, signed by SME-EF's Vice President and an authorized representative of SAISD.

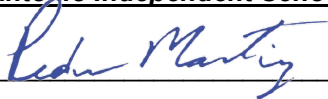
This Agreement may be executed in one or more counterparts by the parties, and with counterpart facsimile or Portable Document Format (PDF) signature pages, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same Agreement.

The parties have executed this Agreement as of the Effective Date.

*[signatures page follows]*

**Signature Page to Program Grant Agreement between the SME Education Foundation  
and San Antonio Independent School District**

**San Antonio Independent School District:**

By:  Date: 01/15/2021

Name: Pedro Martinez

Title: Superintendent

Phone: (210) 554-2200

**SME-Education Foundation:**

By: 

Name: Robert M. Luce

Title: Vice President, SME Education Foundation

Phone: 313-425-3303

Date: December 1, 2020