To: Board of Supervisors

From: Monica Nino, County Administrator

Report Title: Termination of Membership in Conduit-Issuer Joint Powers Authorities

Recommendation: Recommendation of the County Administrator

RECOMMENDATIONS:

1. APPROVE withdrawal from membership in the following conduit-issuer Joint Powers Authorities:

    a. California Statewide Communities Development Authority; and

    b. California Municipal Finance Authority, upon conclusion of financing of the Orbisonia Heights development project in unincorporated Bay Point, by the Authority.

2. DIRECT the County Administrator, or designee, to provide written notice to each Joint Powers Authority of the withdrawal.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

On September 30, 2025, the U.S. Securities and Exchange Commission (SEC), Office of Municipal Securities (OMS) contacted the County requesting a meeting to discuss the role that the County plays in the oversight of Joint Powers Authority (JPA) activities, specifically that of conduit-issuer JPAs. This follows several years of the OMS raising concerns regarding the oversight of JPAs by member agencies, such as cities and counties, given that bonds issued by conduit-issuer JPAs have some of the highest default rates in the country. In addition, many of these JPAs have led the emergence of certain deal structures, including so-called "workforce housing" deals, that have filed a high number of material event notices that may suggest potential economic difficulties or future defaults.

History and Formation of Conduit-issuers in Contra Costa County

Contra Costa County is a member of certain Joint Powers Authorities (JPAs) that serve as "conduit-issuers" for purposes of issuing tax-exempt bond financing, including the California Statewide Communities Development Authority (CSCDA) and the California Municipal Finance Authority (CMFA). Membership in these entities was established to facilitate access to the municipal bond market for local developers and community-based organizations, particularly for projects that might not otherwise qualify for direct County or other financing. The CSCDA was formed in the late 1980s as a collaborative effort by the California State Association of Counties (CSAC) and the League of California Cities. The County joined as a member of CSCDA on November 18, 1987 and subsequently entered into an Amended and Restated Joint Exercise of Powers Agreement on May 15, 1990 (Resolution No. 90/310). Later, the County joined the CMFA to further support local access to tax-exempt financing opportunities on February 13, 2007 (Resolution No. 2007/67). CMFA operates similar to CSCDA, but is not sponsored by CSAC or the League of California Cities.

Ongoing State and National Concerns

Over time, the operational structure of these conduit-issuer JPAs has evolved, with many being managed by for-profit financial corporations. Over the years, this model has raised concerns regarding transparency, accountability, and potential conflicts of interest, as highlighted in public finance industry media coverage, by the California State Auditor[1] and the SEC. Notably, other jurisdictions, such as the County of Los Angeles, have previously withdrawn from conduit-issuer JPAs, citing the lack of public scrutiny and regulatory oversight when compared to County or State administered financing authorities[2]. In California, the Los Angeles County Administrator recommended and the Board of Supervisors approved withdrawal of membership from CSCDA in 2009, stating at the time that…

> *"Similar to other private conduit-issuers, CSCDA is not subject to the same reporting and oversight rules that apply to the County and the State. This relative lack of public scrutiny, transparency and regulation is a concern given that CSCDA now ranks as one of the ten largest (of more than 3,000 total) issuers of tax-exempt debt nationwide."*[3]

Recent developments have heightened the need for the County to re-evaluate its participation in these JPAs. In Fall 2024, the SEC noted that conduit JPAs operating in California…

> *"…are not so much facilitating jointly beneficial projects as allowing private sector participants to access the lower cost tax-exempt market with little to no actual input from the individual member agencies [of the JPA]."*[4]

The SEC has also highlighted the elevated default rates associated with certain conduit financings, this assertion is supported by reporting from Municipal Market Analytics (MMA), a leading independent research and advisory firm in the municipal bond industry, which reported

[1] California State Auditor, *Conduit Bond Issuers: Issuers Complied With Key Bond Requirements, but Two Joint Powers Authorities' Compensation Models Raise Conflict-of-Interest Concerns*, Report Nos. 2011-118 and 2011-613 (Sacramento: California State Auditor, August 2012), https://information.auditor.ca.gov/pdfs/reports/2011-118and2011-613.pdf

[2] Los Angeles County Board of Supervisors, *Agenda Item 13*, September 16, 2009, supporting documentation, https://file.lacounty.gov/SDSInter/bos/supdocs/091609_13.pdf.

[3] Ibid, 3.

[4] Dave A. Sanchez, "Joint Powers Authorities and Other Topics for Market Participants," remarks at the California Bond Buyer Conference, San Francisco, CA, October 24, 2024, U.S. Securities and Exchange Commission, October 24, 2024, https://www.sec.gov/newsroom/speeches-statements/sanchez-remarks-california-bond-buyer-conference-102424

borrowers utilizing conduit-issuers accounted for approximately 75% of all municipal bond impairments and 87% of all payment defaults between January 1, 2020 and April 2026.[5]

Local Case Study – Twin Creeks Apartments, City of Antioch

In 2019, the Kings County Board of Supervisors created the California Community Housing Agency (CalCHA),[6] a conduit-issuer JPA, that operates an Affordable Housing Asset Ownership Division that not only finances workforce housing projects but retains ownership of those assets on behalf of developers to avoid local property tax.[7] As of April 30, 2026, CalCHA owned 14 workforce housing projects financed with $2.5 billion of bond financing and seven (7) have *"…either defaulted, dipped into reserves to make payments or reported some other type of impairment, according to filings on Electronic Municipal Market Access."*[8]

One of the seven (7) impaired properties is the Twin Creeks Apartments located in the City of Antioch. Twin Creeks is a 240-unit multifamily residential development located at 1111 James Donlon Boulevard, Antioch which was originally built in 1986. The property was acquired in 2022 following the issuance of $92.1 million in bonds by CalCHA, on behalf of Unity Housing Corporation ("Unity") including $75.6 million for acquisition of the project plus approximately $17 million in fees and deposits into reserve accounts. Almost immediately, the project was delinquent on its special assessment roll for fiscal year 2022/23 and has relied on unscheduled draws from debt service reserve funds to pay the debt service since at least 2024. The final maturity on the bonds is August 1, 2065.

Due to the nature of the ownership structure between the CalCHA and Unity, CalCHA, as a governmental entity, is the owner of the property[9] and therefore does not pay property taxes on the value of property. For Assessment Year 2025-26, the Twin Creeks property was valued at $80,227,324. Assuming the 1% *ad valorem* property tax, the deal structure enables Unity to avoid at least $802,273 in property taxes in that tax year and in future tax years, which would otherwise be allocated the City of Antioch, the County, Contra Costa County Fire Protection District, and the County Library among other taxing agencies. Below is an illustration of the property tax history of the property illustrating the exemption from *ad valorem* property taxes upon assumption of ownership by CalCHA…

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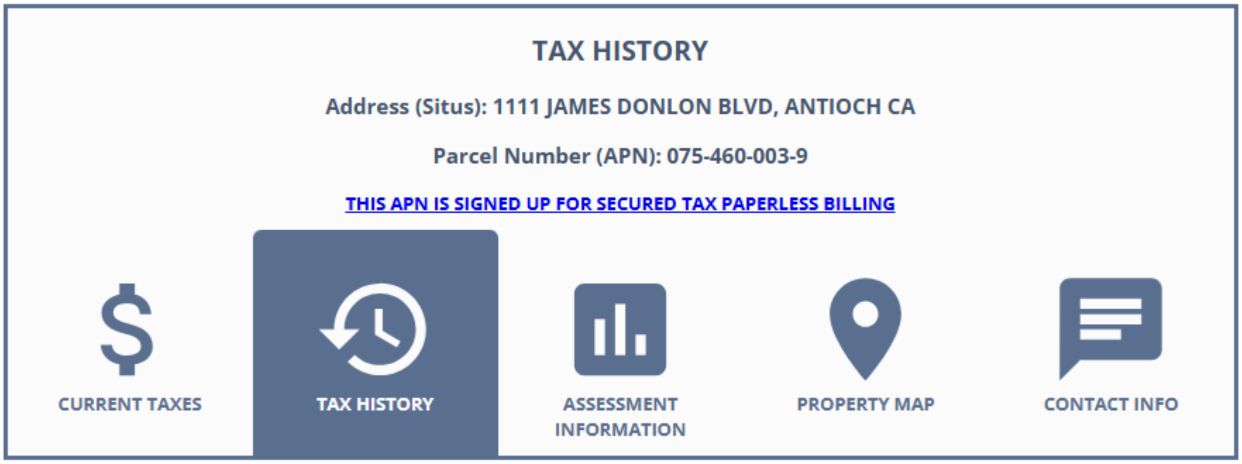
[5] Kathie O'Donnell, "Conduit-issuer Project-Selection Process in Spotlight," *The Bond Buyer*, April 23, 2026, https://www.bondbuyer.com/news/conduit-issuer-project-selection-process-in-spotlight

[6] Contra Costa County is not a member of CalCHA, but the cities of Antioch and Hercules are members of the JPA.

[7] The term "workforce housing" generally refers to housing intended for households between traditionally defined low-income and upper-income groups. Although there is no single federal definition, proposed definitions tend to consider household income, occupation, and/or housing costs. See Henry G. Watson, *Workforce or Middle-Income Housing: Analysis and Policy Considerations*, Congressional Research Service, March 25, 2026, R48886. https://www.congress.gov/crs-product/R48886

[8] Caitlin Devitt, "Municipal advisory for PFA, CalCHA defends distressed deals," *The Bond Buyer*, April 30, 2026, https://www.bondbuyer.com/news/pfa-municipal-advisor-gpm-defends-distressed-housing-deals

[9] The purchaser, Unity, and CalCHA executed an Assignment and Assumption Agreement whereby Unity assigned its interest in the Purchase Agreement for the property exclusively to CalCHA prior to the close of escrow.



BILL TYPE	TAX YEAR	INSTALL NO	AD VALOREM TAX	SPECIAL ASSESSMENTS	DELINQUENT PENALTY/COST	AMOUNT	BILL STATUS
SECURED	2526 - PDF Bill | Accessible Bill	1	$0.00	$64,693.00	$0.00	$64,693.00	PAID 12/02/2025
SECURED	2526 - PDF Bill | Accessible Bill	2	$0.00	$64,693.00	$0.00	$64,693.00	PAID 04/01/2026
SECURED	2425 - PDF Bill | Accessible Bill	1	$0.00	$59,598.00	$0.00	$59,598.00	PAID 11/18/2024
SECURED	2425 - PDF Bill | Accessible Bill	2	$0.00	$59,598.00	$0.00	$59,598.00	PAID 04/03/2025
SECURED	2324 - PDF Bill | Accessible Bill	1	$0.00	$56,622.00	$0.00	$56,622.00	PAID 12/04/2023
SECURED	2324 - PDF Bill | Accessible Bill	2	$0.00	$56,622.00	$0.00	$56,622.00	PAID 03/26/2024
SECURED	2223 - PDF Bill | Accessible Bill	1	$0.00	$57,264.20	$5,726.42	$62,990.62	PAID 06/30/2023
SECURED	2223 - PDF Bill | Accessible Bill	2	$0.00	$57,264.20	$5,746.42	$63,010.62	PAID 06/30/2023
SECURED	2122 - PDF Bill | Accessible Bill	1	$96,981.89	$54,998.14	$0.00	$151,980.03	PAID 12/01/2021
SECURED	2122 - PDF Bill | Accessible Bill	2	$96,981.90	$54,998.13	$0.00	$151,980.03	PAID 03/16/2022
SECURED	2021	1	$97,435.44	$51,843.80	$0.00	$149,279.24	PAID 12/06/2020
SECURED	2021	2	$97,435.45	$51,843.79	$0.00	$149,279.24	PAID 04/05/2021

Municipal market veteran Jeff Lipton summed up the risks of these conduit-issuer driven deal structures by stating…

> *"Apart from state HFA [Housing Finance Agency] multifamily financings, conduits behave more like leveraged real estate loans with many of the associated trappings. While many conduit multifamily deals carry a form of federal support…non-recourse conduit deals without enhancement carry the highest risk of non-performance."*[10]

JPA Member Agency Role and Potential Liability

The SEC has further articulated its view that member agencies are of essence to the existence of a JPA and that membership comes with inherent responsibilities different than those of a JPA's Board of Directors. Specifically, the SEC has stated that…

> *"…a JPA composed of hundreds of entities and operated by what is essentially a private entity without any meaningful oversight raises similar questions about proper delegation*

[10] Jeff Lipton, "How Conduit Multifamily Bonds Can Be Dangerous to Portfolio Health," *The Bond Buyer*, May 11, 2026, https://www.bondbuyer.com/opinion/how-conduit-multifamily-bonds-can-be-dangerous-to-portfolio-health.

of governmental responsibilities and avoiding indefinitely responsibility to a public electorate."[11]

In this context, the SEC is specifically interested in how member agencies are performing oversight over their collective interest in the JPA separate and aside from oversight of the JPA conducted by its Board of Directors. In the case of the CSCDA and the CMFA, the Board of Directors for both JPAs are not exclusively composed of representatives from the JPA's member agencies and, therefore, may not necessarily be monitoring the interest of the member agencies of each JPA. For example, as of this writing the Board of Directors of the CMFA include eight (8) individuals; two (2) from private municipal advisory firms, four (4) retired public sector professionals and only two (2) individuals actively employed in the public sector.

More specifically, the SEC has alluded to potential "control person liability" of JPA member agencies for the conduct of the JPA pursuant to the Section 20a of the Securities Exchange Act of 1934 (the "Securities Act").[12] OMS Director Dave Sanchez commented that…

> *"Municipal entities might also consider whether control person liability may be applicable to member agencies for inaccurate representations by the JPA about its finances, project approval process, operating structure or conflicts of interest."*[13]

Control person liability under the Securities Act arises in situations whereby liability is shared between all persons who directly or indirectly control a person or entity that violated the Securities Act. In other words, someone who had the power to direct or influence the actions of the person or entity in violation may also be held legally responsible, even if they did not personally commit the violation. In this context, the SEC appears to be suggesting that the member agencies of the conduit-issuer JPA may have such liability because those member agencies have the ability to direct or influence the actions of the conduit-issuer JPA.

Conclusion & Continuity of Access to the Municipal Bond Market

Based on the evolution of concerns regarding the structure of conduit-issuer joint powers authorities (JPAs), as well as more focused remarks by the SEC regarding the application of Securities Act liability provisions to member agencies of conduit-issuer JPAs, staff recommends that the Board of Supervisors terminate the County's membership in CSCDA effective immediately and terminate its membership in CMFA following the issuance of bonds supporting the Orbisonia Heights development project in unincorporated Bay Point.

Orbisonia Heights is a mixed-income, mixed-use development that will be constructed in three phases. Upon completion, the project will include 384 multifamily rental units, an approximately 20,900-square-foot County-owned library, and approximately 10,900 square feet of commercial space to support the Bay Point community.

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[11] (Sanchez), p. 2.
[12] 15 U.S.C. § 78t(a)
[13] (Sanchez), p. 3

It is important to balance a public policy decision such as this with the impacts to, in this case, developers and community-based organizations seeking to access the tax-exempt municipal market to fund projects within the unincorporated area of the County. Following termination of the County's membership with conduit-issuer JPAs, the tax-exempt municipal market can still be accessed in various ways:

1. The County. The County operates a comprehensive public finance program within the Conservation and Development department specifically to advance the County's housing goals, including through the issuance of multi-family housing bonds and a Community Facilities District (CFD) bond program to support developers.

2. California Infrastructure and Economic Development Bank ("I-Bank"). The I-Bank is an agency within the State of California that may serve as conduit-issuer for 501(c)(3) public benefit corporations operating within the County for infrastructure projects among other things.

3. California Housing Finance Agency (CalHFA). The CalHFA is also an agency within the State of California that serves as conduit-issuer specifically for housing development projects to advance the State's housing goals in partnership with local government.

It is important to note that the County's termination of membership in these conduit-issuer JPAs only apply to projects being funded within the unincorporated area of the County. Each of the three programs identified above are currently in operation and are immediately available to assist with tax-exempt bond financings within the unincorporated area of the County.

CONSEQUENCE OF NEGATIVE ACTION:

Should the Board not approve the recommended termination of membership in conduit-issuer joint powers authorities, the County will remain exposed to ongoing governance and oversight risks associated with these entities by federal regulatory agencies.