19th JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO. 776,408 SECTION 25

RURAL ROOTS LOUISIANA,
HARRY JOSEPH SR., and LOUISIANA BUCKET BRIGADE,

Plaintiffs,

VERSUS

THE STATE OF LOUISIANA, through Division of Administration, Tayler F. Barras, Commissioner, and LOUISIANA ECONOMIC DEVELOPMENT, through Susan Bourgeois, Secretary,

Defendants.

PLAINTIFFS' MEMORANDUM IN OPPOSITION
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PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' EXCEPTIONS

NOW INTO COURT, through undersigned counsel, come Rural Roots Louisiana, Pastor Harry Joseph Sr., and the Louisiana Bucket Brigade (collectively, "Plaintiffs"), who submit this Memorandum in Opposition to the Exceptions filed by the State of Louisiana through the Division of Administration ("DOA") and Louisiana Economic Development ("LED") (collectively, "Defendants"). This matter is set for a hearing at 9 a.m. on August 27, 2026.

INTRODUCTION

This case is about whether state agencies can enter into a Cooperative Endeavor Agreement ("CEA") in which they commit hundreds of millions of dollars of taxpayer money that has not been previously appropriated by the state legislature to a private entity without first seeking written approval from the State Bond Commission. Plaintiffs seek a declaration concerning the validity of that agreement and an injunction against its continued unlawful implementation.

At this stage, however, the questions for this Court are:

(1) Does this Court have subject-matter jurisdiction over this live controversy challenging the legality of the CEA?

(2) Accepting their well-pleaded allegations as true, have Plaintiffs stated a cause of action entitling them to declaratory and injunctive relief if those allegations are proved?

(3) Are the Plaintiffs among the persons entitled to seek that relief?

The answer to each is yes.

Defendants' exceptions repeatedly conflate these distinct inquiries with arguments as to the ultimate merits of Plaintiffs' claim.[1] In the course of doing so, they advance strained interpretations of applicable law and cited authorities in their effort to contend with the unfavorable facts alleged in the Petition. In their rush to the merits, Defendants attempt to improperly introduce evidence in support of their exception of No Cause of Action, which is explicitly barred by La. C.C.P. art. 931. While Plaintiffs must object as a matter of record to this violation of the rule, Plaintiffs also point out that the evidence proffered by Defendants further confirms a key factual

[1] LED filed a supplemental motion adopting all of DOA's arguments on June 17, 2026. When Plaintiffs refer to an argument or representation made only by LED in its original memorandum, Plaintiffs note that herein. Otherwise, when referring to "Defendants," Plaintiffs are referring to arguments made or adopted by both parties.

allegation in the Petition: that the State's financial commitments were not funded by the Legislature prior to the CEA's execution.

And, the State's financial commitments at issue in this matter are substantial, consequential, and ongoing. In May 2025, LED entered into the CEA with Hyundai Steel Company ("Hyundai") in which it committed the State of Louisiana to directly spend up to $200 million in land and construction costs for Hyundai, an unspecified amount in other capital outlays for road and rail infrastructure (which Defendants now confirm amounts to over $232 million), and more than $1.2 billion in state and parish tax exemptions. The CEA imposes penalties of up to $325 million as a consequence of the State's failure to fund its commitments. The term of the CEA is 99 years and includes ongoing and substantial financial commitments by the State, including $100 million in grants over the course of five years, as well as infrastructure construction. The direct financial commitments in the CEA had not been previously appropriated by the Legislature before the agreement was executed. LED and the State did not submit the CEA to the Bond Commission for review and approval before signing it.

The Louisiana Constitution of 1974, Art. VII, Secs. 8(B) and (C) and relevant statutes require Bond Commission approval when state agencies incur substantial unfunded financial obligations, which is what Plaintiffs allege happened here. In particular, La. R.S. 39:1410.31(A) provides that "No agreement" by the State or its agencies, expressly "including, but not limited to" specified financing arrangements, may be entered into when it provides for an outlay exceeding the statutory threshold for capital improvement or expenditure without prior State Bond Commission approval. Subsection B of the statute supplies the consequence: an agreement made in violation of the statute is "null and void, and unenforceable." Subsection C then identifies specified exceptions, including expenditures of funds "previously appropriated by the legislature" and certain appropriation-dependent agreements involving movable property that impose no penalty for failure to fund.

As shown below, all of Defendants' exceptions should be denied.

One, this Court has jurisdiction over this live controversy challenging the legality of the State's actions. The claim in this case is not moot as the CEA continues in effect with "forward-looking State payments"[2] and other ongoing obligations on the part of the State. A ruling in this

[2] Division of Administration Brief at 6 (hereinafter "DOA Brief").

case would have a practical legal effect in determining whether Defendants may continue performing their obligations under the CEA.

Second, Plaintiffs state a cause of action entitling them to declaratory and injunctive relief if their well-pleaded allegations are proven. The law is clear that to avoid Bond Commission Review, legislative appropriation of the funds necessary to meet the State's financial commitments must come *before* a Cooperative Endeavor Agreement is signed, and not after as Defendants suggest. The lack of legislative appropriation or Bond Commission Review prior to the CEA's execution, as detailed in the Petition, would render the agreement null and void pursuant to the clear and plain language of La. R.S. 39:1410.31. Further, contrary to Defendants' suggestion, Plaintiffs are not suing directly under R.S. 39:1410.31 but under Louisiana's existing declaratory judgment statute and nullity law. The statutory and constitutional provisions governing state debt and Bond Commission approval provide the substantive limitations against which the validity of the CEA must be measured.

Third, and finally, Plaintiffs have standing to bring this claim and a right of action as taxpayers seeking to restrain unlawful government action. Defendants attempt to limit the ability to challenge an unlawful government contract only to the parties. However, it has long been established that third parties can challenge unlawful government contracts. Defendants also ignore the basic civil code proscription against juridical acts which derogate from laws enacted for the protection of the public interest, which are absolute nullities pursuant to La. Civ. Code art. 7. Further, as Art. 2030 of the La. Civ. Code makes clear, absolute nullity of a contract "may be invoked by any person or may be declared by the court on its own initiative."

In short, this case presents exactly the kind of question appropriate for judicial review and declaratory judgment, and Plaintiffs are exactly the right parties to bring this claim, as tax-paying organizations and an individual seeking to restrain unlawful governmental action.

FACTUAL BACKGROUND

There are just four key facts relevant to this Court's adjudication of Defendants' exceptions at this point:

1) On May 9, 2025, Defendants entered into the CEA with Hyundai in which they committed hundreds of millions of dollars in state funds for Hyundai, including the purchase of land and capital improvements and infrastructure, in exchange for the company locating in Ascension Parish.[3]

2) The Petition clearly alleges, and Defendants now acknowledge, they did not publish notice of the CEA nor seek review and approval of the State Bond Commission prior to executing the CEA and committing the State to providing hundreds of millions of taxpayer funds to Hyundai.[4]

3) The financial commitments agreed to by the State had not been funded by the Legislature prior to the execution of the CEA, as even Defendants' own briefs make clear.[5] The first appropriation by the Legislature of any funds for *portions* of the State's financial commitments came *after* the CEA was executed.

4) The State has ongoing financial commitments pursuant to the CEA that have not been fulfilled, nor appropriated by the legislature.

A fifth fact is not necessary to the Court's adjudication of the claim but is necessary to highlight because it figures so prominently in Defendants' arguments in their exceptions:

5) Contrary to Defendants' arguments, the non-appropriation clause in the CEA, which addresses the situation where the Legislature fails to appropriate the funds necessary for the State to meet its commitments, is not penalty-free. Even LED states that "the CEA does include a 'termination penalty.'"[6] But even if the non-appropriation clause were penalty-free, it would not exempt this CEA from Bond Commission review under La. R.S. 39:1410.31(C) because that non-appropriation clause only applies to agreements for movable property, which is not at issue here.

The end result is that LED committed hundreds of millions of taxpayer funds to provide land and infrastructure and other incentives to a private company without prior appropriation by the legislature, without any oversight by the constitutionally designated agency, the Bond Commission, and therefore also without any notice and opportunity for the public to be heard.

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[3] Cooperative Endeavor Agreement between the State of Louisiana and Hyundai Steel Company, May 9, 2025, (hereinafter "CEA") annexed to Plaintiffs' Petition for Declaratory and Injunctive Relief (hereinafter "Petition") as Exhibit A.
[4] Petition, ¶¶ 38-40, 43, 47.
[5] Petition, ¶¶ 54-55. *See, e.g.,* Louisiana Economic Development Brief (hereinafter "LED") at 6-7, recognizing unfunded state financial commitments but arguing CEA exempt as a result of non-appropriation clause; DOA Brief at 6 acknowledging "forward-looking State payments depend on legislative appropriation."
[6] LED Brief at 6.

I. THE STATE'S FINANCIAL OBLIGATIONS AND BENEFITS TO HYUNDAI

The key particulars of the State's financial commitments to Hyundai are as follows:[7]

A. Up to $200 Million in "Free Land"8 and Construction Costs to Hyundai

The State agreed in the CEA to commit more than $200 million in public funds as incentives for Hyundai which include:

a) Up to $100 million in public funds the State would use to acquire ownership of the land where Hyundai would build its facility;[9]

b) Up to $100 million in public funds to reimburse Hyundai for building construction, land/site improvements, and other infrastructure improvements, including access roads, site improvements, utilities and water upgrades.[10]

B. Ground Lease of Free Land with $37 Million Tax Savings for Hyundai

Further, the State agreed to then lease the land it would purchase to Hyundai at a rental rate of one dollar per year ($1 USD) "plus other good and valuable consideration pursuant to a written ground lease agreement" for a term not to exceed 99 years.[11] According to the CEA, the ground lease would also give Hyundai the exclusive option to purchase the land from the State for a purchase price of $99.00 on or after the 32nd year from the commencement date of the Ground Lease.[12] In a Letter of Intent ("LOI") sent from LED to Hyundai in December 2024, LED estimated the "tax benefit [for Hyundai] of state-owned land for a 30-year period at $37.0 million."[13]

C. Unspecified Amount in Major Capital Outlay for Rail and Road Infrastructure Improvements

In addition to purchasing and giving the land to Hyundai and reimbursing the company for up to a $100 million in its expenses for construction and site improvements, the State committed to "engineer, design and construct, or cause to be engineered, designed, and constructed, at no cost or expense to" Hyundai or its affiliates:

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[7] The key details of the CEA are pleaded at length in the Petition. *See*, in particular, ¶¶ 8-29.
[8] As noted in the Petition, a Hyundai representative described the State's commitments to purchase land and provide infrastructure improvement as "free land and infrastructure." Petition, ¶ 13.
[9] CEA 3.02(a)-(e)) and CEA Ex. D entitled "Project Budget Summary."
[10] CEA Sec. 3.05 and CEA Ex. D entitled "Project Budget Summary."
[11] CEA Sec. 3.03(a).
[12] CEA Sec. 3.03(b).
[13] Letter of Intent from Susan Bonett Bourgeois, Secretary Louisiana Economic Development, to Gang Hyun Seo, President/CEO, Hyundai Steel Co. (Dec. 5, 2024), (hereinafter "Letter of Intent") annexed to Petition as Exhibit B and (available at https://cdn.prod.websitefiles.com/62963b843bd3a03f930371e2/68b891b73844440627e04802LED%20LOI%20to%20Hyundai%20Steel.pdf).

a) An overpass and other modifications to Louisiana Highway 1, a two-way surface road for access to the site from Highway 1, and an extension of the road;[14]

b) A rail extension to the proposed site and a rail-interchange loop.[15]

Notably, the CEA did not include a dollar amount or estimate of the costs of engineering, designing, and constructing the overpass, surface road, or rail extension and interchange loop. However, in their briefing Defendants point to appropriations passed in Act 2 at the end of the 2025 legislative session, *after* the CEA had already been executed.[16] The legislature allocated $232,782,750 in Priority 5 funding for these projects, a low-priority designation indicating the funds would likely not be available in the same fiscal year.

D. Approximately $1.2 Billion *Ad Valorem* Tax Exemption and Payments in Lieu of Taxes (PILOTs).

The CEA also provides that Hyundai would enter into an agreement with the Ascension Parish Industrial Development Board ("IDB") wherein it would transfer ownership of its physical Plant, i.e. the "structures, building and other improvements" on the site, to the IDB so that the IDB could then lease the Plant back to Hyundai with a lease term of 32 years.[17] This arrangement allows Hyundai to avoid paying *ad valorem* taxes and instead make "Payments In Lieu of Taxes" (PILOTs) as lease payments, which are far less than it would be required to pay in taxes if it retained ownership of the physical plant. In a letter of intent from LED to Hyundai, the State estimated that the PILOT agreement would save Hyundai approximately $1.2 billion in taxes over the 32-year agreement period.[18] Instead, Hyundai would be allowed to pay $553 million over the 32-year agreement.[19]

II. PENALTIES FOR NON-APPROPRIATION OF NEEDED FUNDS

As discussed further below, La. R.S. 39:1410.31(C) does not exempt agreements like this CEA from Bond Commission review even when they contain penalty-free non-appropriation clauses, as this exemption applies only to "multi-year agreement[s] dealing with movable property."[20] However, even if that provision were held to apply to this CEA, which does not "deal[] with

[14] CEA Sec. 3.01(a).
[15] CEA Sec. 3.01(b).
[16] DOA Brief at 18, citing 2025 La. Acts No. 2, § 05/250, p.16, passed by the legislature on June 12, 2025 and signed by Governor on June 20, 2025.
[17] Letter of Intent, *supra* n. 13.
[18] CEA Sec. 5.04(a).
[19]
[20]

movable property," it is not penalty-free as Defendants argue. Rather, the CEA provides two very substantial penalties in the event the State cannot meet its financial commitments if the Legislature fails to appropriate the funds necessary.

The penalties are as follows:

A. Hyundai Can Withhold Up to $250 Million in PILOT Payments from the Parish.

The CEA contains a section entitled "Non-Appropriation" which provides that in such a case those parts of the agreement are "subject to termination or reduction due to unavailability of funding."[21] Sec. 6.03 of the Non-Appropriation section of the CEA allows the Company to terminate the Agreement when the State "fail[s] to become current on any of its State Investment due to non-appropriation within a one-year period" and provides further that "[u]pon such termination, the Parties shall have no further obligations under this Agreement."[22] However, this provision is not penalty-free.

In the event of the State's inability to meet its financial commitments as a result of non-appropriation of necessary funding by the Legislature, the CEA then requires that the Agreement between Hyundai and the Ascension Parish Industrial Development Board allow Hyundai to reduce its PILOT payments to the Parish under the lease agreement up to $250 million. Specifically, that portion of the Non-Appropriation Section states:

> Therefore, in addition to the remedy set forth in Section 6.03, the Parish Cooperative Endeavor Agreement shall provide that the Company and/or Project Affiliates shall have the right, **in the Company's sole and absolute discretion, to proportionately reduce and offset the amount of any PILOT Payments due and payable to the Parish IDB under the Parish Cooperative Endeavor Agreement in the total amount by which any State Investment is not timely paid due to a lack of appropriations by the Legislature** (a "Non-appropriation Shortfall"); provided that, notwithstanding the foregoing, **(1) the total amount of all such reductions and offsets from any PILOT Payments shall not exceed Two Hundred Fifty Million Dollars ($250,000,000 USD) in the aggregate;** (2) such reductions and offsets shall be taken proportionately during the time period such State Incentive payment would have been earned by the Company and/or Project Affiliate (i.e., the Company shall only be entitled to offset PILOT Payments as and when the State Incentive benefit(s) would otherwise have been received by the Company and/or its Project Affiliates); and (3) if the Legislature subsequently appropriates sufficient funding to pay the State Investment, and the State thereafter pays all delinquent and unpaid portions of the State Investment required under this Agreement and the State Incentive Agreements, the Company shall thereafter pay the outstanding portion of the unpaid PILOT

[21] CEA Sec. 6.01.
[22] CEA Sec. 6.03.

> Payments to the Parish IDB within sixty (60) days of the State and LED fully satisfying all outstanding obligations with respect to the State Commitments. For clarity, if the Company and/or Project Affiliates offsets PILOT Payment due and payable in any given Project Year pursuant to this Section 6.04, and the amount of PILOT Payments for such Project Year is less than the total Non-appropriation Shortfall, the Company and/or Project Affiliates shall continue to offset PILOT Payments due in subsequent Project Years until the Company and Project Affiliates have offset the aggregate amount of the Nonappropriation Shortfall.[23]

The PILOT Agreement between the Ascension Parish Industrial Development Board and Hyundai, which has not been provided to Plaintiffs despite a public records request, would provide Hyundai with a way to avoid paying the total amount of taxes that would normally be required if it retained ownership of the Plant. LED estimated Hyundai's tax savings to be over $1.2 billion.[24] Through Hyundai's transfer of ownership to the Parish, which as a local government entity is not subject to these taxes, the Parish agrees to take substantially less than what it is otherwise owed in taxes by accepting smaller payments (PILOTs) during the lease term.

The CEA provides that in the event the State fails to appropriate sufficient funds to follow through on its commitments, the Parish can be penalized by Hyundai in its "sole and absolute discretion" by further reducing the monies owed to it under the PILOT agreement by up to $250 million, allowing Hyundai to unilaterally effectively halve its PILOT commitment.

B. Hyundai Can Withhold $125 Million from the Parish as a Quality Jobs Incentive Penalty.

Under the CEA, Ascension Parish can also be penalized for a decision by the Louisiana Board of Commerce and Industry or the Governor not to approve Hyundai's Quality Jobs Incentive application, if the State or LED is not able to cover the payment of those incentives. Specifically, in the event that Hyundai's application is not approved for "reason other than untimely application or administrative error by" Hyundai, and "substitute program funding by the State or LED is not available," Hyundai can reduce up to $125 million in PILOT payments due to the Parish.[25]

This is another penalty in the CEA that can be imposed in the event that the State cannot meet its financial obligations under the CEA. These two penalties bring the total amount the Parish can be penalized under the CEA between LED and Hyundai to $375 million.

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[23] CEA Sec. 6.04. (emphasis added).
[24] Letter of Intent, *supra* n. 13.
[25] CEA Sec. 3.04(c).

Combined, these are substantial penalties that would have a significant and direct impact on the Parish coffers, which is the public fund of parish residents (who, it should go without saying, are also state residents). Even LED describes this provision as a "termination penalty."[26] Defendants attempt to evade both the letter and spirit of the law as well as Supreme Court and Attorney General opinions by suggesting that a) the non-appropriation exemption in La. R.S. 39:1410.31(C) applies to this CEA even though the CEA does not relate to movable property and b) this penalty doesn't count because it is somehow not a penalty against "the State."[27]

But, as shown further below, the statute, La. R.S. 39:1410.31(C), and other authorities cited by Defendants – including Attorney General opinions – make no such distinction in terms of the penalty and who bears it. Defendants cannot end-run around the law intended to protect public finances by claiming the non-appropriation is penalty-free because they have chosen to deflect and divert the penalties to local governmental entities – and thereby local residents – who are then expected to bear the brunt of the State's inability to meet its financial commitments.

III. THE LEGISLATURE DID NOT APPROPRIATE THE FUNDS NECESSARY PRIOR TO THE CEA'S EXECUTION.

As discussed further below, Defendants confuse and mischaracterize the clear language of the La. R.S. 39:1410.31 and what type of agreements it applies to and when legislative appropriations must be made to avoid Bond Commission review. They do the same with regard to factual questions as to whether and when the State's financial commitments in the CEA were appropriated by the Legislature. La. R.S. 39:1410.31(A) and (C) make it clear that a state agency can only avoid obtaining "prior written approval" from the Bond Commission of agreements providing for capital improvements and expenditures, including for land, major repairs and construction, when an agreement covers "capital outlay projects approved by the legislature" in its operating budget or provides for "the expenditure of funds previously appropriated by the legislature."[28] The reason for these exemptions is that if the expenditures have already been budgeted and allocated, the agreement does not create or incur ongoing debt on the part of the State. The statute is clear that the appropriations must have been made prior to the agreement, not

[26] LED Brief at 6.
[27] DOA Brief at 16-17; LED Brief at 6-7.
[28] La. R.S. 39:1410.31(C).

retroactively as Defendants suggest. If the appropriations have not already been made, "prior written approval" of the Bond Commission is required.

Rather than sticking to the allegations set forth in the Petition as they are required to do in an exception of no cause of action, Defendants disregard the prohibition on the introduction of evidence to support or controvert this exception under La. C.C.P. art. 931,[29] and race ahead to argue the merits of Plaintiffs' claim. Plaintiffs note for the record they object to this improper introduction of evidence at this stage. However, Plaintiffs also note this evidence proves a key factual allegation in the Petition: that the financial commitments were not funded prior to the execution of the CEA.

In attempting to wield this outside evidence to their advantage, Defendants engage in one of their most significant misrepresentations with the suggestion that the State's purchase of the land given to Hyundai was an "expenditure of funds previously appropriated by the legislature"[30] and therefore this requirement of La. R.S. 39:1410.31(C) was not violated.[31] Defendants point to a pre-existing source of funding they say was used for one of the State's financial commitments – the purchase of land for Hyundai. Defendants fail to mention that the funding they point to was nearly $30 million short at the time the CEA was signed on May 9, 2025. In particular, DOA cites a fiscal forecast, dated May 8, 2025, from the Revenue Estimating Conference that showed a $72 million balance in LED's Rapid Response Fund, the purported source of funds used to purchase the land.[32] This is a problem for Defendants because, a) the CEA committed the State to spending up to $100 million for the purchase of land to give to Hyundai, not $72 million; and b) the actual cost of the land purchased by the State on January 5, 2026, was more than $91 million.[33] Defendants do not indicate where the remaining nearly $20 million came between the time the CEA was executed and the land was purchased more than seven months later. What is clear is that the funds necessary for the land purchase – not to mention the remaining $100 million in other

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[29] La. C.C.P. art. 931 provides, in relevant part, that: "No evidence may be introduced at any time to support or controvert the objection that the petition fails to state a cause of action."

[30] DOA Brief at 18 ("The land acquisition through Rapid Response Fund, along with the performance-based incentives paid through the Louisiana Quality Jobs Program and LED general fund, are all likewise excluded from the statute because they are 'expenditure[s] of funds previously appropriated by the legislature.'")

[31] LED Brief at 7 ("Contrary to Plaintiffs' contentions, the subject CEA constitutes an expenditure of funds *previously* appropriated by the Legislature.").

. Christopher Cartwright, *Inside the land purchase for the $5.8B Hyundai Steel Mill south of Baton Rouge,* The Advocate, Jan. 13, 2026 https://www.theadvocate.com/hyundai-land-ascension-parish/article_a90d45da-e127-4473-a256-2793b397d3f3.html

[32] DOA Brief at 5-6, n. 1.

[33] *See* LED Brief at 1 (LED acknowledges land purchase was $91,251,482.51) and Exhibit A, showing purchases prices.

direct financial commitments – had not been appropriated by the Legislature prior to the execution of the CEA. That is what this improperly introduced evidence confirms. Still, these are factual assertions that go to the merits of Plaintiffs' claim that are more appropriately addressed at a full trial on the merits after Plaintiffs have had an opportunity to further explore the veracity of these factual assertions and the circumstances of the alleged appropriations.

With regard to the State's commitments to construct rail and road improvements for Hyundai, DOA also suggests that these pieces of the CEA are excluded from Bond Commission review because La. R.S. 39:1410.31(C) does "not apply to capital outlay projects approved by the legislature," claiming, wrongly, that appropriations made subsequent to the CEA somehow ratified the CEA.[34] The legislative enactment DOA relies upon, Act 2 of 2025, was passed by the legislature and signed into law *after* the CEA was executed – June 16 and 20, 2025, respectively.[35] Even then, the legislature only gave the allocations a "Priority 5" designation, which means they are not guaranteed funding in the current fiscal year as they are lower priority. Moreover, Defendants have not indicated whether these appropriations would cover the total costs of these projects. This provision at La. R.S. 39:1410.31(C) is obviously intended to address agreements for capital outlay projects that are necessary to carry out projects that have already been appropriated and budgeted by the Legislature, not the other way around.

Defendants acknowledge that the CEA contains other "forward-looking State payments" that have not yet been funded because they depend on future legislative appropriation.[36] These include the State's incentives to Hyundai of $20 million per year for five years for construction costs under the performance-based grant provision of the CEA.[37] Defendants suggest that these commitments did not need Bond Commission approval because of the Non-Appropriation clause in Section 6 of the CEA, which makes the financing contingent on legislative appropriation. However, the exemption from Bond Commission review in La. R.S. 39:1410.31(C) based on the existence of a non-appropriation clause pertains only to a "multi-year agreement dealing with movable property." This CEA does not "deal[] with movable property."

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[34] DOA Brief at 18.
[35] 2025 La. Acts No. 2, available at https://www.legis.la.gov/legis/ViewDocument.aspx?d=1426048.
[36] DOA Brief at 16.
[37] *Id.*

Even if the exemption did apply to this CEA, the statute mandates that the non-appropriation clause must "provide[] no penalty upon termination or failure to fund." La. R.S. 39:1410.31(C). As noted above, in Section II.A., the non-appropriation clause in this CEA is not penalty-free; it provides for two very substantial and serious penalties, up to $325 million, in the event of a failure to fund the State's commitments. As is clear from the plain language of the statute, and as discussed further below, that the penalty is imposed on a Parish entity and not State agencies is not relevant under the terms of La. R.S. 39:1410.31(C), and none of the authorities cited by Defendants suggest otherwise.

LAW AND ARGUMENT

I. DEFENDANTS' EXCEPTION OF LACK OF SUBJECT-MATTER JURISDICTION SHOULD BE DENIED BECAUSE THIS CONTROVERSY IS NOT MOOT.

A case is considered moot only when the Court can no longer grant meaningful relief. *Cat's Meow, Inc. v. City of New Orleans Through Dep't of Fin*., 98-0601, p. 8 (La. 10/20/98); 720 So.2d 1186, 1193 ("[A]n issue is 'moot' when a judgment or decree on that issue has been deprived of practical significance or made abstract or purely academic.") (internal quotations omitted). Defendants' argument that this Court lacks subject-matter jurisdiction because the State has partially performed some of its obligations actually demonstrates how the matter is very much a live and ongoing controversy.[38] Defendants' own briefing acknowledges that the State continues to have contractual obligations under the CEA, including additional financing commitments that have not been appropriated.[39] The CEA commits the State to, *inter alia,* construction of rail and road improvements and performance-based grants totaling up to $100 million over five years. A declaration that the CEA is null and void, pursuant to La. R.S. 39:1410.31, would determine whether Defendants may continue performing their obligations under the CEA.

Moreover, La. R.S. 39:1410.31(A) regulates the moment at which an agreement like this CEA is entered into; it requires "prior written approval" of the Bond Commission. If that was not obtained, it "shall be null and void, and unenforceable" pursuant to Section B of the statute. Subsequent performance does not make that legal question academic because the answer

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[38] DOA also argues that Plaintiffs lack standing in the section of their brief dealing with subject-matter jurisdiction. However, because procedural law in Louisiana recognizes lack of subject-matter jurisdiction and no right of action as distinct objections, *see* La. C.C.P. Art. 927(A)(6) and (8), Defendants' standing arguments do not present an issue of subject-matter jurisdiction and are addressed in Plaintiffs' response to their Exception of No Right of Action.
[39] DOA Brief at 6-7; LED Brief at 4-6 (arguing outstanding financial commitments not debt because of non-appropriation clause).

determines the present legal status of the CEA. The claim is not a request for an advisory opinion concerning a completed historical transaction. A declaration rendered pursuant to this Court's authority under La. C.C.P. Art. 1871 and 1872 as to whether the CEA is valid or invalid would have present legal consequences.

Defendants confuse partial performance with mootness. The fact that they have undertaken actions pursuant to the CEA does not eliminate the controversy; it demonstrates the CEA's continuing practical significance. Plaintiffs challenge the validity of an agreement that remains operative and under which substantial State obligations remain to be performed. A judgment declaring whether the CEA is null and void under La. R.S. 39:1410.31 would clearly have practical legal effect and as such is not moot.

More fatal to Defendants' argument on this point is the fact that the Louisiana Supreme Court has recently invalidated a multi-year contract because the contract had not been submitted to the State Bond Commission, even though the agreement was years-old and the government had made continuous payments. *23rd Psalm Trucking, L.L.C. v. Madison Par. Police Jury,* 2024-00808, p. 3 (La. 6/27/25); 413 So.3d 370, 374, *reh'g denied,* 2024-00808 (La. 9/4/25); 415 So.3d 934.[40] Thus, the Court's willingness to adjudicate the validity of a years-old, substantially performed government contract based on absence of prior Bond Commission approval demonstrates the failure of Defendants' attempt to cast as moot this matter involving a recently enacted CEA with years of State financial commitments still ahead.

Elsewhere, the Court has found that judicial review of an allegedly unlawful public contract is not foreclosed merely because the government officials proceeded with its execution or performance. *See Haughton Elevator Division v. State, Division of Administration,* 367 So. 2d 1161 (La. 1979) (rejecting suggestion that case was moot because the fiscal year covered by the challenged contracts had already lapsed and explaining that remedies can include annulment of a contract unlawfully awarded to a different bidder); *See also Davis v. Town of St. Gabriel,* 2001-0031 (La. App. 1 Cir. 2/15/02), 809 So. 2d 537, *writs denied*, 2002-0771, 2002-0803 (La.

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[40] Defendants attempt to minimize the import of this decision, describing it as a "plurality opinion." That is not relevant to this point since a majority of the justices concurred in the result which was the invalidation of the contract as null and void under La. R.S. 39:1410.69.1, a separate provision of the same statute that relates to the authority of municipalities and local governments to enter into such agreements.

10/14/02), 827 So. 2d 420 (subsequent governmental actions implementing a challenged agreement did not render the controversy moot).

Finally, Defendants' suggestion that Plaintiffs seek to invalidate subsequent legislative appropriation of funds and the State's subsequent land purchases through this case is a red herring. First, with regard to subsequent legislative appropriations, that argument actually supports Plaintiffs' key factual allegation that the CEA was not fully appropriated before it was executed. And, it further demonstrates the existence of a live controversy that a judicial declaration would resolve. The legislature may have lawfully appropriated money to fund certain aspects of the industrial development while the executive branch lacked authority to execute this particular CEA without prior Bond Commission approval. Second, any land sales between the State and sellers are separate contracts. The State may retain title to land it lawfully purchased while losing any outstanding contractual obligations under the CEA with regard to Hyundai. Contrary to Defendants' arguments, Plaintiffs do not seek to collaterally attack either the legislative appropriations made subsequent to the CEA's execution, or the State's land purchases. They question the legality of *this* CEA.

II. PLAINTIFFS HAVE STATED A VALID CLAIM FOR DECLARATORY JUDGMENT AND DEFENDANTS' EXCEPTIONS OF NO CAUSE OF ACTION SHOULD BE DENIED.

The purpose of the peremptory exception of no cause of action is to test the legal sufficiency of the petition by determining whether the law affords a remedy on the facts alleged in the petition. *McCarthy v. Evolution Petroleum Corp.,* 2014-2607 (La. 10/14/15); 180 So.3d 252. All well-pleaded facts in the petition must be accepted as true and must be viewed in the light most favorable to plaintiffs with every doubt resolved in the plaintiffs' favor. *Id*. at 257. No evidence may be introduced to support or controvert the exception of no cause of action, *id*. (citing La. C.C.P. art. 931), and the party disputing the existence of a cause of action bears the burden of demonstrating that a petition fails to state a cause of action. *Id.*

Here, the constitutional and statutory provisions governing state financial obligations mandate that the CEA should have been publicly noticed and submitted to the Bond Commission for prior review and approval. Defendants attempt to distort the very clear language and intent of the relevant constitutional and statutory provisions to avoid this conclusion but they cannot establish that Plaintiffs have not stated a valid cause of action on the face of the Petition.

A. The Louisiana Constitution Requires Bond Commission Approval.

The State Bond Commission exists pursuant to Art. VII, Sec. 8(B) of the Louisiana Constitution of 1974, which mandates that "[n]o bonds or *other obligations* shall be issued or sold by the state, directly or through any state board, agency, or commission, or by any political subdivision of the state, unless prior written approval of the bond commission is obtained." (emphasis added). Art. VII, Sec. 8(C) of the Louisiana Constitution also requires a state agency to publish notice of its intention to issue bonds or "other evidences of indebtedness" in the official journal of the state and provides the general mechanism for challenging the legality and validity thereof, which must occur within thirty days after the publication of the notice.

Defendants do not dispute that the State's financial commitments in the CEA would constitute an obligation or evidence of indebtedness, standing alone. Rather, they argue that the non-appropriation clause in the CEA neutralizes the condition of indebtedness.[41] As discussed further below, this argument fails, not least, because the non-appropriation provision is not penalty-free.

B. Plaintiffs allege facts sufficient to establish a violation of La. R.S. § 39:1410.31.

Plaintiffs plead in detail how the CEA was executed in violation of La. R.S. 39:1410.31, which is entitled "*Agreements providing for outlay of funds for capital improvement or expenditure; State Bond Commission approval required; penalties*." As part of the statute governing the Bond Commission's role in capital outlay projects, the law requires that any agreements by a state agency providing for the outlay of funds for capital improvements or expenditures in excess of $100,000 in any fiscal year be submitted to the Bond Commission for approval. Specifically, La. R.S. § 39:1410.31 provides:

> A. *No agreement,* including, but not limited to agreements of lease, lease-purchase or third party financing, shall be entered into by, on behalf of or with the state, directly or through any state board, department, commission, authority or agency, providing for the outlay of funds in excess of one hundred thousand dollars, in any fiscal year, beginning at the expiration of the fiscal year 1977-1978, for capital improvement or expenditure, including, but not limited to, equipment, buildings, land, machinery, renovations, major repairs and construction, *without prior written approval of the State Bond Commission or its successor.*

[41] LED Brief at 5 ("[G]overnment debts or obligations accompanied by a non-appropriation clause are not treated as 'true' debts or obligations within the meaning of Article VII, § 8(B)."); DOA Brief at 15 (arguing that a non-appropriation clause "states that the contract is funded on a fiscal year to fiscal year basis… and, therefore does not incur indebtedness").

> B. *Any agreement,* including, but not limited to agreements of lease, lease-purchase or third party financing, m*ade in violation of the provisions of this Section shall be null and void,* and unenforceable in the courts of this state.
>
> C. The provisions of this Section shall not apply to *capital outlay projects approved by the legislature pursuant to Article 7, Section 11(B) of the Louisiana Constitution of 1974,* or to the *expenditure of funds previously appropriated by the legislature,* or to any multi-year agreement *dealing with movable property* containing an appropriation dependency clause which provides for *no penalty* upon termination or failure to fund.
>
> D. Any officer, official, agent or employee of the state or of any state board, department, commission, authority or agency, who enters into an agreement in violation of the provisions of this Section; or who counsels, aids or abets such a violation knowingly; shall be fined not Page 12 of 14 less than five hundred dollars and not more than one thousand dollars, and/or imprisoned for not less than sixty days nor more than six months.
>
> E. In the event the State Bond Commission considers alternative methods for the acquisition of capital improvements, it shall approve the least expensive method of acquisition.

(emphasis added)

1. The CEA is the kind of agreement subject to La. R.S. 39:1410.31.

This verbatim recitation of the statute is necessary because Defendants offer a strained and distorted description of the law. They suggest, for instance, that the statute only reaches "agreements of lease, lease-purchase or third party financing" and that this CEA does not create a "debt."[42] But the plain language of the statute makes clear that it applies to any agreement for capital improvement or expenditures above the threshold amount, *including, but not limited to,* agreements to leases, lease-purchase or third party financing. Given the plain language of the statute, it is not surprising that Defendants cite no actual controlling authority for this attempt to narrow the statute's scope.[43]

2. The CEA is not a "capital outlay project[] approved by the legislature pursuant to Article VII, Sec. 11(B)" and did not merely provide for expenditure of funds "previously approved by the legislature."

The CEA in this matter provided for the outlay of funds far in excess of $100,000 in a fiscal year for capital improvement or expenditure, including, but not limited to, over $200 million for the purchase of land, expenditures for renovations, major repairs, and construction.[44] The Petition

[42] DOA Brief at 17; LED Brief at 6-7.
[43] Defendants attempt to invoke a 1994 Attorney General Opinion as support for their attempt to narrow the statute's scope. However, in that opinion the Attorney General was distinguishing between agreements for outright purchases of furniture and agreements to incur debt. He concluded that "it is clear that the specific examples of agreements enumerated in 1410.31 evidence agreements involving the incurring of indebtedness… as opposed to the outright purchase contemplated." La. Op. Att'y Gen. No. 93-790 (Jan. 6, 1994), 1994 WL 43486 at *2.
[44] Petition, ¶¶ 33-47, 50-57.

clearly alleges how the exceptions to Bond Commission review contained in Subsection C of La. R.S. 39:1410.31 did not apply to this CEA.

In particular, the CEA did not constitute a "capital outlay project approved by the legislature pursuant to Article 7, Section 11(B) of the Louisiana Constitution of 1974," nor were any of its component capital outlay provisions approved by the legislature prior to the execution of the CEA.[45] The CEA also did not carry out an "expenditure of funds previously appropriated by the legislature."[46] As noted previously, any appropriations identified by Defendants, albeit improperly, in their exceptions have come *after* the CEA was executed, and many still have not been made.

3. The CEA does not satisfy the appropriation-dependency exception for specified multi-year movable-property agreements imposing no penalty for failure to fund.

Defendants argue that the CEA does not create a financial obligation because it contains a non-appropriation clause. However, as Plaintiffs have emphasized, that Non-Appropriation clause does not exempt it from Bond Commission approval under La. R.S. 39:1410.31(C) for two reasons: 1) the CEA is not an "agreement dealing with movable property" and so it does not fit within this exception; and 2) even if it did, the non-appropriation clause is not penalty-free. Even Defendant LED describes the CEA provision as "a termination *penalty*."[47] Thus, even if the exception did apply to this kind of agreement, the Non-Appropriation clause does in fact carry two substantial penalties – allowing Hyundai to withhold up to $250 million in its "sole and absolute discretion" from Ascension Parish in the event the Legislature fails to appropriate the required funding.[48] The CEA also allows Hyundai to reduce up to $125 million in PILOT payments due to the Parish if the State or the Governor do not approve Hyundai's Quality Job Incentive application, and the State cannot cover the rebates promised in the CEA to Hyundai.[49] Together, that amounts to a $325 million penalty.

Defendants argue that this penalty doesn't count because it is borne by a local government entity, via the withholding of PILOT payments from the Ascension Parish Industrial Development Board ("IDB"), and not the State or the Parish.[50] This argument is disingenuous and misleading

[45] *Id*. at ¶¶ 54-56.
[46] *Id.*
[47] LED Brief at 6.
[48] CEA Sec. 6.04.
[49] CEA Sec. 3.04(c).
[50] DOA Brief at 16.

for several reasons. First, Section C of the statute makes no distinction between which entity bears the burden of the penalty; it simply requires that the non-appropriation clause "provide[] for no penalty upon termination or failure to fund." La. R.S. 39:1410.31(C). It does not say "no penalty *against the State.*" In addition to the plain language of La. R.S. 39:1410.31(C), *all* of the authorities cited by the Defendants as support for this argument agree that such non-appropriation clauses must come with no penalties. The Louisiana Supreme Court has emphasized this point as well, as Defendants point out. *See 23rd Psalm Trucking, L.L.C. v. Madison Par. Police Jury*, 2024-00808 (La.6127125), 413 So. 3d 370, 381 ("Absent a non-appropriation clause in the contract that would have allowed the Police Jury to terminate the contract for lack of funding *without a penalty,* the Police Jury did not have authority to incur debt to satisfy its contractual obligation without the consent and approval of the Bond Commission."). *See* also Op. Att'y Gen. No. 19-0093 (Aug. 9, 2019) (noting that "[I]f the State fails to appropriate dollars to fund these payments, the State can terminate the agreements with no penalty"). *None* of these authorities make exceptions for penalties that are imposed on a local government entity and not a state agency.

Second, and more fundamentally, Defendants' argument ignores the fact that Ascension Parish is a political subdivision of the State pursuant to the Louisiana Constitution and as even the United States Supreme Court has recognized. La. Const. Art. VI, Sec. 44:2 (defining "political subdivision" to include parishes); \La. Const. Art. VII, Sec. 14:(A) (prohibiting "political subdivisions" from lending, pledging, or donating "the funds, credit, property, or things of value" "to or for any person, association, or corporation, public or private"); *General American Tank Car Corp. v. Day*, 270 U.S. 367, 371 (1926) (noting parishes in Louisiana are "political subdivisions of the state). Ascension Parish created the IDB pursuant to state law, i.e. La. R.S. 51:1151 et seq., to perform a "public function on behalf of" the Parish and to constitute a "public instrumentality" of the parish.[51] La. R.S. 51:1160. The enabling statute permits the IDB to lease property it owns as a public instrumentality and direct such payments in lieu of taxes "to parish or municipal taxing authorities, through the normal collecting agency, a sum in lieu of *ad valorem* taxes." *Id*. The statute explicitly identifies such payments as necessary to "compensate such authorities for any services rendered by them to such projects." *Id*. Thus, withholding of PILOT payments directly

[51] Ascension Parish Code of Ordinances, Ord. 18-5., available at https://library.municode.com/LA/ascension_parish/codes/code_of_ordinances?nodeId=PTIICOOR_CH18POSUUT BOCOAU_ARTIINGE_S18-5THINDEBOPAASIN.

deprives local government taxing authorities of a statutorily authorized revenue stream substituting for ordinary *ad valorem* revenues.

Such a deflection of the penalty by State agencies onto other political subdivisions of the State (and therefore onto local taxpayers) warrants *more* scrutiny and oversight by the Bond Commission, not less. The fact that the State negotiated for another governmental entity's revenue stream to absorb the financial consequences of the State's failure to fund makes the fiscal-oversight purpose of the Bond Commission statutes more relevant and necessary.

Moreover, that penalty is severe because the Parish would already be providing a tax exemption to Hyundai worth over $1.2 billion,[52] and then would be faced with the possibility of losing up to $325 million of the approximately $553 million, or approximately 59% percent, of what it would be owed in alternative PILOT payments under a separate agreement. That is a consequence that directly affects local taxing authorities and Parish residents (who are also state residents) and their tax base and budget. This is additionally concerning considering that under the CEA, Ascension Parish is expected to help fund the construction of additional road infrastructure to support Hyundai's project, and provide ongoing emergency response support.[53]

Defendants attempt to invoke an Attorney General opinion in support of their argument but even that fails. They cite to La. Att'y Gen. Op. No. 19-0093, 2019 WL 4451109, at *2, in which the Attorney General advised the legislative auditor that the "termination fee associated with a failure to appropriate," did not constitute a true penalty because it was "not mandatory" and the private entity "had no authority under the CEA or ancillary agreements to compel the State to pay it." La. Att'y Gen. Op. No. 19-0093, 2019 WL 4451109, at *2. That is a far cry from the situation in the CEA at issue here where Hyundai can withhold hundreds of millions of dollars from a Parish entity in its "sole and absolute discretion" in the event of a failure to fund.

LED admits the CEA imposes a "termination penalty"[54] but asks the Court to disregard that penalty because its immediate economic burden falls upon Ascension Parish rather than the State. Neither the statutory text nor LED's authorities recognize that distinction. Section 39:1410.31(C) requires an appropriation-dependency clause providing for "no penalty upon termination or failure to fund"; it does not say "no penalty against the State." Likewise, *23rd Psalm*

[52] Letter of Intent, *supra* n. 13.
[53] CEA Secs. 3.12, 5.04.
[54] LED Brief at 6.

Trucking asks whether nonappropriation permits termination "without a penalty," not whether the penalty is payable directly from or absorbed by the treasury of the governmental entity that failed to appropriate. Defendants cannot transform an admittedly punitive consequence into a penalty-free nonappropriation clause merely by contractually shifting the consequence of the State's nonfunding to another Louisiana governmental entity – one of its own political subdivisions.

C. Plaintiffs need not establish an implied private right of action under La. R.S. 39:1410.31, the requirements of which also apply to some CEAs enacted pursuant to the La. R.S. 33:9029.2.

Plaintiffs do not seek to imply a private cause of action under La. R.S. 39:1410.31. Rather, they invoke the court's established authority under the Louisiana Declaratory Judgments Act, La. C.C.P. art. 1871 *et seq.*, to determine whether defendants complied with a mandatory constitutional and/or statutory prerequisite to executing the CEA. La. R.S. 39:1410.31 supplies the substantive rule – that agreements entered into without prior written State Bond Commission approval are "null and void, and unenforceable in the courts of this state" – while La. C.C.P. arts. 1871 et seq. provide the procedural mechanism for obtaining that determination. La. C.C.P. arts. 1871 and 1872 provide this Court with the power to declare the "rights, status, and other legal relations" regardless of whether another remedy exists, and to determine the validity of a government contract, respectively.

In addition, La. Civil Code art. 7 explicitly prohibits "juridical acts" that "derogate from laws enacted for the protection of the public interest," and declares any such an act to be an "absolute nullity." La. Civil Code art. 2030 further provides that a "contract is absolutely null when it violates a rule of public order" and "[a]bsolute nullity may be invoked by any person or may be declared by the court on its own initiative." S*ee Davis v. Town of St. Gabriel,* 2001-0031 (La.App. 1 Cir. 2/15/02); 809 So.2d 537, 539, *writ denied,* 2002-0771 (La. 10/14/02); 827 So.2d 420, and *writ denied,* 2002-0803 (La. 10/14/02); 827 So.2d 420 (agreement in derogation of state building permit requirements was an absolute nullity); *Gurley v. City of New Orleans,* 41 La.Ann. 75; 5 So. 659, 661 (1889) (describing city ordinance and contract in violation of a prohibitory law as absolutely null).

Plaintiffs clearly state a valid claim for declaratory judgment for a determination as to whether this CEA should have been submitted to the State Bond Commission prior to its execution, pursuant to the requirements of La. R.S. 39:1410.31.

Defendants also misread Plaintiffs' allegations regarding La. R.S. 33:9029.2, a separate statute that specifically authorizes state agencies to enter into CEAs. Defendant LED misconstrues Plaintiffs argument to be that "all State CEAs undergo State Bond Commission review and approval" whether or not they incur a debt and whether or not the State "merely serves as a guarantee or credit enhancement."[55] Plaintiffs make no such argument about any and all CEAs. Rather, Plaintiffs claims are that *this* CEA must have undergone Bond Commission review, in particular pursuant to La. R.S. 39:1410.31, because it provided for capital outlays and expenditures and because it *did* incur financial obligations on the part of the State which had not been previously funded.

Here, LED had the authority under La. R.S. 33:9029.2 to enter into the CEA. Then, because the CEA provided for capital outlays and expenditures, including for land, infrastructure improvements, and construction, the CEA was subject to the requirements of La. R.S. 39:1410.31.

D. The Bond Validation Act does not preclude Plaintiffs' claims.

LED argues that because La. R.S. 33:9031.1 incorporates the bond-validation procedures of La. R.S. 13:5121 et seq. for challenges to cooperative endeavor agreements by the state, the procedure set out in La. R.S. 13:5122 is the exclusive means of challenging the validity of the CEA. However, Plaintiffs were prevented from pursuing that statutory process by Defendants' very failure to submit the CEA for Bond Commission review. The entire procedure depends upon public notice. LED never published notice of the CEA.[56] The CEA was never submitted to the State Bond Commission,[57] which would have been a matter of public record, with notice and opportunity to be heard.

The official notice requirement set forth in La. Const. Art. VII, Sec. 8(C) is critical as the notice triggers a short, 30-day window in which to contest the validity of bond issuances and other indebtedness, pursuant to La. R.S. § 33:9031.1 and La. R.S. § 13:5121 et seq. The State failed to provide notice and perform the very governmental review that would have ordinarily generated a

[55] LED Brief at 9.
[56] Petition, ¶ 43.
[57] *Id.* ¶ 40.

Bond Commission agenda, public consideration of the proposed obligation, a written Bond Commission decision, and a public governmental record of the transaction.[58] Defendants cannot rely upon their failure to undertake required public review as the mechanism for depriving Plaintiffs of judicial review.

Nothing in § 33:9031.1 or § 13:5121 et seq. requires that result. To the contrary, the statutory validation scheme pairs expedited finality with publication and an opportunity to contest validity; it does not confer automatic immunity upon an agreement that was never subject to Bond Commission review, when legally required. If that were the case, a governmental entity could execute an unlawful CEA, avoid the statutory processes that would alert the public to its existence and validity, and then invoke the public-debt validation statutes to insulate the agreement from judicial review precisely because no validation proceeding occurred.

The Bond Validation Act imposes unusually sweeping consequences because they are designed to establish conclusively the validity of public obligations. The notice procedure is therefore important to the constitutionality and fairness of binding persons who were not originally parties. Applying the preclusive aspects of § 13:5121 et seq. to interested persons who: received no statutory publication, had no validation proceeding in which to appear, and had no notice that a short period for challenging validity had begun, raises serious due-process concerns.

III. EXCEPTIONS OF NO RIGHT OF ACTION SHOULD BE DENIED BECAUSE PLAINTIFFS HAVE STANDING AS TAXPAYERS SEEKING TO RESTRAIN UNLAWFUL GOVERNMENT ACTION, AND HAVE A REAL AND ACTUAL INTEREST IN THIS MATTER.

The function of the exception of no right of action is to determine whether the plaintiff belongs to the class of persons to whom the law grants the cause of action asserted in the suit. *Reese v. State Department of Public Safety and Corrections,* 03-1615 (La. 2/20/04), 866 So.2d 244, 246. For purposes of this exception, all well-pleaded facts in the petition must be taken as true. *Miller v. Thibeaux,* 14-1107, pp. 6-7 (La. 1/28/15), 159 So.3d 426, 430.

Here, Plaintiffs have more than sufficiently pleaded facts demonstrating their interests as taxpayers seeking to restrain unlawful government action, and as parties with a real and actual interest in this litigation.

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[58] La. Const. Art. VII, Sec. 8(C), La. R.S. §§42:19(A)(1)-(2), 42:14(D), La. Admin. Code 71:III.101 *et seq.*

A. These Plaintiffs Can Bring This Challenge to the Validity of the CEA.

Defendants make the astonishing, and incorrect, claim that "Plaintiffs cannot sue the State over a multi-billion-dollar cooperative endeavor agreement."[59] Defendants argue that because Plaintiffs are not parties to the CEA, they have no right to question its legality.

Defendants cite no authority[60] for this claim and the argument runs directly counter to decades of Louisiana Supreme Court precedent holding the exact opposite, including a case cited in LED's own brief in which a third party was allowed to challenge a State contract with a private company as unconstitutional.[61] In addition, the Louisiana Civil Code explicitly provides "any person" with the right to invoke absolute nullity of a contract, in addition to the authority of a court to declare it on its own initiative. La. Civil Code art. 2030.

Cases where third parties have been able to challenge government contracts as unlawful are too many to list exhaustively. Here are just a few:

As early as 1926, in *Donaldson v. Police Jury of Tangipahoa Par.,* 109 So. 34, 38 (1926), the Louisiana Supreme Court nullified a government contract with a private company in a case brought by five citizens and resident taxpayers. The Court cited a dozen cases that had been decided to that point which held that a "taxpayer is entitled to maintain a proceeding instituted by him where the object of the suit is to enjoin the execution, enforcement, or award of an unauthorized or illegal act or *contract*." *Id*. (emphasis added). The Court observed:

> The cases are numerous where taxpayers have invoked the aid of the courts to test the validity of acts of public officers. The general principle announced in many of the cases in which the action was maintained is that the injury arises whenever public officers act in violation of the law in expending public funds or in imposing liabilities upon the taxpayer.

Id.

In *Meredith v. Ieyoub,* 96-1110 (La. 9/9/97), 700 So. 2d 478, plaintiffs, including private individuals and an oil and gas association, successfully challenged the Attorney General's authority

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[59] DOA Brief at 10.

[60] The two cases cited in DOA's brief in this section do not involve a challenge to any kind of contract or governmental action. They merely restate the general rule for declaratory judgment actions. *See* DOA Brief at 10-11 citing *Vinton Harbor & Terminal Dist. v. Reunion Energy Co., 2*5-0971 (La. 5/29/26), __ So. 3d __, 2026 WL 1584405 and *Howard v. Administrators of Tulane Educ. Fund*, 2007-2224 (La. 7/1/08), 986 So. 2d 47, 60.

[61] LED Brief at 12 citing *McPhersonv . Foster*, 2003-2696, p. 15 (La. App. lst Cir. 10129104),889 So. 2d 282, 292.

to enter a contract with other private attorneys to represent the State in enforcing its environmental laws, alleging that the contract violated constitutional and statutory law. The Supreme Court recognized plaintiffs' standing, declared the contract invalid and enjoined its enforcement.

In *Alliance for Affordable Energy v. Council of City of New Orleans*, 96-0700 (La. 7/2/96), 677 So. 2d 424, the Louisiana Supreme Court allowed third parties to challenge professional-services contracts entered into by the City Council under an allegedly unlawful contracting process. The Court held the Plaintiffs had standing because they sought to restrain unlawful governmental contracting.

In *Davis v. Franklin Par. Sch. Bd.*, 412 So.2d 1131, 1133 (La. App. 2 Cir. 1982), *writ denied,* 415 So.2d 942 (La.1982), the Second Circuit Court of Appeal affirmed a challenge to the School Board's lease with a private party by a plaintiff who was not a party to the lease, nor a property owner or parent of schoolchildren. The court held that because he was attempting to restrain governmental action affecting the public fisc, his interest as a taxpayer, "however small and indeterminate," was sufficient. *Id.*

In *Hudson v. City of Bossier,* 36,213, p. 6 (La.App. 2 Cir. 8/14/02); 823 So.2d 1085, 1089, *writ denied*, 2002-2383 (La. 11/27/02); 831 So.2d 279, plaintiffs challenged a contract between the city and riverboat casinos as unlawful. The Second Circuit recognized that the plaintiffs had "at least a small and indeterminable interest in *seeing that their elected representatives obey the laws and not enter into illegal contracts in matters pertaining to the public fisc.*" *Id.* (emphasis added).

In, *Davis v. Town of St. Gabriel,* 2001-0031, p. 10 (La.App. 1 Cir. 2/15/02); 809 So.2d 537, 543, *writ denied*, 2002-0771 (La. 10/14/02); 827 So.2d 420, *and writ denied*, 2002-0803 (La. 10/14/02); 827 So.2d 420, the First Circuit held that a third party truck stop owner had a right of action to challenge a compromise agreement between the town and a developer under which a variance and permit were granted as an absolute nullity.

Thus, Louisiana courts have repeatedly permitted taxpayers and other interested third parties to challenge contracts, agreements, leases, and related transactions between governmental bodies and private entities when the governmental action allegedly violates constitutional, statutory, charter, public-bid, or other limitations on governmental authority. Plaintiffs are not asserting rights under the CEA; they are asserting rights against unlawful governmental action in entering into the CEA. To the extent Defendants suggest that the size of the State's financial commitment should somehow make it off-limits to third-party challenges, that fact should actually weigh more heavily in favor of this kind of declaratory judgment action and judicial review, not less.

B. All Plaintiffs Have Taxpayer Standing.

As set forth above, the Louisiana Supreme Court and courts around this state have repeatedly recognized the right of taxpayers to bring actions challenging the legality of government contracts. They need only demonstrate an interest as taxpayers, "however small and indeterminate" when seeking to restrain governmental action affecting the public fisc. *Davis,* 412 So.2d at 1133; *see also*, *Hudson,* 36,213, p. 6; 823 So.2d at 1089 (collecting cases) (taxpayers need only show a "small and indeterminable interest in seeing that their elected representatives obey the laws and not enter into illegal contracts in matters pertaining to the public fisc"). "Moreover, courts have held that to show standing in a declaratory judgment action, a Louisiana taxpayer *need only show an effect upon the public fisc* by the government action in question. *McPherson v. Foster,* 2003-2696, p. 15 (La.App. 1 Cir. 10/29/04); 889 So.2d 282, 292.

LED concedes that Pastor Harry Joseph Sr. has standing as a "Louisiana taxpayer" but argues that Rural Roots Louisiana and the Louisiana Bucket Brigade lack standing and a right of action because they cannot claim associational standing.[62] However, LED overlooks or ignores the fact that both Rural Roots Louisiana and Louisiana Bucket Brigade clearly pleaded that they are taxpaying entities. Rural Roots Louisiana pleaded that it purchases goods within the district and pays sales taxes to the State and Parish,[63] as did the Louisiana Bucket Brigade.[64] As taxpaying entities, they are juridical "persons" within the meaning of La. Civil Code art. 24. Because all of the Plaintiffs pay taxes and because they seek to restrain unlawful governmental action, all Plaintiffs have standing.

Moreover, because they are not seeking to compel the performance of a public duty by mandamus, Plaintiffs are not required to show some special interest which is separate and distinct from the interest of the public at large. *Louisiana Associated Gen. Contractors, Inc. v. Calcasieu Par. Sch. Bd.,* 586 So.2d 1354, 1358 (La.1991). Even though they were not required to do so,

[62] LED Brief at 12.
[63] Petition, ¶ 1.
[64] *Id.* ¶ 3.

Plaintiffs did plead that in addition to being taxpayers, they all have an interest in this matter which is separate and distinct from the public at large. Rural Roots has officers and members who live in the Parish and the area targeted for construction of the project contemplated in the CEA, and thus they stand to be directly affected by the project, which necessarily includes the impact of the CEA's provisions on the public fisc.[65] Rural Roots also describes its mission as including educating children about environmental justice, community stewardship, earth care, and gardening.[66] Likewise, Pastor Joseph pleaded that he owns property and resides in an area that would be affected by the project, which necessarily includes the impacts of the CEA on the public fisc.[67] Similarly, Louisiana Bucket Brigade pleaded that it has staff who do work in the Parish and that its mission includes working for environmental health and justice.[68] *See Meredith v. Ieyoub*, 96-1110, p. 4 (La. 9/9/97); 700 So.2d 478, 480 *citing Alliance For Affordable Energy v. Council of City of New Orleans,* 96–0700 (La.7/2/96), 677 So.2d 424 (noting that in addition to taxpayer standing, plaintiffs' interest in the health and welfare of the residents of the parish was also sufficient for standing purposes).

Plaintiffs went beyond what was required of them in pleading their basis to sustain this right of action. The Defendants' exception should be denied.

C. DOA Is a Proper Party to this Action.

After arguing that Plaintiffs may not bring this action because they are "strangers" to the CEA, Defendants then change course and argue that the State of Louisiana cannot be sued even though it is a party to the agreement. Defendants argue that DOA is not a juridical person "to which the law attributes personality."[69] However, the Commissioner of Administration signed the CEA and the CEA clearly states that the State was represented in that agreement "by the undersigned Commissioner of Administration, Division of Administration."[70] And Plaintiffs note that in the case caption, the Defendant is listed as "The State of Louisiana, through Division of Administration, Tayler F. Barras, Commissioner." If the Commissioner and/or DOA are not juridical persons for purposes of defending the CEA which the Commissioner signed and in which

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[65] *Id.*, ¶ 1.
[66] *Id.*
[67] *Id.* ¶ 2.
[68] *Id.* ¶ 3.
[69] DOA Brief at 12.
[70] CEA at 1 and signature page.

the Commissioner represented the State of Louisiana, how can it enter into a contract to bind the State of Louisiana?

Moreover, the DOA publishes on its website a "Litigation Disclosure" where it lists numerous cases in which it appears as either a plaintiff or defendant.[71] It clearly believes it has juridical personality to sue and be sued.

IV. DEFENDANTS' EXCEPTION OF NONJOINDER SHOULD BE DENIED: WHATEVER THE INTERESTS OF HYUNDAI AND ASCENSION PARISH MAY BE, THEY ARE NOT RELEVANT TO THIS COURT'S ADJUDICATION OF WHETHER THE STATE ACTED UNLAWFULLY IN ENTERING INTO THE CEA WITHOUT BOND COMMISSION APPROVAL.

Hyundai and the Ascension Parish Industrial Development Board are not necessary parties in this litigation, as Defendants suggest. La. C.C.P. Article 641 does not require joinder of every entity economically affected by the invalidation of governmental action. It requires joinder only where complete relief cannot be afforded among the existing parties or the absent party possesses a substantial legally protected interest that cannot adequately be protected without its presence. *Bd. of Directors of Indus. Dev. Bd. of City of New Orleans v. Taxpayers, Prop. Owners, Citizens of City of New Orleans*, 2003-0827, p. 10 (La.App. 4 Cir. 5/29/03); 848 So.2d 733, 740, *writ denied sub nom. Bd. of Directors, Indus. Dev. Bd. of City of New Orleans, Louisiana, Inc. v. All Taxpayers, Prop. Owners, Citizens, City of New Orleans,* 2003-1528 (La. 10/1/03); 855 So.2d 288, *and writ denied sub nom. Bd. of Directors, Indus. Dev. Bd. of City of New Orleans, Louisiana, Inc. v. All Taxpayers, Prop. Owners, Citizens, City of New Orleans,* 2003-1843 (La. 10/1/03); 855 So.2d 289. (holding State Bond Commission's presence was not necessary for complete relief because the issue of whether the commission followed its procedures is a matter of ordinary proof that the appellants could have attacked collaterally in this case in the trial court).

This Court can and should determine whether LED and DOA violated mandatory constitutional and statutory restrictions governing the State's financial commitments without considering the interests of Hyundai or Ascension Parish. Whatever those interests may be, they cannot override and should not be part of this Court's consideration of whether the State was required to submit the CEA for prior written approval from the State Bond Commission.

[71] Division of Administration website, Litigation Disclosure. Available at https://www.doa.la.gov/media/fw3buj32/final-division-of-administration-quarterly-litigation-report-december-2023-february-2024.pdf.

This exception should be denied. However, as Defendants note, if the Court believes joinder is necessary, the appropriate course is to allow amendment of the pleadings.

CONCLUSION

WHEREFORE, Plaintiffs pray that, after due proceedings had, this Court deny the exceptions filed by Defendants.

Dated: August 19, 2026

Respectfully submitted,

Pamela C. Spees
La. Bar Roll No. 29679
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
Tel. (212) 614-6431
Fax (212) 614-6499
pspees@ccrjustice.org

Counsel for Plaintiffs

William P. Quigley
La. Bar Roll No. 7769
Professor Emeritus of Law
Loyola University College of Law
7214 St. Charles Avenue
New Orleans, LA 70118
Tel. (504) 710-3074
Fax (504) 861-5440
quigley77@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served this 19th of August 2026, upon all known counsel of record by electronic mail.

Pamela C. Spees
Counsel for Plaintiffs