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# SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT NAPILI,  
KAANAPALI, MAUI, FOR A PORTION OF STAIRS FOR PUBLIC BEACH  
ACCESS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE STAIRS  
CONSTRUCTED THEREON.

1           WHEREAS, Hawaii is already experiencing the impacts of  
2 climate change, including rising sea levels, extreme tides,  
3 accelerated coastal erosion, and stronger, more frequent storms;  
4 and

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6           WHEREAS, the old Napili Beach public access concrete  
7 stairs, originally constructed in the 1980s, from headland to  
8 the south end of the Napili Beach were seriously damaged by a  
9 heavy south swell on Labor Day, 2017; and

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11           WHEREAS, while slightly damaged and slanted, the stairs  
12 reopened in October 2017 for public use; and

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14           WHEREAS, in 2019, the Napili Bay and Beach Foundation, Inc.  
15 applied for and received a state grant-in-aid to replace the  
16 older stairs with more resilient, trex decking stairs, which are  
17 open tread to allow seasonal ebb and flow of beach sand; and

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19           WHEREAS, the older stairs were completely destroyed in a  
20 heavy south swell during July 2019; and

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22           WHEREAS, to mitigate some impacts from further coastal  
23 erosion and south swells, the Napili Beach Public Access Stair  
24 Project is proposed to be relocated at a location further away  
25 from south swell impact; and

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27           WHEREAS, portions of the failed beach access stairs as well  
28 as portions of the replacement stairs are located in the  
29 conservation district and a significant portion of the



1 replacement project is located in the special management area;  
2 and

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4 WHEREAS, in January 2021, the Department of Land and  
5 Natural Resources Office of Conservation and Coastal Lands  
6 issued a site plan approval for the replacement of the failed  
7 concrete stairs with the new access stairs; and

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9 WHEREAS, in February 2021, the County of Maui Department of  
10 Planning issued a special management area exemption, shoreline  
11 setback approval, and environmental assessment exemption for the  
12 project; and

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14 WHEREAS, at its meeting on October 22, 2021, under agenda  
15 item D-5, the Board of Land and Natural Resources approved a  
16 twenty-five-year term, non-exclusive easement for elevated beach  
17 access stairs and dune walkover on state lands identified by tax  
18 map keys: a portion of (2) 4-3-002:023 and a portion of  
19 (2) 4-3-002:099 for the project; and

20

21 WHEREAS, the Board of Land and Natural Resources, at the  
22 same meeting, also approved an immediate construction right-of-  
23 entry permit to allow construction of beach access stairs and  
24 dune walkover prior to Napili Bay and Beach Foundation, Inc.  
25 obtaining legislative approval of the easement for the portion  
26 of the stairs to be located on state submerged lands as required  
27 by section 171-53, Hawaii Revised Statutes, provided that Napili  
28 Bay and Beach Foundation, Inc. post a removal bond in the amount  
29 of \$55,000; and

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31 WHEREAS, the Department of Land and Natural Resources will  
32 be able to release the removal bond if the Legislature approved  
33 a concurrent resolution for the easement approved by the Board  
34 of Land and Natural Resources; and

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36 WHEREAS, no consideration was charged for issuing the  
37 easement since Napili Bay and Beach Foundation, Inc. is a Hawaii  
38 non-profit corporation and an Internal Revenue Code Section  
39 501(c)(3) tax-exempt organization and is undertaking the project  
40 for purposes of facilitating public access to the beach and  
41 Napili Bay and Beach Foundation, Inc. will construct and



1 maintain the access at its own expense and with the aid of  
2 grants; and  
3

4 WHEREAS, through a combination of grants from the  
5 Legislature grant-in-aid and Maui County, demolition and  
6 construction on the project began in November 2021, and the  
7 public access stair project is expected to be completed in 2022;  
8 and  
9

10 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
11 the prior approval of the Governor and prior authorization of  
12 the Legislature by concurrent resolution to lease state  
13 submerged lands; now, therefore,  
14

15 BE IT RESOLVED by the Senate of the Thirty-first  
16 Legislature of the State of Hawaii, Regular Session of 2022, the  
17 House of Representatives concurring, that the Board of Land and  
18 Natural Resources is hereby authorized to issue a term, non-  
19 exclusive easement to Napili Bay and Beach Foundation, Inc.  
20 covering a portion of state submerged lands identified as tax  
21 map key: (2) 4-3-002:023, Napili, Kaanapali, Maui, for a  
22 portion of the beach access stairs constructed thereon pursuant  
23 to section 171-53, Hawaii Revised Statutes; and  
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25 BE IT FURTHER RESOLVED that certified copies of this  
26 Concurrent Resolution be transmitted to the Governor,  
27 Chairperson of the Board of Land and Natural Resources, and  
28 President of the Napili Bay and Beach Foundation, Inc.

