

1750 S. Arizona Blvd.  
Coolidge, AZ 85228

STANDARD AGREEMENT TO PROVIDE FOOD SERVICE  
BETWEEN AN INSTITUTION AND A FOOD SERVICE VENDOR

This agreement ("Agreement") is entered into on August 1, 2011 - July 31, 2012 between PINAL GILA COMMUNITY CHILD SERVICES ("Institution") and MAMMOTH-SAN MANUEL UNIFIED SCHOOL DISTRICT ("Vendor") for meals in accordance with the rules and regulations of the Child and Adult Care Food Program (CACFP).

BACKGROUND

Whereas, it is not within the capability of the Institution to prepare specified meals under the Child and Adult Care Food Program (CACFP); and

Whereas, the facilities and capabilities of the Vendor are adequate to prepare and deliver specified meals to the Institution's facility (s); and

Whereas, the Vendor is willing to provide such services to the Institution on a cost reimbursement basis.

Therefore, both parties agree as follows:

AGREEMENT

1. Vendor Responsibilities.

- 1.1. Food Services. The Vendor agrees to prepare specified meals for delivery to the site specified in Paragraph 1.2 per the agreed upon menu planning option specified in Paragraph 1.6.
- 1.2. Service Site (s). For the purpose of this Agreement, the Vendor shall make and/or deliver meals that comply with the CACFP, CNA, and NSLP and this agreement.
- 1.3. Delivery Requirements. Institution will pick up food from the Vendor M-Th at 8:20 and 11:05am
- 1.4. Price. Vendor's price for child meals are Breakfast \$0 ; Lunch \$0 ; Snack \$ n/a based on the written estimate of meals needed that the Institution provides, except as provided in Paragraph 1.9. (Vendor will claim children) Vendor's prices for Adult meals are Breakfast \$1.10 ; Lunch \$2.50 ; Snack \$ n/a. These prices include all the components per meal listed to meet the meal requirements for children (following).

- 1.5. Menu Preparation and Approval. Vendor shall provide the Institution, for approval, a proposed 28-day cycle menu for the operational period, at least 7 business days prior to the beginning of the period to which the menu applies. Any changes to the menu made after Institution approval must be agreed upon by the Institution and documented on the menu records. Menu items may be adjusted in writing by the mutual consent of both parties. However, the Vendor shall adjust the menus at the request of the Institution whenever the Institution determines certain items to be unacceptable. Such items can be determined to be unacceptable because of (1) a monotonous diet resulting from items served frequently or the similarity to other items; (2) the nutritional needs of the students; (3) susceptibility to spoilage; and (4) excessive waste resulting from unpopularity of items with students. Such adjustments shall be made at the earliest convenience of both parties, but in no instance later than one week after request except that in the case of spoilage adjustment shall be made in such a manner that the children in attendance on the day spoilage is discovered shall receive acceptable meals meeting meal requirements.
- 1.6. Food Preparation. Vendor shall assure that each meal provided to the Institution under this Agreement meets the minimum requirements as to the nutritional content as specified and approved by the CACFP. This includes the Nutrition Standards set forth in Title 7 Code of Federal Regulations (CFR) Section 226.20. The Vendor must provide menus to the Institution on a weekly basis if no cycle menus are used; or if cycle menus are used they must be furnished monthly or as the cycle runs. 7 CFR 226.6 (i)(4)
- 1.7. Recordkeeping. Vendor shall maintain full and accurate records/production worksheets that document: (1) the menus provided to the Institution during the term of this Agreement, (2) a listing of all components of each meal, and (3) an itemization of the quantities and portion sizes of each component used to prepare each meal. The Vendor agrees to provide lunch preparation documentation by using yield factors for each food item as listed in the United States Department of Agriculture ("USDA") Food Buying Guide when calculating and recording the quantity of food prepared for each meal. Vendor shall also maintain and make available:
- 1.7.1. Recipes, nutrition facts labels, and any necessary child nutrition (CN) labels or product specification sheets related to the menus served;
  - 1.7.2. Such cost records as invoices, receipts or other documentation that exhibit the purchase, or otherwise availability to the Vendor, of the meal components and quantities itemized in the meal preparation records;
  - 1.7.3. On a daily basis, an accurate count of the number of meals, by meal type, prepared for and delivered to the Institution. Meal count documentation must include the number of meals requested by the Institution in writing.

- 1.8. Estimates. Vendor shall allow the Institution to increase or decrease the number of meal orders, as needed, when the request is made within 2 hours of the scheduled delivery time.
- 1.9. Invoicing. Vendor shall present to the Institution an invoice accompanied by reports no later than the 5<sup>th</sup> day of each month which itemizes the previous month's delivery. The Vendor agrees to forfeit payment, except in cases due to uncontrollable events or causes beyond its reasonable control, for meals which are not ready within one (1) hour of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this Agreement. In cases of nonperformance or noncompliance on the part of the Vendor, except in cases due to uncontrollable events or causes beyond its reasonable control, the Vendor shall pay the Institution for any excess costs the Institution incurs by obtaining meals from another source.
- 1.10. Certifications. Vendor shall provide the Institution with a copy of current health certifications for the food service facility in which it prepares meals. The Vendor also agrees to notify the Institution of the results of any health inspection that is made during the duration of this Agreement. The Vendor shall maintain proper sanitation practices and health standards in conformance with all applicable State and local laws and regulations. The Vendor shall assure that wholesome ingredients are used and that all food is properly stored, prepared, packaged, and transported. In addition, any substance that the food contacts or which is used in conjunction with the food shall be so handled as to assure that it does not become contaminated.
- 1.11. Record Retention. The parties shall retain all records related to this Agreement in their possession for three (3) years after the expiration of the Agreement. Upon request make all accounts and records pertaining to the Agreement available to the certified public accountant hired by the parties, representatives of the Arizona Department of Education (ADE), USDA, the US General Accounting Office, and the USDA Office of Inspector General ("OIG") for audits or administrative reviews at a reasonable time and place.
- 1.12. Subcontracting. The parties shall not subcontract any portion of this Agreement.

2. Institution Responsibilities.

- 2.1. Unacceptable Meal. Institution shall be responsible for informing the Vendor of its reasons for determining that a meal is unacceptable in writing within forty-eight (48) hours.
- 2.2. Meal Estimates. Institution shall provide in writing, no later than 2 weeks (time and date) before the first day of operation, a reasonably accurate estimate of the number of meals to be delivered to Institution each day. The Institution shall notify the Vendor in writing of necessary increases or decreases in the number of

meal orders within 2 hours of the scheduled delivery time. Errors in meal order counts made by the Institution shall be the sole responsibility of the Institution.

- 2.3. Institution Representative Duties. Institution shall ensure that an Institution representative is available at each delivery site, at the specified time on each specified delivery day to receive, inspect and sign for the requested number of meals. This individual will verify the temperature, quality and quantity of each meal delivery. The Institution assures the Vendor that this individual will be trained and knowledgeable in the record keeping and meal requirements of the CACFP and with local health and safety codes.
- 2.4. Cleaning. Institution shall be responsible for cleaning the eating areas daily. Institution shall provide Vendor with a copy of current health certifications for the facility in which meals are served and eaten. Institution agrees to notify the Vendor of the results of any health inspection that is made during the duration of this Agreement. The Institution shall maintain proper sanitation practices and health standards in conformance with all applicable State and local laws and regulations.
- 2.5. Approval of Menus. Institution shall notify the Vendor in writing within 7 days of receipt of the next month's proposed cycle menu, of any changes, additions or deletions.
- 2.6. Payment. Institution shall pay the Vendor by the 19th day of each month the full amount as presented on the monthly itemized invoice. An interest payment equal to one percent per month (or portion thereof) on any delinquent amount owed under this Agreement may be charged. The Institution shall notify the Vendor within 48 hours of receipt of any discrepancy in the invoice. The Institution shall pay the Vendor for all meals delivered in accordance with the agreement.  
**Neither ADE nor USDA will assume any liability for payment of the difference between the number of meals prepared and delivered by the Vendor and the number of meals served by the Institution that are eligible for reimbursement. In addition, neither ADE nor USDA will be responsible for resolving issues of partial or non-payment per the terms of this agreement.**

### 3. General Terms.

- 3.1. Employment. The parties shall comply with all applicable Federal, State, and local laws and regulations pertaining to wages, hours, conditions of employment, and nondiscrimination in employment, 7 CFR Section 3016.36 (i)(3). USDA is an Equal Opportunity Provider and Employer.
- 3.2. Payroll Taxes and Costs. The parties shall pay its employees directly and shall withhold and pay all applicable federal and state employment taxes and payroll insurance with respect to its employees, including an applicable income, social security, Medicare and employment taxes and workers compensation costs.

### 3.3. Indemnity.

- 3.3.1. Each party shall indemnify, defend and hold the other party harmless against any loss of damage (including attorney's fees and costs of litigation) caused by the party's negligent act or omission, theft by the party's employees, or the negligent or intentional acts or omissions of the party's agents or employees, including any suit alleging personal injury or property damage to the extent such act or omission causes or contributes to bodily injury, sickness, disease or death.
- 3.3.2. Either party shall promptly notify the other party in writing of any claims in connection with this Agreement. Each party disclaims any and all liability for any indirect, special, or consequential damages or lost profits arising out of or related to this Agreement and each party agrees that the other party's liability for damages for any cause shall be limited to the total fees paid by the other party under this Agreement.

### 3.4. Agreement Modification; Nonperformance or Default; Termination.

- 3.4.1. This Agreement constitutes the entire understanding between the Vendor and the Institution with respect to the subject matter hereof and there is no other written or oral understandings or agreements with respect hereto. No variation or modification of the Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of the Institution and the Vendor. No assignment or transfer of this Agreement may be made, in whole or in part, without the prior written consent of the other party.
- 3.4.2. In the event that either party materially fails to perform or comply with any provision of this Agreement, and fails to remedy the default within 10 days after receipt of written notice of the default, then the non-defaulting party shall have the right to terminate this Agreement in whole or part. All notices shall be sent by U.S. certified mail, return receipt requested, or delivered by hand to the party to at the address indicated or such other address requested by notice to the other party, and shall be considered given when received. A breach by either party of any of the provisions of this Agreement shall entitle the other to all rights and remedies provided by this Agreement or pursuant to applicable law. No action arising out of any breach or claimed breach of this Agreement may be brought by either party more than one year after the cause of action has accrued. The prevailing party in any action to enforce this Agreement shall be entitled to reasonable attorneys' fees and disbursements, including but not limited to court costs and fees, fees and costs of expert witnesses, fees of court reporters, and transcripts.

- 3.5. Duration. This Agreement shall become effective after both parties sign it. The Vendor shall provide meals during August 1, 2011-July 31, 2012.

- 3.6. Audit. The Institution shall have the right, at its expense, to inspect the books and records of Vendor to verify its performance and expenses submitted under this Agreement. Inspection shall take place during normal business hours at Vendor's place of business.
- 3.7. Applicable Law. The law of the State of Arizona shall govern this Agreement. Any action brought by a party with respect to breach or enforcement of the terms of this Agreement shall be brought in the courts of the State of Arizona situated in Pinal County.
- 3.8. Cancellation. The Institution may cancel this Agreement under Arizona Revised Statutes §38-511 (Cancellation for conflict of interest - <http://www.azleg.state.az.us/ars/38/00511.htm>) for a violation of that statute. This notice complies with the requirements of that statute.
- 3.9. Termination without Cause. Either party may terminate this Agreement at any time upon sixty (60) days prior written notice to the other of such party's intention to terminate this Agreement.
- 3.10. Unavailability of Funds. The Institution may terminate this Agreement, without penalty, if its Governing Board fails to appropriate funds in subsequent fiscal years to support the program that is the subject of this Agreement. The Institution shall give the Vendor prompt written notice after it knows that funding will not be available.
- 3.11. Non-Discrimination. Vendor shall not illegally discriminate in either the provision of services, or in employment, against any person because of sex, race, disability, national origin, veteran's status, sexual preference or religion. Vendor agrees to comply with all applicable federal and state laws, rules, regulations, and executive orders relating to non-discrimination, affirmative action and equal employment opportunity.
- 3.12. Workers Compensation. Vendor shall maintain a system of coverage for workers compensation in conformance with applicable state law covering all of its employees who may be employed in connection with food service provided to the Institution.
- 3.13. Insurance. The parties shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current A.M. Best rating of A: VIII or better. And upon request, either party will provide the other with a certificate evidencing such insurance coverage.
- 3.13.1. Commercial General Liability insurance with a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage, the liability assumed under the indemnification provisions of this Agreement; and

3.13.2. Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to either party's owned, hired, and non-owned vehicles.

3.14 The parties warrant their compliance with all federal immigration laws and regulations that relate to their employees and warrant verification of employment eligibility of each employee through the E-verify program and that a breach of this warranty shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of this Agreement, and the parties retain the legal right to inspect the papers of any employee who works in connection with this Agreement to ensure compliance.

The parties certify that they do not have scrutinized business operations in Sudan or Iran, and the parties may terminate this Agreement based on false certification.


3.15 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party.

3.16 Construction and Effect. A waiver of any failure under this agreement shall neither be construed as, nor constitute a waiver of, any subsequent failure. This agreement supersedes all prior negotiations, representations, or agreements. The Article and Paragraph headings are used solely for convenience and shall not be deemed to limit the subject of the Articles and Paragraphs or be considered in their interpretation. The appendixes referred to herein are made part of this agreement by the respective references to them. This agreement may be executed in several counterparts, each of which shall be deemed an original.

3.17 Amendments to the Agreement. The parties cannot alter any provision in this agreement that is required by any law, rule or regulation. The parties cannot otherwise amend or alter this agreement, except as to minor, non-substantive provisions or issues that do not materially affect the scope of work or the cost of the agreement. The parties must mutually agree, in a written document signed by both parties and attached to this agreement, amend, add, or delete an Article or Appendix. Any amendment to this agreement shall become effective at the time specified in the amendment.

**Sponsor:**

**Food Service Provider:**

 4/26/11  
\_\_\_\_\_  
Signature Date

Melanie O'Neil, CEO  
Pinal Gila Community Child Services, Inc.  
1750 S. Arizona Blvd.  
Coolidge, AZ 85128

\_\_\_\_\_  
Signature Date

Ron Rickel, Ed.D, Superintendent  
Mammoth-San Manuel School District  
P.O. Box 406  
San Manuel, AZ 85631

# MEAL PATTERN REQUIREMENTS FOR CHILDREN

BREAKFAST			
FOOD COMPONENT	Ages 1-2	Ages 3-5	Ages 6-12
1. Milk, fluid	½ cup	¾ cup	1 cup
2. Vegetable, fruit, or 100%full-strength juice	¼ cup	½ cup	½ cup
3. Grains/breads (whole grain or enriched)			
bread, or	½ slice	½ slice	1 slice
biscuits, rolls, muffins, cornbread, or	½ serving	½ serving	1 serving
cold dry cereal or	¼ cup or 1/3 oz.	1/3 cup or ½ oz.	¾ cup or 1 oz.
cooked cereal, cereal grains or	¼ cup	¼ cup	½ cup
cooked pasta or noodle products	¼ cup	¼ cup	½ cup
LUNCH/SUPPER			
1. Milk, fluid	½ cup	¾ cup	1 cup
2. Vegetable and/or fruit, or 100 % full strength juice (from 2 or more kinds)	¼ cup	½ cup	¾ cup
3. Grains/breads (whole grain or enriched)			
Bread	½ slice	½ slice	1 slice
or cornbread, biscuits, rolls, muffins	½ serving	½ serving	1 serving
or cooked pasta, noodle products	¼ cup	¼ cup	½ cup
or cooked cereal, cereal grains	¼ cup	¼ cup	½ cup
4. Meat or meat alternates:			
Lean meat, poultry, or fish	1 oz.	1½ oz.	2 oz.
or egg	1 egg	1 egg	1 egg
or cooked dry beans, peas, lentils**	¼ cup	3/8 cup	½ cup
or peanuts, soy nuts, tree nuts, seeds	½ oz.***	¾ oz.***	1 oz.***
or peanut butter, other nut or seed butters	2 Tbsps***	3 Tbsps***	4 Tbsps***
or yogurt (low or nonfat)*	½ cup or 4 oz.	¾ cup or 6 oz.	1 cup or 8 oz.
or cheese*	1 oz.	1½ oz.	2 oz.
an equivalent quantity of any combination of the above meat/meat alternates			

Natural or Processed only.

\*\* In the same meal service, dried beans or dried peas may be used as a meat alternate or as a vegetable; however, such use does **not** satisfy the requirement for both components.

\*\*\* No more than 50 percent of the requirement shall be met with nuts, seeds or nut butters. These components shall be combined with another meat/meat alternate to fulfill the requirement. For the purpose of determining combinations, one ounce of nuts or seed is equal to one ounce of cooked lean meat, poultry, or fish.

\*\*\*\* Juice may not be served when milk is served as the other component.



### MEAL PATTERN REQUIREMENTS FOR CHILDREN (Continued)

SNACKS	
FOOD COMPONENT	Ages 3-5
<u>Select 2 of these 4 components****</u>	
1. Milk, fluid	½ cup
2. Vegetable, fruit or 100 % full-strength juice	½ cup
3. Grains/breads (whole grain or enriched)	
Bread	½ slice
or cornbread, biscuits, rolls, muffins	½ serving
or cold dry cereal	1/3 cup or ½ oz.
or cooked cereal or cereal grains	¼ cup
or cooked pasta, noodle products	¼ cup
4. Meat or meat alternates:	
Lean meat, poultry or fish	½ oz.
or cheese*	½ oz.
or eggs	½ egg
or cooked dry beans, peas, lentils**	1/8 cup
or peanut butter, other nut or seed butters	1 Tbsp.
or peanuts, soy nuts, tree nuts or seeds	½ oz.
or yogurt	¼ cup

Additional requirements of the Child Care Institution are as follows:

In Accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

USDA is an Equal Opportunity Provider and Employer.

