

BILL013(26)
Testimony

MISC. COMM. 37

COUNCIL

COUNCIL Meeting

Meeting Date: Jan 28, 2026 @ 10:00 AM

Support: 0

Oppose: 2

I wish to comment: 1

Name: Lea Hong	Email: lea.hong@tpl.org	Zip: 96822
Representing: Trust for Public Land	Position: Oppose	Submitted: Jan 27, 2026 @ 12:06 AM
Name: 'Olu Campbell	Email: olu.campbell@hilt.org	Zip: 96813
Representing: Hawai'i Land Trust	Position: I wish to comment	Submitted: Jan 27, 2026 @ 12:22 AM
Name: Madison Cahill	Email: maddyc12310@gmail.com	Zip: 96816
Representing: Self	Position: Oppose	Submitted: Jan 27, 2026 @ 08:56 AM

Testimony:

My name is Madison Cahill and I'm living in Wilhemina. I am submitting testimony in strong opposition to Agenda Item: BILL013(26) relating to the Clean Water and Natural Lands (CWNL) Fund.

This bill aims to significantly impact the process and procedures that applicants go through to acquire conservation lands using moneys from the Clean Water and Natural Lands Fund. If passed, there will be a greater burden on applicants (most of whom are nonprofits) and City staff to allocate more time and resources to CWNL land proposal applications PRIOR to receiving indication of whether or not funding will be approved by both the CWNL Advisory Commission and City Council. In other words, a significant amount of time and resources dedicated to developing a strong proposal application for conservation land acquisition will be wasted if the Commission or City Council does not approve the proposal in the end.

On August 25, 2025 DHLM Deputy Director Catherine Taschner explained in detail why the Department of Housing and Land Management's current process of evaluating and qualifying CWNL land proposal applications is in the best interest of the City, the CWNL Fund, or the community groups applying for use of the CWNL Fund.

Prior to the Department of Housing and Land Management assuming responsibility of qualifying applications for the CWNL Fund in 2023, the CWNL land proposal application process had onerous requirements. The CWNL application process was then amended to move these requirements post-approval, but pre-closing, at the request from community partners/previous CWNL applicants.

Other programs that provide funding for land acquisition for conservation purposes operate similarly to how CWNL's land proposal applications are processed. For instance, the State's Legacy Land Conservation Program and Commission review and approve applications before money and resources are expended on due diligence requirements for the closing of a land acquisition.

I urge you to strongly vote against the passing of this bill, as this would negatively impact community groups who could utilize the CWNL Fund and the process for protecting 'aina in perpetuity.

Mahalo nui for your time and consideration of my testimony.

Mahalo,
Madison



HAWAII

1164 Bishop St., Ste. 1512
Honolulu, HI 96813

tpl.org

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Pūlama Lāna'i

Dr. Rachel Sprague
Pūlama Lāna'i

Jan Sullivan
Oceanit

TRUST FOR PUBLIC LAND'S TESTIMONY IN OPPOSITION TO BILL 13 (2026) Honolulu City Council, City and County of Honolulu January 28, 2026, 10:00 a.m.

City and County of Honolulu – City Council

Office of the City Clerk

Attention: Information Section

530 South King Street, Room 100

Honolulu, HI 96813

Sent via: <https://hnlldoc.ehawaii.gov/hnlldoc/testimony>

Aloha e Chair Waters and Councilmembers,

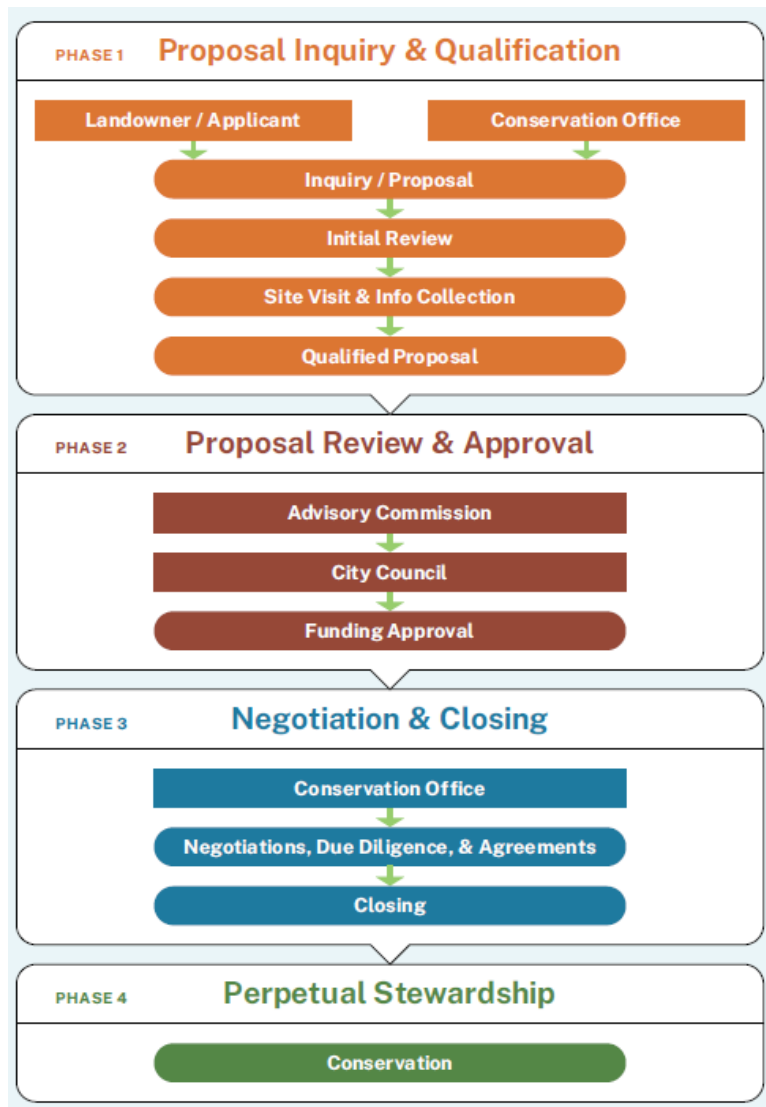
Trust for Public Land (TPL) appreciates and respects the intent of Bill 13 (2026) to make the Clean Water & Natural Lands Fund (CWNL) processes and procedures operate more effectively and transparently, but we strongly oppose this bill as it unintentionally makes it more difficult for potential applicants to apply for funds, will delay or prevent applications from moving forward, and contains provisions that are contrary to best practices for land conservation funding programs throughout the nation.

Trust for Public Land and many other organizations and communities advocated for the charter amendment in 2006 establishing the CWNL fund. The need for land to grow food, protect important historic and cultural sites, protect the forested watersheds that produce our drinking water, provide critical habitat for native and endangered species, and give our residents access to spaces to practice culture, fish, hunt, gather, swim, paddle, and recreate and rest is invaluable. The CWNL fund creates legacies that will last for generations to come. Precious and irreplaceable lands such as Ka Iwi Coast Mauka, Kānewai Spring, Hāwea Heiau, lands surrounding Kūkaniloko and many other wahi pana and special places have been protected with these funds.

Given Trust for Public Land's long association with and support of the CWNL fund for over 20 years, we would like to: (1) provide relevant historical context regarding the evolution of the program and its processes, and (2) comment on proposed Bill 13, which unintentionally may conflict with best practices of land conservation funding programs across the country.

Historical Context

First, some context. The Department of Housing and Land Management (DHLM) and the CWNL staff designed the current proposal process after listening to community input with a goal to increase the number of applicants and help those agencies and organizations that need assistance through the process. The current process is summarized in the graphic on the CWNL website:



Currently, applicants are asked to submit a proposal inquiry (see Exhibit A, attached hereto) that requires basic information – the applicant’s info; the land’s location, address, TMK; landowner info and the landowner’s willingness to sell; the proposed acquisition structure (fee or conservation easement); current uses of the land; proposed future conservation uses consistent with the CWNL’s program’s purposes; the City’s proposed role (fee simple purchaser or conservation easement purchaser); the applicant’s proposed relationship to the site (applicant has to be a qualified organization that has a commitment to the conservation stewardship purposes); contact info and website of applicant.

After an applicant submits a proposal inquiry, the CWNL staff under DHLM review the proposal, conduct a site visit, and collect information regarding the proposal. If the staff deem a proposal qualified, then the staff submit the proposal to the seven member volunteer CWNL Advisory Commission (3 are appointed by the Mayor, 3 by the Council, 1 by selection of the Commission – each member must meet certain expertise qualifications – culture, biology, etc.). The Commission holds public hearings on the proposal and may make a recommendation to the Council for funding. The Council then takes up the recommendation of the Commission and approves or disapproves funding. CNWL staff then work with the applicant so that due

diligence (title, appraisal, review appraisal, Phase I environmental survey) is completed, legal agreements and real estate documentation are completed (deed or conservation easement is drafted containing appropriate program restrictions), and any other matching program (e.g., federal or state funding) requirements are merged and met.

CWNL staff designed the current process several years into the new Blangiardi administration when they noticed that prior processes and procedures under past administrations were not generating many applications (despite the clear need) and that CWNL funds were building up. CWNL staff interviewed potential applicants and agencies involved in land conservation. Previously, the program had been under the jurisdiction of the Department of Budget and Finance (B&F) which had developed a burdensome pre-qualification processes – requiring applicants to pay for appraisals (\$10,000 - \$20,000), environmental surveys (\$5,000-\$15,000), and other reports prior to submitting proposals to the CWNL Advisory Commission for consideration with no guarantee or indication that the City would grant funding to purchase the land. The applications were long, complex, and it was not unusual for applications to be 120 pages or longer. The burdensome requirements resulted in excluding or discouraging small, grass-roots community organizations and even agencies within the City itself from applying. Potential applicants like TPL and its community partners also expressed the concern that the complex “pre-qualification” process could be abused by different administrations – staff could hold back proposals from the consideration by the Commission for political or other reasons. Commission members were concerned that members of the public were submitting proposals that they never saw or heard about.

CWNL staff developed the current process in response to these concerns, listening to other agencies and non-profits involved in land conservation, with the goal to increase the number of proposals and provide assistance to those NGOs or agencies needing help. The streamlined process is relatively new and the Council should give the CWNL staff time to determine whether the new processes work and improve the number of applications and project completion timeline.

Specific Comments

Bill 13 proposes a more rigorous pre-qualification process than currently exists that are concerning and are not consistent with the land conservation funding programs that TPL has worked with throughout the nation. Some provisions of Bill 13 are processes that CWNL staff have adopted in accordance with the revamped process described above such as Sections 6-62(b)(1)(A)-(D). But rather than pass legislation codifying these procedures, TPL suggests that more time is needed to observe how those relatively new processes work and if they do, CWNL staff can promulgate administrative rules to make them more permanent.

Trust for Public Land has grave concerns about the following proposed provisions of Bill 13 and strongly opposes passage of Bill 13 because of them:

Section 6-62(b)(1)(E) requires CWNL staff to “independently assess whether land acquisition or a land conservation interest would be most appropriate.” Currently, applicants propose a project structure – for example, a Native Hawaiian non-profit and TPL may propose that the non-profit acquire certain lands for education and cultural stewardship with the City contributing funds and purchasing a conservation easement that restricts the land to education and cultural stewardship. TPL and its Native Hawaiian nonprofit partner could spend years building community support and building trust and agreement with the landowner, but under this proposed provision, CWNL staff could “independently assess” that the City should step in and try to change the project structure – by requiring that the land be sold to the City or proposing some other structure deemed more appropriate by staff. The landowner may not trust the City and may have wanted the land to be purchased by the Native Hawaiian non-profit because the landowner

trusted the non-profit and believed in its mission. The entire project may fail. Scenarios like this are very concerning – all of the publicly funded land conservation programs of which TPL is familiar with – federal, state, county (TPL works across the United States) review the proposals as they are and either recommend or do not recommend funding. Staff for these programs do not interfere with the applicants' project structure or unilaterally insert themselves into land deals. Indeed, doing so could expose the City to liability for interference with contract claims as the result of staff's actions.

Section 6-62(b)(1)(F) requires CWNL staff to determine “preliminary valuation and cost estimates for the land acquisition or conservation interest, as applicable.” It is unclear what this requires and may impose undue burdens that are passed onto applicants similar to B&F's past requirements for appraisal reports. The City's own real property tax assessed values are already provided to CWNL staff, and if recent sales or other recent appraisals have been completed in the same region, applicants provide that information to CWNL staff. However, even a restricted appraisal can cost \$5,000-\$15,000. If CWNL staff pass this burden onto applicant, the same problem will arise – non-profits and agencies will not want to spend money on land they do not own if there is no indication that funding to purchase and protect the land will be forthcoming. Requiring CWNL staff alone to provide the valuation estimate also is problematic – CWNL staff do not include appraisers or real estate valuation experts. CWNL may have to hire private contract appraisers to conduct restricted appraisals or valuation studies. This would waste funds because appraisals have a shelf life – they must be completed within a year of closing, so there would be duplication of appraisal costs as the transactions typically take 18 months or more to close. This would also divert money away from land protection and delay the processing of applications while CWNL staff hire and procure qualified appraisers at this initial application pre-qualification stage. TPL is not aware of any other land conservation program that requires its staff to “determine preliminary valuation and cost estimates” at this early stage – rather, the burden is put on applicants to provide the best information available at the time of the application. Later, if funding is granted, a full-blown appraisal report and appraisal review are completed, reviewed and approved by all project's funding program staff (more than one program may fund the purchase) and the attorneys for the various program agencies. But requiring staff to make this estimate on their own at this preliminary pre-qualification stage would be burdensome, deter applications, and slow down the process.

Section 6-62(b)(1)(G) requires CWNL staff to “[e]xplore other sources of funding.” **Subsection (i)** requires CWNL staff to, for land acquisition, explore other sources of funds to be used to toward the purchase price.” **Subsection (ii)** requires CWNL staff, for the purchase of the “land conservation interest” (i.e., a conservation easement), “based on a pre-determined valuation of the conservation interest, whether a trust or other entity that is acquiring the land has adequate sources of funding to purchase the land without offsetting any shortfall by increasing the cost of the conservation interest.” Typically, the applicant applies for and searches for other sources of matching funds – TPL is not aware of any land conservation program in the nation that requires that staff of a program to find sources of funding for the applicant.

Even more concerning is the possible interpretation that applicants must secure or prove adequate funding at this pre-qualification stage. In other words, ALL other funding would need to be secured before applying to CWNL. This would be disastrous – and put O'ahu projects at a competitive disadvantage for federal and State funding. CWNL funding recommendations are counted as positive factors (extra points) in the ranking rubrics of other federal and state and land conservation programs. If CWNL acts first, O'ahu projects will be ranked higher in State and federal programs. It would be extremely beneficial to O'ahu projects if the City were the first, rather than the last funds, committed to a project. In addition, the State and federal funding application cycles run on parallel or different timelines – if CWNL requires that it be the

last dollars in, then O'ahu projects will be at a competitive disadvantage for other funding, and the application pre-qualification process will delay projects.

Subsection (ii) is especially troubling. This provision seems to require CWNL staff to determine (1) the value of the conservation easement, and (2) that the applicant or future landowner has matching funding to equal the purchase price of the property – so that the City's purchase price for the value of the conservation easement is set in stone and does not vary from the pre-qualification stage. TPL is not aware of any land conservation program in the nation that requires its staff to make this type of determination. First, at the application phase, the conservation easement value is not known. To determine the value of a conservation easement, a conservation easement has to be drafted, negotiated, and approved by the conservation easement holder (the City) and the future landowner. The appraiser has to take into account the restrictions placed on the land – the “sticks” in the “bundle of sticks” that are being taken away – such as the right to seek changes zoning, the right to develop the land, etc. Conservation easements are not one size fits all – they are carefully crafted documents that fulfill certain purposes on specific parcels of land consistent with the CWNL charter – e.g., protecting cultural sites, conserving farm land, protecting forest/watershed/habitat. Conservation easements are often over 100 pages long, including exhibits and attachments, with the “meat” of a conservation easement, being over 30 pages. In order to make the determination required by this section, the CWNL staff and the future potential landowner would have to draft a specific conservation easement for land that the future potential landowner/applicant does not own and does not even know if they have a recommendation for funding. CWNL staff would need to engage corporation counsel. The applicant would need to engage a private attorney. Review and revision of conservation easements can take months if not years. In one project, an applicant provided a draft conservation easement to CWNL staff in March 2025, but only recently received comments back from CWNL staff and corporation counsel in January 2026 – 10 months later. Drafting a conservation easement to form the basis of conservation easement valuation at the pre—qualification stage would delay the process, requiring the City and applicant to expend funds on a project the Commission or Council may not even fund. **No other land conservation program in the nation requires a conservation easement to be drafted and the valuation set at this submission/pre-qualification stage because of tailored and specific nature of conservation easements.**

While we understand that providing a range of valuation for a conservation easement at the pre-qualification stage creates uncertainty, most programs follow a rule of thumb/range in the application stage, with the value/price of the conservation easement finalized after the award of funding, the completion of the drafting of a specific conservation easement, and an appraisal of the conservation easement once drafted. The general rule of thumb for the value of a conservation easement is 50-70% of fee value depending on how restrictive the conservation easement might be and whatever entitlements the land may have previously secured. Conservation easements are complicated, tailored documents that take substantial resources and time to draft, negotiate, finalize and appraise. This investment of resources in CE drafting and valuation is inappropriate at the pre-qualification stage and occurs after funds are approved in all other programs of which TPL is aware. Council resolutions may not identify a specified amount (which is what the Hawai'i Island County Council does with its PONC program), or can approve a certain amount of funding, or a range of funding subject to an approved appraisal.

Section 6-629(b)(1)(H) requires CWNL staff to conduct public record searches regarding the legal description of the property, tax status, legal ownership and title, easements and encumbrances, claims or liens against the land, litigation relating to the land or owners, land and plat maps, applicable state and city plans flood zone and sea level rise maps, and other relevant publicly available information. Landowners will usually provide all this information during a due diligence period once the property is under contract and applicants will pass along this information to CWNL staff. However, if the landowner is willing to sell but has

not entered into a contract with the applicant and is waiting to see if the applicant is able to raise the funds before putting the land under contract, preliminary title reports and these records may not be available at the pre-qualification stage. In the absence of a preliminary title report, substantial CWNL staff time would be needed to conduct these public records searches for every single proposal and delay pre-qualification and the applicants' attempt to raise funds to protect lands threatened with development or sale. Even if a preliminary title report is available – not everything on the report is accurate. During the due diligence period it is normal to sort through items listed on the report and request that the title company remove outright mistakes or resolve certain objectionable title issues to the satisfaction of the funders and future property owner – but this work does not happen until the land is under contract and the landowner is obligated to work with the applicants/buyers..

Section 6-62(b)(1)(I) requires CWNL staff to “[e]xplore and outline the general terms, covenants, and conditions included in the legal document memorializing the land acquisition or land conservation interest.” This section requires CWNL staff to draft the deed terms, covenants and conditions for a fee simple sale or the conservation easement. As discussed above, such a requirement is premature and overly burdensome both to staff and applicants. TPL is not aware of any other land conservation program in the nation that requires deed or conservation easement language to be prepared at the pre-qualification stage. This provision essentially requires a deed or conservation easement to be drafted before the proposal is even submitted to the Commission or Council for consideration – funding may not be granted and resources may be wasted on drafting deeds or conservation easements for land transactions that never occur.

Section 6-62(b)(2) requires CWNL staff to deem a proposal qualified subject to a number a conditions, some of which are vague and unclear. For example, **subsection (C)** requires that the preliminary due diligence not reveal any “significant issues, including legal issues, that would render the proposal inadvisable, or otherwise undesirable.” If there are issues, staff should present them to the Commission and later the Council, and the Commission or the Council can deny funding. Under this provision, CWNL staff could make a determination that a proposal is undesirable and refuse to qualify it for consideration by the Commission or the Council, usurping their roles. **Subsection (D)** conditions pre-qualifications on the staff's determination that the project “is aligned with broader community co-stewardship goals, and is in the best interests of Oahu residents.” Again, there is a risk that staff could usurp the Commission's and this Council's determinations of what is in the best interest of our residents. That is why public testimony is built into the Commission's process and the Council's. The people and our elected officials should have a voice in what the community's best interests are in the use of these public funds.

Section 6-62(c) requires the Director of DHLM to provide reports every six months to the Council “detailing the progress of the department's final due diligence efforts, and the status” of projects. In general, most state and local land conservation programs require only an annual report.

Again, we appreciate the Council's desire and intent to make the CWNL more workable and efficient, but have grave concerns regarding provisions in proposed Bill 13 that exist in no other land conservation funding program in the nation, are overly burdensome at the pre-qualification stage, and may have the opposite effect than intended, discouraging applicants from applying to the fund and delaying CWNL's ability to process applications and move projects to closing. Therefore, Trust for Public Land strongly opposes Bill 13 (2026).

Respectfully,

A handwritten signature in cursive script, appearing to read "Lea Hong".

Lea Hong
Associate Vice President
Hawai'i State Director
Edmund C. Olson Trust Fellow

Encl: Exhibit A (CWNL Inquiry Form)



EXHIBIT A

CWNL Inquiry Form

Submitting this form is the first step to initiating a land conservation proposal for consideration by the City and County of Honolulu Clean Water and Natural Lands (CWNL) program.

1. Site Name *

0/255

2. Address / Location

3. Moku

4. TMK

5. Current Landowner(s)

6. Are current landowners aware of this inquiry and willing to sell? *

A letter from the current landowner stating their willingness to sell the property or real estate interest within will be required as part of the final proposal.

[Submit](#)

CWNL Inquiry Form

**6. Are current landowners aware of this inquiry and willing to sell?** *

A letter from the current landowner stating their willingness to sell the property or real estate interest within will be required as part of the final proposal.

7. Name of Applicant ***8. Type of Applicant *****9. Proposed type of acquisition by the City****10. Amount Requested for the City's Acquisition**

If the applicant is seeking funding towards the City's acquisition of a conservation easement or other real property interest, the amount requested should reflect the value of the interest to be acquired (and not the fee simple value).

11. Present Use *

0 Submit

CWNL Inquiry Form

**11. Present Use ***

0/2000

12. Proposed Conservation Purpose(s) for the City's acquisition of the Site supported by evidence *

Select all that apply:

(A) Protection of significant watershed lands to preserve water quality and water supply.

(B) Preservation of significant forests, beaches, coastal areas, and agriculture lands.

(C) Public outdoor recreation and education, including access to beaches and mountains.

(D) Preservation of historic or culturally important land areas and sites.

(E) Protection of significant habitats or ecosystems, including buffer zones

(F) Conservation of land to significantly reduce erosion, floods, landslides, and runoff

(G) Acquisition of public access to public land and open space to yield a significant public benefit.

13. Proposed Role of the City

0/2000

Submit

14. Applicant's Proposed Relationship to the Site *

CWNL Inquiry Form



0/2000

14. Applicant's Proposed Relationship to the Site *

If Applicant proposes to be the Landowner, it must be a qualified organization that has a commitment to protect the conservation purposes and the stewardship resources.

0/2000

15. Any Deal Makers & Deal Breakers?

0/2000

16. Contact Name and Title ***17. Phone Number****18. Email *****19. Website or Link****20. Applicant(s) certifies that: ***

(A) Statements and information contained in this inquiry are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, a proposal may be

Submit

CWNL Inquiry Form

?

19. Website or Link**20. Applicant(s) certifies that: ***

(A) Statements and information contained in this inquiry are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, a proposal may be rejected. Content provided to the City serves as an important basis for review, approvals, and publicity;

(B) Applicant is aware of, and consents to, public disclosure of the inquiry in accordance with the State Uniform Information Practices Act, H.R.S. Chapter 92F; and

(C) Applicant acknowledges that by accepting the inquiry, the City makes no promises or guarantees of any recommendation to the CWNL Advisory Commission or City Council, and that the City may reject a proposal at any time, without liability, if it determines that such action is in the best interest of the City.

Name

Draw signature

Use signature

Submit



HAWAI'I LAND TRUST

Honolulu City Council

Date: Wednesday, January 28, 2026

Time: 10:00 am

Place: City Council Chamber

Re: **COMMENTS – Bill 13 (2026), Relating to Clean Water and Natural Lands Fund**

Aloha e Luna Ho'omalua Waters, Hope Luna Ho'omalua Tupola, a me nā Lālā o ka 'Aha o ke Kūlanakauhale a me ke Kalana o Honolulu:

We submit this testimony to offer **comments** on Bill 13.

First and foremost, we firmly believe that a strong, functional, and well-funded Clean Water and Natural Lands (CWNL) program is essential to enabling improved 'āina stewardship across O'ahu. We deeply appreciate the Council's continued leadership and its efforts to refine and improve the program to better serve our communities and our natural resources.

As one of the most frequent partners in the CWNL program, we remain committed to working alongside the Council and department staff to provide input on the practical benefits and potential challenges of this and any future proposed processes. Our goal is to ensure the program remains a viable and effective tool for land conservation.

Regarding the specific process proposed in Bill 13, we offer the following observations based on our experience with complex conservation transactions:

1. **Barriers in the Preliminary Due Diligence Step:** We acknowledge that it is helpful for the CWNL Commission and the City Council to receive proposals that are more fully explored. However, this must be balanced with the costs and time commitments associated with preliminary due diligence, which could be substantial for complex projects. It is difficult for non-profit partners and agencies to justify these upfront expenditures without some degree of certainty that closing funds will eventually be available.
2. **Impact on External Funding:** This uncertainty also impacts our ability to leverage outside funding. Convincing other funders to contribute to necessary due diligence and project costs is considerably more difficult when the possibility remains that the CWNL

Commission or City Council may not ultimately approve the project after these investments are made.

3. **Role of the CWNL Commission:** Under the current proposal, it appears that department staff are tasked with making significant assessments and decisions before a project ever reaches the Commission, including some that could go well beyond general eligibility requirements (e.g. §6-62(b)(2)(D)). We suggest the Council consider whether this level of "pre-vetting" is appropriate or if it might inadvertently circumvent the advisory role the Charter intended for the Commission.

We value the Council's intent to improve the CWNL program and look forward to further discussions to address these practical concerns.

Mahalo for the opportunity to provide these comments,

'Olu Campbell

President and Chief Executive Officer