



## A. JOSEPH SCOTT III

Partner; Real Estate & Finance Practice Area Leader;  
Bond Counsel Practice Co-Leader

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Joe has practiced exclusively in the areas of industrial development agency finance, public authority finance, and municipal and school district finance since graduating from law school in 1983.

Joe has acted as issuer's counsel, bond counsel, and underwriter's counsel on a variety of industrial development agency and public authority projects. Examples of industrial development agency projects handled by Joe include commercial, solid waste, manufacturing, co-generation, nonprofit, and recreational projects. Examples of public authority projects handled by Joe include housing projects, electrical distribution, hydro-electric, parking, water and sewer systems, airport, and residential mortgage projects.

In connection with municipal and school district finance, Joe has acted as bond counsel and underwriter's counsel.

Over the past five years, Joe has been involved in the development and structuring of a number of capital projects with emphasis on creating a regional approach to the financing structure and on connecting public and private entities (i.e., private/public partnerships) to provide a regional public/private solution. Each situation has required an understanding of benefits and limitations of public finance under New York State law and the federal tax law, together with an awareness of what the private sector and private capital markets can provide.

Examples of techniques that Joe has used to address these situations include the creation of local development corporations, adoption of local laws or special legislation, preparation of inter-municipal cooperation agreements, and use of industrial development agencies.

Projects that have benefited from these techniques include industrial parks, incubator buildings, infrastructure projects, and a variety of large manufacturing and distribution facilities.

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### Practices & Industries

Municipal  
Municipal Finance & Special  
Districts  
Education  
College & University  
Arenas & Sports Facilities  
Bond Counsel  
Land Use & Economic Development  
Public Authority

### Admissions

New York  
U.S. District Court, Northern  
District of New York

### Education

Hamilton College, B.A., with  
honors  
Boston University School of Law,  
J.D.

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## Honors

- Listed, *Best Lawyers in America* (Public Finance Law) 2005 - 2024

## Experience

The following representative matters demonstrate capital projects handled by Joe and his fellow Hodgson Russ attorneys. Each matter presented financing challenges that required innovative and creative legal strategies.

On behalf of a client acting as the underwriter, Hodgson Russ attorneys reviewed and provided commentary analysis of the preliminary and official statements for a \$20 million charter school bond issuance a New York State charter school. We prepared the due diligence questionnaire, drafted the bond purchase agreement, and worked on finalization of the documents required for the transcript verifying the transaction.

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.

Following the expiration of the provisions of the New York State General Municipal Law authorizing industrial development agencies to issue bonds to assist nonprofit corporations in financing capital projects, attorneys at Hodgson Russ developed a financing structure using locally created local development corporations (LDCs) to fill the void. As part of the LDC structure developed by the Hodgson Russ attorneys, we were successful in obtaining a private letter ruling from the Internal Revenue Service confirming our structure and providing that bonds issued by the LDCs would be eligible for exemption from federal income taxation.

Hodgson Russ represents an industrial development agency in a significant development involving a major hospital in the financing of a \$60 million office tower that will be occupied by nonprofit tenants and for-profit tenants. The project presents a number of issues, including the allocation of tax-exempt financing for the project and the use of a payment in lieu of taxes (PILOT) agreement relating to the for-profit portions of the office tower

Hodgson Russ is representing a local development corporation in the financing of a \$200 million building related to the College of Nanoscale Science and Engineering. The project presents a number of issues, including the determination of portions of the building that qualify for financing with the proceeds of tax-exempt bonds.

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.

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Hodgson Russ represents an industrial development agency in the \$50 million relocation of a manufacturing facility to address local flooding issues. The industrial development agency acted as a conduit for a variety of federal, state, and local grants and loans, and acted to assemble the real estate comprising the new site through condemnation and negotiation. The agency is also acting as the lead entity in addressing State Environmental Quality Review Act (SEQRA) and federal wetland issues.

Hodgson Russ represented an industrial development agency (IDA) in the undertaking of a downtown incubator project for a historically significant building to be occupied by nanoscience tenants. Our work on the project included the commencement of a condemnation proceeding to acquire the site and the structuring of a payment in lieu of taxes (PILOT) agreement.

As reported in the [New York Times](#), Micron announced the siting of a chip factory complex in the Town of Clay, located north of Syracuse, NY. Micron has retained a team of Hodgson attorneys (Chris Canada (Albany), Glen Doherty (Albany), Chris Doyle (Buffalo), Terry Gilbride (Buffalo), John Godwin (Buffalo), Joe Scott (Albany) and Jeff Swiatek (Buffalo)) to handle IDA, construction, real estate, tax and labor matters. The firm has already handled a significant amount of work of the matter relating to the structuring and completion of a Project Labor Agreement with the local trade unions through the efforts of Glen Doherty, with support by John Godwin and Jeff Swiatek.

The project is expected to be undertaken in multiple phases over a 10 year period, and involve the investment of over \$100 billion. Job estimates include 9,000 Micron employees and over 40,000 jobs for suppliers, contractors and vendors.

The firm secured the work through a contact/referral at the Greenberg Traurig firm, who is acting as government relations consultant to Micron. In addition, the firm was able to demonstrate the experience and skill set necessary to handle such an engagement by describing the work currently being handled by the same team members for a \$300M offshore wind manufacturing project to be sited in the Port of Albany.

Hodgson Russ has represented counties and local industrial development agencies in the restructuring of the provision of public nursing home services. In several situations, the restructuring involved the transfer of the nursing home from the local county to a private owner and operator. In one situation, we formed a local development corporation controlled by the local county to operate the local nursing home.

Hodgson Russ represents a regional planning commission in the structuring of a solution to the combined sewer outflow issue involving six municipalities along the Hudson River. The total cost of the capital project is in excess of \$80 million and is expected to take place over a 15-year period. The municipalities are entering into an intermunicipal cooperation agreement, and our role is to design the financing structure to provide for the financing.

Hodgson Russ represented an industrial development agency relating to the issuance of more than \$7 million worth of payment in lieu of taxes (PILOT) revenue bonds to finance the development of a technology park for the siting of high-tech industries. The proceeds of the revenue bonds were used to finance roads, water and sewer lines, drainage improvements, and lighting infrastructure. This financing is an example of a private-public partnership in the development of a technology park.

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Several Hodgson Russ municipal clients have asked us to consider the legal issues relating to the conveyance of municipality-owned capital projects. One such project involved the conveyance of a large municipally owned landfill to a private owner and operator. Issues addressed included the treatment and use of the sale proceeds and status of the tax-exempt bonds previously issued by the municipality to acquire and improve the landfill.

Hodgson Russ's bond counsel, real estate, environment and energy, and education law attorneys work together to assist school districts in capital improvement projects, including school districts' evaluation of environmental impacts under the State Environmental Quality Review Act (SEQRA). The dozens of projects we have worked on include improvements such as new school buildings and sports facilities, additions to existing campuses, roadways, and reconstruction and renovation work.

Hodgson Russ represented an industrial development agency in the siting of a \$120 million manufacturing facility. The payment in lieu of taxes (PILOT) agreement was structured to finance grants provided by Empire State Development for site improvements and other costs related to the project. Other elements of the project included a claw-back provision in the PILOT agreement.

## In the News

Industry Roundtable: Economic Development  
*Albany Business Review*, October 18, 2019

Peak Resorts Completes Acquisition Of Hunter Mountain For \$36.8 Million  
*The Street*, January 7, 2016

## Press Releases

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

55 Hodgson Russ Attorneys Ranked in 2022 Edition of *Best Lawyers in America*  
*Hodgson Russ Press Release*, August 19, 2021

55 Hodgson Russ Attorneys Ranked in 2021 *Best Lawyers in America*  
*Hodgson Russ Press Release*, August 20, 2020

52 Hodgson Russ Attorneys Named to Various *Best Lawyers* Listings  
*Hodgson Russ Press Release*, August 20, 2019

48 Hodgson Russ Attorneys Named to Various *Best Lawyers* Listings  
*Press Release*, August 15, 2018

Fifty-two Hodgson Russ Attorneys Named to 2018 *Best Lawyers* Listing, Five Included in "Lawyer of the Year" Categories  
*Press Release*, August 15, 2017

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2017 Best Lawyers Names Fifty-four Hodgson Russ Attorneys From Multiple Offices

*Hodgson Russ Press Release*, August 18, 2016

Fifty-Five Hodgson Russ Attorneys Named to Best Lawyers 2016, Five Honored as Buffalo 'Lawyers of the Year'

*Press Release*, August 17, 2015

## **Publications**

U.S. Department of Education Announces Long-Awaited Final Title IX Regulations

*Hodgson Russ Education Alert*, April 25, 2024

Alternative Instruction for Suspended Students

*Hodgson Russ Education Alert*, October 20, 2023

NYSED to Begin Monitoring School District Websites for Compliance with Privacy Laws

*Hodgson Russ Education Alert*, July 21, 2023

Orthodox Jewish Parent Group Challenges New York State Education Department Substantial Equivalency Regulations in State Court

*Hodgson Russ Education Alert*, April 18, 2023

Updates to State Building Codes will Require Local Revisions: Given the Added Workload on Code Enforcement, Municipalities May Wish to Evaluate the Sufficiency of Local Permit Fees

*Hodgson Russ Municipal Alert*, November 28, 2022

Educational Employee Health Care Worker Bonus Payments

*Hodgson Russ Education Alert*, October 18, 2022

Alyssa's Law Signed by Governor: Encouraging Schools to Install Silent Panic Alarm Systems

*Hodgson Russ Education Alert*, June 24, 2022

Mandating Low Carbon Concrete to Achieve Embodied Carbon Reductions in the Building Sector

*Hodgson Russ Municipal Alert*, May 16, 2022

Budget Bill Amends Assessment Challenges to Renewable Energy Projects Under Real Property Tax Law § 575-b

*Hodgson Russ Renewable Energy & Municipal Alert*, May 3, 2022

New York State Legislature Amends Open Meetings Law to Allow for Videoconferencing

*Hodgson Russ Municipal and Education Alert*, April 19, 2022

## **Presentations & Events**

Northeast Summer Seminar 2023

New York Government Finance Officers' Association, Lake George, New York, August 11, 2023

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NSEDC 2022 Virtual Spring IDA Academy  
April 12, 2022

NYSEDC Spring IDA Academy  
New York State Economic Development Council, April 13, 2021

Fall 2020 IDA Academy  
New York State Economic Development Council, November 17, 2020

Legal Compliance for IDA Loans and Grants  
NYSEDC, July 8, 2020

2020-2021 State Budget and Active IDA Legislation  
NYS Economic Development Council IDA Academy, June 24, 2020

NYSEDC IDA Academy  
Melville Marriott, Long Island, New York, November 14, 2019

New Legislation and Its Impact on IDAs  
New York State Economic Development Council, Batavia, New York, September 10, 2019

Association of School Business Officials of New York - Capital Region Chapter Meeting  
Albany, NY, March 1, 2019

Preparing for IRS and SEC Scrutiny: Procedures and Training  
Hodgson Russ, 140 Pearl St, Buffalo, NY 14202, April 24, 2018

### **Professional Affiliations**

- National Association of Bond Lawyers
- New York State Economic Development Council
- New York State Bar Association Municipal Law and Tax Sections
- Co-chair, New York State Bar Association Municipal Law Section Legislation Committee
- New York State Bar Association Municipal Law Section Executive Committee
- New York State Government Finance Officers Association
- New York State Association of School Business Officials
- Panelist, Annual Bond Attorneys Workshop, sponsored by the National Association of Bond Lawyers

### **Community & Pro Bono**

- Co-chair, Parks & Trails New York board of directors

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- Local Planning Committee (LPC) for the City of Albany Downtown Revitalization Initiative (DRI)

