

## PUBLIC AUTHORITY

Public authorities have long served as essential providers of governmental services in New York State. From roads, bridges, and airports, to transit, solid waste, utilities and power generation, to igniting economic development and as engines of innovation, modern New York life is unimaginable without them. Just as the services provided by public authorities are wide-ranging, so are the complicated series of statutes and regulations governing every facet of their operation, governance, and finance.

Hodgson Russ is uniquely qualified to assist public authorities in navigating the myriad of complex issues they face in carrying out their missions. We have served as legal counsel from the inception of both international and domestic authorities, drafting enabling legislation, serving as corporate counsel, guiding financing, drafting policies, and assisting in every aspect of public authority legal compliance, including successfully litigating on their behalf. The services we provide include:

- **Agency Governance:** Public authorities have detailed governance requirements and powers, often under overlapping enabling legislation and general state statutes. We also advise our clients on board of directors' matters, ethics issues, open meetings and Freedom of Information Law requirements, and guide compliance with public hearing and related requirements.
- **Public Finance:** Hodgson Russ has an extensive public finance practice serving as bond counsel to numerous authorities, and as agency counsel for industrial development agencies and local development corporations. From project inception through final financing we draft resolutions and notices, negotiate project agreements, confirm compliance with tax regulations and offer legal opinions as needed.
- **Bidding and Contracting:** Authority contracting is guided by complex requirements of the Public Authorities Law, State Comptroller's regulations and directives, and each authority's own policies. We are regularly called upon to draft policies and guide procurement and other forms of contracting to ensure compliance with all applicable guidelines.
- **Regulatory Compliance and Oversight:** Public authorities are subjected to increasing levels of both regulatory and legislative oversight, and Hodgson Russ can provide the path to efficient compliance and responsiveness. We provide guidance on the Public Authorities Accountability Act (PAAA) (for which Hodgson Russ has been approved by New York State's Authorities Budget Office (ABO) as an authorized trainer), complying with the PAAA and related ABO requirements. We assist in responding to ABO and OSC audits, filing annual PARIS reports, and determining when the recapture of financial assistance is

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### Professionals

#### Attorneys

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Jeffrey Swiatek  
Pietra Zaffram  
Nadene Zeigler

#### Managing Partner

Benjamin Zuffranieri Jr.

#### Paralegals

Michael Chille

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required.

- **Negotiation and Preparation of Contracts:** We prepare and negotiate all types of contracts used by authorities, including construction contracts, energy-related contracts and arrangements, software and service contracts, shared services, PILOT, and Host Community Agreements.
- **Litigation:** We have successfully represented public authorities in some of New York's most important cases. When necessary we provide the full range of administrative and judicial forum support, including enforcement of PILOT and clawback agreements.
- **Project Management:** We assist clients in every stage of project management, including acquiring or selling interests in real estate and developing facilities, including the transactional details to ensure an efficient deal while also complying with PAAA requirements and other applicable State rules and approval requirements, such as the State Environmental Quality Review Act (SEQRA).
- **Ethics and Conflicts:** We draft policies and provide guidance on understanding and implementing New York's multiple state laws and policies governing ethics and conflicts.
- **Labor and Employment Matters:** We advise our clients on prevailing wage, MBE/WBE, and other requirements, draft employment contracts and policies, and assist with other labor and employment matters.

Our clients include industrial development agencies, transit authorities, energy-related authorities, state and regional development authorities, international bridge commissions and other unique entities. With a deep bench of attorneys who've practiced in this space for decades, Hodgson Russ has worked on a broad and deep array of matters facing public authorities.

## Experience

Lead counsel for public authority in complex environmental and construction litigation involving multiple contractors and insurers, successfully achieved multi-million dollar settlement in mediation.

Hodgson Russ has represented a variety of public authorities in the undertaking of various capital projects. Projects include parking garages, airports, hydroelectric facilities, and water and sewer systems. In connection with such representations, we drafted state legislation to create the public authorities and amend their enabling legislation. Related financings include refundings and financings to fund the termination payments of guaranteed investment contracts/hedge agreements.

Hodgson Russ successfully defended a public housing authority in a \$5 million lawsuit arising from the termination of a contractor on a hazardous material abatement and demolition project. Our work included pursuing counterclaims for damages arising from the conduct of the contractors on the same project and achieving a multi-million dollar settlement for the authority in mediation.

Hodgson Russ attorneys represented a public authority in a multimillion dollar construction litigation filed by a contractor involving the rehabilitation of runways at the Buffalo International Airport. After discovery, our attorneys obtained summary judgment on behalf of our client. The summary judgment dismissal was affirmed by the Appellate Division.

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After GE closed its Lufkin operations in Wellsville, N.Y., a HR team led by Daniel Spitzer helped the Allegany County Industrial Development Agency acquire the building and bring in as a replacement an advanced manufacturing firm. Elizabeth Holden undertook aspects of the real estate transaction, including negotiating the terms of the transfer from GE and the new lease. Michael Hecker directed the environmental review and drafting of the environmental covenant governing the transfer and reuse of the building, and protecting the IDA from any preexisting site concerns. Joseph Scott assisted the IDA in arranging financial incentives to bring about the expansion of a local hi-tech manufacturer, including a PILOT which deviated from the IDA's Uniform Tax Exemption Policy.

A Hodgson Russ team led by Terrence M. Gilbride recently completed the successful representation of a joint venture in conjunction with the structuring, development, and construction of a 200-vehicle, \$160 million bus garage/service facility in the Mid-Atlantic region for one of the nation's largest metropolitan transportation authorities. The project was undertaken through a joint venture between a real estate development company and a large national engineering firm. The joint venture and the transportation authority utilized a public-private partnership to develop the facility and was able to significantly reduce operating expenses and achieve significant cost and time savings in the construction of the project.

## In the News

Coronavirus Resource Center

Are Conduit Debt Issuers Liable for Unpaid Water Rents and Building Code Violations for the Buildings they "Own" Due to Bond Financing; Court of Appeals to Decide  
*New York Law Review*, January 13, 2021

## Press Releases

71 Hodgson Russ Attorneys Ranked in 2023 Edition of *Best Lawyers in America*  
*Hodgson Russ Press Release*, August 19, 2022

Christopher Canada and Charles Malcomb Appointed As Co-Chairs of Hodgson Russ Public Authority Practice  
*Hodgson Russ Press Release*, May 18, 2021

## Publications

COVID-19 Response Update for Industrial Development Agencies  
*Hodgson Russ Public Authority Alert*, June 9, 2020

\$500 Billion in Direct Federal Loans Available for Local Governments  
*Hodgson Russ Municipal Alert*, April 14, 2020

Video Conference Security Concerns Increase as NYS Suspends Article 7 In Person Meeting Requirement  
*Hodgson Russ Education, Municipal & Public Finance Alert*, April 8, 2020

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New York State Passes \$3 Billion Act for Environmental Restoration and Protection – Next Stop, the Ballot Box

*Hodgson Russ Environmental Alert*, April 6, 2020

Prevailing Wage Legislation and Industrial Development Agencies

*Hodgson Russ Public Authority Alert*, April 3, 2020

The CARES Act and Public Finance

*Hodgson Russ Public Finance Alert*, April 1, 2020

Appellate Division Upholds IDA Denial of Application and Confirms Attorneys' Fees Award

*Hodgson Russ Municipal Law Alert*, May 22, 2019

NYS Department of Taxation and Finance Issues New Guidance on Sales Tax Benefits for Industrial Development Agencies

*Hodgson Russ Public Authority Alert*, March 18, 2019

NYS Sales Tax Recapture – Required Annual Filing of Form ST-62 By Industrial Development Agencies

*Hodgson Russ Public Authority Alert*, March 14, 2019

## **Presentations & Events**

Legal Compliance for IDA Loans and Grants

July 8, 2020