

MAR 09 2021

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KUAU, HAMAKUAPOKO, MAUI, FOR THE EXISTING SEAWALL AND CONCRETE STEPS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing seawall and concrete
2 steps fronting the property identified as Tax Map Key: (2) 2-6-
3 010:017, Kuau, Hamakuapoko, Maui, are located on state submerged
4 lands; and

5

6 WHEREAS, around July 2017, the previous owners of the
7 property, Kahanu Family Limited Partnership, in performance of
8 standard due diligence in preparation for the sale of the
9 premises, discovered the existing seawall and concrete steps
10 encroached on state submerged lands; and

11

12 WHEREAS, around 2007, subsequent to the discovery of the
13 encroachment, Kahanu Family Limited Partnership worked with the
14 Department of Land and Natural Resources to resolve the existing
15 seawall and concrete steps encroachment; and

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17 WHEREAS, the Department of Land and Natural Resources'
18 Office of Conservation and Coastal Lands supported a disposition
19 of a proposed shoreline easement to resolve the existing
20 encroachments; and

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22 WHEREAS, at its meeting on August 25, 2017, under agenda
23 item D-10, the Board of Land and Natural Resources approved the
24 grant of a fifty-five-year non-exclusive easement to resolve the
25 seawall encroachments for two easement areas encompassing
26 approximately 1,600 square feet, pending review and approval by
27 the Department of Accounting and General Services' Survey
28 Division, with the easement to run with the land and inure to
29 the benefit of the abutting real property; and

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1 WHEREAS, subsequent to the August 25, 2017, Board of Land
2 and Natural Resources meeting, an easement survey was conducted
3 on April 30, 2018, to verify the easement area and identified a
4 total encroaching area of 1,390 square feet, more or less, that
5 included three easement areas, one of which consisted of
6 existing concrete steps; and
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8 WHEREAS, on July 13, 2018, under agenda item D-6, the Board
9 of Land and Natural Resources approved amending the August 25,
10 2017, authorization to grant a fifty-five-year non-exclusive
11 easement to resolve the seawall and concrete steps encroachment
12 by adding a third encroachment area to the easement and by
13 decreasing the previously approved 1,600 square feet (estimated
14 easement area) to 1,390 square feet (surveyed easement area);
15 and
16

17 WHEREAS, subsequent to the July 13, 2018, Board of Land and
18 Natural Resources meeting, a new easement survey was conducted
19 and identified a total encroachment area of 1,613 square feet,
20 more or less, that include portions of a L-shaped wing wall at
21 the northwest corner of the property; and
22

23 WHEREAS, the final total encroachment area was determined
24 to be 1,613 square feet as reviewed and approved by the
25 Department of Accounting and General Services' Survey Division;
26 and
27

28 WHEREAS, on September 11, 2020, under agenda item D-4, the
29 Board of Land and Natural Resources approved amending the
30 July 13, 2018, authorization to grant a fifty-five-year non-
31 exclusive easement to resolve the seawall and concrete steps
32 encroachment, by adding the L-shaped wing wall area and making
33 minor adjustments to the areas of easements two and three, from
34 1,390 square feet, more or less, to 1,613 square feet, more or
35 less; and
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37 WHEREAS, the previous owners, Kahanu Family Limited
38 Partnership, have since sold the abutting real property to Sea &
39 Believe LLC; and
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41 WHEREAS, Sea & Believe LLC is required to pay the fair
42 market value of the 1,613 square feet of non-exclusive easement



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1 areas, with such value to be determined by an independent
2 appraisal; and
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4 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
5 the prior approval of the Governor and prior authorization of
6 the Legislature by concurrent resolution to lease state
7 submerged lands; now, therefore,
8

9 BE IT RESOLVED by the Senate of the Thirty-first
10 Legislature of the State of Hawaii, Regular Session of 2021, the
11 House of Representatives concurring, that the Board of Land and
12 Natural Resources is hereby authorized to issue a term, non-
13 exclusive easement covering a portion of state submerged lands
14 fronting the property identified as Tax Map Key: (2) 2-6-
15 010:017, Kuau, Hamakuapoko, Maui, for the existing seawall and
16 concrete steps, and for use, repair, and maintenance of the
17 existing improvements constructed thereon pursuant to section
18 171-53, Hawaii Revised Statutes; and
19

20 BE IT FURTHER RESOLVED that a certified copy of this
21 Concurrent Resolution be transmitted to the Chairperson of the
22 Board of Land and Natural Resources.
23
24
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OFFERED BY: _____


By Request

