

GOPHER TORTOISE RECIPIENT SITE RESERVATION AGREEMENT

This Gopher Tortoise Recipient Site Reservation Agreement (hereinafter "Agreement") is made this ____day of____202X, by and between **Manatee County Natural Resources Department**, a political subdivision of the State of Florida, (hereinafter the "County"), whose mailing address is 1022 26th Avenue East, Bradenton Florida 34205 and, _____(hereinafter "Client") whose mailing address is (hereinafter collectively the "Parties").

WITNESSETH:

WHEREAS, the County maintains Duette Preserve (hereinafter referred to as the "Recipient Site"); a long term protected gopher tortoise recipient site located in Manatee County, Florida that is approved for the release of gopher tortoises by the Florida Fish and Wildlife Conservation Commission;

WHEREAS, the County agrees to provide area within the recipient site and Client (or approved agents of the client) agrees to provide gopher tortoises from a permitted relocation project with the Florida Fish and Wildlife Conservation Commission. Client (or agents of the client) agrees to the terms and conditions below to be used to relocate gopher tortoises and commensal species associated with the proposed development of the Client's project(s) (hereinafter "Project").

WHEREAS, the acreage of lands to be reserved from the County has been determined by Client (or agent of the client) based on an estimated_____ gopher tortoises for the _____**Project**; and

WHEREAS, the County requires as part of this Agreement for Client (or agent of the client) to remit this Agreement to the County in order to allow Client (or agent of the client) to submit the recipient site information for the offsite relocation permit;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto, each intending to be legally bound, do hereby warrant and agree as follows:

[Agreement Continues on Next Page]

TERMS OF AGREEMENT

1. **PAYMENT.** The reservation fee per adult tortoise is _____dollars (\$) and _____(\$ per juvenile. payable in check or cashier's check. Any tortoises that count toward the recipient site permit are subject to this fee. See **Appendix 1** for "Gopher Tortoise Recipient Site Reservation Fee Policy" details regarding calculation of per tortoise reservation fee.

The check should be addressed to:

Manatee County Government
Financial Management – Natural Resources
1022 26th Avenue East
Bradenton FL 34208

2. **ADMINISTRATION FEE.** The County requires a 5% administrative fee (deposit) per tortoise before a reservation letter will be provided. The total deposit amount due is \$_____. Payment shall be accompanied by a completed "Gopher Tortoise Recipient Site Reservation Fee Deposit Form" found in this Agreement as **Appendix 2.**
3. **ADMINISTRATION FEE REFUND.** The per tortoise administration fee deposit is non-refundable. At the end of 12 months, all non-relocated tortoises that are reserved must be released from the donor site permit; available capacity returned to the recipient site; and all invoices paid in full.
4. **RECIPIENT SITE RESERVATION LETTER.** Upon receipt of the administration fee deposit and the executed Agreement, the County will provide the necessary reservation letter which will allow the Client to utilize the reserved capacity on the donor site permit application with FWC.
5. **RESERVATION DURATION.** The tortoise reservation is valid for a period of 12 months after the Effective Date of this agreement. The aforementioned per tortoise fee of \$_____per adult and \$_____ per juvenile is only valid through the term of this Agreement. If the FWC gopher tortoise relocation permit is received prior to or on the Agreement expiration date, the agreed upon tortoise fee is valid for the duration of the permit. If the County does not receive a copy of the FWC gopher tortoise relocation permit by that date, that fee is subject to change; any increase in the amount of the fee, however, shall only be binding if the parties mutually amend this Agreement in writing. The County does not guarantee the per tortoise fee after the expiration date of this Agreement. Also, if the entirety of the release area is not filled by the maximum number of gopher tortoises permitted in the FWC gopher tortoise relocation permit, the remaining area will not be reserved for future relocations for the Client. The County reserves the right to use any remaining lands for other relocations.

6. **TORTOISE RELOCATION NOTIFICATION.** The Client shall make the County aware of the scheduled donor site relocations no later than **five (5) days** prior to the event. This notice is required for the County to drop-offs and safe release of the tortoises at the recipient site.
7. **TORTOISE RELOCATION DROP-OFF.** Tortoises may be dropped off at 1501 Dam Rd., Bradenton FL 34212 between 7:30 am and 4:00 pm on Monday through Friday. The Client shall provide notification that the drop off will occur should be at least **five (5)** hours prior. The County does not provide tortoise relocation pick-ups.
8. **TORTOISE MEASUREMENTS AND MARKING.** The County will be responsible for measuring (weight, length, sex, health) and marking tortoises (collectively referred to as "Tortoise Data"), upon receipt. The "Tortoise Data" that is collected will be provided to the Client for use in the donor site After Action Report.
9. **INVOICING.** The County will invoice the Client the remaining fee per tortoise released at the site within 10 days of accepting the first tortoise. Payment to the County will be made by the Donor in compliance with Chapter 218, Florida Statutes, also known as the "Local Government Prompt Payment Act" upon receipt of an invoice from the County.
10. **LATE FEE.** Invoices past payment due date will be subject to interest in accordance with Chapter 218, Florida Statutes, also known as the "Local Government Prompt Payment Act."
11. **PERMIT AND COMPLETION REPORT.** Client (or agents of the client) agrees to **provide the County with a signed copy of the relocation permit prior to initial delivery of gopher tortoises.** Client (or agent of the client) also agrees to provide the County with a copy of the completion report. This information is necessary for our reporting requirements with the Florida Fish and Wildlife Conservation Commission. Failure to do so can result in the denial of any future requests for use of the recipient site.
12. **GOPHER TORTOISE RELEASE.** The County will release the gopher tortoises into the designated portion of the area of the recipient site. The County will also provide starter burrows for each gopher tortoise. Only the County and the Florida Fish and Wildlife Conservation Commission staff are allowed onsite.
13. **BREACH OF AGREEMENT.** If, for any reason, payments have not been conveyed to the County by the Client (or agents of the client) for gopher tortoises received, this

action will constitute a breach of the Agreement by Client, and therefore, the County reserves the right to refuse any additional gopher tortoises until all outstanding monies have been received from the Client.

- 14. NOTICE.** This Agreement may be terminated by either party for cause upon Fifteen (15) days' notice or by either party for convenience upon no less than thirty (30) days' advance written notice. Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of Client as set forth in this Agreement, or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured. In the event this Agreement is terminated for convenience, the County shall be paid for any services performed to the date the Agreement is terminated.

**FOR MANATEE
COUNTY**
Charlie Hunsicker
Director
Manatee County NRD
1022 26th Ave E
Bradenton, FL 34208
(941) 742-5923 phone
charlie.hunsicker@mymanatee.
org

**WITH A COPY TO
Manatee County
Attorney**

1112 Manatee Ave W
#969
Bradenton, FL 34205

**WITH A COPY TO
Manatee County
Gopher Tortoise
Agent**

1501 Dam Road
Bradenton, FL 34212
kathleen.barrett@mymanatee.
org

FOR CLIENT

Name:
Address:
Contact/Phone:
Email:

- 15. Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida., as well as in accordance with all applicable laws, statutes, including the Local Government Prompt Payment Act (218.735 and 218.76 F.S.) as amended in the 2010 legislative session, ordinances, codes, rules, regulations and requirements of any governmental agencies, which regulate or have jurisdiction over the Project or the services to be provided and performed by the County hereunder.
- 16. Venue.** The venue of any action to enforce the terms of this Agreement shall be in Manatee County, Florida, and if in federal court, shall be in the Middle District of Florida, Tampa Division.

17. **Entire Agreement.** This Agreement contains the entire understanding between the Client and the County and the Client and the County agree that no representation was made by or on behalf of the other which is not contained in this Agreement, and that in entering into this Agreement neither relied upon any representation not especially herein contained. This Agreement shall not be binding upon the Client and the County until executed by an officer of the Client and the County, if applicable its corporate seal affixed, and an executed copy of the Agreement has been delivered to the Client and the County.
18. **Amendments and Waivers.** This Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by each and all of the parties hereto. No failure by Client or the County to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy upon a breach thereof shall constitute a waiver of any such breach or of such any other covenant, agreement, term or condition. Any party hereto, by notice, may but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenants of any other party hereto. No waiver shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.
19. **Captions; Genders.** Captions used in this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement. Whenever used, the singular shall include the plural, the plural shall include the singular, and gender shall include all genders.
20. **Partial Invalidity.** In case any term of this Agreement shall be held to be invalid, illegal or unenforceable, in whole or in part, neither the validity of the remaining part of such term or the validity of any other term of this Agreement shall in any way be affected thereby.
21. **Calculation of Time.** Time periods of five (5) days or less shall be computed without including Saturdays, Sundays, or national legal holidays, and any time period existing on a Saturday, Sunday or national legal holiday shall be extended until 5:00 p.m. on the next business day.
22. **Effective Date.** This Agreement is effective on the date on which the last of the parties sign this Agreement.
23. **Typewritten or Handwritten Provisions.** Handwritten provisions and/or typewritten provisions inserted in this Agreement, which are initialed by both parties, shall control over the printed provisions in conflict therewith.

- 24. Counterparts.** This Agreement may be executed in any number of counterparts, any one and all of which shall constitute the agreement of the parties and shall be deemed one original instrument.
- 25. Time is of the Essence.** Time is of the essence under the terms of this Agreement.
- 26. Public Access to Records:** The Client acknowledges that all said documents regarding this project, as well as all of the documents, papers, letters or other material prepared and completed, made or received in conjunction with this agreement, are subject to the provisions of Chapter 119, Florida Statutes , and shall be maintained and made available to the public at the Contractor 's custodial address, to-wit: 1704 99th Street NW, Bradenton, FL 34209.
- 27. INDEMNIFICATION.** The County assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of the County and its officers, employees, servants, and agents while acting within the scope of their authorized powers and duties or their employment by the County. Notwithstanding any provision in the Agreement, the County assumes no additional risks except those set forth in the first section of this paragraph. Client shall be fully liable for personal injury, death and property damage caused by the negligence or willful misconduct of its employees, officers and agents. The parties agree: 1) that no term or condition contained in the Agreement shall be construed or interpreted as a) denying the County any remedy or defense available to it under the laws of Florida; b) a waiver of sovereign immunity of the County beyond the waiver and limitations provided in Section 768.28, F.S.; or c) resulting in the imposition of liability on the County for which it would not otherwise by law be responsible; and 2) the County shall only be obligated to indemnify the Client in accordance with the provisions and limitations set forth in Section 768.28, Florida Statutes.
- 28. ATTORNEY'S FEES.** In the event of any litigation arising under the terms of this Agreement, each party shall be responsible for their own attorney's fees, including appellate fees, regardless of the outcome of the litigation.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement, to become effective as of the date and year first above written and in accordance with the terms of this Agreement.

Manatee County:

(signature)

Charlie Hunsicker, Director Natural Resources

Executed on _____, 202X

Client:

(signature)

Printed Name and Corporate Title: _____

Executed on _____, 202X _____

APPENDIX 1

MANATEE COUNTY NATURAL RESOURCES DEPARTMENT GOPHER TORTOISE RECIPIENT FEE POLICY (Section of Resolution R-25-066)

The following is a descriptive policy regarding Gopher Tortoise Recipient Fees for Gopher Tortoise Recipient Sites permitted within Manatee County Natural Resources Department managed lands.

1. All revenues (i.e., fees collected) received by and through the Manatee County Gopher Tortoise Recipient Site Program for gopher tortoise relocations shall be placed into an account dedicated for the staffing, management, maintenance, and monitoring mandated by the Florida Fish and Wildlife Conservation Commission ("State") Gopher Tortoise Recipient Site Permit (GTLR-23-00009) (Application No. 96483).
2. The Natural Resources Department will implement the State-approved, Gopher Tortoise Recipient Site Habitat Management Plan to the extent the designated account allows. Staffing shall include an Authorized Gopher Tortoise Agent ("GTA") retained by Manatee County and Resource Management personnel and/or contracted personnel to perform various management activities in perpetuity (temporary enclosure fencing, mowing, prescribed burning, tortoise marking, monitoring, etc.).
3. Each Manatee County gopher tortoise recipient site shall be managed and monitored in accordance with the aforementioned permit and consistent with the most current FWC Gopher Tortoise Permitting Guidelines <https://myfwc.com/license/wildlife/gopher-tortoise/permits/permitting-guidelines/guidelines-revisions/>.
4. Unless directed otherwise by FWC, Manatee County's gopher tortoise recipient sites shall only accept gopher tortoises being relocated from development projects (i.e., donor site) occurring within the approved geographic region defined as one hundred miles north or south and from west coast to east coast of the permitted gopher tortoise recipient site to which the gopher tortoise(s) will be relocated.
5. Gopher tortoises shall be accepted at Manatee County's permitted gopher tortoise recipient sites from both public agency development projects and private entity development projects within the approved geographic region defined above. However, a minimum of 25% of the total number of tortoises accepted at any individual recipient site shall be reserved for Manatee County infrastructure projects (e.g., public works, utilities, facilities, etc.), 25% of the total number of tortoises accepted shall be reserved for other public entities (e.g., Florida Department of Transportation, Manatee County School Board, etc.), and the remaining 50% of the total number of tortoises accepted shall be reserved for private entities.
6. A designated Manatee County Natural Resources representative shall maintain a ledger tallying gopher tortoise vacancies at each permitted recipient site. The ledger shall be audited annually by an authorized GTA.
7. Upon a gopher tortoise relocation inquiry from a potential donor site, the Manatee County Natural Resources representative shall review the recipient site ledgers for available carrying capacity. If a recipient site is available to accommodate the estimated number of gopher tortoises anticipated from the donor site, the Manatee County representative shall send a Reservation Letter to the donor site, including a Reservation Agreement and Deposit Form.
8. The Gopher Tortoise Recipient Fee shall be calculated based on the market rate at the time of the Reservation Letter generation, as follows:

Donor Site	Cost per Tortoise
Manatee County Infrastructure Projects	Market Rate -20%
Donor Site (Private Entities)	Market Rate
Donor Site (Public Entities)	Market Rate -10%

9. Market rate shall be assessed on a quarterly basis by averaging the fees for a minimum of three long-term recipient sites within the Southwest Region.

10. The Gopher Tortoise Recipient Fee covers costs to staff Manatee County Authorized GTA(s), management of the gopher tortoise reservation system, installation and maintenance of temporary enclosure fencing for relocated gopher tortoises, marking, tracking, and monitoring of relocated gopher tortoise(s), and long-term management and maintenance activities associated with the Duette Preserve Long-term Gopher Tortoise Recipient Site(s).

11. A nonrefundable administrative fee equal to 5% of the calculated Gopher Tortoise Recipient Fee is required upon return of the executed Reservation Agreement. This fee covers the administrative costs and equipment costs associated with the management of the recipient sites. Upon receipt of the administration fee, Manatee County Natural Resources Department will provide the necessary reservation letter which will allow the applicant to utilize the reserved capacity on the donor site permit application with FWC.

12. Tortoises with a carapace less than 130 mm will not be charged the full Gopher Tortoise Recipient Fee. Instead, the administration fee will be used for authorized agent administration and receiving activities.

13. The donor site (i.e., GTA or FWC approved designee) shall be responsible for transport of all donor site gopher tortoises to the Manatee County recipient site's designated transfer location to be provided to the permittee upon issuance of the donor site relocation permit.

14. Once received at the recipient site, relocated gopher tortoises shall be weighed, measured, assessed for health, and marked by a Manatee County Authorized GTA using a unique identifying number (ID). The unique ID will be used to inventory gopher tortoises in the credit ledger and will be provided to the FWC for permit compliance tracking.

15. The Manatee County Authorized GTA reserves the right to deny receipt of any unhealthy tortoises delivered to the recipient site.

16. After a relocation is complete, the donor site is responsible for paying the Gopher Tortoise Recipient Fee balance in accordance with the Reservation Agreement.

17. Payment to the County will be made by the Donor in compliance with Chapter 218, Florida Statutes, also known as the "Local Government Prompt Payment Act" upon receipt of an invoice from the County.

18. Failure to promptly pay invoices may result in the application of late fees, cancellation of the Reservation Agreement, and/or denial of future Reservations.

APPENDIX 2

Gopher Tortoise Recipient Site Administrative Fee



**MANATEE COUNTY GOPHER TORTOISE
RECIPIENT SITE RESERVATION FEE FORM**

This source document must accompany all payments made for Gopher Tortoise Recipient Site Reservation Fees.

Submit completed form along with the fee to:

Manatee County Government
Financial Management – Natural Resources
Attn: Gopher Tortoise Recipient Site Reservation Fee
1022 26th Avenue East
Bradenton, FL 34208

Date:

Donor Site Project Title:

County:

Number of Tortoises:

Name/Depositor:

Address:

Contact/Phone Number:

E-mail:

Reservation Fee: \$

Total Administrative Fee: \$ (5% of Reservation Fee payable to Manatee County Government)

Check/Warrant No.: _____

Remaining Fee: \$ (Due upon receipt of tortoise(s))

*****DO NOT WRITE BELOW THIS LINE*****

Receipt Date: _____

Receiver Initials: _____