

# County Council of Cuyahoga County, Ohio

## Ordinance No. O2019-0010

Sponsored by: <b>County Executive Budish/Department of Public Works</b>	<b>An Ordinance</b> enacting Section 806.04 of the Cuyahoga County Code to establish the Cuyahoga County Energy Participation Program, and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, pursuant to Section 9.48 (B)(2) of the Ohio Revised Code, a political subdivision may “participate in a joint purchasing program operated by or through a national or state association of political subdivisions in which the purchasing political subdivision is eligible for membership;” and

WHEREAS, Section 3.09 of the Cuyahoga County Charter Section provides that the powers of the County Council include the ability to adopt legislation “to cooperate or join by contract with any municipality, county, state or political subdivision or agency thereof;” and,

WHEREAS, Section 501.03(A) of the Cuyahoga County Code sets forth that “the County Executive, through the appropriate departments of county government acting under his/her direction or other county entities, may ... enter into all contracts ... and execute all necessary documents for the administration and conclusion of contracts;” and

WHEREAS, Section 501.03(B) sets forth that “the County Executive may perform any of the functions that he or she may perform under Chapter 501 of the County Code through his or her duly authorized designees;” and

WHEREAS, the County Commissioners Association of Ohio (“CCAO”), through its affiliate CCAO Service Corporation (“CCAOSC”), has established certain joint energy purchasing programs under the authority of Section 9.48 of the Ohio Revised Code in order to assist eligible Ohio counties or boards, agencies, districts or other instrumentalities which are affiliated with them in securing competitively priced energy supplies through various energy purchase agreements favorable to participants; and

WHEREAS, CCAOSC’s joint energy purchasing programs include energy purchase agreements for natural gas, electricity and solar energy; and

WHEREAS, Cuyahoga County is a member of CCAO and wishes to participate in the CCAOSC’s joint energy purchasing programs; and

WHEREAS, CCAOSC wishes to avail itself of the expertise of CCAOSC Energy Solutions, a subsidiary of Palmer Energy Company, Inc., Toledo, Ohio, as manager of the Program (the “Manager”); and

WHEREAS, the County agrees that it is necessary and desirable to establish the Cuyahoga County Energy Participation Program in order to create and adopt comprehensive guidelines for the funding, management and administration of CCAOSC's joint energy purchasing programs; and

WHEREAS, the participation in the joint energy purchasing programs established by CCAOSC will result in increased efficiency in local government and reduce the financial strain on the County’s citizens; and

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of the County.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:**

**SECTION 1.** Section 806.04 of the Cuyahoga County Code is hereby enacted as follows:

**Section 806.04: Cuyahoga County Energy Participation Program**

A. Definitions:

“CCAO” means the County Commissioners Association of Ohio, whose mission is to advance effective county government and to offer member counties several enterprise services that offer superior services and save funds.

“CCAOSC” means the CCAO Service Corporation, an affiliate of CCAO.

“Energy Purchase Agreements” means the natural gas purchase agreement, electricity purchase agreement, electric aggregation purchase agreement, natural gas aggregation purchase agreement, solar power purchase agreement between the County and Supplier.

“Manager” means CCAOSC Energy Solutions, a subsidiary of Palmer Energy Company, Toledo, Ohio.

“Supplier” means any person, corporation, partnership or other organization with whom CCAOSC (or its designee) may contract for the purchase of energy supplies. The definition is limited to the purposes of this Section.

“Program” means the Cuyahoga County Energy Participation Program which consists of five components: natural gas purchasing program, electricity

purchasing program, electric aggregation program, natural gas aggregation program, and a solar purchasing program.

- B. There is hereby created the Cuyahoga County Energy Participation Program for the purpose of participating in one or more Energy Purchase Agreements managed by CCAO, through its affiliate CCAOSC, managed by CCAOSC Energy Solutions, a subsidiary of Palmer Energy Company, for the acquisition of natural gas, electricity and solar energy at competitive market rates. The Department of Public Works shall administer the Program on behalf of the County.
- C. Prior to the County entering into any Energy Purchase Agreement with a Supplier, CCAOSC or the Manager shall conduct a publicly solicited request for proposals from Suppliers and shall make the request for proposals and any responses to such request available to Cuyahoga County.
- D. The Director of Public Works shall have the authority to review the competitive proposals submitted by all Suppliers, approve the Supplier with the highest scoring proposal, and make recommendations to the Manager to enter into an Energy Purchase Agreement defined in the Program. The Director of Public Works shall provide to Council Committee for Public Works, Procurement and Contracting a copy of such recommendations prior to submission to the Manager. Upon written recommendation from the Director of Public Works, the Manager is hereby authorized to execute such Energy Purchase Agreements on behalf of the County take any and all actions necessary to implement and administer the Program, and execute all relevant documents to implement the Program.
- E. All electric purchase agreements executed under the Program shall endeavor to include 100% renewable energy in order to promote the County's climate change action plan.
- F. To efficiently and timely realize significant cost savings in a volatile commodities market, all Energy Purchase Agreements under the Program, regardless of the monetary threshold of each agreement, shall be exempt from all approval requirements by County Council and Board of Control described in Section 501.04 of the Cuyahoga County Code.
- G. The Director of Public Works shall present to Council Committee for Public Works, Procurement and Contracting all Energy Purchase Agreements executed under the Program no later than 60 days from the effective date of such agreements.
- H. This Program shall end after a term of five (5) years from the date of the adoption of this Ordinance.

**SECTION 2.** It is necessary that this Ordinance become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided

that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

**SECTION 3.** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Tuma, seconded by Ms. Simon, the foregoing Ordinance was duly enacted.

Yeas: Schron, Jones, Brown, Stephens, Simon, Baker, Miller, Tuma, Gallagher and Brady

Nays: None

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County Council President

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Date

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County Executive

\_\_\_\_\_  
Date

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Clerk of Council

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Date

First Reading/Referred to Committee: July 11, 2019

Committee(s) Assigned: Public Works, Procurement & Contracting

Legislation Substituted in Committee: July 31, 2019

Journal CC035  
August 6, 2019