

**PERTAINING TO THE FIRST AMENDMENT OF THE
CALVERT COUNTY EMPLOYEES RETIREMENT PLAN**

WHEREAS, the Board of County Commissioners of Calvert County, Maryland (the "County"), approved Ordinance No. 52-10 which adopted the Calvert County Employees Retirement Plan (the "Plan"), as amended and restated effective as of July 1, 2010; and

WHEREAS, the County now desires to amend the Plan to adopt amendments required by the Internal Revenue Service in order to continue the Plan's qualification under Section 401 *et seq.* of the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 9.1 of the Plan authorizes the County to amend the Plan from time to time.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of County Commissioners of Calvert County, Maryland, that, effective as of July 1, 2010, the Plan be amended and hereby is amended by adding the following new Section 10.3, immediately following Section 10.2 and before Article 11:

10.3 **NO DIVERSION OF FUND:** It is the intention of the County that it shall be impossible for any part of the corpus or income of the Trust fund to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants or their Beneficiaries prior to the satisfaction of all liabilities under the Plan, except to the extent that a return of Trust assets is permitted under the Internal Revenue Code or the return of the County's contribution is permitted under the following sentence. At the County's request, a County contribution made by a mistake of fact shall be returned to the County within one year after that erroneous contribution's payment. The portion of any contribution to be returned under this Section must be reduced by its proportionate share of losses and expenses, if any, but is not to be increased by any Trust income or gains, if any.

BE IT FURTHER ENACTED AND ORDAINED, by the Board of County Commissioners of Calvert County, Maryland, that, effective as of July 1, 2010, Appendix B to the Plan be and it hereby is amended, by renumbering the existing subsections B.8(c) and (d) to be subsections B.8(d) and (e), respectively, and by adding the following new subsection B.8(c) immediately after subsection B.8(b):

- (c) **Compensation.** The definition of "compensation" set forth in Section 415(c)(3) of the Internal Revenue Code shall be applied in interpreting this Appendix B and that definition shall be deemed to be incorporated herein by this reference.

DONE, this 10th day of September, 2013, by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 5
Nay: 0
Absent/Abstain: 0

ATTEST:

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

Maureen Frederick
Maureen Frederick, Clerk

Pat Nutter
Pat Nutter, President

Steven R. Weems
Steven R. Weems, Vice President

Approved for form and legal sufficiency
on 6/27/13 by:

Gerald W. Clark
Gerald W. Clark

John B. Norris
John B. Norris, County Attorney

Susan Shaw
Susan Shaw

Evan K. Slaughenhoupt Jr.
Evan K. Slaughenhoupt Jr.

Received for Record 9/11 2013
at 11:23 o'clock A M. Same day
recorded in Liber KPS No. 43
Folio 147 COUNTY COMMISSIONERS
ORDINANCES AND RESOLUTION.

John P. Smith