

**Memorandum of Understanding between
Triunfo Sanitation District (dba Oak Park Water Service) No. [REDACTED]
Rancho Simi Recreation and Park District No. [REDACTED]
Or National Park Service No. [REDACTED]
Or Santa Monica Mountains Conservancy No. [REDACTED]**

This is an understanding concerning the exchange of potable water in an emergency.

THIS AGREEMENT is made and entered into this ____ day of ____ 2008 by and between the Triunfo Sanitation District, hereinafter “Triunfo” and [REDACTED], hereinafter “Park Agency.” Triunfo is a public agency formed pursuant to California Health & Safety Code Section 4700, et seq. [REDACTED] is [REDACTED] pursuant to [REDACTED] *(please insert your typical agreement language.)*

RECITALS

- A. Triunfo is arranging to take ownership from Calleguas Municipal Water District of easements, property, and improvements on Park Agency property.
- B. Triunfo is not required to remove or decommission the improvements, but desires to do so in order to limit future maintenance and liability.
- C. After removal or decommissioning the improvements, Triunfo has no need for the easements or property.
- D. Park Agency would prefer the facilities are removed and decommissioned and then the easements abandoned and the property transferred to the National Park Service.

ARTICLE 1: COMMUNICATION AND COORDINATION

1.1 Triunfo will coordinate events leading to removal, decommissioning, easement abandonment, and property transfer with Park Agency. One objective of communications will be to minimize the disturbance to the environment and park patrons. To that end, Triunfo will suggest a schedule for activities. The Park Agency may revise the schedule to later dates. When the revised dates are suggested less than 7 calendar days after Triunfo suggests the schedule or more than 14 calendar days before the event, Triunfo will adjust to the revision. Should the Park Agency suggest schedule revisions closer to the event, Triunfo may proceed as scheduled.

1.2 Communications may be in any form such as a phone call, in-person, email exchange, or fax exchange.

ARTICLE 2: ANTICIPATED REMOVAL AND DECOMMISSIONING

2.1 Park Agency will allow the easement abandoning and property transfer, provided the removal and decommissioning is as described in Exhibit A, “Decommissioning Calleguas Municipal Water District’s facilities in the National Recreation Area – Project Description.”

2.2 Triunfo has provided drafts of this agreement, drafts of the project description, and has started the project environmental documentation prior to this agreement and prior to accepting the easements, property, and improvements from Calleguas. Triunfo is funding the work of its staff and consultants. Park Agency is funding the work of its staff and consultants, which is mostly for review of Triunfo’s efforts.

2.3 The National Park Service (NPS) environmental review team anticipates compliance with the NEPA through the use of Categorical Exclusion. Triunfo anticipates a Negative Declaration or Mitigated Negative Declaration will be necessary for compliance with the California Environmental Quality Act (CEQA) because the proposed action is discretionary on the part of Triunfo (i.e., making it subject to CEQA) and there are no CEQA exemptions that are applicable. NPS and Triunfo will share responsibility for the preparation of environmental analyses that will support the NEPA Categorical Exclusion and the CEQA Negative Declaration. In general, NPS will provide NEPA plus the biological resources for CEQA and Triunfo will address the other CEQA issues.

2.4 Provided Triunfo accepts the easements, property, and improvements from Calleguas, Triunfo will proceed with removal, decommissioning, and prepare the paperwork for easement abandoning and property transfer with the goal of accomplishing same within 360 days of Triunfo's new Oak Canyon Reservoir filling for the first time or concurrent with the demolition of Triunfo's existing Conifer Tank, whichever is later.

ARTICLE 3: AGREEMENT EFFECTIVE DATE AND TERMINATION

3.1 Effective Date

This agreement shall be deemed effective upon full execution by both Triunfo and Park Agency and shall remain in force for a term of five years from the date of this Agreement, unless this agreement no longer needed. For example, the agreement will not be needed, if Triunfo does not own the easements, property, and improvements or Park Agency has already allowed the easement quitclaims and taken ownership of the property.

3.2 Termination

This agreement may be terminated by either party for any reason prior to Triunfo accepting the easements, property, and improvements from Calleguas. Notice of termination must arrive in time for Triunfo to avoid accepting the easements, property, and improvements from Calleguas.

After Triunfo accepts the easements, property, and improvements from Calleguas, the agreement may be terminated only in the event of a material default in any obligations hereunder. For purposes of this Agreement, a material default shall be defined as failure to perform any of the obligations contained in Article 1 or 2 herein. Termination of this Agreement because of a material default of one party shall not relieve that party from liability for such default.

The termination shall not leave Triunfo with any obligations beyond those of an easement and property owner. That is, Triunfo may maintain or sell easements, property, and improvements as ownership allows.

ARTICLE 5: INSURANCE

5.1 Triunfo and its consultants and contractors will have:

- (a) Worker's Compensation and Employer's Liability in accordance with applicable laws.
- (b) General & Automobile Liability with combined single limit of \$5,000,000 for bodily injury, death or property damage.

5.2 Park Agency will be a named additional insured by Triunfo's contractors.

5.3 No District shall be responsible for damage or loss by any peril to facilities and equipment owned by other District's other than as provided in Article 6.1.

ARTICLE 6: HOLD HARMLESS

6.1 Notwithstanding anything herein to the contrary, both parties shall indemnify, defend, and hold each party free and harmless from all claims, demands, liabilities, loss or injury to, or death of, any person, including, but not limited to, employees of each District and damage to or destruction of property including, but not limited to, property of each party; provided said fines, claims, demands, liability or loss are caused by a negligent act or failure to act of both parties.

ARTICLE 7: TERMS

No alteration or variation of the terms of this agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

ARTICLE 8: ASSIGNMENT

Neither party shall assign nor transfer its interest in this agreement without the written consent, of the other, which written consent shall not be withheld except for good and reasonable cause.

ARTICLE 9: ARTICLE HEADINGS

Article headings in this agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this agreement.

ARTICLE 10: PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this contract is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 11: ATTORNEY FEES

In the event that either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any term, covenant or condition of this contract, or to interpret any term, covenant or condition, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable out-of-pocket expenses (including, but not limited to phone calls, photocopying, expert witnesses, travel, etc.) and reasonable attorney fees to be fixed by the court, and such recovery shall include court costs and attorney fees on appeal, if any. The court will determine who is the "prevailing party," whether or not the suit proceeds to final judgment.

ARTICLE 12: NOTICES

All notices or other official correspondence relating to contractual matters between the parties hereto shall be made by depositing same first-class, postage paid mail addressed as follows:

To Park Agency:

To Triunfo: Finance & Administration
TRIUNFO SANITATION DISTRICT
1001 Partridge Drive, Suite 150
Ventura, CA 93002-0704

or to such other address as the parties may designate hereinafter in writing delivered to the other party. All notices shall be deemed to have been received 3 days after mailing.

ARTICLE 13: NO WAIVER

No failure or delay by either party in asserting any of its rights and remedies as to any default of the other party shall operate as a waiver of the default, of any subsequent or other default, or any of either parties rights or remedies. No such delay shall deprive VRSD of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

ARTICLE 14: CALIFORNIA LAW

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

APPROVED AS TO FORM: ARNOLD,
MATHEWS, WOJKOWSKI & ZIRBEL, LLP

TRIUNFO SANITATION DISTRICT

By _____
JOHN MATHEWS
Legal Counsel for DISTRICT

By _____
RONALD STARK, Chairman
Board of Directors

ATTEST:

By _____
RHONDA CATRON
Clerk of the Board

