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# HOUSE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT NAPILI 2 AND  
3, LAHAINA, MAUI, FOR THE EXISTING WALKWAY, AND FOR USE,  
REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS  
CONSTRUCTED THEREON.

1           WHEREAS, the Board of Land and Natural Resources approved  
2 the issuance of a sixty-five-year term, non-exclusive easement  
3 to Napili Kai, Ltd. under Grant of Non-Exclusive Easement No. S-  
4 5998 (GL5998) dated October 25, 2010, for the existing walkway  
5 stairs, shower station, concrete pier block remnants, and  
6 landscaping purposes on state lands fronting the property  
7 identified as Tax Map Keys: (2) 4-3-002:026, 027, & 028, Napili  
8 2 and 3, Lahaina, Maui; and

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10           WHEREAS, at the time GL5998 was issued, the state lands  
11 affected by the non-exclusive easement had not been identified  
12 as state submerged lands; and

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14           WHEREAS, around September 2016, Napili Kai, Ltd. submitted  
15 an application for a shoreline certification in relation to the  
16 consolidation/re-subdivision of its lots; and

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18           WHEREAS, a site inspection conducted on November 2, 2016,  
19 by the Department of Accounting and General Services' Survey  
20 Division and staff of the Department of Land and Natural  
21 Resources revealed that a portion of the existing walkway was on  
22 state submerged lands outside of the encroachment area covered  
23 by GL5998, with the walkway encroachment then estimated to total  
24 140 square feet, more or less; and

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26           WHEREAS, Napili Kai, Ltd. stated that the existing walkway  
27 had not been altered since its construction, and the reason for  
28 the discrepancy in the non-exclusive easement description under  
29 GL5998 was unclear; and



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2 WHEREAS, it therefore became necessary to increase the  
3 encroachment area under the non-exclusive easement by 140 square  
4 feet, more or less; and  
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6 WHEREAS, at its meeting of May 26, 2017, under agenda item  
7 D-3, the Board of Land and Natural Resources approved staff's  
8 recommendation to amend GL5998 by increasing the non-exclusive  
9 easement encroachment area by 140 square feet, more or less,  
10 subject to confirmation by the Department of Accounting and  
11 General Services' Survey Division, and payment by Napili Kai,  
12 Ltd. for a new appraisal to determine the fair market value of  
13 the additional encroachment area and for the value so  
14 determined; and  
15

16 WHEREAS, the Department of Land and Natural Resources'  
17 Office of Conservation and Coastal Lands had no objections to  
18 the proposed amendment of GL5998 to increase the non-exclusive  
19 easement encroachment area; and  
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21 WHEREAS, the Department of Accounting and General Services'  
22 Survey Division confirmed the total encroachment area to be 142  
23 square feet and an appraisal determined the fair market value of  
24 an non-exclusive easement for the additional encroachment area  
25 to be \$4,200, which Napili Kai, Ltd. paid in full to the  
26 Department of Land and Natural Resources in February 2019; and  
27

28 WHEREAS, amending GL5998 to include the additional  
29 encroachment area was subsequently determined to be problematic  
30 because GL5998 was not issued as a submerged lands easement; and  
31

32 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
33 the prior approval of the Governor and prior authorization of  
34 the Legislature by concurrent resolution to lease state  
35 submerged lands; and  
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37 WHEREAS, at its meeting of June 28, 2019, under agenda item  
38 D-7, the Board of Land and Natural Resources rescinded its prior  
39 action of May 26, 2017, item D-3, and instead approved the  
40 issuance of a separate term, non-exclusive easement to run with  
41 the land and inure to the benefit of the abutting real property  
42 and to be coterminous with GL5998, to which the Office of  
43 Conservation and Coastal Lands had no objection; now, therefore,  
44



1 BE IT RESOLVED by the House of Representatives of the  
2 Thirty-first Legislature of the State of Hawaii, Regular Session  
3 of 2021, the Senate concurring, that the Board of Land and  
4 Natural Resources is hereby authorized to issue a term,  
5 non-exclusive easement covering a portion of state submerged  
6 lands fronting the property identified as Tax Map Keys: (2)  
7 4-3-002:026, 027, & 028, Napili 2 and 3, Lahaina, Maui, for  
8 portions of the existing walkway, and for use, repair, and  
9 maintenance of the existing improvements constructed thereon  
10 pursuant to section 171-53, Hawaii Revised Statutes; and

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12 BE IT FURTHER RESOLVED that a certified copy of this  
13 Concurrent Resolution be transmitted to the Chairperson of the  
14 Board of Land and Natural Resources.

