
HOUSE CONCURRENT RESOLUTION

AUTHORIZING THE BOARD OF LAND AND NATURAL RESOURCES TO LEASE
CERTAIN SUBMERGED LANDS AT MANELE BAY TO COON BROTHERS INC.
FOR RENOVATION OF THE SMALL BOAT HARBOR FACILITIES.

1 WHEREAS, Coon Brothers Inc. owns and operates tour boats
2 between the islands of Maui and Lanai through three subsidiaries
3 collectively known as Trilogy; and

4
5 WHEREAS, Trilogy began conducting commercial operations
6 from the Manele Small Boat Harbor in 1973, in an area that later
7 became berth twenty-four; and

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9 WHEREAS, in the mid-1980s, Trilogy, with State approval,
10 built a loading dock atop of a rock groin which Trilogy assisted
11 in placing on submerged lands adjacent to berth twenty-four; and

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13 WHEREAS, the State has since authorized Trilogy to use the
14 berth and loading dock; and

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16 WHEREAS, due to continued silting after the United States
17 Army Corps of Engineers dredged Manele Harbor in 1985, Trilogy
18 has dredged and widened berth twenty-four at a cost of more than
19 \$200,000; and

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21 WHEREAS, in the early 1970s, Castle & Cooke Inc. sanctioned
22 Trilogy's use of Hulopoe Beach Park to provide its passengers
23 with recreational activities on the condition that the
24 activities only occur during non-holiday weekdays; and

25
26 WHEREAS, in 1977, Castle & Cooke Inc. and Coon Brothers
27 Inc. formalized their agreement for commercial use of Hulopoe
28 Beach Park including an agreement on a use fee for each Trilogy
29 guest brought to Hulopoe Beach Park; and

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1 WHEREAS, in 1987, Castle & Cooke Inc. adopted a unilateral
2 agreement guaranteeing the public and limited tour boat
3 operators, including Trilogy, access to Hulopoe Beach Park; and
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5 WHEREAS, Trilogy is the only tour boat operator currently
6 operating under the 1987 unilateral agreement and the only
7 operator to pay Castle & Cooke Inc. a fee to access Hulopoe
8 Beach Park; and
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10 WHEREAS, Castle & Cooke Inc., and its successor in interest
11 Lanai Resorts LLC, has used the millions of dollars in fees paid
12 by Trilogy since 1977 to maintain Hulopoe Beach Park and the
13 private access road for the benefit of residents, hotel guests,
14 and Trilogy passengers; and
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16 WHEREAS, Trilogy is the only tour boat operator to
17 contribute to the costs of maintaining Hulopoe Beach Park and
18 the only operator since 1973 to honor the request of the Lanai
19 community that Hulopoe Beach Park not be used for commercial
20 purposes on weekends and union negotiated holidays; and
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22 WHEREAS, in 1993, the Board of Land and Natural Resources
23 and Trilogy entered into a renewable, thirty-five year lease of
24 18,000 square feet of undeveloped land adjacent to berth twenty-
25 four; and
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27 WHEREAS, Trilogy obtained the lease to construct a first-
28 class pavilion at Manele so that passengers arriving from Maui
29 would have shelter from the elements and a comfortable venue for
30 Trilogy's lunch and entertainment; and
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32 WHEREAS, with community input in the design of the pavilion
33 and landscaping, Trilogy transformed a neglected site scarred by
34 discarded harbor dredge material into a beautifully landscaped
35 area with amenities such as picnic tables and barbeques that are
36 often used by the public on weekends and holidays; and
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38 WHEREAS, Trilogy's cost of completing the two story
39 pavilion exceeded \$1,100,000; and
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41 WHEREAS, Trilogy has maintained the pavilion and
42 appurtenant portions of the leased area, and otherwise met all
43 obligations under Boating Lease No. B-93-02; and
44



1 WHEREAS, in 2005, Coon Brothers Inc. completed a major
2 renovation of the loading dock used by Trilogy's three vessels;
3 and
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5 WHEREAS, the Department of Land and Natural Resources faces
6 daunting challenges in meeting the financial demands of
7 improving and maintaining Manele Small Boat Harbor; and
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9 WHEREAS, in 2011, tsunami waves from an earthquake off the
10 coast of Japan reached Lanai causing major damage to the pier
11 used by the ferry, the loading dock built by Trilogy adjacent to
12 pier twenty-four, and the rock groin on which the two structures
13 were built; and
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15 WHEREAS, the cost of restoring the Trilogy loading dock to
16 its pre-tsunami condition is estimated to total \$95,265; and
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18 WHEREAS, the Federal Emergency Management Administration
19 has granted the State emergency financial assistance to defray
20 seventy-five per cent of the estimated cost of restoration; and
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22 WHEREAS, a lease of the berth twenty-four loading dock
23 would allow the State to obtain, from Trilogy, the remaining
24 twenty-five per cent of the cost required to repair the Trilogy
25 loading dock; and
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27 WHEREAS, as lessee of the loading dock and appurtenant
28 submerged lands, Trilogy would assume responsibility for
29 maintenance and upkeep of the area and be required to pay fair
30 market lease rent; and
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32 WHEREAS, the people of the State of Hawaii, particularly
33 Trilogy employees on Lanai, would benefit from extending Boating
34 Lease No. B-93-02 by twenty years; and
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36 WHEREAS, a long-term lease of the loading dock will ensure
37 Coon Brothers Inc.'s ability to meet its obligations under
38 Boating Lease No. B-93-02 and to continue funding the
39 maintenance of Hulopoe Beach Park through use fees; and
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41 WHEREAS, it is the policy of the Department of Land and
42 Natural Resources to encourage private development of marina
43 facilities to meet the growing demand for safe, efficient, and
44 Americans with Disabilities Act accessible embarking and



1 disembarking from the ferry pier and the Trilogy loading dock;
2 and

3
4 WHEREAS, the Department of Land and Natural Resources is
5 empowered by section 13-234-25, Hawaii Administrative Rules, to
6 grant the use or possession of small boat harbor facilities by
7 lease so long as the lease provides for payment of rentals, fees
8 and charges, and other conditions in accordance with law; and

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10 WHEREAS, a lessee of an improved harbor area would be
11 responsible for the maintenance and upkeep of that area and be
12 required to pay fair market lease rent for an area needing
13 repair; and

14
15 WHEREAS, a lease of the Trilogy loading dock would reduce
16 congestion and avoid users conflicts in the event Trilogy
17 vessels, currently permitted to use berth twenty-four, were
18 required to use the public loading dock at pier one; and

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20 WHEREAS, section 171-53(c), Hawaii Revised Statutes,
21 authorizes the Board of Land and Natural Resources, with the
22 prior approval of the Governor and prior authorization of the
23 Legislature by concurrent resolution, to lease submerged public
24 lands under the terms, conditions, and restrictions provided in
25 chapter 171, Hawaii Revised Statutes; and

26
27 WHEREAS, the Legislature wishes to provide prior
28 authorization to the Board of Land and Natural Resources to
29 lease certain submerged public lands described herein for the
30 improvement of marina facilities and extend Boating Lease No.
31 B-93-02 by twenty years; and

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33 WHEREAS, to process the lease of the loading dock and the
34 submerged lands surrounding berth twenty-four, all appropriate
35 authorizations are required; now, therefore,

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37 BE IT RESOLVED by the House of Representatives of the
38 Twenty-seventh Legislature of the State of Hawaii, Regular
39 Session of 2013, the Senate concurring, that the Board of Land
40 and Natural Resources, in conformance with section 171-53,
41 Hawaii Revised Statutes, is authorized to lease to Coon Brothers
42 Inc., for the purpose of reclamation, development, construction,
43 use, and maintenance, the portion of the loading dock situated



1 at berth twenty-four in the Manele Small Boat Harbor that is
2 used by Trilogy for its tour boat operations; and
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4 BE IT FURTHER RESOLVED that this Concurrent Resolution is
5 not an implied approval of the decisions that must be made
6 independently by the Board of Land and Natural Resources or the
7 Department of Land and Natural Resources in acting on any
8 conservation district use application, if required; and
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10 BE IT FURTHER RESOLVED that prior to executing the lease,
11 the Board of Land and Natural Resources or the Department of
12 Land and Natural Resources must independently conclude that this
13 project will be economically feasible, environmentally sound,
14 and in compliance with chapter 343, Hawaii Revised Statutes; and
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16 BE IT FURTHER RESOLVED that certified copies of this
17 Concurrent Resolution be transmitted to the Governor, the
18 Chairperson of the Board of Land and Natural Resources, and the
19 President of Coon Brothers Inc.
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OFFERED BY: Mel Canoe
JA

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