

**A RESOLUTION PERTAINING TO APPROVAL OF
BUDGET ADJUSTMENT #BA 649**

WHEREAS, Title 5 of the Code of Public Local Laws of Calvert County, Maryland, being Title 5 of *Article 5* of the Code of Public Laws of Maryland (hereinafter, the "Code"), authorizes and empowers the Board of County Commissioners of Calvert County, Maryland (hereinafter, the "Board of County Commissioners") to adopt the Annual Budget and Appropriation Act each year;

WHEREAS, the Board of County Commissioners has the authority pursuant to Section 5-103 of the Code, to enact certain budgetary adjustments by Resolution;

WHEREAS, the Calvert County Department of Community Resources, has advised the Board of County Commissioners that there is a major washout in the stormwater system for the Calvert Pines housing and senior facilities;

WHEREAS, the Calvert County Soil Conservation completed the environmental and engineering studies and design to repair the washout and prevent further damage;

WHEREAS, the Housing Authority of Calvert County is proposing a joint venture agreement to cover the cost of repairs and ensure continued stormwater maintenance of the property;

WHEREAS, the Board of County Commissioners has been advised by the Department of Public Works that the estimates for the repairs will cost Three Hundred Thirty-Two Thousand Five Hundred Dollars (\$332,500), which would need to come from their Stormwater Management Capital Project budget;

WHEREAS, a public hearing regarding this Budget Adjustment #BA 649 was duly advertised in two County newspapers, at least one of which is a newspaper of general circulation in the County, for two consecutive weeks before the public hearing as required by Section 5-103(c) of the Code and held on October 20, 2020 at which time the Board of County Commissioners received public comment; and

WHEREAS, upon due consideration of the comments of the public and staff and in furtherance of the public health, safety and welfare, the Board of County Commissioners find that it is in the best interest of the public health, safety and welfare of the citizens of Calvert County, Maryland, to amend the operating budgets as set forth herein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners, hereby approves and enacts the appropriations and expenditures set forth in Budget Adjustment #BA 649 a copy of which is attached hereto as Exhibit A and made a part hereof, in the total amount of Three Hundred Thirty-Two Thousand Five Hundred Dollars (\$332,500) to provide funding to the Department of Public Works in FY 2021 for Calvert Pines stormwater repairs;

BE IT FURTHER RESOLVED by the Board of County Commissioners that, in the event any portion of this Resolution is found to be unconstitutional, illegal, null or void, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Resolution shall be enforceable and valid;

BE IT FURTHER RESOLVED, by the Board of County Commissioners that the foregoing recitals are adopted as if fully rewritten herein; and

BE IT FURTHER RESOLVED, by the Board of County Commissioners that this Resolution shall be effective upon recordation without publication of a fair summary.

DONE, this ____ day of _____, 2020, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: _____

Nay: _____

Absent/Abstain: _____

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND**

Rachel Distol, Clerk

Kelly D. McConkey, President

Mike Hart, Vice President

Approved for form and legal sufficiency
by:

Earl F. Hance

John B. Norris, County Attorney

Thomas E. Hutchins

Approved for form and legal sufficiency for Public Hearing

Steven R. Weems


Office of County Attorney

FY21

Fiscal Year Ending June 30, 2021

Exhibit A

BUDGET ADJUSTMENT # BA649
POSTED BY: Veronica Atkinson
APPROVED BY _____
DATE 9/9/20

Account Code	Project Code	Department/Explanation	Account Name	Increase	Decrease	Adjusted Budget
470201-06060	470201-06060	Calvert Pines Washout	General Fund Revenue	176,250		176,250
4702001-45016	4702001-45016	Calvert Pines Washout	Stormwater Management	176,250		
825-27715		Transfer to CIP	Transfers	176,250		
000112-07005		General Fund	Use of Prior Year Fund Balance	176,250		
470201-05215	470201-05215	Calvert Pines Washout	Private Donations	156,250		
Transfer Prior Year fund balance to fund the Calvert Pines Washout project and adjustment for Housing Authority contribution						
		CORRESPONDING JP:				va

Exhibit A

Joint Funding Agreement

This Public Works Infrastructure Joint Funding Agreement (the “Agreement”) is made this _____ day of _____, 2020 by and between the County Commissioners of Calvert County, a body corporate and politic, with an address of 175 Main St., Prince Frederick, MD 20678 (the “County”), and The Housing Authority of Calvert County, Maryland, a body corporate and politic, with an address of 480 Main St., Prince Frederick, MD 20678 (the “PHA”).

WHEREAS, the PHA is the owner of certain real property located at 170 W. Dares Beach Rd., Prince Frederick, MD 20678 (the “Property”);

WHEREAS, the Property receives stormwater runoff from improvements owned by each of the parties to this Agreement;

WHEREAS, the Property is subject to two (2) washouts due to its receipt of stormwater; Washout A is approximately 300 feet long and 30 feet deep and presents a long-term threat to the structural support of the improvements to the Property; Washout B, while only 175 feet long and 25 feet deep, could present similar challenges if not addressed;

WHEREAS, the Board of County Commissioners approved environmental and engineering studies conducted by Calvert Soil Conversation District to assess costs for repairs of the washouts;

WHEREAS, the Department of Public Works has reviewed those studies and advised that the repair of Washout A is needed this Fiscal Year; Washout B can be recommended for the FY2022 Capital Improvement Program;

WHEREAS, the Department of Public Work’s lowest bid for repair of Washout A is \$312,500, with an additional contingency for as-builts and red-line construction revisions;

WHEREAS, the PHA has agreed to support the repair of Washout A as recommended by granting access to the Property for the County, its officers, directors, agents, employees, contractors, and subcontractors, and by paying to the County the “PHA’s Contribution,” which is half the cost to repair Washout A as prescribed by the Calvert Soil Conversation District, and as may be modified during construction pursuant to the terms of this Agreement; and

WHEREAS, the County desires to accept the PHA’s Contribution and have the repair of Washout A performed under the oversight of the Calvert County Department of Public Works.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The County shall cause the repair of Washout A to be completed, inspected and approved in accordance with approved plans, as may be modified with the consent to the department or agency having authority and jurisdiction to grant such modifications (the “Repair”).
2. The PHA shall reimburse County an amount equal to half of the cost of the Repair; therefore, if construction cost increase, each Party agrees to increase their capital contributions by Fifty percent (50%) of the increase.
3. The County shall maintain the capital account, all business records, and accounting records. The County will provide the PHA copies of all construction invoices. The County will permit PHA to audit accounts and transactions related to this Agreement.
4. All notices and other communications to be given hereunder by either party shall be in writing and shall be mailed to the respective party.

If to the County: Calvert County Department of Public Works
 175 Main Street
 Prince Frederick, MD 20678

If to PHA: The Housing Authority of Calvert County, Maryland
 480 Main St.
 Prince Frederick, MD 20678

Any notice or demand so sent shall be deemed to have been given or made on the date the same was personally served or deposited with the United States Postal Service as Certified Mail, return receipt requested, with postage thereon fully prepaid.

5. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns.
6. By entering into this Agreement, the County and its “employees,” as defined in the Local Government Tort Claims Act, §§5-301 *et seq.* of the *Courts and Judicial Proceedings Article*, do not waive sovereign immunity, do not waive any defenses and do not waive any imitations of liability as may be provided for by law with respect to claims made by third parties. No provision of this Agreement modifies and/or waives any provision of the Local Government Tort Claims Act as applied to third parties, not party to this Agreement.
7. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of this Agreement to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations herein without the written consent of the County.
8. No elected official, appointed official, employee, servant, agent or law enforcement officer shall be held personally liable under this Agreement and any extension or renewals thereof because of its enforcement or attempted enforcement provided they are acting within the course and scope of their employment or governmental duties and responsibilities.
9. The County’s financial obligations, if any, under this Agreement are contingent upon sufficient appropriations and authorization being made by the County for the performance of this Agreement. The County’s decision as to whether sufficient appropriations are

available shall be accepted by the other party or parties to this Agreement, and shall be final.

10. In the event any portion of this Agreement is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the County to sever only the invalid portion or provisions, and that the remainder of the Agreement shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Agreement, or unless deletion of the invalid portion would produce a result inconsistent with the purpose and intent of the County in entering into this Agreement.
11. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Maryland, without giving effect to its choice of law provisions.
12. Captions herein are for convenience or reference only and in no way define, limit or expand the scope or intent of this Agreement.
13. The parties hereby acknowledge and agree that the recitals above are a part of this Agreement.
14. This Agreement may be executed in any number of duplicate originals or counterparts, each of such duplicate originals or counterparts shall be deemed to be an original and all taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by a duly authorized representative by their hands and seals, intending to be so bound, as of the day and year first above written.

Attest:

**County Commissioners of Calvert
County, Maryland**

By: _____ (SEAL)
Kelly D. McConkey, President

Attest:

**The Housing Authority of Calvert
County, Maryland:**

By: _____ (SEAL)
Printed Name: _____
Title: _____