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6 **RESOLUTION NO. 2016-2**  
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9 **A Resolution of the Pierce County Flood Control Zone District, Relating to**  
10 **Opportunity Fund Projects, Establishing Rules for District**  
11 **Administrator Approval of Opportunity Fund Projects That**  
12 **are also “Improvements” Under RCW 86.15.110, and**  
13 **Amending Section 2 of Resolution No. 2014-3.**  
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16 **Whereas**, by Resolution No. 2013-2, adopted on June 5, 2013, the Board of  
17 Supervisors established an opportunity fund of ten percent (10%) of the revenues raised  
18 from District regular property tax levies (“Opportunity Fund”) for distribution to cities,  
19 towns and unincorporated Pierce County, based on their proportional percentage of the  
20 Opportunity Fund; and

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22 **Whereas**, the Opportunity Fund distributions must be used for flood control and  
23 stormwater control improvements; maintenance and operation of flood control and  
24 stormwater control improvements; studies and plans for flood control and stormwater  
25 control improvements; studies, plans, activities and projects related to watershed  
26 management; and major equipment used for stormwater control or water quality  
27 protection; and

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29 **Whereas**, Resolution No. 2013-2 required the Board of Supervisors to approve  
30 all Opportunity Fund projects; and

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32 **Whereas**, by Resolution No. 2014-3, adopted on July 9, 2014, the Board of  
33 Supervisors amended Resolution No. 2013-2 to delegate to the District Administrator  
34 the power to approve, modify or deny Opportunity Fund projects, pursuant to rules and  
35 regulations adopted by the District Administrator; and

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37 **Whereas**, by Resolution No. 2013-3s, adopted on September 11, 2013, the  
38 Board of Supervisors adopted the District’s Comprehensive Plan of Development; and

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40 **Whereas**, Section 3.4.1 of the Comprehensive Plan of Development states that  
41 an approved Opportunity Fund project that is also an “improvement” under RCW  
42 86.15.110 (that is, the construction, extension, enlargement or acquisition of flood  
43 control or storm water control improvements) is incorporated into and considered a part  
44 of the Comprehensive Plan; and

1        **Whereas**, RCW 86.15.110 provides that any Opportunity Fund project that is  
2 also an improvement under RCW 86.15.110 must be approved by resolution of the  
3 Board of Supervisors; and

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5        **Whereas**, RCW 86.15.110 further provides that such a resolution of the Board of  
6 Supervisors must: (1) state whether the improvement will be constructed, extended,  
7 enlarged or acquired; (2) state whether a comprehensive plan has been prepared for  
8 the stream or water course upon which the improvement will be constructed, extended,  
9 enlarged or acquired; (3) state that preliminary engineering studies and plans have  
10 been prepared for an improvement, if constructed; (4) state the estimated cost of the  
11 improvement, if constructed or acquired; and (5) find that the improvement will benefit  
12 the entire District; and

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14        **Whereas**, RCW 86.15.110 further provides that the Comprehensive Plan of  
15 Development must be submitted to the Washington State Department of Ecology before  
16 the commencement of any improvement; and

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18        **Whereas**, by Resolution No. 2015-4, the Board of Supervisors approved the  
19 construction, extension, enlargement or acquisition of certain improvements that are  
20 included in the Comprehensive Plan of Development and identified in an Exhibit to the  
21 Resolution, in compliance with the requirements of RCW 86.15.110; and

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23        **Whereas**, if the District Administrator approves an Opportunity Fund project that  
24 is also an improvement under RCW 86.15.110, but the project has not been approved  
25 by the Board of Supervisors in compliance with the requirements of RCW 86.15.110,  
26 the District Administrator's approval will not be in compliance with the requirements of  
27 RCW 86.15.110; and

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29        **Whereas**, the Board of Supervisors desires to authorize the District Administrator  
30 to satisfy the requirements of RCW 86.15.100 on behalf of the Board of Supervisors for  
31 Opportunity Fund projects that are improvements but have not been approved by Board  
32 of Supervisors in compliance with RCW 86.15.110; Now, therefore

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34        **BE IT RESOLVED** by the Board of Supervisors of the Pierce County Flood  
35 Control Zone District as follows:

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37        Section 1.    Section 2 of Resolution No. 2014-3 is amended to read as follows:

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39        Reporting of and Appeals from Project Decisions.

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41        A. The District Administrator shall issue a written decision on a proposed Project,  
42 and shall mail a copy of the decision to the designated representative of the  
43 municipality by the day following the decision. If the decision relates to an  
44 "improvement," as that term is defined in RCW 86.15.110, and the improvement  
45 has not been approved by resolution of the Board of Supervisors, the District  
46 Administrator shall include the following findings and statements in the decision:

- 1      1. A statement as to whether the improvement is to be constructed, extended,  
2      enlarged or acquired.
- 3      2. A statement that the improvement is incorporated by reference into the  
4      District's Comprehensive Plan of Development, pursuant to Section 1 of  
5      Resolution No. 2014-3.
- 6      3. If the improvement is to be constructed, a statement that preliminary  
7      engineering studies and plans have been prepared and are on file with the  
8      District Administrator, or that the municipality has been required to prepare  
9      and file such studies and plans with the District Administrator before bidding  
10     the improvement or constructing the improvement, if no bidding is involved.
- 11     4. If the improvement is to be constructed or acquired, a statement of the  
12     estimated cost of the construction or acquisition and a brief description of the  
13     data that supports the estimated cost.
- 14     5. A finding that the improvement benefits the District as a whole.

16     Further, if the improvement was not included in the Comprehensive Plan of  
17     Development prior to its approval by the District Administrator, the District  
18     Administrator shall submit a letter to the Washington State Department of  
19     Ecology, advising it of the addition of the improvement to the Comprehensive  
20     Plan of Development.

22     B. The municipality may appeal the decision to the District Board of Supervisors.  
23     The appeal shall be in writing, shall state generally the grounds for the appeal,  
24     and shall be filed with the District Administrator within twenty-one (21) calendar  
25     days of the date of the decision. Within three (3) business days of receipt of the  
26     appeal, the District Administrator shall send a copy of the appeal to the Chair of  
27     the District Board of Supervisors, the District Executive Director, and the District  
28     Clerk. The District Executive Director or the District Clerk shall place the appeal  
29     on the agenda of the next regular or special District Board of Supervisors  
30     meeting. The District Board of Supervisors shall review the appeal and schedule  
31     a hearing on the appeal for the next regular or special District Board of  
32     Supervisors meeting. Within three (3) business days after the meeting, the  
33     District Clerk shall notify in writing the designated representative of the  
34     municipality and the District Administrator of the date, time and place of the  
35     appeal hearing. The District Board of Supervisors may, but is not required to,  
36     adopt written rules for the conduct of appeal hearings. Absent written rules, the  
37     District Board of Supervisors must allow the municipality and the District  
38     Administrator to present evidence and make arguments, and shall issue a written  
39     decision at the next regular or special Board meeting. The District Board of  
40     Supervisors' decision shall be the final decision of the District on the Project.

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2 C. The District Administrator shall prepare monthly a report of the Projects  
3 approved, modified or denied in the previous month, and shall submit the report  
4 to the Executive Committee, the District Executive Director and the District Clerk.  
5 The District Administrator also shall prepare a report for each Executive  
6 Committee meeting of all Projects approved for the current calendar year. The  
7 Executive Committee shall determine the form of and information to be included  
8 in the reports.  
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10 ADOPTED this 17 day of February, 2016.  
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14 ATTEST:  
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18 Kate Kennedy  
19 Kate Kennedy, Clerk of the Board  
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PIERCE COUNTY FLOOD CONTROL  
ZONE DISTRICT  
Pierce County, Washington

Rick Talbert  
Rick Talbert, Board Chair