Exhibit A
Redlined Version of Charter Amendment of the City of Burbank
For Transfer Measure

Charter of the City of Burbank

Existing Section 610 is not being changed.

SECTION 610. UTILITY DEPARTMENT.
There shall be a Utility Department to be known as Burbank Water and Power and a
General Manager appointed by the City Manager.

The Department shall supervise the construction, reconstruction, operation and
maintenance of all public utilities now or hereafter owned and operated by the City,
including, but not limited to, the generation, purchase, distribution and sale of electric
energy, water, gas, and telecommunications services and may, with the approval of the
Council, lease or rent any property connected with any of its utilities and fix the rental
charges thereof.

All funds received by the City related to the Department shall be deposited in the City
Treasury to the credit of the Department. An amount not to exceed two percent (2%) of
the Department’s gross sales of electricity (exclusive of wholesale sales of electricity to
other public or privately owned utilities) shall, in the Council’s discretion, be deposited or
transferred to the City’s General fund, or pay bills incurred by the City for lighting its public
streets, and an amount not to exceed five percent (5%) of the Department’s gross sales
of water and electricity, in lieu of taxes (exclusive of wholesale sales to other public or
privately owned utilities) shall be deposited or transferred to the City’s General Fund at
the discretion of the Council.

Funds not immediately needed by the Department may be temporarily loaned to other
departments of the City pending collection of tax receipts or other funds owing to such
other department.

New Section 610A is being added to the Charter.

Section 610 A. Utility Department Transfers.
In June 1958 the voters of Burbank elected to incorporate into the City’s Charter the
ability to transfer money from Burbank Water and Power’s gross electricity sales to the
City’s General Fund. The current charter language provides that an amount not to
exceed 7% of BWP’s gross sales of electricity shall be transferred to the City’s General
Fund in the discretion of the Council (Burbank Charter Section 610). This Charter
provision was reaffirmed by the voters in 2007 and the transfer has continued at the
discretion of the City Council during the last 30 years and was always funded through
retail electric rate payers.
The General Fund pays for essential City services such as 911 response, police and fire services, road maintenance, park services such as afterschool programs and senior programs, providing libraries for the community, as well as funding street lighting. During the last 10 years, through the annual budget cycle, the Council has continuously authorized transfer of 6.5% of BWP's gross sales of electricity to the City's General Fund and street lighting fund, which is a special fund within the General Fund.

In 2016, the City's application of Section 610 of the City Charter was challenged in court. (Spencer v. City of Burbank). The trial court found that because the City Council set the amount of the retail electric rates each year, Proposition 26 (Cal. Const. Art. XIII C, § 1(e)) applied, and the part of the electric rates used to fund the transfers is considered a tax. Additionally, the court found that although the voters had approved a Charter amendment to Section 610 in 2007, voter-approval requirements that are governed under Proposition 218 (Cal. Const. Art. XIII C, § 2) and Proposition 26 were not met because Section 610 did not explicitly authorize funding the transfer from retail electric rate payers.

The purpose of this Section is to explicitly approve the past practice of funding the transfers from retail electric rate payers and to approve such practice on a go forward basis. As such, 1.) BWP is authorized to continue including the cost of the transfers in retail electric rates or as a surcharge to retail electric rates; 2.) the Council is authorized to set retail electric rates including the cost of the transfers in retail electric rates or as a surcharge to retail electric rates on an annual basis; and 3.) at the discretion of the Council to transfer up to 7% of BWP's gross sales of electricity from retail electric rate payers to the City's General Fund.

This section is intended to apply retroactively to the 2016/2017 fiscal year and will remain in effect until changed by the voters.