WASHINGTON COUNTY

POLICY STATEMENT ON PROPERTY TAX PHASE-IN INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES

I. PURPOSE

Washington County, hereinafter referred to as "the County," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the County will consider providing incentives which include, but are not limited to, property tax phase-in, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the County is under any obligation to provide any incentives to any applicant. Each application for tax phase-in under this Policy shall be considered on an individual basis.

II. DEFINITION OF TAX PHASE-IN

Tax phase-in, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the County or City for economic development purposes. Only ad valorem (property) taxes are eligible for the phase-in incentive. BISD and Blinn College taxes are required to be paid in full at all times.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

III. GUIDELINES AND CRITERIA

In order to be eligible for property tax phase-in, the planned improvement at a minimum must:

(a) Be an Authorized Facility. A facility may be eligible if it is a(n):

Agriculture/Aquaculture Facility,

Distribution Center Facility,

Manufacturing Facility,

Research Facility, or

Other Basic Industry. [as defined in Glossary-Section XII (o)]

(b) The project must add new value to the tax roll of eligible property: a minimum of $300,000 for a business new to Washington County or $150,000 for an existing local business. For development in the Downtown Zone, a National Register Historic District, the added value must be a minimum of $50,000. This is to help maintain the economic viability of the central business district.

(c) The applicant must maintain or create within the first year and throughout the phase in period a minimum of ten (10) jobs at an average base salary of $30,000/year or higher, including any benefits (except for a location in the Downtown Zone).

In consideration of the request for the tax phase-in incentive, the following factors will also be considered:

(1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.

(2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, the infrastructure improvements by the County that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the County's master plan for development.

(3) Valuation at Termination of Phase-In Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the tax phase-in. The economic life of the added-value property must exceed the duration of the granted phase-in period.

(4) Community Impact

The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;

The revitalization of a depressed area;

The business opportunities of existing local businesses;

The alternative development possibilities for proposed site;

The impact on other taxing entities;

Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Washington County to another; and/or,

Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

IV. TAX PHASE-IN AUTHORIZED

(a) Authorized Date A facility shall be eligible for tax phase-in if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.

(b) Creation of New Value Tax phase-in may only be granted for the additional value of eligible property improvements made subsequent to the filing of an application for tax phase-in and specified in the tax phase-in agreement between the County and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.

(c) New and Existing Facilities Tax phase-in may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the phased-in value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).

(d) Eligible Property Except as otherwise provided in this policy, tax phase-in may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.

(e) Ineligible Property The following types of property shall be fully taxable and ineligible for property tax phase-in incentives:

land,
animals,
inventories,
supplies,
tools,
furnishings and other forms of movable personal property,
vehicles,
vessels,
aircraft,
housing or residential property (except for property owners in a Downtown Zone),
hotels/motels,
fauna,
flora,
retail facilities (except for property owners in a Downtown Zone),
deferred maintenance investments,
property to be rented or leased except as provided in Part IV (f),
improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion,
any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility,
property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities If a leased facility is granted tax phase-in, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its tax phase-in to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining tax phase-in period by resuming the tax phase-in with the combined value of the replacement lessee by disregarding the tax phase-in extension term. The lessor shall not receive any tax phase-in incentive during any year where a tax phase-in extension has been elected. The tax phase-in period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own tax phase-in based solely on its new value investment.

(g) Value and Term of Tax Phase-In Tax phase-in incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the phase in incentive unless otherwise specified by the governing body. The value of new eligible properties shall be phased-in according to the approved agreement between applicant and the governing body. The governing body, in its sole discretion, shall determine the amount of any tax phase-in. The table one tax phase-in schedule - Exhibit "A", table two in a Downtown Zone (map Exhibit "B"), incorporated herein by reference, shall be the maximum tax phase-in available based on total new value investment or added employment for each year during the tax phase-in term, whichever is greater. Tax phase-in in a Downtown Zone shall receive approval for building plans and specifications of the Main Street Board as a condition of receiving tax phase-in.

(h) Downtown Zone A tax phase-in zone within the designated downtown zone area in the attached Exhibit B, incorporated herein by reference, and any tracts or parcels contiguous to a tract in Exhibit B under common ownership.

(i) Taxability From the execution of the tax phase-in contract to the end of the agreement period, taxes shall be payable as follows:

(1) The value of ineligible property as provided in Part IV (e) shall be fully taxable.

(2) The base year value of existing eligible property as determined each year shall be fully taxable.

(3) The additional value of new eligible property shall be taxable in the manner described in Part IV (g).

V. APPLICATION PROCESS

(a) Any present or potential owner of taxable property in Washington County may request the creation of a Reinvestment Zone and tax phase-in incentive by filing a written request with the County Judge.

(b) The application shall consist of a completed application form accompanied by:

(1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken;

(2) A descriptive list of the improvements which will be a part of the facility;

(3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.

(4) A time schedule for undertaking and completing the planned improvements;

(5) In the case of modernizing or replacing existing facilities, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;

(6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;

(7) A schedule reflecting the proposed amount of phased-in taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the phase-in; and

(8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the phase-in period.

(c) Upon receipt of a completed application, the County Judge shall notify the County Commissioners. Before acting upon the application, the County may conduct an Economic Impact Study. Following this step, the County shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of tax phase-in during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the County to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the County; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.

(d) The County shall approve or disapprove the application for designation of an area as a Reinvestment Zone for tax phase-in within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the County shall notify the applicant of the approval or disapproval promptly thereafter.

(e) A request for designation of an area as a Reinvestment Zone for the purpose of tax phase-in shall not be granted if the jurisdiction receiving the application finds that the request for the tax phase-in was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

<u>Variance</u>. Requests for any variances from this Policy may be made in written form to the County Judge. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) majority vote of the governing body of the County. The approval by the County of a phase-in incentive shall conclusively be deemed as an approval of any variance from the provisions of Subsections (a) through (e) of Part V.

VI. PUBLIC HEARING

(a) Should the County be able to show cause in the public hearing why the granting of an application for the designation of an area as a Reinvestment Zone for tax phase-in will have a substantial adverse effect on its bonds, service capacity or the provision of service, that showing shall be reason for the County to deny the granting of the application.

(b) Neither a Reinvestment Zone nor a property tax phase-in agreement shall be authorized if it is determined that:

(1) There would be a substantial adverse affect on the provision of a government service or tax base of the County.

(2) The applicant has insufficient financial capacity.

(3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.

(4) Planned or potential use of the property violates governmental codes or laws.

VII. AGREEMENT

(a) After approval of the application for the designation of an area as a Reinvestment Zone for property tax phase-in, the County shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:

(1) Estimated value to be phased in and the base year value.

(2) Percent of value to be phased in each year as provided in Part IV (g).

(3) The commencement date and the termination date of tax phase-in.

(4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application, Part V.

(5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.

(6) Amount of investment and average number of jobs involved for the period of tax phase-in.

(7) Said contract shall meet all of the requirements of Texas Tax Code Chapter 312.

(b) Such agreement shall be executed within ninety (90) days after the later of 1) the date applicant has forwarded all necessary information to the County, or 2) the date of the approval of the application.

(c) The County shall make its own determination of property tax phase-in which shall not bind any other jurisdiction.

VIII. ADMINISTRATION

Each phase-in project will be monitored annually for compliance. The agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the tax phase-in agreement.

The terms of the agreement shall include the right of the County to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the tax phase-in, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the County will have access to the Reinvestment Zone during the term of the tax phase-in to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All County inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property tax phase-in agreement shall be considered confidential, to the extent allowed by law.

Compliance will be monitored in the following manner:

(a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before October 15 of each calendar year. The Committee shall be comprised of 5 representatives, with 2 appointed by the Mayor, 2 appointed by the County Judge and the Chief Appraiser. They will be appointed by January 30, 2006 for a two year term. Any vacancy on the committee will be filled by the designated official who appointed the vacating committee person. The designated official may remove an appointee at any time. The company/individual receiving property tax phase-in shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.

(b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before December 1 of each calendar year.

(c) The Committee shall provide a report on the status of all tax phase-in agreements to the County Commissioners on or before December 15th of each calendar year.

IX. RECAPTURE

Should the County determine that a company or individual is in default according to the terms and conditions of its agreement, the County shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

(1) allows its ad valorem taxes owed the County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or

(2) does not create or maintain jobs as outlined in the agreement; or

(3) violates any of the terms and conditions of the tax phase-in agreement and fails to cure same during the Cure Period; or

(4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the phase-in period;

then the agreement shall terminate and so shall the phase-in of taxes for the calendar year during which the agreement is terminated. The taxes otherwise phased-in for that calendar year shall be paid to the County within sixty (60) days from the date of termination, and all taxes previously phased-in by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. The County will use all available means for recapture, including but not limited to, placing a lien on the property and pursuing all other legal and equitable remedies available to the County.

X. ASSIGNMENT

(a) Tax phase-in may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the County, subject to the financial capacity of the assignee and provided that all conditions and obligations in the tax phase-in agreement are guaranteed by the execution of a new contractual agreement with the County.

(b) The contractual agreement with the new owner or lessee shall not exceed the termination date of the tax phase-in agreement with the original owner and/or lessee.

(c) No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to the County for outstanding taxes or other obligations.

(d) Approval shall not be unreasonably withheld.

XI. SUNSET PROVISION

(a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and tax phase-in contracts created pursuant to its provisions may be reviewed by each City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.

(b) This policy does not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the County.

(c) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

(a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of this Policy Statement.

(b) Property that is owned or leased by the following is excluded from property tax phase-in:

> (1) a member of the governing body of the City of Brenham or a member of a planning board or commission of the City; or
>
> (2) a member of the Commissioners Court or a member of a planning board or commission of Washington County.

(c) If this Policy Statement has omitted any mandatory requirements of the applicable tax phase-in laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

GLOSSARY

(a) "Agriculture/Aquaculture Facility" means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is of food and/or fiber products in commercially marketable quantities.

(b) "County" means Washington County that levies ad valorem taxes upon and/or provides services to property located within the County limits.

(c) "Agreement" means a contractual agreement between a property owner and/or lessee and the County for the purpose of tax phase-in.

(d) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for tax phase-in.

(e) “Committee” means the Compliance Review Committee, consisting of representatives appointed by the City of Brenham, County and Chief Appraiser’s office to annually review documents verifying compliance of all phase-in projects.

(f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.

(g) "Distribution Center Facility" means building and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside of Washington County.

(h) “Existing Local Business” means a business that has been located in Washington County and has paid property taxes for at least one full year prior to submitting any application for property tax phase-in.

(i) "Expansion" means the addition of buildings, employees, structures, machinery or equipment for purposes of increasing production capacity.

(j) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

(k) "Job(s)" shall represent a newly created or a retained employment position on a full-time permanent basis at an average base salary of $30,000 or higher, including any benefits, whether hired directly or leased through an employee leasing service.

(l) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.

(m) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

(n) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(o) "Other Basic Industry" means buildings and structures/including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or providing of services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.

(p) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

(q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

EXHIBIT "A"

TAX PHASE-IN SCHEDULES

Applicants may receive property tax phase-in according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creation/retention.

TABLE 1 (earns 50% of incentive)

1A - Property Improvements by an Existing Local Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be phased-in each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	$ 150,000	$1,000,000	45	40	30	20	0	0	0	0	0	0
2	$1,000,001	$2,500,000	45	45	40	30	20	0	0	0	0	0
3	$2,500,001	$4,000,000	45	45	45	40	30	20	0	0	0	0
4	$4,000,001	$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	$5,500,000	45	45	45	45	45	40	30	20	0	0

1B - Property Improvements by a New Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be phased-in each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	$ 300,000	$1,000,000	45	40	30	20	0	0	0	0	0	0
2	$1,000,001	$2,500,000	45	45	40	30	20	0	0	0	0	0
3	$2,500,001	$4,000,000	45	45	45	40	30	20	0	0	0	0
4	$4,000,001	$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	$5,500,000	45	45	45	45	45	40	30	20	0	0

TABLE 2 (earns 50% of incentive)

2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses

Level	The number of new and/or retained full-time employees with an average salary level of $30,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be phased-in each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	20	0	0	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0	0	0
3	30	39	45	45	45	40	30	20	0	0	0	0
4	40	49	45	45	45	45	40	30	20	0	0	0
5	50 and more		45	45	45	45	45	40	30	20	0	0

Table 3 – Downtown Zone

Amount of valuation of downtown reinvestment determined by tax appraisal:	Percent of property tax to be phased-in each year							
Valuation	1	2	3	4	5	6	7	8
$ 50,000 to $150,000	90	90	90	60	40	20	0	0
$150,001 to $250,000	90	90	90	90	60	40	20	0
$250,001 and beyond	90	90	90	90	90	60	40	20

EXHIBIT B
MAP OF DOWNTOWN ZONE