

MAR 12 2013

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# SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS PURSUANT TO SECTION 171-53, HAWAII REVISED STATUTES, RELATING TO RECLAMATION AND DISPOSITION OF SUBMERGED OR RECLAIMED PUBLIC LAND.

1           WHEREAS, Christine McAuliffe Fuss is successor trustee of  
2 the Priscilla Jane McAuliffe Living Trust dated June 22, 1994,  
3 recorded in the Office of the Assistant Registrar of the Land  
4 Court of the State of Hawaii, as Document No. 2319247 being all  
5 the property described in Transfer Certificate of Title 477023  
6 located at Mokuleia, District of Waialua, City and County of  
7 Honolulu, State of Hawaii identified as tax map key number (1)  
8 6-8-004-014, zoned R-7.5 Urban; and  
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10           WHEREAS, the seaward boundary of the Priscilla Jane  
11 McAuliffe Living Trust property fronts the ocean and a seawall  
12 straddles the seaward boundary of the Priscilla Jane McAuliffe  
13 Living Trust property and submerged public land, which is state  
14 owned and identified by tax key map number (1) 6-8-004, seaward  
15 of parcel 14. The seawall encroaches into the state-owned  
16 submerged land; and  
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18           WHEREAS, the area of the seawall comprising approximately  
19 101 square feet has encroached on state owned submerged land  
20 prior to 1964; and  
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22           WHEREAS, Christine McAuliffe Fuss applied to the Land  
23 Division of the Department of Land and Natural Resources to  
24 request a grant of a fifty-five year term for a non-exclusive  
25 easement for seawall and step purposes; and  
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27           WHEREAS, on December 14, 2012, under agenda item D-16, the  
28 Board of Land and Natural Resources approved the request for the  
29 term easement for seawall and step purposes; and  
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1           WHEREAS, on December 14, 2012, under agenda item D-16, the  
2 Board of Land and Natural Resources declared that, after  
3 considering the potential effects of the proposed disposition as  
4 provided by chapter 343, Hawaii Revised Statutes, and chapter  
5 11-200, Hawaii Administrative Rules, this project will have  
6 minimal or no significant impact on the environment and is  
7 therefore exempt from the preparation of an environmental  
8 assessment; and  
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10           WHEREAS, on December 14, 2012, under agenda item D-16, the  
11 Board of Land and Natural Resources authorized the easement  
12 request to be applicable in the event of a change of ownership  
13 of the abutting parcel described as tax key map number (1) 6-8-  
14 004-14 provided the succeeding owner has not had a lease,  
15 permit, easement, or other disposition of state lands terminated  
16 within the last five years due to noncompliance with such terms  
17 or provisions; and  
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19           WHEREAS, the character of the use of the easement is the  
20 right, privilege, and authority to use, maintain, repair,  
21 replace, and remove the existing seawall over, under, and across  
22 state-owned land; and  
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24           WHEREAS, the easement term is for fifty-five years in  
25 consideration for a one-time payment to be determined by  
26 independent or staff appraisal establishing a fair market rent,  
27 subject to review and approval by the Chairperson of the Board  
28 of Land and Natural Resources; and  
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30           WHEREAS, pursuant to section 171-53(c), Hawaii Revised  
31 Statutes, the Board of Land and Natural Resources, with the  
32 approval of the Governor and the prior authorization of the  
33 Legislature by concurrent resolution, may lease state submerged  
34 lands and lands beneath tidal waves; now, therefore,  
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36           BE IT RESOLVED by the Senate of the Twenty-seventh  
37 Legislature of the State of Hawaii, Regular Session of 2013, the  
38 House of Representatives concurring, that the fifty-five year  
39 term for a non-exclusive easement to Christine McAuliffe Fuss as  
40 successor trustee of the Priscilla Jane McAuliffe Living Trust  
41 for seawall and step purposes, is hereby authorized by the  
42 Legislature according to the terms and conditions approved by  
43 the Board of Land and Natural Resources on December 14, 2012;  
44 and



# S.C.R. NO. 101

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BE IT FURTHER RESOLVED that certified copies of this  
Concurrent Resolution be transmitted to the Governor and  
Chairperson of the Board of Land and Natural Resources.

OFFERED BY: \_\_\_\_\_

