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7 VIRGINIA TOBACCO REGION REVITALIZATION COMMISSION
8 SPRING FULL COMMISSION TWO-DAY MEETING
9 THE SESSIONS HOTEL
10 BRISTOL, VA

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14 INCENTIVES AND LOANS COMMITTEE
15 MAY 12, 2022
16 9:30 A.M.
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20 MARSHA SELF, CERT
21 Appalachian Court Reporting
22 P.O. Box 833
23 Abingdon, Virginia 24212
24 ID 54-1495140
25 (276) 676-2244

1 APPEARANCES

2 Del. Danny Marshall, Chair

3 Del. Terry Kilgore, Vice Chair

4 Edward Blevins

5 Gretchen Clark

6 T. Jordan Miles

7 Edward Owens

8 Sen. Frank Ruff, Jr.

9

10 COMMISSION STAFF

11 Andy Sorrell

12 Stephanie Kim

13 Sarah Capps

14 Sara Williams

15 Jordan Butler

16 David Bringman

17 Jessica Stamper

18 Emily Van Pelt

19 Joyce Knight

20

21 COUNSEL FOR THE COMMISSION

22 Elizabeth "Liz" Myers

23

24

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1 This is Session Three of the Virginia Tobacco Region
2 Revitalization Commission, which was held on May 12, 2022, at
3 9:30 a.m. at The Sessions Hotel in Bristol, Virginia.

4 CHAIRMAN MARSHALL: Good morning. The Incentives & Loans
5 Committee will come to order. Andy, call the roll, please.

6 MR. SORRELL: Thank you, Mr. Chairman. (Calls the Roll.)

7 CHAIRMAN MARSHALL: All right. Thank you. And, so, the
8 approval of the January 7th, 2022, minutes, and they've been
9 loaded up to our website.

10 DELEGATE KILGORE: I'll so move, Mr. Chairman.

11 COMMITTEE MEMBER: Second.

12 CHAIRMAN MARSHALL: Thank you. We have a motion and a
13 second to approve the minutes.

14 All those in favor say Aye?

15 (ALL AFFIRM.)

16 All those opposed?

17 (NEGATIVE RESPONSE.)

18 CHAIRMAN MARSHALL: All right. Public comment? Anybody
19 want to tell us how the world should be? (Laughs.)

20 All right. So, we're going to go to David. David, if you
21 will please, if you'll do the -

22 MR. SORRELL: I'm going to start off with the incentives.
23 I do want the modifications as well, but I did want to also note
24 that we have Commissioner Jordan Miles on the phone as well.
25 When you attend this remotely, you can use one of your committee

1 meetings and votes count and so that was his used at yesterday
2 for our Southern Committee. So, he's going to be on the phone.
3 If he has anything to say, you are welcome to say that to him.

4 Okay. So, first up. We've got several modifications
5 and extensions to discuss for our Incentives and Loans
6 Committee. Our first project up is with the Wise County
7 Industrial Development Authority and DP Facilities. This is
8 Project 3266.

9 And they're requesting to modify the base year of the
10 performance agreement. So, just as a general overview, this is
11 a \$350,000 Tobacco Region Opportunity Fund grant that was
12 awarded to the county IDA and to the company back in 2017.

13 In return for the incentive award, 40 jobs at \$40,000
14 average salary and 32 million capital investment as promised.
15 The performance period was administratively extended through the
16 end of 2020. And through that period, the company was able to
17 establish they had met 63 percent of their employment
18 obligations and 78 percent of their capital investment.

19 What the company is requesting from you today is that the
20 performance agreement that is previously executed, be revised to
21 allow the base year to be made a little bit earlier to allow for
22 investments made in calendar year 2016 to be counted toward
23 achieving the performance goals in order to permit them to fully
24 cash in their performance that the project had initially
25 planned.

1 And, so, I believe at all of your places, we've passed out
2 a letter from the Wise County IDA that explains the situation
3 and, if you'll note, the current performance agreement,
4 basically says that they can count their capital investments
5 made in 2017 and after.

6 And what the company has requested is that the project - a
7 lot of their investment - a good part of their investment
8 occurred in 2016. And, so, and as you can see in that letter,
9 they feel and Staff does concur that the project - to capture
10 the full project's investment, then 2016 would be an appropriate
11 year to include.

12 Now, this was a - you might recall, this was a request that
13 the Commission also considered in January - at your January
14 meeting. The Commission declined to grant that request.

15 However, at that point, we did not have a letter from the
16 company and from the IDA and it was also - that meeting was a
17 little bit - it was still in Covid, and, so, it was not as well
18 intended and we also had snow and ice and all those kinds of
19 things, so, anyhow, I will say that both the company and the IDA
20 are here today to answer questions on it.

21 But, as you'll note in the Staff Report, the bottom line is
22 that, you know, Staff has to form a hard line to what's in our
23 performance agreements.

24 Executed Performance Agreements are what they are, and so
25 you'll note in the Staff Recommendation, while we do understand

1 there are some uniqueness to this situation (and I'm sure the
2 company and the IDA can address the details of it) Staff still
3 does recommend that the performance agreement stay as it is.
4 And if it does, that means that there is a portion of the grant
5 that would need to be repaid because they would not have been
6 able to fully meet their capital investment obligation.

7 I believe, currently, there are about just under \$25
8 million in investment. And if they were able to include 2016,
9 it's very likely they would get to be above or fully meet their
10 capital investment obligation.

11 CHAIRMAN MARSHALL: Delegate Kilgore, do you have a
12 question?

13 DELEGATE KILGORE: Thank you, Mr. Chairman. This is the
14 Mineral Gap Data Center. It's an unbelievable data center. I
15 took Secretary Merrick by it the other day as we were leaving
16 the airport out in Wise. And this has been a big opportunity
17 for the County of Wise to attract a data center. It's really
18 got some government clients and other clients that have been
19 really good for Wise.

20 And I would ask that we do amend the TROF agreement
21 because, actually they've invested what they said they were
22 going to invest. I mean, it's there. If anybody has driven by
23 there, you can see how much money is there.

24 And, Mr. Chairman, I would move that we amend it to reflect
25 the request of the County because they've basically, done what

1 they said they were going to do.

2 CHAIRMAN MARSHALL: Before you take a motion, let's see if
3 there are any other questions.

4 DELEGATE KILGORE: Okay. That's fine.

5 CHAIRMAN MARSHALL: Any questions of Committee members?

6 SENATOR RUFF: Mr. Chairman or Andy, can you tell us about
7 the employment picture?

8 MR. SORRELL: So, the employment that are - I think they
9 were at about 63 percent. They are still working to gather data
10 on some temporary employees that they are permitted to count.
11 They're gathering that data from the company that assisted with
12 them. And that's likely to go up some as well.

13 However, variance to that is that is not needed because if
14 they are able to achieve that, then they'll earn a little more
15 of that particular portion of it, and I'm sure they will be able
16 to address that.

17 SENATOR RUFF: I mean, you caught me off guard, Andy, when
18 you said, "temporary employees." Can temporary employees be
19 counted as permanent employees?

20 MR. SORRELL: So, we have like contract employees and
21 things like that. In our current - in our Lease Agreement,
22 that's not something that new count. But in our new TROF,
23 that's not something we count, but in the TROF Agreements and,
24 uh, at this time we could - there's a certain section that
25 permits us a certain amount based on certain standards. I think

1 it's about 520 work hours or something like that.

2 So, providing maybe what's in the Letter of the Performance
3 Agreement.

4 SENATOR RUFF: And you say you contract out rather than -

5 MR. SORRELL: Contract - that comment - I apologize.

6 SENATOR RUFF: Yes, yes. Okay.

7 CHAIRMAN MARSHALL: Sir, this is the gentleman that we've
8 heard from Wise. If you would like to speak, if you'll
9 recognize yourself, please.

10 MR. BRIAN FALIN: Yes, sir. Good morning, members of the
11 commission for allowing us to be here this morning. My name is
12 Brian Fallon, and I'm the Executive Director for Wise County
13 IDA. I have with me Mr. Dan Richardson, who is one of the
14 co-founders of the Mineral Gap Data Center and the DP
15 Facilities.

16 But I think Delegate Kilgore has done a great job of
17 summarizing this project from the county's respective, this
18 has had a tremendous on our local economy. Not just from a
19 job investment creation perspective, but it's also having
20 some far reaching affects, again, for new industry
21 recruiting.

22 We have had several additional data center prospects
23 interested in our Lonesome Pine Business & Technology
24 Department. And we directly relate that to the successes that
25 DP Facilities and Mineral Gap has had.

1 Again, I echo Delegate Kilgore's comments that it is a
2 tangible product. Anyone who has been over to our Technology
3 Park has seen what an impressive facility it is.

4 Personally, I'm not really sure what goes on there. It's a
5 little bit secretive. I'm trying to get some MIH in there to
6 see what exactly goes in there. (Laughs.)

7 Again, we feel like this request is simply just - we know
8 the work that has done prior to the Performance Agreement will
9 be justified and being recognized for the company.

10 With that, I'll give Dan an opportunity to speak to you
11 from the company perspective.

12 MR. RICHARDSON: Good morning. This is Dan Richardson. I
13 own DP Facilities. I was standing up, but there was a problem
14 hearing the question that was asked. So, now that I can
15 actually hear you and you can hear me, was there a question
16 about the contractor amounts, or was that -

17 SENATOR RUFF: That was kind of an inside baseball
18 question.

19 MR. RICHARDSON: I see. (Laughs.)

20 CHAIRMAN MARSHALL: I think it was clarified when it was
21 changed to contract worker rather than -

22 MR. RICHARDSON: That's correct. They're not temporary
23 employees. They're an insource wholly dedicated staff. Just
24 for law enforcement reasons, they have certain licenses that

1 require them to be employees elsewhere and then work full-time
2 for us.

3 CHAIRMAN MARSHALL: All right. Let's see if we have any
4 other questions from the Committee Members of you two gentlemen.
5 Does anyone have a question?

6 (NO RESPONSE.)

7 CHAIRMAN MARSHALL: Seeing none. Thank you for your time.
8 Thank you for the message.

9 MR. RICHARDSON: Thank you.

10 DELEGATE ADAMS: Mr. Chairman?

11 CHAIRMAN MARSHALL: Yes.

12 DELEGATE ADAMS: I do have a brief comment. We touched on
13 this with Secretary Merrick a couple of days ago. In Virginia
14 we offer a data center incentive program. We lowered that
15 threshold to qualify for exemption from sales and use tax \$150
16 million capital investment to \$7 million, and I see that so far
17 they've got a \$24 million capital investment. So, that's really
18 something we should consider looking at it if we really want to
19 look at attracting data centers to rural areas. Thank you.

20 CHAIRMAN MARSHALL: Not for this project, but for the next
21 project?

22 DELEGATE ADAMS: Yes, sir.

23 CHAIRMAN MARSHALL: Okay. Any other questions or comments?

24 (NO RESPONSE.)

25

1 DELEGATE KILGORE: I would make the motion to modify that
2 according to the County's IDA request.

3 COMMITTEE MEMBER: Second.

4 CHAIRMAN MARSHALL: Call the roll.

5 MR. SORRELL: (Calls the roll.)

6 (ALL AYE.)

7 MR. SORRELL: Thank you. Motion passes.

8 CHAIRMAN MARSHALL: Okay. Motion passed by agreement.

9 MR. SORRELL: I believe we'll have David Bringman, our
10 Database & Performance Metrics Manager, handle this for the
11 Commission. Over to you, David.

12 MR. BRINGMAN: I present to you today the Greenville
13 County, Virginia Oran Safety Glass, Inc. Project 3295. This is
14 a request for a Performance Extension to run through June 30 of
15 2023.

16 This was originally a \$235,000 grant and \$117,000 loan.
17 These were awarded in 2017 for 55 jobs and \$43,000 average wage
18 with looks like a \$4 million capital investment.

19 The Company has fully met the capital investment portion
20 and is currently at 42 percent of their job promise. And the
21 company has a note in there for Attachment A in your handbooks
22 about how the pandemic has significantly impacted their ability
23 to hire staff, and their measures toward mitigating and trying
24 to find new staff.

25 They're currently raising their wages and creating a

1 benefit package to increase their staff potential and staff
2 hiring as well as working with staff agencies.

3 They are also hosting job fairs, referral bonuses, and
4 other means to attract employees to help raise this employee
5 gap. They have the support of the County and are requesting a
6 performance extension through June 30 of '23.

7 If it is granted, the Company will fully be able to repay
8 the balance of the loan in this case. I'm fairly certain they
9 have only got one payment to pay anyway on this loan?

10 MR. SORRELL: That's correct.

11 MR. BRINGMAN: And they're up-to-date on it. The last
12 payment was received in February '22, so the next one will be
13 due in like August of '22. If not, there's a 5 percent
14 interest, but I don't think that's going to be a problem here.

15 Staff believes the Company is doing as much as they can to
16 attract and retain employees to meet their obligation and has a
17 solid plan moving forward. Other state funders such as VEDPs
18 Commonwealth Opportunity Fund have approved a performance
19 extension as well through June of 2023.

20 Staff feels this is an appropriate length of time for a
21 final performance extension for this project through June 30,
22 2023.

23 CHAIRMAN MARSHALL: Any questions of the Committee?

24 DELEGATE KILGORE: Move to accept.

25 COMMITTEE MEMBER: Second.

1 CHAIRMAN MARSHALL: Motion and a second to accept the Staff
2 recommendation of 3295. Any discussion.

3 (NO RESPONSE.)

4 CHAIRMAN MARSHALL: Hearing none. All of those are in
5 favor say aye.

6 (ALL AFFIRM.)

7 CHAIRMAN MARSHALL: So, next is Pittsylvania County Number
8 3404. Andy.

9 MR. SORRELL: Thank you, Mr. Chairman. This is a project
10 with Pittsylvania County and a company Eastern Panel
11 Manufacturing, Inc. It's our project number 3404. They're
12 requesting to Accept Reported Value vs. Assessed Value of
13 Certain Taxable Assets. So, for our review, this is a \$30,000
14 TROF grant that was awarded to the county and the Company with
15 funds that were to be disbursed post performance and the
16 Commission retains them.

17 It was awarded back in 2017 in return for 15 jobs at
18 \$25,000 average salary and \$1 million capital investment.
19 This project requires a minimum investment of \$500,000 required
20 before any of the grant is earned. And, at this time, staff has
21 reviewed the information as provided by the local Commissioner
22 of Revenue that notes the assessed value of the capital
23 investment during the performance period to be \$305,240.

24 By using the assessed value of capital investment as
25 required by the performance agreement does not allow the Company

1 to earn any of the grant. Because of the minimum investment
2 requirement, you have to get that before you are eligible to
3 receive any other grant award.

4 And, so, it's important with this one that the Executed
5 Performance Agreement requires the Company's achievement toward
6 meeting its taxable asset obligation shall be based on asset
7 value assessed by the Commissioner of Revenue. That's precisely
8 the exact wordings from the Agreement for the Locality.

9 Now, you'll note in a letter from the Locality - that's
10 Attachment B in the report - that the County has requested the
11 Commission consider using the original reported costs of
12 Machinery & Tools and tangible Personal Property rather than the
13 assessed values the County uses.

14 For Machinery & Tools and Personal Property values, the
15 County applies an assessment ratio that significantly reduces
16 the assessed value. The executed performance agreement
17 specifically requires us to use the assessed value. So, there's
18 a disconnect there based upon, you know, what the reporting
19 costs were that the company actually spent and what the Locality
20 is assessing the Machinery & Tools for the property.

21 If the Commission were to use the initial reported costs by
22 the Machinery & Tools and Personal Property, they would be
23 meeting - more than meeting of the actual asset obligations
24 would be over a million dollars which would meet the full
25 requirement for this.

1 And, so, that will allow the portion of the grant devoted
2 to capital investment. I think there are only 4 of 15 jobs, so
3 they wouldn't earn the full amount of that.

4 So, you know, what Staff wants to note is that we have made
5 significant revisions to our performance agreement template for
6 TROF to make it more in-line with VEDP's COF and the top line
7 is, this won't be an issue in the future because we consider
8 more things than just the assessed cost of the Commissioner of
9 Revenue, but we do have an agreement that was executed and says
10 what it does.

11 And, so, you know, the County has a question on the
12 Company's behalf to allow us to utilize this reported cost in
13 this instance. And while Staff does understand, you know,
14 they're - you know, the Company spent that money, our agreements
15 do say to set it out, and so it's important that we're not
16 arbitrary on how we review and establish - how we review these
17 agreements and things of that nature.

18 However, if the Commission decided or felt that this was
19 something that there was need enough to allow for a variance,
20 then it would allow the company to meet their capital investment
21 obligations. But, like I said, by executing that performance
22 agreement, the Company and the Locality did agree to the terms
23 that they were entering into in the performance agreement and
24 the wording, you know, was to utilize the assessed value of
25 assets.

1 As you can see in your Staff Reports, Staff does not
2 recommend making any changes to that performance agreement
3 related to this; however, I believe the Locality is here to
4 speak to this matter.

5 I believe the Commissioner of Revenue might even be on the
6 phone as well, and I will note that I did review this whole
7 project with our counsel, and she provided some detailed
8 information on this particular - you know, how staff could
9 consider this project and, basically, you know, on the same side
10 and what the staff was in terms of what the staff recommendation
11 is.

12 So, you know, Liz, if you wanted to address something a
13 little bit more, you could, or if the Commission wanted to, but
14 I do know that the County is here to make a -

15 CHAIRMAN MARSHALL: Yeah. I see them. Matt, do you want
16 to come forward? While he's coming forward, several years ago,
17 I guess back when Howell was the Speaker of the House, he
18 assigned me to a committee to look at, you know, the Machine &
19 Tool Tax, and we looked at it all across the state. The problem
20 we tried to do was do away with the Machine and Tool Tax, but
21 the problem is, some counties - some Localities have them, other
22 counties don't have them.

23 The other problem is that we couldn't find two Localities
24 that did the same analysis of it. And, so, everybody is playing
25 from a different playground. And, so, for instance, this that

1 you're referring to, they've got that piece of equipment, it's a
2 million dollars, it's sitting in that turn right there. Well,
3 let's - tell you what it costs to put that machine in place.
4 You've got to put it in place. You've got to wire it. You've
5 got to build a building for it. Etcetera, etcetera. So, that
6 was a real problem that we experienced, so it's almost a
7 case-by-case basis as far as Machine & Tool tax. And, so, I
8 think that Matt Rowe with Pittsylvania County would like to
9 speak.

10 MR. MATTHEW D. ROWE: I sure appreciate it, Mr. Chairman.
11 My name is Matt Rowe. I'm Economic Development Director for
12 Pittsylvania County.

13 Just before I kind of jump into things, I really want to
14 stress that I'm not coming to you and Pittsylvania County is not
15 coming to you in an adversarial position. We truly value our
16 partnership with the Tobacco Commission. We wouldn't be here
17 having this conversation today if you hadn't provided the
18 opportunity that you have to this Commonwealth. So, we're very
19 grateful for that.

20 I really believe that being a good partner, though, and to
21 be a fair partner, is to frankly question and bring up those
22 questions when you have them of your partner. And, so, this is
23 really being done as far as a questionable on my end just to
24 clarify, I guess the Commission's position, but also in a way to
25 ensure that we in Pittsylvania County and in other communities

1 because we know and we hear and we talk about amongst our
2 colleagues and this is an issue that many communities are
3 dealing with are frankly conveying the most accurate
4 information and compliance that are investing in your footprint
5 because we want to do them right and we want you to do them
6 right.

7 And, so, with that being said, again, your staff is
8 extremely competent. They're extremely intelligent. And they
9 are doing as far as the review of projects, based upon the
10 guidance given, and they're trying to put square pegs into
11 square holes and as you astutely know, Mr. Chairman, this hole
12 is round across the state.

13 And, so, really what it boils down to is that - and I've
14 just been sitting here listening - and, again, it's easy to read
15 into things, but these documents are legal documents, and the
16 actual verbiage in the documents is that it shall be based on
17 asset values that are then assessed by the Commissioner of
18 Revenue. It's not assessed asset values which I heard from a
19 staff member say. It's easy to just say that. But in
20 Pennsylvania County like in many communities, for personal
21 property, the value's not assessed. It is a self-reported value
22 that has been depreciated based upon the schedule of that given
23 community.

24 And, so, my only concern that I raise before you is, is
25 that, is this a position that the Tobacco Commission wants to

1 find itself in in the Localities of how community ultimately
2 depreciates its assets which is what it is. And, then, of
3 course generates its revenue.

4 And I'll take it a step further in making this case the
5 fact that - for example, this is an extremely - extreme
6 scenario, but I want to make a point. When you provide a TROF
7 grant, you are basing it upon a certain returnable investment
8 back to the footprint which is through direct taxes and in
9 addition to emulate revenues.

10 But, of course, you know, when you're looking at the actual
11 values of capital investment itself for your logarithm, you're
12 looking at just the direct taxes path because, you know, the
13 indirect reduces are based upon the wages and the mid-scope.
14 Okay?

15 And, so, for example, we just had a raw piece of property
16 in Pittsylvania County with absolutely nothing truly on it, and
17 the individual say, I have a billion dollars worth of data
18 center equipment or machinery and tools or whatever the case may
19 be. Guess what? They're going to pay, based upon what they
20 report. And, so, again, the most important number into the
21 equation is not how the county depreciates the asset value.
22 It's what the company reports the asset value to be. And that's
23 the only point that we want to raise. It really becomes
24 magnified when you get to larger projects.

25

1 For example, we have another project with \$100 million in
2 machinery and tools, and if we use this same principle to meet
3 that number, the company will have to invest a billion dollars
4 in machinery and tools because in Pittsylvania County we
5 depreciate that asset at 10 percent, day one, to create an
6 effective rate of forty-five cents per 100.

7 And, so, again, it's a lot of Math, but the Math does not
8 lie. And respectfully, your document itself says, "Shall be
9 based on asset values assessed by the Commissioner of Revenue,"
10 not assessed asset values. And, so, it's just - again, we just
11 want to make sure we bring it to your attention. We will
12 respect any of your findings. If it's already a legal, you
13 know, fine print, we certainly will respect that, but we just
14 want to bring it to your attention as a concern. And if that is
15 the ultimate decision of the Tobacco Commission, we will
16 certainly convey that message to our clients and the fact that
17 you may invest more than what you committed to, but, for this
18 particular program, it's not going to be a dollar per dollar,
19 you know, equal program. I just don't think that that's really
20 the message that the original content the Commission was going
21 for.

22 And, so, for Pittsylvania County and all the other
23 communities for personal property and machine and tools and
24 equipment and business personal property and furniture,
25 fixtures, and equipment, it is not assessed. There's nobody

1 that goes out there and does like a market-based analysis on it.
2 It's whatever the company reports and then that is what
3 ultimately is taxed and that's what your revenue generation is
4 based upon.

5 So, I'll stop there. I really appreciate Ms. Ward. She
6 has provided letters to this effect verifying the company has
7 made necessary investments showing how the depreciation schedule
8 works in Pittsylvania County. And, clearly, we state that is
9 not a necessity issue in Pittsylvania County.

10 CHAIRMAN MARSHALL: So, is Ms. Goard on the phone?

11 MS. ROBIN GOARD: Yes, I am.

12 CHAIRMAN MARSHALL: Okay. Would you like to offer any
13 information that Mr. Rowe didn't -

14 MS. ROBIN GOARD: Can you hear me?

15 CHAIRMAN MARSHALL: Yes, ma'am. We can.

16 MS. ROBIN GOARD: (Via Telephone.) Good morning. I am
17 Robin Goard. I am Commissioner of Revenue for Pittsylvania
18 County. I would just like to add to what Mr. Rowe said. We do
19 have self-reporting, so we take what the companies give us. I
20 will stipulate there is a very detailed reporting and, as he
21 said, we only assess 10 percent of the original capitalized
22 costs of the machinery and tools.

23 So as Matt said, a lot of localities, you know, they may do
24 it differently. You know, that's one of the unique things about
25 the State - the Commonwealth of Virginia. You know, everybody

1 can do something different in their locality, and ours is not,
2 you know, 100 percent of what they send back. So, everything is
3 10 percent of the cost. So, our assessed value is not going to
4 match the cost that's reported to us.

5 MR. MATTHEW ROWE: And I would just go one step further
6 and, again, it is human nature to keep saying "assessed value,"
7 "assessed value." An assessment is when you go out onto the
8 property and you see what is there, and you write through market
9 based conventional sales experience, you get a value. And this
10 is no disrespect to this Board, but they don't do that. It is
11 not an assessment. It is a depreciation that is applied.

12 And, so again, it's very easy to get into this nomenclature
13 about assessed value. From a practical, legal standpoint, it is
14 depreciation.

15 SENATOR RUFF: Mr. Chairman?

16 CHAIRMAN MARSHALL: Mike, question?

17 SENATOR RUFF: Matt, could you clarify to me that you have
18 seen invoices that total greater than the amount that they
19 promised to invest?

20 MR. MATTHEW ROWE: We have through building permits and
21 that's something that we could certainly provide. But, again, I
22 just - and, again, we can certainly do that if that's what needs
23 to be done, we can do it. But I think the key point is, is that
24 even if the Company didn't bring any invoices at all, it is
25 based upon the number of taxes they pay is based upon what they

1 report. So, if they put - you know, if they only invested a
2 million dollars, but they reported 10 million, they're going to
3 pay taxes on 10 million dollars which is what your goal on your
4 program is based upon of getting generated revenue.

5 SENATOR RUFF: Follow-up question, Mr. Chairman. You know,
6 if Company X said that they invested \$2 million, and they only
7 invested \$1 million, would we take their word for it, or would
8 we ask to see invoices?

9 MR. MATTHEW ROWE: Is that a question for the County or for
10 the Staff?

11 SENATOR RUFF: That's for you, Matt.

12 MR. MATTHEW ROWE: Okay. We, in Pittsylvania County, would
13 take their word for it. And the reason being is because that is
14 what they are paying us revenue on, so if they over grossly
15 estimate what they've done, they're paying us more revenue
16 probably than what they should.

17 CHAIRMAN MARSHALL: But the reverse is true also. If they
18 paid \$2 million, and they - it's uh, you know, it's supposed to
19 be a word of honor that when you fill that out, that you said
20 that you paid a million. So, there is no one in Pittsylvania
21 County or any other counties that I know of that actually put
22 someone out in the field to make sure that that asset is what's
23 reported.

24 MR. MATTHEW ROWE: We, in Pittsylvania County, right now on
25 our own projects, we actually go out there to make sure that

1 what they say, they have, you know, constructive machinery has
2 been placed. We go in there and do that. As part of that, we
3 even do sometimes third-party appraises. But, again, if they
4 were to under report, then they're not meeting your performance
5 and they're not getting your grant relief.

6 CHAIRMAN MARSHALL: Okay. Any other questions? All right.

7 Thank you.

8 MR. MATTHEW ROWE: Thank you.

9 SENATOR RUFF: Mr. Chairman, it seems like to me that we
10 got into a whole different problem in Southwest several years
11 ago when the company moved in used equipment and tried to
12 portray it as being valued at new equipment price. I think if
13 we move forward, we ought to make sure that we see invoices that
14 we paid X for this, we paid X for that, so it covers what they
15 committed to put into the project.

16 CHAIRMAN MARSHALL: So, Frank, what you're saying, in the
17 future for TROF Agreements (if that's what we still call it)
18 that we would ask for those invoices?

19 SENATOR RUFF: I'm not sure that wouldn't be that hard to
20 go back and ask the company to provide the details for what
21 they've spent.

22 MR. SORRELL: Mr. Chairman, Senator Ruff, our new current
23 TROF Agreement will allow for more flexibility to utilize
24 different things than just the information from the Commission
25 of Revenue. So, yes, we could utilize that with our new TROF

1 agreements that are currently being supplied. So, we have more
2 flexibility than we had in the past. Specifically, because of
3 instances like this that will come up on occasion and just
4 reviewing how, uh, with our partners to see how they did with
5 the Commonwealth Opportunity Fund, and we'll be doing more work
6 with them as well.

7 SENATOR RUFF: Mr. Chairman, I may be a little bit naïve or
8 stupid, I'm not sure, but with computers and all -

9 CHAIRMAN MARSHALL: I was next.

10 (Laughs.)

11 SENATOR RUFF: - they probably have it at their fingertips
12 how much they have actually put into a project.

13 DELEGATE KILGORE: Exactly.

14 CHAIRMAN MARSHALL: Any more questions or comments? Liz,
15 you want to weigh in?

16 MS. LIZ MYERS: I can. Thank you, Mr. Chairman. Andy
17 reached out to me because, as mathematics working it,
18 Pittsylvania County is a great partner to the Commission, and he
19 really wanted to make certain that he was interpreting the grant
20 agreement correctly. And what I did was I looked at the
21 language of the grant agreement. Mr. Rowe is correct that the
22 company's achievement is based on asset values assessed by the
23 COR, but when it defined what the personal property value is, it
24 says the first personal property assessed value for each asset
25 first appearing of record during the performance period.

1 And what I looked at was, the original cost versus assessed
2 value is - the assessed value is never going to be the original
3 cost because in Code, localities are authorized to assess
4 personal property including machinery and tools at a reduced
5 rate and all localities do that. It is my understanding that
6 none of them do it exactly the same.

7 But I think Andy makes a good point that - (Phone rings.)
8 Director in revamping this to do away with this (Phone rings.)
9 actual investment as looked at and later backed up with
10 invoices, receipts, documentation, and not just take their word
11 of honor.

12 But to actually execute the agreement to the word, which is
13 what the Staff must do, I do agree that it needed to be the
14 assessed value not the original cost that was reported to the
15 Commissioner of Revenue.

16 CHAIRMAN MARSHALL: All right. Are there any other
17 questions on this issue?

18 SENATOR RUFF: Mr. Chairman, I would move that we not
19 follow the Staff recommendation, but we use - we agree to go
20 with what Matt has contingent upon the company providing
21 invoices to assure us that they have spent what they said they
22 were going to spend.

23 CHAIRMAN MARSHALL: Okay. So, we understand the motion.
24 Okay. Do we have a second?

25 MS. GRETCHEN CLARK: Second.

CHAIRMAN MARSHALL: We have a second. Discussion on the motion? All right. We're all clear on what we are voting for?

MR. OWENS: And we're going to ask the company for the receipts is that what we're saying?

CHAIRMAN MARSHALL: Yes. Right. Any other questions?

(NO RESPONSE.)

CHAIRMAN MARSHALL: Call the roll, Andy.

MR. SORRELL: Thank you, Chairman. (Calls the roll.) All right.

CHAIRMAN MARSHALL: Okay. So, again, I would go to public comments. All right.

MR. SORRELL: There are no public comments.

CHAIRMAN MARSHALL: Okay. Our next meeting is in thirty minutes. Well, 23 minutes, actually, so we will adjourn. Thank you.

(End of Session 3 at 2:47 p.m.)

CERTIFICATE

COMMONWEALTH OF VIRGINIA

COUNTY OF WASHINGTON

I, Marsha Self, Notary Public in and for the Commonwealth
of Virginia, at large, do hereby certify that the foregoing
transcript of Session 3, the Incentives and Loans Committee of
the Virginia Tobacco Region Revitalization Commission held on
May 12, 2022, was taken before Marsha D. Self at the time and
place in the foregoing caption specified, and that the foregoing
is a true and correct transcript of the same to the best of my
ability.

14 I further certify that I am not a relative, counsel, or
15 attorney for either party or otherwise interested in the outcome
16 of this action.

Given under my hand this 13th day of June, 2022.

Marsha Self
Marsha Self, CERT

Marsha Self, CERT

My Commission Expires: February 28, 2023.

State Notary Registered Number: 174126