

1 Make the following Section a part of the Standard Specifications:

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3 **“SECTION 671 – PROTECTION OF THREATENED AND ENDANGERED**  
4 **SPECIES**

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6 **671.01 Description.** The endangered Hawaiian Hoary Bat or ‘Ōpe‘ape‘a  
7 (*Lasiurus cinereus semotus*) and the threatened Hawaiian Goose or Nēnē (*Branta*  
8 *sandvicensis*) are in the general vicinity of the proposed project and may transit or  
9 visit the proposed project. The project site is located in a known flight corridor for  
10 the threatened Newell’s shearwater (*Puffinus auricularis newelli*), the endangered  
11 Band-Rumped Storm-Petrel (*Oceanodroma castro*), and the endangered  
12 Hawaiian petrel (*Pterodroma phaeopygia sandwichensis*), hereinafter referred to  
13 as seabirds. Also to be considered are the endangered Hawaiian waterbirds,  
14 including the Hawaiian Stilt or Ae’o (*Himantopus mexicanus knudseni*), the  
15 Hawaiian Coot or ‘Alae ke’oke’o (*Fulica alai*), the Hawaiian Gallinule or ‘Alae ‘ula  
16 (*Gallinula chloropus sandvicensis*), and the Hawaiian Duck or Koloa Maoli (*Anas*  
17 *wyvilliana*).  
18

19 Additionally, Kauai’s native species and ecosystems could be harmed  
20 by invasive fungal pathogens, vertebrate and invertebrate pests, and invasive plant  
21 parts.  
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23 The Contractor shall protect these threatened and endangered species  
24 and mitigate the spread of invasive species throughout the construction duration.  
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26 **671.02 Materials.** None  
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28 **671.03 Construction.**  
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30 **(A) Pre-Construction and Construction Requirements.** Comply with  
31 the following conditions and the notes in the Contract Plans:  
32

33 **(1) Hawaiian Hoary Bats.** Hawaiian Hoary Bats nest in both  
34 exotic and native woody vegetation. There will be no disturbance,  
35 removal, or trimming of woody plants greater than 15 feet (4.6  
36 meters) tall during the birthing and pup rearing season (June 1  
37 through September 15).  
38

39 Additionally, barbed wire will not be used for fencing.  
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41 **(2) Hawaiian Goose.** Any Hawaiian Goose in or near the  
42 project area will not be approached, fed, or disturbed in any way. If  
43 any Hawaiian Goose is present during project activities, all activities  
44 within 100 feet shall cease, and the bird shall not be approached. If  
45 a nest is discovered at any point, contact Kauai DOFAW Office at  
46 (808) 274-3433.  
47

48 If Hawaiian Goose are observed loafing, foraging, or  
49 otherwise present within the project area during the breeding season  
50 (September 1 through April 30), a trained biologist will survey the  
51 area near the project prior to work each day. Also, nest surveys will

be conducted in and around the project area by a biologist familiar with the nesting behavior of Hawaiian Goose prior to the resumption of any work. Surveys will be repeated after any delay in work of three or more days. If a nest is identified within 150 feet of the work area, all work will cease and the United States Department of Interior Fish and Wildlife Service (USFWS) will be contacted immediately for further guidance.

In areas where Hawaiian Goose are known to be present, reduced speed limits will be posted and implemented and project personnel and Contractors will be informed of the presence of endangered species on-site.

**(3) Hawaiian Seabirds.** Newell's shearwater, Band-Rumped Storm petrel and the Hawaiian petrel may traverse the project area at night during breeding season, which extends from March 1 through December 15.

If night-time work will be required in conjunction with the development of the project, the Contractor shall incorporate these measures to avoid and minimize project-related adverse effects to the Hawaiian seabirds:

**(a)** Collect information regarding the protection of seabirds and seabird fallout.

**(b)** Submit to the Engineer for acceptance a protection of seabirds training plan including a detailed description of information and materials the Contractor intends to use in the training classes. The training plan shall be submitted to the Engineer for acceptance at least 15 days in advance of the class. If the Engineer rejects the training plan, the Contractor shall revise and promptly propose another training plan.

**(c)** Disseminate information regarding the protection of seabirds and seabird fallout by conducting training classes for all employees, subcontractors, suppliers and other personnel working on the project, including HDOT personnel, on such topics as the Save Our Shearwater program, proper use of temporary lighting, procedures to store and report downed seabirds, and the consequences of non-compliance with the laws regarding threatened and endangered seabirds. The Engineer may request for additional topics related to seabirds to be included in the training classes.

Training classes shall be taught by authorized representatives of the U.S. Fish and Wildlife Service, the Department of Land and Natural Resources, the Save Our Shearwater program or other qualified personnel accepted by the Engineer.

103 (d) Furnish the Engineer with evidence that the Contractor  
104 has held training classes, including the dates of the classes,  
105 identify who conducted the training, and the content and  
106 nature of the training.  
107

108 (e) As directed by the Engineer, the Contractor shall  
109 conduct additional training classes during the project to  
110 update all employees, subcontractors, suppliers, HDOT  
111 personnel and other personnel on new and/or updated  
112 information regarding the protection of seabirds and seabird  
113 fallout.  
114

115 (f) All temporary lights used for night work (between  
116 sunset and sunrise) shall contain less than 2% wavelengths  
117 less than 550 nm, be downward-facing and shielded.  
118 Temporary lights shall include but are not limited to flood  
119 lights, light towers, lights for construction equipment and other  
120 lights as determined by the Engineer. All traffic control  
121 devices, including warning lights, arrow boards, portable  
122 changeable message signs and other lighting device as  
123 determined by the Engineer shall be shielded.  
124

125 (g) Night work and the use of all temporary lights shall  
126 cease during the peak fallout period from September 15  
127 through December 15.  
128

129 (h) The Contractor shall furnish and maintain a small  
130 (approximately 10" x 12" x 19"), portable cat kennel on site to  
131 temporarily hold a downed seabird. The Contractor shall  
132 obtain acceptance of the cat kennel from the Engineer prior to  
133 use.  
134

135 (i) If a downed dead seabird is found, the Contractor shall  
136 contact the U.S. Fish and Wildlife Service (Ms. Megan Laut at  
137 808-792-9400) within 24 hours.  
138

139 (j) If the downed seabird is alive, the Contractor shall:  
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141 i. Pick up the seabird from behind as soon as possible  
142 using a clean towel, t-shirt or cloth by gently  
143 wrapping it around its back and wings.  
144

145 ii. Place the seabird in the cat kennel and immediately  
146 contact the Save Our Shearwater Program  
147 Coordinator at 808-246-4348) for further  
148 instructions on where to deliver the seabird.  
149

150                                   iii.    Deliver the seabird to the location determined by  
151                                   the coordinator of the Save Our Shearwater  
152                                   program and as directed by the Engineer.

153  
154                                   iv.    Keep the seabird in a cool, quiet location and out of  
155                                   direct sunlight with adequate ventilation.

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157                                   The Contractor shall not feed, provide water, handle or  
158                                   release the seabird.

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160                                   (k)    The Contractor shall maintain records of all downed  
161                                   seabirds for the duration of the project. The records shall  
162                                   include the date, time, location and condition (dead or alive)  
163                                   the seabird was found and delivered. Submit a copy of the  
164                                   records to the Engineer after finding each and every downed  
165                                   seabird.

166  
167                                   No night-time construction shall occur during the peak seabird  
168                                   fledging period (September 15 through December 15).

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170                                   **(4)    Hawaiian Waterbirds.**    Hawaiian waterbirds occupy fresh  
171                                   and brackish water marshes and natural or manmade ponds.  
172                                   Hawaiian stilts also occupy areas with ephemeral or persistent  
173                                   standing water. Because this project occurs near water, threats to  
174                                   these species from this project may include disturbance from human  
175                                   activity and injury or mortality from vehicle strikes.

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177                                   Contractor shall incorporate these measures to avoid and  
178                                   minimize project-related adverse effects to the Hawaiian waterbirds:

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180                                   (a)    In areas where known presence of Hawaiian  
181                                   waterbirds occurs, post and implement reduced speed limits,  
182                                   and inform project personnel and Contractors of the presence  
183                                   of these endangered species.

184  
185                                   (b)    Because water resources occur in the project site,  
186                                   employ U.S. Fish and Wildlife Service Recommended  
187                                   Standard Best Management Practices when working in  
188                                   aquatic environments.

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190                                   (c)    Survey for Hawaiian waterbirds in or near the project  
191                                   area prior to work using survey biologists. Survey biologists  
192                                   should be trained and capable of identifying adults and  
193                                   juveniles of each species, nesting behaviors, and nests.

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195                                   i.     Surveys for species and nests should be repeated  
196                                   when a delay of work occurs that is three days or  
197                                   more (during which the birds may attempt to nest).

- ii. If a nest or active brood is found, contact the Service within 24 hours for further guidance.
- iii. Establish and maintain a 100-ft buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.
- iv. Have a biological monitor that is familiar with the species' biology present on the project site during all construction or earth moving activities until the chicks/ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely affected.

**(5) Kauai's Native Species and Ecosystems.** Soil and plant material may contain invasive fungal pathogens (e.g., Rapid 'Ōhi'a Death), vertebrate and invertebrate pests (e.g., Little Fire Ants), or invasive plant parts that could harm our native species and ecosystems.

Contractor shall incorporate these measures to avoid and minimize the movement of harmful invasive species:

**(a)** Minimize the movement of plant or soil material between worksites, such as in fill.

**(b)** All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species. Gear that may contain soil, such as work boots and vehicles, should be thoroughly cleaned with water and sprayed with 70% alcohol solution to prevent the spread of Rapid 'Ōhi'a Death and other harmful fungal pathogens.

**(B) Compliance Requirements.** The Contractor shall protect all species noted above for the duration of construction. Failure to comply with the construction requirements, harm or a taking of an individual during the construction duration shall be enforceable by the U.S. Fish and Wildlife Service as set forth by the Endangered Species Act. Resultant penalties and/or fines shall be at the Contractor's expense without cost or liability to the State.

**671.03 Measurement.** The Engineer will measure the work required for the protection of threatened and endangered species on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation and as ordered by the Engineer.

**671.04 Payment.** The Engineer will pay for the accepted protection of threatened and endangered species on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation. Payment will be full compensation for the work prescribed in this section, by the Engineer, and in the contract documents.

The Engineer will pay for the following pay item when included in the proposal schedule:

<b>Pay Item</b>	<b>Pay Unit</b>
Protection of Threatened and Endangered Species	Force Account

An estimated amount may be allocated in the proposal schedule under “Protection of Endangered Species”, but the actual amount to be paid will be the sum shown on the accepted force account records, whether this sum be more or less than the estimated amount allocated in the proposal schedule.”

**END OF SECTION 671**