

RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

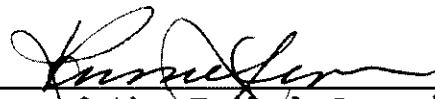
**WHEREAS,** the Tribal Council of the White Mountain Apache Tribe is advised by the Early Childhood Development Department that the Tribe's continued participation in the federally-funded Child/Adult Care Food Program requires that a written contract between the Tribe and the State of Arizona Department of Education be entered into setting forth the respective rights and responsibilities of each party thereto; and

**WHEREAS,** the Tribal Council has reviewed the proposed contracts as presented, a copy of which is attached hereto and by reference incorporated herein; and

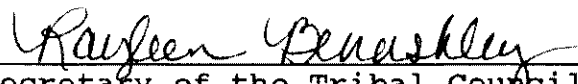
**WHEREAS,** the Tribal Council approves of said contract for the purpose of continuing and maintaining the Child/Adult Care Food Program and other federal benefits authorized thereunder.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the Tribal Chairman to execute the "Intergovernmental Food Service Agreement" herein above referenced and attached hereto, between the Tribe and the State of Arizona Department of Education for the contract term October 1, 1993 through September 30, 1995 to participate in the Early Childhood Development Department Child/Adult Care Food Program.

The foregoing resolution was on November 04, 1993, duly adopted by a vote of eight for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (b) (j) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

Acting

RESOLVED

NOV 08 1993

FORT APACHE INDIAN RESERVATION  
WHITE MOUNTAIN APACHE TRIBE

Child and Adult Care Food Program  
FOOD SERVICE AGREEMENT  
1993-1995

A.G. Contract No. KR93-1498ALS

Return Two Agreements with  
Original Signatures to:  
Arizona Department of Education  
Child Nutrition Programs  
1535 West Jefferson  
Phoenix, AZ 85007

WHITE MOUNTAIN EARLY CHILDHOOD DEVELOPMENT DEPARTMENT  
(Legal Name of Sponsor) \_\_\_\_\_; ("SPONSOR")

DBA if applicable \_\_\_\_\_

In order to effectuate the purpose of the following statutes: The National School Lunch Act (NSLA), as amended (42 U.S.C. 1751), The Child Nutrition Act (CNA) of 1966, as amended (42 U.S.C. et seq.), the Arizona State Board of Education ("STATE AGENCY") and the SPONSOR, whose name appears above, enters into this agreement pursuant to Arizona Revised Statutes Sections (ARS) 15-203.B, 15-342, 15-1152, and 11-951, et seq. (if the sponsor is a public agency).

SPONSOR is a public agency other than a public school district governing board, authorization to enter into this agreement is also by virtue of White Mountain Apache Tribe  
(to be completed by sponsor)

The SPONSOR enters into this agreement with the State Board of Education for participation in the Child and Adult Care Food Program.

The following applicable Exhibits are attached and incorporated herein:

- B1 Child Care Center
- B2 Family Day Care Home
- B3 Adult Day Care Center
- B4 Outside School Hours Care Center
- H Clean Air/Clean Water Act Compliance
- I Certification of SPONSOR
- J Certification of STATE AGENCY

**A. PROGRAM REIMBURSEMENT**

The STATE AGENCY agrees, to the extent of funds available, to reimburse the SPONSOR for the programs operated by it, as designated above in this agreement, in accordance with whichever the following regulations, and any amendments thereto. Reimbursement payments to be made by STATE AGENCY shall be subject to the provisions of Title 35 of Arizona Revised Statutes relating

2. The STATE AGENCY shall promptly notify the SPONSOR of any change in the minimum meal requirements or the assigned rates of reimbursement.
3. The STATE AGENCY shall provide advance payments to each SPONSOR upon application. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom; but this provision shall not be construed to extend this agreement if made with a corporation for its general benefit. Determination of advance payments will be based upon the SPONSOR'S request and STATE AGENCY approval consistent with the regulations.
4. Payments advanced to SPONSORS that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand of the STATE AGENCY.
5. This agreement shall become effective on the date of approval by the STATE AGENCY, as to agreements not governed by Arizona Revised Statutes Section 11-951, et seq. Agreements governed by ARS 11-951, et seq., as defined under ARS 15-1152, et seq., shall become effective when filed with the Arizona Secretary of State. All agreements shall terminate on September 30, 1995. Before any amendment or extension may become effective, appropriate action must be taken by ordinance, resolution, or otherwise pursuant to the laws applicable to public agencies entering into this agreement.
6. The SPONSOR shall receive DEPARTMENT donated foods or Cash in Lieu of donated foods as specified on the application. However, those choosing foods may be required to accept cash instead if it is determined by the STATE AGENCY and DEPARTMENT that it is impractical to receive those foods.
7. No right or interest in this agreement shall be assigned or delegated without the written permission of the other party.
8. This agreement may be canceled upon thirty (30) days' notice in writing by either party. Notwithstanding the foregoing, the STATE AGENCY may cancel this agreement immediately upon receipt of evidence that the terms hereof have not been complied with by the SPONSOR.
9. In the event that funding ceases or becomes unavailable to provide for the terms of this agreement, the STATE AGENCY shall immediately notify the SPONSOR and the SPONSOR shall cease to perform the terms of this agreement.
10. The STATE AGENCY shall provide, in accordance with 7 CFR Part 226, a fair hearing affecting the participation of a SPONSOR in the PROGRAM. A copy of the hearing procedure shall be provided to the SPONSOR.
11. The SPONSOR shall repay to the federal government or STATE AGENCY all monies determined by any financial-compliance audit or review to be owed to the federal government or STATE AGENCY in connection with any program for which the SPONSOR has received funds. If the SPONSOR fails to make such repayment within thirty (30) days after demand by the STATE AGENCY, SPONSOR shall pay all reasonable attorneys' fees based on

FOOD SERVICE AGREEMENT

AGREED TO AND SIGNED:

1. Mr. Ronnie Lupe, Tribal Chairman  
(Print or Type Name and Title)

[Signature]  
(Signature of Designated Official)  
(If Applicable, same as item 6 on Certification page, Exhibit D)

2. White Mountain Apache Tribe  
(Sponsor/School)

11-4-93  
(Date)

Address P.O. Box #700 Whiteriver, AZ 85941

OTHER AUTHORIZED SIGNATURES

3. Mrs. Norma Albert, Asst. Director/Ed. Coord.  
(Print or Type Name and Title)

[Signature]  
(Signature)

4. Mrs. Marlene Truax, Administrative Asst.  
(Print or Type Name and Title)

[Signature]  
(Signature)

FOR DEPARTMENT OF EDUCATION USE ONLY  
STATE BOARD OF EDUCATION

5. \_\_\_\_\_  
(Associate Superintendent)

\_\_\_\_\_  
(Date)

Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007

to time and manner of submission of claims if not in conflict with federal law. The STATE AGENCY further agrees to make payments, where applicable, in accordance with Child and Adult Care Food Program Regulations (7 CFR Part 226), the Cash in Lieu of Donated Foods Regulations (7 CFR Part 240), and any amendments thereto; and to donate foods in accordance with Donation of Foods for Use in the United States, its Territories and Possessions and Areas under its Jurisdiction Regulations (7 CFR Part 250), and any amendments thereto.

## **B. PROVISIONS FOR ACCEPTING FUNDS**

The SPONSOR agrees to accept federal funds and/or donated foods in accordance with applicable regulations as set forth in the 7 CFR Parts 226-250 and any amendments thereto; and Office of Management and Budget Circular A-133 and A-128, A-122 as applicable, and to comply with all provisions of said rules and OMB circulars, ADE Program Office Requirements, and with any instructions or procedures issued in connection therewith. The SPONSOR further agrees to administer the PROGRAM funded under this agreement in accordance with provisions of the Uniform Federal Assistance Regulations (7 CFR Part 3015).

## **C. PROGRAM REQUIREMENTS OF THE SPONSOR**

The SPONSOR agrees that it will conduct the Child and Adult Care Food Program in accordance with the U.S. Department of Agriculture (DEPARTMENT) regulations and will conform to the following requirements (unless the requirement is restricted to a particular program):

1. Operate a nonprofit food service to ensure that all reimbursement funds are used 1) solely for the conduct of the food service operation or 2) to improve such food service operations principally for the benefit of the participants.
2. Maintain a financial management system and abide by the administrative budget and management plan approved by the STATE AGENCY.
3. Maintain full and accurate records of operations under this agreement, including those set forth herein and incorporated in the attached exhibits. Records of revenue and expenditures shall be maintained in such a manner as to reflect the nonprofit status of the food service.
4. Maintain files of approved and denied free and reduced price applications. If applications are maintained at the SPONSOR level, they shall be readily retrievable by individual center's participants.
5. Retain all records and applications for a period of five (5) fiscal years after the end of the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the five (5) year period as long as required for the resolution of the issues raised by the audit as required by ARS 35-214.
6. Claim reimbursement only for meals served to eligible participants at the rate(s) assigned by the STATE AGENCY.

activity for which the program applicant receives federal financial assistance from the DEPARTMENT; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

2. This assurance is given in consideration of and for the purpose of obtaining any and all federal financial assistance, grants and loans of federal funds, reimbursable expenditures, grant or donation of federal property and interest in property, the detail of federal personnel, the sale and lease of, and the permission to use, federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the SPONSOR, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the SPONSOR, or any improvements made with federal financial assistance extended to the program SPONSOR by the DEPARTMENT.
3. By accepting this assurance, the SPONSOR agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of federal nondiscrimination laws and permit authorized DEPARTMENT personnel during normal working hours to review such records, books, and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, the DEPARTMENT, FNS shall have the right to seek judicial enforcement of this assurance.
4. The SPONSOR also agrees to comply with the Governor's Executive Order 75-5, the provisions of which are incorporated herein.
5. These assurances are binding on SPONSOR, its successors, transferees, and assignees as long as such person or entity receives assistance or retains possession of any assistance from the DEPARTMENT.
6. Maintain information on Civil Rights complaints, if any, and their resolutions.
7. Submit a public release to the media serving the area(s) from which the SPONSOR draws attendance, announcing the availability of meals to enrolled children without regard to age, race, color, religion, national origin, handicap or sex.

#### **E. RIGHT OF JUDICIAL ENFORCEMENT**

The SPONSOR recognizes and agrees that such federal financial assistance will be extended in reliance on the representations stated herein and in the Exhibits hereto and that the United States and the State of Arizona, individually or jointly, shall have the right to seek judicial enforcement of the agreement. This agreement is made in the State of Arizona and shall be interpreted by the laws of the State of Arizona; any litigation arising out of this agreement shall be brought in Arizona.

#### **F. THE STATE AGENCY AND THE SPONSOR MUTUALLY AGREE THAT:**

1. The Exhibits, where applicable, are part of this agreement.

reasonable hourly charges of like experienced attorneys in Phoenix, Arizona for the Assistant Attorney General representing the STATE AGENCY or the attorney representing the DEPARTMENT in seeking to enforce this paragraph.

12. In the event of a dispute, the parties agree to use arbitration insofar as required by Arizona Revised Statutes Section 12-1518, if not in conflict with federal law.
13. Procurement practices shall be in accordance with STATE AGENCY Rules and Regulations, OMB Circulars A-128 or A-133, and 7 CFR Part 3015 and 7 CFR Part 226.20. All claims and controversies shall be subject to the Arizona Procurement Code, ARS Section 41-2501 et seq., and Arizona Administrative Code R2-7-101 et seq. Procurement standards must be submitted to the STATE AGENCY and will be considered a permanent document unless changes are made by either party.
14. This agreement may be modified only in writing signed by all of the parties or their duly authorized agents, at least twenty (20) days prior to the due date for the next claim for reimbursement. Notice required pursuant to this agreement shall be served personally or by mail upon each party at the addresses specified on page 7.
15. The covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto and their respective successors, transferees, and assignees.
16. Each SPONSOR must supply copies of its Program Application, Policy Statement to the STATE AGENCY. These shall be considered a part of this agreement and are incorporated herein.
17. The STATE AGENCY maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the STATE AGENCY. Therefore, to the extent permitted by law, the SPONSOR assigns to the STATE AGENCY any and all claims for such overcharges as to the goods or services used to fulfill the contract.

#### G. FREE AND REDUCED-PRICE POLICY STATEMENT

Each SPONSOR must supply copies of its Program Application, Site Sheet, Free and Reduced Policy Statement.

#### H. TERMINATION

All parties hereby are put on notice that this agreement is subject to cancellation by the Governor of Arizona pursuant to Arizona Revised Statutes Section 38-511, the provisions of which are incorporated herein.

CERTIFICATION PAGE

DIRECTIONS:

- (1) County in which the governing board is located.
- (2) Name of governing board member authorized to sign this certification page.
- (3) City in which governing board meeting regarding the agreement was held.
- (4) Date of governing board meeting.
- (5) Legal title of the sponsor's governing board.
- (6) Name of designated official who will be signing the food service agreement (same designated official as on line 1, page 7, of the food service agreement).
- (7) Signature of governing board member (same name as on line (2) of this certification page).

CERTIFICATION

State of Arizona )  
 County of (1) Navajo )

I, (2) Virginia Dalton, the duly appointed or elected and qualified  
**Name of Governing Board Member**

member of, and acting on behalf of the governing board, do hereby certify that during a regular  
 meeting held in (3) Whiteriver, Arizona,  
 on (4) November 5, 1993, this governing board, by motion made,

seconded and carried, approved and authorized execution of an agreement between the  
 (5) White Mountain Apache Tribe and the State Board of Education, a State Agency,  
 for the purpose of participating in Child Nutrition Child and Adult Care Food Program for the  
 period ending September 30, 1995. (6) Mr. Ronnie Lupe, Tribal Chairman,  
**Name of Designated Official**

has been designated by the governing board to sign this agreement.

I further certify that this meeting was duly noticed, called and convened and was attended  
 by a majority of the members of the governing board and that approval has not since been  
 altered or rescinded.

(7) Virginia M. Dalton  
**Signature of Governing Board Member**  
 (Same as (2) above)

Tribal Council Secretary  
 White Mountain Apache Tribe



CERTIFICATION

State of Arizona )  
County of Maricopa )

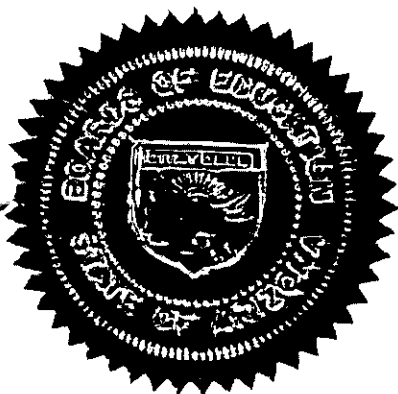
I, Corinne Velasquez, the duly appointed and qualified Administrator to the Arizona State Board of Education, do hereby certify that during a regular meeting of said Board held in Phoenix, Arizona, on July 20, 1993, the Board, by motion duly made, seconded, and carried, approved and authorized execution of a contract abstract between the State Board of Education, for and on behalf of the Department of Education, and individual agreements with nonprofit, profit, public and private institutions throughout Arizona that have been approved for the Child and Adult Care Food Program, for the purpose of participating in the Child and Adult Care Food Program, for an amount not to exceed \$56,068,773.00. The agreement shall take effect on October 1, 1993 and shall terminate on September 30, 1995.

I further certify that said meeting was duly called and regularly convened and was attended throughout by a majority of the members of said Board and that said approval has not since been altered or rescinded.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of said Board on

July 28, 1993.

Corinne L. Velasquez



**CERTIFICATION**

State of Arizona            )  
  ) ss.  
County of Maricopa        )

I, Corinne Velasquez, the duly appointed and qualified Administrator to the State Board of Education, do hereby certify that during a regular meeting of said Board held in Phoenix, Arizona on September 30, 1988, the Board, by motions duly made, seconded and carried, delegated to the Superintendent of Public Instruction the authority to enter into contracts and agreements, including, but not limited to, intergovernmental agreements, on behalf of the State Board of Education. Such contracts and agreements shall be signed on behalf of the Board by C. Diane Bishop, Nancy Mendoza, Richard Condit, Dr. Paul Koehler, Dr. Gary Emanuel, Dr. Judy Richardson or Richard Valdivia.

Corinne L. Velasquez

July 27, 1993

## CHILD CARE CENTER AGREEMENT

## A. THE SPONSOR AGREES TO:

1. Provide proof that all child care centers are appropriately licensed or approved in accordance with PROGRAM regulations.
2. Provide organized care for children in a nonresidential setting.
3. Provide meals at no separate charge, except for pricing programs.
4. If a pricing program, price the total meal as a unit and supply the meals without cost or at a reduced price to children who meet the DEPARTMENT'S eligibility criteria.
5. Certify that **each** private for-profit child care center under its auspices receives compensation, from amounts granted to the State under Title XX of the Social Security Act, for at least 25 percent of enrolled child or 25 percent of licensed capacity, whichever is less, during the month preceding application to the program. The SPONSOR shall not claim reimbursement for meals served in any for-profit center for any month during which the center receives such compensation for less than 25 percent of its enrollment or licensed capacity. Such SPONSOR also certifies that all centers under this agreement have the same legal identity as the SPONSOR.
6. Except for proprietary Title XX centers, child care centers shall be public or have tax exempt status under the Internal Revenue Code of 1954 or moving toward compliance.
7. Maintain daily production records of food prepared and served. Records are to be prepared in advance of serve date.
8. Maintain daily records indicating the number of children in attendance (including time in and out) and the number of meals by type (breakfast, lunch, supper and supplements) served to participants and to adults.
9. Document that at least 8 hours elapse between the end of the first meal and beginning of the fourth meal service on a day in which reimbursement is claimed for a fourth meal service.
10. Document training sessions including dates, locations, and topics for sponsoring organizations as prescribed by the Management Plan.
11. Document Administrative and Operating Costs claimed by the SPONSOR for each month (invoices, receipts) for food, labor, etc.

## EXHIBIT B1

12. Document revenue from participant payments, federal reimbursement, food sales to adults and donations.
13. Provide adequate supervisory and operational personnel for management and monitoring of the PROGRAM.
14. Notify the STATE AGENCY in writing 30 days in advance pending a change in ownership of for-profit day care centers. New owners must apply for program participation under their own name.
15. Attend a PROGRAM Recordkeeping workshop upon approval to participate in the Program.
16. Conduct preapproval visits to each site for which application is made to discuss Program benefits and verify that the proposed food service does not exceed the capacity of the child care facility (applicable to Sponsoring Organizations only).
17. Conduct site reviews as prescribed in the Management Plan.
18. It is not on the DEPARTMENT'S list of ineligible institutions.

**CLEAN AIR/CLEAN WATER ACT COMPLIANCE**

1. The SPONSOR herein promises that any facility to be utilized in the performance of this agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities as of the date of submitting this agreement.
2. The SPONSOR further agrees that he will not use any facility on the List of Violating Facilities in the performance of this agreement for the duration of the time that any such facility remains on the List.
3. The SPONSOR further promises to notify the state agency if it intends to use in the performance of this agreement any facility on the List of Violating Facilities or learns or knows that it has been recommended to be placed on the List of Violating Facilities.
4. The SPONSOR additionally promises that it will, in the performance of this agreement, comply with all requirements of the Clean Air Act (42 U.S.C. 1857 et. seq.) and the Clean Water Act (33 U.S.C. 1251 et. seq.) including the requirements of section 114 of the Clean Air Act and section 308 of the Clean Water Act and all applicable Clean Air standards and Clean Water standards.
5. The SPONSOR further agrees that it will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(H)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 and EPA regulations found at 40 CFR Part 15 (which prohibit the use of facilities on the EPA List of Violating Facilities). In addition to notifying the STATE AGENCY of facilities to be used which are on the Violating List, SPONSOR also agrees to notify the United States EPA Assistant Administrator for Enforcement.