CONSERVATION DISTRICT USE APPLICATION (CDUA)
Prepared and Submitted in Accordance with HAR Title 13 Chapter 5

Nāwiliwili-Ahukini Shared-Use Path

Līhuʻe District, County of Kauai

Līhuʻe, Kauai, Hawaiʻi

June 2023,
Revised January 2024

Prepared for:
County of Kauaʻi
Department of Public Works
444 Rice Street, Suite 275
Līhuʻe, Hawaiʻi 96766

Prepared by:
R. M. Towill Corporation
2024 South King Street, Suite 200
Honolulu, Hawaiʻi 96819-3494

Project No. 1-20987-00

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Exhibits:

CONSERVATION DISTRICT USE APPLICATION (CDUA)

All permit applications shall be prepared pursuant to HAR 13-5-31

File No.:

Acceptance Date: 180-Day Expiration Date:

Assigned Planner:

for DLNR Use

PROJECT NAME: Nāwiliwili-Ahukini Shared-Use Path

Conservation District Subzone: **Limited**

Identified Land Use: **P-6 Public Purpose Uses**
(Identified Land Uses are found in Hawai'i Administrative Rules (HAR) §13-5-22 through §13-5-25)

Project Mailing Address: County of Kaua'i, Department of Public Works
Division of Roads Maintenance and Construction
444 Rice Street, Suite 275
Līhu'e, Hawai'i 96766

The project site consists of a continuous 8- to 12-foot wide shared-use path within a 22-foot-wide public access right-of-way alignment along an approximately 19,350-lf segment of the shoreline between Ahukini Point and Ninini Point, of which approximately 8,430 lf is within the State Land Use (SLU) Conservation District. The project site will also include a new comfort station, parking stalls, and shared-use path connection at Ninini Point that is within the Conservation District.

Additional path segments are located outside of the Conservation District that connect Ahukini Point to Līhu'e International Airport, connect Ninini Point to Kūhiō Highway and provide public access through the Timbers Kaua'i Resort and Marriott Kaua'i Beach Resort properties.

See **Exhibit 1 – Project Location Map** to **Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan.**

Tax Map Key(s): (4) 3-5-001: 005, 006, 008*, 027, 092, 102*, 109, 128*, 160*, 158, 168 and (4) 3-7-002: 999 (* contains SLU Conservation District area)

Ahupua'a: Kalapakī and Hanamaulu

County: Kaua'i

Proposed Commencement Date: TBD Based on Permit Approval Date

Estimated Project Cost: $12,706,524 (see **Exhibit 4 – Preferred Alignments Cost Estimate**).

District: Līhu'e

Island: Kaua'i

Proposed Completion Date: TBD

TYPE OF PERMIT SOUGHT ■ **Board Permit** ☐ **Departmental Permit**

ATTACHMENTS

$ 2,500 Application Fee. 2.5% of project cost for Board Permits, but no less than $250, up to a maximum of $2500; $250 for Departmental Permits (*ref §13-5-32 through 34)*.

$_____ Public Hearing Fee *($250 plus publication costs; ref §13-5-40)*

- ☐ 20 copies of CDUA (*5 hard + 15 hard or digital copies)*
- ■ Draft / Final Environmental Assessment (EA) *or* Draft / Final Environmental Impact Statement (EIS) *or* Statement of Exemption (See Appendix A)
- ■ State Historic Preservation Division HRS 6E Submittal Form (dlnr.hawaii.gov/shpd/review-compliance/forms) (see Appendix A)
- ☐ Management Plan *or* Comprehensive Management Plan (*ref §13-5-39)* if required
- ■ Special Management Area Determination *(ref Hawai'i Revised Statutes 205A)*
- ■ Shoreline Certification (*ref §13-5-31(a)(8))* if land use is subject to coastal hazards.
- ☐ Kuleana documentation (*ref §13-5-31(f))* if applying for a non-conforming kuleana use.
- ☐ Boundary Determination *(ref §13-5-17)* if land use lies within 50 feet of a subzone boundary. (See **Evaluation Criteria, Item 2 on page 21**.)

REQUIRED SIGNATURES

Applicant

Name: County of Kaua'i, Dept. of Public Works, Div. Roads Maintenance & Construction
TMK (4) 3-5-001: 102* (In Conservation District)
Mailing Address: 444 Rice Street, Suite 275, Līhu‘e, Hawai‘i 96766

Contact Person & Title: Wade Lord, Program Administrative Officer
Phone: (808) 241-4906
Email: wlord@kauai.gov
Interest in Property: Fee Owner

Signature: Digitally signed by Wade L Lord Date: 2023.01.17 15:21:10 -10'00' **Date:** _____

Signed by an authorized officer if for a Corporation, Partnership, Agency or Organization

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Landowner (if different than the applicant):

Owner Name: State of Hawai‘i, Department of Transportation, Airports Division
TMK (4) 3-5-001: 005, 008*, 009, 092, 109, 128*, 158, 160* and (4) 3-7-002: 999 (* in Conservation District)
Mailing Address: 400 Rodgers Boulevard Suite 700, Honolulu, Hawaii 96819

Contact Person & Title:
Phone:
Email:

Signature: See following page **Date:** _____

For State and public lands, the State of Hawai`i or government entity with management control over the parcel shall sign as landowner.

Agent or Consultant

Agency: R. M. Towill Corporation
Contact Person & Title: Jim Niermann, Planning Project Coordinator
Mailing Address: 2024 North King Street, Suite 200, Honolulu, Hawai‘i 96819

Phone: (808) 842-1133 (office) (808) 381-5445 (mobile)
Email: JimN@rmtowill.com

Signature: See following page **Date:** _____

For DLNR Managed Lands

State of Hawai`i
Chairperson, Board of Land and Natural Resources
State of Hawai‘i
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai‘i 96809-0621

Signature: N/A **Date:** _____

REQUIRED SIGNATURES

Applicant

Name: County of Kaua'i, Dept. of Public Works, Div. Roads Maintenance & Construction
TMK (4) 3-5-001: 102* (In Conservation District)
Mailing Address: 444 Rice Street, Suite 275, Līhu'e, Hawai'i 96766

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TMK (4) 3-5-001: 005, 008*, 009, 092, 109, 128*, 158, 160* and (4) 3-7-002: 999 (* in Conservation District)
Mailing Address: 400 Rodgers Boulevard Suite 700, Honolulu, Hawaii 96819

Contact Person & Title: Craig Davis, Kauai District Airport Manager
Phone: 808-274-3805
Email: craig.h.davis@hawaii.gov

Signature: Craig H. Davis **Date:** 1/31/2023

For State and public lands, the State of Hawai`i or government entity with management control over the parcel shall sign as landowner.

Agent or Consultant

Agency: R. M. Towill Corporation
Contact Person & Title: Jim Niermann, Planning Project Coordinator
Mailing Address: 2024 North King Street, Suite 200, Honolulu, Hawai'i 96819

Phone: (808) 842-1133 (office) (808) 381-5445 (mobile)
Email: JimN@rmtowill.com

Signature: _____ **Date:** 5/10/2023

For DLNR Managed Lands

State of Hawai`i
Chairperson, Board of Land and Natural Resources
State of Hawai'i
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai'i 96809-0621

Signature: N/A **Date:** _____

PROPOSED USE

Total size/area of proposed use (indicate in acres or sq. ft.):

The total project area within the Conservation District is approximately **201,300 sf** or **4.6 acres**. It comprises portions of Project Segment A improvements, which includes segments of the shared-use path, a new comfort station, parking lot, and appurtenant improvements. The total area of Segment A, including project areas within and outside of the Conservation District is 425,700 sf or 9.77 acres (19,350-lf x 22-ft right-of-way width). Breakdown of the project area within the Conservation District is as follows: (See **Exhibits 1 through 3** and *Project Description* below.)

- **Path Segments:** The total area of the proposed path improvements within the SLU Conservation District, based on the preliminary design, is approximately **185,460 sf** (8,430 lf x 22-ft right-of-way width) or **4.26** acres. Path Segment A involves construction of a new 10- to 12-ft wide concrete path with drainage crossings. Portions of the Segment A path within the Conservation District include:
    - Approximately 13,200 sf or 0.3 acres (600 lf x 22-ft right-of-way width) is located at the north end of the project corridor near Ahukini Landing.
    - Approximately 164,560 sf or 3.78 acres (7,480-lf x 22-ft right-of-way width) is located along the south half of the project corridor near Ninini Point.
    - Approximately 7,700 sf or 0.18 acres (350-lf x 22-ft right-of-way width) is located at Ninini Point to provide access to a future comfort station at Ninini Point.
- **Comfort Station and Parking Lot:** The total area of the comfort station, parking stalls, and walkway at Ninini Point within the Conservation District is approximately **16,000 sf** or **0.37 acres**. The comfort station will be roughly 625 sf, located at the former lighthouse keeper's residence. The parking lot consisting of 10 stalls, including at least one Americans with Disabilities Act of 1990 (ADA) parking stall, will be roughly 3,600 sf. A 20-ft wide by approximately 350-ft long driveway will connect the existing airport perimeter road to the new parking lot and will add approximately 7,000 sf. An 8- to 12-ft wide walking path system will connect the parking lot, comfort station and interpretive features/signage and will add an estimated 4,800 sf.

Please provide a detailed description of the proposed land use(s) in its entirety. Information should describe what the proposed use is; the need and purpose for the proposed use; the size of the proposed use (provide dimensions and quantities of materials); and how the work for the proposed use will be done (methodology). If there are multiple components to a project, please answer the above for each component. Also include information regarding secondary improvements including, but not limited to, grading and grubbing, placement of accessory equipment, installation of utilities, roads, driveways, fences, landscaping, etc.

Attach any and all associated plans such as a location map, site plan, floor plan, elevations, and landscaping plans drawn to scale (*ref §13-5-31)*.

Project Description

The County of Kauaʻi (COK), Department of Public Works (DPW) plans to develop a coastal, shared-use path in Lihue District on the island of Kauai to connect Ahukini Landing, Ninini Point, Līhuʻe International Airport, Timbers Kauaʻi Resort and Līhuʻe Town to the Ka Ala Hele Makālae Coastal Path System. A future path section is also proposed between Nāwiliwili Park and Niumalu Park. The project is a key section of *Ke Ala Hele Makālae*, the 16-mile Nāwiliwili to Anahola Shared-Use Path proposed in the 1994 State of Hawaii Master Plan – Bike Plan Hawaii, and in the 2003 Bike Plan Hawaii update. The project is being undertaken in phases: A, B1, B2, B3 and B4.

The proposed action that is the subject of this application is Phase A of the Nāwiliwili-Ahukini Shared-Use Path Project and consists of the following path segments (identified by capital letters A, B, C, D, G and H):

Preliminary Coastal Path Alignment

Segment A – Ahukini Landing to Ninini Point Lighthouse to Ninini Point Street. The total length of this segment is approximately 19,350 lf, of which approximately 8,430 lf is located within the Conservation District. This segment will be constructed as a 10- to 12-foot-wide concrete path within a 22-foot-wide public access easement. Segment A details include:

i. Grading and excavation required for construction of the path and related amenities will be designed to minimize the amount of cut and fill required. The path alignment was selected to take advantage of natural grades to meet ADA accessibility standards for slopes with a minimal amount of ground disturbance and related costs.
ii. All project improvements shall be constructed more than 60 feet from the certified shoreline. All proposed path segments within the 100-foot shoreline setback will be constructed of concrete with saw-cuts at 3-foot intervals, in compliance with the COK requirements.
iii. The concrete path will be pigmented to match the color of the native soil and be compatible with the appearance of the natural setting.
iv. A 3-foot-wide vegetated shoulder will be created on each side of the path. Ground cover will use drought tolerant native or indigenous plant species that are common to the local area. If site conditions do not support the establishment and growth of native or indigenous plant species, other non-invasive species may be substituted to ensure soil stability and erosion protection.
v. Separation between the path and road will be provided as necessary by means of bollards constructed of boulders, timber, or concrete, or other physical barrier to prevent motor vehicle access on the concrete path. Bollards and/or barriers will be designed and installed to be secure against dislodging by vehicle winch and to have minimal visual impact in the landscape. Public motor vehicle access on the existing dirt road will remain a permitted use. See **Figure 1 – Path Cross Section**.

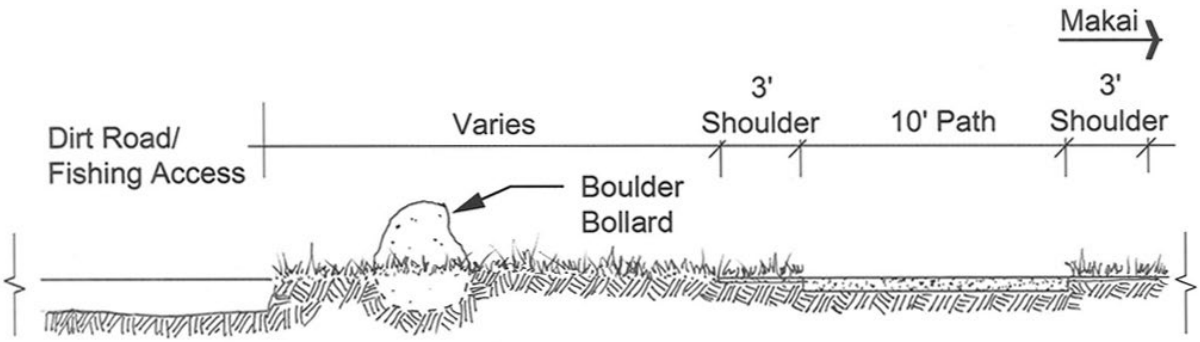

Figure 1 – Path Cross Section

vi. Access across the concrete path will be provided at select locations to allow motor vehicle access to fishing spots on the shoreline. Bollards will be installed at crossings to prevent motor vehicle access onto the concrete path. Fishing sites that will be accessible to motor vehicles are identified in **Exhibit 5 – Site Photos**. All other fishing sites along the coast will remain accessible on foot.

vii. The path will cross four drainageways. The drainageways are identified from north to south as Drainage Crossing #1 through #4 (numbered DC# 1 through DC#4 on **Exhibit 2**):

a. Drainageway crossings #1 and #2 are located outside of the Conservation District and make use of the existing graded dirt access road and culverts. At these locations, the existing drainage culverts may be retained as-is or modified and/or widened as necessary to accommodate the path and/or joint use of the existing crossing with the existing dirt road, to be determined during design.

b. Drainageway crossing #3 is located outside of the Conservation District (see **Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan**, **Exhibit 8 – General Site Plan,** and **9 - New Bridge Drainage Crossing**). At this location, a pre-fabricated bridge span, approximately 140 feet in length, will be installed across the unimproved drainage way. The pre-fabricated bridge will require excavation and the construction of concrete abutments to support the placement of the pre-fabricated bridge span. The bridge will provide 8 to 12 feet of clear travel width. Safety railings shall be a minimum of 42 inches in height with vertical rail component spacings a maximum of 6 inches in width. The aesthetic appearance of the bridge will be determined during the design phase and will be similar in appearance to other pre-fabricated bridges used elsewhere by the COK. Excavated and disturbed areas will be stabilized with vegetative ground cover. The bridge and abutments at this drainage crossing will be outside of the Conservation District. t

c. Drainage crossing #4 is located adjacent to the Conservation District (see **Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan**, **Exhibit 8 – General Site Plan,** and **9 - New Bridge Drainage**

Crossing). At this location, the existing drainage culvert will be widened on the mauka side, outside of the Conservation District to accommodate shifting the existing dirt road mauka and constructing an 8- to 12-foot-wide path segment within the makai side of the existing dirt road corridor and outside of the 60-foot shoreline setback line. The widening will require grading, fill and construction of either (i) a sloped embankment or (ii) a new retaining wall approximately 100 feet in length and 5 to 8 feet in height along the mauka side of the existing road to support the path and road corridor widening. In addition, improvements will include installation of a minimum 42-inch-high safety railing, and extension of the existing box culvert inlet to the face of the new embankment or retaining wall. Fill material will be placed to create the embankment or will be placed behind the new retaining wall to create a widened surface to support realignment of the existing dirt road and construction of the proposed shared-use path. Excavated and disturbed areas will be stabilized with ground cover vegetation. All modifications to the drainageway crossing and new path improvements at this drainage crossing will not encroach makai of the existing dirt road. See **Exhibit 9**.

viii. Protective fencing will be installed along the path segment between Ninini Point and Timbers Resorts Hōkūala Golf Course Hole 13 and/or around Wedge-tail Shearwater nesting areas. Fencing will be designed to prevent dogs from entering protected areas. Fence materials and construction will be selected for durability in the harsh coastal environment. An inspection / maintenance program will be prepared by the COK to ensure that the fence remains intact and in good condition and that necessary repairs are made in a timely fashion. Approximately 3,000 lf of the fence will be installed. All of the fencing will be located outside of the Conservation District.

ix. A comfort station will be constructed at Ninini Point Lighthouse with men's and women's lavatories, drinking fountain, and lighting. The proposed comfort station, parking stalls and driveway connection is located within the SLU Conservation District. Comfort station program details include:

   d. Locate the comfort station at the site of the former lighthouse caretaker's residence to take advantage of a previously disturbed building site.
   e. Base the building design on native architectural forms or natural land forms.
   f. Use natural materials and colors for exterior surfaces to minimize visual impacts. Avoid use of bright or reflective colors.
   g. Keep exterior lighting to a minimum required for safety and security. Lighting will use low-intensity sources that emit long wavelength light (e.g., yellow or amber globes). Light sources will be shielded or angled downward to eliminate glare that would disturb or disorient animals.
   h. Use an individual wastewater system or composting toilet for wastewater disposal. Electrical power will be supplied by existing overhead utility lines or photovoltaic cells. A water line will be installed with connection to a water service main on Ninini Point Street.

x. A parking lot with a 20-ft wide, 350-lf driveway connection to the existing graded airport perimeter road will be developed at the Ninini Point Lighthouse with space for 10 automobiles, including one ADA stall. The parking lot and driveway connection will be constructed with asphalt pavement or compacted gravel, to be determined during design. These improvements will be located within the SLU Conservation District.

xi. An approximately 350-lf segment of 12-ft wide, concrete shared-used path with vegetated shoulders will connect the main Segment A path alignment to the comfort station, as described above.

xii. Approximately 400-lf additional walking paths, 8 to 12 feet wide, may be constructed to connect the parking area to the comfort station and interpretive signage and viewpoints. The walking path system may be constructed of concrete or compacted, crushed rock or a combination. The path alignment and design will be determined as part of the interpretive programming during the design phase.

xiii. Interpretive signage will be installed at Ninini Point, within the Conservation District, describing:

a. The history of Nāwiliwili Harbor and historic and cultural resources in the vicinity: Hawaiian settlement patterns, Ninini Heiau and Kuhiau Heiau, and development of Līhu'e Airport.
b. The natural history of the area, including surrounding landmarks and natural features (e.g., Ha'upu, Nāwiliwili, and Kalapakï), unique flora and fauna and marine animals, and protected bird species known from the area, (e.g., nesting colonies of Wedge-tail Shearwater and Nēnē).
c. Identify views and points of interest.

xiv. Within the Conservation District, signage will be provided as necessary to inform path users about safety, orientation, conservation efforts, user's responsibilities, regulatory restrictions, and other relevant information.

xv. Gates will be installed outside of the Conservation District at the path entrance at Ahukini Landing and on the airport perimeter road (Ninini Point Street) to facilitate closure of the coastal area in the event of an airport incident or security operation. Signs at the gate will inform the public of access restrictions related to airport operations and security.

xvi. Utility pull-boxes that serve airport facilities and that are located near the shared-use path will be modified so that they can be locked against vandalism and theft.

xvii. No picnic pavilions, picnic tables, or bike racks will be installed along the path corridor between Ahukini Landing and Ninini Point, except for proposed improvements at Ninini Point.

<u>Shared-use Road Segments:</u>

- Segment C – Ninini Point Street from Segment A Connection to Kapule Highway. This segment is located outside of the Conservation District.
- Segment D – Kapule Highway / Ninini Point Street Intersection to Ho'olaule'a Way. This segment is located outside of the Conservation District and will be constructed by the landowner.
- Segment G – Ahukini Point to Lihue Airport is located outside of the Conservation District.

- Segment H – Lihue Airport to Kapule Highway. This segment is located outside of the Conservation District. Improvements include striping, stenciling, signage and installation of bike storage lockers.

For the shared-use road segments, improvements will consist of striping and/or stenciling the existing paved roadways and the installation of "shared-use" road signage.

Summary of Phase A improvements in the SLU Conservation District

Phase A improvements located within the Conservation District and included in this permit include:

- Path Segment A – approximately 8,080-lf and the 350-lf path segment that connects the path to the proposed comfort station near the Ninini Point Lighthouse
- The approximately 16,025 sf of improvements at Ninini Point including the comfort station, 10 parking stalls, 12-ft wide walkway and interpretive kiosks/signage.

Summary of Phase A path segments outside of the Conservation District

- Segment A – approximately 11,000-lf portion connecting to Ninini Point Road and from Ninini Point to Ahukini Road and Landing
- Segment B – An approximately 5,600-lf segment that is being constructed entirely by private owner (currently owned by Tower Kauai Lagoons Land LLC). Note that portions of this path segment provide access to shoreline areas within the Conservation District.
- Segment C – approximately 10,200-lf portion of Ninini Point Road between Kapule Highway and Segment A
- Segment D – An approximately 2,000-lf portion to be constructed by Tower Kauai Lagoons Land LLC
- Segment G – approximately 6,200-lf portion on Ahukini Road and connection to the airport
- Segment H – approximately 2,000-lf of combined segments at the airport

See **Exhibit 2 – State Land Use District Boundaries Map and General Site Plan** and **Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan.**

Future project phases not included in this application

The DPW plans to undertake additional phases of the Nāwiliwili-Ahukini Shared-Use Path system in the future as circumstances allow. *These segments are described for general information and context; they are not included in this permit application*. The future phases include the following:

Phase B1 – Ninini Point Road / Kapule Highway Intersection to Nāwiliwili Railroad Bridge, consisting of the following path segments:

- Segment E – Kaua'i Marriott to Nāwiliwili Railroad Bridge and Beach Park.

Phase B2 – Nāwiliwili Railroad Bridge and Nāwiliwili Beach Park Improvements;

- Segment F – Nāwiliwili Beach Park Improvements

Phase B3 – Nāwiliwili Beach Park to Nāwiliwili Small Boat Harbor and Niumalu Park;

- Segment O – Nāwiliwili Beach Park to Niumalu Beach Park (Rice Street to Wilcox Road / Kānoa Street / Waʻapā Road / Niumalu Road)
- Segment P – Niumalu Road to Nāwiliwili Small Boat Harbor

Phase B4 – Secondary Segments through Lihue Town.

- Segment I – Ahukini Road – Kāpule Highway to ʻUmi Street
- Segment J – Kāpule Highway – Ahukini Road to Rice Street
- Segment K – Molokoa Public Facility Center and Vidinha Stadium Complex
- Segment L – Līhuʻe Civic Center Connections
- Segment M – Rice Street

Project Rationale

The project will benefit residents and visitors by preserving coastal access, creating a new safe recreational resource and supporting alternative modes of transportation to connect key community centers, including residential neighborhoods, commercial centers, parks, and the airport.

The existing road system that connects Nāwiliwili Bay, Līhuʻe, and the towns along the windward coast of Kauaʻi provides scant accommodation for non-motorized modes of transportation. Until the development of *Ke Ala Hele Makālae* was initiated, there had been no dedicated system of paths or lanes for pedestrians and bicyclists to travel between employment centers, parks, and the towns and major civic facilities in the region. Within the subject project corridor, existing pedestrian sidewalks, bike lanes, and paths remain disconnected and ancillary to the motorized vehicle roadways. As a result, there is little to encourage residents and visitors to use non-motorized vehicles as a viable means of transportation. Only the most intrepid bicyclists travel the narrow shoulders along Kapule and Kūhiō Highway. The project corridor along the coast is currently open for enjoyment by the public. The segment between Ahukini Landing and Ninini Point in particular provides a wild, open-space coastal experience, relatively untouched by development, located minutes from downtown Līhuʻe. However, the existing dirt access road and informal trails to the shoreline are unimproved and difficult to navigate. Access to this resource is prohibitively difficult for many members of the public.

The purpose of the project is to support transportation alternatives to the automobile, to provide non-motorized path facilities for pedestrians and cyclists for recreation and fitness, and to preserve coastal areas and access. In addition, the project is being developed to enhance the quality of life for Kauaʻi's residents by providing a safe and enjoyable place for families, friends, and individuals to play, socialize, and experience the beauty of the coastal open spaces. The project seeks to address access availability to a variety of users of different ages and physical condition. Finally, implementation of the Nāwiliwili – Ahukini Shared-Use Path Project will help fulfill the State Department of Transportations' Bike Plan Hawaiʻi, which identifies the need for transportation improvements that support non-motorized modes of travel.

EXISTING CONDITIONS

Please describe the following, and attach maps, site plans, topo maps, colored photos, and biological or archaeological surveys as appropriate:

Existing access to site:
The project site is located in Līhuʻe, Kauaʻi, on lands identified by Tax Map Key (TMK) (4) 3-5-001: 005, 006, 008*, 27, 102*, 109, 128*, 160, 168 & (4) 3-7-002: 999 (* within the SLU Conservation District). Access to the project site is available from Kapule Highway, Līhuʻe Town and the Līhuʻe International Airport via multiple roads/paths:

- Ahukini Road provides access to the north end of the project corridor and Path Segment A at Ahukini Landing, as well as serving as a shared-road segment (Segment G);
- Ninini Point Street provides access to the south end of Path Segment A at Ninini Point, and to Path Segments B and D (to be developed by others), as well as serving as a shared-road segment (Segment C);
- Airport Perimeter Road, a graded, gravel road, provides access from Ninini Point Street to Ninini Point;
- Kapule Highway and Kaʻana Street provide access to Path Segment H at Līhuʻe International Airport.

Fishing areas along the shoreline of Path Segment A will continue to be accessible via the existing public access dirt road within an existing 20-ft wide easement. Coastal access will be maintained for fishermen and other recreational users via protected vehicle crossings over the shared-use path. See **Exhibit 1 – Project Location Map.**

Existing buildings/structures:
Existing structures located at the project site within the Conservation District include a drainage culvert with headwall, labeled as Drainage Crossing #4, and the historic Ninini Point lighthouse. Other existing structures within the Conservation District include various pre- and post-contact historic sites. See **Exhibit 8 - General Site Plan**, and **Exhibit 10 – State Historic Sites Figure and No Adverse Effect Table.**

The proposed path alignment passes through coastal areas between Ahukini Point and Ninini Point that have been used intermittently by houseless persons for unpermitted encampments, including construction of makeshift shelters. Within the Conservation District, these uses are located primarily on parcels 3-5-001: 008 (under the authority of Hawaiʻi DOT-Airports), and 105 (owned by the COK). The encampments in these areas are in violation of the State Land Use law.

<u>Impacts and Mitigation:</u>
The presence of the homeless encampment adversely impacts the coastal environment through the accumulation of materials, debris, trash and untreated human waste. Occupation of the area, including continuous human presence, the construction of unsafe and permitted shelters, the use of open fires and stoves for cooking, as well as traffic to and from the area, result in modifications to the landscape, impacts to plants, soil exposure and unsanitary conditions. Managing the homeless and preventing their occupation in sensitive coastal areas is a challenge for the COK and other landowners due the transient behavior of houseless individuals, their tendency to camp in areas that have low visibility and are difficult to access and patrol, and the limited resources available to public agencies to monitor and intercede in the movements of the houseless population. The COK recognizes the impacts created by

the presence of the encampment and is initiating action to relocate the houseless persons camped there, remove the accumulated waste and debris, and begin site restoration concurrently with the commencement of construction activities.

The relocation process will involve coordinated efforts by various County and State agencies and non-governmental organizations (NGOs) that focus on homeless issues. The COK, being the local governing body, will take the lead in planning and executing the relocation process on land under their authority in collaboration with other relevant entities, including DOT-Airports. The COK Housing Agency, Police Department, DPW Solid Waste Division, and Planning Department will be involved. The Department of Parks and Recreation, as the COK department that will oversee operations and maintenance of the path when it is complete, will also be involved. The COK will also request support from the Hawai‘i Department of Human Services (DHS) as necessary.

The clearing, relocation and restoration process foremost aims to preserve the ecological integrity of the areas within the Conservation District, while also addressing the needs of the homeless population who have sheltered there.

The first step will involve notifying the homeless that they are camped illegally and must leave the area. The DPW Solid Waste Division will oversee disposal of accumulated materials and trash generated by use of the site for camping. Homeless individuals in the area have been collecting debris washed up on the shoreline, including fishing nets, floats, and other marine flotsam. This debris will also need to be removed from the shoreline environment. The Kaua‘i Police Department will participate to ensure public safety throughout the process.

Following the initial notification and clearing of trash and materials within the Conservation District, if homeless individuals remain in the area, the COK Housing Agency and DHS will follow up with an assessment of the homeless population in those areas, to identify their numbers, needs, demographics and any barriers to relocation. This work would involve social workers and outreach teams to engage with the individuals to understand their circumstances. The DHS would be asked to assist in providing outreach services, such as case management and mental health support, to assist the homeless population in accessing housing and necessary resources. The County Housing Agency will work to identify suitable alternative housing options and assist with relocation.

The planned timing of clearing, relocation and restoration activities is based on two practical considerations. First, it will take time to coordinate with appropriate County and State agencies to undertake the clearing work and, if homeless individuals require relocation, to ensure that the relocation effort is undertaken diligently and humanely, alternate shelters are ready to receive the individuals so that the needs of the houseless population are met and their displacement does not simply transfer the impacts of an itinerant houseless population to another location. Second, the project location is relatively remote and overgrown. If the current homeless encampment is cleared without taking steps to remove vegetation and enhance public access, the area will remain secluded and concealed. This could lead to a persistent return of the homeless population to the location. Undertaking the relocation, clearing and clean-up work as part of the construction mobilization will allow sufficient time to prepare, improve efficiency and have longer-lasting effects. Development of the proposed shared-use path, including the segments proposed through the SLU Conservation District, is intended to help the COK manage the area and prevent its use by the homeless and others

for illegal activities and uses that are non-conforming with the State and County land use laws and regulations.

The DPW will coordinate the clearing and restoration work with the commencement of project activities. The first phase of project work will include clearing vegetation by means of hydro-axing, followed by surveying the path alignment for use in preparing engineering design drawings. This phase of work will include clearing and restoring areas within the project limits that are used by the homeless encampment. Due to FHWA funding restrictions, the project budget cannot be used for work activities outside of the defined project area. Therefore, if the homeless camps extend outside of the project area within the Conservation District, the COK will have to use other, non-project-related resources to undertake clearing, relocation and restoration work in those areas. As a result, COK might have to undertake the relocation and restoration work in separate phases.

Specific restoration activities will include:

1. Remove and properly dispose of all objects, debris, abandoned vehicles, and human waste following relocation of individuals occupying the shoreline area within the Conservation District.
2. Remove and properly dispose of all dead and diseased woody species of plants in the encampment area and cleared plant material from the path alignment.
3. Stabilize all soils disturbed by the illegal encampment by planting native species of ground cover and shrub plants. Appropriate native plants found along the coastline include:
    a. shrubs: beach naupaka (*Scaevola sericea*), and
    b. ground cover: ʻilima (*Sida f*allax), Paʻuohiʻiaka (*Jacquemontia ovalifolia*), and akulikuli (*Sesuvium portulacastrum*).

Long-term landscaping associated with project improvements includes the use of drought tolerant, native or indigenous plant species that are common to the local area for erosion control along the path shoulders and in areas disturbed by construction activities. If site conditions do not support the establishment and growth of native or indigenous plant species, other non-invasive species may be substituted to ensure soil stability and erosion protection. The general landscape plan for a typical path segment is illustrated in **Exhibit 17 – Landscape Plan**.

The County Administration is directing the appropriate COK departments to begin coordination of the relocation plan. The COK anticipates beginning the relocation and restoration work by the second quarter of 2024. We wish to note that the applicant, COK DPW, is responsible for managing public works projects, such as the shared-use path, and does not have the expertise or resources to oversee relocation of the houseless encampment. As the lead agency for the path project, DPW will take a subordinate role in the relocation effort focused on coordinating the contractor mobilization for waste and debris removal and site clearing after the houseless population in the project area has been relocated.

Development of the proposed shared-use path, including the segments proposed through the SLU Conservation District, will help the COK to manage the area and prevent its use by the homeless and others for illegal activities and uses that are non-conforming with the State and County land use laws and regulations.

Existing utilities (electrical, communication, gas, drainage, water & wastewater):
There are no existing utilities along the Path Segment A corridor or within the SLU Conservation District Areas, except for a single overhead powerline that extends along the airport perimeter road and to the Ninini Point lighthouse. This power line is being contemplated for use to provide electric service to the proposed comfort station.

Physiography (geology, topography, & soils):
The majority of the project is located on a plateau area makai of the Līhu'e International Airport within the ahupua'a of Kalapakī and Hanamaulu. The plateau area slopes gently downward west to east towards the ocean at an average 8 percent slope. The coastline from Ahukini to Ninini consists of cliffs that drop 20 to 30 feet to a cobble shoreline in most areas. The proposed path alignment undulates across the sloping plateau following existing grades as much as practicable.

Impacts and Mitigation:
No significant impacts to soils or topography are expected to result from this project. Grading and excavations required for construction of the path and related amenities will be designed to minimize the amount of cut and fill required. The path alignment was selected to take advantage of natural grades in order to meet ADA accessibility standards for slopes with a minimal amount of ground disturbance and related costs. Erosion control measures will be employed during construction. Following project completion, permanent soil stabilization will be achieved through landscaping with various plant materials and ground covers.

Hydrology (surface water, groundwater, coastal waters, & wetlands):
The marine waters adjacent to the Ahukini to Nāwiliwili portion of the path are classified as Class A waters by the DOH, HAR, Chapter 54, Water Quality Standards. Class A waters are protected for recreational purposes and aesthetic enjoyment. According to the USFWS, segment A and G are located adjacent to Estuarine and Marine Wetland habitat, classified as a M2RSN, and Riverine habitat, classified as a R4SBCx. Segment A is also located near Kauai Lagoons which is a lake habitat, classified as a L1UBHh and Mokihana Freshwater Pond which is classified as a PUBHx. See **Exhibit 11 – Wetland Map.**

Path Segment A crosses four drainage ways between Ahukini Landing and Ninini Point. See **Exhibit 2 – State Land Use District Boundaries and General Site Plan,** and **Exhibit 8 – General Site Plan.** The U. S. Army Corps of Engineers (USACE) determined that these drainageways only drain the Līhu'e Airport uplands and only carry low-duration flow during high rainfall events and therefore are not under USACE jurisdiction. Their conclusion is further supported by the lack of an ordinary high-water mark (OHWM) and overgrowth of the drainage ways by weedy plant species. See **Exhibit 16 – HRS 343 EA with Appendices, Appendix B**.

Impacts and Mitigation:
The shared-use path segments that are the subject of this application do not encroach on any of the wetland areas and do not involve discharges into or crossings of state waters under USACE jurisdiction. The shared-use path will be routed away from any wetland resources within a public access right-of-way. Three existing culverts and one new bridge span will be used to cross the flow lines of the four existing drainage ways that drain the Līhu'e Airport uplands. Small drain pipes will be installed as

needed to convey flows from smaller existing drainage channels across the pathway. The path will be aligned and designed to preserve existing drainage patterns as much as possible.

No significant impacts to surface waters are expected to result from the project. Construction activities will be conducted in compliance with Hawai'i Administrative Rules (HAR) 11-54 Water Quality Standards; HAR 11-55, Water Pollution Control; COK grading and erosion control standards; and other standards as prescribed by law. A National Pollutant Discharge Elimination Systems (NPDES) permit will be obtained for the project and best management practices (BMPs) will be employed to prevent soil loss and sediment and pollutant discharges from work sites. BMPs will include structural (e.g., silt fences, berms, barriers, filter fabric), vegetative (e.g., grass, mulch, ground cover, soil stabilization), and management measures (e.g., project scheduling and phasing, material storage and equipment maintenance procedures, BMP monitoring), as necessary.

The path project will include drainage control measures to minimize impacts to nearshore waters from runoff discharges. Proposed design features include:

- The path will be designed to follow natural contours as much as possible, and thereby preserve existing drainage patterns as much as possible, and will not exceed maximum slope standards established by AASHTO for shared-use paths, which allows maximum running slopes of 5%.

- Path surfaces will have a cross-slope to encourage sheet-flow of runoff water and prevent concentrated drainage runoff from the path. Shoulders adjacent to the path will be vegetated to further slow runoff, capture sediments and promote drainage infiltration.

- Drought tolerant native or indigenous plant species that are common to the local area will be specified for landscaping used in erosion control measures. If site conditions do not support the establishment and growth of native or indigenous plant species, other non-invasive species may be substituted to ensure soil stability and erosion protection.

Flora & Fauna (indicate if rare or endangered plants and/or animals are present):
Flora and fauna described below were identified through field surveys of the entire project area, including adjacent areas outside of the SLU Conservation District, and through consultation with the U.S. Fish & Wildlife Service (USFWS), NMFS, DOFAW, and Division of Aquatic Resources (DAR). The project scope and proposed location of the path alignment and related improvements have not changed since the biological surveys were conducted. The list below of federal- and state-protected species that are known to occur or may occur within the project corridor is current. It is expected that the flora and fauna described below remain present within the project corridor and surrounding areas. The proposed project will follow the mitigations measures developed in cooperation with state and federal resource agencies through the ESA Section 7 consultation process. See **Exhibit 16 - 343 HRS EA and Appendices.**

Fauna

Birds

Field surveys identified four listed species of endangered or protected birds in the project area. The four listed species were the Hawaiian Goose, or Nēnē (*Branta sandvicensis*), Hawaiian Duck, or Koloa

(*Anas wyvilliana*), the Hawaiian endemic sub-species of the Common Moorhen, or ʻAlae ʻula (*Gallinula chloropus sandvicensis*), and the Hawaiian Coot, or ʻAlae keʻokeʻo (*Fulica alai*). All four species were seen in and around the Timbers Resorts (formerly Kauaʻi Resorts) property, located immediately to the west of the Līhuʻe Airport main runway.

A population of Nēnē (*Branta sandvicensis*) geese has been identified to the west of Līhuʻe Airport, on property belonging to the Department of Transportation. Nēnē are known to inhabit scrubland, grassland, golf courses, and open lowland country. Their breeding season is from November to April. Nēnē conceal their nests under bushes and prefer to nest in the same area. Nēnē goslings are flightless for about 11 to 14 weeks after hatching. These characteristics render them vulnerable to dogs and feral cats. Family groups remain in the breeding ground about a month after goslings can fly, at which time they roam surrounding areas searching for food. The USFWS and the State of Hawaii Department of Land and Natural Resource (DLNR), Division of Forestry and Wildlife (DOFAW) monitor, and when necessary, translocate portions of this Nēnē flock due to concerns over the potential Bird Air Strike Hazards posed by the geese to aircraft using the Līhuʻe Airport.

A number of other resident native avian species including both resident and migratory species were recorded. These native and indigenous species include the Hawaiian endemic sub-species of the Short-eared Owl, or Pueo (*Asio flammeus sandwichensis*), and the resident, Black-crowned Night-Heron, ʻAukuʻu (*Nycticorax hoactli*), as well as the migratory Pacific Golden-Plover, or Kōlea (*Pluvialis fulva*), and Ruddy Turnstone, or ʻAkekeke (*Arenaria interpres*).

A significant nesting colony of Wedge-tailed Shearwater, or ʻUaʻu kani, (*Puffinus pacificus*) is present adjacent to a portion of the path, between Ninini Point Lighthouse, and Ninini Beach. The colony extends from just above the high-water mark, inland, onto the flats above the cliff face. Wedge tailed Shearwaters are not protected under either federal or State of Hawaiʻi endangered species statutes, they are protected under the federal Migratory Bird Treaty Act. Additionally, both the endangered Hawaiian Petrel, or ʻUaʻu (*Pterodroma sandwichensis*), and the threatened Newell's Shearwater, or ʻAʻo (*Puffinus auricularis newelli*) overflies the project area on an annual basis on their way back and forth to their colonies located inland.

Mammals

An endangered Hawaiian Hoary Bat (*Lasiurus cinereus semotus*) was found foraging in the project area near the Timbers Resorts Ocean Course golf course. This species, though endangered, is generally considered to be fairly common on Kauaʻi. It occupies a variety of habitats, including native forest, agricultural lands, residential and lowland areas, so its occurrence in the project area is not unexpected.

The USFWS and National Marine Fisheries Service (NMFS) note that the federally protected Hawaiian Monk Seal (*Monachus schauinislandi*) has used the coastal regions of the project as a birthing and pup-rearing site. In addition, near shore waters are frequented by various dolphin and whale species.

Other mammals recorded in the project area include non-native species of cats, dogs, pigs, European house mice and at least one species of rat.

Reptiles

Green sea turtles (*Chelonia mydas*) and hawksbill turtles (*Eretmochelys imbricata*) frequent the near-shore waters along the project corridor to forage, and are known to haul-out at the sandy beaches along the coastline.

Critical Habitat

There is no designated critical habitat in the project area.

Impacts and Mitigation

Based on consultation with the USFWS, NMFS, DOFAW and Division of Aquatic Resources (DAR), the COK and Federal Highway Administration (FHWA) determined that the project may affect, but is not likely to adversely affect Endangered Species Act (ESA) listed and protected species. Moreover, there is no critical habitat in the project area, and none will be affected by the project.

Project mitigation commitments include:

- The planned path alignment will avoid the vegetated areas along the coastal bluff where Wedge-tail Shearwater and Nēnē are known to nest by following the south segment of the airport perimeter road.
- Protective fencing will be installed along the path segment between Ninini Point and Timbers Resorts' "Shops at *Hōkūala*" and/or around Wedge-tail Shearwater nesting areas.
- No lighting will be installed along the pathway between Ahukini Landing and Ninini Point. The proposed comfort station at Ninini Point will include full-cut off nighttime lighting. Designed lighting will be kept to the minimum required for safety and security. Lighting will use low-intensity sources that emit long wavelength light (e.g., yellow or amber globes). The COK will provide the USFWS with an opportunity to review the comfort station lighting design prior to final design and construction.
- Signs will be installed at appropriate intervals and locations along the path. Signage content will include:
  - Education about protected species' status, biology, habitat, seasonal behavior.
  - Education about threats to protected species, including human interaction (harassment, feeding, habitat destruction), loose dogs and other feral animals.
  - Information about Kaua'i's pet leash laws.
  - Instructions on what to do if a downed bird or fledgling is encountered with contact information.
- All work should be done in non-nesting season for seabirds (December – March)
- If work must proceed during the nesting season (March – November) the area must be surveyed to ensure there are no signs of nesting or no birds present.
  - Use of a qualified Wildlife Biologist to conduct the survey is suggested.
  - If survey is not done by qualified personnel, conditions should be documented by photo with proof of date included.
  - Inspect the encroaching vegetation for signs: seabird poop, webbed footprints, grayish/white brood feathers, burrows, and other obvious indicators
  - If a seabird is found while trimming vegetation, all activities shall be immediately postponed until nesting season is done or under the direction of a qualified wildlife biologist.

- If a downed seabird is discovered or if a carcass is discovered, the "take(s)" are to be reported to the following:
    - Kaua'i Seabird Habitat Conservation Plan (KSHCP) Coordinator at (808) 241-1983. All such phone reports must be followed by an email to the KSHCP Coordinator at KSHCPcoordinator@kauai.gov.
    - Kaua'i Division of Forestry and Wildlife (DOFAW). Kaua'i DOFAW at (808) 274-3433 and by email at: dofaw.hcp@hawaii.gov. If the Kaua'i DOFAW contacts identified above cannot be reached, call Kaua'i Police Dispatch at (808) 241-1711 and request they contact "Wildlife."
    - U.S. Fish and Wildlife Service. USFWS Pacific Islands Fish and Wildlife Office at (808) 792-9400.
- Best Management Practices (BMPs) for Construction activities to minimize impacts on protected resources will be incorporated into the project as appropriate to minimize impacts on protected resources. See **Exhibit 16 – 343 HRS EA and Appendices, Section 3.6 and Appendix B**.

Flora

None of the plants observed along the proposed segments of the corridor are listed as endangered or threatened, or currently proposed for listing under either federal or State of Hawai'i endangered species statutes. Vegetation along the proposed bike/pedestrian corridor is dominated by non-native and invasive species that are typically found on long abandoned sugar fields on Kaua'i. Species include Guinea grass (*Panicum maximum*), castor bean (*Ricinus communis L.*), Koa haole *(Leucaena leucocephala*) shrubs, spurge (*Macaranga lanarius)*, natal red top grass *(Rhynchelytrum repens)*, beach wiregrass *(Eleusine indica*), Chloris *(Chloris barbata*), star grass *(Chloris divaricata*), Bermuda grass *(Cynodon dactylon*), pitted beardgrass (*Bothriochloa pertusa*), purple bush-bean (*Macroptilium atropurpureum*), smooth rattlebox *(Crotalaria pallida*), golden crown beard *(Verbesina enceliodes*) and various Euphorbias. Stands of ironwood trees with (*Casuarina equisitefolia*) virtually no understory are found at Ahukini Landing and Ninini Point and at various segments along the shoreline. Native plants found along the coastline include beach naupaka (*Scaevola sericea*), 'ilima (*Sida fallax*), Pa'uohi'iaka (*Jacquemontia ovalifolia*), and akulikuli (*Sesuvium portulacastrum*).

Impacts and Mitigation

Construction of the proposed path is not anticipated to result in adverse impacts to any protected plant species and no negative impact to plant habitats or specific plant communities along the corridor is expected. Landscaping will be implemented along the developed path segments to improve soil retention and promote filtration of any storm water runoff from the path. No irrigation is proposed along the path segment between Ahukini Landing and Ninini Point. The general landscape plan for a typical path segment is illustrated in **Exhibit 17 – Landscape Plan**.

Natural hazards (erosion, flooding, tsunami, seismic, etc.):

Natural hazards that are likely to affect the project site include hurricanes and severe weather events, tsunami inundation, and sea level rise exposure area. In addition, climate change is projected to alter weather patterns, potentially resulting in less frequent, but higher intensity rainfall and storm events that would increase the erosional forces of storm drainage and waves. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) (FEMA/FIRM panels 1500020 -326F, -

327F, -328F and -329F effective date November 26, 2010) indicates that the project corridor passes through a special flood hazard area inundated by 100-year flood: Between Ahukini Landing and Ninini Point, flood elevations are designated as VE (in which flood elevations of 13-24 feet msl have been determined). The project corridor also passes through Zone X which has been determined to be outside the 0.2% annual chance floodplain. See **Exhibit 12 – FEMA/FIRM Maps.** The path segment between Ahukini Landing and Ninini Point is within a potential tsunami inundation area, as indicated on the COK Tsunami Evacuation Zone map.

The project complies with the requirements of the Federal Flood Insurance Rate Program. Path improvements within the VE zone at Ahukini Landing, with VE flood elevations ranging from 18 to 21 feet, will be limited to at-grade path segments, bollards and signage; no vertical structures are proposed within the VE. The comfort station at Ninini Point will be located outside of the FEMA VE Zone at an elevation of approximately 35 feet above msl. The VE flood elevation at Ninini Point is 14 feet. The proposed comfort station will be based on the latest Uniform Building Code building standards. The path and amenities will be designed to withstand flood occurrences as estimated by FEMA and in compliance with County Code requirements.

Due to the rocky character of the coastal bluff, the Ahukini Landing to Ninini Point segment is generally stable (see **Exhibit 5 – Site Photos**). According to the Atlas of Natural Hazards in the Hawaiian Coastal Zone, published by the United States Geological Survey, the erosion hazard assessment is moderately low in the project corridor extending from Ahukini Landing to Nāwiliwili Harbor. A Kaua‘i Shoreline Change Map has not been prepared for this segment of the shoreline. The State Department of Transportation, Airports Division completed site restoration and slope stabilization work on a closed landfill located along approximately 600 lf of the coastline a mile south of Ahukini Point that had been gradually sloughing off debris into the ocean; a portion of the proposed path crosses the stabilized area.

Volcanic hazards in the area of the project site are considered very minimal due to the extinct status of Kaua’i volcanoes.

<u>Impacts and Mitigation</u>

The path is not likely to suffer damage by its location within an environmentally sensitive area. The majority of the path alignment will be constructed outside of FEMA/FIRM flood zones, with the exception of an approximately 1,000 lf segment of the at-grade path and associated bollards and signage located within the VE zone at Ahukini Point. Design and construction of proposed path improvements will be performed in compliance with Kaua‘i County Code, Section 8-12: Flood Districts.

Potential effects related to erosion, including earth-work near the coastline, will be mitigated by the implementation of construction BMPs in compliance with the Hawai‘i Administrative Rules (HAR) 11-54 Water Quality Standards; HAR 11-55 Water Pollution Control, and COK grading and erosion control standards. Long-term impacts related to coastal erosion will be mitigated by the path design and drainage features.

The proposed path alignment and improvements are designed to minimize impacts to coastal resources and natural hazard impacts to the path infrastructure. The proposed path alignment is

located entirely outside of the 60-foot shoreline setback. A shoreline survey was certified by the Department of Land and Natural Resources on September 9, 2022. Copies of the certified shoreline survey map and photographs are attached as **Exhibit 7 – Shoreline Survey.** The proposed path ranges in elevation from approximately 17 feet to 50 feet above mean sea level (msl). The proposed path improvements are located atop a rocky coastal bluff above a shoreline that is almost exclusively bedrock and/or rocky intertidal shore and therefore is at low risk for shoreline erosion. See **Exhibit 16 – 343 HRS EAA and Appendices, Appendix B**, correspondence with USACE.

Two of the proposed drainage crossings (drainage crossings #1 and #2) will use existing culvert crossings located more than 300 feet from the shoreline at an elevation greater than 45 feet above msl. The proposed new pre-fabricated bridge structure across drainage crossing #3 will be located approximately 150 feet from the shoreline at an elevation of approximately 60 feet above msl. Drainage crossing #4 will involve extending an existing culvert crossing on the mauka side away from the shoreline. Drainage crossing #4 is located approximately 60 feet from the shoreline at an elevation of approximately 28 feet above msl. The alignment will be designed as much as possible to follow existing topography in order to minimize changes to existing drainage patterns and land forms, and to reduce impacts to coastal resources generally. Path improvements along the coast will be limited to the at-grade concrete path and signage, with the exception of a comfort station proposed at Ninini Point and protective fencing between the path and wedge-tail shearwater sea bird nesting areas inland from Ninini Point. These planning and design considerations and mitigation measures were identified based on an assessment of coastal hazard impacts in the project corridor, including shoreline change analysis conducted by Jim O'Connel, University of Hawai'i (UH) Sea Grant, which included consultation with Dr. Chip Fletcher, head of the UH Coastal Geology Group.

The shared-use path system will increase Kaua'i's resilience to climate change by contributing to the development of a multimodal transportation system. Multimodal transportation networks provide system redundancy and accommodate alternative transportation modes that support adaptation strategies in the event that roadway infrastructure, gas imports or the energy market generally are impacted by climate-related events and trends.

Historic & cultural resources:

The natural and cultural resources along the path corridor have traditionally been used for subsistence gathering, fishing, social gatherings and recreation. In addition, the coastal areas have been used in the past for illegal dumping and other illicit activities that have had an adverse effect on the natural environment, ecosystem function and human uses. The path improvements will occupy some segments of existing social trails, dirt road and vegetated areas along the coastline, but will provide the same access function as those trails and road while making enjoyment of the resources along the shoreline available to a wider range of people, including those with more limited physical abilities such as the very young and the aged. The path will be aligned to avoid sensitive natural resources, erosion-prone conditions, and historic and cultural features. View corridors toward and from the ocean will not be impacted by construction of the path, which will be installed at-grade.

No adverse effects to archaeological or historical sites will result from planned shared-use path improvements. Mitigation measures, including preservation in place, avoidance, data recovery, adaptive re-use, and on-site and on-call monitoring are proposed to ensure that identified resources are not adversely affected. Should any archaeologically or historically significant artifacts, or other

indicators of previous on-site activity be uncovered during the construction phase, their treatment will be conducted in compliance with the requirements of the State DLNR.

A full description of historic and cultural resources, cultural consultation and proposed mitigation measures is provided in **Exhibit 13 – NHPA 106 and 6E Consultation and Correspondence,** and **Exhibit 14 – Ka Paʻakai Analysis.**

EVALUATION CRITERIA

The Department or Board will evaluate the merits of a proposed land use based upon the following eight criteria (*ref §13-5-30(c))*

1. **The purpose of the Conservation District is to conserve, protect, and preserve the important natural and cultural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare. *(ref §13-5-1)* How is the proposed land use consistent with the purpose of the conservation district?**

   The proposed project is consistent with this purpose in that the shared-use path will preserve public access to the shoreline for health, wellbeing and enjoyment. Interpretive signage will be placed along the project corridor to educate users about the important natural and cultural resources throughout the coastal area and ways to aid in the conservation, protection and long-term sustainability of those resources. Signage will also be provided to inform path users regarding coastal hazards and safety guidelines. The path will promote public welfare by creating multi-modal transportation infrastructure that reduces reliance on automobiles, encourages active lifestyles for better health outcomes, and improves accessibility to the shoreline for a broader range of ages and abilities.

2. **How is the proposed use consistent with the objectives of the subzone of the land on which the land use will occur? *(ref §13-5-11 through §13-5-15)***

   The subject project is located within the Limited Subzone. The proposed public, shared-use path and comfort station are an identified land use within the Limited Subzone, pursuant to HAR § 13-5-22 and HAR § 13-5-23. The identified land use is identified as "P-6 Public Purpose Uses: (D-1) Land uses undertaken by the State of Hawaiʻi or the counties to fulfill a mandated government function, activity, or service for public benefit and in accordance with public policy and the purpose of the conservation district. Such land uses may include transportation systems, water systems, communications systems, and recreational facilities."

   The project is undertaken by the COK, DPW as part of the *Ke Ala Hele Makālae*, the 16-mile Nāwiliwili to Anahola Shared-Use Path proposed in the 1994 State of Hawaii Master Plan – Bike Plan Hawaii, and in the 2003 Bike Plan Hawaii update. The *Ke Ala Hele Makālae* path is also an important component in the COK *General Plan*, the *Līhuʻe Community Plan* and COK *Multi-Modal Land Transportation Plan*. Consistent with these planning documents and public policy, the path is being developed to realize the following public benefits:

- Supports a multi-modal transportation system for greater island resiliency and less reliance on non-renewable energy resources.
- Preserves the unique and beautiful environment of Kauaʻi by strengthening public connection to the coastal areas and educating path users about the history, culture and natural resources found there and how to participate in preserving and perpetuating those resources and places.
- Supports "healthy and resilient people" by providing a safe and enjoyable recreational path system that encourages physical lifestyles, including walking, bicycling and skating as alternative modes of transportation to the internal combustion automobile.
- Promotes social equity by providing infrastructure that accommodates economical modes of transportation (walking, bicycling, skating) to connect residential and employment centers along windward Kauaʻi, and expand patronage of businesses along the path corridor. The path also supports social equity by making the shoreline accessible to a broader range of ages and abilities.

We wish to note that a SLU District Boundary Determination was not requested for this project. The preliminary path alignment meanders parallel to the shoreline in and out of the SLU Urban, Agriculture and Conservation (Limited Subzone) districts. The final path alignment will likely require minor adjustments during design that could affect the multiple locations where the path crisscrosses the SLU Conservation District boundary. For this reason, the COK will apply CDUP conditions to the entire path design and operations wherever the final path alignment falls within reasonable distance of the SLUD Conservation District boundary, say 100 feet or as determined by the BLNR. Therefore, it is not necessary to know the precise location of the boundary.

3. **Describe how the proposed land use complies with the provisions and guidelines contained in chapter 205A, HRS, entitled "Coastal Zone Management"** ***(see 205A objectives on p. 9 [of the blank application form and page 37 of this supplemental information document]).***

Segments of the paths are located in the Special Management Area (SMA) (see **Exhibit 6 – Special Management Area Map**). A SMA Permit was approved by the County of Kauaʻi Planning Commission on June 27, 2023, permit no. SMA(U)-2023-10. SMA Permit approval conditions are incorporated into this CDUP application. See **Exhibit 15 – SMA Permit Approval**.

The proposed project is consistent with CZM goals and objectives of allowing safe, environmentally, and culturally sensitive access to the shoreline. Specifically:

Recreational resources: *Provide coastal recreation opportunities accessible to the public.*

Existing coastal recreational access in the project corridor is provided by a single dirt road and informal dirt trails that are generally located parallel and perpendicular to the coastline. The existing road and trails are difficult to access by foot and bicycle due to uneven surfaces and, in some locations, heavy vegetation. The proposed shared-use path project will improve public access for non-motorized modes of transportation and open up coastal recreational opportunities between Ahukini Point and Ninini Point. This segment of coastline is currently used for fishing, resource gathering and exercise. The path will preserve public access for these

uses through a public access right-of-way easement, and will improve access to allow a wider range of ages and abilities to enjoy this scenic, open space corridor.

Interpretive signage will be placed along the project corridor educating users on the important natural and recreational resources throughout the coastal area and ways to aid in the conservation and protection of those resources.

Historic resources: *Protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.*

An archaeological field inspection, archaeological inventory survey, architectural inventory survey, and cultural impact evaluation prepared for the project identify known historic properties, as well as areas along the path routes where the potential for encountering previously unknown cultural or historic properties is higher. The preferred path alignment is routed to avoid known archaeological and historic sites. The final alignment will be established during the design phase when ground topography will be used to precisely locate known historic properties and ensure they are avoided by the path. Proposed mitigation measures include avoidance, preservation in place, data recovery, and on-site and on-call archaeological monitoring during construction activities.

Path improvements also include installation of signs to communicate interpretive and regulatory information to path users concerning the history of the area, the presence of cultural and historic resources, and ongoing efforts to preserve and learn from the physical remains and artifacts of our predecessors.

Scenic and open space resources: *Protect, preserve, and where desirable, restore or improve the quality of the coastal scenic and open space resources.*

The project conforms to the Coastal Zone Management Program Objective 3, Scenic and Open Space, which encourages the protection, preservation and where desirable, restoration or improvement of the quality of coastal scenic and open space resources. The Līhu'e Community Plan designates the coastline between Ahukini and Ninini Point as a major scenic geographical feature. The Kaua'i County General Plan has designated this area as open space/conservation. The Līhu'e Community Plan also lists Nāwiliwili Bay and Kalapakī Beach as major scenic areas.

The shared-use path will be designed to minimize the visual presence of path improvements in the open space coastal setting. The project path will be constructed at grade and will use pigmented cement to match existing natural colors in the area. No structures will be built along the coastline between Ahukini Point and Ninini Lighthouse in order to maintain the open space character and visual resources of the area. The only proposed vertical structure is a new comfort station at Ninini Point, which will be located at the former lighthouse caretaker's house site and will be designed with appropriate materials and colors to blend into the surrounding landscape. The project will also include interpretive and informational signage along the path alignment.

The scale and placement of these improvements will have minimal visual presence in the landscape and will not obstruct views to or from the coastline.

Coastal ecosystems: *Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.*

Project activities do not involve alterations to stream channels or other water bodies or water sources. The project involves construction activities through a coastal area. During construction, site-specific BMPs will be employed in compliance with Clean Water Act NPDES permit requirements to prevent pollutant discharge in storm water runoff and protect coastal waters and ecosystems. Discharge pollution prevention measures will be installed for each project action as required by project activities. Measures to prevent sediment discharge in storm water runoff during construction will be in place and functional before project activities begin and will be maintained throughout the construction period.

The path is designed to follow existing topography as much as possible to maintain existing drainage patterns. Path surface grades will be designed to prevent concentration of stormwater runoff flows that could contribute to erosion and sediment discharge. Path shoulders will be vegetated with ground cover plants to stabilize soils, reduce stormwater runoff velocity and trap sediments.

The proposed project will promote public appreciation, education and protection of coastal resources to assure their sustainability. The project is not part of a coastal ecological management program but will include interpretive signage to educate the public about significant habitats, threatened and endangered species, and preservation efforts, and will include information about how path users can participate in these efforts and foster an ethic of mālama ʻāina.

Economic uses: *Provide public or private facilities and improvements important to the State's economy in suitable locations.*

The Hawaiʻi Visitors Bureau (HVB) promotes several locations in the vicinity of the project that would be served by the proposed shared-use path as tourist destinations, including: Ahukini Landing, Nāwiliwili Harbor, Nāwiliwili Beach Park, Kalapakī Beach and the Kauaʻi Marriott Resort and Timbers Resorts' Hōkūala Golf Course.

The project would provide bicycle access linking visitors at the Kauaʻi Marriott and Timbers Resort and visitors arriving at Līhuʻe International Airport to Līhuʻe town center and Ahukini Landing. The project will also provide connection to the *Ke Ala Hele Makālae* shared-use path system with access to the coastal towns of Kapaʻa, Wailua, Waipouli, Keālia, and Anahola. Bike paths also have the potential to provide economic stimulus where they provide linkage between commercial districts, as part of a recreational and multimodal commuter system. In addition, bike paths may attract a growing number of eco-tourists looking for more activity and nature-oriented vacations.

The proposed path segment, as an integral part of the overall *Ke Ala Hele Makālae* shared-use

path system, will create new economic opportunities by incentivizing Kauaʻi's businesses, cottage industries and entrepreneurs to identify new ways to provide goods and services to path users. The path will also open new opportunities to service visitors to Kauaʻi through bicycle rentals and walking and bicycle tours using the path system.

Although the path segment that is the subject of this permit application does not pass through urbanized or commercial areas, the overall path system within which it is a key connecting segment will create additional local and regional economic opportunities by generating patronage and commerce at businesses located along other segments of the path and at destinations made accessible by the Nāwiliwili to Ahukini segment.

In a small, but significant way, the shared-use path system, including the subject project, fosters equitable communities by supporting multimodal transportation and reduced dependence on automobiles for access to jobs and housing; in particular, it does so by making less costly modes of transportation, namely walking, bicycling and the use of other non-internal-combustion mobility devices, a safe and viable option for people across a greater range of ages, physical abilities and economic levels.

Coastal hazards: *Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.*

Long-term impacts due to coastal erosion will be minimized by the initial design of the path. Grading and excavations required for construction of the path and related amenities will be designed to minimize the amount of cut and fill required and related costs. The path alignment was selected to take advantage of natural grades in order to meet ADA accessibility standards for slopes with a minimal amount of ground disturbance and minimum disruption to existing drainage patterns. Erosion control measures will be employed during construction. Following project completion, permanent soil stabilization along the path shoulders will be achieved through landscaping with various plant materials and ground covers. In addition, the path will be constructed of concrete or other durable all-weather surface to minimize potential for erosion.

Natural hazards endemic to all of Hawaiʻi, including Kauaʻi, involves tsunami action. There have been four episodes since 1946. These occurrences happened in 1946, 1957, 1960 and 1964 respectively. The run-up heights vary from 1 foot to 14 feet. Strong trade wind events are responsible for the majority of large wave action along the eastern coast of Kauaʻi. Passing hurricanes have generated the highest wave heights along the east facing shores and may coincide with a high tide and typically generate a strong storm surge. The wave action generated by hurricanes ʻIwa (1982) and ʻIniki (1992) varied from 10-20 feet.

The Hawaiian Islands are seasonally affected by Pacific hurricanes from the late summer to early winter months. The island of Kauaʻi has been affected twice since 1982 by devastating hurricanes, ʻIwa in 1982 and ʻIniki in 1992. It is difficult to predict these natural occurrences, but it is reasonable to assume that future events will occur. The project site is, however, no more or less vulnerable than the rest of the island to the destructive winds and torrential rains associated with hurricanes.

The project is not expected to exacerbate flooding or affect flood zone areas, as identified by Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM). No construction will occur within FEMA/FIRM flood zones, with the exception of an approximately 1,000 lf segment of the at-grade path and associated bollards and signage located within the VE zone (with flood elevations ranging from 18 to 24 feet) at Ahukini Point. See **Exhibit 12, FEMA/FIRM Maps**. Design and construction of proposed path improvements will be performed in compliance with Kauaʻi County Code, Section 8-12: Flood Districts. The proposed path alignment is located entirely outside of the 60-foot shoreline setback. The proposed path ranges in elevation from approximately 17 feet to 60 feet above mean sea level (msl). The proposed path improvements are located atop a rocky coastal bluff above a shoreline that is almost exclusively bedrock and/or rocky intertidal shore and therefore is at low risk for shoreline erosion. Two of the proposed drainage crossings (drainage crossings #1 and #2) will use existing culvert crossings located more than 300 feet from the shoreline at an elevation greater than 45 feet above msl. The proposed new pre-fabricated bridge structure across drainage crossing #3 will be located approximately 150 feet from the shoreline at an elevation of approximately 60 feet above msl. Drainage crossing #4 will involve extending an existing culvert crossing on the mauka side away from the shoreline. Drainage crossing #4 is located approximately 60 feet from the shoreline at an elevation of approximately 28 feet above msl. The path will be constructed of concrete. The path and amenities will be designed to withstand flood occurrences as estimated by FEMA and in compliance with County Code requirements.

Managing development: *Improve the development review process, communication, and public participation in the management of coastal resources and hazards.*

The project corridor lies within the State Land Use category of Urban, Agricultural, and Conservation (see **Exhibits 2** and **3**). Land uses within the Urban and Agricultural designations are subject to regulation by the COK. Land uses with in the Conservation district are subject to regulation by the Department of Land and Natural Resources (DLNR).

All work activities will be conducted in compliance with Federal, State, and COK rules and regulations.

Public participation: *Stimulate public awareness, education, and participation in coastal management.*

The project has been developed through a public outreach process that include three public planning meetings to develop the preferred path alignment and amenities. Two of the three meetings have been conducted. The third meeting will be held during the permitting process. A public hearing was conducted before the Kauaʻi Planning Commission on June 27, 2023, as part of the SMA permit approval process. The SMA Permit approval document is included in this application as **Exhibit 15**. Conditions of the approval will be incorporated into the project designs, construction, and operation. This CDUP application will be subject to a board hearing for approval.

Additionally, public notice of the proposed action is provided through publication of the draft and final environmental assessment, Shoreline Certification Application, and SMA permit application in the Office of Environmental Quality Control (OEQC) Bulletin. As part of the environmental review process, the public had an opportunity to review and comment on the project during the 30-day public review period for the Draft Environmental Assessment. In addition, two public outreach meetings were conducted as part of the NHPA Section 106 consultation process to identify historic and cultural resources and practices.

Beach protection: *Protect beaches for public use and recreation.*

The coastal path, signage, comfort station, and improvements at Ninini Point will be constructed mauka of the 60- foot shoreline setback line and aligned to take advantage of existing topographic conditions that will minimize grading, as well as scenic views of the coastal area. All segments of the proposed path will be constructed of concrete and colored to match the native soil and blend into the natural setting. The concrete path will be constructed with saw-cuts spaced every 5 feet so that individual panels can be relocated in the future if necessary. Vegetative groundcover will be planted along each side of the path to stabilize soils, reduce stormwater runoff velocity and capture sediment. The path alignment will be designed to minimize the amount of grading and cut, and fill required. The path surface will be designed with cross slopes to direct runoff as sheet flow to the sides of the path rather than concentrating flows down the middle. No segment of the path will encroach into areas where it will interrupt shoreline processes. The path alignment in relation to the shoreline setback is shown in **Exhibit 8 – General Site Plan**.

At drainage crossing #3, which is located outside the Conservation District, a new pre-fabricated bridge structure will be constructed. See **Exhibit 8 – General Site Plan**. The bridge improvements will require construction of concrete bridge abutments to support the pre-fabricated span. Ground surface disturbed by excavation and project activities will be stabilized with vegetative ground cover. All work on the pre-fabricated bridge will be located mauka of the shoreline setback.

At drainage crossing #4, which is located outside the Conservation District, proposed modifications to widen the existing culvert crossing will be conducted on the mauka side of the existing dirt road. Required work activities include grading and construction of either (i) a sloped embankment or (ii) a new retaining wall approximately 100 feet in length and 5 to 8 feet in height along the mauka side of the existing road to widen support the path and road corridor widening, extension of the existing box culvert inlet to the face of the new embankment or retaining wall, and placement of fill material to create a flat surface to support the realignment of the existing road in the mauka direction and construction of an 8- to 12-foot wide concrete shared-use path along the makai side of the realigned dirt road.

Ground surface disturbed by excavation and project activities will be stabilized with vegetative ground cover. These culvert modifications will not interfere with existing recreational and waterline activities, but will enhance public access to shoreline areas for recreation and enjoyment.

In addition, one new comfort station, 10 parking stalls, an access driveway, 12-ft wide shared-use path segment and 8- to 12-ft wide walking path system is proposed at Ninini Point within the Conservation District. The comfort station building will be sited away from the shoreline and situated at the site of the former lightkeeper's house to conserve open space.

Project improvements along the coastline will be limited to the path and drainage crossing structures described above, as well as limited signage for public safety, information, and education. All features will be designed to avoid interference with natural processes and to withstand natural hazards, including erosional forces. Planned improvements will have a minimal impact on the environment.

Marine resources: *Promote the protection, use, and development of marine and coastal resources to assure their sustainability.*

All work activities will be conducted in compliance with Federal, State, and COK environmental rules and regulations. The project will not otherwise impact marine and coastal resources and does not involve research, or technological development related to the coastal and marine environments. Mitigation measures proposed for the protection of coastal fauna, particularly sea birds, sea turtles, and the protected Hawaiian monk seal, have been developed in consultation with the USFWS, NMFS, and DOFAW. Interpretive and informational signage will be provided along the path alignment to educate users about coastal and marine resources within the project area, regulations concerning coastal and marine resources and protected species, as well as ways to participate in the conservation, protection, and perpetuation of those resources. See **Exhibit 16, HRS 343 EA with Appendices, Appendix B, Federal Consultation Correspondence**.

4. Describe how the proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.

The project is not foreseen to cause any substantial adverse impact to existing natural resources within the surrounding area, community, or region. Improvements in the Conservation District will not substantially change the form or appearance of existing land forms and will not obstruct any view planes or scenic corridors. No endangered plant or animal species will be adversely affected by the project (See also **Flora & Fauna Section** of this application). Mitigation measures developed by specialists in biology, zoology and botany, in consultation with state and federal natural resource agencies, will be implemented to prevent adverse impacts to protected birds and mammals known to inhabit the project area.

The path is not likely to cause damage or adverse impacts by its location within an environmentally sensitive area. The path corridor consists of stable, rocky coastal areas setback at least 60 feet from the shoreline, while the reach of shoreline adjacent to the path corridor is almost exclusively bedrock and/or rocky inter-tidal shore, so risk of shoreline change in this location is negligible.[1] No construction will occur within FEMA/FIRM flood zones, with the

[1] *Coastal Erosion along the Proposed Nāwiliwili to Ahukini Multi-use Path Shore*, Jim O'Connell, UH Sea Grant College

exception of an approximately 1,000 lf segment of the at-grade path and associated bollards and signage located within the VE zone at Ahukini Point. Design and construction of proposed path improvements will be performed in compliance with Kaua'i County Code, Section 8-12: Flood Districts.

Potential effects related to erosion, including earth-work near the coastline will be mitigated by the implementation of construction BMPs in compliance with the Hawai'i Administrative Rules (HAR) 11-54 Water Quality Standards; HAR 11-55 Water Pollution Control, and COK grading and erosion control standards. Long-term impacts related to coastal erosion will be mitigated by the path design and drainage features.

5. **Describe how the proposed land use, including buildings, structures and facilities, is compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.**

The natural and cultural resources along the path corridor have historically been used for subsistence gathering, fishing social gatherings and recreation. In addition, the coastal areas have been used in the past for illegal dumping and other illicit activities that have had an adverse effect on the natural environment. The path improvements will occupy some segments of existing social trails, dirt road and limited vegetated areas along the coastline, but will provide the same access function as those trails and road while making enjoyment of the resources along the shoreline available to a wider range of people, including those with more limited physical abilities, such as the very young and the aged. The path will be aligned to avoid sensitive natural resources, erosion-prone conditions, and historic and cultural features. View corridors toward and from the ocean will not be impacted by construction of the path, which will be installed at grade. The proposed use of the site will therefore be similar to the existing use.

6. **Describe how the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon.**

The views into or out of the project corridor will not be affected by the path. Path improvements will primarily be constructed at-grade and will not include features or structures that will significantly intrude on scenic vistas and view planes. The path will be designed to curve and undulate within the existing topography. Path materials will be colored to match the existing land hues in the natural landscape. Ground cover plants will also be selected for suitability within the existing landscape. The proposed comfort station at Ninini Point will be visibly apparent in the landscape, but will not be prominent. The comfort station will be designed to blend in with the natural setting. The shared-use path system will enhance public appreciation of scenic vistas and view planes through interpretive signage and educational exhibits that will provide information about the environment, natural processes and historic and cultural aspects of the visual setting at various locations along the project corridor.

Program on Kaua'i, April 5, 2010.

7. If applicable, describe how subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.

The COK will obtain a public access easement for the path alignment. The shared-use path was conceived, in part, as a means of preserving existing public access to coastal areas ahead of development pressures following the cessation of large-scale sugar operations on coastal agricultural lands on Kauaʻi. This was in recognition of the importance to Kauaʻi's residents of natural coastal areas and the myriad resources and existing activities that occur there, including within the proposed project corridor. The path will make the coastal area accessible to a broader range of ages and abilities, but will not increase the intensity of land uses along the path corridor. The land adjacent to the path within the Conservation District was obtained by the County of Kauaʻi from a private owner for the purpose of preserving it as undeveloped open space. The proposed project is part of a larger vision to build a continuous coastal path for the benefit of the residents and visitors to the island of Kauaʻi. The overall plan for the *Ke Ala Hele Makālae* coastal path system between Nāwiliwili and Anahola is being phased. Each phase is studied and evaluated in relation to the whole and as a self-contained project. Implementation of the Nāwiliwili-Ahukini segment of the shared-use path will not commit resources for or compel the construction of any other phase. The proposed shared-use path improvements constructed under this project function as a stand-alone facility to provide logical connectivity and access between Ahukini Landing, Ninini Point, Līhuʻe International Airport, Kauaʻi Marriott, Timbers Resort, and via connecting roadways across Kapule Highway, to Vidinha Stadium, and Līhuʻe town.

8. Describe how the proposed land use will not be materially detrimental to the public health, safety and welfare.

Factors affecting public health, including air quality, water quality, and noise levels, are expected to be remain largely as-is following development of the path system; impacts will be limited to the construction period and intermittent and short-term in nature. During construction, there will be minor impacts to air quality and noise levels. After completion of the construction work, these will be insignificant or undetectable.

Development of the shared-use path directly supports the vision of increasing the health, vitality, and resiliency of Kauaʻi's communities by improving the built and social environment. The shared-use path will create a safe and pleasant pedestrian and bicycle facility that will connect people to the island's coastline and residential, commercial and employment centers, and will support and encourage more physically active lifestyles by making these destinations accessible by foot and bicycle. The shared-use path system, where it is already in use, has become a common location for island residents to gather, socialize and connect with each other. Physically active lifestyles and social connections are key pillars of a healthy community.

CULTURAL IMPACTS

Articles IX and XII of the State Constitution, other state laws, and the courts of the State, require government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups.

Please provide the identity and scope of cultural, historical, and natural resources in which traditional and customary native Hawaiian rights are exercised in the area.

Planning and development of the *Ke Ala Hele Makālae* coastal path system, including the subject project, has been guided by an ethic of stewardship and protection of the natural, cultural, and historic environment. The path alignment, design and development conditions were created through consultation with the public and the Kānaka Maoli community. The resulting mitigation commitments by the County of Kauaʻi and its federal and state funding partners include avoidance of sensitive cultural and historic sites located along the path corridor; public education about Native Hawaiʻi culture and heritage, Kauaʻi island's history, and natural resources through interpretive programs and signage; and context sensitive design of path features to blend in and minimize visual impacts in the open, natural landscape along the coast.

Studies were conducted for the entire project area and resulted in 27 identified historic properties. Out of the 27 identified historic properties, approximately 10 are within or near the Conservation District along segment A. See **Exhibit 2 – State Land Use District Boundaries Map and General Site Plan, Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan, Exhibit 8 – General Site Plan, Exhibit 10 – State Historic Sites Figure and No Adverse Effect Table** and **Exhibit 14 – Ka Paʻakai Analysis** for details on the cultural and historic properties in the project area**.**

As an outcome of the National Historic Preservation Act (NHPA) Section 106 consultation process, the FHWA has determined that there will be "no adverse effect" to historic properties identified within the Area of Potential Effect (APE). The APE is established for the NHPA and is determined to be all the proposed primary and secondary pathway corridors for all phases of the Nāwiliwili-Ahukini Shared-Use Path project, including Phase A that is the subject of this application. The overall APE, of which the subject project is a portion, includes proposed future path corridors linking Ahukini Landing, Ninini Point Lighthouse, Nāwiliwili Harbor, Līhuʻe Airport, Kauaʻi Lagoons and Marriott Resort, Nāwiliwili Park, Niumalu Park, and path and shared-use road segments linking the coastal path to the Līhuʻe town center.

The "no adverse effect" determination is rendered based on the recommendations summarized in **Exhibit 10 – State Historic Sites Figure and No Adverse Effect Table. The primary mitigation measure is resource avoidance by aligning the path away from identified historic sites with a preservation buffer.** See also, **Exhibit 13 – NHPA 106 and 6E Consultation and Correspondence** for letters to SHPD documenting the final Archaeological Inventory Survey and approving the agreed-upon mitigation measures.

Identify the extent to which those resources, including traditional and customary Native Hawaiian rights, will be affected or impaired by the proposed action.

The proposed project will protect, preserve historic resources in the project area and will not affect the existing historic resources within its vicinity. A *Ka Paʻakai* Analysis was prepared for the project following the analytical framework established by Hawaiʻi Supreme Court in *Ka Paʻakai O Kaʻaina v. Land Use Commission (94 Hawaiʻi 31, 7 P.3d 1068, September 11, 2000)* and is presented in **Exhibit 14**.

The project will preserve and ensure continued access to the shoreline and coastal areas and will not impose conditions that would prevent traditional and customary fishing, gathering, or other subsistence practices. The project will be designed with drainage features and vegetation ground cover to control and treat storm water runoff and prevent pollutant discharges that could degrade coastal water quality. Interested Native Hawaiian kūpuna and cultural practitioners will continue to be consulted throughout the design and development of the path project.

Based on consultation with kupuna and Native Hawaiian cultural practitioners with knowledge regarding native Hawaiians' exercise of customary and traditional practices in the project area and vicinity, and the findings of the resource studies, and the mitigation commitments developed through those consultations, the proposed Nāwiliwili-Ahukini Shared-Use Path Project is not anticipated to affect the rights customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupuaʻa tenants who are descendants of native Hawaiians, and does not affect or impair any Hawaiʻi State Constitution, Article XII, Section 7 uses, or the feasibility of protection of those uses.

What feasible action, if any, could be taken by the Board of Land and Natural Resources in regards to your application to reasonably protect Native Hawaiian rights?

The project was developed in consultation with Native Hawaiian organizations and individuals through the National Historic Preservation Act (NHPA) Section 106 and HRS 6E process. The information from the consultation and related research is used as the basis for the *Ka Paʻakai Analysis* which includes a detailed description of the mitigation commitments proposed to preserve historic properties and protect Native Hawaiian rights. (See **Exhibit 14 – Ka Paʻakai Analysis**). The mitigation measures include requirements for continued consultation with the Native Hawaiian community during project design and for the development of interpretive programming for the path.

OTHER IMPACTS

Does the proposed land use have an effect (positive/negative) on public access to and along the shoreline or along any public trail?

As described throughout the document, public access to the shoreline between Ahukini Landing and Ninini Point is available through a public access dirt road and easement and on multiple informal paths that run to and along the shoreline. The paths are used primarily by fisherman to access fishing spots on along the shore. Upon the project's completion access to this segment of coast line will be improved and will allow the public a wider variety of recreational activities as well as locations. The project will provide new pedestrian and bicycle access to the coastline between Ahukini and Ninini Point for commuting, recreation, scenic and wildlife viewing, and socializing. Coastal access will be maintained for fishermen and other recreational users via the existing dirt road and easement, and via the various informal trails. The path design will include several locations where fisherman will be able to cross the path with motorized vehicles to access fishing spots on the shoreline. The crossing will be protected with bollards to prevent motorized vehicles from accessing the improved shared-use path. The improved path will make access to this coastal area available for enjoyment by a wider range of ages and abilities, and will make it easier for the COK to manage the area for conservation, recreational uses, and public benefit.

Does the proposed use have an effect (positive/negative) on beach processes?

Construction and operation of the proposed project will not adversely affect the rocky shoreline, beach processes or the coastal ecosystem, nor will it adversely impact any other body of water. The project will not involve dredging, filling, or alteration of the shoreline configuration. The drainage crossings will be located on the mauka side of the existing dirt road (see **Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan**). No segment of the path will encroach into areas where it will interrupt shoreline processes.

Will the proposed use cause increased sedimentation?

The proposed project is not expected to cause increased sedimentation. Path surfaces will have a cross-slope to prevent concentrating flows and to encourage sheet-flow of runoff water. The path alignment is designed to follow existing topographic contours to minimize ground disturbance during construction and maintain existing drainage patterns. Shoulders adjacent to the path will be vegetated to further slow runoff, capture sediments and promote drainage infiltration.

The bridge improvements at Drainage Crossing #3 (see **Exhibit 2**) will require excavation for construction of concrete bridge abutments to support the pre-fabricated span. Ground surface disturbed by excavation and project activities will be stabilized with vegetative ground cover following completion of construction.

Proposed modifications to widen the existing culvert crossing at Drainage Crossing #4 (see **Exhibit 2**) will be conducted on the mauka side of the existing dirt road outside of the Conservation District. Required work activities include grading and construction of either (i) a sloped embankment or (ii) a

new retaining wall approximately 100 feet in length and 5 to 8 feet in height along the mauka side of the existing road to widen support the path and road corridor widening, extension of the existing box culvert inlet to the face of the new embankment or retaining wall, and placement of fill material to create a flat surface to support the realignment of the existing road in the mauka direction and construction of an 8- to 12-foot wide concrete shared-use path along the makai side of the realigned dirt road.

The comfort station and the 10 parking stalls at Ninini Point will use the previously disturbed building site of the former lighthouse caretaker's residence.

Will the proposed use cause any visual impact on any individual or community?

Short-term visual impacts associated with the project primarily relate to construction activities. The path improvements will be designed to visually blend with the natural landscape. The path geometry will curve and undulate with the topography. The path materials will be colored to match existing terrain. Signage will be kept to the minimum required for public safety, information, and education. The bollards that separate the path and road will be constructed of boulders, timber, or concrete, or other physical barriers to prevent motor vehicle access on the concrete path. Bollards and/or barriers will be designed and installed to be secure against dislodging by vehicle winch and to have minimal visual impact in the landscape.

The comfort station will be designed using native architectural forms or natural land forms. The building will have natural materials and colors for exterior surfaces and avoid the use of bright or reflective colors. Exterior lighting will be kept to a minimum required for safety and security. Lighting will use low-intensity sources that emit long wavelength light (e.g., yellow or amber globes). Light sources will be shielded or angled downward to eliminate glare that would disturb or disorient animals.

Please describe any sustainable design elements that will be incorporated into the proposed land use (*e.g. the use of efficient ventilation and cooling systems; renewable energy generation; sustainable building materials; permeable paving materials; efficient energy and water systems; efficient waste management systems; etc.).*

Landscaping and erosion control measures will use Drought tolerant native or indigenous plant species that are common to the local area will be specified for landscaping used in erosion control measures. If site conditions do not support the establishment and growth of native or indigenous plant species, other non-invasive species may be substituted to ensure soil stability and erosion protection.

Please describe the Best Management Practices that will be used during construction and implementation of the proposed land use.

General Best Management Practices (BMPs) will include:

- A National Pollutant Discharge Elimination Systems (NPDES) permit will be obtained for the project and best management practices (BMPs) will be employed to prevent soil loss and sediment and pollutant discharges from work sites. BMPs will include structural (e.g., silt

fences, berms, barriers, filter fabric), vegetative (e.g., grass, mulch, ground cover, soil stabilization), and management measures (e.g., project scheduling and phasing, material storage and equipment maintenance procedures, BMP monitoring), as necessary.

- Limit construction near drainageways to avoid the potential for release of sediments into stormwater.

Before Construction:

- Existing ground cover will not be destroyed, removed, or disturbed more than 20 calendar days prior to start of construction.
- Erosion and sediment control measures will be in place and functional before earthwork may begin and will be maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day.

During Construction:

- Clearing shall be held to the minimum necessary for grading, equipment operation, and site work.
- Construction shall be sequenced to minimize the exposure time of cleared surface areas. Areas of one phase shall be stabilized before another phase can be initiated. Stabilization shall be accomplished by protecting areas of disturbed soils from rainfall and runoff by use of structural controls such as PVC sheets, geotextile filter fabric, berms or sediment basins, or vegetative controls such as grass seedling or hydro mulch.
- Temporary soil stabilization with appropriate vegetation shall be applied on areas that remain unfinished for more than 30 calendar days, and permanent soil stabilization using vegetative controls shall be applied as soon as practicable after final grading.
- All control measures shall be checked and repaired as necessary, e.g., weekly in dry periods and within 24 hours after any heavy rainfall event. During periods of prolonged rainfall, daily checking shall be conducted.

After Construction:

- All areas of ground disturbance will be stabilized with landscaping consisting of various plant species and ground covers.

During Adverse Weather Conditions:

- The contractor shall listen to weather reports daily while conducting work. If an emergency weather warning is issued, work shall cease. All equipment and materials shall be secured against wind, rainfall and flooding, and the work area cleared of construction debris to the extent practicable. Work shall not resume until conditions improve and weather warnings are rescinded.
- Prior to recommencement of work activities following an event, the Contractor shall inspect all BMPs, including silt fence, sandbag barriers, and stabilized construction entrance, to ensure that they are not damaged, and that all BMP's are properly installed and functioning.

- Construction materials and debris that are dispersed due to wind or rainfall shall be collected by the Contractor and reused or disposed of in compliance with State and County regulations.

Impacts related to construction activities will be of short duration and will cease upon completion of the project.

Long-Term:
In the long-term, construction of the concrete path, Ninini Point comfort station and improvements at Nāwiliwili Beach Park will result in an increase in impervious area and related surface runoff. Due to the narrow, linear nature of the path, the increase in runoff from project improvements is expected to be slight in relation to the size of the project corridor. Nevertheless, drainage improvements will be designed to accommodate runoff increases. Additional measures may include use of vegetated detention strips and basins as part of path landscaping, use of pervious pavements, and use of underground storm water detention chambers. No significant impacts to existing drainage patterns are anticipated to result from the planned path improvements.

Please describe the measures that will be taken to mitigate the proposed land use's environmental and cultural impacts.

The shared-use path was assessed for environmental and cultural impacts. Mitigations measures were developed in consultation with USFWS, NMFS and DOFAW to protect the unique flora and fauna that were present in the area (see the **Flora & fauna** section of this application). These include:

- Avoid vegetated areas along coastal bluff above Nāwiliwili Bay and follow the south segment of the airport perimeter road.
- Install protective fencing along the path segment between Ninini Point and Timbers Resorts' "Shops at Hōkūala" where Wedge-tail Shearwater nesting areas occur.
- Do not install lighting along the pathway between Ahukini Landing and Ninini Point. The proposed comfort station at Ninini Point will include full-cut off nighttime lighting. The COK will provide the USFWS with an opportunity to review the comfort station lighting design prior to final design and construction.
- Install signs at appropriate intervals and locations along the path to inform path users about wildlife along the path, conservation goals and practices, regulations, penalties for violating protective measures, and resource agency contact information.
- Conduct surveys for nesting birds by a qualified biologist during construction.
- Follow Best Management Practices (BMPs) for Construction activities to minimize impacts on protected resources.

Studies to assess archaeological and cultural resources associated with the area were also undertaken (see also the **Cultural Impacts** section of this application). Archaeological and cultural resources were determined to be present. Mitigation measures, including preservation in place, avoidance, data recovery, adaptive re-use, and on-site and on-call monitoring are proposed to ensure that identified resources are not adversely affected. Should any archaeologically or historically significant artifacts, or other indicators of previous on-site activity be uncovered during the construction phase, their treatment will be conducted in strict compliance with the requirements of the State DLNR.

As part of the HRS 6E mitigation commitments, the County will continue to consult with the Kānaka Maoli community during project design and during development of interpretive materials and programs (see **Exhibit 14 – Ka Pa'akai Analysis**).

The preferred path alignment is routed to avoid known archaeological and historic sites (see **Exhibit 2 – State Land Use District Boundaries Map and General Site Plan**, **Exhibit 3 – State Land Use District Boundaries Map and Location and Vicinity Plan,** and **9 – General Site Plan**). The final alignment will be established during the design phase when ground topography will be used to precisely locate known historic properties and ensure they are avoided by the path.

Factors affecting public health, including air quality, water quality, noise levels, and other items were assessed and are addressed through the application of appropriate mitigation measures and practices.

CHAPTER 205A – COASTAL ZONE MANAGEMENT

Land uses are required to comply with the provisions and guidelines contained in Chapter 205A, Hawai‘i Revised Statutes (HRS), entitled "Coastal Zone Management," as described below:

See **Evaluation Criteria, Item 3, page 20** above for discussion of the project’s consistency with these provisions and guidelines.

- **Recreational resources**: Provide coastal recreational opportunities accessible to the public.
- **Historic resources:** Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- **Scenic and open space resources:** Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- **Coastal ecosystems:** Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.
- **Economic uses:** Provide public or private facilities and improvements important to the State's economy in suitable locations.
- **Coastal hazards:** Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.
- **Managing development:** Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- **Public participation:** Stimulate public awareness, education, and participation in coastal management.
- **Beach protection:** Protect beaches for public use and recreation.
- **Marine resources:** Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

CERTIFICATION

I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attachments and exhibits is complete and correct. I understand that the failure to provide any requested information or misstatements submitted in support of the application shall be grounds for either refusing to accept this application, for denying the permit, or for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the Land Board.

I hereby authorize representatives of the Department of Land and Natural Resources to conduct site inspections on my property. Unless arranged otherwise, these site inspections shall take place between the hours of 8:00 a.m. and 4:30 p.m.

Wade Lord June 30, 2023 | 9:47 AM HAST

Signature of authorized agent(s) or if no agent, signature of applicant

AUTHORIZATION OF AGENT

I hereby authorize RM Towill, Inc. to act as my representative and to bind me in all matters concerning this application.

Wade Lord June 30, 2023 | 9:47 AM HAST

Signature of applicants(s)