SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEŌHE, KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

WHEREAS, the existing pier fronting the property identified as Tax Map Key: (1) 4-6-001:seaward of 015, Kaneohe, Koolaupoko, Oahu, was placed upon state submerged lands; and

WHEREAS, around July 2004, the University of Hawaii, awarded a contract for repair work on the abutting parcel. However, the building permit required a shoreline certification; and

WHEREAS, as a shoreline certification could not be issued without first resolving the pier encroachment issue, the University of Hawaii worked with the Department of Land and Natural Resources to resolve the pier encroachment; and

WHEREAS, at its meeting of July 30, 2004, under agenda item D-28, the Board of Land and Natural Resources, authorized and recommended to the Governor the issuance of an executive order setting aside the subject parcel to the University of Hawaii to resolve the pier encroachment; and

WHEREAS, at its meeting of February 25, 2005, under agenda item D-4, the Board of Land and Natural Resources approved to amend the manner of land disposition by granting a 65-year direct lease to resolve the pier encroachment at gratis rent; and

WHEREAS, the 65-year direct lease was never consummated however, due to lack of agreement on the lease conditions, and
WHEREAS, it was subsequently determined that the Department of Land and Natural Resources should issue a non-exclusive easement to resolve the pier encroachment; and

WHEREAS, at its meeting of August 25, 2017, under agenda item D-5, the Board of Land and Natural Resources approved a grant of a 55-year non-exclusive easement to resolve the pier encroachment, and such non-exclusive easement to run with the land and to inure to the benefit of the abutting real property at gratis rent; and

WHEREAS, the total encroachment area was determined to be 8,271 square feet as reviewed and approved by the Department of Accounting and General Services' Survey Division; and

WHEREAS, section 171-53, Hawaii Revised Statutes, requires the prior approval of the Governor and prior authorization of the Legislature by concurrent resolution to lease state submerged lands; now, therefore,

BE IT RESOLVED by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020, the House of Representatives concurring, that the Board of Land and Natural Resources is hereby authorized to issue a term, non-exclusive easement covering a portion of state submerged lands fronting the property identified as Tax Map Key: (1) 4-6-001:seaward of 015, Kaneohe, Koolaupoko, Oahu, for the existing pier, and for use, repair, and maintenance of the existing improvements constructed thereon pursuant to section 171-53, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that a certified copy of this concurrent resolution be transmitted to the Chairperson of the Board of Land and Natural Resources.

OFFERED BY: ____________________________
BY REQUEST

LNR-R3(20)
JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEHOE, KOOLAUPOKO, OAHU, FOR THE EXISTING PIER, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution of the issuance of a term, non-exclusive easement by the Board of Land and Natural Resources (Board) for the existing pier, and for use, repair, and maintenance of the existing improvements constructed thereon.

MEANS: Concurrent resolution pursuant to section 171-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The existing pier fronting the property identified as Tax Map Key: (1) 4-6-001:seaward of 015, Kaneohe, Koolaupoko, Oahu, was placed upon state submerged lands. The property owner, the University of Hawaii (UH), worked with the Department to resolve the encroachment.

At its meeting of July 30, 2004, under agenda item D-28, the Board authorized and recommended to the Governor the issuance of an executive order setting aside the subject lands to UH to resolve the pier encroachment.

Subsequently, at its meeting of February 25, 2005, under agenda item D-4, the Board approved to amend the manner of land disposition by granting a 65-year direct lease to resolve the encroachment at gratis rent.

The 65-year direct lease was never consummated however, due to lack of agreement on the lease conditions. It was
subsequently determined that the Department should issue a non-exclusive easement to resolve the pier encroachment.

At its meeting of August 25, 2017, under agenda item D-5, the Board approved a grant of a 55-year term, non-exclusive easement to resolve the pier encroachment, to run with the land and inure to the benefit of the abutting real property at gratis rent.

The total encroachment area was determined to be 8,271 square feet as reviewed and approved by the Department of Accounting and General Services' Survey Division.

Section 171-53, HRS, requires the prior approval of the Governor and prior authorization of the Legislature by concurrent resolution to lease state submerged lands. As such, this concurrent resolution has been prepared in compliance with the requirements of section 171-53, HRS.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LNR 101.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon adoption.