

MAR 13 2013

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# SENATE CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR TO ESTABLISH A WORKING GROUP TO DEVELOP  
A CONSERVATION ACTION PLAN TO EXPLORE AND IDENTIFY  
CONSERVATION ALTERNATIVES FOR THE UNDEVELOPED PORTIONS OF  
THE TURTLE BAY HOTEL AND RESORT PROPERTY AND SURROUNDING  
LANDS WITH CONSERVATION OR HISTORIC VALUE.

1           WHEREAS, Act 140, Session Laws of Hawaii 2008, authorized  
2 the Governor to negotiate on behalf of the State with private  
3 interested parties to purchase the resort property located in  
4 Kahuku, Oahu; and  
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6           WHEREAS, the subject property under negotiation includes  
7 the lands of and surrounding the Turtle Bay Hotel and Resort  
8 (Property) and dates back to the latter years of the previous  
9 administration as part of an effort to purchase and protect  
10 precious natural resource lands from development; and  
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12           WHEREAS, despite two separate attempts to acquire the  
13 Property, nothing has been successfully completed and the matter  
14 remains unresolved; and  
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16           WHEREAS, the subject lands for conservation:  
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- 18           (1) Shall include the undeveloped lands, defined as those  
19           that are not used for the existing hotel and  
20           condominiums;  
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- 22           (2) May include the unoccupied areas, such as the golf  
23           courses, stables, parking areas, nurseries, and lands  
24           with similar uses that could be relocated; and  
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- 26           (3) Generally include the undeveloped portions of the  
27           Property and surrounding lands that have significant  
28           conservation or historic value if the conservation  
29           would better protect coastal and natural resources



1           between Malaekahana State Recreational Area and Kawela  
2           Bay; and

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4           WHEREAS, this body believes that it remains in the public's  
5           best interest to continue efforts to conserve the undeveloped  
6           portions of the Property; and

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8           WHEREAS, during the Regular Session of 2013, the  
9           Legislature introduced S.B. No. 894, S.D. 2, to appropriate  
10          funds and authorize the Governor, or the Governor's designee, to  
11          continue efforts to acquire certain unimproved lands surrounding  
12          the Property; and

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14          WHEREAS, if the Governor finds that it is not feasible for  
15          the State to acquire sole interest of the Property, S.B. No.  
16          894, S.D. 2, also authorized the Governor to enter into a  
17          cooperative agreement or agreements, such as a conservation  
18          easement, with private or other public entities interested in  
19          conserving the undeveloped portions of the Property; and

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21          WHEREAS, in a letter dated March 4, 2013, the Chief  
22          Executive Officer on behalf of the developer Turtle Bay Resorts,  
23          LLC, expressed the developer's willingness to voluntarily  
24          negotiate in good faith to explore alternatives between the  
25          State and the developer to keep a portion of the undeveloped  
26          lands at the Turtle Bay Resort for public benefit; and

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28          WHEREAS, the developer expressed in the letter an  
29          understanding that the Legislature may be open to deferring S.B.  
30          No. 894, S.D. 2, while the State and developer negotiate; and

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32          WHEREAS, the developer communicated a willingness to  
33          negotiate in good faith with the State; provided that the  
34          negotiations take place immediately and terminate no later than  
35          November 30, 2013, at which time the State and developer will  
36          submit to the Legislature a report regarding the result of the  
37          negotiations; and

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39          WHEREAS, the developer also proposed in the letter that if  
40          the developer and the State are able to negotiate terms, area,  
41          and price, then S.B. No. 894, S.D. 2, could be amended to  
42          effectuate the terms of the negotiated settlement; and

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1           WHEREAS, however, if the developer and the State are unable  
2 to negotiate a settlement, then S.B. No. 894, S.D. 2, may  
3 proceed accordingly through the legislative process during the  
4 Regular Session of 2014; and

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6           WHEREAS, the developer noted that the deadline of  
7 November 30, 2013, provides a reasonable amount of time for the  
8 State and the developer to engage in good faith negotiations to  
9 reach a reasonable solution that benefits the immediate  
10 community and the State; and

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12           WHEREAS, accordingly, on March 5, 2013, the Senate  
13 recommitted S.B. No. 894, S.D. 2, to the Committees on Judiciary  
14 and Labor and Ways and Means, thereby deferring the measure  
15 pending negotiations between the State and the developer as  
16 proposed in the letter from Turtle Bay Resorts, LLC; and

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18           WHEREAS, this body believes that the Governor can assist in  
19 promoting the conservation of the subject lands and urges the  
20 Governor to immediately engage in good faith negotiations with  
21 the developer; now, therefore,

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23           BE IT RESOLVED by the Senate of the Twenty-seventh  
24 Legislature of the State of Hawaii, Regular Session of 2013, the  
25 House of Representatives concurring, that the Governor is  
26 requested to establish a working group to develop a conservation  
27 action plan to explore and identify conservation alternatives  
28 for the undeveloped portions of the Turtle Bay Hotel and Resort  
29 property and surrounding lands with conservation or historic  
30 value; and

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32           BE IT FURTHER RESOLVED that the working group consist of  
33 the following members:

- 34  
35           (1) The Governor or the Governor's designee;  
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37           (2) The Chairperson of the Board of Land and Natural  
38 Resources or the Chairperson's designee;  
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40           (3) The Administrator of the State Historic Preservation  
41 Division of the Department of Land and Natural  
42 Resources or the Administrator's designee;  
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- 1 (4) The Chairperson of the Legacy Land Conservation  
2 Commission or the Chairperson's designee;
- 3
- 4 (5) The Chairperson of the Land Use Commission or the  
5 Chairperson's designee;
- 6
- 7 (6) The Chairperson of the Board of Directors of The Trust  
8 for Public Land or the Chairperson's designee; and
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- 10 (7) Any other entity or organization the Governor deems  
11 necessary; and
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13 BE IT FURTHER RESOLVED that the purpose of the working  
14 group is to provide information and make recommendations to the  
15 Governor as the State and the developer Turtle Bay Resorts, LLC,  
16 engage in good faith negotiations; and

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18 BE IT FURTHER RESOLVED that during the course of  
19 negotiations between the State and the developer, the working  
20 group:

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- 22 (1) Develop an action plan that explores and identifies  
23 conservation alternatives for the undeveloped portions  
24 of the Turtle Bay Hotel and Resort property and the  
25 surrounding lands with conservation or historic value;
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- 27 (2) Hold meetings to foster community engagement and  
28 gather community input regarding conservation  
29 alternatives relating to the subject lands, which  
30 shall be included in the action plan;
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- 32 (3) Provide updates to the Governor, at periodic intervals  
33 deemed necessary by the Governor, regarding the  
34 development of the action plan and make any  
35 recommendations; and
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- 37 (4) Submit a written final action plan, including  
38 recommendations and any proposed legislation, to the  
39 Governor and Legislature no later than November 30,  
40 2013; and
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42 BE IT FURTHER RESOLVED that the working group shall cease  
43 to exist on November 30, 2013; and

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1 BE IT FURTHER RESOLVED that the Governor and the developer  
2 submit a written report to the Legislature regarding the results  
3 of their negotiations and any proposed legislation no later than  
4 November 30, 2013; and  
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6 BE IT FURTHER RESOLVED that certified copies of this  
7 Concurrent Resolution be transmitted to the Governor;  
8 Chairperson of the Board of Land and Natural Resources;  
9 Administrator of the State Historic Preservation Division of the  
10 Department of Land and Natural Resources; Chairperson of the  
11 Legacy Land Conservation; Chairperson of the Land Use  
12 Commission; Chief Executive Officer of Turtle Bay Resorts, LLC;  
13 and Chairperson of the Board of Directors of The Trust for  
14 Public Land.  
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OFFERED BY:



