

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

WHEREAS, the White Mountain Apache Tribe owns and operates the White Mountain Recreation Enterprise under a plan of operation approved November 24, 1954 and accepted by the Tribe on December 7, 1954, and

WHEREAS, Resolution No. 58-21, adopted May 12, 1958, does not approve a proposed contract entered into between the Chairman of the Tribal Council and James D. Sparks, and said contract was not executed before a judge of a court of record as required by 25 USC 81 and has not yet been approved by the Secretary of the Interior or his authorized representative, now therefore

BE IT RESOLVED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE, THAT Resolution No. 58-21 is hereby rescinded.

BE IT FURTHER RESOLVED, that the attached contract between this Council and James D. Sparks is hereby approved and the Chairman of the Tribal Council is hereby authorized to execute the attached contract on behalf of the Tribal Council.

The foregoing resolution was on June 26, 1958 duly adopted by a vote of 9 for and 0 against, by the Tribal Council of the White Mountain Apache Tribe pursuant to authority vested in it by Article VI, Section 1 (d) and (n) and Section 3 of the Constitution and By-Laws of the Tribe ratified by the Tribe on August 15, 1938 and approved by the Secretary of the Interior on August 26, 1938 pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Approved: July 2, 1958

Clinton Kessner
Chairman of the Tribal Council

Albert M. Newley
Superintendent

Mary L. Eastfield
Secretary of the Tribal Council

MANAGEMENT CONTRACT FOR THE
WHITE MOUNTAIN RECREATION ENTERPRISE
An Enterprise of the
WHITE MOUNTAIN APACHE INDIAN TRIBE

THIS AGREEMENT, made this 5th day of May, 1958, by and between the White Mountain Apache Tribe, hereinafter referred to as the "Tribe", and JAMES D. SPARKS, hereinafter referred to as the "Manager".

It is understood by both parties hereto that this agreement, executed on the dates shown opposite the signatures below, shall be effective May 5, 1958; it is further understood that this agreement shall not be effective until this contract is approved by the Secretary of the Interior or his authorized representative.

WITNESSETH:

That the Tribe, subject to the conditions and provisions set forth herein and in the plan of operation approved November 24, 1954, and accepted by the Tribe December 7, 1954, hereby employs JAMES D. SPARKS as Manager of the "White Mountain Recreation Enterprise", a tribal enterprise, hereinafter referred to as the "Enterprise", and the said JAMES D. SPARKS hereby accepts such employment subject to the following conditions and provisions:
EFFECTIVE: May 5, 1958.

THAT for and in consideration of payments to be made, services to be performed, and rights and privileges granted by the Tribe and the Manager, it is mutually understood and agreed as follows:

1. The Manager shall operate and manage the Enterprise in accordance with the general policies, plans and procedures of the White Mountain

Apache Tribal Council, in an economical and efficient manner, and in accordance with law. He shall operate the Enterprise within the limitations of approved budgets for the Enterprise.

2. The Manager shall conduct the business of the Enterprise in accordance with the plan of operation for the Enterprise, approved November 24, 1954, and accepted by the Tribe December 7, 1954. The Manager shall be bound by the terms of said plan of operation to the same extent as though the plan were set forth in full herein. By execution of this contract the Manager acknowledges receipt of a copy of said plan to be used for his guidance, and he shall not claim unfamiliarity with the plan as reason for failing to follow procedures and abide by the provisions thereof. However, it is understood and agreed that the Tribe may desire to amend the plan of operations and upon delivery of any future amendments to the Manager, he shall be bound by the conditions therein.

3. The Manager will furnish information required by the accounting system established in accordance with Section D-3 of the plan of operation, and will permit authorized representatives of the Tribe or the Commissioner of Indian Affairs to enter upon the premises of the Enterprise at any reasonable time, and will make the records of the Enterprise available for inspection for such representatives. He shall be responsible for the accounting of all receipts and disbursements of the Enterprise as provided in Section D-1 and 2 of the approved plan of operation. Further, he shall be responsible for the proper maintenance

of the accounts and for securing the services of qualified auditors for the purpose of performing annual audits of the enterprise.

4. The Manager shall be bonded to the White Mountain Apache Tribe in the amount of \$50,000.00 with a surety company or companies on the United States Treasury's approved list, such bond shall protect the Tribe against financial loss by reason of any act or acts of fraud, dishonesty, forgery, embezzlement, wrongful abstraction, or wilful misapplication on the part of the Manager.

5. If the Manager authorizes any of his subordinates or employees of the Enterprise to handle funds, he shall require such employees or subordinates to be bonded to the White Mountain Apache Tribe in an amount, and in a manner, satisfactory to the Manager and the Tribal Council. The costs of all bonds of the Manager, and his subordinates or employees, shall be considered an operating expense of the Enterprise. The Tribal Council may, in writing, require the Manager to increase or decrease the amount of any surety bond. All such surety bonds shall be deposited with the Tribal Council for safekeeping.

6. The Manager shall be allowed 15 days, exclusive of Saturdays, Sundays and holidays, leave with pay annually, provided that such leave be taken only when the business of the Enterprise warrants, and any leave in excess of three days at any one time shall be approved in advance by the Tribal Council. Any annual leave not taken during a calendar year shall be compensated for at regular salary rates. Leave may not be accumulated from year to year. The Manager also shall be

allowed annual sick leave up to 15 days, exclusive of Saturdays, Sundays and holidays, with pay, provided that any sick leave taken in excess of three days must be accompanied by a physician's certificate showing that the Manager was unable to work during the leave period. Any sick leave not taken during a calendar year shall be forfeited. The fact that the Manager is on either sick or annual leave at any time shall not relieve him of his responsibility for management of the Enterprise under this contract.

7. The period of this contract shall be from May 5, 1958, to May 4, 1961, after which it may be extended by mutual agreement of the parties thereto, provided that any extension shall not exceed a period of three (3) years, and provided that any extension shall not be effective until approved by the Secretary of the Interior or his authorized representative.

It is mutually agreed by both parties hereto that this contract may be terminated, in any one of the ways set forth herein. At the time of termination a full accounting for all property and funds of the Enterprise shall be rendered by the Manager, and an audit shall be made at the expense of the Enterprise, except as set forth in sub-section (d) of this section.

(a) The Tribal Council may terminate this contract any time by giving the Manager 30 days notice in writing. Termination in this manner shall require approval of the Area Director to become effective. The Manager may be required to turn over all property and funds of the Enterprise to an authorized representative of the Tribe, upon receipt of a notice of termination, and be relieved of the management of the Enterprise immediately.

In the event the contract is terminated in this manner, the Manager shall be entitled to payment for unused accrued annual leave in accordance with Section 6; to reimbursement for any expenses incurred by him in accordance with Section 9, and to salary payments in accordance with Section 8; even though he may have been immediately relieved of management of the Enterprise for the remainder of the 30 days notice period.

(b) The Tribe may terminate this contract at any time without prior notice to the Manager for misfeasance, malfeasance, or non-feasance on the part of the Manager. The Manager may be required to turn over all property and funds of the Enterprise to an authorized representative of the Tribe upon receipt of a notice of termination, and may be relieved of management of the Enterprise immediately. In the event this contract is terminated in this manner, the Manager shall be entitled to payment for unused accrued annual leave in accordance with Section 6; to reimbursement for any expenses incurred by him in accordance with Section 9; and to salary payments in accordance with Section 8; to the date of receipt of the notice of termination, provided that payments of any sort to the Manager may be withheld until an audit is completed and full accounting for all funds and property of the Enterprise is made.

(c) The total disability or the death of the Manager shall terminate both his duty to render further managerial services and the duty of the Tribe to make further payments except in settlement of obligations theretofore accrued under the contract. A full and complete audit and accounting for the funds and property of the Enterprise shall be made in accordance with instructions of the Council, copy of which shall be furnished

the Manager, or in the event of the Manager's death to his executor, administrator or assigns. The expense of such audit shall be borne by the Enterprise. Any payments due the Manager shall be made to the Manager, or in the event of the Manager's death to his executor, administrator, or assigns. The Manager, or in the event of the Manager's death his estate shall be liable for the proper accounting for all property and funds of the Enterprise. In the event the contract is terminated in this manner, Section 14 shall not apply.

(d) The Manager may terminate this contract at any time by giving the Tribal Council 30 days notice in writing. If the Manager requests termination at any time other than the close of a fiscal year, the Manager shall bear the expense of the audit required by his termination.

8. The Manager shall receive an entrance salary of \$7,200.00 per annum, with an annual increase of \$200.00 every twelve months until a maximum salary of \$8,000.00 per annum is reached. All salaries are to be paid in 26 equal installments in arrears.

9. The Manager will be furnished adequate office space and equipment for the conducting of Enterprise business. He will be furnished an automobile, and operation, repair and maintenance expense of such automobile, by the Enterprise to be used in the conducting of Enterprise business. The Manager, or any employee of the Enterprise when authorized by the Manager, when off the reservation overnight or longer on Enterprise business shall be considered in a travel status and shall be reimbursed at a per diem rate of \$12.00 in lieu of subsistence and lodging,

computed in accordance with Government travel regulations, and for other incidental expenses incurred in connection with Enterprise business. Claims for per diem shall be supported by sworn written statements of the traveler. Claims for other incidental expenses in excess of \$1.00 shall be supported by signed receipts.

10. The Manager shall be furnished an adequate warehouse and workshop, tools, equipment, materials and supplies necessary to complete planned projects. Where materials, supplies and equipment are not furnished in sufficient quantities for specific projects, failure to complete the project or work will not be cause for termination of this contract.

11. The Manager shall devote his full time and energies to the successful operation and management of the Enterprise and may not engage in other activities which would interfere with proper conduct of the Enterprise business. It is mutually understood and agreed by both parties that the Manager, in cases of emergencies, will be subject to Fire Control work and that such work shall be considered a part of the duties of the Enterprise operations. The Manager further agrees to follow the approved plan of operation and all amendments and revisions thereof.

12. (a) No officer, agent or employee of the Department of the Interior, shall be admitted to any share or part in this agreement or derive any benefit therefrom. The foregoing prohibition shall not apply, however, to contracts entered into by the Manager on behalf of the Tribe with any other corporation for the general benefit of such

other corporation, in which such officer, agent or employee of the Department of the Interior is a share holder.

(b) The Manager shall not transact business on behalf of the Tribe with any corporation, joint-stock company, or association, or any firm or partnership, or other business entity of which he is an officer, agent, or member, or in the contracts or pecuniary profits of which he is directly or indirectly interested.

(c) The Manager shall not contract with any person or corporation for the hiring out of the labor of any prisoners confined for violation of any laws of the United States.

13. This contract shall require approval by the Secretary of the Interior or his authorized representative before it can become effective. Upon final approval this contract shall supersede any existing contracts between the parties hereto.

14. For each calendar day during which the Enterprise shall fail to operate by virtue of any breach of this contract on the part of the Manager, said Manager shall be assessed the sum of \$50.00 as liquidated damages and his sureties held responsible for payment thereof.

IN WITNESS WHEREOF, the Tribal Council of the White Mountain Apache Tribe has caused this contract to be executed by its Chairman, thereunder duly authorized, at Holbrook, Arizona on the 16th day of July, 1958, and the Manager has executed said contract at Holbrook, Arizona this 16th day of July, 1958.

ATTEST:

WHITE MOUNTAIN APACHE TRIBE

Mary G. Esfield
Secretary, White Mountain Apache
Tribe

Christo Perry
Chairman, Tribal Council
Pursuant to authority vested in me
by Tribal Resolution No. 58-33
adopted June 26, 1958.

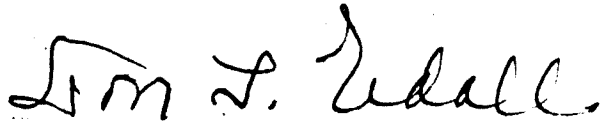
Residence: Whiteriver, Arizona

James D. Sparks
James D. Sparks, Manager
Residence: Whiteriver, Arizona

STATE OF ARIZONA)
COUNTY OF NAVAJO) ss

Before Me, a Judge of the Superior Court of Navajo County, Arizona, personally appeared CLINTON KESSAY, The Chairman of the White Mountain Apache Tribe, an unincorporated Indian Tribe, who acknowledged to me that, being authorized to do so by Resolution No. 58-33 adopted June 26, 1958, by the White Mountain Apache Tribal Council, he executed the foregoing instrument at Holbrook, Arizona, on July 16th 1958, for and on behalf of said White Mountain Apache Tribe by signing his name as Chairman.

IN WITNESS WHEREOF I have hereunto set my hand this 16th day of July, 1958.

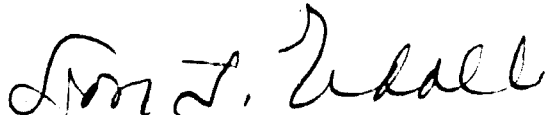


Tom J. Udall
Judge, Superior Court of Navajo County,
Arizona

STATE OF ARIZONA)
COUNTY OF NAVAJO) ss

Before Me, a Judge of the Superior Court of Navajo County, Arizona personally appeared JAMES D. SPARKS, who acknowledged to me that he executed the foregoing instrument at Holbrook, Arizona on July 16th, 1958, for and on behalf of said JAMES D. SPARKS by signing his name as Manager.

IN WITNESS WHEREOF I have hereunto set my hand 16th day of July, 1958.



Tom J. Udall
Judge, Superior Court of Navajo County
Arizona