



# **Construction Academy: PUBLIC RECORDS**

**Florida Department of Transportation**

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# Agenda

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- Introduction to your legal team
- Warm-up: Is it a public record?
- Construction requests
- Retention Schedules
- Role play

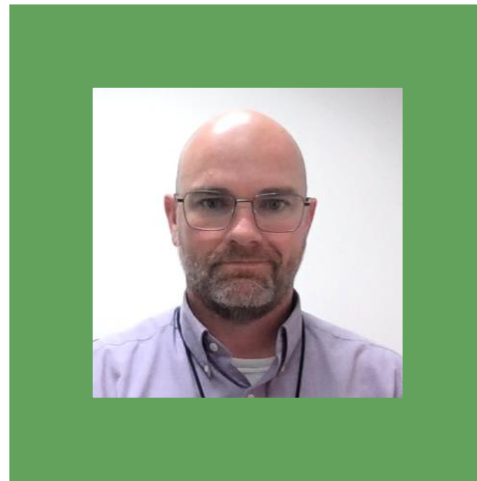


# OGC: Open Government & Public Records



**LARRY RINGERS**

Chief Counsel



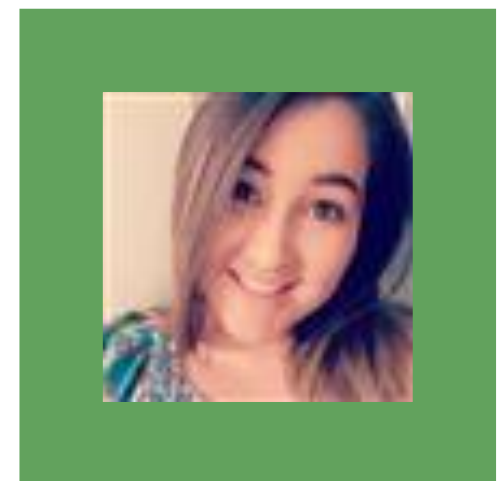
**ADAM HUBBELL**

Senior Attorney



**LUKE MAY**

Senior Attorney



**KELLY VICKERY**

Senior Paralegal

# Why Public Records Matter

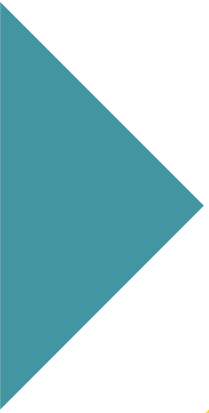
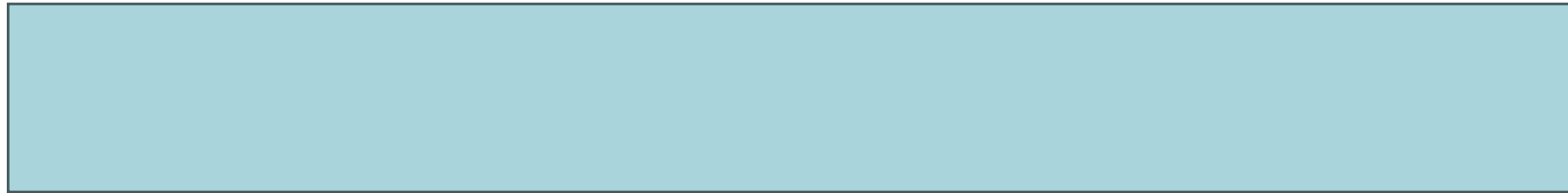
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- Required by Florida law (Chapter 119)
- Transparency in public projects
- Protects the agency during audits, claims, disputes
- Ensures we can reconstruct project history

# IS THIS A PUBLIC RECORD?



5 minutes



# **1. Note your spouse sent to you on your FDOT cell phone telling you to pick up milk.**

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- Not a public record.
- It's a personal message unrelated to official FDOT business. Transitory and not created for official use.

## 2. A Teams (or Signal) message between two FDOT contractors discussing changes to a construction timeline.

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- Yes, it's potentially a public record.
- Messages about official business between contractors working for FDOT relate to the transaction of official business.

### **3. A photograph taken by FDOT staff of potholes during a road inspection.**

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- Yes.
- Photographs are explicitly included in the definition of public records when created in connection with official business.

## **4. Your personal calendar reminder that says “Vote in local election” on your FDOT-issued Outlook calendar.**

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- No, this is a personal reminder not related to official agency business.
- Considered a transitory, personal note.

## **5. An email from FDOT's Office of General Counsel providing legal advice about a construction contract.**

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- Yes.
- Emails documenting legal opinions or advice concerning FDOT business are official records and must be retained unless a specific exemption applies.

## 6. Voicemail message from a citizen reporting a traffic signal malfunction.

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- Maybe, if it's retained in FDOT voicemail records for official purposes. It communicates information related to official duties.
- However, it could be considered "transitory."

## 7. A draft internal memo with ideas for improving staff efficiency.

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- Yes, even drafts count. Public records include drafts if they're made or received in connection with FDOT business—even if not finalized.
- BUT personal notes may not be public records, so it's not always easy to tell!

## 8. Sticky note: “FYI: lunch break at 1pm.”

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- No.
- Short, informal notes without administrative value and not preserved as records are considered transitory and not public records.

## 9. A contractor's monthly report to FDOT summarizing construction progress.

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- Yes.
- It's a document made or received in connection with official FDOT business under contract—and thus a public record.

## **10. Internal chat message between two FDOT operations staff joking about the ‘cafeteria menu.’**

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- No.
- Social chatter unrelated to official business is considered transitory and not subject to public records requirements.

# Transparency is the Law

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- A **public record is:** Any material made or received by a public agency in connection with official business, which is used to perpetuate, communicate, or formalize knowledge.
- Public records requests must be acknowledged “**promptly**” and responded to “**in good faith**” and within a “**reasonable time**”.
- Never ask why someone is requesting records.
- You don’t have to explain the records—just provide them.
- We don’t have to **CREATE** records.
- **EXEMPTIONS:** There are over 1,000!!! So, it’s okay not to know.

# ***State Construction Office***

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- *What are your biggest concerns about handling PRRs as part of the State Construction Office (SCO)?*

# EXAMPLE 1

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Hi, I am looking for the most current dated ROW maps and construction plans for SR 400 (I-4) located in Polk County. The item segment is (2012109) & Manage District is (Moving I-4 Forward) is all of the reference i have for this.

## **EXAMPLE 2**

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I would like to request copies of all records relating to the last repaving or reconstruction of State Road 100 West in Bradford County, including grade, composition, drainage, designation of roadway, etc.

Please let me know how to proceed in this regard.

Thank you for your attention to this matter.

# **EXAMPLE 3**

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**SR 35 (US 301) from CR 525E to Florida's Turnpike/Project No.: 4301321/Owner: Kiva Development, LLC Please forward to our office any and all correspondence, notices to owner, maps, construction plans, title searches (including all recorded documents referenced therein), pond siting reports, shapefiles, KMZ files, CADD files and any and all offers and appraisals.**

# **EXAMPLE 4**

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**Our company is designing an underground fiber optic installation for Hotwire Fiber. We would like to request a utility record, Atlas or As-built for the location shown in the image attached: 20th St from 88th Ave to 98th Ave, additionally As-Built or other information regarding the Bridge I-95 SR60/OSCEOLA BLVD # 880102**

**Reference Address: 8800 20th St Vero Beach, FL 32966**

# **EXAMPLE 5**

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I am requesting records to compare structural design information with engineering analysis results for a graduate school project. Using Florida's Public Records Law, I respectfully request copies of the original bridge design plans (and any associated design data sheets, structural details, or as built plans, if available) for any of the following structure(s)

# Retention is a Team Sport

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- You do NOT need to memorize all retention periods
- You DO need to know:
  - What categories your records fall into
  - Whether something is transitory or long-term
  - When to ask Records Management



# Retention Period Examples



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General use permits (e.g. for temporary use of ROW) → 2 years from permit expiration

Environmental studies → 5 years

Construction project records, engineering & material series: engineering → Until structure removed

# RESPONSE TIME



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# Questions?



**Thank you**

