



## **CITY OF SALINAS COUNCIL STAFF REPORT**

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**DATE:** AUGUST 24, 2021

**DEPARTMENT:** OFFICE OF THE CITY ATTORNEY

**FROM:** CHRISTOPHER A. CALLIHAN, CITY ATTORNEY

**TITLE:** CENTRAL COAST PUBLIC BANK—VIABILITY STUDY

**RECOMMENDED MOTION:**

A motion to approve a Resolution authorizing the City Manager to send a letter expressing the City of Salinas's interest in participating in a viability study to establish the Central Coast Public Bank encompassing the counties of Santa Cruz, Monterey, San Benito, San Luis Obispo, and Santa Barbara.

**RECOMMENDATION:**

It is recommended that the City Council consider whether to authorize the City Manager to send a letter to the County of Santa Cruz expressing the City of Salinas's interest in participating in a viability study to establish the Central Coast Public Bank.

**EXECUTIVE SUMMARY:**

At the June 8, 2021, City Council meeting, Council members Gonzalez, McShane, and Rocha requested information regarding the potential formation of a public bank, specifically the City's participation in a viability study to establish the Central Coast Public Bank encompassing the counties of Santa Cruz, Monterey, San Benito, San Luis Obispo, and Santa Barbara. As of June 13, 2021, the following nine cities and counties have expressed their interest in participating in the viability study: County of Santa Cruz, County of Santa Barbara, County of Monterey, City of Capitola, City of Santa Cruz, City of Seaside, City of Watsonville, City of Scotts Valley, and City of Del Rey Oaks.<sup>1</sup> The City of Marina City Council considered the item at its June 15, 2021 meeting; however, it is not clear whether the City Council approved the item because the minutes for that meeting were not readily available.

The Finance Committee considered the question on August 2, 2021, and the Committee members suggested the question be presented to the full City Council.

The idea of establishing a local public bank originated with the County of Santa Cruz which, on February 11, 2020, authorized the Chair of the Board of Supervisors to draft letters to neighboring Central Coast counties and cities about their interest in participating in a viability study for a

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<sup>1</sup> <https://publicbankinginstitute.org>

Central Coast Public Bank.<sup>2</sup> Santa Cruz County's action came after the State approved Assembly Bill (AB) 857 which allows for the creation of one or more public banks in California. Cities and counties such as Oakland, San Francisco, and Los Angeles, have begun taking the first steps toward the creation of public banks. The establishment and operation of a public bank is a significant undertaking, which will require City resources at the due diligence (viability) stage and likely at the formation and operation stages.

Should the City Council choose to have the City participate in the viability study, that would be the extent of the City's commitment unless additional action is later taken. The City's participation in the viability study would not commit the City to participating in the establishment or the operation of the Bank, should the establishment of the Bank occur.

On May 4, 2021, the County of Monterey adopted a Resolution expressing interest in participating in the viability study.

### BACKGROUND:

Under the provisions of AB 857, local agencies (cities and counties) are permitted to form and to operate "public banks", defined in the legislation as "a corporation, organized as either a nonprofit mutual benefit corporation or a nonprofit public benefit corporation for the purpose of engaging in the commercial banking business or industrial banking business, that is wholly owned by a local agency, as specified, local agencies, or a joint powers authority."<sup>3</sup> Established as a pilot program, AB 857 authorizes the lending of credit to public banks and authorizes public ownership of public banks for the purpose of achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs or localities.

A public bank may engage in banking activities, including infrastructure lending, wholesale lending, participation lending, and certain retail activities. A public bank may not compete with local financial institutions or engage in certain retail activities without partnering with a local financial institution. No more than two public banks may be licensed per calendar year and no more than ten public banks may be licensed in total.

AB 857 specifically states that any publicly owned depository would fall under the regulatory jurisdiction of the FDIC (Federal Deposit Insurance Corporation) and the California Department of Business Oversight. A local agency will need to meet the same requirements and approval criteria as existing law requires of a private sector applicant for a banking license, including obtaining deposit insurance provided by the FDIC.

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<sup>2</sup> It does not appear a letter was sent to the City of Salinas requesting its participation in this effort.

<sup>3</sup> The Public Banking Institute, an advocacy organization, defines a public bank as a "chartered depository bank in which public funds are deposited. It is owned by a government unit—a state, county, city, or tribe—and mandated to serve a public mission that reflects the values and needs of the public that it represents. In existing and proposed US Public Bank models, skilled bankers, not the government, make bank decisions and provide accountability and transparency to the public for how funds are used." Public Banking Institute. Introduction to Public Banking. [http://www.publicbankinginstitute.org/intro\\_to\\_public\\_banking](http://www.publicbankinginstitute.org/intro_to_public_banking)

Under the provisions of AB 857, the first step toward establishing a public bank is a viability study that would clarify the collateral and initial investment or capitalization necessary for the establishment of a public bank. The study must include a discussion of the purposes of the bank, including achieving cost savings, strengthening local economies, supporting community development, and addressing infrastructure and housing needs for localities. A fiscal analysis of costs associated with starting the bank and financial projections for the first five years of the proposed bank also must be included in the study.

Other California local agencies are working collaboratively and have issued studies regarding the feasibility of establishing public banks. San Francisco's Municipal Bank Feasibility Task Force Report found that a public bank would be a time-intensive and expensive undertaking, with the need for decades of general fund subsidies: "The primary goals behind creating a municipal bank are to divest from Wall Street banks and reinvest in the community. The bank models analyzed show that these goals may be met after decades of significant investment in start-up, capitalization, and operational subsidies. After this time, the banks could achieve sustainability and no longer operate at a loss."<sup>4</sup>

Currently, there are only two public banks in the United States: the Bank of North Dakota and the Territorial Bank of American Samoa. The Bank of North Dakota was founded in 1919 and the Territorial Bank of American Samoa was founded in 2016 after the last commercial bank left the territory.

During the Finance Committee's August 2, 2021, meeting, the Committee members asked the following questions:

*Differences Between a Public Bank and Traditional Private Banks (Osornio)*

There are essentially two banking models: private and public. In the public model, interest and profits belong to the community and can be used in the community. In the private model, interest and profits are owned by the bank and its shareholders. The theory is that a government that owns its own bank can keep the interest and reinvest it locally, resulting in savings and a reduction in costs.<sup>5</sup> According to the Public Banking Institute "[p]ublic banking is distinguished from private banking in that its mandate begins with the public's interest. Privately-owned banks, by contrast, have shareholders who generally seek short-term profits as their highest priority."<sup>6</sup>

Like regular banks, public banks need a charter, capital, deposits, and a governance structure and leadership team. One of the major distinctions between a public bank and a private bank is that a public bank could meet community goals rather than solely serve a profit motive. Public banks must be managed by banking professionals responsible to a board and overseen by California's

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<sup>4</sup> Municipal Bank Feasibility Task Force Report, Treasurer Jose Cisneros, San Francisco Office of the Treasurer & Tax Collector March 2019. [https://sftreasurer.org/sites/default/files/2019-08/2.%20Municipal%20Bank%20Report\\_FINAL\\_03-01-19.pdf](https://sftreasurer.org/sites/default/files/2019-08/2.%20Municipal%20Bank%20Report_FINAL_03-01-19.pdf)

<sup>5</sup> Some studies estimate that state and local governments pay \$160 billion in interest payments on debt every year. Cancel Wall Street! How our State and Local Governments Can Save More than \$160 Billion a Year by Cutting Interest Payments to Investors. Saqib Bhatti and Brittany Alston. [https://acrecampaigns.org/wp-content/uploads/2020/09/CancelWallStreet\\_4-Sep2020.pdf](https://acrecampaigns.org/wp-content/uploads/2020/09/CancelWallStreet_4-Sep2020.pdf)

<sup>6</sup> <https://www.publicbankinginstitute.org/>

Department of Business Oversight. Only public funds (city taxes, fees, etc.) may be used to capitalize the public bank; the public bank may not receive deposits from private sources.

### *Benefits of a Public Bank (Rocha)*

Public banks are locally-controlled financial institutions into which municipal revenues, such as taxes or fees, are deposited. The money is then lent out to small businesses and infrastructure projects, for example, through partnerships with community banks. The goal is to directly benefit residents, while providing not-for-profit services for citizens who choose to use the bank. The primary benefit of a public bank is that through their formation they are mandated to serve a public mission that reflects the values and needs of the public that it represents. The public bank's management are supposed to make bank decisions and provide accountability and transparency to the public for how public funds are used. A major distinction between a public bank and a private bank is that a public bank could meet community goals rather than being solely focused on making a profit. When considering the creation of a public bank it is therefore crucial to determine the community goals to guide the lending and banking activities of the public bank.

The primary goals behind creating a public bank are to divest from Wall Street banks and reinvest in the community. Depending on the structure of the public bank, funding could be directed toward affordable housing and small business investment or would ensure the public bank could perform its own commercial banking and not have to rely on private banking institution for its commercial banking services. Having a public banking option “reduces the market power of private capital and the political power of finance.”<sup>7</sup> Public banks could also offer lower costs for capital because they are more-likely avoid high-risk banking activities because they are not necessarily profit-driven and do not need to distribute dividends to shareholders. This allows public banks to pass on lower expenses to customers. “Municipal banks will allow tax revenues that are currently devoted to paying interest and principal on public debt obligations to be recaptured and redirected into local investments to improvement employment prospects and economic opportunity in low-income, often disproportionately minority neighborhoods.”<sup>8</sup>

Though there are benefits to the establishment of a public bank, there are some negatives. “A municipal bank presents an opportunity to achieve community goals, such as divestment and reinvestment, in a sustainable and creative fashion. However, it is also a time-intensive and expensive endeavor. Pursuing a municipal bank has significant short-term costs, in terms of money, time and energy. It also has a significant, but uncertain, pay-out in the long-term.”<sup>9</sup>

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<sup>7</sup> <https://truthout.org/articles/public-banking-can-improve-the-lives-of-us-workers-while-helping-save-the-planet/>

<sup>8</sup> Municipal Banking: An Overview. Financing Socially Just and Sustainable Forms of Urban Development. Karl Beitel. April 2016. <https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI-Municipal-Banking-Overview-201604-1.pdf>

<sup>9</sup> Municipal Bank Feasibility Task Force Report, Treasurer Jose Cisneros, San Francisco Office of the Treasurer & Tax Collector March 2019. [https://sftreasurer.org/sites/default/files/2019-08/2.%20Municipal%20Bank%20Report\\_FINAL\\_03-01-19.pdf](https://sftreasurer.org/sites/default/files/2019-08/2.%20Municipal%20Bank%20Report_FINAL_03-01-19.pdf), at page 3.

### *Impacts on Established Local Traditional Private Banks (Craig)*

While the impacts of a public bank on traditional private banks is not yet known given that none yet exist in California, public banks provide people with alternatives to private finance thereby competing with existing financial institutions. The public banking option provides a means of regulating private financial institutions through competition. Public banks do not compete with private banks for deposits, however, as the public bank would be funded from deposits made by the participating public agencies and not from private sources. Also, the public bank could not engage in “retail activities” without partnering with a local financial institution. In other words, unless extraordinary circumstances existed, the public bank could not make loans directly to private parties. Under ordinary circumstances, it may do so only in partnership with a local private bank.

“Retail activities” are defined in Section 57604(a)(6) of the Government Code as “providing any kind of financial product or service to a person that is typically offered or provided by a local financial institution, including, but not limited to, all of the following: (A) Accepting a deposit of any kind from a person, including the issuance of shares by a credit union. (B) Granting a loan or extension of credit, of any kind, to a person.” Section 57604 requires the public bank to partner with a local financial institution in order to engage in any retail activities: “...a public bank shall conduct retail activities in partnership with local financial institutions and shall not compete with local financial institutions”<sup>10</sup> unless “those retail activities are not offered or provided by local financial institutions in the jurisdiction of the local agency or agencies that own the public bank.”<sup>11</sup>

### *Additional Opportunities for Financing*

The State of California operates the California Infrastructure and Economic Development Bank (iBank). Created in 1994 and capitalized via State General Funds in the 1990’s and early 2000’s, the iBank has authority to issue tax-exempt and taxable revenue bonds, provide financing to public and private agencies, provide credit enhancements, acquire or lease facilities and leverage state and federal funds. The iBank operates the Infrastructure State Revolving Fund (ISRF), which provides low-interest financing (up to 100%) to local governments for infrastructure projects. There are also several bonding programs available to support infrastructure and industrial development. Financing programs are also available for small businesses.

The Federal Government offers low-cost financing through its Transportation Infrastructure Finance and Innovation Act (TIFIA) program. The TIFIA program offers very advantageous financing terms, although it is limited to transportation projects with a cost of at least \$10 - \$50 million.

The City of San Francisco’s Task Force Report listed a number of alternatives to a public bank “that could achieve similar aims as a municipal bank. These initiatives could be aimed at various outcomes and be accomplished via programming, the power of purchasing and contracting, and participating with other legislative and public banking efforts.” The following are among the listed alternatives: advocate for banking sector reforms, create non-bank lending programs, better

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<sup>10</sup> Government Code Section 57604(b)

<sup>11</sup> Government Code Section 57604(c)(2)

publicize existing small business lending programs and CDFIs, and advocate for youth bank accounts.<sup>12</sup>

#### CEQA CONSIDERATION:

The City of Salinas has determined that the proposed action is not a project and is therefore exempt as defined by the California Environmental Quality Act (“CEQA”) (CEQA Guidelines Section 15378).

#### STRATEGIC PLAN INITIATIVE:

The City’s participation in a viability study for the establishment of the Central Coast Public Bank does not commit the City to participation in the Bank should it be established; consequently, participation would not support any of the City Council’s Goals (2020-2023). If the Central Coast Public Bank is established and the City becomes a participating entity, the City’s participation may support the City Council’s Goals of Investment Strategies/Risk Management and New Revenue.

#### DEPARTMENTAL COORDINATION:

The City Attorney and the City Manager have coordinated on this effort.

#### FISCAL AND SUSTAINABILITY IMPACT:

The City of Watsonville is taking the lead on the viability study for the Central Coast Public Bank and, along with the County of Santa Cruz, is seeking expressions of interest from public agencies in the Central Coast in participating in such a study. Once the level of interest and participation in a viability study are determined, a financial plan to study the viability with equitable contributions from participating agencies can be developed to be considered by potential participants.

The FY 21/22 adopted budget did not include an allocation of funding for participation in a public bank viability study.

#### ATTACHMENTS:

Resolution  
AB 857

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<sup>12</sup> Municipal Bank Feasibility Task Force Report, Treasurer Jose Cisneros, San Francisco Office of the Treasurer & Tax Collector March 2019. [https://sftreasurer.org/sites/default/files/2019-08/2.%20Municipal%20Bank%20Report\\_FINAL\\_03-01-19.pdf](https://sftreasurer.org/sites/default/files/2019-08/2.%20Municipal%20Bank%20Report_FINAL_03-01-19.pdf), at page 10.

**RESOLUTION NO. \_\_\_\_\_ (N.C.S.)**

**A RESOLUTION EXPRESSING THE CITY OF SALINAS’S INTEREST IN A  
VIABILITY STUDY FOR A CENTRAL COAST PUBLIC BANK**

WHEREAS, AB 857, signed into law by Governor Newsom on October 2, 2019, allows for the establishment of local and regional public banks in California; and

WHEREAS, the California Legislature enacted AB 857 with the intent to “authorize the lending of public credit to public banks and authorize public ownership of public banks for the purpose of achieving cost savings, strengthening local economies, supporting community economic development, and addressing infrastructure and housing needs for localities”; and

WHEREAS, the County of Santa Cruz began the effort to determine the interest of other cities and counties within the region in the establishment of a public bank, beginning with the completion of a viability study; and

WHEREAS, none of the public agencies within the Central Coast are large enough by themselves to create a public bank, thereby requiring the cooperation among several to meet the requirements of AB 857; collaboration with other public agencies will achieve an economy of scale that improves feasibility; and

WHEREAS, the City of Watsonville, following the direction laid by the County of Santa Cruz, is taking the lead on development of a Request for Proposals for a viability study to be prepared; and

WHEREAS, once the interest of various central coast agencies in participating in a viability study of a public bank can be determined, a financial plan to fund the viability study with equitable contributions from involved agencies can be developed to be considered by the potential participants.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF SALINAS that the Salinas City Council hereby expresses its initial interest in a viability study for a Central Coast Public Bank; and

BE IT FURTHER RESOLVED that the City Manager is hereby directed to submit a letter expressing the City of Salinas’s interest in participating in a viability study to establish the Central Coast Public Bank encompassing the counties of Santa Cruz, Monterey, San Benito, San Luis Obispo, and Santa Barbara.

PASSED AND APPROVED this 24<sup>th</sup> day of August, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

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Kimbley Craig, Mayor

ATTEST:

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Patricia M. Barajas, City Clerk