

# Community Development Authorities: An Overview

Fauquier County Planning Commission  
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WALSH COLUCCI  
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STIFEL

# What is a CDA?

- A form of political subdivision that serves as a special taxing district
- Authorized by Va. Code Article 6, Chapter 51, Title 15.2 (§§15.2-5152 et seq.) as part of Water and Waste Authorities Act
- Can help fund a variety of infrastructure improvements and special services **up-front**
  - a. Different from Special Service Districts
  - b. Different from Proffered Improvements
- Can finance, fund, establish, acquire, construct, equip, operate and maintain infrastructure improvement made necessary by development within the CDA district

# What is a CDA? (cont'd)



# What is a CDA?

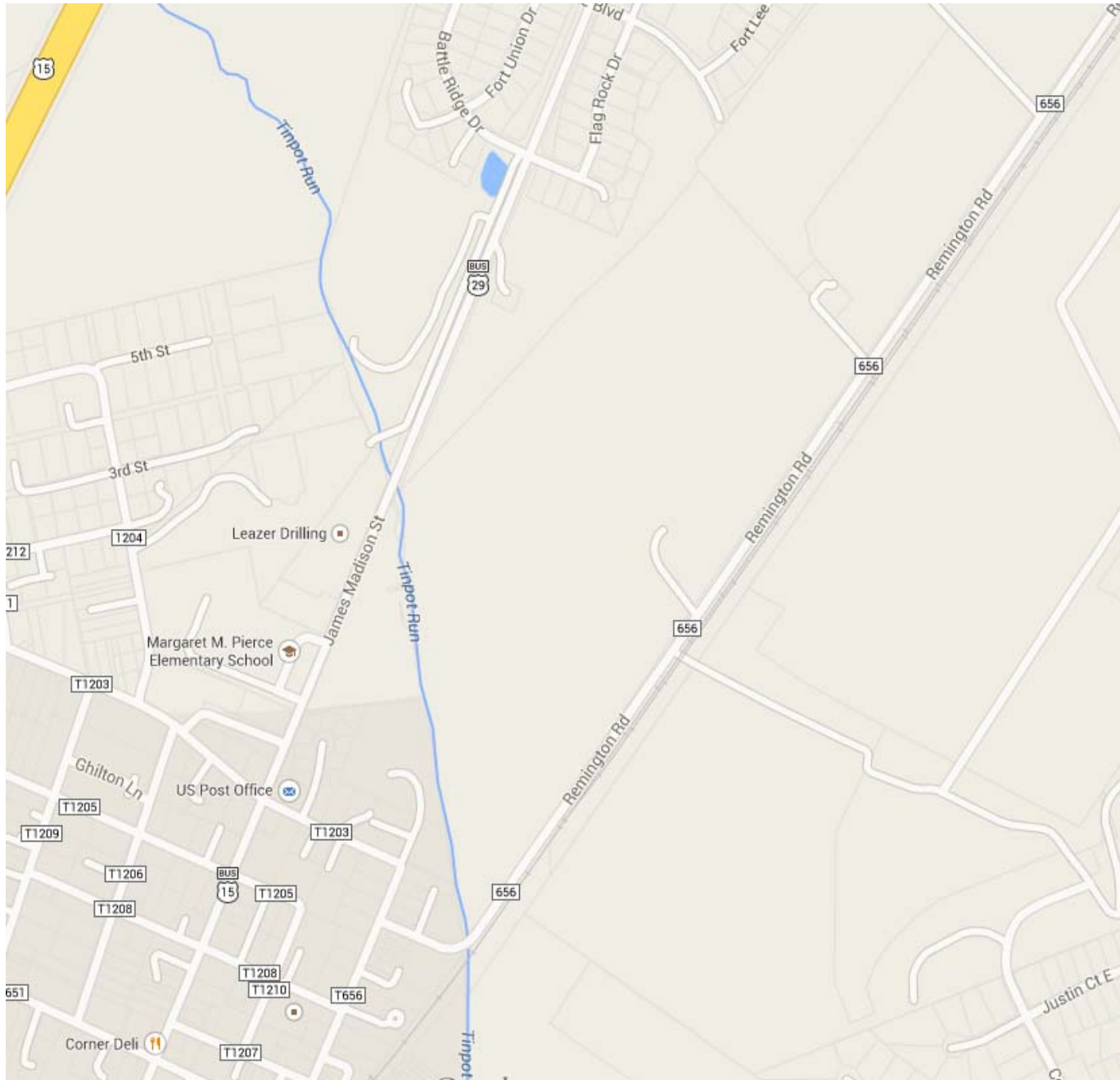
## (cont'd)

- The CDA issues bonds for purposes of financing CDA improvements
- CDA bonds are repaid over 20 to 30 years in one of three ways:
  - a) Special Taxes
  - b) Special Assessments
  - c) TIF (Tax Increment Financing)

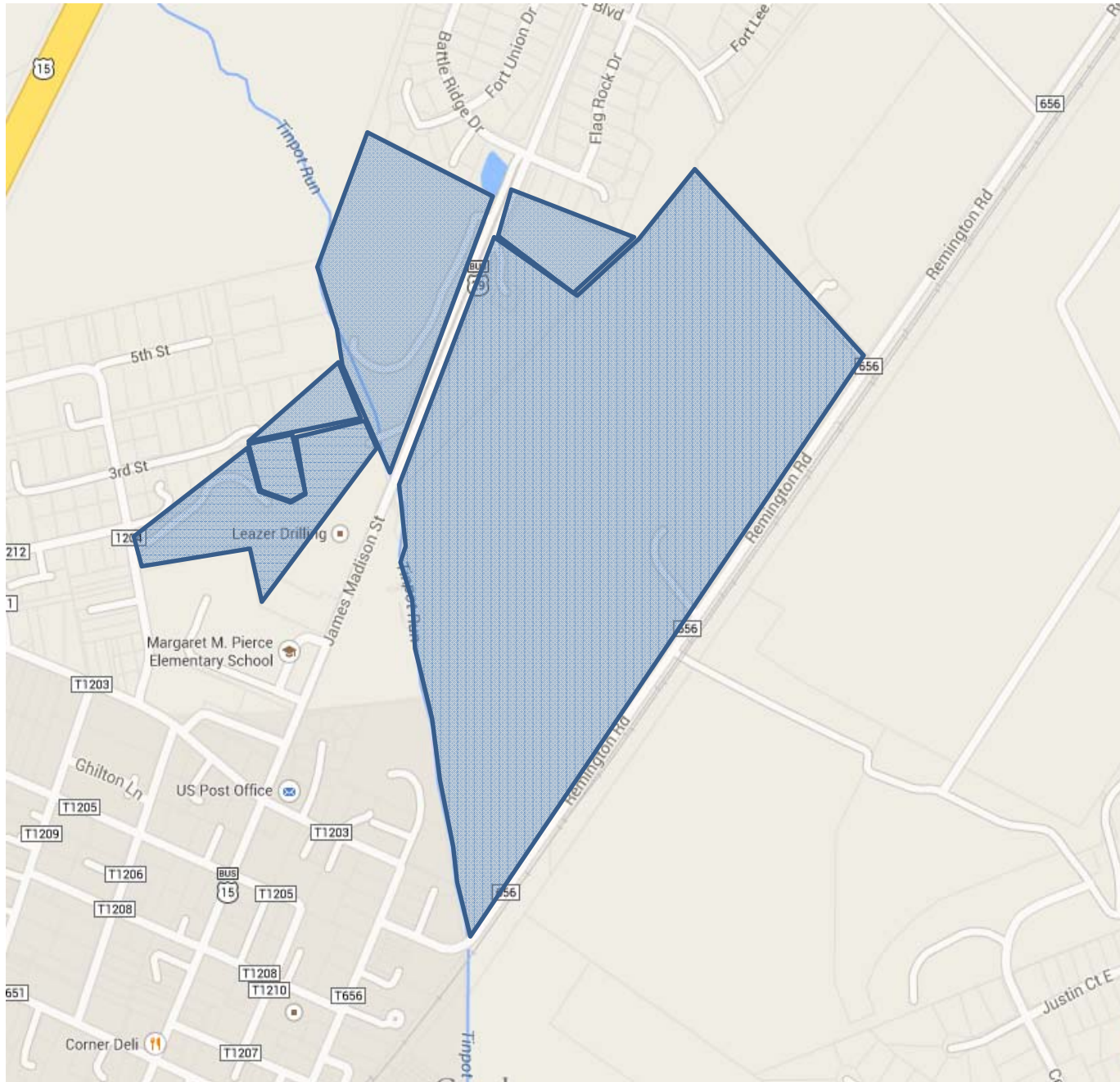
(or some combination of the above)
- **Constant Refrain: CDA Debt is NOT the debt / liability / obligation of the locality!!! \***



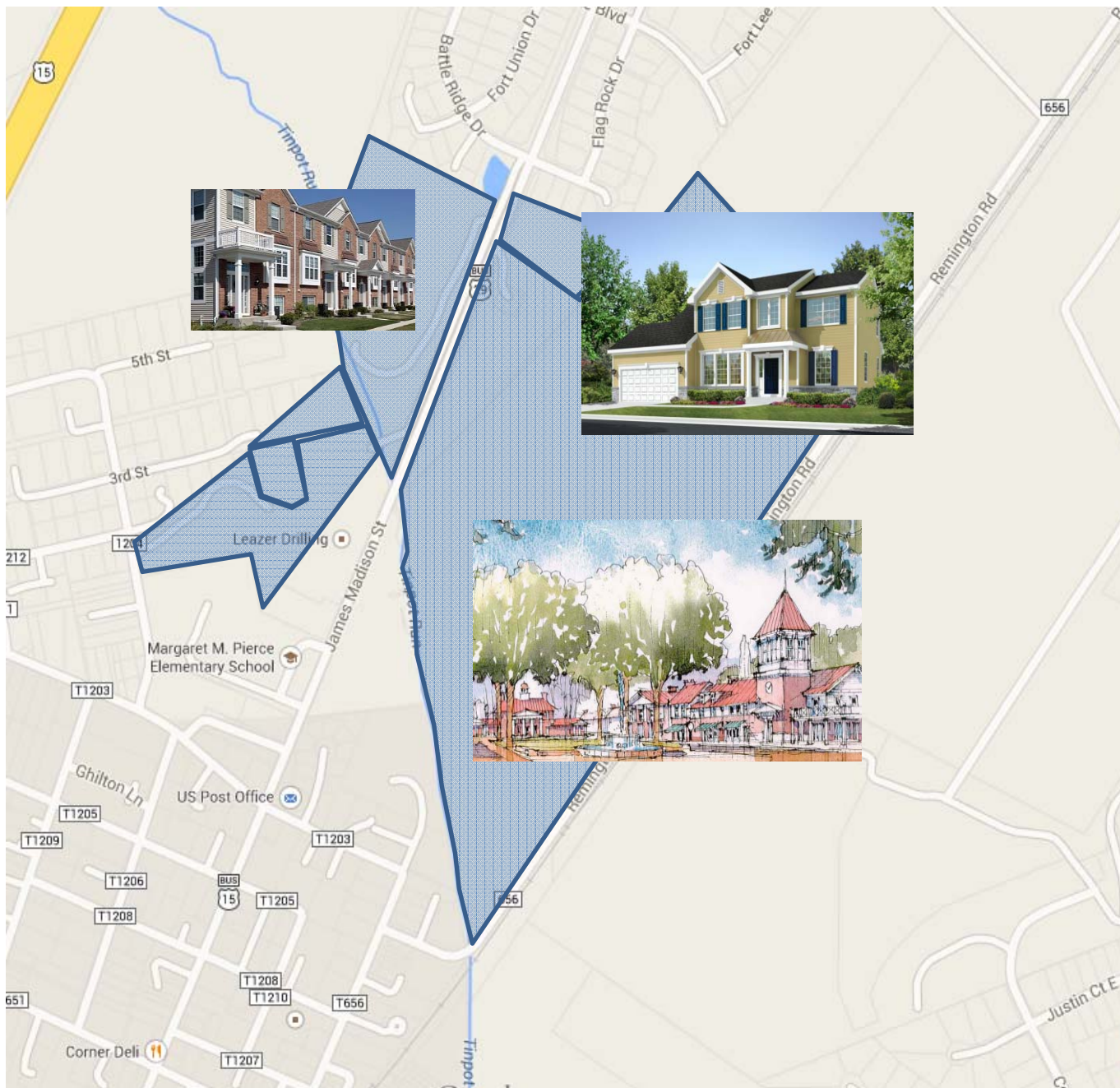
# Standard Procedure to Create a CDA



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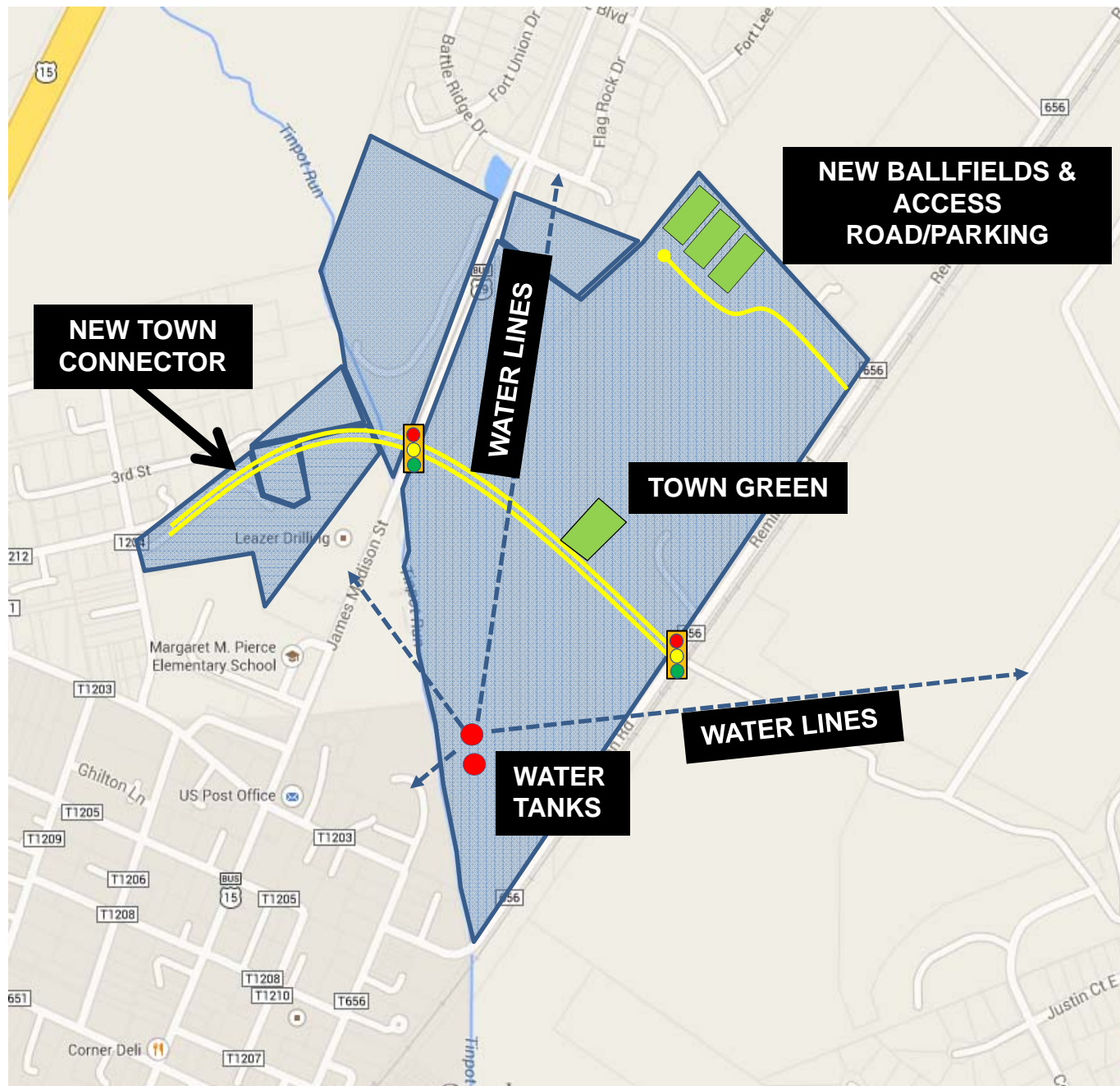


# Standard Procedure to Create a CDA



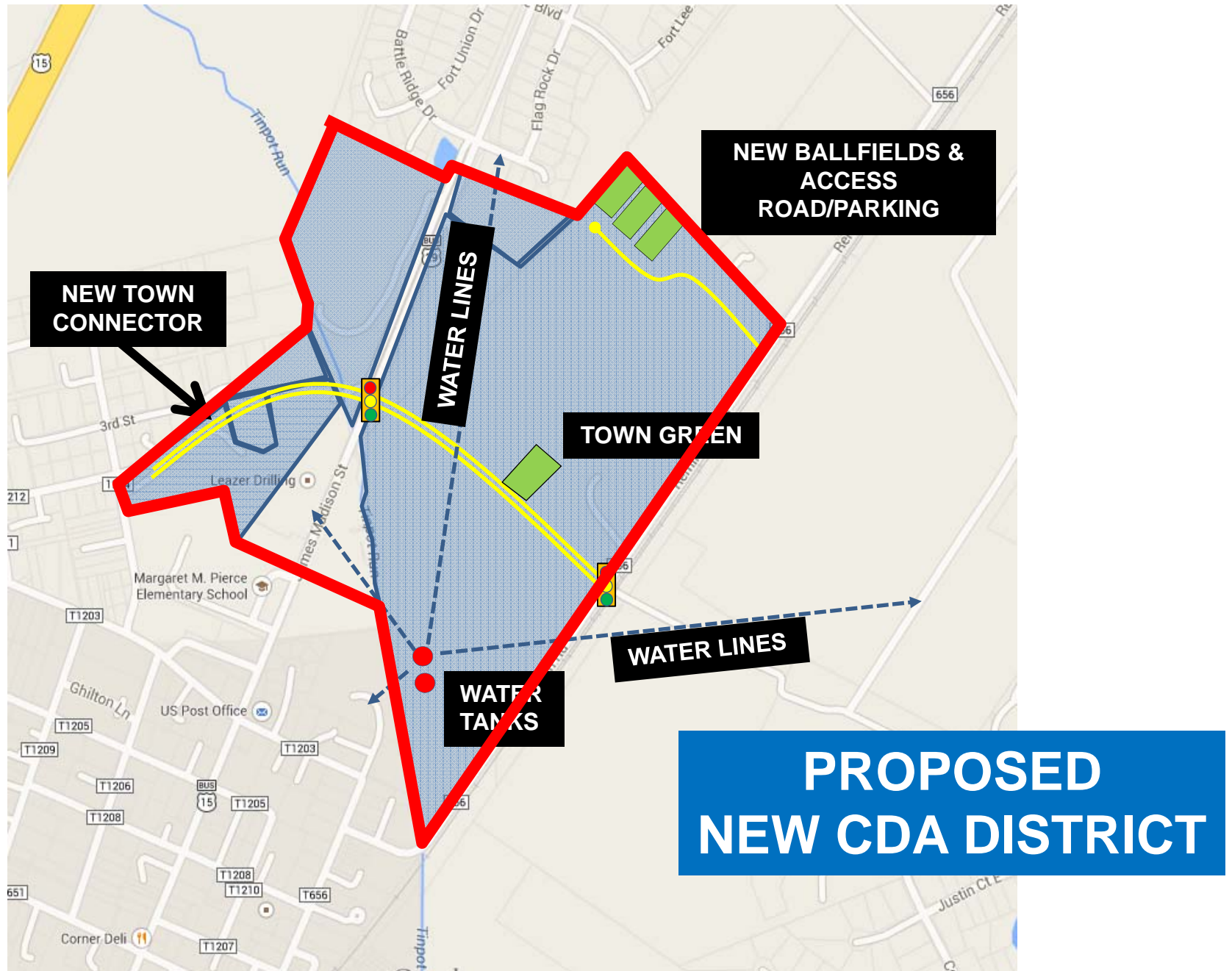


# Standard Procedure to Create a CDA





# Standard Procedure to Create a CDA



# Standard Procedure to Create a CDA

## **STEP 1: Developer meets with staff to review proposal**

## **STEP 2: Submit petition meeting requirements**

- Any landowner may submit
- Signatures of 51 percent of landowners required
- Counties & towns must first adopt an ordinance to consider CDA petitions
- Contents of Petition
  - Parties
  - Area/Parcels/Ownership
  - Public benefits of infrastructure to be funded
  - Financing plan & request for financing authority
  - Proposed CDA Board members

# Standard Procedure to Create a CDA

## **STEP 3: CDA Ordinance Drafted**

- Kept simple, referencing the specific mechanics / authorization agreements

## **STEP 4: Public Hearing on CDA Ordinance**

- Publication for three consecutive weeks with the hearing to be held not sooner than 10 days after completion of publication of notice.
- Mailing to property owners in certain instances
- Adoption 30 days later



# Standard Procedure to Create a CDA

## **STEP 5: Ordinance Adoption**

- Copy filed in land records
- CDA Board Appointed
- Articles of Incorporation Filed

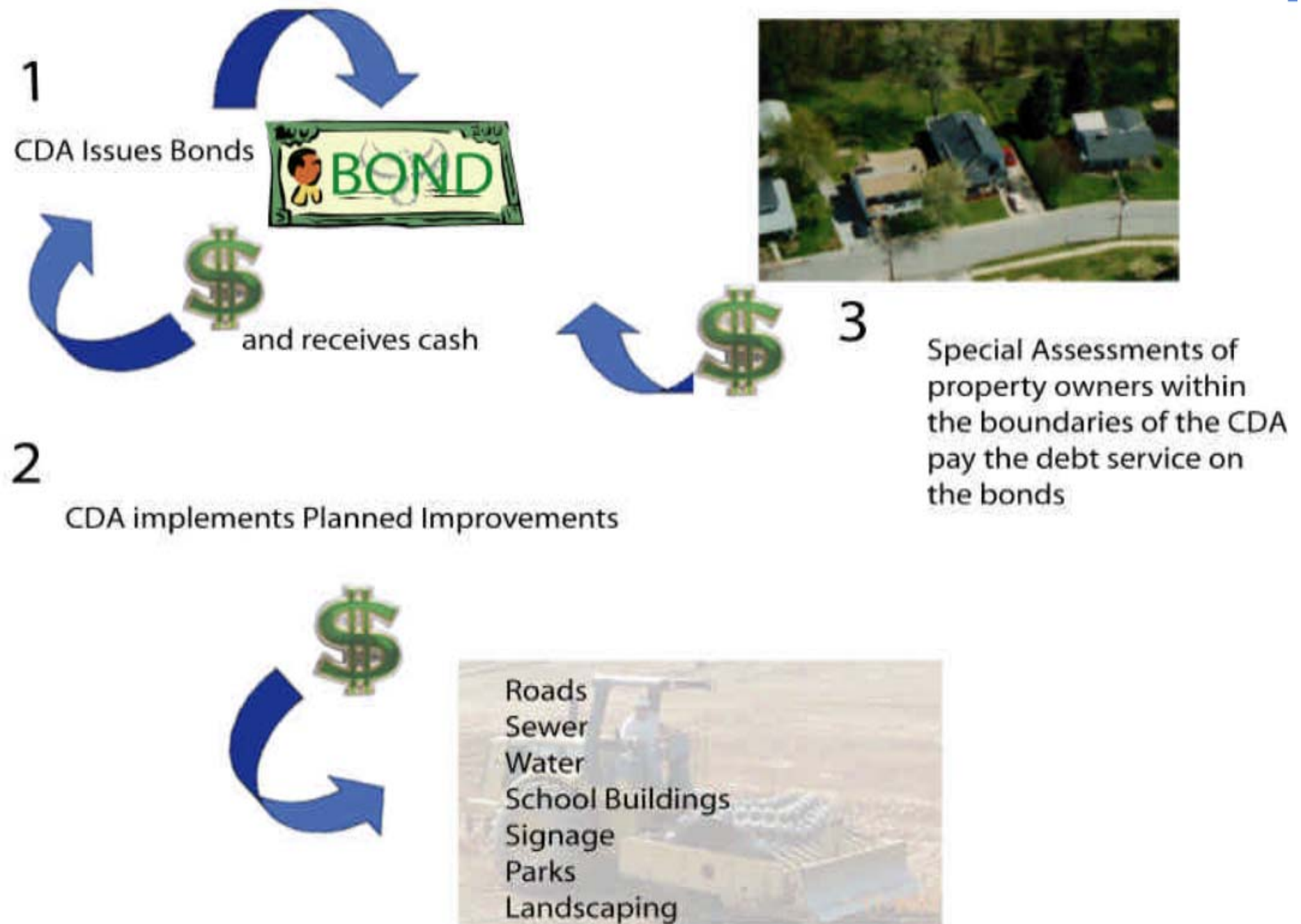
## **STEP 6: Drafting/Execution of Authorization Agreements**

- Detailed, multilateral agreements
- Memorandum of Understanding (“MOU”)
- Collection Agreement
- Rate & Method of Apportionment of Taxes (“RMA”)

## **STEP 8: Obtain Pricing Estimates for Infrastructure**

## **STEP 9: Issuance of Bonds**

# Standard Procedure to Create a CDA



# Who Serves on the CDA Board?

- CDA Board is appointed by the local legislative body
- 5 members (or a number equivalent to the local legislative body)
- May be landowners, developers, community representatives, officials, etc.
- Varies between jurisdictions and between CDAs



# What Are The CDA Board's Powers?

- CDA is a body corporate and politic and serves as a political subdivision of the commonwealth which is separate and apart from its parent jurisdiction
- 50-year lifespan
- Powers
  - a) General corporate powers
  - b) Provide special services
  - c) Purchase development rights
  - d) Own land
  - e) Limited condemnation for utilities
  - f) Issue Bonds
  - g) Provide and manage infrastructure

**CANNOT COLLECT TAXES/ASSESSMENTS**

# What Are The CDA Board's Powers?

## Provide & Manage Infrastructure

- a) At least 30 kinds of infrastructure
- b) Most commonly financed infrastructure
  - roads (acquisition, construction, bridges, curbs, gutters, sidewalks, signals),
  - public water/sanitary sewer lines / SWM,
  - parking,
  - streetscape, landscaping, and signage.
- a) Broad legislative discretion, but a nexus must exist:
  - “necessary to meet the increased demands placed on a locality as a result of development or redevelopment within or affecting the district.”

# CDA Bonds

- 1) Limited obligations issued by the CDA and secured only from CDA revenue
- 2) Bonds are typically not rated
- 3) 20- to 30-year amortization
- 4) Savvy Investors/Private Placements/Limited Offerings
- 5) Generally requires a loan to value ratio about 1 to 3 for undeveloped property; 1 to 10 ratio for developed property
  - Can be combined with tax increment revenues
- 6) Bond validation



# CDA Debt

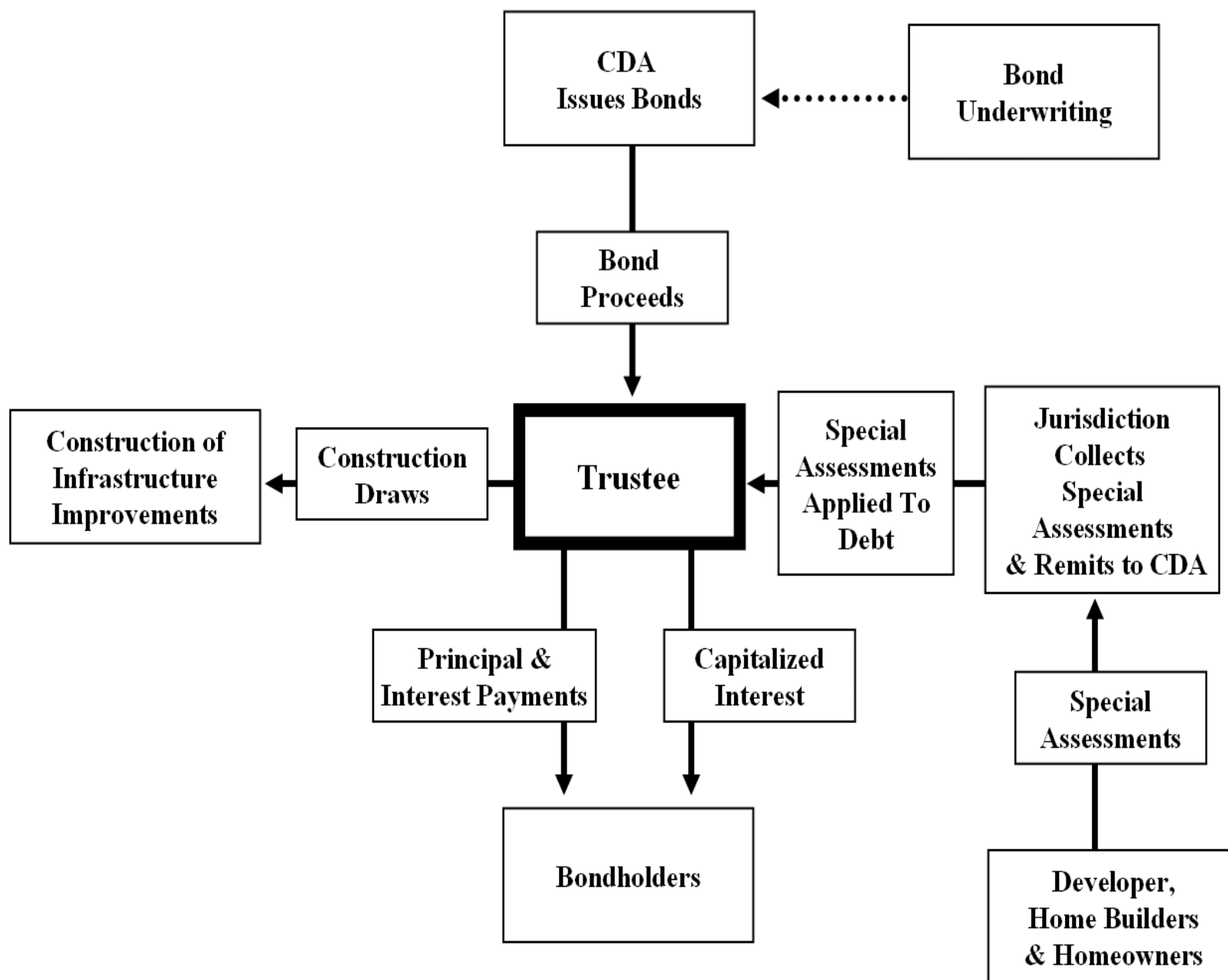
- 1) Generally: Cannot legally be the debt/liability/obligation of any locality, impact its debt capacity or be on the jurisdiction's books.
- 2) A locality can, however, elect to back the bonds in order to successfully market them (unlikely)
- 3) Disclosure Statement: To inform investors that the CDA debt is not the debt of the locality often appears in the Petition, CDA Ordinance, MOU, and on the cover and within the bond offering memo.

# CDA Debt

- Reputation Concerns: Debt “may” count for rating agencies
- Need prudent policies which address procedure, control, and liability in event of default:
  - a) Backstop ordinance provision
  - b) Collection Agreement between CDA and locality
  - c) Adopt debt limits



# How to Retire Bonds



# How to Retire Bonds

## **Special Taxes**

- 1) Ad valorem assessment limited to \$0.25 of every \$100 of assessed value
- 2) Different rates for different uses/intensities
- 3) Exists as a tax lien against the properties



# How to Retire Bonds

## **Special Assessments**

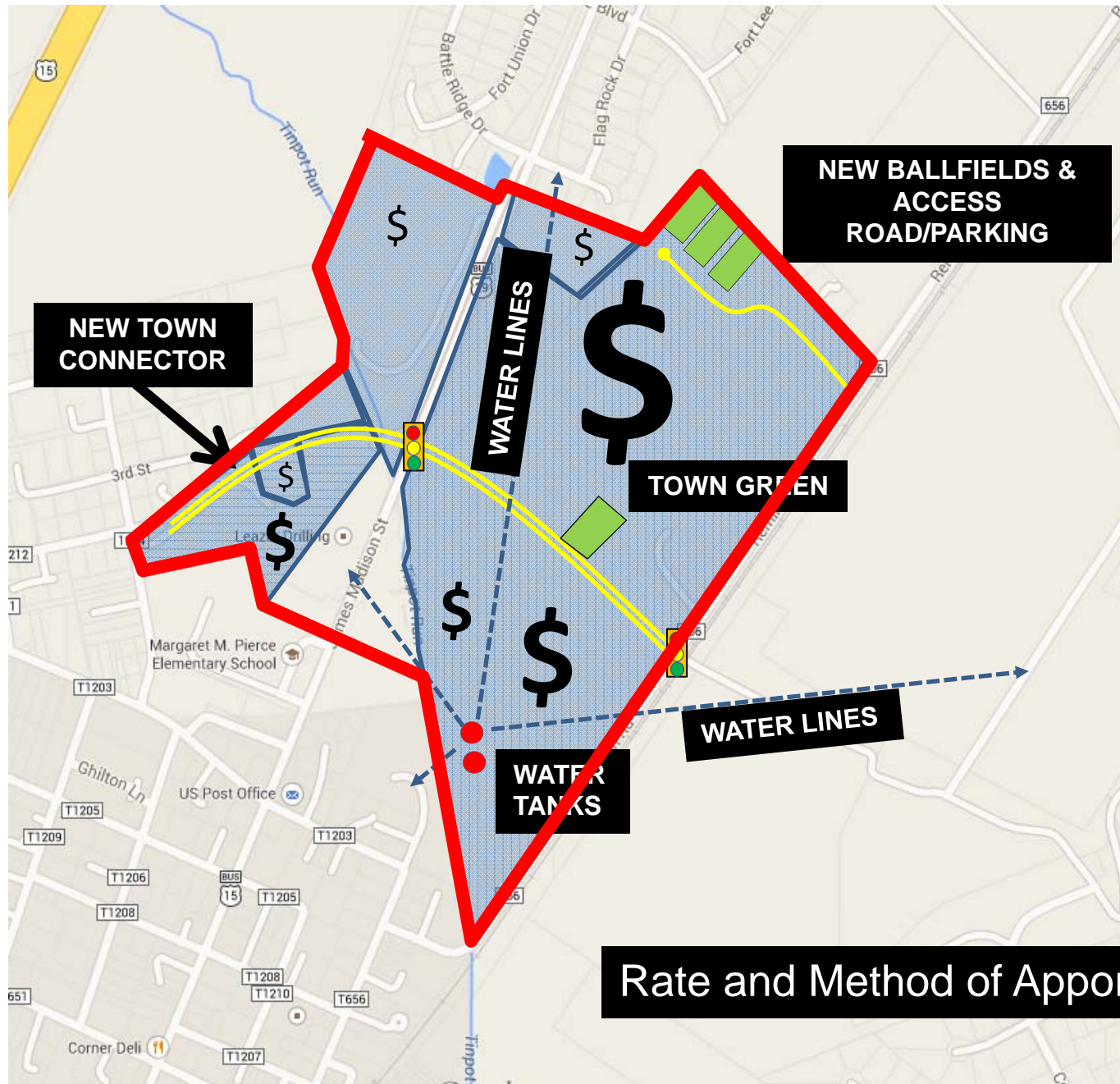
- 1) Not an *ad valorem* tax
- 2) Usually levied as a one-time, up-front cost, but may be paid over 40 years.
- 3) Prepayment permitted (sometimes preferred)
- 4) Seen as more secure than special taxes
- 5) Exists as a tax lien against the properties until satisfied

# How to Retire Bonds

## **Special Assessments: How much to pay?**

- 1) Property being specially assessed:
  - a) Must abut a portion of a system of improvements; and
  - b) Not exceed benefits of the improvements to the assessed property or full cost of improvements being financed.
- 2) May be different assessments for different parcels based on use, development intensity, or relationship to improvement.
- 3) Should be set forth in a “Rate and Method of Apportionment” document

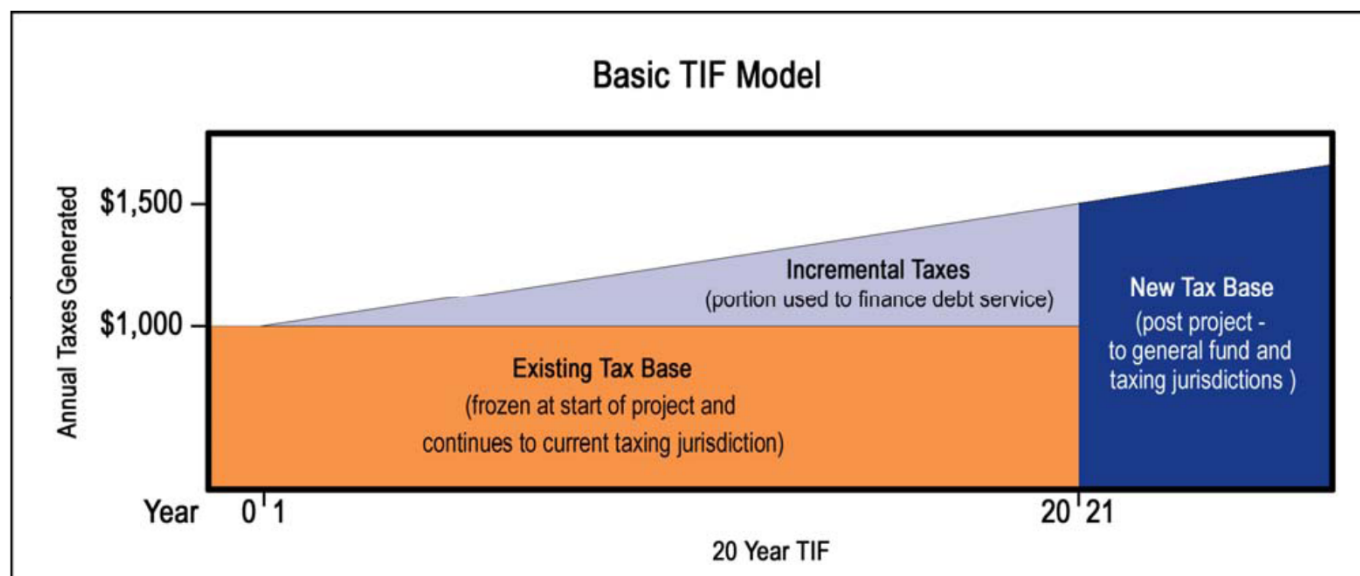
# How to Retire Bonds



# How to Retire Bonds

## Incremental Tax Revenues

- 1) CDA and jurisdiction can enter into agreement to provide TIF funding
- 2) Provides an additional source of CDA revenue and security for bond purchasers can come from a variety of sources
- 3) Does not involve the levy of new taxes/assessments



# Residential Development & Proffers

- 1) No CDA has yet been approved for a typical large, predominantly market-rate residential PUD
- 2) Some jurisdictions exclude residential development when evaluating CDAs
- 3) Proffers can be used to pay down CDA debt
- 4) May be best not to mix proffered commitments with CDAs



# What Are Other Jurisdictions Doing?

## **Prince William & Loudoun Counties**

- CDAs Should be Limited to Projects Which Advance Community Development
- Must be consistent with the Comprehensive Plan
- Provide assurances
- Must not have a negative effect on the jurisdiction's debt capacity or credit rating.
- Usually not to exceed 0.75% to 1% of overlapping debt of total value of taxable property.

# What Are Other Jurisdictions Doing?

## **Prince William & Loudoun Counties**

- Background Check: Jurisdiction will confirm applicant's information concerning developer's reputation and financial wherewithal
- Due Diligence: Jurisdiction will conduct independent financial and land use analysis paid for by the petitioner in advance
- No liability to the jurisdiction
- Limit by ordinance of the size and timing of CDA debt

# What Are Other Jurisdictions Doing?

## **Fairfax County**

- 1) CDAs can only be filed in designated Commercial Revitalization Districts with the Office of Revitalization.
- 2) Two-Tiered Review Process
- 3) 16 Principles for redevelopment/CDA evaluation
  - Redevelopment area must be strategically located
  - Use of public funds shall be directed to “pioneer projects”
  - Comprehensive Plan and Zoning Ordinance consistency

# What Are Other Jurisdictions Doing?

## **Fairfax County**

- Public funding mechanisms/CDAs should only be used for public facilities
- No negative impact on bond rating
- No direct/indirect liability to the county; must provide a level of surety acceptable to county
- The debt service shall not exceed 20 years

# Lessons Learned

## Pros

- CDAs can shift capital infrastructure costs to private sector and free up local revenue for other services
- Useful for infrastructure development when combined with other economic development initiatives
- Supports the “user pays” concept and shifts the costs to those who benefit the most
- Provides up-front financing and in a uniform manner
- Provides faster delivery of infrastructure
- Costs of creating the CDA may be financed



# Lessons Learned

## Cons

- CDA debt may be calculated as underlying debt of jurisdiction by rating agencies
- CDA debt is more vulnerable to default, especially during the initial phases of construction
- Incentivizes urban sprawl
- Especially risky where there are few controls and limited oversight
- Homeowners may balk at additional taxes/assessment  
Requires clear, upfront and ongoing disclosure

# Lessons Learned

## Cons (cont'd)

- Expediency vs. Efficiency
  - Requires a significant amount of time from County staff
  - Additional line item on the County tax bills
  - Complexity and costliness

# Tips for Success

- 1) Need careful, deliberative negotiations between private sector and locality
- 2) Need to have a mutually-beneficial partnership with clearly delineated rights
- 3) Need a well-capitalized, experienced builder
- 4) Need a strong, central location
- 5) Need realistic forecasts that account for cyclical downturns
- 6) Need reasonable tax/assessment rates
- 7) Need tight, well-drafted authorization documents
- 8) Continuous oversight by locality

# Case Study: Dulles Town Center

LOUDOUN COUNTY, VA

\$29,480,000

Dulles Town Center Community Development Authority  
Special Assessment Refunding Bonds, Series 2012

<b>Location</b>	Loudoun County, VA - Northern Virginia, 25 miles west of Washington, D.C. and five miles north of Washington Dulles International Airport
<b>Development</b>	1.4 million square feet mixed-use development comprised of: <ul style="list-style-type: none"> <li>• Anchored by J.C. Penney, Dick's Sporting Goods</li> <li>• Macy's, Lord &amp; Taylor, Nordstrom and Sears</li> <li>• Over 200 restaurants, office, and specialty stores</li> </ul>
<b>Developer</b>	Lerner Enterprises Limited Partnership
<b>Use of Proceeds</b>	Public infrastructure improvements include roads (bridges, curbs, gutters, sidewalks, and traffic signals) and public water and sewer lines and facilities.
<b>Primary Security</b>	Special Assessment Revenues
<b>Special Features</b>	<ul style="list-style-type: none"> <li>• First Community Development Authority established in Virginia</li> <li>• Bonds were Not Rated</li> <li>• Yield of 4.28% on Bonds maturing in 2026, or MMD + 236 basis points</li> <li>• Value-to-Bonds at time of sale was 12:1</li> <li>• Debt service coverage was 1.02x (inclusive of Reserve Fund earnings)</li> </ul>



# Case Study: Mosaic District

FAIRFAX COUNTY, VA

\$65,650,000

Mosaic District Community Development Authority  
Revenue Bonds, Series 2011

<b>Location</b>	Merrifield section of Fairfax County
<b>Development</b>	1.9 million square feet mixed-use development comprised of: <ul style="list-style-type: none"><li>• 500,000 square feet of retail anchored by Target</li><li>• 1,000 residential units; 112 LEED townhomes</li><li>• 148-room boutique hotel</li><li>• 73,000 square feet of Class-A office space</li><li>• 4,000 parking spaces as well as two parks and additional open space</li></ul>
<b>Developer</b>	EDENS
<b>Use of Proceeds</b>	Spine roads, off-site road improvements, sewer lines and related public facilities
<b>Primary Security</b>	Incremental ad valorem property taxes along with a backup special assessment to cover any shortfalls

<b>Special Features</b>	<ul style="list-style-type: none"><li>• Development just under way at time of issuance; first openings were over a year away</li><li>• Only 74% was leased or committed to be sold at time of issuance</li><li>• Interest rate of 6.93% for final maturity – in market where most comparables were in high 7% range</li><li>• Sale to 17 different institutional investors; Value-to-Lien at the time of sale was 1.5:1</li><li>• Bonds are Not Rated</li></ul>
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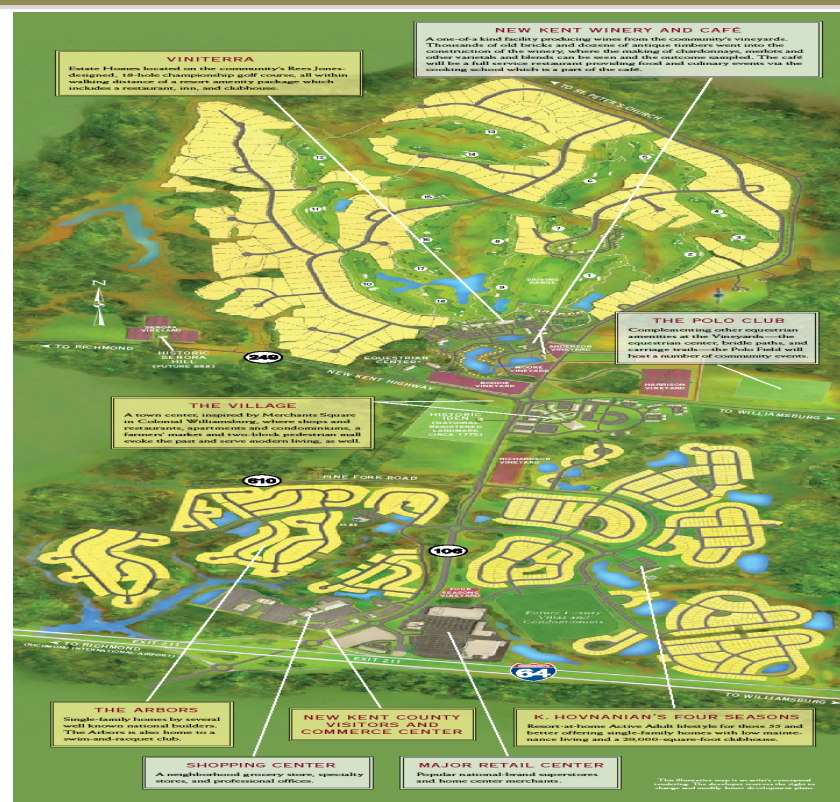
# Case Study: Farms of New Kent

## NEW KENT COUNTY, VA

\$85,666,000

### The Farms of New Kent Community Development Authority Special Assessment Bonds, Series 2006 A, B & C

<b>Location</b>	New Kent County, VA - Approximately 30 miles east of Richmond on I-64
<b>Development</b>	<ul style="list-style-type: none"> <li>• 1,450 age-restricted units</li> <li>• 300 estate lots</li> <li>• 450 single family homes</li> <li>• 100 resort cottages</li> <li>• 830,000 sq. ft. of commercial space</li> <li>• 18-hole Rees Jones Golf Course</li> <li>• Winery, vineyards, polo complex, farmer's market</li> </ul>
<b>Developer</b>	Boddie-Noell Enterprises, Republic Land and K. Hovnanian
<b>Use of Proceeds</b>	Public infrastructure improvements include roads (bridges, curbs, gutters, sidewalks, and traffic signals) and public water and sewer lines and facilities.
<b>Primary Security</b>	Special Assessment Revenues



<b>Special Features</b>	<ul style="list-style-type: none"> <li>• Second largest non-rated special district financing in Virginia.</li> <li>• Unique bond structure in which prepayments used first to call Series A Bonds, then the Series B Bonds and finally the Series C Bonds.</li> <li>• Alleviated County's problem of limited existing wastewater treatment capacity restraining development in County.</li> <li>• Developer and County are in foreclosure negotiations; failure of Developer to pay special assessments</li> </ul>
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# Case Study: Peninsula Town Center

CITY OF HAMPTON, VA

\$92,850,000

Peninsula Town Center Community Development Authority  
Special Obligation Bonds, Series 2007

<b>Location</b>	Hampton, VA - Southeast Virginia, near Norfolk, located off I-64
<b>Development</b>	<p>1.2 million square feet mixed-use development comprised of the following:</p> <ul style="list-style-type: none"> <li>• Anchored by J.C. Penney, Macy's, and Target</li> <li>• Over 120 restaurants specialty stores</li> <li>• 105,000 sq. ft. office</li> <li>• 160 residential units</li> <li>• 2,250 parking spaces</li> </ul>
<b>Developer</b>	Mall Properties, Inc. and Steiner + Associates
<b>Use of Proceeds</b>	Public infrastructure improvements including roads, water and wastewater improvements, landscaping, parking structure, sidewalks, parks and acquisition of land.
<b>Primary Security</b>	Incremental tax revenues (including real property, sales, meals and amusement taxes), special retail assessment, special property tax and back-up special assessment
<b>Special Features</b>	<ul style="list-style-type: none"> <li>• Largest non-rated special district financing in Virginia.</li> <li>• First special retail assessment (sales tax within district) in Virginia.</li> <li>• Unique blend of pledged revenues</li> <li>• Bank foreclosed on developer-owned CDA property in 2013; bondholders continue to receive payments</li> </ul>




# Case Study: Bell Creek

## HANOVER COUNTY, VA

\$15,980,000

### Bell Creek Community Development Authority Special Assessment Bonds, Series 2003A, B

<b>Location</b>	Hanover County, VA - Central Virginia, 10 miles north of City of Richmond's central business district	
<b>Development</b>	325 acre mixed-use development comprised of the following: <ul style="list-style-type: none"><li>• 535 residential units</li><li>• 200,000 square feet of commercial retail</li><li>• 157 acre light industrial development</li></ul>	
<b>Developer</b>	The Shield Company	
<b>Use of Proceeds</b>	Public infrastructure improvements include roads, water and sewer, storm water and other public improvements.	
<b>Primary Security</b>	Special Assessment Revenues	
<b>Special Features</b>	<ul style="list-style-type: none"><li>• Expansion of Hanover County's tax base.</li><li>• Provided utility service for 260 contiguous acres planned for business development.</li><li>• Increased employment opportunities while preserving property with unique ties to Colonial, Revolutionary, and Civil War history</li><li>• Development has been fully built-out</li><li>• Portion of the bonds was retired early due to prepayments</li></ul>	

## **Questions?**

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