Criteria for Development Agreements

- Agreements can bind future councils
- Developers need certainty
- Voluntary agreements
- Difference between pre-annexation, development agreements and master agreements
- Specific government code sections – duration, uses, etc
- Enforceable notwithstanding CC
- New cities must honor agreements
- Development agreements not applicable for special districts
- CEQA does apply
- Avoid legal risk (and Victorville)
- Balance owner’s expectations with allowed land uses
- And what city’s expectations
- Check sphere of influence
- First work with city on allowed land uses
- Development plan
- Negotiate with confidentiality
- Tension about how much for developer to “give”
- Allow public input
- Shorter development time may affect when development agreement heard
- Assessment of risk by developer
- Consult with LAFCO
• Development agreement includes timing and that will affect LAFCO
• LAFCO Executive Officers and LAFCO attorney should review development agreements
• LAFCO should look at contracts between special districts and developers
• Development agreements can specify service delivery by special districts
• Development agreements can survive bankruptcy
• Default provisions should be included
• Annual reviews of agreements
• Assignment clause—can assign agreement to another and original signer is released
• Do not low building permit until money is in hand
• Land is more valuable with development agreement
• County can be involved in regional infrastructure issues
• Property tax agreement can be option for negotiation
• CFDs and other financing tolls can be include in agreements
• CFDs for operations/maintenance problematic for developers
• CFDs can be re-negotiated in light of current economy
• Agreements should share risk
• Tie timing in agreements to payment
• Creativity in handling O/M
• O/M costs associated with creation of open space
• Re-conveyance fees
• Reimbursement agreements should be include—upfront, timely etc in development agreements
• Make sure you get the attorney involved early (developer/attorney playground)
• All agencies should communicate early (especially in small counties)
• Sit down with LAFCO for pre-annexation
• Collect as many development agreements as possible to learn from previous efforts
• Can use “endowment contract” for O/M