

FRANCZEKRADELET

ATTORNEYS & COUNSELORS

How Can We? For School Business Matters

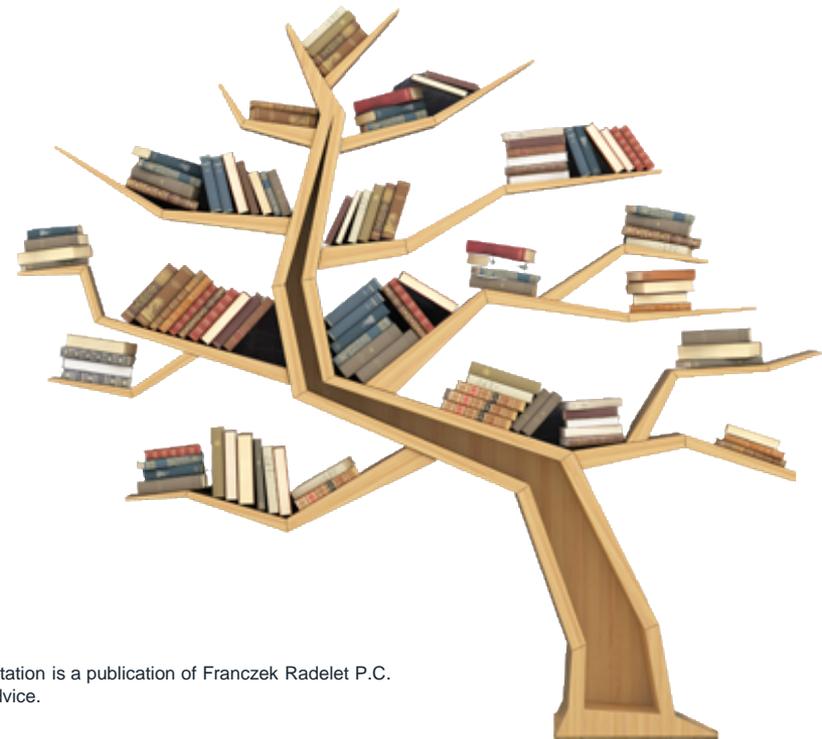
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Selling Real Estate



Selling Real Estate

Question:

- School District Century 21 is considering selling their excess or unnecessary real estate that they own.
- How can they best maximize the value of this sale to positively benefit the District?

Selling Real Estate

- Follow provisions of Section 5-22 of the School Code (public auction or sealed bid process)
- Market the property
 - Run ads in Crain's Chicago Business, Wall St. Journal, and trade publications
 - Place a 'For Sale' sign at the property
 - Personally contact developers in your area
 - Make bidding documents, survey, title, and any Phase I assessment readily available
- Be willing to assume some risk
 - Allow successful bidder contingencies for feasibility and land use approvals
 - Consider phased purchase with bidder taking title in two or more steps

Hiring an Architect



Hiring an Architect

Question:

- Under Pressure School District must undertake significant architectural work this year. For its architectural work last year it followed the RFP process and hired Mediocre Architects, but was not satisfied with the work. It had ranked Big Scale Architects second in last year's RFP and is considering awarding the work to that firm. It has also given prior work to Small Scale Architects in the past. Small Scale, however, never went through an RFP process because the work it performed was under \$25,000.
- How Can the District use Big Scale Architects or Small Scale Architects without going through a new RFP process?

Hiring an Architect

- School districts must follow the Local Government Professional Services Selection Act [50 ILCS 510/1 et seq.]
- If the District retains a new architect, then the district must
 - issue a notice by mail, email, newspaper and/or district website
 - provide notice only to firms that have filed statements of interest
 - select & rank most qualified firms
 - contract negotiations with the highest ranked firm, if not, then the 2nd highest rank and so on

Hiring an architect

- Exceptions to the process:
 - District has a satisfactory relationship for services with an architect
 - Waiver of process by District resolution that states:
 - an emergency situation exists or
 - the cost of such architectural services is expected to be less than \$25,000

Zoning



Question:

- The Village of Pleasantville has not been historically pleasant to Pleasantville School District. Recently, the School District built improvements to its football facility without obtaining zoning approval from the Village. After lengthy litigation, the School District was forced to tear down many of its improvements.
- The School District now wants to update its century old school building by adding a new addition for state of the art classrooms. Its architect reviewed the Village of Pleasantville's Zoning Code and concluded that several variances are required to comply with the Village Zoning Code. The School District has significant concerns with seeking zoning approvals from the Village.
- What options are available to the School District?

- School Districts are subject to municipal zoning regulations
 - Obligations include submitting a zoning application
 - Hearings
 - Village approval required before building
 - Consider meeting with the village before applying for the zoning relief

- There are some safeguards in the law.
 - A municipality cannot
 - Regulate educational activities
 - Frustrate a school district's statutory duties
 - Unreasonably delay a school district project

- Reasonable efforts must be made to streamline the zoning application process and minimize administrative burdens.
 - Reduce application fees and other costs
 - Limit the number of times a plan must be amended
 - Reduce the number of copies of plans that must be submitted
 - The municipality must render a decision within 90 days

Fund Transfers



Question:

- Motor City School District has a deficit in its education fund and a surplus in its transportation fund.
- How can it transfer moneys to its education fund?

Fund Transfers

- Section 17-2A transfers have been extended
- Beware of tax rate objections and follow the required procedures
- Unclear language in the Transportation “Lock Box” Constitutional Amendment

FOIA



Question:

- Last year during a severe snow storm, the roof above several classrooms was damaged. The School District issued a bid that included complicated architectural specifications and drawings. The School District received a FOIA request from an out of state company that serves as a repository for out of state bidders to obtain bid documents. The architect has stated that it would be expensive to copy the bid package drawings and there is no advantage to notifying out of state bidders of the bid.
- How can the School District avoid providing these records?

- Commercial request
- Bidding Exemption
- Voluminous Requests
- Documents of independent contractors performing a governmental function
- Deny Request & Appeal to PAC

Bidding – Avoiding Certain Bidders



Bid Proposal

BIDDER, and BIDDER enters into a contract with the
invitation to bid, and further, the BIDDER shall be bound by the terms of this obligation shall be in full effect. Provided, that the BIDDER shall be bound by the terms of this obligation as described in the invitation to bid.

Bidding – Avoiding Certain Bidders

Question:

- The Good Faith School District let out a competitive bid for copy/printing paper. The low bid was from the District's incumbent vendor, Swindler, Inc. During the contract period, Swindler frequently & untimely delivered paper that did not conform with specifications. In responding to the District's calls for performance, Swindler indicated that the "alternate" paper was less expensive and would help maintain the company's profit margin.
- How can the School District avoid awarding the new contract to Swindler?

Bidding – Avoiding Certain Bidders

- Must bid contracts in excess of \$25,000 unless exempt from bidding
- Must award to the lowest responsible bidder
- Draft specifications with objective, clearly measureable criteria
- In determining whether a bidder is responsible, District may consider various criteria (that should be included in the bid specification)
- Balancing of bidder requirements vs. projected bid cost
- District should document poor performance of a vendor

Change Order

Question:

- Symphony School District's theater renovation work is underway. There have been a number of complications requiring several change orders. The School District has had difficulty getting change order approvals before the School Board in a timely manner since the School Board only meets once a month. The School Board will not be meeting at all in July when significant, complex work will take place.
- How can the School District get change orders approved in accordance with law if the Board is not meeting?

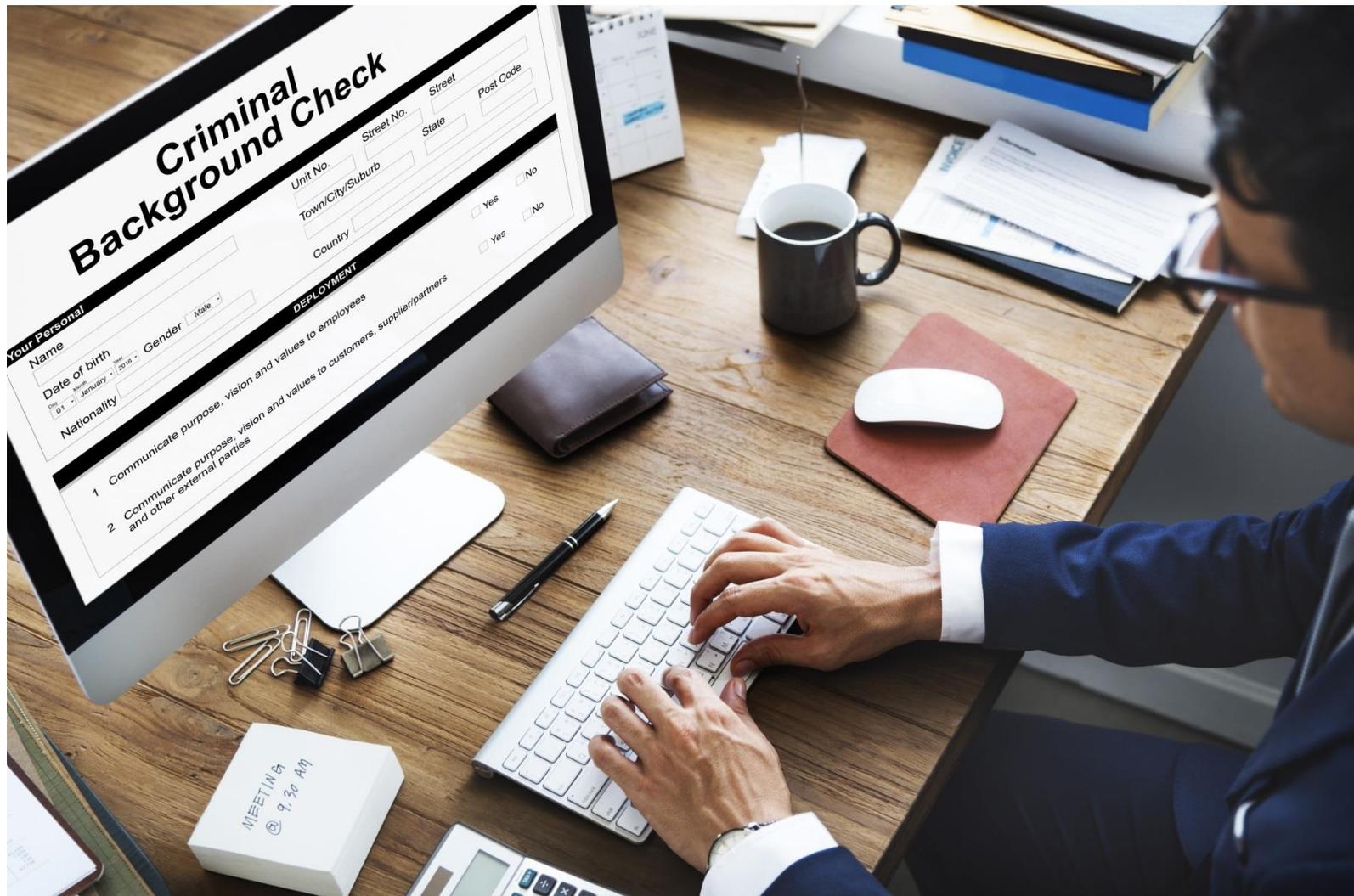
Change Order

- Criminal Code (720 ILCS 5/33E-9)
- Must obtain approval from the public body or a designee of the public body
- The law applies to
 - Contract cost increases or decreases of \$10,000
 - Changes in the substantial completion date of 30 days or more

Change Order

- Adopt a resolution that grants an administrator the authority to approve change orders without coming back to the Board.
- Resolution should have safeguards
 - Cost ceiling
 - Remain within project budget
 - Create a form to be signed by one to two administrators making required findings
 - Notify the Board
 - Does not require bidding
 - If a change order will exceed the original contract price by 10% it must be rebid

Background Checks



Background Checks

Question:

- Wrigley School District is replacing its historic scoreboard and bleachers. This will be a highly scrutinized project and the School District wants to avoid any negative publicity. Therefore, it included a criminal background check requirement in its bid documents. After conducting a criminal background check of the employees of the successful bidder, two applicants came back with hits.
- What does the School District need to consider?

Background Checks

- Criminal background check required for employees of contracting firms who may come into direct, daily contact with students
- Must occur prior to beginning work on school grounds
- Release of background check
- P.A. 99-0667 eliminates lifetime ban on employment of individuals convicted of certain drug offenses

Intergovernmental Agreements



Intergovernmental Agreements

Question:

- School District ABC sometimes uses a park district athletic field and a nearby museum parking lot and the Park District and the museum have asked to use school property for some of their summer events.
- How should the School District memorialize this arrangement?

- A written agreement is always better than a handshake for these arrangements
- Not all uses of school district property are allowable, some are prohibited
- The type of agreement depends on the extent of the use
 - Lease or
 - License or
 - Facility Use Agreement

- The agreement must have certain provisions to protect the district
 - Indemnification clause
 - Evidence of insurance
 - Responsibility for Damages