

JAN 23 2025

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TWENTY-FIVE YEAR TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAIE, KOOLAULOA, OAHU, FOR A ROCK REVETMENT THAT INCLUDES STAIRS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, a rock revetment, which includes stairs, seaward
2 of the residential real property identified as Tax Map Key: (1)
3 5-5-002:032, Laie, Koolauloa, Oahu, was constructed on state
4 submerged land in the early 1960s; and

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6 WHEREAS, in 2022, Western Community Crossroads, LC, a Utah
7 limited liability company, purchased the residential real
8 property identified as Tax Map Key: (1) 5-5-002:032, which abuts
9 the portion of state submerged land containing the rock
10 revetment; and

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12 WHEREAS, it is estimated that the rock revetment and its
13 stairs were constructed by a prior owner of the abutting
14 residential real property in approximately 1962 or 1963, before
15 the enactment of statutes and rules that regulate the placement
16 of structures on the shoreline; and

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18 WHEREAS, the rock revetment and its stairs constitute an
19 encroachment onto state submerged lands; and

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21 WHEREAS, the Office of Conservation and Coastal Lands has
22 no objection to a non-exclusive easement to resolve the
23 encroachment; and

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25 WHEREAS, the total encroachment area was determined to be
26 seven hundred ten square feet, as reviewed and approved by the
27 Department of Accounting and General Services' Survey Division;
28 and

1 WHEREAS, at its meeting on March 8, 2024, under agenda item
2 D-2, the Board of Land and Natural Resources approved the grant
3 of a twenty-five-year term, non-exclusive easement to Western
4 Community Crossroads, LC, for the rock revetment and stairs, to
5 run with the land and to inure to the benefit of the abutting
6 residential real property identified by the Tax Map Key: (1) 5-
7 5-002:032; and
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9 WHEREAS, at the same meeting, the Board approved an
10 immediate right of entry permit and revocable permit to allow
11 the property owners to maintain the structure during the
12 pendency of the easement process subject to payment of \$66
13 monthly rent, posting of a removal bond, and provision of
14 liability insurance for the structure; and
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16 WHEREAS, the right of entry permit and revocable permit
17 will be executed once the shoreline is certified pursuant to an
18 open application which is being processed by Land Division as of
19 August 2024; and
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21 WHEREAS, Western Community Crossroads, LC, shall pay the
22 State the fair market value of the non-exclusive easement as
23 consideration for the use of state submerged lands, to be
24 determined by an independent appraisal; and
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26 WHEREAS, section 171-53 (c), Hawaii Revised Statutes,
27 requires the prior approval of the Governor and the prior
28 authorization of the Legislature by concurrent resolution to
29 lease state submerged land; now, therefore,
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31 BE IT RESOLVED by the Senate of the Thirty-third
32 Legislature of the State of Hawaii, Regular Session of 2025, the
33 House of Representatives concurring, that the Board of Land and
34 Natural Resources is hereby authorized to issue a twenty-five-
35 year term, non-exclusive easement covering a portion of state
36 submerged land seaward of the property identified as Tax Map
37 Key: (1) 5-5-002:032, Laie, Koolauloa, Oahu, to Western
38 Community Crossroads, LC, for the rock revetment and stairs, and
39 for the use, repair, and maintenance of the improvements
40 constructed thereon pursuant to section 171-53(c), Hawaii
41 Revised Statutes; and

1 BE IT FURTHER RESOLVED that a certified copy of this
2 Concurrent Resolution be transmitted to the Chairperson of the
3 Board of Land and Natural Resources.

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5 OFFERED BY: 

6
7 BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: AUTHORIZING THE ISSUANCE OF A TWENTY-FIVE YEAR TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAIE, KOOLAULOA, OAHU, FOR A ROCK REVETMENT THAT INCLUDES STAIRS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE IMPROVEMENTS CONSTRUCTED THEREON.

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

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

JUSTIFICATION: The rock revetment including stairs located seaward of the property identified as Tax Map Key: (1) 5-5-002:032, Laie, Koolauloa, Oahu, was constructed on state submerged land in approximately 1962 to 1963, prior to the enactment of statutes and administrative rules restricting structures on the shoreline. The rock revetment and its stairs constitute an encroachment on state submerged lands.

In March 2024, the Board approved the grant of a twenty-five-year term, non-exclusive easement to the abutting the landowner, Western Community Crossroads, LC, as grantee, for an area of seven hundred ten square feet including a rock revetment with stairs with right, privilege, and authority to construct, use, maintain, and repair the rock revetment and stairs. As of August 2024, execution of permits for the right to occupy and use the premises and obligation to pay \$66 monthly rent is pending certification of the shoreline.

Western Community Crossroads, LC, has agreed to pay for an appraisal of the encroachment area by an appraiser selected and contracted by the State of Hawaii to determine the value of the encroachment area and to pay a lump sum in the amount of the appraised value in exchange for a twenty-five-year term, non-exclusive easement to resolve the encroachment.

The Department's Office of Conservation and Coastal Lands has no objection to the non-exclusive easement to resolve the encroachment.

Section 171-53(c), 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(c), 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.