

EXHIBIT D

RESOLUTION NO. 2009-01

**A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE
COUNTY OF INYO, STATE OF CALIFORNIA, APPROVING CONSOLIDATION
NO. 2009-01/INDIAN CREEK AND WESTRIDGE COMMUNITY SERVICES
DISTRICTS**

WHEREAS, the Inyo Local Agency Formation Commission (LAFCO) reviewed and approved a Municipal Service Review and Sphere of Influence Update on February 9, 2007, which recognized that the Westridge Community Services District (WCSD) and the Indian Creek Community Services District (ICCS) were considering consolidating; and

WHEREAS, on January 27, 2009, the WCSD and ICCS held a duly noticed joint public hearing at the Jill Kinmont School to consider consolidating their Districts, and adopted substantially similar Resolutions of Application to consolidate; and

WHEREAS, the WCSD and ICCS submitted applications to consolidate to the Inyo LAFCO on February 27, 2009, including a Service Plan for operation of a proposed Combined Community Services District (CCS); and

WHEREAS, in compliance with the requirements of the California Environmental Quality Act (CEQA), a draft Negative Declaration/Initial Study (ND/IS) was prepared for the proposed consolidation and circulated to the State Clearinghouse, all affected agencies, and all interested parties for public review and comment pursuant to the provisions of CEQA; and

WHEREAS, in compliance with CEQA, a Notice of Availability/Intent was recorded by the Inyo County Recorder and published in the Inyo Register; and

WHEREAS, the public comment period for the draft ND/IS closed on April 28, 2009 and two comment letters were received; and

WHEREAS, the CCS have submitted a plan and have demonstrated the ability to consolidate services, and the proposed CCS can meet the long-term needs of its residents by providing water service and street lighting; and

WHEREAS, there are no reasonable or feasible alternatives as no other agencies in the area provide water service within the CCS's jurisdiction, and therefore, no comparisons can be made; and

WHEREAS, the geography of the two districts and their characteristics is such that they are uniquely suited to consolidate; and

WHEREAS, the consolidation will not have a negative financial impact on any parties involved, will be in the best interest of existing and future residents, and will work to improve assurance of an adequate and safe water supply, protection of groundwater resources, and better economies of scale; and

WHEREAS, the WCSD and the ICCSD were created pursuant to the community services district statutes and the consolidated district will operate pursuant to the Community Services District Law; and

WHEREAS, a modified Service Plan was submitted to the Inyo LAFCO on April 28, 2009, and was considered and adopted by the Board of Directors of the WCSD and ICCSD on May 4, 2009; and

WHEREAS, the Inyo LAFCO held a duly noticed public hearing on May 8, 2009, to consider Consolidation No. 2009-01/Indian Creek and Westridge Community Services Districts, and considered the staff report and all written and oral testimony presented concerning Consolidation No. 2009-01.

NOW, THEREFORE, BE IT RESOLVED, that the Inyo LAFCO makes the following determinations regarding the project as required by the Cortese-Knox-Herzberg Local Government Reorganization Act of 2000, as updated (Government Code Section 56000 et seq.):

- 1.) There is a need for the services to be provided by the CCSD by existing and future residents of the area served by the WCSD and ICCSD; and
- 2.) The Districts have demonstrated the ability to jointly provide water delivery and street lighting services to the neighborhoods currently served by each District separately, and have submitted an appropriate plan for services. Services to be provided by the CCSD will be adequate to meet the long-term needs of the territory proposed for consolidation after necessary improvements to facilities are made. Water supply is adequate to provide continuing water delivery services, and the consolidation will not substantially alter demand; and
- 3.) There are no reasonable or feasible alternatives to service as no other agencies in the area provide water delivery service within the Districts' jurisdiction, and therefore, no comparisons for the sake of determining overall efficiency can be made. The consolidation will be "revenue neutral" and in the best interest of the future residents of the territory proposed for consolidation. Merging the ICCSD and WCSD is the most cost effective and efficient alternative; and
- 4.) The proposed boundaries are logical, contiguous, not difficult to serve, definite, certain and conform to existing assessment lines. The proposal will have no negative effects on adjacent areas of population or other community service providers. No outside agencies have objected to the proposed consolidation; and
- 5.) The proposal is consistent with County general plan and zoning designations and projected population growth for the area. The area is unlikely to experience significant additional population growth. The property proposed to be consolidated is not prime agricultural land or valuable open space; and

BE IT FURTHER RESOLVED, the Inyo LAFCO has considered the ND/IS, all comments received, responses to those comments, and all other information in the record, and finds that the ND/IS together with the whole of the record demonstrate that there is no substantial evidence that the project will have a significant effect on the environment, and that the ND/IS reflects Inyo LAFCO's independent analysis and judgment, and hereby adopts the ND; and

BE IT FURTHER RESOLVED, that the Inyo LAFCO adopts the following Conditions of Approval:

- 1.) *Hold Harmless*: As a condition of approval of Consolidation No. 2009-01/Indian Creek and Westridge Community Services Districts, the applicants and the resulting consolidated district shall defend, indemnify and hold harmless Inyo LAFCO, its agents, officers, and employees from any claim, action or proceeding against Inyo LAFCO or its agents, officers, or employees to attack, set aside, void or annul said approval of Consolidation No. 2009-01/Indian Creek and Westridge Community Services Districts, and Inyo LAFCO reserves the right to prepare its own defense; and
- 2.) *CCSD Name*: Pursuant to the modified Service Plan, the CCSD shall be known as the Indian Creek-Westridge CSD, unless otherwise changed by the CCSD in the future; and
- 3.) *CCSD General Manager*: Pursuant to the modified Service Plan, David Oldenburg shall be the general manager of the CCSD, unless otherwise decided by the CCSD in the future; and
- 4.) *Effective Date of Consolidation*: Pursuant to the modified Service Plan, the effective date of the consolidation shall be the date that a certificate of completion is filed by the LAFCO Executive Officer with the County Recorder; and
- 5.) *CCSD Board Members*: Pursuant to the modified Service Plan and Government Code Section 61030 the Board of the CCSD shall be temporarily increased to seven members with the provision that the number of members will decrease to five as terms of the board members expire, and the seven members shall be as follows: Luis Elias, Jr., George Batchelder, Theodore (Ted) Williams, Jeffrey Anderson, Brian Wesling, David Mappus, and Thomas Peters; and
- 6.) *CCSD Fee Structure*: After consolidation and for a period of three months, members of each former district will continue to be charged the same operation and capital improvement fees as were charged immediately prior to the consolidation. Current fees and tax collections will continue as structure currently, unless otherwise authorized by the CCSD Board or described herein or within the modified Service Plan. Within three months, the CCSD will create separate zones in which to charge differential rates. If the CCSD does not create separate zones, at three months after consolidation uniform operation and capital improvement charges will be charged throughout the CCSD at the rates formerly charged to the ICCSD, unless those rates are modified by the CCSD in the future; and
- 7.) *Description of CCSD*: The border of the CCSD shall be the combined borders of the ICCSD and WCSD, with internal borders dissolved; and
- 8.) *Operating Procedures*: Existing bylaws and ordinances shall be combined into one set of comparable documents within 90 days of the effective date of consolidation. If during the 90-day period a conflict between the bylaws and/or ordinances of the existing CSDs is identified, the bylaws and/or ordinances of the ICCSD will prevail; and

BE IT FURTHER RESOLVED, that the Inyo LAFCO hereby approves the consolidation of the WCSD and the ICCSD pursuant to the revised Service Plan subject to the conditions identified herein; and

BE IT FURTHER RESOLVED, that the Inyo LAFCO hereby schedules a protest hearing regarding the proposal pursuant to Government Code Section 57081 on June 5, 2009 at 10:00 a.m. in the Bishop City Council Chambers, and said approval shall become effective and the Executive Officer is hereby directed to issue a Certificate of Completion unless a petition or petitions with sufficient number of signatures to require an election pursuant to Government Code Section 57081(b) are submitted at said protest hearing.

PASSED AND ADOPTED THIS 8th DAY OF MAY, 2009 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

**XXX, Chairperson
Inyo LAFCO**

ATTEST:

**Mike Conklin
Inyo LAFCO Executive Officer**

By: _____
Sharon Birmingham, LAFCO Secretary