COMMENTS TO LOUISIANA STATE BOND COMMISSION CONCERNING ITEMS 61 AND 65 REGARDING FINANCING FOR HYUNDAI-POSCO STEEL LOUISIANA

Submitted via email to: SBC-Application@treasury.la.gov

September 16, 2026

Dear Members of the Commission,

On behalf of Rural Roots Louisiana and the Louisiana Bucket Brigade, we submit this formal written objection to agenda items **61,** the Port of South Louisiana's ("POSL") Proposed $400 million in revenue bonds, and **65,** the Louisiana Public Facilities Authority ("LPFA") proposed $900 million in exempt-facility revenue bonds, as financing for the Hyundai-POSCO Steel Louisiana ("HPLS") project scheduled for consideration at the September 17, 2026 meeting of the Louisiana State Bond Commission ("the Commission").

Taken together, these issuances would amount to over $1.3 billion in tax-exempt financing for this project alone. And they are just a portion of the financing and other incentives the State and local government agencies have committed to the company, including a separate $5.8 billion bond authorization by the Ascension Parish Industrial Development Board ("IDB"), not to mention well over a billion dollars in tax exemptions. These bonds would also have serious implications for other projects in the State given that the State's volume cap for private activity bonds for 2026 is set at $623,455, 515 with carry-over allocations amounting to $211,010,787.[1]

In light of the massive financial implications for the State and taxpayers, it is deeply troubling that so much of this has been negotiated under the veil of non-disclosure agreements. Secrecy has been a defining feature of the HPLS project. Numerous public officials involved in the negotiations signed nondisclosure agreements.[2] Residents have had to resort to numerous public-

[1] Executive Order, JML 26-014, *Bond Allocation 2026 Ceiling and Cary-Forward Bond Allocation 2025*, https://www.doa.la.gov/media/wfrnetxr/jml-26-014-bond-allocation-2026-ceiling-and-carry-forward-bond-allocation-2025.docx. The 2026 cap was set at $623,455,515, as determined by the staff of the Louisiana State Bond Commission and set out by Governor Jeff Landry in Executive Order No. JML 26-014. That same order also carried forward $211,010,787 in unused 2025 PAB Cap capacity to three specific projects, one of which was a $100,000,000 carry-forward allocation to the Louisiana Public Facilities Authority (LPFA) earmarked specifically for "Hyundai Steel Company." Adding that carry-forward to the 2026 Ceiling, the maximum PAB capacity the State currently has reserved or available in 2026 is $723,455,515.

[2] Sam Karlin, *How Secret Negotiations Led to a $2.6 Billion Incentive Deal for Hyundai's Louisiana Plant, T*imes-Picayune/The Advocate, Jun. 5, 2026, https://www.nola.com/news/hyundai-louisiana-steel-tax-incentives-nda/article18cc9a50-e2a0-4461-a20e-86814db6a487.html; Drew Hawkins, *'A muzzle on elected officials': NDAs*

records requests and litigation simply to learn what their governmental representatives agreed to in connection with this project[3] and so that their financial experts could review and analyze what is happening in the various governing agreements and financing instruments. This is all the more concerning considering the company has confirmed plans to integrate carbon capture and storage (CCS) into its operations,[4] raising questions about where this facility fits in with or may contribute to a larger buildout of CCS infrastructure, including CO2 pipelines, in the region. Area residents, like others around the State, are rightly concerned about the proliferation of this kind of infrastructure, and it has drawn widespread opposition.[5]

We call the Commission's attention to several serious, consequential questions identified by these experts that loom over financing of the HPLS project. These include:

1. The magnitude of the State's financing of the HPLS project across multiple bond issuances, lines of credit, governing agreements
2. Concerns about Hyundai's financial position and what happens to these multiple financings if HPLS delays, downsizes, suspends, or cancels the project
3. Specific concerns around Port of South Louisiana bond issuance (Item 61)
4. Specific concerns around the Louisiana Public Facilities Authority's $900 million exempt-facility bonds, and whether the solid waste facility exemption in the Internal Revenue Code can apply to this project (Item 65)

We address each of these in turn.

'cloak' Louisiana's biggest business developments, WWNO, Mar. 27, 2026, https://www.wwno.org/local-regional-news/2026-03-27/a-muzzle-on-elected-officials-ndas-cloak-louisianas-biggest-business-developments;

[3] Drew Hawkins, *Ascension Parish president says he's not withholding records, while withholding records*, WWNO, Sept. 8, 2026, https://www krvs.org/louisiana-news/2026-09-08/ascension-parish-president-says-hes-not-withholding-records-while-withholding-records.

[4] Maria Gallucci, *Hyundai's new steel mill sparks hopes and fears in Louisiana,* Louisiana Illuminator, June 29, 2026, https://lailluminator.com/2026/06/29/hyundai-steel-mill/.

[5] Natalie McLendon, *Local opposition mounts to carbon capture projects in Louisiana*, Louisiana Illuminator, Feb. 26, 2025, https://lailluminator.com/2025/02/26/carbon-capture/?utm_source=chatgpt.com; BIZ Magazine, *Fight between rural Louisiana and carbon capture 'not over',* May 8, 2025, https://bizmagsb.com/fight-between-rural-louisiana-and-carbon-capture-not-over/.

1) **The sheer magnitude of the State's financing of the HPLS project requires that these bond issuances, lines of credit, and other incentives must be viewed as a whole.**

Published reporting now places the value of state and local benefits associated with the project in excess of $2.6 billion.[6] That reported package includes approximately $605 million in direct or upfront land, construction, and infrastructure costs, approximately $1.2 billion in estimated tax savings,[7] more than $500 million in electric-rate benefits, and additional state and local tax benefits and infrastructure support.[8]

The governing agreements between state and local entities and HPLS have serious implications for how each of these bonds can be paid back.[9] Given its constitutionally-mandated responsibility for overseeing state debt, this Commission should determine how much public financial assistance is ultimately going to be provided to this one project, through how many governmental entities, and what happens to Louisiana and the affected communities and taxpayers if the project is delayed, downsized, restructured, or abandoned.

The Commission should insist on a comprehensive financial analysis of this project showing its projected net economic benefits to the State and its taxpayers, accounting for direct and indirect costs of the subsidies package, the projected recurring costs associated with constructing and maintaining the State and local infrastructure commitments, the added capacity constraints on public health and safety services to support this type of industry, and the burden of additional pollution and waste it will admittedly produce.

The infrastructure package in excess of $600 million is itself extraordinary but the incentives don't stop there. In addition to the two bond issuances on the Commission's September 17th agenda totaling over $1.3 billion, HPLS has received authorization by the Industrial Development Board of the Parish of Ascension for as much as $5.8 billion in revenue bonds connected to the project.[10]

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[6] Hawkins, *supra* n. 3; Karlin, *supra* n. 2.

[7] Letter of Intent from Susan Bourgeois, Secretary, Louisiana Economic Development, to Gang Hyun Seo, President/CEO Hyundai Steel, Dec. 5, 2024, available at https://cdn.prod.website-files.com/62963b843bd3a03f930371e2/68b891b73844440627e04802LED%20LOI%20to%20Hyundai%20Steel.pdf

[8] *Id*.; *see also*, The Investors News, *Incentives for Hyundai questioned in Louisiana*, https://theinvestorsnews.com/incentives-for-hyundai-questioned-in-louisiana/.

[9] Among the interlocking governing agreements that have implications for how these bonds are financed and satisfied are a Cooperative Endeavor Agreement between the State and Hyundai, a Ground Lease between the State and HPLS, a Payment in Lieu of Taxes (PILOT) Agreement between the Industrial Development Board of Ascension Parish, and a Facilities Lease between the Ascension Parish IDB and HPLS.

[10] Industrial Development Board of the Parish of Ascension, Inc., Agenda, March 24, 2026, https://ascensionedc.com/wp-content/uploads/2026/03/IDB-Agenda-3.24.26.pdf.

HPLS is not a small Louisiana business struggling to obtain conventional financing. The project is being pursued by Hyundai and POSCO, which are enormous multinational corporations, presumably with substantial access to international capital markets. If constructing this steel mill on the Mississippi River is the sound commercial investment its sponsors represent it to be, Louisiana citizens are entitled to ask:

- Why does the project require billions of dollars in tax exemptions, publicly financed infrastructure, subsidized utility arrangements, and billions of dollars in tax-exempt government bond authorizations?

- And what additional return is Louisiana receiving for each new layer of public assistance?

The Commission should confirm at a minimum: what is the cumulative amount of bond financing already authorized for this single project; what is the maximum amount of governmental bond financing that could ultimately be outstanding in connection with this project; and what public entities have been approached about additional financing that has not yet been publicly announced. Finally, the Commission should insist on a publicly available single consolidated sources-and-uses statement for the entire $5.8 billion project.

2) **Will HPLS have the financial wherewithal to repay each of these bond issuances? What happens if HPLS delays, downsizes, suspends, or cancels the project?**

The global steel market that HPLS would enter has been in a structural oversupply crisis for several years. The *Steel Outlook 2025* published by the Organization for Economic Cooperation and Development ("OECD") found global steelmaking capacity rising for six consecutive years while demand growth remained below 1 percent annually, with Chinese steel exports more than doubling between 2020 and 2024 on the back of subsidies estimated at fifteen times those available to producers elsewhere.[11] The *Steel Outlook 2026*, published in June, confirms the trend has deepened rather than stabilized. Global excess steelmaking capacity, estimated at 640 million tons in 2025, is now projected to reach 745 million tons by 2028 — 319 million tons more than current OECD steel production, approaching the historical highs of the last global steel crisis a decade ago.[12]

Planned capacity additions of up to 139 million tons through 2028 (a 5.7 percent increase over 2025 levels) continue to outpace demand growth of only 0.9 percent annually, and global

[11] Organization for Economic Cooperation and Development, *Steel Outlook 2025* (Paris: OECD Publishing, May 2025); OECD Steel Committee, Statement by the Vice-Chairs, 98th Session, November 4–5, 2025.

[12] OECD, *International Efforts to Address the Steel Crisis Are Intensifying*, in *OECD Steel Outlook 2026* (Paris: OECD Publishing, June 4, 2026).

capacity utilization is projected to fall from 76 percent in 2025 to 74 percent or lower by 2028.[13] The OECD attributes much of the imbalance to non-market subsidization: the median Chinese steel producer received support equivalent to fifteen times that of producers elsewhere relative to asset size in 2024, and Chinese exports reached a record 131 million tons in 2025 — more than the European Union's entire steel output that year.[14] The OECD also flags that rising energy prices tied to the Middle East conflict are adding a further burden industry-wide, since energy can account for up to 40 percent of the cost of steel production.[15] These rising cost pressures bear directly on an Electric Arc Furnace(EAF)/Direct Reduced Iron (DRI) facility of the kind proposed for Ascension Parish**.**

Hyundai Steel's own Q2 2026 results underscore the concern. Consolidated operating profit was down 43.1 percent year-over-year from Q2 2025 and net profit fell 67.6 percent year-over-year.[16] Management also disclosed that net debt will rise to roughly KRW 7 trillion (~$4.9 billion) in 2026 and 2027, attributing the increase specifically to the new Louisiana plant investment — meaning the parent is taking on more leverage to fund the very project this bond would finance.[17]

Furthermore, demand for Electric Vehicles (EVs) in the United States has declined since the joint venture between Hyundai and POSCO was formed, ostensibly to supply steel for Hyundai Motor Group's EV production.[18] U.S. EV sales fell approximately 27 percent year-over-year in the first half of 2026 following the September 30, 2025 expiration of the federal EV tax credit, and EV market share slid from roughly 10 percent in 2025 to about 7 percent in 2026.[19] Hyundai's core EV models were down more than 35 percent year-over-year in July 2026. Hyundai has since dropped the imported Ioniq 6 and withheld the 2026 Kona Electric from the

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[13] Organization for Economic Cooperation and Development, *Global Steelmaking Capacity Reaches New Highs*, in *OECD Steel Outlook 2026* (Paris: OECD Publishing, June 4, 2026).

[14] EUROMETAL, *Global Steel Overcapacity Deepens: OECD*, June 5, 2026.

[15] OECD, *Steel Excess Capacity Continues to Weigh on Global Markets, with Subsidies Increasingly Undermining Fair Competition*, Press Release, June 4, 2026.

[16] IndexBox, *Hyundai Steel Q2 2026 Results: Sales Up, Profit Down, US Plant Construction Ahead*, August 10, 2026.

[17] BigGo Finance, *Hyundai Steel Q2 Operating Profit ₩57.7 Billion (approximately $40.4 Million); Aims for Rebound via AI, Energy 'Mega Project' Orders in H2*, August 3, 2026.

[18] WardsAuto/Automotive Dive, *Hyundai, Posco Group Partnership to Strengthen US Sourcing*, May 15, 2025; POSCO Holdings, Inc., Form 6-K, filed with the U.S. Securities and Exchange Commission, Dec. 17, 2025.

[19] CarBuzz, *Hyundai and Kia Just Set a US Sales Record While BMW Cuts 8,000 EV Jobs*, September 2026; Cox Automotive, *EV Market Stabilizes in Q2, as New Entries Help Slow Sharp Sales Decline*, July 28, 2026.

U.S. market, while Kia ended the Niro EV and delayed the EV6 GT/EV9 GT.[20] Both brands' first half 2026 U.S. sales gains were driven almost entirely by hybrids, not EVs — the opposite of the demand story POSCO and Hyundai gave regulators to justify the formation of the Joint Venture (JV).[21]

All of which raises serious questions as to what would happen if HPLS cannot service debt on the $900 million LPFA financing, and if it would be able to sustain lease payments on a dock constructed and financed by the POSL for HPLS's sole use. This question is particularly important because the project's governing agreements contemplate significant delay and suspension. The Cooperative Endeavor Agreement between the State and Hyundai contains provisions allowing project deadlines to be extended indefinitely under specified circumstances and provides for suspension of certain company commitments following State non-appropriation.[22] It also allows Hyundai, in its "sole and absolute discretion," to reduce or offset Payments in Lieu of Taxes ("PILOTs") otherwise payable to Ascension Parish under certain circumstances.[23]

Hyundai itself has also previously warned state officials that tariffs could undermine the project's commercial viability.[24] The State's agreement consequently contains expansive, accommodating provisions for Hyundai addressing tariffs, price escalation, delay, force majeure, and changes in law. The Commission should not treat cancellation or prolonged delay as an unimaginable event. The Commission should answer with respect to each issuance:

- What happens to these bonds if construction stops for two years, five years, or permanently?
- What happens if HPLS spends some portion of the bond proceeds and then materially scales down the facility?
- What would be the consequences to Louisiana's/LPFA's credit ratings, and how much will that hurt future borrowing costs for our taxpayers?
- Who owns facilities or equipment financed with the proceeds if HPLS abandons the project?

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[20] CarPro, *July 2026 National Auto Sales Results*, August 10, 2026 (Hyundai's primary EV models down at least 35 percent year-over-year); Yahoo/Autos, *US EV Slump Claims More Models as Tesla, Hyundai, and Kia Pull Back in 2026*, July 9, 2026.

[21] CarBuzz, *Hyundai and Kia Just Set a US Sales Record While BMW Cuts 8,000 EV Jobs*, September 2026; *see also* WardsAuto/Automotive Dive, *Hyundai, Posco Group Partnership to Strengthen US Sourcing*, May 15, 2025, and POSCO Holdings, Inc., Form 6-K, Dec. 17, 2025.

[22] The State of Louisiana and Louisiana Economic Development and Hyundai Steel Company, Cooperative Endeavor Agreement, May 9, 2025 (hereinafter "CEA"), Sec. 6.02-6.04.

[23] *Id.* Sec. 6.04.

[24] Nolan McKendry, *Louisiana Urged Tariff Exemptions for Hyundai, Chemical Plants,* The Center Square, Nov. 2, 2025, https://www.thecentersquare.com/louisiana/article_00d354f8-8a36-4dda-8b19-d35fdda4fdfe.html.

- What security will bondholders actually have?
- What financial commitments, if any, survive a cancellation?

- Can HPLS walk away while Louisiana governmental entities remain responsible for hundreds of millions of dollars in roads, rail, land, utilities, training facilities, dock infrastructure, or other project-specific improvements? If so, why should this be allowed?

In addition, HPLS has not received an air permit from the Louisiana Department of Environmental Quality, and the Port of South Louisiana must obtain a permit from the U.S. Army Corps of Engineers to allow construction of the deepwater dock to be funded by the bonds it seeks for Hyundai's sole use. Why is the Commission proceeding to consider this issuance before these permits are issued and what happens if the permits are not issued or are delayed?

If HPLS delays or abandons the project, taxpayers and public entities may still be left with the cost of land, roads, rail improvements, training facilities, utility infrastructure and other project-specific investments.

3) Specific concerns around Port of South Louisiana bond issuance (Item 61)

The Port of South Louisiana is seeking approval to issue up to $400 million in bonds to fund the construction of a deepwater dock for Hyundai's sole use. The Port requires a permit from the U.S. Army Corps of Engineers to construct the dock on the Mississippi River. As of September 16, 2026, that permit still had not been issued.

In addition, the Port's preliminary authorization of the bond issuance is currently subject to legal challenge. On April 2, 2026, the commenters filed suit in the 40th Judicial District Court (No. C-85336-A) challenging the Port Board's legal notice of its August 5, 2025 resolution, which is the initial authorization and precursor underlying this transaction. The plaintiffs initially challenged as constitutionally defective the Port's purported publication of legal notice of the preliminary bond authorization in a paper with circulation limited to three parishes, none of which were Ascension Parish, home to the land or the people directly affected by the project. The plaintiffs pointed out that the notice also omitted required descriptions of the bonds and their security, or even where the project would be located.

However, after the lawsuit was filed, the plaintiffs confirmed that no notice of the resolution had been published at all, despite the Port's provision of an affidavit attesting to its publication. After plaintiffs brought that fact to the court's attention, the Port published notice of its proceedings in its official journal but that was nearly a year after the resolution had been adopted, and not in a journal that circulates in the parish where the dock would be constructed, i.e. Ascension. The case is still pending. If the authorization is declared invalid, the Plaintiffs maintain that the Port would need to render the decision again with proper legal notice and opportunity for the affected community to be heard.

As of the date of this letter, residents in Ascension Parish still have not been provided with formal legal notice of the Port's preliminary bond authorization. Because this defect goes to constitutional validity, the Commission should not approve the Port's bonds until proper notice is issued and the defect is cured.

4) Specific concerns around the LPFA's $900 million exempt-facility bonds, and whether the solid waste disposal facility exemption in the Internal Revenue Code can apply to this project (Item 65)

A. Unclear obligor risk profile and repayment source

The newly formed Hyundai-POSCO joint venture is the confirmed operating entity for the Louisiana facility.[25] Its equity structure spans two separate Korean conglomerates: Hyundai Motor Group (Hyundai Steel 50%, Hyundai Motor 15%, Kia 15%) and POSCO Holdings (20%).[26] HPLS, the Hyundai-POSCO joint venture, has no operating history,[27] no credit rating, and no audited financial statements.

The LPFA is asking the Commission to approve $900 million in tax exempt bonds, but from what we can gather, the Commission has not been provided with a complete picture of all public financing instruments tied to the HPLS project. These include the $5.8 billion Ascension Parish IDB authorization, the State's 99-year Ground Lease at $1/year, the $99 purchase option, and the PILOT offsets that reduce tax revenue. These instruments are interconnected — they create layered liabilities, shared revenue streams, and cross dependencies that affect the financial feasibility of each bond issuance. Without cumulative disclosure, this Commission cannot determine whether the project serves a legitimate public purpose, whether the State faces indirect liability, or whether the financing structure is sound. In short, the Commission is being asked to approve a major bond issuance without seeing the full financial picture. That is neither prudent nor compliant with the Commission's statutory Responsibilities.

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[25] According to a Ground Lease entered into between the Louisiana Division of Administration and Hyundai-POSCO Louisiana Steel ("HPLS"), which governs the terms of the State's lease of the land where Hyundai's proposed steel mill would be built, HPLS is the lessee, with Hyundai Steel Company as the guarantor. Agreement to Lease by and Among the State of Louisiana and Hyundai-POSCO Louisiana Steel, LLC, dated Dec. 31, 2025.

[26] Data Analysis, Retrieval and Transfer System (DART). Repository of Korea's Corporate Filings: Hyundai Steel Company Decision on Acquisition of Shares or Investment Certificates of Other Corporations. Dec. 17, 2025 https://englishdart.fss.or kr/dsbh001/main.do?rcpNo=20251217800806.

[27] Securities Exchange Commission EDGAR. A search of the SEC EDGAR full-text search system (efts.sec.gov) for "Hyundai-POSCO Louisiana Steel," "HPLS," and "Hyundai Steel Louisiana LLC" returns no independent registrant filings — HPLS has no CIK number, no independently filed Form 10-K, 20-F, or any other SEC disclosure.

Moreover, the obligor's risk profile and repayment source are unclear. Conduit financing, such as LPFA's proposed bonds, relies entirely on the creditworthiness of the private company receiving the loan. The Commission's own regulations require that the bond rating must be in place prior to Bond Commission approval for non-traditional tax-exempt bonds. The State does not repay these bonds, but the State is responsible for ensuring that the obligor (Hyundai–POSCO Louisiana Steel LLC) is financially capable of meeting its obligations.

As set out above, there are serious concerns about Hyundai's ability to meet its commitments in these various agreements and financing arrangements. The LPFA submission does not provide sufficient information about the company's financial strength, its ability to generate revenue during construction and early operations, or how repayment will be secured. It also does not address risks related to litigation, environmental permitting, cultural site assessments, or construction delays — all of which could impair repayment. Without a clear obligor risk profile, the Bond Commission cannot responsibly approve a bond issuance of this magnitude.

B. Does HPLS qualify for a "solid waste facility" exemption for tax-free bonds and/or exclusion from the volume cap for private activity bonds?

- *Is it a tax-exempt facility for purposes of Sections 142 and 146 of the Internal Revenue Code?*

LPFA's public notice of the bond issuance identifies the proposed financing as exempt-facility financing for "solid waste disposal facilities within the meaning of Section 146(a) of the Internal Revenue Code." Section 146 addresses the limits, or the cap, for states on the volume of private activity bonds (PABs) they can issue. Section 146(h) of the Code makes clear that for purposes of that statutory section, the term "private activity bond' shall not include any exempt facility bond described in Section 142(a)(6) which is issued as part of an issue if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit."

Before providing tax-exempt financing on the theory that the transaction concerns solid-waste facilities, the Commission should require HPLS to disclose: what types and estimated annual volumes of solid or hazardous industrial wastes will the facility generate; where will those materials be stored; which materials will be reused or marketed as products and which will require disposal; where will disposal occur; what metals or other contaminants may be present in slag, dust, sludge, wastewater residuals, or related waste streams; how will runoff and leachate be prevented from entering groundwater, drainage systems, wetlands, or the Mississippi River; what monitoring will occur; who bears responsibility for contamination discovered years or decades from now; what financial assurance, insurance, indemnification, closure funding, or remediation security will HPLS provide. And, if HPLS ceases operations, who will be legally and financially responsible for the remaining waste, contaminated areas, disposal facilities, and long-term environmental obligations?

These questions are not collateral to the transaction. If LPFA is issuing $900 million in tax-exempt bonds specifically on the basis of facilities qualifying as solid-waste disposal facilities, the nature, handling, location, and long-term consequences of those wastes should be central to LPFAs review.

- *Is the project exempt from the State's volume cap limitations for private activity bonds?*

Further, as noted above section 146 of the Internal Revenue Code imposes a state volume cap, or limitation, on private activity bonds, which are tax exempt revenue bonds issued by a state government issuer for the benefit of a private entity. As this Commission knows, Louisiana's private-activity-bond volume cap ("PAB Cap") for calendar year 2026 is $623,455,515, as determined by the staff of the Louisiana State Bond Commission and set by Governor Jeff Landry in Executive Order No. JML 26-014.[28] That same order also carried forward $211,010,787 in unused 2025 PAB Cap capacity to three specific projects, one of which was a $100,000,000 carry-forward allocation to the Louisiana Public Facilities Authority (LPFA) earmarked specifically for "Hyundai Steel Company." Adding that carry-forward to the 2026 Ceiling, the maximum PAB capacity the State currently has reserved or available in 2026 is $723,455,515.

Section 146(h) provides a special exception for certain government-owned solid-waste-disposal facilities described in § 142(a)(6). That exception is subject to important conditions. Among other things, § 146(h)(1) requires that all property financed with the net proceeds of the issue be owned by a governmental unit. Section 146(h)(2) further incorporates special restrictions governing leases of purportedly government-owned property, including a 20-year limit for purposes of the § 146(h) safe harbor and restrictions on purchase options.

LPFA's own notice, however, states that the "initial legal owner and/or principal user of the Project is the Company," i.e. HPLS. The Commission should require clarity and confirmation as to whether LPFA is relying on § 146(h) to exclude this $900 million bond issue, or any portion of it, from Louisiana's private-activity-bond volume cap. If so, the Commission should identify which governmental entity will own every item of property financed with the net proceeds and explain how that position would comport with LPFA's statement in the public notice that HPLS is the Project's initial legal owner. The Commission should further confirm whether bond counsel has determined that those lease and purchase-option provisions in the existing

[28] Executive Order, JML 26-014, *Bond Allocation 2026 Ceiling and Cary-Forward Bond Allocation 2025*, https://www.doa.la.gov/media/wfrnetxr/jml-26-014-bond-allocation-2026-ceiling-and-carry-forward-bond-allocation-2025.docx.

agreements between HPLS and State or parish agencies satisfy the governmental-ownership requirements of §§ 146(h) and 142(b)(1)(B).

These are especially important questions because the now-publicly available HPLS arrangements include a long-term lease and purchase-option structure. If property financed through this bond issue is subject to a lease exceeding the applicable federal safe-harbor period or may ultimately be purchased for less than fair market value, the Commission should require an explanation on the public record why it nevertheless considers the issue eligible for the § 146(h) exception.

If, on the other hand, LPFA or the Commission determine that § 146(h) does not apply, the Commission should disclose how much of Louisiana's private-activity-bond volume cap this project will consume and what competing Louisiana projects may consequently lose access to tax-exempt financing. Specifically, if this $900 million issuance does not qualify for an exception from the private-activity-bond volume cap, then some or all of the issuance may require an allocation of Louisiana's limited annual private-activity-bond authority.

Before approving the transaction, the Commission should disclose: What portion of the proposed $900 million financing is expected to count against Louisiana's volume cap? What allocation has been requested or reserved for HPLS? What portion of Louisiana's presently available allocation would that represent? What other housing, economic development, waste, energy, transportation, or other projects are presently seeking allocations? And which projects could be deferred or displaced if HPLS receives the requested allocation? The public should be permitted to understand the opportunity cost of devoting scarce tax-exempt financing capacity to one of the world's largest industrial corporations.

Action Requested

Given the concerns set out above, we respectfully request that the Bond Commission defer both bond items until these issues are resolved. We also request that issuing agencies be required to submit a complete financing stack and obligor risk analysis. These steps are necessary to protect the fiscal integrity of the State and ensure that the Commission's decisions are legally sound and publicly accountable.

Finally, we must point out that the proposed HPLS project would not be built in the middle of nowhere. It would be built in and around existing West Ascension communities where families have lived for generations, and which have profound historic and cultural significance. Some residents are facing displacement as a result of this project. Others who remain would be forced to live with the heavy industrial activity, massive construction, emissions, waste streams, changing land use, traffic, noise and light pollution associated with one of the largest industrial developments ever proposed for this part of Louisiana.

These local residents have been asked to bear the project's greatest burdens while being kept in the dark when the deals were being made. They have had no meaningful role in deciding whether it should proceed and have had to fight for the information that should have been publicly available long before now. They ask the Commission to take the concerns raised in these comments seriously and give substantial weight to the views of the people who live near the site of the proposed facility and who stand to be most directly affected.

Respectfully submitted,

Pamela Spees
Senior Attorney
Center for Constitutional Rights

For Rural Roots Louisiana and
the Louisiana Bucket Brigade