



Robbins Schwartz
One Team. Making Your Mission Ours.

Purchasing & Construction Conference

Webinar
April 27, 2023

Chicago

55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign

301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville

510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Lisle

550 Warrenville Road, Suite 460
Lisle, IL 60532-4311
p 630.929.3639
f 630.783.3231

Rockford

2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090

The materials on this webpage are the property of Robbins Schwartz and may not be copied, adapted, shared, or displayed without the express written permission of Robbins Schwartz.



Robbins Schwartz
One Team. Making Your Mission Ours.

www.robbsins-schwartz.com

Contents

Agenda	1
---------------------	----------

Sessions

Bidding and Cooperative Purchasing: How to Avoid Pitfalls	2
Preventing Your Construction Project from Turning Sour and What to do if Problems Arise	18
So You Want to Go Solar? Alternate Ways to Structure the Transition to Best Meet Your Needs	28
2022 Levies: A Retrospective	39
Interactive Problem Solving for Purchasing and Construction	53
Biographies:.....	54

Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice.
If you have an individual problem or incident that involves a topic covered in this document, please seek
a legal opinion that is based upon the facts of your particular case.

© 2023 Robbins Schwartz

PURCHASING AND CONSTRUCTION VIRTUAL CONFERENCE

APRIL 27, 2023

AGENDA

8:30 a.m. – 9:15 a.m.	GENERAL SESSION
	Bidding and Cooperative Purchasing: How to Avoid Pitfalls
	<i>Presented by: Kenneth M. Florey and Nicole L. Karas</i>
9:15 a.m. – 10:00 a.m.	Preventing Your Construction Project from Turning Sour and What to do if Problems Arise
	<i>Presented by: Matthew J. Gardner, Kenneth M. Florey, and Howard A. Metz</i>
10:00 a.m. – 10:15 a.m.	Break
10:15 a.m. – 10:45 p.m.	RESUME GENERAL SESSION
	So You Want to Go Solar? Alternate Ways to Structure the Transition to Best Meet Your Needs
	<i>Presented by: Christopher R. Gorman and Howard A. Metz</i>
10:45 a.m. – 11:30 a.m.	2022 Levies: A Retrospective
	<i>Presented by: Matthew J. Gardner and Scott L. Ginsburg</i>
11:30 a.m. – 12:00 p.m.	Interactive Problem Solving for Purchasing and Construction
	<i>Panel Discussion</i>

ROBBINS SCHWARTZ	Chicago 55 West Monroe Street Suite 800 Chicago, IL 60603 p 312.332.7760 f 312.332.7768	Champaign 301 North Neil Street Suite 400 Champaign, IL 61820 p 217.363.3040 f 217.356.3548	Collinsville 510 Regency Centre Collinsville, IL 62234 p 618.343.3540 f 618.343.3546	Lisle 550 Warrenville Road Suite 460 Lisle, IL 60532-4311 p: 630.929.3639 f: 630.783.3231	Rockford 2990 N Perryville Rd Suite 4144B Rockford, IL 61107 p 815.390.7090
---------------------	--	--	--	--	---



Robbins Schwartz
One Team. Making Your Mission Ours.

BIDDING AND COOPERATIVE PURCHASING: HOW TO AVOID PITFALLS

April 27, 2023

Kenneth M. Florey
kflorey@robbins-schwartz.com

Nicole L. Karas
nkaras@robbins-schwartz.com

Chicago
55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign
301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville
510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Lisle
550 Warrenville Road, Suite 460
Lisle, IL 60532
p 630.929.3639
f 630.783.3231

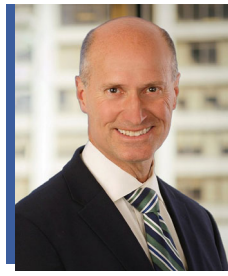
Rockford
2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090



Introductions



Nicole L. Karas
nkaras@robbins-schwartz.com



Kenneth M. Florey
kflorey@robbins-schwartz.com



1

The Duty To Publicly Bid



2

The Duty To Publicly Bid

- In Illinois, public bodies are generally required to use a public bidding process when purchasing supplies, materials, services and work over a specified dollar amount.
- Each public body is governed by its own statute, which dictates the threshold amount over which contract must be bid.



The Duty To Publicly Bid



Those statutes also contain numerous exceptions to the public bidding requirement.



The statutes also dictate the procedure for the bid process, such as the notice requirements for publication and the time period between the bid notice and the bid opening.

The Duty To Publicly Bid

ILLINOIS PUBLIC ENTITY	STATUTE	PUBLIC BIDDING THRESHOLD	EXCEPTIONS TO PUBLIC BIDDING REQUIREMENT
School Districts	105 ILCS 5/10-20.21	<p>\$25,000 (unless lower amount required by board policy)</p> <p>Construction not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility.</p>	<ul style="list-style-type: none"> • Services of individuals possessing a high degree of professional skill • Printing of finance committee reports and departmental reports • Printing or engraving bonds, tax warrants, etc. • Perishable foods and beverages • Maintenance or servicing of equipment by the manufacturer or its authorized agent • Information technology • Duplicating machines or supplies • Natural gas • Equipment previously owned by another entity • Construction not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility • Goods and services from another governmental agency • Goods and services procurable from only one source (e.g., magazines, periodicals, etc.) • Emergency expenditure with approval of 3/4 of board members • State master contracts • Transportation contracts must be bid but factors other than price can be used to determine award

5

The Duty To Publicly Bid

ILLINOIS PUBLIC ENTITY	STATUTE	PUBLIC BIDDING THRESHOLD	EXCEPTIONS TO PUBLIC BIDDING REQUIREMENT
Community College Districts	110 ILCS 805/3-27.1	<p>\$25,000 (unless lower amount required by board policy)</p> <p>Construction not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility</p>	<ul style="list-style-type: none"> • Services of individuals possessing a high degree of professional skill • Printing of finance committee reports and departmental reports • Printing or engraving bonds, tax warrants, etc. • Perishable foods and beverages • Maintenance or servicing of equipment by the manufacturer or its authorized agent • Information technology • Duplicating machines or supplies • Natural gas • Equipment previously owned by another entity • Construction not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility • Goods and services from another governmental agency • Goods and services procurable from only one source • Emergency expenditure with approval of 3/4 of board members

6

The Duty To Publicly Bid

ILLINOIS PUBLIC ENTITY	STATUTE	PUBLIC BIDDING THRESHOLD	EXCEPTIONS TO PUBLIC BIDDING REQUIREMENT
Park Districts	70 ILCS 1205/8-1(c)	\$30,000	<ul style="list-style-type: none"> • Services of individuals possessing a high degree of professional skill • Printing of finance committee reports and departmental reports • Printing or engraving bonds, tax warrants, etc. • Utility services • Information technology • Duplicating machines or supplies • Goods and services from another governmental agency • Equipment previously owned by another entity • Magazines, books, periodicals, pamphlets and reports • Emergency expenditure with approval of 3/4 of board members

7

The Duty To Publicly Bid

ILLINOIS PUBLIC ENTITY	STATUTE	PUBLIC BIDDING THRESHOLD	EXCEPTIONS TO PUBLIC BIDDING REQUIREMENT
Library Districts	75 ILCS 5/5-5	\$25,000	<ul style="list-style-type: none"> • Services of individuals possessing a high degree of professional skill • Printing of finance committee reports and departmental reports • Printing or engraving bonds, tax warrants, etc. • Maintenance or servicing of equipment by the manufacturer or its authorized agent • Information technology • Duplicating machines or supplies • Utility services • Goods and services from another governmental agency • Equipment previously owned by another entity • Goods and services procurable from only one source (e.g., magazines) • Emergency expenditure with approval of 3/4 of board members

8

The Duty To Publicly Bid

ILLINOIS PUBLIC ENTITY	STATUTE	PUBLIC BIDDING THRESHOLD	EXCEPTIONS TO PUBLIC BIDDING REQUIREMENT
Counties	55 ILCS 5/5-1022	<p>\$30,000 (counties with less than 2,000,000 inhabitants)</p> <p>Information technology less than \$35,000</p>	<ul style="list-style-type: none"> Professional services Emergency authorized by board Contracts with the federal government Equipment previously owned by another entity Purchases at auction Information technology less than \$35,000

The Duty To Publicly Bid

ILLINOIS PUBLIC ENTITY	STATUTE	PUBLIC BIDDING THRESHOLD	EXCEPTIONS TO PUBLIC BIDDING REQUIREMENT
Municipalities (less than 500,000 inhabitants)	65 ILCS 5/8-9	<p>\$25,000 (public improvements and their maintenance)</p> <p>Not obligated by statute to bid service contracts or contracts for materials; however, many municipalities have adopted ordinances requiring competitive bidding</p>	<ul style="list-style-type: none"> Authorization by a vote of 2/3 of its aldermen or trustees Contracts with the federal government

Governmental Joint Purchasing



11



Governmental Joint Purchasing

- Authority to do pursuant to IL Constitution – Intergovernmental Cooperation Act (5 ILCS 220/1) and Joint Purchasing Act (30 ILCS 525/1).
- Supersedes the requirements of the individual bidding requirements. 30 ILCS 525/2.
- Purchase of personal property, supplies and services. Id.

12

Governmental Joint Purchasing

- Needs to meet certain legal requirements:
 - Cooperative must be run by a **government body**. 30 ILCS 525/1-2.
 - Purchases must be based on **competitive solicitations**. 30 ILCS 525/2.
 - Bids and proposals solicited by **public notice** as specified by the Joint Purchasing Act. 30 ILCS 525/4.



13

Governmental Joint Purchasing

- All purchases, orders or contracts shall be awarded to the **lowest responsible bidder or highest-ranked proposer**, taking into consideration:
 - The **qualities** of the articles or services supplied;
 - Their **conformity** with the specifications;
 - Their **suitability** to the requirements of the participating governmental units; and
 - The **delivery** terms. Id.



14

Governmental Joint Purchasing



The managing unit of government must **maintain a record**, identifying each bid, bidder's identity, and the successful bid. Id.



After award the record must be **open to public inspection**. Id.

Governmental Joint Purchasing

- Purchases must be made in compliance with the **Local Government Prompt Payment Act**. 30 ILCS 525/4.1
- The personal property, supplies or services involved shall be **distributed or rendered directly** to each governmental unit taking part in the purchase. 30 ILCS 525/3.
- The Seller **bills each governmental unit separately** for its proportionate share of the cost of the personal property, supplies or services purchased. Id.
- The **credit or liability** of each governmental unit shall remain separate and distinct. **Disputes** between bidders and governmental units shall be resolved between the immediate parties. Id.



Governmental Joint Purchasing

- Strategies for Success with Joint Purchasing options:
 - Get informal quotes or estimates from local vendors/contractors first. It may be cheaper to use the traditional bidding method.
 - Look at the offerings of all of the cooperatives before deciding to “qualify” one particular cooperative.



17

Governmental Joint Purchasing

- Strategies for Success with Joint Purchasing options:
 - Examine the terms for participation:
 - Is there an entry fee?
 - Is there a participation fee?
 - Are there other costs of participation?



18

Governmental Joint Purchasing

- Strategies for Success with Joint Purchasing options:
 - Have legal counsel provide an opinion on whether participation in a particular cooperative will meet the requirements of Illinois law.
 - Examine the proposed contract (or have your counsel examine it).
 - Identify any unacceptable business or legal terms and conditions.
 - Confirm in advance that you will be able to amend terms and conditions to meet your business expectations, and to comply with Illinois law.

Local Government Professional Services Selection Act - 50 ILCS 510/0.01

- RFP/RFQ process required for the selection of Architects, Engineers & Land Surveyors
- RFP can be solicited by either publication, posting on your website, or sending notice to firms who have a current statement of qualifications with the public body



Local Government Professional Services Selection Act - 50 ILCS 510/0.01

RFP not required if the
public body has a
previous satisfactory
relationship with the firm

RFP not required for
contracts less than
\$40,000 or in emergency
situations.

21

The Bidding Process



22

Bid Submittals

- Bid Specifications
 - Certainty Required
 - Sole Sourcing
 - Bid Addendum & Questions
 - Pre-Bid Meeting

23

Bid Submittals

- Sealed Bids
- Electronic Bids
- Timeliness of Bids
- Modification, Withdrawal or Re-submittal of Bids Before Bid Opening



24



Bid Submittals

- Public Opening and Reading of the Bids
- Withdrawal or Modification after the Bids Are Received



25



Awarding The Bid – Criteria

- Lowest
 - Alternate Bids
- Responsive
 - Material Defects – Nonwaivable
 - Minor Variances – Waivable
- Responsible
 - Pre-qualification of Bidders
- Post-Bid Pre-Award Negotiations



26

Rejecting The Bid

Discretion “to reject
any and all bids.”

Documenting the
Basis for
Awarding/Rejecting
Bid

Bid Mistakes - Circumstances Warranting Judicial Relief From A Bid Mistake

- Material Feature of the Contract
- Neglect in the Preparation of the Bid
- Maintaining the Status Quo
- The Owner’s Knowledge of the Mistake
- Unconscionability



29

Contact Us

Nicole L. Karas
nkaras@robbins-schwartz.com

Kenneth M. Florey
kflorey@robbins-schwartz.com

 **Robbins Schwartz**
 One Team. Making Your Mission Ours.

30



Robbins Schwartz
One Team. Making Your Mission Ours.

PREVENTING YOUR CONSTRUCTION PROJECT FROM TURNING SOUR AND WHAT TO DO IF PROBLEMS ARISE

April 27, 2023

Matthew J. Gardner
mgardner@robbins-schwartz.com

Kenneth M. Florey
kflorey@robbins-schwartz.com

Howard A. Metz
hmetz@robbins-schwartz.com

Chicago
55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign
301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville
510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Lisle
550 Warrenville Road, Suite 460
Lisle, IL 60532
p 630.929.3639
f 630.783.3231

Rockford
2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090



Introduction



Matthew J. Gardner
mgardner@robbins-schwartz.com



Howard A. Metz
hmetz@robbins-schwartz.com

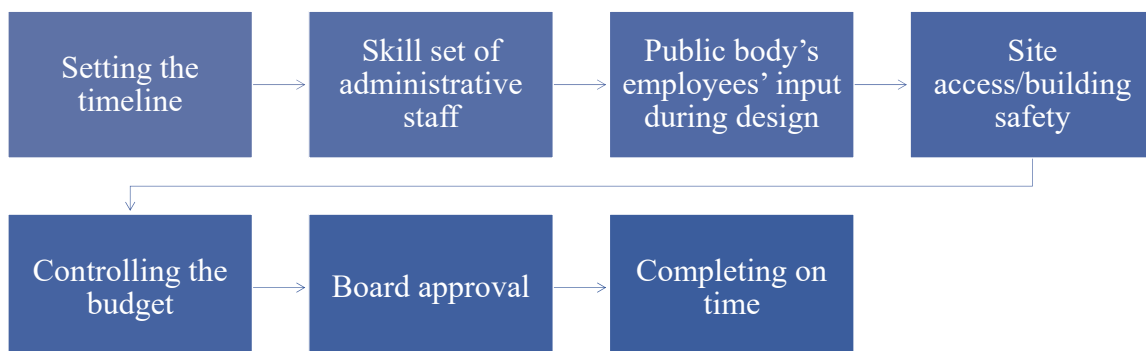


Kenneth M. Florey
kflorey@robbins-schwartz.com



1

Planning Considerations for Construction:



2

Planning Considerations for Construction: Timelines

- Setting the timeline
 - Zoning 3-9 months
 - Programming 3 months
 - Space Planning 3 months
 - Schematic Design 3 months (many factors drive)
 - Design Development 3 months (many factors drive)
 - Construction Documents 3 months (many factors drive)
 - Bid Time Frame 2 months
 - Board Approval 1-2 months
 - Physical Construction 4-12 months



3

Planning Considerations for Construction: Real Estate Considerations

Land Acquisition

- Discuss with Board in closed session
- Extending offers and considering options
- Due diligence issues
- Leasing of public property

Intergovernmental opportunities and challenges

- Zoning codes
- Storm water requirements
- Site access
- Utility permits and connections

4

Planning Considerations for Construction: Paying for the Project

- Project financing and covering the (potential) cost of construction
 - Cash on hand
 - Acquiring debt
 - Purchasing bonds
- Grant funding and related requirements
- Other costs –
 - Specialty consultants
 - Controlling contingency and allowances



5

Planning Considerations for Construction: Selecting Your Team

- Project team members:
 - Architect/Engineer - Performs design services
 - Construction Manager – Professional services (CM-advisor v. CM-at-Risk)
 - General Contractor – Selected through bid process and performs the construction services
 - Owner's Representative – Unburdens college staff and has a fiduciary duty
 - Commissioning Agent – Works on behalf of the owner to confirm that the building operates as designed
 - Specialty Consultants – Hired by the owner to consult about the design & construction of specialty projects



6

Contract Terms for a Timely and Successful Project: AIA Contracts

- AIA Contract Documents from Design to Closeout
 - Contract Sum and Change Orders
 - Notice Requirements (Before Contractor Performs Extra Work)
 - Progress Meetings (Include Requirements for Ordering Materials/Equipment)
 - Allowances and Contingencies
 - Progress Payments & Retainage
 - Substantial Completion
 - Liquidated Damages



 Robbins Schwartz
One Team. Making Your Mission Ours.

7

Public Contracts: Must Consider the Prevailing Wage Act

- Bid documents must notify of, and contracts must require, compliance with the Prevailing Wage Act
- Applies to contracts for “public works”:
 - Definition: “fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds.”
 - Includes “any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.”
- Certified payrolls submitted on a monthly basis directly to the Department of Labor

 Robbins Schwartz
One Team. Making Your Mission Ours.

8

Performance and Payment Bonds

- **Payment and Performance Bonds (30 ILCS 550/1)**
 - Each contract for public work in Illinois exceeding \$50,000 requires the contractor to furnish performance and payment bonds in the full amount of the contract.
- **A Performance Bond is:**
 - A surety company's guarantee to the owner that the contractor will complete the project in accordance with the contract, and defines the duty of the surety to the owner in the event of the contractor's default.
- **A Payment Bond is:**
 - A surety company's guarantee to the owner that the contractor will pay all contractors furnishing material and/or labor on the project, in accordance with the contract.



9

Common Construction Problems

- **Problems Prior to Substantial Completion**
 - Delays in Ordering Equipment: Substitutions/Change Orders
 - Unforeseen Conditions: Change Orders
 - Scheduling Problems
 - Defective Work
 - Injuries/Accidents
- **Problems After Substantial Completion**
 - Payment Claims and Section 23 Mechanics Liens
 - Warranty Claims
 - Defects – Construction or Design?



10

Construction Phase Problems: When is Termination of Contractor the Right Move?

- Problems Will Arise: Try to Minimize through Communication and Consider the Ramifications of Termination
- What should owners think about before exercising the nuclear option of termination?
 - Can a new contractor complete the work?
 - Will it cost more? Will the bond cover the additional cost? Will it take longer? Will it be the same quality or better/worse? Bidding requirements?
 - Warranties with multiple contractors on site?
 - Potential litigation?
 - Will the current contractor ever be able to complete the work?
 - Will it be good workmanship? Create dangers/hazards?
 - Trustee of public money – does the contractor deserve to be able to finish and be paid?



11

Mitigating Construction Phase Problems



Small Projects:
Many rules still
apply



Contractor
Certificate of
Insurance
Review



Payment and
Performance
Bond Review



Pay Requests



Certified
Payrolls



Change Order
Issues



Delay Issues



Labor Disputes
(Picketing and
Strikes)



12

Construction Litigation

- How long do you have to file a lawsuit? 735 ILCS 5/13-214
 - Statute of Limitations (735 ILCS 5/13-214(a)): Any action related to construction shall be commenced within 4 years from the time the person knew or reasonably should have known of the defendant's act or omission.
 - Statute of Repose (735 ILCS 5/13-214(b)): Any action related to construction shall be commenced within 10 years from the time of the defendant's act or omission.
 - "Discovery Rule" – Plaintiff shall have an additional 4 years to file lawsuit if discovered within the 10-year period.
 - Contractual Limitations: The parties can contractually agree to shorten the limitations period.
 - Tolling Agreements – Agreement with contractors, design professionals, and other potential defendants to toll or stop the running of all statutes of limitations, repose, or other time limitation defenses.



13

Construction Litigation

- Evidence of Defects: How are you going to prove your case? What evidence to you have?
 - The more documents (including photographs, videos, sensor data, etc.) the better likelihood of success.
 - Use correct procedure and forms for consistency (change orders in writing, AIA forms, etc.)
 - Maintain organization to keep discovery costs low.
- Inspections, Tests, or Repairs: Consult with legal counsel first!
 - Performing any inspections, testing, or repairs of defective conditions could result in spoliation of evidence or at least another round of said inspections/testing.
 - Spoliation of evidence claim or defense can prevent the owner from using the defective conditions as evidence.



14

Construction Litigation

- General Litigation Considerations:
 - Who is included in the lawsuit?
 - The role of experts.
 - Alternative dispute resolution (ADR)
 - Arbitration or mediation?
 - What are the recoverable damages?



Robbins Schwartz
The Team. Making Your Mission Ours.

15



16

Contact Us

Kenneth M. Florey
cgorman@robbins-schwartz.com

Matthew J. Gardner
mgardner@robbins-schwartz.com

Howard A. Metz
hmetz@robbins-schwartz.com





Robbins Schwartz
One Team. Making Your Mission Ours.

SO YOU WANT TO GO SOLAR? ALTERNATE WAYS TO STRUCTURE THE TRANSITION TO BEST MEET YOUR NEEDS

April 27, 2023

Christopher R. Gorman
cgorman@robbins-schwartz.com

Howard A. Metz
hmetz@robbins-schwartz.com

Chicago

55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign

301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville

510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Lisle

550 Warrenville Road, Suite 460
Lisle, IL 60532
p 630.929.3639
f 630.783.3231

Rockford

2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090



Introductions



Christopher R. Gorman
cgorman@robbins-schwartz.com



Howard A. Metz
hmetz@robbins-schwartz.com



1

Agenda:

- Introductions
- Renewable Energy and Solar Concepts
- Laws Impacting Increasing Investment in Solar
- Structuring Your Project
- Legal Considerations for Going Solar



2

Renewable Energy and Solar Concepts



3

Key Concepts for Solar Energy Options

Grid Integration

- A vast majority of on-site renewables are grid integrated two-way power flows where the building either:
 - pulls energy from the grid when its energy usage exceeds what is being produced on site (e.g., at night when there's no sun) and/or
 - pushes excess energy to the grid when energy production exceeds what is needed on site (e.g., sunny summer day when there's no school)

Net Metering

- Utility billing structure allowing for utility credits for excess energy generated on site, with the meter effectively “spinning backwards” when excess energy is fed into the grid
 - Not to be confused with Renewable Energy Credits or “RECs” discussed later



4

Key Concepts for Solar Energy Options

- Behind-the-Meter Projects
 - On-site generating systems that are physically connected to a building's electric service
 - Energy produced directly offsets energy costs by reducing the amount of energy that needs to be pulled from the grid to feed that facility
- Front-of-Meter Projects
 - Off-site generating system that are not connected to a school's electric service
 - Cost savings are typically in the form of credits for the energy produced
- Community Solar Projects
 - On- of off-site generating systems that allow customers to be credited (on the supply portion of the bills) through net metering on the basis of their share of in the system through subscriptions
- Renewable Energy Credits



5

Basics of Renewable Energy Credits (RECs)

- A renewable energy credit (REC) “means a tradeable credit that represents the environmental attributes of one megawatt hour of energy produced from a renewable energy source.” Illinois Power Agency Act, 20 ILCS 3855/1-10.
- RECs may be valuable to electric utility companies and other electricity suppliers, who can purchase RECs to satisfy the renewable portfolio standards under Section 1-75 of the IPA Act, 20 ILCS 3855/1-75(c) and under Section 16-111.5 of the Public Utilities Act, 220 ILCS 5/16-111.5(a).
- These suppliers can purchase RECs to avoid making “minimum compliance payments” triggered by a deficiency in their portfolio of renewable energy. 220 ILCS 5/115D.



6

Laws Impacting Increasing Investment in Solar



7

Growth of Renewable Energy Alternatives in the Public Sector

- Adoption of Article 19(b) of the Illinois School Code and Guaranteed Energy Savings Contracts and similar statutes for other public bodies
- Enactment of the Illinois Power Agency Act and Net Metering Act
 - Established Illinois Renewable Portfolio Standards
 - Electricity provider required to provide net metering at a rate identical to the rate structure and retail rate component for excess generation for a monthly billing period (excess credits carry over)
 - Limited initially to systems generating no more than 2 MW
 - Later revisions allow for offsite generation



8

Growth of Renewable Energy Alternatives in the Public Sector

- Future Energy Jobs Act (“FEJA”) of 2017
 - Required net metering for community solar subscribers at subscriber’s energy supply rate
 - Increased threshold that would allow energy suppliers (i.e., utilities) to decrease retail rate adjustments from one-to-one credit
 - Distributed Generation Rebates
- Climate and Equitable Jobs Act (“CEJA”) of 2021
 - Net metering benefits for new customers (i.e., one-to-one retail credit) to end on January 31, 2024
 - Afterward, net metering credits will be received at the supply charge
 - Investment to fund aggressive increase in Illinois Renewable Portfolio Standards
 - Additional adjustable block programs for purchase of RECs



9

Structuring Your Project



10

Design, Bid, Build

- Design is typically a professional service exempt from bidding but subject to Local Government Professional Services Selection Act, 50 ILCS 510/0.01, et seq.
- \$25,000 bidding threshold for the labor and materials (or lower amount per board policy)
- Prepare plans, specifications, conditions, and instructions to bidders.
- Ten day public notice
- Award to the lowest responsive and responsible bidder



11

Guaranteed Energy Savings Contracts

- Must be designed to reduce energy consumption or operating costs
- Must provide that all payments shall be made over time and that savings are guaranteed to the extent of the cost
- Savings may include renewable energy credits (RECs)



12

Guaranteed Energy Savings Contracts (cont.)

- A competitive selection achieved by negotiated procurement
- RFP for public bodies may need to be submitted to CDB Procurement Bulletin for publication
- Notice of RFP typically required to be circulated at least 30 days before the request date in a newspaper published in the District, or if none, in a newspaper of general circulation in the area of the public body
- Responding parties must receive notice of time and place of proposal opening
- Opening often to be conducted by board member or employee of public body



13

Guaranteed Energy Savings Contracts (cont.)

- Evaluation of proposals through a disinterested, licensed architect or registered professional engineer, who may be on staff or otherwise retained
- Selection requirements generally allow for the selection of the qualified provider that best meets the needs of the public body
- Public bodies may “enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures recommended in the proposal would not exceed the amount to be saved in either energy or operational costs, or both if the recommendations in the proposal are followed (typically for an established time period such as 20 years)
- Providers must reimburse public bodies from any resulting shortfalls



14

Power Purchase Agreements (PPAs)

- Third-party ownership model where a private company owns a generation system and sells the power to a customer for a predetermined period of time (15-25 years is common), typically at a reduced rate than what they would pay for grid-supplied power
- Allows public bodies to monetize federal tax credits that otherwise wouldn't be available to them, with the PPA provider capturing the tax credit and passing along a reduction in the energy rate to the public body in addition to net metering benefits
- Typically structured as a property easement or lease



15

Equipment and Ground Leases

- No competitive bidding required
- May be limited to “personal property” (does not include “fixtures”) for some public bodies
- Authorizing statute will govern how generation systems or public land may be leased for generation system
- Classify the transaction: financing arrangement (nominal buyout at expiration) versus true lease (title does not pass at expiration or there is an option to purchase for fair market value)
 - Is there a bidding obligation because the transaction is really a “purchase”?
 - Obligation to purchase energy from lessor?
- Who owns the Renewable Energy Credits (RECs)?



16

What Is “Zero-Energy” or “Net Zero”?



General definition: a building with zero net energy consumption, meaning the total energy it uses on an annual basis is equivalent to the amount of renewable energy created onsite during that same period.



Can the generation and sale of RECs affect whether a building is truly net zero?



What are the risks and challenges in pursuing a net-zero school building?



17

Other Legal Considerations for Renewable Energy Projects

Prevailing Wage Act,
820 ILCS 130/0.01

Public Construction Bond Act,
30 ILCS 550/0.01

Section 23 of Mechanics Lien Act,
770 ILCS 60/23

Local Government Prompt Payment Act,
50 ILCS 505/1

Public Works Contract Change Order Act,
50 ILCS 525/1

Tort Immunity Act (Local Government),
745 ILCS 10/1-101

Freedom of Information Act,
5 ILCS 140/1

Open Meetings Act,
5 ILCS 120/1



18



19

Contact Us

Christopher R. Gorman
cgorman@robbins-schwartz.com

Howard A. Metz
hmetz@robbins-schwartz.com



 **Robbins Schwartz**
One Team. Making Your Mission Ours.

20



Robbins Schwartz
One Team. Making Your Mission Ours.

2022 LEVIES: A RETROSPECTIVE

April 27, 2023

Matthew J. Gardner

mgardner@robbins-schwartz.com

Scott L. Ginsburg

sginsburg@robbins-schwartz.com

Chicago

55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign

301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville

510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Lisle

550 Warrenville Road, Suite 460
Lisle, IL 60532
p 630.929.3639
f 630.783.3231

Rockford

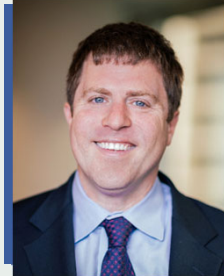
2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090



Introductions



Matthew J. Gardner
mgardner@robbins-schwartz.com



Scott L. Ginsburg
sginsburg@robbins-schwartz.com



1



2022 Levies: A Retrospective

- Truth in Taxation
- Refund Recapture and Impact on Truth in Taxation
- PTELL Recapture
- Fund Balance Disclosure Requirements
- Impact of COVID-19 on Fund Balances
- PA 102-625: Electronic Filing of Levies
- Administrative Costs



2

Truth in Taxation – 35 ILCS 200/18-55

Established the procedure taxing districts must follow in the adoption of property tax levies.

- Who is a “taxing district”?
- When does this law apply?
 - Public hearing required if taxing district adopts a levy that is greater than 5% of the prior year’s extension.
 - Do all taxing districts have to comply when proposed aggregate levy is less than 5% greater than prior year’s extension?



3

Truth in Taxation – 35 ILCS 200/18-55: Additional Issues

- Increased inflation resulted in many more taxing districts levying more than 105% of prior year’s extension.
- Debt service abatement.
- Levying exactly 105% more than prior year’s extension.
- Timing of Truth in Taxation hearing.
- Refund Recapture.



4

Refund Recapture and Impact on Truth in Taxation



What is the Refund Recapture?

- Adjustments for certificates of error, certain court orders, or final administrative decisions of the Property Tax Appeal Board - 35 ILCS 200/18-233
 - Beginning levy year 2021, annual refunds automatically added to levy.
 - PTAB Decisions, Circuit Court Assessment Objections, and Certificates of Error.
 - Aggregate refunds over past 12-months certified by County Treasurer by November 15.
 - For purposes of the PTELL, excluded from net year's aggregate extension base.
- Recaptured refunds are distributed by county to a separate fund or pro-rata.

Which Refunds are Included in Recapture?

- PTAB Decisions
- Specific Objections in Circuit Court
- Certificates of Error
- Not Tax Rate Objections



 **Robbins Schwartz**
One Team. Making Your Mission Ours.

7

How Refund Recapture Impacted Truth in Taxation

- How does the “aggregate refund” (from refund recapture) impact Truth in Taxation?
 - Include aggregate refund on Truth in Taxation notice and for determining whether Truth in Taxation applies (intent of levying more than 105% of prior year’s extension)?
 - Section 18-80 of Truth in Taxation Act provides a statutory form notice, that does not provide for the aggregate refund, and states that “any notice which includes any information not specified and required by this Article shall be an invalid notice.”
 - General Assembly did not provide clear guidance, but consensus seemed to be to not include aggregate refund when making Truth in Taxation calculations.

 **Robbins Schwartz**
One Team. Making Your Mission Ours.

8

PTELL Recapture



 **Robbins Schwartz**
One Team. Making Your Mission Ours.

9

Flexibility in Levying - Changes to PTELL

- Section 18-190.7 of the Property Tax Code was amended to:
 - Amends PTELL by eliminating the inadvertent tax extension reduction that districts receive in future tax extensions when reducing levies.
 - Redefines the aggregate extension base as the greater of
 - last year's aggregate extension, or
 - what the aggregate extension would be if the taxing district had levied the maximum amount available for the past three years.



 **Robbins Schwartz**
One Team. Making Your Mission Ours.

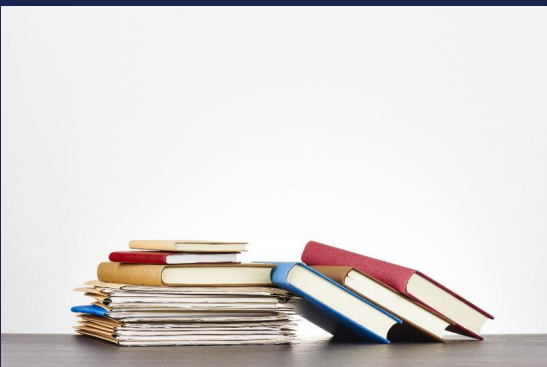
10

Flexibility in Levying - Changes to PTELL

- Section 18-190.7 - Limitations to Recapture:
 - May not exceed prior year's aggregate extension by more than 5% without voter approval.
 - However, if a district is unable to recapture the entire unrealized levy amount in a single levy year due to the 5% limitation, the district may increase its aggregate extension in each immediately following levy year until the entire levy amount is recaptured.
 - District must certify to county clerk not more than 60 days after filing levy resolution.



11



Changes to PTELL

Example: If a district reduced its 2022, 2023, or 2024 levy:

- Within 60 days of that levy resolution being filed with the county clerk, the district would also certify to the clerk that the district did not levy the max in that particular year.
- The aggregate extension base for 2025 would be equal to what it would have been if the district had levied the max all three years 2022-2024.



12

Fund Balance Disclosure Requirements



13

Who Must Disclose Funds? What is the Process?

- General Assembly added a new section to the School Code requiring that school districts disclose the “cash reserve balance” of all funds relating to the “operational levy:”
- § 17-1.3. Disclosure of cash balance. Notwithstanding any other provision of law, each *school district* shall disclose to the public, *at the public hearing* at which the district certifies its budget and levy for the taxable year, *the cash reserve balance* of all funds held by the district related to its *operational levy* and, if applicable, any obligations secured by those funds.
- How are school districts required to make this disclosure?
- What does this mean for other taxing districts?

14

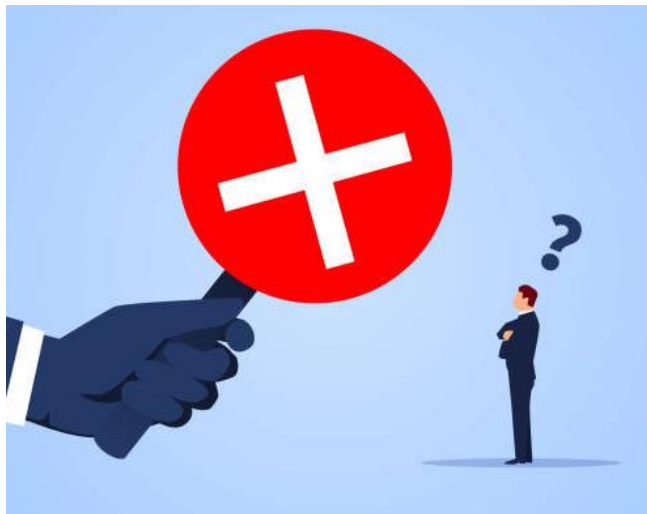
Senate Bill 1994 – Operational Fund Expenditure Report and Reduction Plan

- S.B. 1994 requires each school district to calculate the combined annual average expenditures from its operational funds (Education, O&M, and Transportation) for the previous three years as reported on AFRs.
- The Board shall annually present a written report covering the annual average expenditures for the previous three fiscal year.
- Operational Funds Reserve Reduction Plan:
 - Required if the school district's combined cash reserve balance for its operational funds exceeds 2.5 times the annual average expenditures of its operational funds for the previous three years.
 - Board must adopt and file with ISBE a written plan to reduce the operational fund reserves.
- Currently in the House.



15

The Impact of COVID-19 Shutdowns on Fund Balances



16

“Excessive Accumulation” Claims

- Doing the *CIPS v. Miller* math:
 - Compute “available assets” of the fund, by adding together the fund balance at the end of the FY preceding the challenged tax levy, plus prior year taxes still to be received.
 - Compute the fund’s average annual expenditure for the three FYs preceding the levy.
 - Divide available assets by three-year average annual expenditure. If the resulting “funds/average expenditure” ratio is > 2.0 , objector may have a prima facie case.



17

“Excessive Accumulation” Claims



Typically assert that the challenged levy resulted in an excess accumulation of assets in the levied-for fund because, at the time the levy was made, the fund’s available assets exceeded two times its average annual expenditure.



Excess accumulation claims are analyzed according to the guidelines set out in *Central Illinois Public Service Co. v. Miller*, 42 Ill.2d 542, 248 N.E.2d 89 (1969) (“*CIPS v. Miller*”).



If available assets of that magnitude are shown, the taxing body can defeat the objection by presenting credible evidence as to why it needed to make an additional levy.



18

COVID-19 Impact on “Excessive Accumulation” Claims

- COVID-19 Outlier Year(s): Skewed average annual expenditures leading to tax rate objection claims.
 - Cost savings on transportation, food service, custodial and capital projects.
- Review annual expenditures leading into 2023 levy.
 - Consider fund transfers and other strategies to reduce artificially bloated fund balances.



19

Has COVID-19 Impacted a Taxing District's Ability to Use Tort Funds?

- Section 9-107 of the Local Government and Governmental Employees Tort Immunity Act expressly permits funds raised by the “Tort levy” which can be used for, amongst other expenses, “loss prevention and loss reduction” (“protection against and reduction of any liability or loss....”) 745 ILCS 10/9-107.
- COVID-19 increased the permissible use of Tort funds:
 - Purchases of masks, cleaning supplies, certain capital expenditures such as HVAC equipment, etc.
 - Can taxing districts still use these justifications?



20

Additional Levy Issues from 2022



21

Electronic Filing of Levies

- P.A. 102-625 amended Section 18-15 of the Property Tax Code, adding subsection (a-5) which allows most taxing districts to electronically certify their levy to the county clerk:
- “(a) Notwithstanding any other law to the contrary, all taxing districts, other than a school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of the School Code, shall annually certify to the county clerk, on or before the last Tuesday in December, the several amounts that they have levied.
- (a-5) Certification to the county clerk under subsection (a), including any supplemental or supportive documentation, may be submitted electronically.”

22

Inflationary Pressures and the 5% Limitation for Increased Administrative Costs for School Districts

Section 17-1.5(c) of the School Code states that “each school district shall **undertake budgetary and expenditure control actions** so that **the increase in administrative expenditures** for that school year over the prior school year **does not exceed 5%.**”

- Given the rate of inflation in 2022, many school districts were faced with this limitation.
- Process for seeking waivers from ISBE.



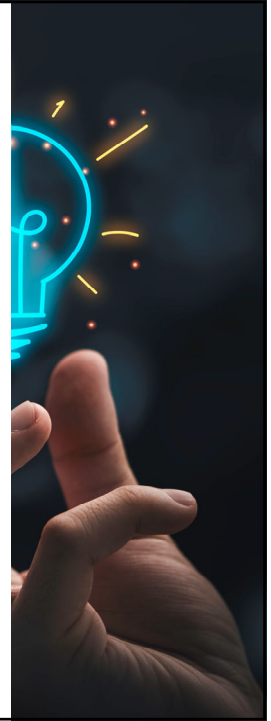
Contact Us

Matthew J. Gardner
mgardner@robbins-schwartz.com

Scott L. Ginsburg
sginsburg@robbins-schwartz.com



Interactive Problem Solving for Purchasing and Construction



1



www.robins-schwartz.com

Contact Us

marketing@robins-schwartz.com

 [@RSchwartzLaw](https://twitter.com/RSchwartzLaw)  [Robbins Schwartz](https://www.linkedin.com/company/Robbins-Schwartz)

Chicago | Collinsville | Champaign | Lisle | Rockford

2

Biographies

KENNETH M. FLOREY

PARTNER, CHICAGO & LISLE

312.332.7760

kflorey@robbins-schwartz.com

Ken Florey concentrates his practice representing public and private clients, including municipalities, school districts, community colleges, townships, libraries, private owners, contractors and design professionals regarding land use, municipal law, construction, tax, finance and litigation. Ken has also started offering his services as a mediator with an emphasis on construction disputes.

Ken was the Chair of the DuPage County Bar Association's Local Government Committee. He was appointed Special Assistant Attorney General to prosecute and defend construction litigation claims on behalf of the Illinois Capital Development Board. Ken is also a member of the Illinois ASBO Service Associate Advisory Committee. He served as a Trustee for the Village of Lombard for eight years and is a member of the Lombard Fire and Police Commission.

MEDIATOR CERTIFICATE: Northwestern University 2017

AWARDS

Illinois Leading Lawyer, Construction Law; Governmental, Municipal, Lobbying & Administrative Law; Land Use, Zoning & Condemnation Law; and School Law

Illinois Association of School Business Officials, Above and Beyond Award

Illinois Institute for Local Government Law, Litigation Award

RECENT PUBLICATIONS

Contributing author, "Joint Purchasing Everything You Want to Know but Are Afraid to Ask!" *UPDATE Magazine*, Illinois ASBO (2019)

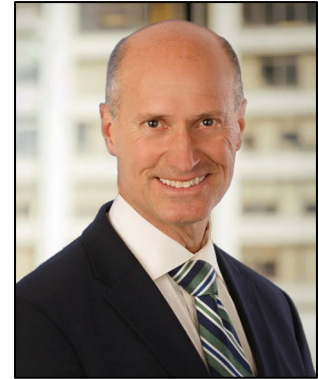
Contributing author, "How Far Does the Law Allow Schools to Go?" *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions & Solutions" *UPDATE Magazine*, Illinois ASBO (2018)

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions," *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Mediation a Win-Win for Clients and their Attorneys in Construction Litigation," *Chicago Daily Law Bulletin* (2018)



PRACTICE AREAS

Commercial Law
Construction Law
Education Law
Energy Law
Litigation
Mediation
Municipal Law
Public Finance & Taxation
Real Estate Development
Zoning, Planning & Land Use

EDUCATION

J.D., DePaul University
College of Law; *Managing Editor, DePaul Journal of Art and Entertainment Law*

B.A., University of Illinois
at Urbana Champaign

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

Contributing author, "Organization, Finance, and Property," *Illinois School Law*, IICLE (2017)

"Construction Project and Contract Pitfalls" *UPDATE Magazine*, Illinois ASBO (2017)

"The Good, the Bad and the Ugly of School Bidding Requirements," *UPDATE Magazine*, Illinois ASBO (2016)

"Settlement Crumbles; Appeals Court Declines to Put Pieces Back Together," *Chicago Daily Law Bulletin* (2015)

RECENT PRESENTATIONS

Alternative Dispute Resolution Section MCLE Program, DuPage County Bar Association (February 2023)

Cooperative Purchasing: Are We Doing it Right?, Illinois Association of School Personnel Administrators and Illinois Association of School Business Officials Regional Conference (October 2022)

Building a Construction Team and So Much More to Achieve Success with Your Project, Association of School Business Officials International (August 2022)

Ethics and ADR: Meditation and Arbitration Issues, DCBA (June 2022)

Cooperative Purchasing: Are You Doing it Right?, Illinois ASBO Annual Conference (June 2022)

Bidding Processes & Procedures: Best Practices in a Changing Environment, Illinois ASBO Annual Conference (May 2022)

Contracts and Conflicts: How Did We Get Here & Where are We Going?, Illinois ASBO Annual Conference (May 2022)

Wrapping Up the Year End in the Business Office: Do's and Don'ts, Illinois ASBO School Business Essentials (April 2022)

School Construction and Purchasing Scenarios: Common Problems with Practical Solutions, ASBO International and AC&E (October 2021)

Using ESSR Funds for Facilities Improvements: School Construction from Start to Finish, Illinois ASBO and IASPA (October 2021)

Prevailing Wages and Bidding, Northeastern Illinois Facility Professionals (November 2021)

No Weak Links: Fostering Positive Intra-Board Relationships, IASB/IASA/IASBO (November 2021)

No Weak Links: Fostering Positive Intra-Board Relationships, IASB (July 2021)



MATTHEW J. GARDNER

PARTNER, CHICAGO

312.332.7760

mgardner@robbins-schwartz.com

Matt Gardner is a partner at Robbins Schwartz where he is a member of the firm's construction, commercial transactions, real estate, and public finance practice groups. Matt represents private and public project owners over the course of construction and development projects, beginning with property acquisition, zoning, contract negotiation and bidding, project management, surety and warranty claims, and any resulting litigation concerning payment, delays or design or construction defects. Matt also represents contractors, subcontractors and material suppliers on a variety of construction-related matters, including payment claims, preserving and enforcing lien rights, and defending defect claims.

In addition to his construction and real estate practice, Matt represents school districts, colleges, and educational technology companies in matters relating to student records and data privacy. Matt regularly drafts and negotiates data privacy agreements, software license agreements, and other service agreements that comply with applicable federal and state privacy laws and regulations while simultaneously protecting his clients' interests. He was part of a team of Robbins Schwartz attorneys that drafted the Illinois addendum to the National Data Privacy Agreement and frequently advises clients on the evolving legal landscape for education privacy matters and risks associated with data breaches or ransomware attacks. Matt has worked with educational technology clients to successfully complete responses and bid submissions as part of the procurement process for some of the largest school districts in the nation resulting in significant contracts. He also works with education technology clients to prepare subcontracts, policies, and procedures to address data security and compliance with the multitude of state and federal data privacy laws.

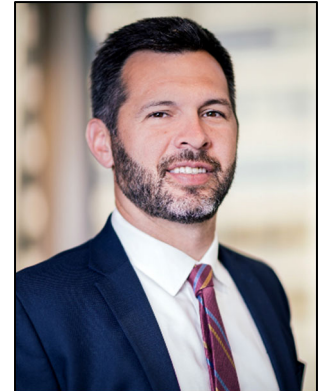
Matt is the past Chair of the Chicago Bar Association Construction Law and Mechanics Lien Subcommittee (2018-19), has testified before the General Assembly on construction-related matters, and is a member of the Illinois State Bar Association and Chicago Bar Association Judicial Evaluation Committee. Matt has also performed pro bono services representing clients through Chicago Volunteer Legal Services and Franciscan Outreach.

AWARDS

Illinois "Rising Star", by Super Lawyers Magazine, in the area of Construction Litigation (2021-2022)

RECENT PUBLICATIONS

Contributing author, "Environmental Issues" *Construction Law: Transactional Considerations*, IICLE (2021)



PRACTICE AREAS

Commercial Law
Construction Law
Public Finance & Taxation
Real Estate Development

EDUCATION

J.D., University of
Wisconsin Law School

B.S., University of Utah

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

Supreme Court of Utah

Supreme Court of
Wisconsin

ORGANIZATIONS

Chicago Bar Association

Illinois State Bar
Association

Contributing author, "School Property and Environmental Issues" *School Law: Organization, Finance, and Property*, IICLE (2017, 2021)

Contributing author, "Turner on Illinois Mechanics Liens," *Chapter III – Making a Lien Against Private Property Enforceable* (2019)

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions," *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Meditation a Win-Win for Clients and their Attorneys in Construction Litigation," *Chicago Daily Law Bulletin* (2018)

RECENT PRESENTATIONS

Best Practices for Safeguarding Data in an Increasingly Digital World, SecurED Schools: K-12 Data Privacy and Cybersecurity Conference (January 2023)

Bidding 101, IASBO Emerging SBO Summit (July 2022)

Legal Considerations Related to Renewable Energy, Illinois ASBO Administrator Academy: Sustainability for PK-12 Schools (May 2022)

School Bidding, Procurement, and Prevailing Wages: From the Basics to the Advanced, IASA Spring Legal Seminar (March 2022)

Making Sense of the Alphabet Soup: FERPA, COPPA, SOPPA, ISSRA, MHDDCA, and PIPA and Strategies for Compliance, Secured Schools K-12 Data Privacy and Cybersecurity Conference (January 2022)



SCOTT L. GINSBURG

PARTNER, CHICAGO

312.332.7760

sginsburg@robbins-schwartz.com

Scott is chair of the firm's Real Estate and Finance Practice Group with a focus on matters related to public finance and property taxation. Scott's experience includes counseling clients and litigating cases in the areas of local government finance, real estate taxation, tax rate objections, tax exemptions, sale and use tax, energy, TIF and property tax abatements. As a registered lobbyist and longtime member of the State and Local Taxation ("SALT") Section Council of the Illinois Bar Association, Scott monitors and drafts legislation involving matters of public finance, and he has testified on behalf of Illinois units of local government in matters before the Illinois General Assembly. Scott has tried multiple cases before the Illinois Property Tax Appeal Board and the Illinois Department of Revenue, and his litigation experience includes defense of actions before courts of all levels. Scott also practices in the area of commercial transactions and local government, including contract drafting and review, litigation and alternative dispute resolution. He has experience in representing general contractors, local governments, and business owners in all aspects of civil litigation.

Prior to joining Robbins Schwartz, Scott concentrated his practice on litigation, in the areas of commercial disputes, construction defects and labor and employment issues. Scott is also a former judicial extern to the Honorable Michael J. Reagan, United States District Judge, Southern District of Illinois.

RECENT PUBLICATIONS

Author, "*PTAB Clarifies Uniformity Standards for Income Properties*," Illinois State Bar Association's *Tax Trends*

Author, "*Chicago Bears Football Club v. The Cook County Department of Revenue*," *Tax Trends*, Illinois State Bar Association

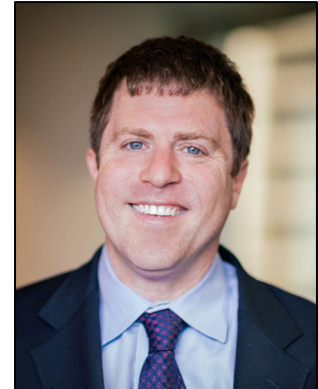
Contributing author, "Illinois Supreme Court Clarifies Standard Review for Zoning Decisions," *Illinois Municipal Review*

RECENT PRESENTATIONS

Comments on PTELL Legislation, ED-RED's Member Meeting (April 2022)

Challenges to Property Tax Assessments and Protecting School District Revenues, IASB Webinar (February 2021)

Property Tax Assessment Challenges and How to Defend Your Tax Base, PMA Financial Network, LLC (June 2020)



PRACTICE AREAS

Commercial Law
Education Law
Energy Law
Litigation
Municipal Law
Public Finance & Taxation
Real Estate Development
Zoning, Planning & Land Use

EDUCATION

J.D., Washington
University School of Law

B.A., DePauw University

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

Illinois State Bar
Association, State and
Local Taxation Section
Council, Member

Financial Oversight: Defending Your Tax Base by Participating in Property Tax Disputes, Tax Rate Objections and Property Tax Exemptions, ICCTA Annual Convention (June 2019)

Property Tax Overview for Superintendents, Northern Illinois University (January 2019)



CHRISTOPHER R. GORMAN

SENIOR COUNSEL, CHICAGO & LISLE

312.332.7760

cgorman@robbins-schwartz.com

Chris practices in the firm's commercial, construction, and real estate practice groups, representing public sector clients in commercial transactions, contracting, construction and related transactional matters. Chris has also served in the firm's labor and employment practice group and counseled employers in all aspects of labor and employment law, including labor relations, collective bargaining, grievance and dispute resolution, workplace investigation, employee discipline, terminations and reductions in force, and employment discrimination. Chris also advises clients on board governance and compliance with the Illinois Freedom of Information Act and Open Meetings Act.

Prior to joining Robbins Schwartz, Chris served as in-house counsel for a nonprofit organization, a charter school management organization and a state regulatory agency overseeing higher education financing.

RECENT PUBLICATIONS

Contributing author, "Labor Issues in the Transactional Side of the Project," *Construction Law: Transactional Considerations 2021 Edition*, IICLE (2021)

"Continuing Controversy Over FCC's Efforts to Improve Broadband Connectivity," *Energy, Utilities, Telecommunications and Transportation Newsletter*, Illinois State Bar Association (2021)

"The Future of For-Profit Online Charter Schools," *Labor and Employment Law Quarterly*, American Bar Association (2016)

RECENT PRESENTATIONS

Best Practices for Safeguarding Data in an Increasingly Digital World, SecurED Schools: K-12 Data Privacy and Cybersecurity Conference (January 2023)

School Bidding, Procurement, and Prevailing Wages: From the Basics to the Advanced, IASA Spring Legal Seminar (March 2022)

Making Sense of the Alphabet Soup: FERPA, COPPA, SOPPA, ISSRA, MHDDCA and PIPA, The Learning Technology Center of Illinois SecurED Schools Annual Conference (January 2022)

Staffing Shortages Following the Pandemic: Strategies and Legal Considerations for Subcontracting, IASBO SupportCon (December 2021)



PRACTICE AREAS

Commercial Transactions
Construction Law
Labor & Employment
Real Estate Development

EDUCATION

J.D., University of
Minnesota Law School

B.A., University of
Minnesota – Twin Cities;
Presidential Scholar

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

Chicago Bar Association

Illinois State Bar
Association

NICOLE L. KARAS

SENIOR COUNSEL, LISLE

630.929.3639

nkaras@robbins-schwartz.com

Nicole Karas focuses her practice on local government and corporate law. She serves as outside general counsel to local governmental clients providing a wide range of legal assistance. Nicole counsels clients on major construction, land acquisition, contract drafting and negotiation, intergovernmental cooperation agreements, board policies, personnel policies, employment issues, contracts for purchases of goods and services, Open Meetings Act, FOIA issues, and ordinance/resolution drafting.

Nicole represents corporate and non-for-profit clients in various matters, including entity formation, real estate matters, contract review, leases and other transactional matters.

RECENT PUBLICATIONS

"Guide to the Open Meetings Act and FOIA," *Illinois Association of Park Districts* (2023)

"Buyer Beware – Construction Project and Contract Pitfalls," *Illinois Association of School Business Officials Magazine* (2017)

RECENT PRESENTATIONS

Bidding 101: Bidding Requirements, Exceptions and Strategies for Cooperative Purchase, IAPD/IPRA Soaring to New Heights Conference (January 2023)

Managing a Successful Construction Project, IAPD/IPRA Soaring to New Heights Conference (January 2023)

Bidding, Construction and Contract Administration, IAPD/IPRA Soaring to New Heights Conference (January 2022)

Navigating the Public Bidding and Contract Process, IAPD/IPRA Soaring to New Heights Conference (January 2020)

Legal/Legislative, Part II, IAPD/IPRA Soaring to New Heights Conference (January 2020)



PRACTICE AREAS

Construction Law

Park District Law

Real Estate Development

EDUCATION

J.D., DePaul University
College of Law, *summa cum laude*, Order of the Coif

B.A., Valparaiso University

ADMITTED TO PRACTICE

Supreme Court of Illinois

ORGANIZATIONS

Illinois State Bar
Association

DuPage County Bar
Association

HOWARD A. METZ

PARTNER, CHICAGO

312.332.7760

hmetz@robbins-schwartz.com

Howard Metz counsels and represents school districts, community colleges, park districts and municipalities with respect to real estate, commercial transactions, construction law and land use and zoning matters. He has resolved construction cases involving issues such as disputed architectural fees, construction defects, bidding disputes and construction delays. Howard has also litigated issues involving zoning laws and municipal control over school property.

RECENT PUBLICATIONS

Contributing author, "Joint Purchasing Everything You Want to Know but Are Afraid to Ask!" *UPDATE Magazine*, Illinois ASBO (2019)

Contributing author, "Public Body Social Media Rules Make Retention, Ready Retrieval Imperative," *Chicago Daily Law Bulletin* (2019)

Contributing author, "How Far Does the Law Allow Schools to Go?" *UPDATE Magazine*, Illinois ASBO (2018)

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Organization, Finance, and Property," *Illinois School Law*, IICLE (2017)

"Look Before You Leap: Evaluating Your Joint Purchasing Options," *UPDATE Magazine*, Illinois ASBO (2016)

Contributing author, "School Property and Environmental Issues," *Illinois School Law*, IICLE (2010 and 2012)

RECENT PRESENTATIONS

School Bidding, Procurement, and Prevailing Wages: From the Basics to the Advanced, IASA Spring Legal Seminar (March 2022)

Legal considerations related to renewable energy, Illinois ASBO Administrator Academy: Sustainability for PK-12 Schools (November 2021)

Foolproof Contract that Abide by State Laws, 2019 Illinois ASBO Annual Conference (May 2019)

Construction Contracts: Boilerplate Language Landmines You May Not Know, NBI (February 2019)



PRACTICE AREAS

Commercial Transactions
Construction Law
Education Law
Finance
Municipal Law
Real Estate Development

EDUCATION

J.D., IIT Chicago-Kent
College of Law

B.S., University of Iowa

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois