MEASURE TO BE SUBMITTED TO THE VOTERS AUTHORIZING THE CITY OF BERKELEY TO LEVY A PARCEL TAX TO FINANCE AFFORDABLE HOUSING, GREEN ENERGY/INFRASTRUCTURE, AND SMALL BUSINESSES THROUGH A PUBLIC BANK

The People of the city of Berkeley do ordain as follows:

Section 1. Title
Increasing long term investments for Affordable Housing, Green Energy, and Small Business through Public Banking Parcel Tax

Section 2. Findings
The People of the City of Berkeley find and declare as follows:

A. Berkeley faces overlapping challenges of high housing costs, climate vulnerability, a challenging small business environment, overreliance on big corporate banks that extract wealth from the community, and unreliable federal funding.

B. First, housing costs are too high in Berkeley, with more than 40% of long-term Berkeley tenants being rent burdened according to the City's 2022 Tenant Survey. Reducing housing costs can increase city residents' ability to live and thrive.

C. Second, climate change threatens Berkeley through rising sea levels, heatwaves, wildfires, and more. Transitioning to green energy can help reduce pollution, increase community resilience, and lower energy bills while also reducing climate threats.

D. Third, Berkeley's small businesses are struggling in part due to a lack of access to capital. Increasing their access to loans and financing can help them grow and thrive.

E. Fourth, big corporate banks prioritize shareholder profits, rather than Berkeley's needs. Big banks lend Berkeley's taxpayer dollars outside of our communities and against our values, including supporting fossil fuels, the war economy, and private prisons. Lending that prioritizes Berkeley's needs would include loans for affordable housing, green energy/infrastructure, and small businesses.

F. Fifth, 2025 saw the longest federal government shutdown in history and unprecedented cuts to federal funding including to UC Berkeley's research grants. A robust public banking structure builds local financial institutions and helps communities manage the demands of natural disasters, economic downturns, and veering winds of federal policy.

G. In the face of these challenges, Berkeley can use public dollars to make long-term investments in affordable housing, green energy/infrastructure, and small businesses.

H. While big corporate banks invest our public tax dollars outside of our community, a public bank can recirculate our money in our community to fund projects and build a stronger, more resilient, local community aligned to our values.

I. At a time when the federal government has made many sudden grant cancellations, a public bank can provide local resilience to changes in federal funding flows or from federal government shutdowns while building community wealth.

J. A special parcel tax within the City provides an equitable mechanism for funding capital investments in the City's future. An exemption from the tax for low-income homeowners helps ensure the cost of the measure is not a burden for residents on fixed or limited incomes. A split-roll tax under which commercial properties pay more than residential properties, as used in numerous prior parcel taxes, ensures equity in raising funds.

K. A public bank is a powerful tool for community development. Because banks create money in the process of lending, public banks can multiply the impact of every dollar invested, and increase community wealth.

L. A public bank will make Berkeley and the broader region a place where more families can afford to stay, more entrepreneurs can thrive, and more neighborhoods are resilient and full of opportunity.

Section 3. Code Amendment

A new Chapter 7.03 is hereby added to the Berkeley Municipal Code as follows:

Chapter 7.03

Increasing long term investments for Affordable Housing, Green Energy, and Small Business through Public Banking Parcel Tax

7.03.010 Special Tax - Purpose.

A. A special tax for the purpose of funding long term investments for affordable housing, green energy/infrastructure, and small businesses is hereby authorized to be imposed on all improvements in the City of Berkeley as more fully set forth in this Chapter. To accomplish this purpose, tax revenue collected by this measure will go into a special fund to capitalize and support a public bank (the "Bank") that includes Berkeley in its service area.

B. The City Council shall impose the tax authorized by this Chapter up to the rate, and subject to inflation adjustments, set forth in Section 7.03.020.

C. All funds received from the tax are subject to the review, allocation, and approval by the City Council, subject to the terms of this paragraph 7.03.010.

D. The proceeds of the tax imposed by this Chapter shall be placed in a special fund to be used only for the purposes set forth in this Chapter.

E. Returns earned by the special fund shall be reinvested in the special fund and used only in furtherance of the purposes set forth in this Chapter.

F. If the Bank does not secure authorization to conduct business by or before June 30, 2033, the special fund may be used to offer loans which support affordable housing, green energy/ infrastructure, and/or small businesses until such authorization has been secured, consistent with this Chapter.

G. Proceeds of the tax may be used to pay or reimburse the City for actual, verifiable costs of City staff when they are performing work necessary to accomplish Section 7.03.010(F).

7.03.020 Tax Authorized - Tax Rate and Allocation - Adjustments for Inflation

A. The City Council is hereby authorized to impose and allocate a special tax as follows:

1) **Residential Rate:** For all dwelling units, the tax shall be imposed at the rate of up to $0.06 per square foot of improvements.
2) **Non-Residential Rate:** For all other property, the tax shall be imposed at the rate of up to $0.09 per square foot of improvements.

B. Annually in May, the City Council shall increase the previous year's rate by up to the greater of the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in the state, as verified by official United States Bureau of Labor Statistics data. If either index referred to above is discontinued, the City shall use any successor index specified by the applicable agency, or if there is none, the most similar existing index then in existence.

7.03.030 Duration and Renewal

A. This measure shall remain in place for 6 years from the effective date, unless extended by the voters.

7.03.040 Reporting and Accountability

A. The City Manager shall prepare and submit to the City Council an annual report of performance metrics, outcomes, and accomplishments that reflects progress of the Bank capitalization and charter. This report shall contain the amount of funds collected and expended.

B. All expenditures, and verification of progress towards the goals set forth in Section 7.03.010, shall be subject to an independent performance audit by the City Auditor, at least once every three years, to confirm that the tax expenditures and reports are accurate and consistent with the intent of this chapter.

7.03.050 Definitions

For the purposes of this chapter, the following terms shall be defined as set forth below:

A. A “public bank” (the “Bank”) shall be a bank as defined in Section 57600 of the state Government Code, which was added to the Government Code in the California Public Banking Act adopted by the State of California in November 2019:

> “Public bank” means a corporation, organized under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) or the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) for the purpose of engaging in the commercial banking business or industrial banking business, that is wholly owned by a local agency, local agencies, or a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that is composed only of local agencies.

B, “Affordable housing” is defined as housing below 120% of AMI (Area Median Income), based on the City of Berkeley’s most current data on income levels, housing costs, and housing availability.

C. “Green energy/infrastructure” is defined as improvements to residential, commercial, and/or public property, buildings and structures, designed to further net zero carbon and Fossil Fuel Free City commitments. This initiative includes but is not necessarily limited to energy savings in the built environment, community resilience, zero-carbon energy generation, electrified transportation and industry, sustainable materials management, and waste reduction.

D, “Small businesses” is defined as businesses (especially those run by minorities, women, and people of color) within the Bank’s geographical lending area, including Berkeley, which meet any of the following criteria 1) growing but still too small to receive adequate support from traditional banks; 2) start-up support for entrepreneurs and businesses in early stages, 3) businesses whose accounts receivable are on longer terms and whose accounts payable are on shorter terms; 4) funds that specialize in employee ownership transitions; and 5) any other businesses which the Bank’s management believes can grow and thrive with loan support that they cannot obtain from traditional banks.

7.03.060 Exemptions.

A. The tax imposed by this Chapter shall not apply to parcels and improvements exempt from taxation by the City pursuant to the laws or constitutions of the United States and the State of California.

B. The tax imposed by this Chapter shall not apply to any property owned by any person whose total personal income, from all sources, for the previous calendar year, does not exceed that level which shall constitute “very low-income,” as may be established by resolution of the City Council. Any taxpayer claiming the exemption under this section shall be required to demonstrate their entitlement thereto annually by submitting an application and supporting documentation to the City Manager or their designee in the manner and at the time established in regulations and/or guidelines hereafter promulgated by the City Manager subject to review by the City Council in its discretion. Such applications shall be on forms provided by the City Manager, or their designee, and shall provide and/or be accompanied by such information as the City Manager shall require, including but not limited to, federal income tax returns and W-2 forms.

C. Any person or entity claiming an exemption from the tax imposed by this Chapter shall file a verified statement of exemption on a form prescribed by the City Manager prior to June 30th of the first fiscal year for which the exemption is sought.

7.03.070 Duties and Authority of the City Manager.

It shall be the duty of the City Manager to collect and receive all taxes imposed by this Chapter and to keep an accurate record thereof. The City Manager is charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter, including provisions for the re-examination and correction of returns and payments.

7.03.080 Collection with Property Tax - Penalties and Interest.

The special tax imposed by this Chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Alameda on behalf of the City of Berkeley. The special tax imposed by this Chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a personal obligation of the owners of the parcel on the date the tax is due.

7.03.090 Collection.

The amount of any tax, penalty, or interest imposed under the provisions of this chapter shall be deemed a debt to the City. Any person owing money under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount. The City shall be entitled to reasonable attorneys' fees and its costs of suit in any such action.

7.03.100 Refunds.

Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in Chapter 7.20 of the Berkeley Municipal Code or any such successor chapter.

7.03.110 Savings clause - Severability.

The provisions of this chapter shall not apply to any person, association, corporation, entity, or property as to whom or which it is beyond the power of the City of Berkeley to impose the tax herein provided. If any sentence, clause, section, or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such sentence, clause, section or part shall be severable and such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of the City Council and the People of the City of Berkeley that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

7.03.120 Violation - Penalty.

Any person who fails to perform any duty or obligation imposed by this chapter shall be guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code. The penalties provided in this section are in addition to the several remedies provided in this chapter.

Section 4. Increase appropriations limit.

Pursuant to California Constitution Article XIIIB, the appropriation limit for the City of Berkeley is hereby increased by the aggregate sum authorized to be levied by this special tax for each fiscal year during which the tax is in effect.

Section 5. Effective date.

The tax imposed by this Chapter shall be operative on January 1, 2027.

Section 6. Conflicting Ballot Measures

(a) In the event that this measure and another measure(s) relating to local taxes to fund any or all of the uses permitted in this measure are approved by a majority of the voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure(s), this measure shall control in its entirety, and the other measure(s) shall be rendered void and without any legal effect. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than the other measure(s), this measure shall take effect to the extent permitted by law.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure is subsequently held to be invalid, repealed, or terminated, the provisions of this measure shall be revived and shall have full force of law.

Section 7. Special Tax; Majority Vote Requirement. This Ordinance imposes a special tax for restricted purposes and is being placed on the ballot via signature petition. It shall be effective only if approved by a majority of the voters voting thereon.