

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**
5

6 **671.01 Description.** The endangered Hawaiian hoary bat or ‘ōpe‘ape‘a
7 (*Lasiurus cinereus semotus*) may roost, forage, and rear young in the general
8 vicinity of the proposed project. The project site is located in a known flight corridor
9 for the endangered Hawaiian petrel or ‘ua‘u (*Pterodroma sandwichensis*), the
10 endangered Hawai‘i distinct population segment (DPS) of the band-rumped storm-
11 petrel or ‘ake‘ake (*Oceanodroma castro*), and the threatened Newell’s shearwater
12 or ‘a‘o (*Puffinus auricularis newelli*), hereinafter referred to as Hawaiian seabirds.
13

14 The Contractor shall protect these threatened and endangered species
15 throughout the construction duration.
16

17 **671.02 Materials.** None
18

19 **671.03 Construction.**
20

21 **(A) Pre-Construction and Construction Requirements.** Comply with
22 the following conditions and the notes in the Contract Plans:
23

24 **(1) Hawaiian Hoary Bat.** Hawaiian hoary bats nest in both
25 native and non-native woody vegetation.
26

27 The Contractor shall incorporate these measures to avoid and
28 minimize project-related adverse effects to the Hawaiian hoary bat:
29

30 **(a)** There shall be no disturbance, removal, or trimming of
31 woody plants greater than 15 feet (4.6 meters) tall
32 during the bat birthing and pup rearing season (June 1
33 through September 15).
34

35 **(b)** Barbed wire shall not be used for fencing.
36

37 **(2) Hawaiian Seabirds.** Hawaiian seabirds may traverse the
38 project area at night during breeding, nesting and fledgling season,
39 which extends from March 1 through December 15. Permanent
40 lighting poses a very high risk of seabird attraction so new highway
41 lighting should not be installed to protect seabird flyways and
42 preserve the night sky. Additional or increased lighting exacerbates
43 the problem of Newell’s shearwater fallout.
44

45 Fallout shall be defined as the occurrence of seabirds being
46 harmed, injured or killed and falling to the ground due to: 1) collision
47 with structures such as wires, poles, or other objects; 2) light
48 attraction and the resulting collision with structure associated with or
49 near the light sources; or, 3) the exhaustion from circling the light
50 source.
51

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

56
57 (a) Before beginning any work at the project site, the
58 Contractor shall:

- 59
- 60 i. Collect information regarding the protection of
61 seabirds and seabird fallout.
 - 62
 - 63 ii. Submit to the Engineer for acceptance a protection
64 of seabirds training plan including a detailed
65 description of information and materials the
66 Contractor intends to use in the training classes.
67 The training plan shall be submitted to the Engineer
68 for acceptance at least fifteen (15) days in advance
69 of the class. If the Engineer rejects the training
70 plan, the Contractor shall revise and promptly
71 propose another training plan.
 - 72
 - 73 iii. Disseminate information regarding the protection of
74 seabirds and seabird fallout by conducting training
75 classes for all employees, subcontractors, suppliers
76 and other personnel working on the project,
77 including HDOT personnel, on such topics as the
78 Save Our Shearwater (SOS) program, proper use
79 of temporary lighting, procedures to store and
80 report downed seabirds, and the consequences of
81 non-compliance with the laws regarding threatened
82 and endangered seabirds. The Engineer may
83 request for additional topics related to seabirds to
84 be included in the training classes.
 - 85

86 Training classes shall be taught by
87 authorized representatives of the USFWS, the
88 Department of Land and Natural Resources, the
89 SOS program or other qualified personnel accepted
90 by the Engineer.

- 91
- 92 iv. Furnish the Engineer with evidence that the
93 Contractor has held training classes, including the
94 dates of the classes, identify who conducted the
95 training, and the content and nature of the training.
 - 96

97 (b) The Contractor shall comply to the following
98 construction requirements:
99

- i. As directed by the Engineer, the Contractor shall conduct additional training classes during the project to update all employees, subcontractors, suppliers, HDOT personnel and other personnel on new and/or updated information regarding the protection of seabirds and seabird fallout.
- ii. No permanent streetlights shall be installed as part of the project.
- iii. All temporary lights used for night work (between sunset and sunrise) shall contain less than 2% wavelengths less than 550 nm, and shall be downward-facing and shielded so the bulb can only be seen from below. Temporary lights shall include but are not limited to flood lights, light towers, lights for construction equipment and other lights as determined by the Engineer. All traffic control devices, including warning lights, arrow boards, portable changeable message signs and other lighting device as determined by the Engineer shall be shielded.
- iv. Nighttime construction and the use of all temporary lights shall cease during the peak seabird fledgling period (September 15 through December 15).
- v. The Contractor shall furnish and maintain a small (approximately 10" x 12" x 19"), portable cat kennel on site to temporarily hold a downed seabird. The Contractor shall obtain acceptance of the cat kennel from the Engineer prior to use.
- vi. If a downed seabird is found, the Contractor shall contact the USFWS (Ms. Megan Laut at 808-792-9400) within 24 hours.
- vii. If the downed seabird is alive, the Contractor shall:
 - I. Pick up the seabird from behind as soon as possible using a clean towel, t-shirt or cloth by gently wrapping it around its back and wings.
 - II. Place the seabird in the cat kennel and immediately contact the SOS Program

Coordinator at 808-635-5117 for further instructions on where to deliver the seabird.

III. Deliver the seabird to the location determined by the coordinator of the SOS program and as directed by the Engineer.

IV. Keep the seabird in a cool, quiet location and out of direct sunlight with adequate ventilation.

V. The Contractor and any personnel on-site shall not feed, provide water, handle or release the seabird.

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

(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 USFWS 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:

Pay Item	Pay Unit
Protection of Threatened and Endangered Species	Force Account

An estimated amount may be allocated in the proposal schedule under "Protection of Threatened and 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