

**BOROUGH OF EAST CONEMAUGH**

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AUTHORIZING THE EXECUTION OF REMAINING REQUIREMENTS  
ENERGY SUPPLY SCHEDULE WITH AMERICAN MUNICIPAL POWER, INC. ("AMP")**

**WHEREAS**, the Borough of East Conemaugh, Pennsylvania (the "Borough") is a political subdivision organized and existing pursuant to the laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, the Borough owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

**WHEREAS**, in order to satisfy the electric energy requirements of its electric utility system, the Borough has heretofore purchased economical and reliable energy from AMP, an Pennsylvania non-profit corporation, of which the Borough is a member, or has heretofore purchased energy arranged by AMP; and

**WHEREAS**, the Borough, acting individually and, along with other municipalities which own and operate electric utility systems, jointly through AMP, endeavors to arrange for reliable, reasonably priced supplies of electric energy for ultimate delivery to its users; and

**WHEREAS**, the Borough has executed a Master Services Agreement with AMP which sets forth the general terms and conditions for the provision of power supply and other services by AMP to the Borough; and

**WHEREAS**, AMP will negotiate with one or more reputable and financially sound third party power suppliers to enter into an agreement(s) to purchase electric energy for a term beginning on January 1, 2021, and ending no later than December 31, 2023, which will provide an economical source of electric energy (herein "Long Term Energy Purchase(s)") for the Borough and other AMP Members; and

**WHEREAS**, AMP, on behalf of the Borough, desires to purchase from third party supplier(s) and then to resell the energy available from these Long Term Energy Purchase(s) on a long term basis to Borough at contract cost (excluding any taxes,

**WHEREAS**, on behalf of the Borough, AMP desires to enter Long Term Energy Purchase contracts for the purchase of electric from third party electric supplier(s) and then resell the electric that is available from these Long Term Energy Purchase(s) on a long term basis to Borough at contract cost (excluding any taxes, transmission costs, replacement energy, losses, congestion costs, security costs or AMP service fees) not to exceed \$45.00 per Mwh; and

**WHEREAS**, AMP has prepared and delivered to the Borough in the form of a Remaining Requirements Energy Supply Schedule, pursuant to which the Borough may purchase electric energy; and

**WHEREAS**, AMP has provided and will continue to provide appropriate personnel and information regarding the Long Term Energy Purchase(s) to the Borough, as such officers and representatives of the Borough deem necessary or appropriate, to enable the Borough to evaluate the benefits and risks of the Long Term Energy Purchase(s), to take actions contemplated by the ordinance hereinafter set forth and to determine that the same are in the public interest; and

**WHEREAS**, in recognition of the unique nature of the Long Term Energy Purchases described herein, competitive bidding is not required on the Borough's purchase of energy, through the Remaining Requirements Energy Supply Schedule, however, any competitive bidding requirement that might otherwise be applicable for the purchase of any energy through the execution of the Remaining Requirements Energy Supply Schedule authorized by this ordinance, should be waived; and

**NOW THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF EAST CONEMAUGH, PENNSYLVANIA:**

**SECTION 1.**

- A. The form of the Remaining Requirements Energy Supply Schedule between the Borough and AMP, which is substantially in the form attached hereto as Exhibit 1, is approved, subject to and with any and all changes provided for herein and therein.

**SECTION 2.**

- A. Competitive Bidding
- B. Competitive bidding is not required on the Borough's acquisition of its right to secure energy under the Remaining Requirements Energy Supply Schedule.
  - 1. In the event that any competitive bidding requirements are applicable, any such competitive bidding requirement that might otherwise be applicable, are hereby waived.

**SECTION 3.**

- A. Term
  - 1. The term for Remaining Requirements Energy Supply Schedule between the Borough and AMP, shall begin on January 1, 2021 and end no later than December 31, 2023.

**B. Price**

1. The third party contract price (excluding any taxes, transmission costs, replacement energy, losses, congestion costs, security costs, or AMP service fees) not to exceed \$45.00 per Mwh.

**C. Authorization**

1. After a vote of Borough Council, the President of Borough Council is hereby authorized to execute the Remaining Requirements Energy Supply Schedule to acquire the Borough's energy from the Long Term Energy Purchase(s) secured by AMP.
2. The President of Borough Council is further authorized to execute and deliver any and all documents necessary to participate in Long Term Energy Purchase, pursuant to the conditions and term set forth herein and as set forth in the Remaining Requirements Energy Supply Schedule.

**SECTION 4.**

**A. Action by Borough Council**

1. Deliberations and formal actions of Borough Council concerning and relating to the adoption of this ordinance were adopted by a quorum of Borough Council present at a publicly advertised open meeting of Borough Council.

**SECTION 5.**

**A. Severability**

1. If any section, subsection, paragraph, clause or provision or any part thereof of this ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this ordinance shall be unaffected by such adjudication and all the remaining provisions of this ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

**SECTION 6.**

A. Effective Date

1. This ordinance shall take effect at the earliest date allowed by law.

**IT IS HEREBY ENACTED AND ORDAINED** by the Borough Council of the Borough of East Conemaugh, County of Cambria, Commonwealth of Pennsylvania, this 12<sup>th</sup> day of April 2017, as follows:

**ATTEST:**

**EAST CONEMAUGH BOROUGH**

\_\_\_\_\_  
Nancy Geyer, Secretary

by: \_\_\_\_\_ (SEAL)  
William R. Stofko, President

\_\_\_\_\_  
Martha Gregorchik, Council Member

\_\_\_\_\_  
Thomas Prucnal, Council Member

\_\_\_\_\_  
Roland Toth, Council Member

\_\_\_\_\_  
Edward Grove, Council Member

\_\_\_\_\_  
Grace Malfer, Council Member

\_\_\_\_\_  
Ronald Ling, Council Member

Approved by Richard Gregorchik, Mayor, this \_\_\_\_ day of \_\_\_\_\_, 2017.

by: \_\_\_\_\_ (SEAL)  
Richard Gregorchik, Mayor

(Borough Seal)