



DEPARTMENT OF ECONOMIC SECURITY
Your Partner For A Stronger Arizona

GRANTOR AGREEMENT (GOVERNMENTAL ENTITIES)

Grantor Agreement between the Arizona Department of Economic Security ("ADES" or "Department") and the Gila County Board of Supervisors ("Grantor").

WHEREAS, the Department is duly authorized to execute and administer contracts under A.R.S. § 41-1954; and

WHEREAS Grantor has authority to enter into contracts pursuant to A.R.S. § 11-251 ; and,

WHEREAS Grantor is the owner or lessee of the property(ies) identified in this Agreement that will be granted free of charges to ADES/Rehabilitation Services Administration (RSA)/Business Enterprise Program (BEP) for the operation of a merchandising/vending business by a licensed blind person; and

THEREFORE, the Department and Grantor agree to abide by all the terms and conditions set forth in this Agreement.

BY SIGNING THIS FORM ON BEHALF OF THE GRANTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE GRANTOR TO THIS AGREEMENT.

FOR AND ON BEHALF OF THE ARIZONA
DEPARTMENT OF ECONOMIC SECURITY

FOR AND ON BEHALF OF the Gila County Board
of Supervisors

Signature

Signature

Eleda Greenfield
Printed Name

Michael A. Pastor
Printed Name

Procurement Manager
Title

Chairman of the Board
Title

Date

Date

ADES14-051775
ADES Contract Number

ATTEST:

Marian Sheppard, Clerk of the Board
APPROVE AS TO FORM:

Bryan B. Chambers, Deputy Attorney
Principal for Bradley D. Beauchamp,
County Attorney

1.0 ADES MISSION AND VISION STATEMENTS

- 1.1 ADES Mission: ADES promotes the safety, well being, and self-sufficiency of children, adults, and families.
- 1.2 ADES Vision: Every child, adult, and family in the State of Arizona will be safe and economically secure.

2.0 PARTIES

- 2.1 This Agreement is between the Arizona Department of Economic Security (ADES)/Rehabilitation Services Administration (RSA)/Business Enterprise Program (BEP) and the Gila County Board of Supervisors (the "Grantor").
- 2.2 RSA is the administration within the Department of Economic Security that provides Vocational Rehabilitation (VR) services and Independent Living (IL) services to individuals with various disabilities. Through the provision of VR services, RSA assists individuals with disabilities in achieving permanent, integrated, and competitive employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. Through the provision of IL services, RSA assists eligible individuals to increase their ability to function independently in home and community.
- 2.3 BEP, as part of RSA, licenses individuals who are legally blind (also known as BEP Operators) to operate food service businesses throughout the State of Arizona. In accordance with the Randolph-Sheppard Act (P.L. 93-516) as amended, BEP Operators have priority for merchandising business on Federal property. Per the Arizona Revised Statute A.R.S. §23-504, BEP Operators have priority for merchandising business on State, County, or other local government property. Business operations vary from small snack bars, vending machines to large cafeterias. BEP is responsible for identifying potential business opportunities at those facilities, negotiating agreements with the local government entities and private businesses, designing and equipping facilities, and providing initial stocks and supplies. The individual BEP Operators are not State of Arizona employees. RSA/BEP enters into an agreement with each BEP Operator.

3.0 TERMS OF AGREEMENT

3.1 TERM.

The term of this Agreement shall be for a period of approximately fifteen (15) years beginning on the date of last signature and ending on August 31, 2028.

3.2 TERMINATION

- 3.2.1 This Agreement may be terminated by mutual agreement of the parties at any time during the term of the Agreement.
- 3.2.2 Each party shall have the right to terminate this Agreement by written notice to the other Party of termination at least thirty (30) days prior to the effective date of said termination.

4.0 AMENDMENTS OR MODIFICATIONS

- 4.1 This Agreement may be amended or modified at any time by mutual agreement. No agent, employee or other representative of either party is empowered to alter any of the terms of the Agreement, unless done in writing and signed by the authorized representative of the respective parties.
- 4.2 Any amendment, modification, or variation from the terms of the Agreement shall be in writing and signed by the authorized signatories of both parties.
- 4.3 Exceptions. Either party shall give written notice to the other party of any non-material alteration that affects the provisions of this Agreement. Non-material alterations that do not require a written amendment are as follows:
 - 4.3.1 Change of telephone number(s).
 - 4.3.2 Change in authorized signatory.
 - 4.3.3 Change in the name and/or address (es) of the person(s) to whom notices are to be sent.
 - 4.3.4 Changes to Attachment 1 which include but are not limited to:
 - 1. Additions and deletions of locations on any property owned or leased by Grantor. All such changes shall be reflected in a revised Attachment 1.
 - 2. Addition, replacement or removal of equipment or movement of equipment from one area of a location to another, as in movement of a vending machine from one floor to another. E-mail is the preferred method of updating Attachment 1.

5.0 PURPOSE OF AGREEMENT

- 5.1 The purpose of this Agreement is to mutually agree upon the:
 - 5.1.1 Location(s) on the Grantor's property as stated in Attachment 1 that will be granted to RSA/BEP free of charges for operation of a merchandising/vending machine business; and
 - 5.1.2 Roles and responsibilities of both Parties.

6.0 RESPONSIBILITIES

- 6.1 RSA/BEP will:
 - 6.1.1 Assign a licensed BEP Operator to the agreed upon merchandising/vending business. RSA/BEP may replace the Operator pursuant to BEP Policy and R6-4 Article 3 as may be amended. If the services being provided by the BEP Operator are documented to be unsatisfactory RSA/BEP will appoint a qualified temporary BEP Operator and/or replacement BEP Operator.
 - 6.1.2 Assist the BEP Operator in establishing the merchandising/vending business, and furnishing and installing necessary equipment. There will be no charge to Grantor for furnishing and installing the equipment.
 - 6.1.3 All equipment purchased by RSA/BEP will remain the property of ADES and will be marked with an ADES inventory tag.
 - 6.1.4 RSA/BEP will not add any vending machines without prior approval of the Grantor. Vending machine changes will be reflected in a revised Attachment 1.
 - 6.1.5 Obtain written consent from the Grantor prior to making any alterations, additions or improvements to any merchandising/vending locations under this Agreement.
 - 6.1.6 Respond within forty-eight (48) hours of notification by the Grantor to issues concerning the maintenance and operation of the equipment/vending machines. Response by email is acceptable and preferred.
 - 6.1.7 Correct any deficiencies in the observation or performance of any terms and conditions or provisions of this Agreement within thirty (30) days after receipt of written notice of the deficiency (ies). If more than thirty (30) days are reasonably required to cure the deficiency, (as per A.A.C. R6-4-315 and R6-4-325 as may be amended), then RSA/BEP will not be deemed to be in default if the cure was commenced within the thirty (30) day period and it is diligently pursued to its completion. Notwithstanding the foregoing, in the event the Grantor determines that performance under this Agreement by RSA/BEP or the BEP Operator constitutes a hazard to health or safety, Grantor may require the immediate cure of the deficiency and in its sole discretion suspend operations at the facility until the cure is accomplished or terminate this Agreement.
 - 6.1.8 Make all reasonable efforts to repair defective equipment/vending machines. RSA/BEP will issue a request for repair service of equipment/machine within twenty-four (24) hours of detecting defect or upon receipt of a notice from the Grantor. If a licensed technician determines that the equipment/machine is unserviceable the BEP Manager or his/her delegate will make provisions for the machine replacement and/or disposal accordingly.
 - 6.1.9 Make all reasonable efforts that any RSA/BEP owned vending machines/equipment is/are moved within ten (10) business days from the date of receipt of a written request from the Grantor. RSA/BEP assumes full responsibility for equipment and or its condition and the vending products within each machine if the Grantor be required to move the equipment on behalf of ADES/BEP due to the failure of BEP to move the specified equipment within the ten (10) day period after notice from the Grantor is received.
 - 6.1.10 Direct the BEP Operator to coordinate with the Grantor's designated representative concerning access to the facility and the security of the premises during and after regular business hours in relation to the merchandising/vending locations reflected under this Agreement. This will entail compliance with any additional personnel testing, screening, background checks, etc., which may be required of other ADES Contractor personnel providing vendor machine services having routine access to the facility.
 - 6.1.11 Direct the BEP Operator provide services as follows:
 - 1. Operate those merchandising/vending services on Grantor's premises stated in Attachment 1 of this Agreement.
 - 2. Comply with all Arizona Department of Health Services regulations, county health regulations and other regulations applicable to the operations of the merchandising/vending business.
 - 3. Comply with all statutes, rules, orders, codes, ordinances and regulations applicable to the operation of the business and the premises.
 - 4. Maintain insurance and other employee insurance policies as required by law and stated in the BEP Operator Agreement. The State of Arizona, ADES/RSA/BEP and Grantor shall be named as additional insured on the liability insurance policy.
 - 5. Provide evidence of any security clearances if required in this Agreement.
 - 6. Maintain the operation of the business during mutually agreed upon business hours as stated in Attachment 1.

7. Establish and maintain direct contact with the designated Grantor representative(s) in order to resolve operational issues or concerns.
8. Respond within forty-eight (48) hours of notification by Grantor to issues concerning the maintenance and operation of the equipment/vending machines. Response by email is acceptable and preferred. The BEP Operator shall also maintain direct contact with a designated Grantor Representative to resolve any operational issues or concerns.
9. Maintain all equipment in good working order, service them as needed, repair or replace all broken parts when applicable and maintain them in a clean, orderly and sanitary condition so as to not detract from or deteriorate building appearance.
10. Empty regularly all trash from each food service/vending location into receptacles as designated by the Grantor.
11. Pay for any long distance phone service accrued for each food service location if using phone service provided by Grantor.
12. Confirm that weight on any floor at any site does not exceed the load limit established by Grantor, if applicable.
13. Handle customer requests to replenish inventory, and make refunds for lost coins or unsatisfactory products in a prompt and courteous manner. Refund notice will be posted on each vending machine.
14. Provide vending services as follows:
 1. Price vending products in accordance with the average market value of the same or like products plus BEP markup. These items may include but are not limited to; hot beverages, cold drinks, candy, pastries, sandwiches/cold foods or frozen items, snacks, and other convenience items.
 2. Utilize popular brands of food and drinks and accommodate reasonable requests by the Grantor to stock specific products in vending equipment.
 3. Provide fresh products within the dates stamped on the package(s).
 4. Service and restock all vending equipment in accordance with the requirements listed in Attachment 1.
 5. Not use vending machines that dispense alcohol, tobacco products, or medications

6.2 Grantor shall:

- 6.2.1 Provide and pay security, space and utilities (gas, water, sewer, electricity) or other assessment for the operation of the merchandising/vending business at no cost to RSA/BEP or the BEP Operator as follows:
 1. Provide at least sixteen square feet (16 SF) for each vending machine.
 2. Provide water and electricity if applicable, to within three (3) feet of vending equipment in areas at locations identified in Attachment 1.
 3. Install water line(s) prior to installation of vending equipment when applicable. Water Line shall have an appropriate size shut off valve with an appropriate size compression fitting on the end.
 4. Provide electrical outlets that are a minimum of 15 Amp and at best, a dedicated circuit for each outlet with one outlet for each machine. Minimum of dedicated circuits is one for each compressor operated piece of equipment such as frozen food, hot beverages, cold food, and/or soda machines. Frozen food and hot beverage machines require not less than a 20 Amp dedicated circuit and a 5-20R electrical receptacle (NEMA configurations).
 5. Provide receptacles for trash and or recyclable items.
 6. Provide backup systems to support fire and security systems, and access to and out of rooms and buildings in the event of interruption of utilities. This includes evacuation plans for the assistance to the individuals with physical disabilities and the individuals who are blind.
- 6.2.2 Cooperate with and allow RSA/BEP to furnish and install equipment and/or services as deemed necessary for merchandising/vending business operation.
- 6.2.3 Furnish RSA/BEP any documents and information deemed necessary for successful business operation (i.e. floor plans, electrical plans, minutes related to the BEP Operations).
- 6.2.4 Provide access to the BEP Operator and its personnel during and after regular business hours as necessary. Access shall be mutually agreed upon and in writing. All security shall be the responsibility of Grantor.
- 6.2.5 Allow the BEP Operator to have direct contact with the designated Grantor Representative.
- 6.2.6 Notify the RSA/BEP designated contact person and the BEP Operator if any concerns arise in respect to food selection, inventory or other service issues in order to promote good customer service. Submit any request for changes in the merchandising/vending service products/inventory or hours in writing to the designated RSA/BEP contact person and/or the BEP Operator.
- 6.2.7 Notify the BEP Operator of events that may warrant replenishment of inventory outside of regular stocking schedule.
- 6.2.8 Notify the BEP Operator about any requirements concerning access to the facility and the security of the premises during and after regular business hours in relation to the merchandising/vending locations

reflected under this Agreement. This shall entail compliance with any additional personnel testing, screening, background checks, etc., which may be required of other ADES Contractor personnel providing vending machine service having routine access to the facility.

- 6.2.9 Not move or cause to be moved equipment/machines from their specified location(s).
1. In the event that equipment/machines need to be moved either permanently or temporarily, the designated RSA/BEP contact person shall be notified in writing to move the machine or machines within ten (10) business days prior to date and time of required move in order for RSA/BEP to acquire a contractor to move the equipment.
 2. Except as provided in 6.2.9.1 above, in the event that vending machines/equipment is/are moved by or at the request of Grantor, the Grantor shall accept full responsibility for all damage to equipment and product up to full replacement of equipment and or vending products resulting in loss. Damages to equipment will be assessed in writing by a licensed repair contractor, contracted by the RSA/BEP for purposes of assessing the cost of damage and or loss. Product loss assessment shall be accepted by Grantor as cause for reimbursement when presented with an itemized list in writing by the BEP Operator and confirmed in writing by the BEP Manager or his/her delegate. Grantor agrees to reimburse the vending equipment owner for damages of equipment and /or resulting product loss in accordance with this paragraph.
- 6.2.10 Respond to requests and or correspondence from RSA/BEP or BEP Operator not to exceed forty-eight (48) hours. Response by email is acceptable and preferred.
- 6.2.11 For cafeterias, notify annually RSA/BEP designated personnel about current population. Furthermore, if there is a reduction or increase in building population of more than 50 people, at any time, Grantor shall notify RSA/BEP within ten (10) working days of the change.
- 6.2.12 Grant exclusive rights for food, snack and beverage sales to BEP at all locations cited in Attachment 1 of this Agreement.
1. Food, snacks and/or beverages cannot be sold on the premises covered by the Grantor Agreement by anyone other than BEP.
 2. The only exception is periodic departmental sales for charitable donations.

7.0 PAYMENT

- 7.1 There will be no payment under this Agreement. Grantor shall not charge any rent or other assessment for use or occupancy of the space granted for the operation of the merchandising/vending machine business by licensed blind persons.

8.0 NOTICES

- 8.1 All notices to Grantor regarding this Agreement shall be sent to the following address:
Organization: Gila County Board of Supervisors
ATTN: Chairman
Address: 1400 E. Ash Street, Globe, AZ 85501
Phone: (928) 425-3231 Fax: (928) 425-0319

- 8.2 All notices to the ADES/RSA/BEP regarding the merchandising/vending machine business under this Agreement shall be sent to the following addresses:

- 8.2.1 Rehabilitation Services Administration, Business Enterprise Program
ATTN: BEP Manager
22 East Mitchell Drive, #103, Site Code 018D-4
Phoenix, Arizona 85012-2340
Phone: (602) 266-9070 Fax: (602) 235-9491;

and

- 8.2.2 Rehabilitation Services Administration
Attention: SBVI Manager
PO Box 6123, Site Code 930A
Phoenix, Arizona 85005-6123

- 8.3 The ADES and the Grantor will provide the contact person's name and email address to the other Party. Updates on this information may be provided by email to the other Party.

9.0 APPLICABLE LAW

9.1 This Agreement shall be governed and interpreted by the laws of the State of Arizona. The materials and services supplied under this Agreement shall comply with all applicable Federal, State and local laws, and the Grantor shall maintain all applicable licenses and permit requirements.

10.0 ARBITRATION

10.1 The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §12-1518 except as may be required by other applicable statutes.

11.0 AUDIT

11.1 In accordance with A.R.S. §35-214, the Grantor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Agreement for a period of five (5) years after the completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Grantor shall produce the original of any or all such records.

12.0 AVAILABILITY OF FUNDS FOR THE CURRENT STATE FISCAL YEAR

12.1 The Director of ADES shall have the sole and unfettered discretion in determining the availability of funds.

13.0 AVAILABILITY OF FUNDS FOR THE NEXT STATE FISCAL YEAR

13.1 Funds may not presently be available for performance under this Agreement beyond the current state fiscal year. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ADES at the end of the period for which funds are available.

13.2 No liability shall accrue to ADES in the event this provision is exercised, and ADES shall not be obligated or liable for any future payments of for any damages as a result of termination under this paragraph.

14.0 CANCELLATION FOR CONFLICT OF INTEREST

14.1 In accordance with A.R.S. §38-511, the State may within three years after execution cancel the Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State, at any time while the Agreement is in effect, becomes an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the matter of the Agreement.

15.0 FORCE MAJEURE

15.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this agreement if and to the extent that such party's performance of this agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

16.0 INDEMNIFICATION AND INSURANCE

16.1 Each Party to this Agreement is responsible for its own negligence.

16.2 The Department will require that the BEP Operator:

16.2.1 Prior to the commencement of services, provides to the Grantor:

1. A copy of a valid insurance certificate as evidence of primary and non-contributory liability insurance, naming the State of Arizona/ADES and Grantor as additional insured. The insurance certificate shall identify the Agreement number and provide for 30 days' advance notice of any material changes, cancellation, termination or expiration.
2. A copy of a valid worker's compensation certificate.

16.2.2 Maintains valid insurance and worker's compensation coverage.

17.0 NON-AVAILABILITY OF FUNDS

17.1 In accordance with A.R.S. §35-154, every payment obligation of the State under the Agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds

are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event his provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

18.0 NON-DISCRIMINATION

18.1 In accordance with A.R.S. §41-1461 et seq. and Executive Order 2009-09, the Grantor shall provide equal employment opportunities for all persons, regardless of race, color, religion, creed, sex, age, national origin, disability or political affiliation. The Grantor shall comply with the Americans with Disabilities Act.

19.0 ATTACHMENTS

19.1 The following attachment is part of this Agreement:

1. Attachment 1 Merchandising/Vending Business Facility Location.