

**RESOLUTION NO. 2013-1004-1**

**SOUTH-WEST LAKE MAXINKUCKEE CONSERVANCY DISTRICT**

**RESOLUTION ADDING ADDITIONAL AREA COMMONLY  
KNOWN AS LOT 3 AND LOT 4 OF SCHULTZ SUBDIVISION LOCATED ON THE  
NORTHWEST QUARTER (NW ¼) OF SECTION 28, TOWNSHIP 32 NORTH,  
RANGE 1 EAST, MARSHALL COUNTY, INDIANA  
TO THE SOUTH-WEST MAXINKUCKEE CONSERVANCY DISTRICT**

WHEREAS, the Board of Directors ("Board") of the South-West Lake Maxinkuckee District ("District") received petitions for adding area to the District signed by the freeholders of the area described on Exhibit "A," attached hereto and made a part hereof (hereinafter the "Proposed Annexation Area"); and

WHEREAS, the petitions for adding area are attached hereto and marked Exhibit "B" and made a part hereof and the Board finds that the petitions are sufficient in form and number to meet legal requirements; and

WHEREAS, the Board finds the Proposed Annexation Area either lacks any or an adequate economically feasible method for provision for the collection, treatment and disposal of sewage or similar wastes; and

WHEREAS, the Proposed Annexation Area is contiguous to the District and the Board finds that provision for the collection, treatment and disposal of sewage and similar waste could be most economically accomplished for the Proposed Annexation Area through its addition to the District and an enlargement of the District's existing works of improvement; and

WHEREAS, the Board finds that provision for the collection, treatment and disposal of the sewage and similar wastes for the Proposed Annexation Area through

its addition to the District is necessary for the public health and welfare and offers benefit to the Proposed Annexation Area in excess of costs and damages; and

WHEREAS, the Town of Culver ("Town") has approved and executed the First Amendment to Sewage Treatment Agreement between the Town of Culver, Indiana and South-West Lake Maxinkuckee Conservancy District for Sewage Treatment Services approving the addition of Proposed Annexation Area to the District boundaries; and

WHEREAS, after having thoroughly consulted with its engineer and attorney, the Board desires to add the Proposed Annexation Area to the District on the terms and conditions herein below stated, subject to fulfillment of statutory conditions precedent and to serve said Proposed Annexation Area in the future.

THEREFORE NOW BE IT RESOLVED by the Board of Directors of the South-West Lake Maxinkuckee Conservancy District as follows:

1. ADDITION OF AREA TO THE DISTRICT.

The Proposed Annexation Area as described herein is hereby added to the District, subject to the terms and provisions of this Resolution and of law and contingent upon satisfaction of statutory conditions precedent for the addition of area to the District.

2. EFFECTIVE DATE.

The proper officers of the District and the District's counsel are authorized and directed to file and present such petition and documents to the Indiana Department of Natural Resources, the Marshall Circuit Court, and others, to incur and pay reasonable expenses and to take all action which they deem necessary

or expedient to obtain approval of this Resolution and the addition of the Proposed Annexation Area to the District accomplished thereby. Addition of the area to the District pursuant to this Resolution shall be effective upon the entry of a suitable order of the Marshall Circuit Court, as provided by law.

3. PREPARATION OF PLAN.

The Proposed Annexation Area covered by this Resolution is a part of the District's overall master plan; therefore, the addition of this Proposed Annexation Area will not require the amendment of the District Plan.

4. PAYMENT OR REIMBURSEMENT OF ANNEXATION AND DISTRICT PLAN COSTS.

Within a reasonable time after the effective date of the addition of the Proposed Annexation Area to the District, the Board of Directors will bill each petitioning freeholder in the area included in this Resolution for one-half of all the costs incurred by the District in adding the Proposed Annexation to the boundaries of the District, including, but not limited to all engineering fees, legal fees and notification costs. These sums are to reimburse the costs incurred by the District for the addition of the Proposed Annexation Area to the District (hereinafter "Annexation Charge"). The Annexation Charge shall be due and payable within 30 days. The Annexation Charge may be paid by the freeholder at any time after the effective date of the addition of the Proposed Annexation Area to the District, provided however, the Annexation Charge shall be paid prior to the issuance of any approval issued by the District to the freeholders for sewer

service to the freeholders in the Proposed Annexation Area. All such amounts shall be considered a Rate and Charge of the District and shall be due and payable immediately upon billing and if not properly paid, may be treated by the District as a delinquent sewer account and collected in the same manner as delinquent real estate taxes, as provided by statute and the District's Rate Resolution.

5. PAYMENT OF CAPITAL CONTRIBUTION.

Pursuant to the District's Rate Resolution, each of the petitioning freeholders shall pay to the District the Capital Contribution in the amount of Seven Thousand Seven Hundred Dollars (\$7,700.00) if paid on or before December 31, 2013. If paid after said date the amount shall increase as provided in the District's Rate Resolution.

6. CONSTRUCTION OF THE WORKS OF IMPROVEMENT.

The construction of the works of improvement, if any, may be done as a whole or in segments at the discretion of the Board. The District shall not be obligated to commence or proceed with the construction of any works of improvement with respect to the Proposed Annexation Area until provisions satisfactory to the Board are made for the payment or reimbursement of costs, which provisions may include but are not limited to prepayment by the freeholders into an escrow of the anticipated cost, plus a contingency fund not to exceed 10% of the anticipated cost.

7. EASEMENTS AND DEDICATION.

The freeholders of the Proposed Annexation Area shall record and give to the District, without charge, any and all temporary and permanent easements necessary in connection with the providing service to the Proposed Annexation Area.

8. GENERAL RULES APPLICABLE.

After the effective date of addition of the Proposed Annexation Area to the District, the freeholders of such area shall be governed and subject to all lawful rules and regulations of the District, including but not limited to, rules respecting payment of user charges, facility utilization charges, payment of District special benefit taxes, if any, building/sewer permits, payment of permit fees, connection fees, requirements for sewer connections, building sewer installation standards, and total prohibitions respecting amount, quality and kind of sewage, industrial waste and other matter accepted.

9. AMENDMENT.

The Board reserves the right to amend, supplement or revoke, conditionally or unconditionally, this Resolution or any provisions hereof at any time on account of disapproval of this Resolution or any part thereof by the Indiana Natural Resources Commission, the Marshall Circuit Court, any administrative agency having jurisdiction, or on account of any material change in relevant circumstances from those contemplated on the date of adoption of this Resolution.

10. SUCCESSORS.

The provisions of this Resolution shall extend, inure to the benefit of, and be binding upon the District, the freeholders of the Proposed Annexation Area, and their respective legal heirs, successors, personal representatives and assigns.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE SOUTH-WEST LAKE MAXINKUCKEE CONSERVANCY DISTRICT ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2013.

BOARD OF DIRECTORS SOUTH-WEST LAKE  
MAXINKUCKEE CONSERVANCY DISTRICT

\_\_\_\_\_  
Kathryn A. Densborn, Chairperson

\_\_\_\_\_  
Theodore R. Schenberg, Vice Chairman

\_\_\_\_\_  
John Crist

\_\_\_\_\_  
Charles H. Norman, Jr.

\_\_\_\_\_  
C. Daniel Yates

\_\_\_\_\_  
Richard George

\_\_\_\_\_  
John Demaree

**EXHIBIT "A"**  
**TO**  
**RESOLUTION NO. 2013-1004-1**

Lot 3 and Lot 4 of Schultz Subdivision located on the Northwest Quarter (NW ¼) of Section 28, Township 32 North, Range 1 East, Marshall County, Indiana.