October 28, 2009

Beyond Stimulus: Local Financing Strategies For Getting To The Upside

New Mexico's Other Financing Tools

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RBC Capital Markets®

Traditional Capital Formation Process

- **What is lowest cost of capital in today's market?**
  - ✓ Fundraising/Grants
  - ✓ Tax-Exempt Bonds/Loans
  - ✓ Taxable Bonds/Loans
  - ✓ Bank Loan
- **What is the easiest way to raise capital?**
  - ✓ Grants
  - ✓ Borrowing
- **What form of financing do you want?**
  - ✓ Fixed Rate
  - ✓ Variable Rate

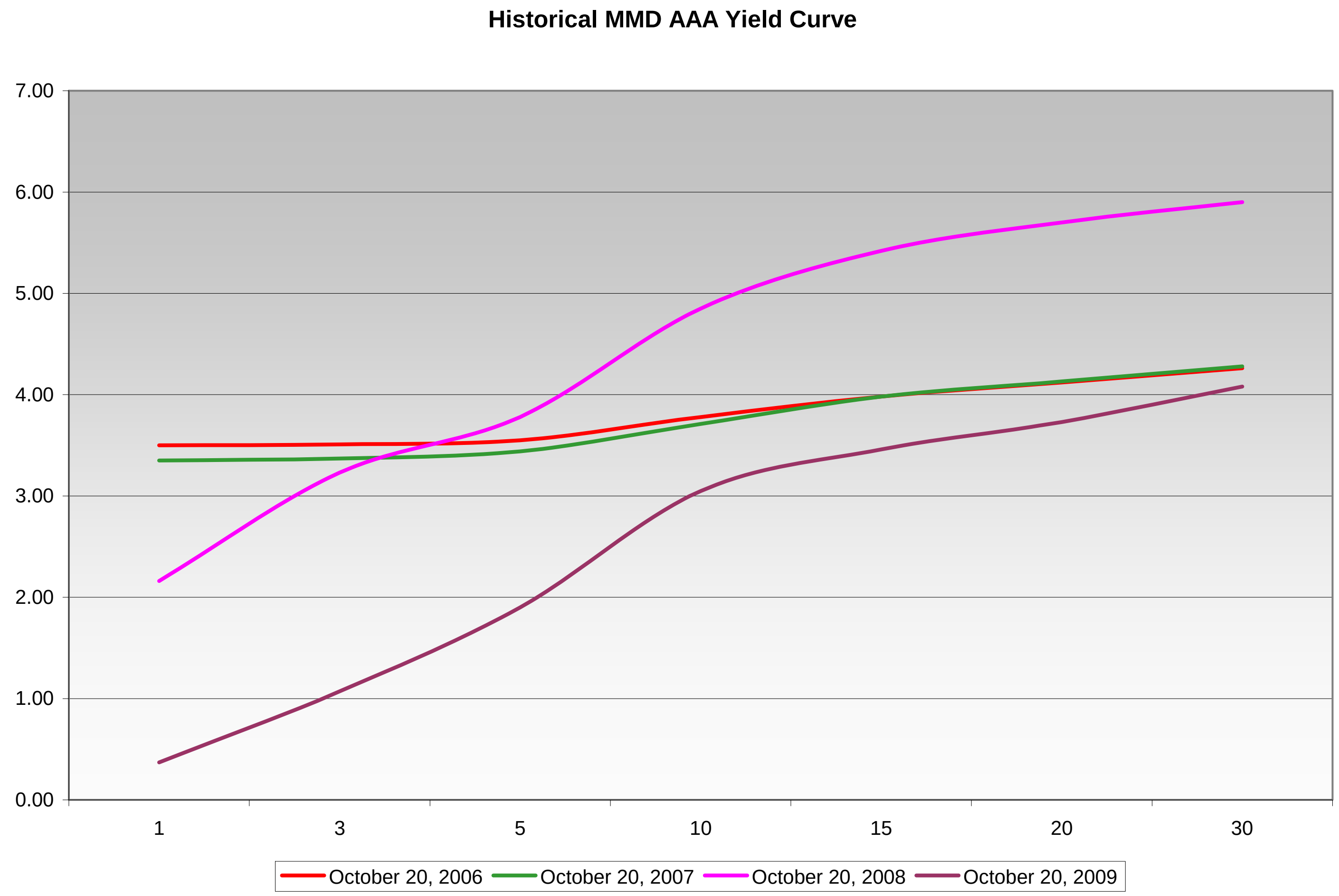
What Can Be Financed On A Tax-Exempt Basis?

- ✓ New public buildings
- ✓ Utility improvements
- ✓ Parking, parks and other public use facilities
- ✓ Renovations and improvement to existing infrastructure
- ✓ Roads, drainage, alleyway, sidewalks
- ✓ Equipment for transit, fire, police and technology
- ✓ Courthouses and Jails
- ✓ Convention centers and arenas
- ✓ Most public uses
- ✓ IRBs for manufacturing
- ✓ Dry utilities – taxable rather than tax-exempt

Security & Sources of Payment

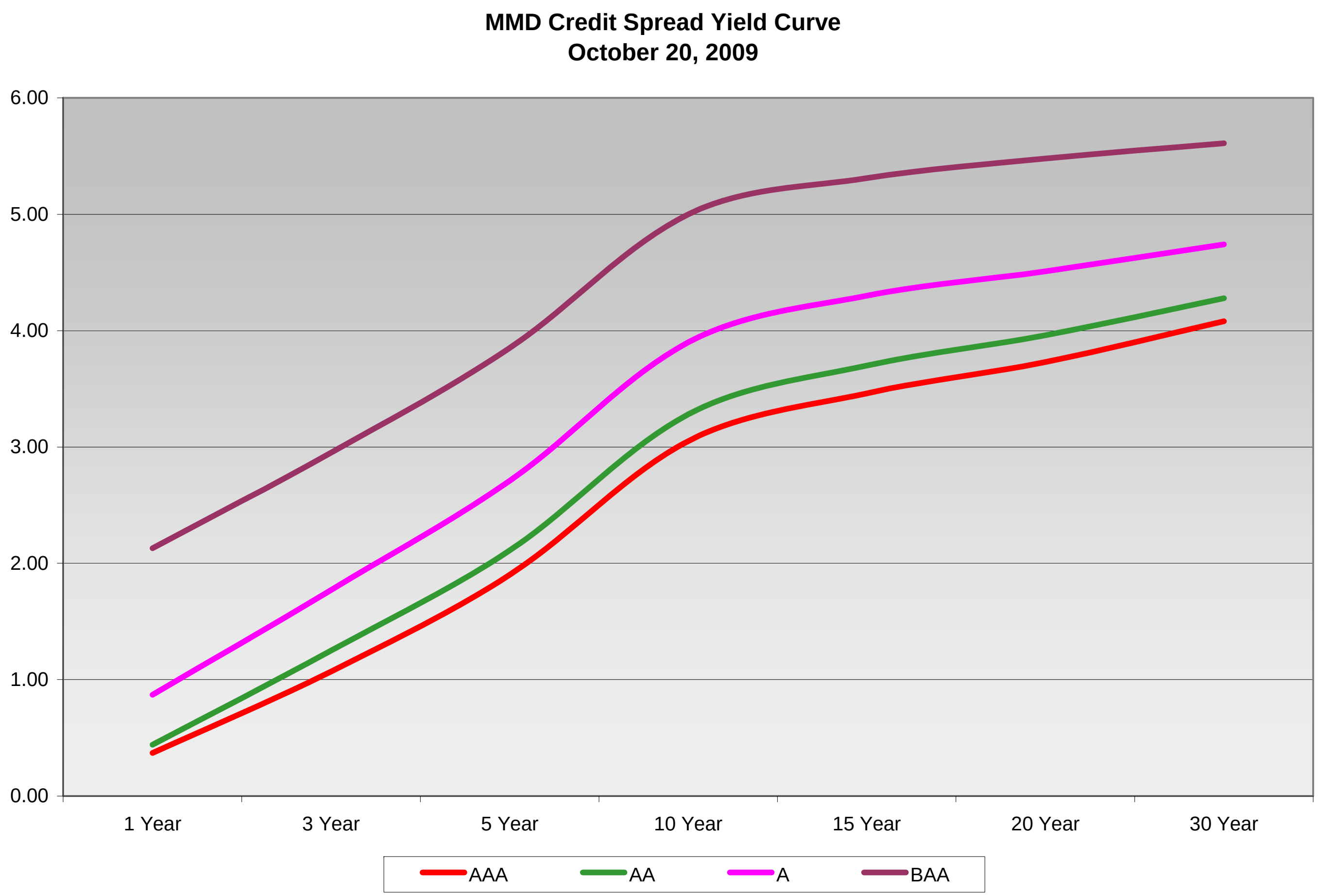
- General Obligation Bonds – Ad valorem (unlimited tax)
- Gross Receipts Tax – most common in New Mexico
- Enterprise Revenue Pledge (utilities, sports/multi-purpose arenas, etc.)
- Mortgage on Certain Properties / Facilities (if applicable and permitted)
  - Coverage and Liquidity Covenants
  - Reserve Fund
  - Restrictions on Additional Debt
    - ✓ Maximum Annual Debt Service Ratio
    - ✓ Unrestricted Resources to Debt
    - ✓ Expendable Resources to Debt

Historical Municipal Market Data Yield Curve



AAA Interest Rate History (%)	Maturity (Years) 1	3	5	10	15	20	30
October 20, 2006	3.50	3.51	3.55	3.78	3.98	4.12	4.26
October 20, 2007	3.35	3.37	3.44	3.71	3.98	4.13	4.28
October 20, 2008	2.16	3.23	3.78	4.85	5.42	5.70	5.90
October 20, 2009	0.37	1.07	1.90	3.05	3.46	3.73	4.08

Impact of Rating on Yield Curve



Interest Rate History (%)	MMD Yields (October 20, 2009)						
	1 Year	3 Year	5 Year	10 Year	15 Year	20 Year	30 Year
AAA	0.37	1.07	1.90	3.05	3.46	3.73	4.08
AA	0.44	1.25	2.11	3.28	3.70	3.96	4.28
A	0.87	1.77	2.71	3.90	4.30	4.51	4.74
BAA	2.13	2.95	3.85	5.00	5.31	5.48	5.61

Example of Project Costs & Gap Analysis

DEVELOPMENT PROJECTS	Cost	Local Funds	State Funds	Federal Funds	Governor's Request	Funding Gap
Downtown Project						
Relocation of City Hall	$250,000	$150,000	$0	$0	$0	$100,000
Demolition of City Hall	150,000	-	-	-	-	150,000
Landscaping Downtown Square	900,000	-	-	-	-	900,000
Purchase of Theater & Renovation	650,000	-	-	-	-	650,000
Downtown Art Project	100,000	-	100,000	-	-	-
Total Downtown Project	$2,050,000	$150,000	$100,000	$0	$0	$1,800,000
Park Renovation Funds						
Softball Complex	$950,000	$314,000	$0	$0	$200,000	$436,000
Park Lake	250,000	-	-	-	-	250,000
Blue Hole Development	3,033,536	467,000	50,000	500,000	266,536	1,750,000
Blue Hole Bank Stabilization	1,600,000	150,000	-	1,040,000	-	410,000
Power Dam	2,493,000	293,000	-	1,230,000	570,000	400,000
Art Project	100,000	-	-	-	-	100,000
Total Park Renovation Project	$8,426,536	$1,224,000	$50,000	$2,770,000	$1,036,536	$3,346,000
Water Project						
Wastewater	$2,200,000	$0	$0	$288,118	$700,000	$1,211,882
Water Well Project	400,000	-	-	400,000	-	-
Water Metering	500,000	-	150,000	-	350,000	-
Water Valve Project	50,000	-	-	-	-	50,000
Total Water Projects	$3,150,000	$0	$150,000	$688,118	$1,050,000	$1,261,882
TOTAL PROJECTS	**$13,626,536**	**$1,374,000**	**$300,000**	**$3,458,118**	**$2,086,536**	**$6,407,882**
Funding Sources	**Total Sources**	**Local**	**State**	**Federal**	**Gov. Request**	**Other**
Local Funds		$1,374,000				
State Funds			$300,000			
Federal Funds				$3,458,118		
Request from Governor Richardson					$2,086,536	
Lodger's Tax Revenue - Blue Hole						$1,750,000
COGRT on Revenue Bonds						2,396,000
Water & Wastewater Revenue Bond						2,261,882
TOTAL FUNDS	**$13,626,536**	**$1,374,000**	**$300,000**	**$3,458,118**	**$2,086,536**	**$6,407,882**

Comparison of TIFs, PIDs, SADs and REFDs

	TIF	PID	SAD	REFD
Statute - NMSA 1978	3-60A-1/48 and 6-60-1/23	5-11-1/27	3-33-1/43 and 4-55A-1/43	2009 - Law 280
New Tax or Revenue Sources Required	No	Yes	Yes	Yes
Election Required	Yes	Yes	No (1)	No
Separate Governing Board Required	Yes	Yes	Yes	Yes
Bond Maturity Limitation	25 Years	40 Years	20 Years	20 Years
Improvement / Ownership	City or County	City or County	City or County	Howeowner
Souce of Revenue	GRT and Property Tax	Property Tax, Special Levy, GRT, Enterprise Revenue (water/sewer)	Special Assessment or Property Tax (can be additional secured by other revenue streams)	Special Assessment included on County Property Tax bill
Limitation on Tax / Levy	75% of GRT and Property Tax	None	None	None
Lien to Value or other Considerations	Tax base growth to support bond payments	3 to 1 - 20% of costs by developer	3 to 1 where 20% of district is one taxpayer	Homeowner affordability

(1) If general obligation bonds are issued an election is required

Special Assessment Districts (“SADs”)

- Section 3-33-1 through 3-33-43, NMSA 1978 governs the creation of SADs in municipalities.
- Section 4-55A-1 through 4-55A-43, NMSA 1978 governs the formation of SADs by counties.
- Traditional way to finance infrastructure improvements
  - Created by resolution. No election required .
  - Viewed as time-consuming, confusing and difficult to establish
- SADs are often initiated by property owners for installation of
  - A particular street
  - Storm drainage
  - Water and/or water sewer improvements
- Upon approval of SAD formation, an engineer will design the improvements and allocate the benefits and costs of the improvements to each of the properties to be included within the special assessment district.
- Properties may not be assessed for general benefits accruing to the city or county and its residents as a whole.
- After notice is given to all affected property owners, a protest hearing is held to determine the need for the improvements and to allow property owners to protest the amount of estimated maximum benefit and estimated assessments to accrue to their property as a result of the installation of improvements.
- After objections are settled, a governing body adopts a resolution which confirms the assessment roll.
- An ordinance of the governing body assesses the cost of the improvements to the property owners and sets the terms of the special assessment liens.
- Property owners are given a cash pay period in which to pay the assessment lien in advance and avoid having a claim of lien filed against their properties.
- After the cash pay period expires, the city or county proceeds with the sale and delivery of bonds in order to provide funds to construct the improvements.

Public Improvement Districts ("PIDs")

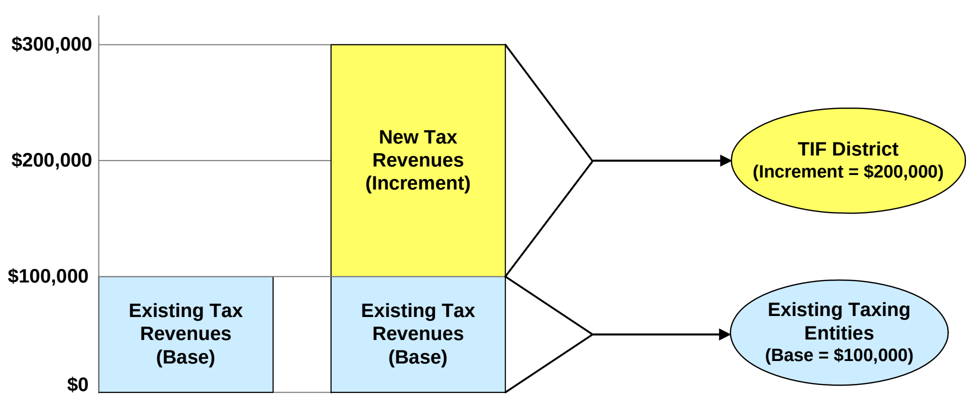
- Section 5-11-1 through 5-11-27, NMSA 1978 governs the creation of PIDs through a petition and hearing process, followed by a unanimous consent procedure or approval through an election of property owners and qualified resident electors.
- PIDs are authorized to finance various infrastructure and improvements, including
  - water and sewer systems
  - Streets, trails, and parks
  - Electrical, gas and telecommunication systems
  - public buildings
  - libraries and cultural facilities
  - school facilities
  - equipment and related costs of operation and administration.
- Financing is based on
  - Levying property taxes on land within a PID;
  - Imposing special levies based on benefit to property, front footage, acreage, cost of improvements (or other factors apart from assessed valuation); or
  - By providing for use charges for improvements or revenue-producing projects or facilities.
- PID taxes, levies and charges may be pledged to pay debt service on bonds issued by a PID.
- PID bonds **are not** obligations of the State of New Mexico or the local government jurisdiction in which the PID is located, but are obligations **solely** of the PID issuing the bonds.
- An election for bond issuance of the PID must contain an authorization for a property tax or special levy to pay debt service on the bonds as well as a limitation on the amount of that levy in the case of a special levy.

Tax Increment Development Districts ("TIDDs")

- Section 3-60A-1 through 3-60A-48, NMSA 1978 (the Metropolitan Redevelopment Act) has historically been the tool used to offer tax increment financing and authorize the issuance of property tax increment bonds to finance metropolitan redevelopment projects.
- Tax increment financing is a method of financing public improvements through the reimbursement of tax receipts that are received over and above the receipts stream that existed prior to the new development (i.e., the taxes generated by a new project are used to finance infrastructure).
- The MRD Act authorizes a municipality to issue tax increment bonds or tax increment anticipation notes that are payable from and secured by real property taxes and gross receipts.
- In 2009, the legislature revised reporting requirements as to TIDDs and also increased state-level review of TIDD projects.
  - Applies to both state and local government TIDD projects
  - Notice of hearing to form a TIDD and notice of the formation of a TIDD must be given to the:
    - Secretary of Taxation and Revenue
    - Secretary of Finance and Administration
    - Director of the Legislative Finance Committee
  - In the 5-person board that governs a TIDD, one of the board members is required to be the Secretary of Finance and Administration or the Secretary's designee
  - All resolution materials must be available electronically to the public.
  - The maximum amount of bonds to issued against gross receipts tax must be authorized by law, and if any excess revenues above debt service and reserves are received, they must be returned to the taxing authority.

Tax Increment Financing

- TIF is a method of facilitating development or redevelopment of defined areas of property by utilizing future tax revenues to pay for some of the necessary improvements. TIF allows local officials to designate an area ("TIF District") for improvement and then earmark any future growth in property tax revenues in that District to pay for the predetermined development expenditures in that District.
- Both property tax and gross receipts taxes will be eligible.
- For gross receipts taxes, there will be available increment of state shared portion, local portion of GRT, and state portion.
- "Earmarked GRT" may be used, at formation entities option, for earmarked purposes within the district.
- Consent is required for borrowing by TIF only from those districts whose taxes are affected and the State Department of Finance and Administration (except for Class A counties, and municipalities with populations over 65,000).
- Voter approval for in property tax increment funding only, within district only, not within entire formation entity; can be combined with formation election, and waived, with consent, as with PID.
- 30 year financing available.
- Improvements that can be financed include water and sewerage, flood control and drainage, highways, streets and parking, non-vehicular trails, recreational facilities, pedestrian malls, library/educational/cultural facilities, cable/telecommunications lines, water rights acquisition, public buildings, traffic control, school sites, and facilities, equipment, vehicles, furnishings, landscaping, enhanced services, natural gas/electrical generation facilities, inspection & construction management.



Renewable Energy Financing District ("REFD")

- During the 2009 legislative session, New Mexico passed the Renewable Energy Financing District Act which permits a municipality or county to form a district to finance renewable energy improvements. A district may include property within one or more municipalities or counties.

- A "renewable energy improvement" is defined as a photovoltaic, solar thermal, geothermal or wind energy system permanently installed on real property.

- Financed by the issuance of special assessment bonds

- Maximum maturity not to exceed 20 years

- The district may impose a special assessment to pay for renewable energy improvements.

- Special assessments are property liens, with priority other than ad valorem property taxes.

Infrastructure Development Zones ("IDZs")

- During the 2009 legislative session, New Mexico passed the Infrastructure Development Zone Act which is similar in many ways to the existing Public Improvement District.
- IDZs are governed by a 5 director board.
- IDZs are quasi-municipal political subdivisions created to provide and finance infrastructure and facilities services.
- An IDZ must adopt a "service plan" which governs the scope of its activities.
- The scope of permissible services includes but is not limited to:
  - Water and sewer systems
  - Drainage systems
  - Public safety and fire protection facilities
  - Roads and parks
- IDZs may cover property within one or more municipalities or counties, however, IDZs may not overlap with other IDZs or special districts providing the same services.
- In creating an IDZ, there must be an initial petition signed by the lesser of 30% or 400 of the taxpaying electors in the area, followed by hearings to approve or disapprove the formation of the IDZ.
- There are certain restrictions on IDZs including:
  - A maximum mill levy must be established in the service plan
  - IDZ must comply with the Procurement Code
  - Meetings must comply with Open Meetings Act
  - IDZ records are public records
- Maximum maturity of bonds is 30 years and can be general obligation, special assessment, or revenue bonds.

Business Improvement Districts ("BIDs")

- Section 3-63-1 through 3-63-15, NMSA 1978 governs the formation of BIDs.
- BIDs may be formed to promote and restore the economic vitality of specific geographical areas within communities by providing for the administration and financing of additional cost extended services to business within the district.
- BIDs may be formed by petition and the development of a plan to implement the creation of the BID.
- The BID is governed by a management committee. The committee and the governing body
  - Determines assessments
  - Prepares budgets
  - Administers the improvements
- Under certain circumstances, the issuance and sale of bonds is permitted for raising capital in the construction of public facilities.

Industrial Revenue Bonds ("IRBs")

- Section 3-32-1 through 3-32-10, NMSA 1978 governs the authority for a city to issue IRBs.
- Section 4-59-1 through 4-59-16, NMSA 1978 governs the authority for a county to issue IRBs.
- IRBs are obligations of a City or County and are payable solely from revenues received from an underlying lease or installment sale arrangement with a company that uses the facility financed by the bonds.
- IRBs enable local governments to provide a mechanism for low-cost financing for private parties to create industrial facilities that would enhance employment in the locality.
- Used extensively to encourage relocations or expansions of may types of commercial facilities.
- Federal tax exemption for interest on IRBs.
- Certain "exempt facilities" can be financed with tax-exempt IRBs such as airport facilities and multi-family housing.
- IRBs can also be "taxable" bonds.
    - Issuing taxable bonds provides the company using the facility a property tax exemption for up to 20 years for the facility being financed **and** a gross receipts tax exemption for the equipment purchased for the facility.
    - The Issuing Entity (the City or County) holds legal title to the project.
        - The Issuing Entity leases the project to the actual user and the lease payments or purchase price payments are used to pay off the principal and interest on the bonds.
    - Non-taxable transaction certificates can be issued to purchase equipment and other personal property for the project but **cannot** be used for construction services or for materials incorporated into the structure.

Local Economic Development Act ("LEDA")

- Article IX, Section 11 of the New Mexico Constitution, the "Anti-Donation Clause", was amended in 1994 to allow local and regional governments to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses. LEDA implements the constitutional amendment.
  - Prior to providing public support for economic development, LEDA requires each local government entity to adopt by ordinance an economic development plan outlining goals and strategies.
  - A qualifying business submits a project application by the local government detailing the economic development plan, the financial and management stability of the qualifying business, the demonstrated commitment to the community, a cost-benefit analysis of the project and any other necessary information.
  - Upon approval, the local government and qualifying entity enter into a project participation agreement setting out the contributions to be made by each party, the security provided to the local government, a schedule for project development and completion
- LEDA limits the amount of public money expended and credit pledged for economic development projects to 10% of the local government's annual general fund expenditures in that fiscal year (increase from 5%).
- The 10% limit does not apply to the following:
  - Land or buildings
  - Revenues generated through the municipal or county infrastructure gross receipts tax
  - The proceeds of a revenue bond issue to which municipal or county infrastructure gross receipts tax revenue is pledged
  - Funds donated by private entities to be used for defraying the cost of a project

Affordable Housing Act ("AHA")

- Voters adopted amendments to the anti-donation clause (Article IX, Section 14E & F) of the New Mexico Constitution, to provide for governments to participate in affordable housing transactions. AHA allows a state, county or municipality to
  - Donate land for construction of affordable housing;
  - Donate an existing building for conversion or renovation into affordable housing; and
  - Provide or pay the costs of infrastructure necessary to support affordable housing projects.
- Eligibility requirements of individual grantees are delegated to the Mortgage Finance Authority (the "MFA").
- AHA requires local governments to enact an ordinance that authorizes the grant and states the requirements and purposes of the grants. Ordinance must also comply with MFA rules.
- Funding is appropriated to the Department of Finance and Administration for disbursement by the MFA to a qualifying grantee via the New Mexico Housing Trust Fund. This fund
  - Provides loans or grants for affordable housing for low and moderate income household;
  - Consists of state appropriations and transfers, as well as private contributions
  - The MFA is the trustee of the fund
  - The State Investment Council is the investment agent.
- The New Mexico Housing Trust Fund Advisory Committee reviews project applications and makes funding recommendations. It does not provide input as to the investment decisions of the fund.
- Trust funds are awarded on a competitive basis.
- Money from the fund may be used to match federal, local or private money.

Gross Receipts Investment Policy ("GRIP") from City of Rio Rancho

- GRIP provides that in the case of new, large-scale retail and certain commercial businesses within a city, a city may
  - Repay a developer for the cost of reasonable and necessary public infrastructure
  - Reimburse impact fees where the reimbursement is instrumental in bringing the development to the city
- Qualifying businesses must demonstrate one or more of the following
  1. The retail or professional services will generate or draw regional customers or customers who reside beyond 20 miles from the municipal boundaries of the City;
  2. The sales volume is projected to meet or exceed $5 million per year after three years of operation;
  3. The business is a food service or restaurant with a seating capacity of not less than 200;
  4. The business is a full service hotel of not less than 200 rooms;
  5. The business will provide employment for at least 50 employees;
  6. The business is a car dealership with estimated minimum annual volume of sales of 600 units; or
  7. The business represents a substantial expansion of an existing business
- The estimated tax revenues to the City must be provided and be supported by an independent economic analysis.
- The amount of GRT payable to the developer can be up to one-half of the City's share of total GRT directly attributable to sales from the new business.
- Payment shall not exceed the actual cost expended for the development of the public infrastructure.
- If the GRIP project involves reimbursement for infrastructure, the developer must build and then dedicate the infrastructure to the city.