

**MEMORANDUM OF UNDERSTANDING BETWEEN THE FLORIDA DEPARTMENT
OF TRANSPORTATION AND THE FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION, DIVISION OF RECREATION AND PARKS FOR
GOPHER TORTOISE RELOCATION**

This Memorandum of Understanding (MOU) is made by and between the Florida Department of Transportation (FDOT) and the Florida Department of Environmental Protection, Division of Recreation and Parks (DRP).

Recitals

WHEREAS, FDOT anticipates that transportation projects currently planned throughout the state will result in impacts to populations of the gopher tortoise (*Gopherus polyphemus*), a state imperiled species; and

WHEREAS, FDOT is responsible for developing projects which, through interagency coordination, provide conservation measures for imperiled species in cases where avoidance and minimization actions related to transportation projects cannot avoid impacts to these species; and

WHEREAS, FDOT has an interest in identifying ecologically suitable lands in order to relocate gopher tortoises from lands located within the footprint of public transportation projects to publicly-owned lands throughout the state; and

WHEREAS, DRP has over 790,000 acres of public conservation lands in the state park system; and

WHEREAS, DRP has many state parks with documented populations of gopher tortoises and may contain other areas of habitat suitable for receiving gopher tortoises affected by FDOT's transportation projects throughout the state; and

WHEREAS, DRP believes that cooperation with FDOT in relocating gopher tortoises from lands impacted by public transportation projects to public conservation lands would be beneficial to gopher tortoise conservation and mutually beneficial to the goals and objectives of both agencies.

NOW, THEREFORE, in consideration of the foregoing, FDOT and DRP agree to the following:

I. GUIDING PRINCIPLES

- A. The FDOT and DRP agree that DRP's state park management is instituted to fulfill the management goals and objectives described or referenced in Chapter 258 of the Florida Statutes and in the approved resource management plan for each state park.

1. The DRP's purpose in cooperating in this MOU is to benefit conservation and management of gopher tortoise populations on state parks through gopher tortoise relocation or restocking where these efforts result in biologically sound population management.
2. The DRP recognizes that the timely relocation of gopher tortoises and, where appropriate, their burrow commensals from within the footprint of public transportation projects contributes to gopher tortoise conservation and to the accomplishment of the FDOT mission. Thus, gopher tortoise and, where appropriate, their commensals displaced by a public transportation project may be relocated to areas of state parks designated as recipient areas for gopher tortoises within the distance recommended in the most recent revision of the Florida Fish and Wildlife Conservation Commission (FWC) Gopher Tortoise Permitting Guidelines which is incorporated herein by reference.
3. For the purposes of this MOU, relocation is defined as the deliberate moving of wild gopher tortoises and/or commensal species from within the footprint of the public transportation project to suitable habitat within a state park recipient site such that the final stocking density of gopher tortoises is no greater than the maximum allowable per acre amount for public conservation lands as defined in the most recent revision of the Florida Fish and Wildlife Conservation Commission (FWC) Gopher Tortoise Permitting Guidelines.
4. FDOT will attempt all efforts to avoid or minimize impacts to the gopher tortoise at public transportation project construction sites as practicable prior to the relocation of impacted gopher tortoises to other suitable areas on any state park.
5. DRP does not become a party to any permit or regulatory agreement made in relation to the transportation project itself by accepting relocated gopher tortoises under this MOU.
6. State park recipient sites for relocated gopher tortoises under this MOU must be situated no further than maximum allowable distance from the area impacted by the public transportation project footprint as defined by the most recent revision of the FWC Gopher Tortoise Permitting Guidelines unless an exemption is authorized by FWC. For public transportation projects that impact a state park, all efforts to relocate gopher tortoises to the same park will be made. If this is not possible, DRP will designate which state park to relocate the gopher tortoises.

7. The relocation of gopher tortoises to a state park recipient site shall meet the guidelines and requirements of FWC Relocation Permits, DRP Recipient Site Permits, and the most recent revision of the FWC Gopher Tortoise Permitting Guidelines.

8. Prior to FDOT relocating gopher tortoises on a state park from a public transportation project covered under this MOU, FDOT shall submit to DRP for approval a report for projects which shall include the following:
 - a) Donor site name;
 - b) FDOT project title;
 - c) Map indicating donor site(s) and burrow locations;
 - d) Map indicating proposed location and size (acres) of recipient site(s);
 - e) Documentation of recipient site suitability assessment;
 - f) Estimated number of tortoises to be relocated; and
 - (1) Any and all project-specific agreements between DRP and FDOT which: alter the management responsibilities of either agency, either wholly or in part, as referenced in section III of this MOU; and/or
 - (2) Are otherwise not specifically referenced herein.

9. Within 15 days after receipt of FDOT's report above, DRP will either approve or disapprove the report, and if approved DRP will provide FDOT a "reservation letter" authorizing a certain number of relocations to the requested DRP recipient site.

10. Upon completion of the gopher tortoise relocation, FDOT will provide DRP documentation of relocation which shall serve as fulfillment of relocation responsibilities detailed herein. This documentation shall include the following:
 - a) Date(s) of tortoise removal;
 - b) Date(s) of tortoise relocation;
 - c) Description of tortoises relocated including:
 - (1) all demographic information collected
 - (2) any required marking of tortoises for identification purposes
 - (3) any indications of unhealthy or diseased tortoises
 - (4) any instances of mortality during relocation; and
 - (5) final number of tortoises moved.
 - (d) If the final number of tortoises relocated are fewer than the number authorized in the "reservation letter", then FDOT will provide a memo to notify DRP that the remaining gopher tortoise numbers that were not used are released from the "reservation letter" and are available for future relocations.

II. NUMBER OF GOPHER TORTOISES TO BE RELOCATED

- A. In the case of a public transportation project impacting state parks that requires the relocation of <40 gopher tortoises, DRP will designate a short-term recipient site on or near the impacted state park to receive the tortoises. If there are ≥ 40 gopher tortoises that need to be relocated, the FDOT and DRP will evaluate on a case-by-case basis whether to pursue a short-term or a long-term recipient site. For public transportation projects that do not impact state parks, DRP may designate short or long-term recipient sites within the park system. Long-term recipient sites would need to be ecologically suitable to accept a minimum of 40 individuals with the maximum number determined by the long-term recipient site permit.
- B. In order to assist the DRP with the management of recipient sites, the FDOT will provide DRP with the mitigation contribution for relocation per tortoise based on the table of rates below. Within 30 days after completion of a relocation event and upon notice by FDOT, DRP will invoice FDOT's District Office, or their designated Authorized Agent, directly within 30 days of the notice. Once the invoice is received, FDOT will be responsible for payment of the tortoise contribution, but FDOT will keep the FWC Relocation Permit open until the finish of the transportation project, or the maximum number of tortoises allowed for release under the relocation permit has been reached. This mitigation money shall be used by DRP for management and monitoring of gopher tortoise populations and for conducting associated land management activities, including the purchase of equipment that will be beneficial to gopher tortoises on any state park recipient site.

| Size Class | Mitigation Cost/Tortoise |
|---|--------------------------|
| Eggs | Free |
| Hatchlings ($\leq 60\text{mm}$) | Free |
| Juveniles ($\geq 60\text{mm}, \leq 130\text{mm}$) | Free |
| Adults ($> 130\text{mm}$) | \$2,000 |

III. MANAGEMENT RESPONSIBILITIES

- A. DRP shall assume responsibility for security and habitat management of all recipient sites pursuant to this MOU.
- B. DRP shall manage all recipient sites covered under this MOU utilizing accepted habitat management techniques and guidelines set forth in the most recent revision of the FWC Gopher Tortoise Permitting Guidelines. While all state parks are managed

under the multiple use concept, a specific goal of the management of these recipient sites will be to improve or maintain habitat suitable for the gopher tortoise. DRP may choose, at its discretion, to enter into contractual agreements with other vendors to perform management activities within the recipient areas.

- C. DRP shall specify to FDOT the state park locations which are appropriate for assessment as potential recipient sites. FDOT shall be responsible for the assessment of a potential recipient site or sites in state parks and the measurement of gopher tortoise baseline densities at the recipient site or sites for each individual project covered under this MOU. FDOT may utilize previously collected data in determining the suitability of a recipient site if DRP agrees that the collected data are still valid. These assessments and measurements shall be done to meet the guidelines and requirements found within the most recent revision of the FWC Gopher Tortoise Permitting Guidelines. FDOT may choose, at its discretion, to enter into contractual agreements with other vendors to perform assessment and measurement activities within the recipient area or areas. DRP will act in good faith to conduct timely reviews of assessments conducted by FDOT and provide timely reviews for recipient site permit applications so as not to impact FDOT project schedules. The DRP may obtain and review any comments from other agencies and organizations in its determination as to whether a particular assessment is adequate and whether any particular relocation should proceed forward.

- D. FDOT shall be responsible for gopher tortoise relocation. This shall include identification and extraction of gopher tortoises to be relocated, transportation of the gopher tortoises from the public transportation project footprint to the designated recipient site on a state park, and construction of temporary enclosures as indicated for the "soft release" of gopher tortoises. FDOT may choose, at its discretion, to enter into contractual agreements with other vendors to perform relocation and temporary enclosure construction activities within the recipient area or areas. All relocations must be coordinated with DRP and made in accordance with FWC Relocation Permits and the most recent revision of the FWC Gopher Tortoise Permitting Guidelines.

- E. DRP shall provide to FDOT the name and contact information for a DRP field representative to coordinate oversight of each relocation project, including recipient site selection. FDOT will notify DRP field staff in writing at least 30 days prior to temporary enclosure (s) construction and relocation.

- F. After approval of the initial installment of temporary enclosures by FDOT and DRP, DRP shall be responsible for monitoring and maintaining the temporary enclosures

during the "soft-release" period, removing the temporary enclosures upon completion of the "soft release" period, and performing all post-release population monitoring as required by DRP Recipient Site Permits and the most current revision of the FWC Gopher Tortoise Permitting Guidelines.

- G. DRP shall be responsible for the development and/or amendment of the habitat management plan for all recipient sites.
- H. DRP will be responsible for maintaining the eligibility of gopher tortoise relocation sites.

IV. SUCCESS CRITERIA

Upon completion of gopher tortoise relocation for each project covered under this MOU, DRP will assume long-term population monitoring and reporting responsibilities as required under DRP Recipient Site Permits and the most recent revision of the FWC Gopher Tortoise Permitting Guidelines. DRP will work with FWC to ensure that gopher tortoise management goals are being met within the recipient sites of state parks impacted by public transportation projects.

V. GENERAL TERMS AND CONDITIONS

This MOU, including documents expressly incorporated by reference, constitutes the entire MOU between FDOT and DRP. It supersedes all other previous communications, representations, or contracts, either written or oral, which purport to describe or embody the subject matter of this MOU.

VI. SEVERABILITY

If any provision of this MOU, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be partially or wholly invalid or unenforceable for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect other provisions or applications of this MOU which can be given effect without the invalid provision or application, therefore the provisions of this MOU are declared severable.

VII. AMENDMENTS

No amendment of this MOU shall be of any force or effect unless set forth in a written instrument signed by authorized representatives of each party.


VIII. TERMINATION

The FDOT or DRP may terminate this MOU at any time by providing 60 days written notice to the other party.

IX. EFFECTIVE DATE

This MOU shall take effect on the last signature date, as completed below.

William N. Watts, Jr., P.E.
Assistant Secretary for Engineering
and Operations
Florida Department of Transportation
605 Suwannee Street - MS 57
Tallahassee, FL 32399-0450

DocuSigned by:

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Date: 07/10/2023 | 7:34 PM EDT

Chuck Hatcher, Director
Division of Recreation and Parks
Florida Department of Environmental
Protection
3900 Commonwealth Blvd., MS 500
Tallahassee, FL 32399

Chuck
Hatcher
Date: _____
Digitally signed by
Chuck Hatcher
Date: 2023.07.20
12:42:18 -04'00'

Legal Review for FDOT

DocuSigned by:
By: 
0C108EA23FF14DD...
Kathleen Toolan

Legal Review for FDEP

By: 
Toni Sturtevant