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April 30, 2021

Senator Mary Kiffmeyer  
3103 Minnesota Senate Building  
95 University Avenue W.  
Saint Paul, MN 55155

Representative Mike Nelson  
585 State Office Building  
100 Rev. Martin Luther King Jr. Blvd  
Saint Paul, MN 55155

Dear Senator Kiffmeyer, Representative Nelson, and conferees:

On behalf of the Duluth Seaway Port Authority (“DSPA”), I write to urge you to adopt language from the House State Government Finance Bill that would allow DSPA to create a nonprofit entity to assist with our economic development mission.

As many of you are aware, DSPA is an independent public agency with a mission to “bring business to the port, economic development to the region, and advocate for maritime, transportation and industrial interests.” The DSPA owns and manages multiple waterfront properties, including the 120-acre Clure Public Marine Terminal, which is the only public access to the Port of Duluth-Superior and provides critical supply chain services for numerous Minnesota industries. We also own Erie Pier and an industrial park near the Duluth International Airport.

In support of economic development, DSPA acquires distressed commercial and industrial properties, including structures and equipment, which may include unanticipated or unknown liabilities due to physical conditions or the presence of legacy hazardous substances or other pollutants. DSPA brings expertise and financial resources to clean up, restore and/or repurpose these brownfield properties for redevelopment.

For example, over the past several years DSPA redeveloped several lots along Garfield Avenue in Duluth that are now used by a local manufacturer (Altec) for chassis storage. This was a multi-year project to acquire and clean up properties that are now back in use by an important employer in our community. We also recently acquired the Duluth Lake Port dock—adjacent to the Azcon scrapyards on Rice’s Point. We did our due diligence to make sure we were well-informed going into these acquisitions, but there is always a chance of unanticipated issues that could be very costly. DSPA is looking for a way to separate the risks associated with brownfield redevelopment from the rest of our business—particularly the assets of the Clure Public Marine Terminal.

The DSPA seeks legislation that provides nonprofit creation authority so that it may:

- 1) Acquire property for redevelopment while protecting DSPA business assets; and
- 2) Enter into partnerships with private companies to redevelop sites while protecting DSPA business assets.

The authority that would be granted to DSPA with this language mirrors authority that the Saint Paul Port Authority (“SPPA”) has been exercising for many years through the creation of Capital City Properties (“CCP”). CCP operates as the nonprofit arm of SPPA and supports land acquisition, commercial redevelopment, and property management. DSPA and SPPA are similarly situated in that our business activities extend beyond economic development to include the port terminal and operations. Creation of a nonprofit helps shield these vital assets from the risk of our other operations.

SPPA's authority to operate a nonprofit is derived from Minn. Stat. § 465.719, which allows local units of government to continue operating nonprofits that existed prior to 1997. This year is the first time that DSPA has ever sought similar authority. This request is before you today because Minn. Stat. § 465.717 requires that any unit of government seeking to create a nonprofit corporation after 1997 must seek specific authorization from the legislature to do so.

Finally, one question that arose during a committee hearing in the House was whether the State could incur any liability should the nonprofit created by DSPA someday dissolve or become insolvent. The answer is no—provisions in both Minnesota Statutes Chapters 317A (governing nonprofit corporations) and 469 (governing port authorities) make clear that no liability of either the nonprofit or the DSPA itself could be assigned to the State. In fact, a strict statutory prohibition on the State of Minnesota paying or guaranteeing the debts of a port authority appears in both Minn. Stat. Sections 469.053, subd. 11 and 469.0671.

Moreover, while we understand the line of questioning, dissolution of the nonprofit under these circumstances is extremely unlikely. DSPA, unlike most private developers, is prepared and positioned to hold compromised property until such time as we have compiled the funding to address the extraordinary costs posed by unanticipated risks. For example, we held the 28-acre Clure Expansion for 25 years prior to full redevelopment as a modern dock. We held the properties that are now the current Altec storage yard for nearly 20 years prior to their productive reuse.

With any questions, please contact Jeff Stollenwerk, DSPA Director of Government & Environment Affairs, at (218) 591-9773 or [jstollenwerk@duluthport.com](mailto:jstollenwerk@duluthport.com), or our legislative consultant Shane Zahrt of Flaherty & Hood, P.A., at (651) 295-1123 or [sazahrt@flaherty-hood.com](mailto:sazahrt@flaherty-hood.com).

Thank you for your consideration.

Sincerely,



Deborah B. DeLuca  
Executive Director