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# HOUSE CONCURRENT RESOLUTION

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

1           WHEREAS, portions of the existing boat ramp and concrete  
2 wall seaward of the property identified as Tax Map Key: (1) 4-  
3 5-047:051, Kaneohe, Koolauapoko, Oahu, were placed upon state  
4 submerged lands; and  
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6           WHEREAS, in 2021, James Michael Elhoff, Trustee of the  
7 Michael Elhoff Living Trust dated November 30, 2017, purchased  
8 the residential real property located at Tax Map Key: (1) 4-5-  
9 047:051, which abuts the portion of state submerged land that  
10 contains the encroaching boat ramp and concrete wall; and  
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12           WHEREAS, the boat ramp and concrete wall were constructed  
13 seaward of the private property record boundary without prior  
14 authorization, and a portion of the boat ramp and concrete wall  
15 previously located on private property is now seaward of the  
16 current shoreline on state submerged lands; and  
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18           WHEREAS, around March 2022, the Department of Land and  
19 Natural Resources' Office of Conservation and Coastal Lands  
20 worked with the property owner, James Michael Elhoff, Trustee of  
21 the Michael Elhoff Living Trust dated November 30, 2017, to  
22 resolve the encroachments; and  
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24           WHEREAS, the Office of Conservation and Coastal Lands found  
25 that the boat ramp and concrete wall are part of an existing  
26 seawall that has been in place since at least 1967, based on  
27 analysis of historic aerial photographs of the area; and  
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1 WHEREAS, the Office of Conservation and Coastal Lands  
2 indicated that it supported a non-exclusive easement to resolve  
3 the encroachments; and

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5 WHEREAS, on August 26, 2022, under agenda item D-4 of a  
6 meeting of the Board of Land and Natural Resources, the Board of  
7 Land and Natural Resources approved a grant of a 25-year non-  
8 exclusive easement to resolve the boat ramp and concrete wall  
9 encroachments, to run with the land and to inure to the benefit  
10 of the abutting real property; and

11  
12 WHEREAS, the total encroachment area was determined to be  
13 319 square feet, as reviewed and approved by the Department of  
14 Accounting and General Services' Survey Division; and

15  
16 WHEREAS, on December 14, 2022, James Michael Elhoff  
17 executed a removal bond agreement in which James Michael Elhoff  
18 assigned to and deposited with the State of Hawaii the amount of  
19 \$34,012 to insure the State of Hawaii against the cost of  
20 removing the encroachments in the event that the Legislature and  
21 the Governor do not approve the issuance of the non-exclusive  
22 easement approved by the Board of Land and Natural Resources;  
23 and

24  
25 WHEREAS, the Board of Land and Natural Resources executed  
26 Revocable Permit No. S-7956 on March 10, 2023, granting James  
27 Michael Elhoff the right to enter and occupy the subject parcel  
28 of state submerged land, subject to terms including the payment  
29 of \$65 monthly rental amount; and

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31 WHEREAS, the grantee shall pay the State the fair market  
32 value of the non-exclusive easement as consideration of the use  
33 of state submerged lands to be determined by an independent  
34 appraisal; and

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36 WHEREAS, in 2022, the National Oceanic and Atmospheric  
37 Administration issued a technical report that found that sea  
38 level rise will create a profound shift in coastal flooding over  
39 the next thirty years by causing tide and storm surge heights to  
40 increase and reach further inland; and

41  
42 WHEREAS, by 2050, moderate and typically damaging coastal  
43 flooding is expected to occur on average more than ten times as



1 often as it does today and can be intensified by local factors;  
2 and

3

4 WHEREAS, in Hawaii, sea-level rise and coastal erosion are  
5 occurring at an accelerated rate, with moderate estimates  
6 projecting the sea level to increase by six to eight inches by  
7 mid-century; and

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9 WHEREAS, the practice of issuing easements to private  
10 landowners for state submerged lands on a case-by-case basis is  
11 not prudent as a long-term strategy when considered in relation  
12 to the public trust doctrine and in the context of planning for  
13 landscape-scale adaptation and retreat; and

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

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20 BE IT RESOLVED by the House of Representatives of the  
21 Thirty-second Legislature of the State of Hawaii, Regular  
22 Session of 2024, the Senate concurring, that the Board of Land  
23 and Natural Resources is hereby authorized to issue a non-  
24 exclusive easement, with a term not to exceed twenty-five years,  
25 covering a portion of state submerged lands seaward of the  
26 property identified as Tax Map Key: (1) 4-5-047:051, Kaneohe,  
27 Koolaupoko, Oahu, for the existing boat ramp and concrete wall,  
28 and for use, repair, and maintenance of the existing  
29 improvements constructed thereon pursuant to section 171-53,  
30 Hawaii Revised Statutes; and

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

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