TEN BASIC STEPS IN A NEW MEXICO “TAXABLE” IRB (Brownstein, Hyatt Farber):

1. The company identifies a site in the city or with in 15 miles from the city limits and the company “ties up” the site; this is usually done through option or purchase contract subject to future IRB issuance by the city.
2. The company meets with city and state officials, and economic development groups, such as AED of SFED, seeking information, support, cooperation, and identification of potential concerns.
3. The company identifies a purchaser for the proposed bonds. This may simply be an affiliate of the company where the company has sufficient corporate funds to finance the project.
4. The company prepares a project description, including construction or expansion details, site plan, proposed use, zoning, utility, and environmental matters, potential new employment, and existing completion, if any.
5. A package is then submitted to the local city development commission of finance committee containing the project description as indicated in paragraph 4 above, and financial information concerning the company.
6. The local city development commission or finance committee holds a public hearing after notice is given, and makes a recommendation that the city should issue the IRB.
7. The company finds a councilor (usually the councilor for the district the project will be located in) to sponsor and introduce an inducement resolution in the city council. The city council may refer the resolution to the finance committee of the city for a recommendation before taking action. The inducement resolution expresses the intent of the city to issue the bonds, but does not legally commit the city to do so.
8. Upon passage of an inducement resolution, bond counsel working with counsel to the city and the company prepares a bond resolution for adoption by the city council. Upon introduction in the city council, the resolution may be referred to the finance committee or may be set for a hearing by the full city council.
9. Upon passage of the bond resolution, closing documents are completed. These include (i) an assignment of the interest of the company in the site and any construction contracts to the city; (ii) a lease of the site back to the company with the obligation of the company to pay rentals equal to the debt service on the bonds and the obligation of the company to pay all other expenses relating to the project; (iii) a trustee indenture and mortgage whereby the city assigns to the trustee as collateral for the bonds the interest of the city in the project and lease; (iv) a contract from the bond purchaser to purchase the bonds from the city; (v) bond counsel’s.
10. At closing, (i) the bond purchaser busy the bonds; (II) the bond proceeds are delivered to the trustee; (iii) the trustee sues the bond proceeds to pay the remaining acquisition costs of the site, to reimburse the company for previously incurred site and project costs, to pay costs of issuance of the bonds, and to pay construction costs and equipment purchases in connection with the construction of the project; (iv) title to the state is transferred to the city; (v) the lese with the company is signed; (vi) the site and lease are pledged to the trustee; and (vii) closing documents are exchanged.