

# Request for Energy Proposals Microgrid/Resiliency Hubs at Montgomery County Facilities RFEP No.-2025-001



January 2025

Montgomery County, Maryland  
Department of General Services



### **I. Overview and Background**

Consistent with Montgomery County’s goal to ensure equitable services to all County constituents during major utility grid outages, the County is seeking to develop microgrids/resiliency hubs at multiple County locations. To this end, the Office of Energy and Sustainability (OES) under the Department of General Services (DGS) is seeking expressions of interest and qualifications to structure a Public Private Partnership (P3) to design-build-finance-operate-maintain distributed energy resource microgrid/resiliency hubs on select County-owned facilities under a Power Purchase Agreement (PPA). Work under this offering may also include distributed energy resources, including solar arrays and battery storage, to provide net metered green energy for an individual facility. The list of County facilities will be assigned to the Contractor, and the County may adjust this list periodically. This initial potential site list is included in Section III. The contractor must demonstrate the ability to perform the work described in the scope of services set forth in this solicitation and have demonstrated experience successfully performing comparable work. This Request for Proposals will be used to generate a short list of prospective private partners that the County may engage in more detailed negotiations or site selection. The final award(s) is(are) expected to be based on the project(s) that provides the greatest overall value to the County.

### **II. Anticipated Scope:**

Microgrid/Resiliency Hubs are facilities that are equipped to remain powered during grid outages and provide a continuity in County operations, and safe haven for the local community. At a minimum, for each prospective County microgrid/resiliency hub site, the Contractor shall provide a total “turnkey” project including all necessary equipment, materials, design, manufacturing, and installation services for the installation of a utility-interactive microgrid system. The Contractor shall at a minimum consider the following distributed energy resources (DER) for the system: solar PV, battery storage, a generator (powered by a low-carbon or zero-carbon energy source (i.e., natural gas, renewable natural gas, hydrogen, etc.)), or any other technologies that will achieve County objectives. The Contractor may utilize onsite/existing DER as part of a site microgrid solution. The County will require the selected Contractor to perform all professional services necessary to provide the County with a complete microgrid design package. The Contractor shall include specifications, calculations, and drawings in the design package and submit it to the County for review and approval. The Contractor will provide financing that will address all options related to debt, equity, grants and any other forms of capital available at the time to provide the best value to the County. After approval by the County of the final design package, the Contractor will provide all necessary construction services, including permitting and construction, to successfully complete the microgrid system installation. Upon permission to operate, Contractor will operate, maintain, repair, rehabilitate, and refurbish the system, so as to remain fully operational, for the full duration of the purchasing agreement.

It is anticipated that each approved site (or grouping of sites) will have a separate PPA assigned to that location.

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To summarize, for each prospective County microgrid site, the County is looking for a partner to:

### A. Design:

- Provide the County with a complete design package including specifications, calculations, and drawings for County review. Each system shall be designed and engineered to support its facility's critical loads. The Contractor shall take into consideration the site's electrical demand and load patterns, proposed installation locations, existing site equipment, available solar resources, existing site conditions, proposed future site improvements, and other relevant factors.
- The County is transitioning to a non-carbon fueled fleet (electric and hydrogen). The Contractor will be required to install a microgrid electrical infrastructure to support the Electric Vehicle Charging (EVC) requirements at the site, including ADA accessible dispensers. The infrastructure will include a concrete base for all the EV Charges (charger equipment and network connectivity may be supplied separately by the County) identified by the Contractor in an EVC Exhibit, conduit to run from the base to the electrical room of the facility. The number of chargers that are to be connected to the microgrid will be detailed in an EVC Exhibit, the remaining onsite chargers proposed for the site will be connected to a separate transformer/meter connected to the utility grid.
- Provide information and documentation necessary to submit for and seek approval in the Mandatory Referral process with Maryland National Capital Park and Planning Commission (M-NCPPC), including other like referral processes.
- Provide information and documentation necessary to submit for and seek approval of property disposition under Montgomery County laws and regulations.
- Upon County approval, provide all initial and final construction engineering specifications, drawings, and plans necessary to achieve the permits for construction as required by Montgomery County Department of Permitting Services (AHJ) and the Department of Environmental Protection.
- Conduct any utility interconnection studies to execute the project.
- Submit, fund, and obtain all necessary federal, state, and local permits necessary to complete the system.
- Provide bi-weekly updates to the County on project planning and progress.
- As requested, provide updates to the local stakeholder, which will include local community leader(s) and the following County agencies: DGS, Office of Emergency Management and Homeland Security (OEMHS), Department of Recreation, Department of Health and Human Services (HHS), Department of Fire and Rescue Services (DFRS), and Montgomery County Police Department (MCPD). Commissioning of these sites will be a coordinated effort among the Contractor and the aforementioned County agencies.
- Identify, and prepare applications or similar documents, and complete ongoing reporting requirements for all grants and incentives that are applicable for this project. These may include but are not limited to Maryland Energy

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Administration (MEA) grants, utility incentives, federal funding (i.e., from the Inflation Reduction Act), etc.

- Complete requirements for all Maryland Energy Administration grant programs applicable for all facilities identified in this RFP. **Preconstruction Planning Documents must include:**
  1. Feasibility Analysis;
  2. Preliminary Engineering & Project Design;
  3. Project Financial Proforma;
  4. Greenhouse Gas Impact Analysis; and
  5. Implementation Barriers Analysis.
- A cost proposal is to be submitted that includes the proposed PPA price and terms of the PPA.

### **B. Construction and Implementation:**

- Project Management to include coordination, phasing, and scheduling of system installation in occupied/operational County facilities.
- Provide all necessary site preparations; including necessary upgrades to switchgear and other utility/energy infrastructure needed to support the project.
- Responsible for completing all Interconnection applications and designs, as well as paying all related fees.
- Coordinate/Schedule interruptions to minimize ongoing daily building operations/services.
- Provide weekly project status conference calls and two-week and 30-day look ahead plans.
- Provide plans and drawings that depict and explain construction phases.
- Build and commission each component of the project in part or whole as a complete operating system.
- Coordinate, where directed, to integrate with separate project for the design, installation/construction renewables, or other building projects.
- Apply for, obtain, maintain, and pay for all ongoing operational permits required for the operation of the system including, but not limited to, air permits or other regulatory permits required for the site.

### **C. Maintenance and Ongoing Operations:**

- Energy assurance plan including a minimum of twice-a-year testing requirement to ensure operational readiness and verify the function of the microgrid system.
- Provide a performance guarantee with associated reimbursements for underperformance.
- Maintain the system for its service life to ensure continuous reliability and project performance.
- Based on manufacturer-specified operations and maintenance, provide a detailed operations and maintenance plan detailing service levels and response times.



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- Ensure seamless disconnect and reconnect with grid power when desired/required.
- Accept responsibility for damage or repairs from the operation of the system.
- Service calls are to be responded to within 4 hours by phone by a certified technician. If the on-site personnel cannot resolve the issue, then a service tech will be dispatched to the site within 24 hours. Final performance requirements will be as contained in the Power Purchasing Agreement.
- Comply with NIST cybersecurity standard 800-53 (including all updates and modifications to the standard over the life of the contract) to defend against reasonable threats. See attachments for cybersecurity guidelines.
- Participate in a PJM demand response program(s) in coordination with Purchaser, as a cost savings strategy, which will be outlined and reflected in the pricing and the final negotiated agreement.

### D. End of Service Life:

- The County will require the contractor to decommission the system at the end of the contract term or extend the operating agreement. The County may also purchase the system at a fair market value as determined by an independently assessed evaluation. All options stated are at the County's sole discretion.

### E. Reporting/Data Collection:

- The Contractor must provide the following data to the County on the County's preferred dashboard system and interface with the County's Building Management System (BMS) for each microgrid system and the aggregate of all the microgrid:
  - Energy generated from each DER:
    - Real time output
    - Monthly and Yearly rollup
  - Expected vs Actual generation from all DER
  - Greenhouse gas emissions
  - Compliance with ongoing reporting requirements for grants
  - Any other reporting requirements as needed by the County

*\*The Contractor shall install the necessary metering/power monitoring equipment at each microgrid site to satisfy these data collection requirements. The Contractor shall interface with the County's preferred, Distributed Generation Portfolio (DGP) reporting system, dashboard and BMS to provide notification of any system outage or malfunction.*

### III. Location and Site Characteristics

#### A. Site Information:

##### Recreation Centers

FACILITY NAME	ADDRESS
*Gwendolyn Coffield Community Center	2450 Lyttonville Road; Silver Spring, MD 20910
*Mid County Community Recreation Center	2004 Queensguard Road; Silver Spring, MD 20906
*Nancy H. Dacek North Potomac CRC	13860 Travilah Road; Rockville, MD 20850
*Long Branch Recreation Center	8700 Piney Branch Road; Silver Spring, MD 20901
*Marilyn J. Praisner Community Rec Center	14906 Old Columbia Pike; Burtonsville, MD 20866
*Plum Gar Neighborhood Recreation Center	19561 Scenery Drive; Germantown, MD 20876
*Bauer Drive Community Center	14625 Bauer Drive; Rockville, MD 20853
*Germantown Community Center	19840 Century Boulevard; Germantown, MD 20874
*Potomac Community Center	11315 Falls Road; Potomac, MD 20854
Damascus Community Recreation Center	25520 Oak Drive; Damascus, MD 20872
Good Hope Community Recreation Center	14715 Good Hope Road; Silver Spring, MD 20905
*White Oak Community Recreation Center	1700 April Lane; White Oak, MD 20904
*Wheaton Community Recreation Center	11701 Georgia Ave; Silver Spring, MD 20902
Ross Boddy Recreation Center	18529 Brooke Road, Sandy Spring, MD 20860

\* Office of Emergency Management and Homeland Security (OEMHS) designated shelter/Resiliency Hub

##### Police Stations

FACILITY NAME	ADDRESS
5th District Police Station	20000 Aircraft Drive; Germantown, MD 20874
3rd District Police Station	1002 Milestone Drive; Silver Spring, MD 20904

##### Fire Stations

FACILITY NAME	ADDRESS
Fire Station #18, Glenmont	12210 Georgia Ave; Wheaton, MD 20902
Fire Station #32, Travilah	9615 Darnestown Rd; Rockville, MD 20850
Fire Station #35, Clarksburg	22610 Gateway Ctr Dr 350; Clarksburg, MD 20871
Fire Station #25, Aspen Hill/Silver Spring	14401 Connecticut Avenue; Silver Spring, MD 20906
Wheaton Rescue Squad R2	2400 Arcola Avenue; Wheaton, MD 20902

##### Health and Human Services

FACILITY NAME	ADDRESS
Dennis Avenue Health Center	2000 Dennis Ave., Silver Spring, MD 20902
Nebel Street Shelter	11600 Nebel St, Rockville, MD 20852

#### B. Additional Sites:

The County reserves the right to add or remove sites under this contract or to issue additional RFEPs, contracts, or agreements to address the County's needs related to microgrid

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development. Additional sites to provide distributed energy resources (PV solar arrays or battery storage) to provide green energy production in a net metered configuration may be added.

### C. Conduit for Electrical Vehicle Charging:

The County is transitioning to a non-carbon fueled fleet (electric and hydrogen). The Contactor will be required to install the electrical infrastructure to support the electric vehicle charging requirements at the site of each microgrid location, including ADA accessible dispensers. At locations with distributed energy resources supporting the County's green energy production using net metering, the County will require sites to have conduit installed for electric vehicle charging as part of the microgrid/Resiliency Hub, including either/both Type II and III chargers/dispensers.

## IV. Administration of the Request for Energy Proposals

### A. Submission Information:

Each submittal should include a single point of contact (including name, title, phone number, and email address) included in a cover letter. Separately, concisely address the four areas below.

#### i. Qualifications:

Please concisely describe your organization's or team's experience and capability related to:

- DER installations including but are not limited to solar photovoltaic installations (including roof mounts, ground mounts, and canopies), battery storage, generator installations, and any other relevant technologies.
- Experience in organization and project management team implementing, maintaining, and operating similar projects for prolonged periods.
- Proven ability to negotiate and work with electric and natural gas utilities and other vendors who may be providing complementary services.

#### ii. Technical Approach:

- Ability to integrate data collection system into the County's data requirements.
- Maintenance approach and minimizing the level of effort of County staff.
- Other innovative approaches consistent with the County's mission of data transparency.

#### iii. Financial Approach:

- Provide a reference letter supporting the financial backing of these projects.

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- Demonstrated experience obtaining investment tax credits, grants, rebates, and other funds (PJM, Federal, State, and Local) to reduce the cost of system and operation, leading to a reduced contractual commodity rate for the purchaser (the County).
- iv. Innovation and Community Stewardship:
- Inclusion of local companies participating in County programs such as the local small business reserve program and the minority female disabled-owned business program is encouraged.
  - Partnerships with job creation, workforce development, and educational institutions.
  - Other partnerships and efforts that improve the sustainability, equity, or resiliency of the Montgomery County community.

Interviews may be scheduled with the highest-scoring offerors.

### B. Submission Information

The County is accepting only proposals on electronic media. Proposals must be emailed to [dgs.green@montgomerycountymd.gov](mailto:dgs.green@montgomerycountymd.gov) and be less than 5 megabytes in size. Each email must clearly state RFEP – Microgrid/Resiliency Hubs. The anticipated schedule for the first and second phases of this RFEP is below. All Prequalification Proposals must be received no later than June 12, 2023, at 3:00 PM.

Event	Date
<b>RFEP Issued</b>	January 10, 2025
<b>Virtual Prebid Meeting</b>	1:30 – 2:30 PM, January 24, 2025 <a href="#">Join the meeting now</a>
<b>Deadline for Questions</b>	January 31, 2025
<b>RFEP Proposals Due</b>	3:00 PM, February 28, 2025
<b>Pre-Qualified Vendors Interviews</b>	21 - 60 days after submittals
<b>Final Proposals and Cost and Price (Pre-qualified vendors only) *</b>	2 Weeks after County notification following interviews.

\*Date subject to adjustment/change

Written questions regarding the Request should be sent via email to [dgs.green@montgomerycountymd.gov](mailto:dgs.green@montgomerycountymd.gov). All questions and the responses from the County will be posted on the Office of Energy and Sustainability's Website at [www.montgomerycountymd.gov/dgs-oes](http://www.montgomerycountymd.gov/dgs-oes).

## V. Reference Documents

- A. *Attachment No. 01 – Facility Electricity Usage*



- B. *Attachment No. 02 – Facility Natural Gas Usage*
- C. *Attachment No. 03 - Resiliency RFP Facility Generator List*
- D. *Attachment No. 04. - Mid-Atlantic Purchasing Team Rider Clause*
- E. *Attachment No. 05 – Project Power Purchasing Agreement*

## **VI. Method of Award/Evaluation Criteria**

### **A. Procedures:**

- i. Upon receipt of proposals, the Qualification and Selection Committee (QSC) will review and evaluate all proposals in accordance with the evaluation criteria listed below under Section vi. The QSC will also review an offeror for responsibility.
- ii. Vendor interviews will be conducted with up to three (3) highest-scoring offerors based on the QSC's score for each written proposal. The interview criteria that will then be utilized are listed below under Section vi.
- iii. The QSC will evaluate the written proposals and interviews to determine the awardee(s) that provide the best value to the County. Awards may be offered to one or several offerors based on the QSC's recommendations on implementation, pricing, and long-term value.
- iv. The County will enter into negotiations with the proposed awardee(s). Negotiations may be held simultaneously or successively with one or more offerors prior to making an award.
- v. Projects may be offered in groups or as a standalone project.
- vi. The County reserves the right to cancel the solicitation at any time and for any reason.
- vii. Vendors are cautioned to prepare the proposal addressing the Tab and Submittal Requirements as outlined in the EVALUATION CRITERIA. Failure to prepare the content as outlined may result in reduced evaluation scoring.

viii. EVALUATION CRITERIA:

		Structure of the Proposals	Written Evaluation		Interview Evaluation	
Category	Tab #	Submittal Requirements	Criteria	Points	Criteria	Points
<b>1. GENERAL REQUIREMENTS</b>	<b>1.1</b>	<p><u>Cover Letter:</u> A cover letter with a brief description of the firm, including the Offeror’s legal name, address, and telephone number. Provide the name, title, address, telephone number, and email address of the contact person who will be authorized to make representations for the Offeror.</p>	<p>Verify the submittal of the cover letter. All requested information must be submitted.</p> <p>Failure of an Offeror to submit the cover letter may result in Offeror’s submission being rejected as unacceptable.</p>	<b>Required</b>	NA	<b>0</b>
	<b>1.2</b>	<p><u>References:</u> At least three (3) references may be contacted to attest to the quality and timeliness of the Offeror’s work of similar nature and scope to the scope required by the County</p>	<p>Verify submittal and adequacy of references.</p> <p>Failure to submit the references may result in Offeror’s submission being rejected as unacceptable.</p>	<b>Required</b>	NA	<b>0</b>
	<b>1.3</b>	<p><u>Local, Small Business and MFD Participation</u> Percentage of your project that will be contracted to local, small businesses, and/or Minority/Female/Disability (MFD) organizations</p>	<p>Percentage of your project that will be contracted to local, small businesses, and/or Minority/Female/Disability (MFD) organizations</p>	<b>100</b>	Percentage of your project that will be contracted to local, small businesses, and/or Minority/Female/Disability (MFD) organizations	<b>100</b>

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		<b>Structure of the Proposals</b>	<b>Written Evaluation</b>		<b>Interview Evaluation</b>	
<b>Category</b>	<b>Tab #</b>	<b>Submittal Requirements</b>	<b>Criteria</b>	<b>Points</b>	<b>Criteria</b>	<b>Points</b>
<b>1. GENERAL REQUIREMENTS</b>	<b>1.4</b>	Attachment No. 04. - Mid-Atlantic Purchasing Team Rider Clause	Verify submittal and completion of the Mid-Atlantic Purchasing Team Rider Clause.	<b>Required</b>	NA	<b>0</b>
<b>2. SCOPE</b>	<b>2.1</b>	<p><u>Qualifications of the Project Team:</u> Provide a complete list of key personnel, including subconsultants.</p> <p>Identify the Project Manager and include the Project Manager's resume and portfolio of related projects including project experience performed in Montgomery County, Maryland.</p> <p>Identify which tasks are to be provided by the Contractor and what tasks are to be provided by a subcontractor.</p>	Qualifications of the key personnel including the Project Manager to provide exceptional services required in this Solicitation based on their participation in projects of similar type and complexity, including project experience performed in Montgomery County, Maryland.	<b>150</b>	Presentation and qualifications of key personnel. Demonstration that these individuals possess the necessary skills to provide exceptional services required in this Solicitation based on their participation in projects of similar type and complexity.	<b>150</b>

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	<b>2.2</b>	<p><u>Experience with DER:</u> Describe in detail the Offeror’s technical knowledge and experience relating to DER installations. Describe in detail any experience the Offeror has in planning, designing, implementing, operating, and maintaining DER and provide examples. Examples include, but are not limited to solar PV, battery storage, generators. Blended resource DER microgrids will receive greater consideration.</p>	<p>Demonstrated knowledge of DER technologies.</p> <p>Demonstrated experience in planning, designing, permitting, construction, implementing, operating, and maintaining DER.</p>	<b>200</b>	<p>Demonstrated knowledge of DER technologies.</p> <p>Demonstrated experience in planning, designing, permitting, construction, implementing, operating, and maintaining DER.</p>	<b>200</b>



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		<b>Structure of the Proposals</b>	<b>Written Evaluation</b>		<b>Interview Evaluation</b>	
<b>Category</b>	<b>Tab #</b>	<b>Submittal Requirements</b>	<b>Criteria</b>	<b>Points</b>	<b>Criteria</b>	<b>Points</b>
	<b>2.3</b>	Provide brief description and simple schematic/plan of the proposed blended DER microgrid for each site with the potential size of individual DER resources.	Verify submittal and completion of brief description and simple schematic/plan. Systems which provide greatest GHG reductions and lowest commodity cost, providing the best benefit to the County, will receive the highest points.	<b>150</b>	Verify submittal and completion of brief description and simple schematic/plan. Systems which provide greatest GHG reductions and lowest commodity cost, providing the best benefit to the County, will receive the highest points.	<b>150</b>

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	<b>2.4</b>	<p><u>Reporting/Data Collection</u>                      Describe Offeror’s ability and experience in collecting and providing energy performance data. Describe experience in collecting and presenting data, including real-time and interval data, as well as in creating dashboards and/or other platforms for disseminating data.</p>	<p>Demonstrated experience in collecting and presenting energy performance data.</p>	<b>100</b>	<p>Demonstrated experience in collecting and presenting energy performance data.</p>	<b>100</b>

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	<b>2.4</b>	<p><u>Innovation</u> Describe in detail:</p> <ul style="list-style-type: none"> <li>- Any novel approaches or advanced designs for DER</li> <li>- Availability and pricing of any premium items (a premium item being defined as an energy efficient technology, product, or service installed or provided in conjunction with a solar system and ancillary in function)</li> <li>- Design, engineering, and other approaches to reduce the carbon footprint of the proposed projects</li> </ul>	Quality of Offeror’s innovativeness.	<b>50</b>	Quality of Offeror’s innovativeness.
<b>3. COMMUNICATION</b>	<b>3.1</b>	Describe how Offeror communicates issues and documents with the Owner. Describe tools, including forms and software, used to facilitate the flow of information.	Quality of Offeror’s method of communicating issues and documents with the Owner including tools used to facilitate the flow of information.	<b>50</b>	Quality of presentation of the Offeror’s method of communicating issues and documents with the Owner, including tools used to facilitate the flow of information.

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<b>Category</b>	<b>Tab #</b>	<b>Submittal Requirements</b>	<b>Criteria</b>	<b>Points</b>	<b>Criteria</b>	<b>Points</b>
<b>4. PRICING/TERM</b>	<b>4.1</b>	Propose a \$/kWh cost and the term of the contract. Provide pricing on a 15-year, a 20-year, and 25-year contract. Offeror to include 1) the price with the County taking RECs <b>and</b> 2) the price with the Offeror’s investor taking RECs and for what period	The \$/kWh pricing and term that provides the best benefit to the County will receive the highest points.	<b>200</b>	The \$/kWh pricing and term that provides the best benefit to the County will receive the highest points.	<b>200</b>
<b>Total</b>			<b>Highest possible QSC score for written proposal evaluation.</b>	<b>1000</b>	<b>Highest possible QSC score for interview evaluation.</b>	<b>1000</b>



## **A. Conditions and Limitations**

This RFEP and any ultimate award are guided by the Montgomery County Electricity Procurement Regulations (COMCOR 11B.04.01 Electricity Procurement Regulations).

The County reserves the right, in its sole and absolute discretion, to reject any Submissions received in response to this Request, advertise for new Submissions, or to accept any Proposal deemed to be in its best interest, to suspend negotiations, and to cancel this Request at any time, for any or no reason, prior to entering into a formal contract. The County further reserves the right to request clarification of information provided in Submissions submitted in response to this Request without changing the terms of this Request.

A Proposal submitted in response to this Request does not constitute a contract and does not indicate or otherwise reflect a commitment of any kind on behalf of the County or impose any binding obligations on the County or grant any rights to the Offeror. Furthermore, this Request does not represent a commitment or offer by the County to enter into an agreement with an Offeror or to pay any costs incurred in the preparation of a Proposal to this Request. Furthermore, this Request does not commit the County to pay for costs incurred in the negotiation or other work in preparation of, or related to, a final agreement between the Selected Proposer and the County. Any commitment made by the County will be subject to Montgomery County Code.

The Submissions and any information made a part of the Submissions will become a part of the project's official files. The County is not obligated to return any materials submitted or received in response to this Request. This Request and the selected Offeror's response to this Request may, by reference, become a part of any formal agreement between the Offeror and the County.

If an Offeror contends that any part of its Proposal is proprietary or confidential and, therefore, is limited to disclosure under the Maryland Public Information Act, MD Code Ann. State Gov't §§10-611 et seq. (the "MPIA"), the Offeror must identify all information that is confidential or proprietary and provide justification for why such materials should not be disclosed by the County under the MPIA. The County, as custodian of Submissions submitted in response to this Request for Available Industrial Sites, reserves the right to determine whether or not material deemed proprietary or confidential by the Offeror is, in fact, proprietary or confidential as required by the MPIA, or if the MPIA permits nondisclosure. The County will favor disclosure of all Submissions in response to any request for disclosure made under the MPIA.

Monthly Use by Year (Jul - Jun)

**3rd\_DISTRICT\_POLICE\_STATION [4013]**

Police Station (kWh)

33,884 ft<sup>2</sup>

1002 Milestone Drive

Primary Use

Floor Area

Silver Spring, MD, US 20904

Building

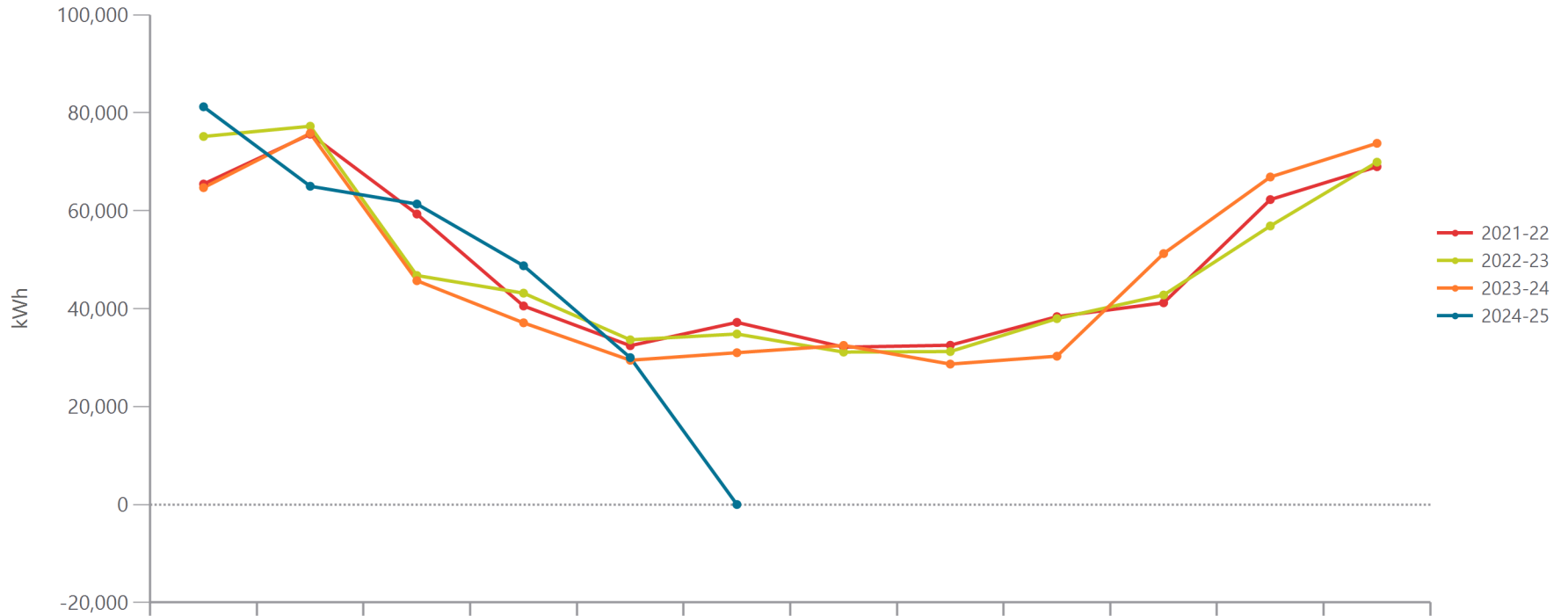
01/01/2014

Address

Place Type

Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	65,446	75,631	59,320	40,545	32,435	37,197	32,135	32,527	38,365	41,195	62,270	68,987	586,053
2022-23	75,161	77,255	46,767	43,165	33,633	34,820	31,129	31,241	37,957	42,783	56,883	69,910	580,704
2023-24	64,708	75,813	45,708	37,107	29,462	31,004	32,494	28,677	30,294	51,243	66,887	73,769	567,166
2024-25	81,223	64,999	61,368	48,755	29,996	0							286,341

Monthly Use by Year (Jul - Jun)

**5th\_DISTRICT\_POLICE\_STATION [4005]**

Police Station (kWh)

Primary Use

Building

Place Type

24,860 ft<sup>2</sup>

Floor Area

07/01/1979

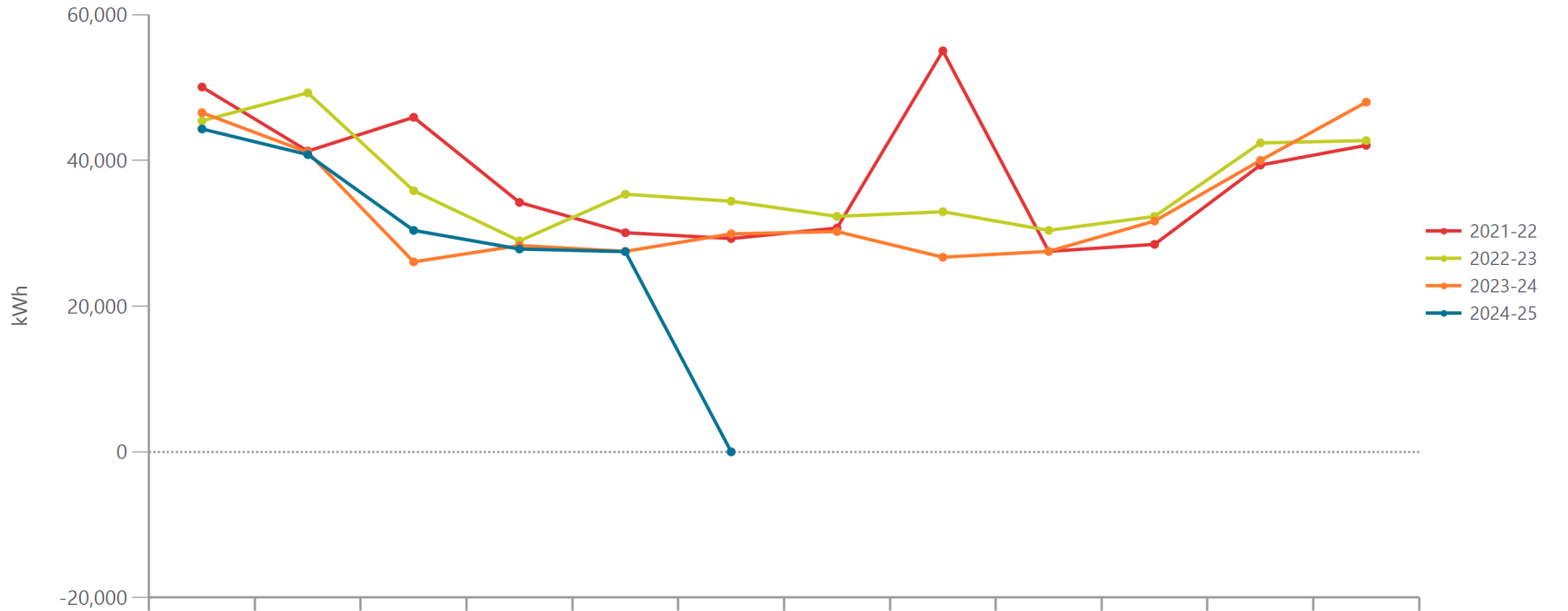
Build Date

20000 Aircraft Drive

Germantown, MD, US 20874

Address

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	50,080	41,280	45,920	34,240	30,080	29,280	30,720	55,040	27,520	28,480	39,360	42,080	454,080
2022-23	45,440	49,280	35,840	28,960	35,360	34,400	32,320	32,960	30,400	32,320	42,400	42,720	442,400
2023-24	46,560	41,120	26,080	28,320	27,520	29,920	30,240	26,720	27,520	31,680	40,000	48,000	403,680
2024-25	44,320	40,800	30,400	27,840	27,480	0							170,840

Monthly Use by Year (Jul - Jun)

**BAUER DRIVE CRC [7104]**

Other - Recreation (kWh)  
Primary Use

20,364 ft<sup>2</sup>  
Floor Area

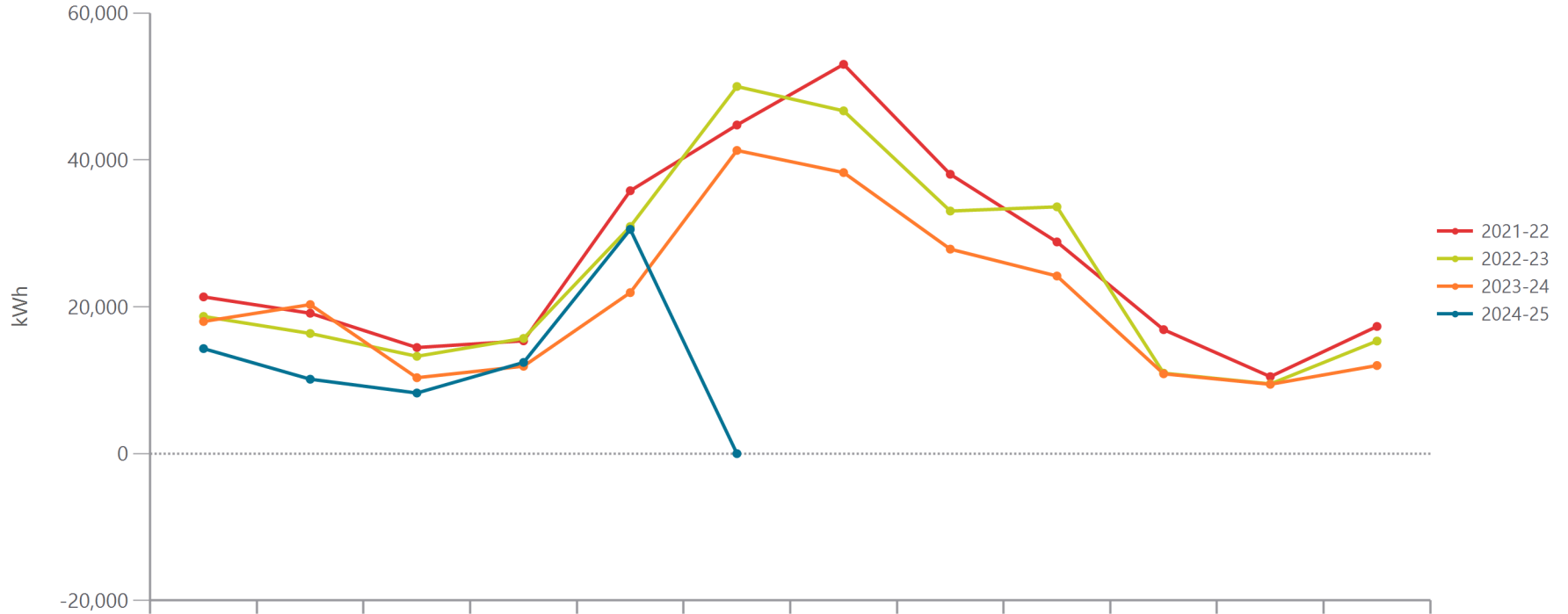
Score: 69, Month: Sep 2024  
ENERGY STAR

14625 Bauer Drive  
Rockville, MD, US 20853  
Address

Building  
Place Type

11/18/1976  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	21,346	19,119	14,448	15,357	35,800	44,757	53,019	38,046	28,828	16,885	10,484	17,318	315,407
2022-23	18,685	16,363	13,254	15,691	30,923	50,002	46,683	33,038	33,610	10,957	9,488	15,331	294,025
2023-24	17,996	20,296	10,337	11,903	21,931	41,292	38,275	27,851	24,188	10,872	9,442	11,999	246,382
2024-25	14,302	10,134	8,252	12,418	30,542	0							75,648



Monthly Use by Year (Jul - Jun)

**DAMASCUS CRC [7136]**

Other - Recreation (kWh)  
Primary Use

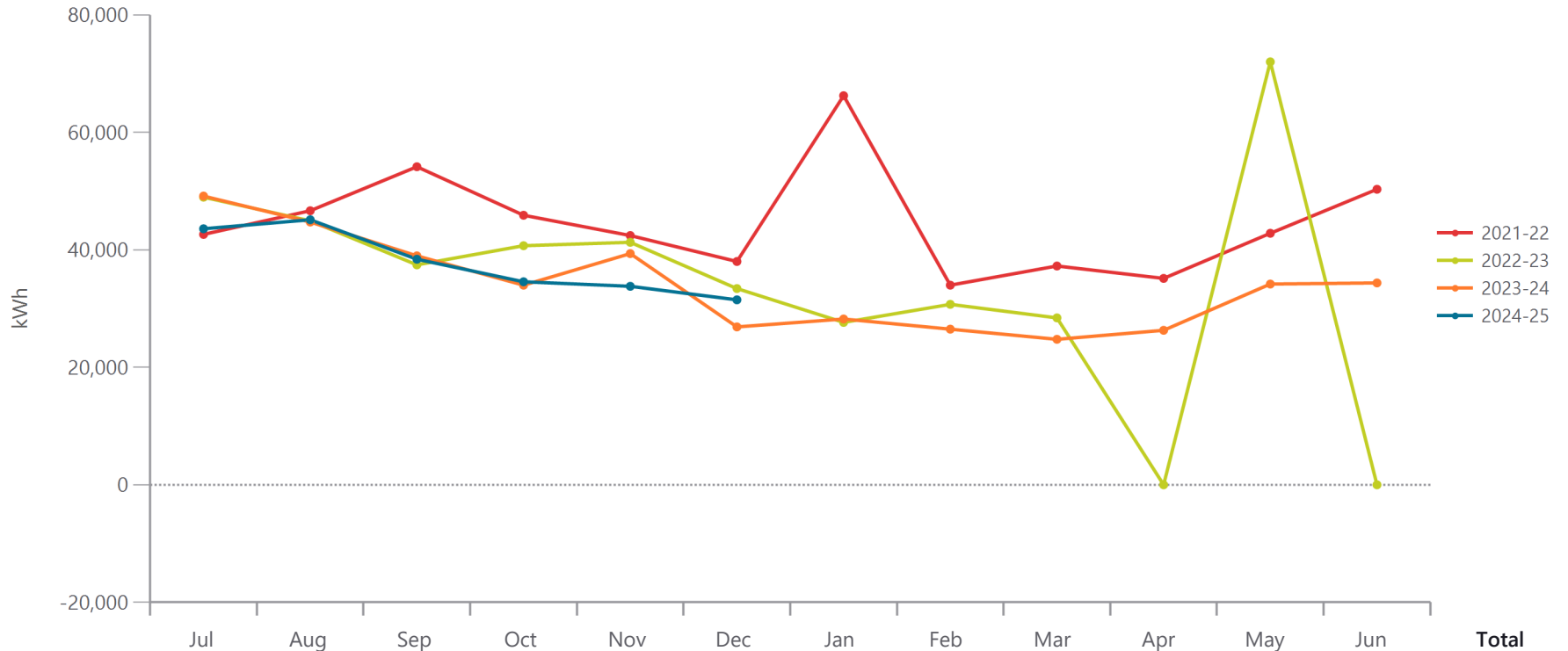
33,624 ft<sup>2</sup>  
Floor Area

25520 Oak Drive  
Damascus, MD, US 20872  
Address

Building  
Place Type

07/01/2002  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	42,624	46,656	54,144	45,888	42,432	38,016	66,240	33,984	37,248	35,136	42,816	50,304	535,488
2022-23	48,960	44,928	37,440	40,704	41,280	33,408	27,648	30,720	28,416	0	72,000	42,336	447,840
2023-24	49,152	44,736	38,976	33,984	39,360	26,880	28,224	26,496	24,768	26,304	34,176	34,368	407,424
2024-25	43,584	45,120	38,400	34,560	33,792	31,488							226,944

2022- 2023 Apr- May data is 72,000 kWh

Monthly Use by Year (Jul - Jun)

**DENNIS AVE HEALTH CENTER [3016]**

Medical Office (kWh)

Primary Use

Building

Place Type

53,432 ft<sup>2</sup>

Floor Area

07/07/2017

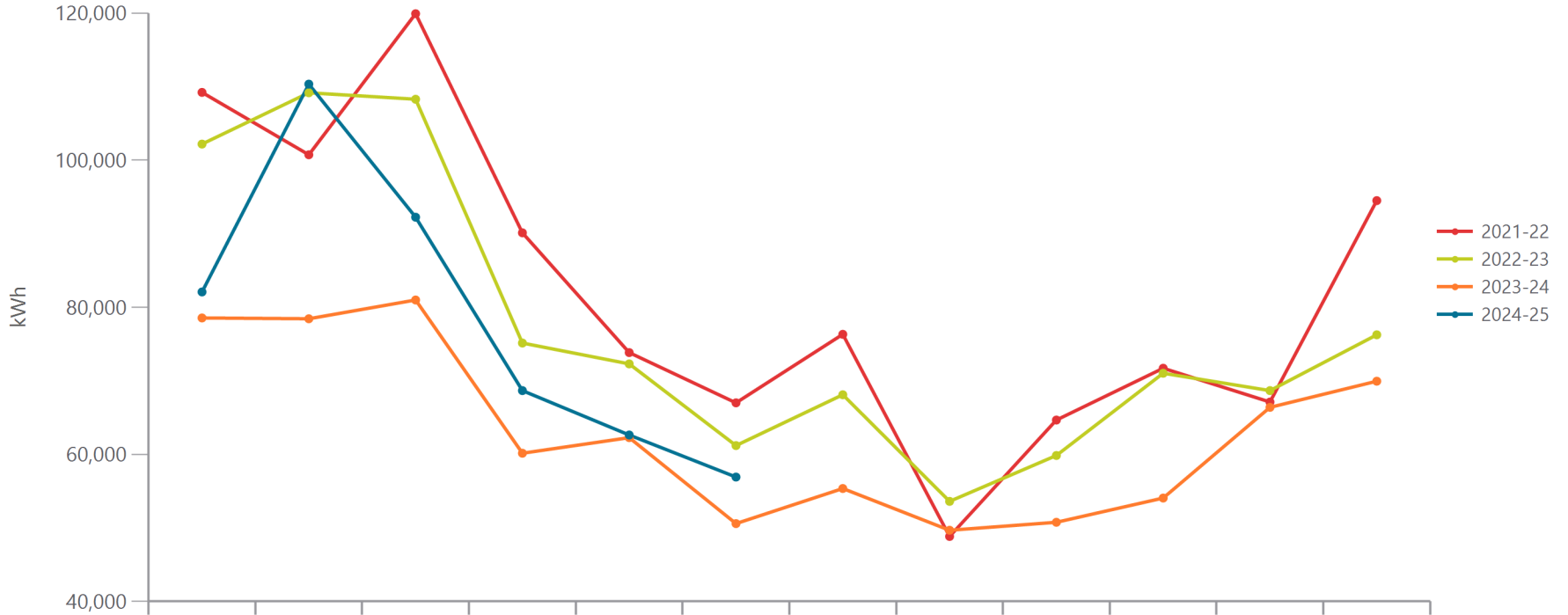
Build Date

2000 DENNIS AVENUE

Silver Spring, MD, US 20902

Address

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	109,219	100,738	119,920	90,124	73,838	67,004	76,325	48,835	64,665	71,710	67,116	94,504	983,998
2022-23	102,192	109,167	108,288	75,136	72,301	61,195	68,105	53,605	59,845	71,028	68,668	76,255	925,785
2023-24	78,548	78,436	80,989	60,151	62,270	50,582	55,356	49,677	50,761	54,058	66,389	69,947	757,164
2024-25	82,084	110,343	92,249	68,667	62,630	56,912							472,885

Monthly Use by Year (Jul - Jun)

**FIRE STATION #18 [4118]**

Fire Station (kWh)  
Primary Use

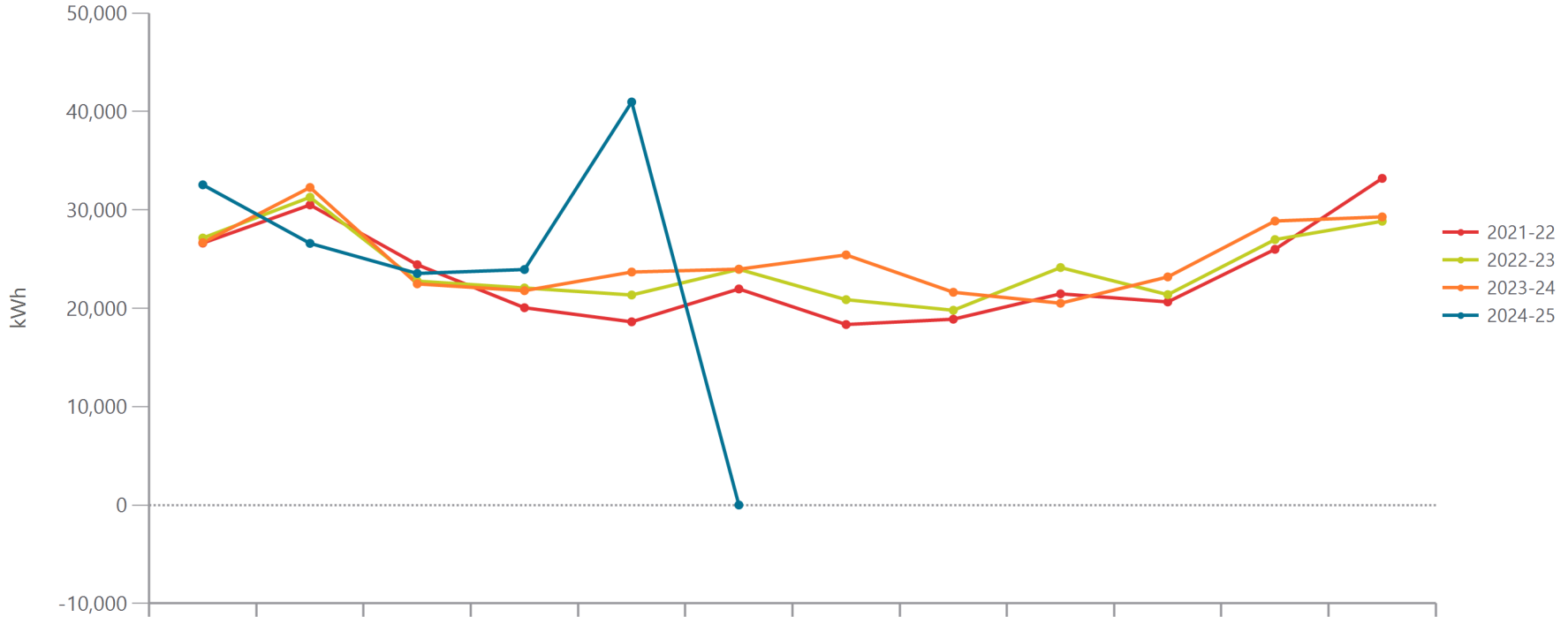
22,564 ft<sup>2</sup>  
Floor Area

12210 Georgia Ave  
Wheaton, MD, US 20902  
Address

Building  
Place Type

10/01/2016  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	26,626	30,505	24,428	20,056	18,622	21,965	18,348	18,890	21,467	20,644	25,992	33,205	280,748
2022-23	27,139	31,287	22,758	22,065	21,350	23,960	20,873	19,798	24,140	21,384	26,982	28,848	290,584
2023-24	26,670	32,280	22,480	21,789	23,683	23,974	25,425	21,627	20,514	23,187	28,868	29,290	299,787
2024-25	32,551	26,596	23,540	23,940	40,968	0							147,595

Monthly Use by Year (Jul - Jun)

**FIRE STATION #25 [4125]**

Fire Station (kWh)  
Primary Use

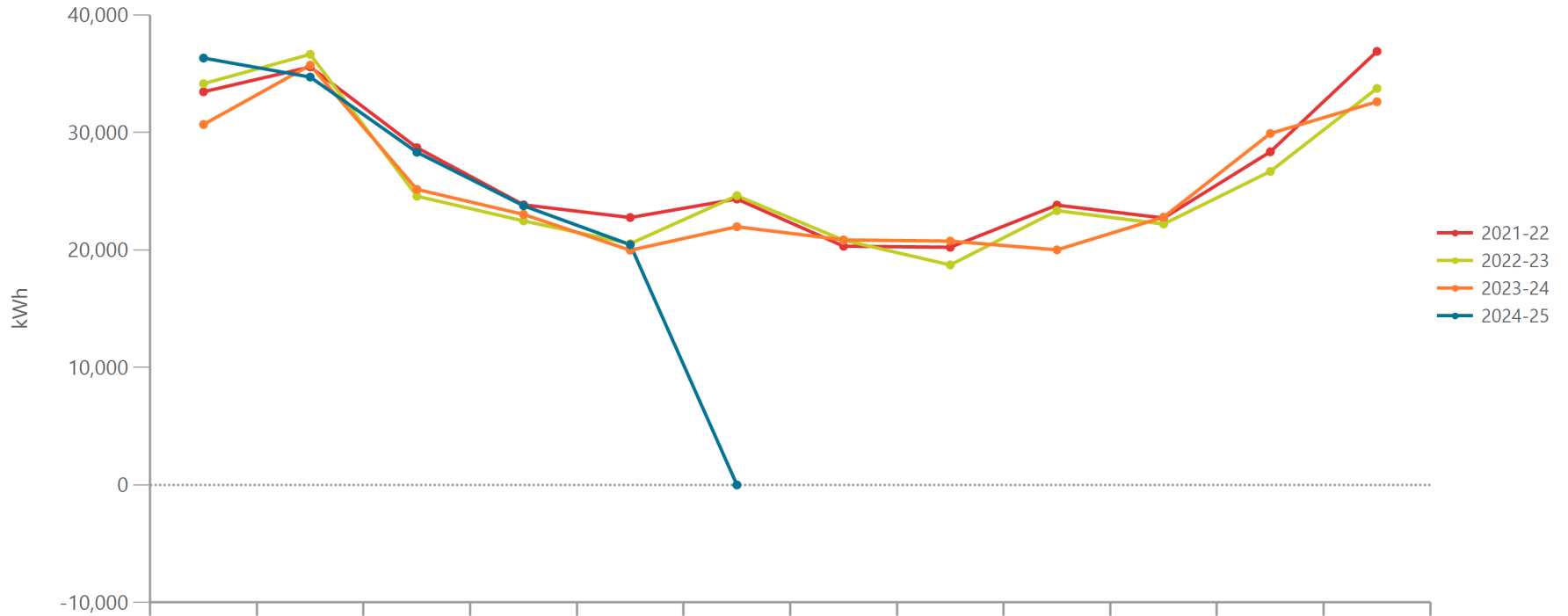
25,633 ft<sup>2</sup>  
Floor Area

14401 Connecticut Avenue  
Silver Spring, MD, US 20906  
Address

Building  
Place Type

07/01/1988  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	33,454	35,569	28,699	23,835	22,753	24,329	20,314	20,223	23,811	22,711	28,346	36,891	320,935
2022-23	34,145	36,642	24,569	22,466	20,528	24,609	20,822	18,720	23,339	22,200	26,675	33,741	308,456
2023-24	30,674	35,716	25,147	23,019	19,969	21,969	20,849	20,747	20,001	22,788	29,907	32,604	303,390
2024-25	36,323	34,707	28,309	23,752	20,442	0							143,533

Monthly Use by Year (Jul - Jun)

**FIRE STATION #32 [4132]**

Fire Station (kWh)  
Primary Use

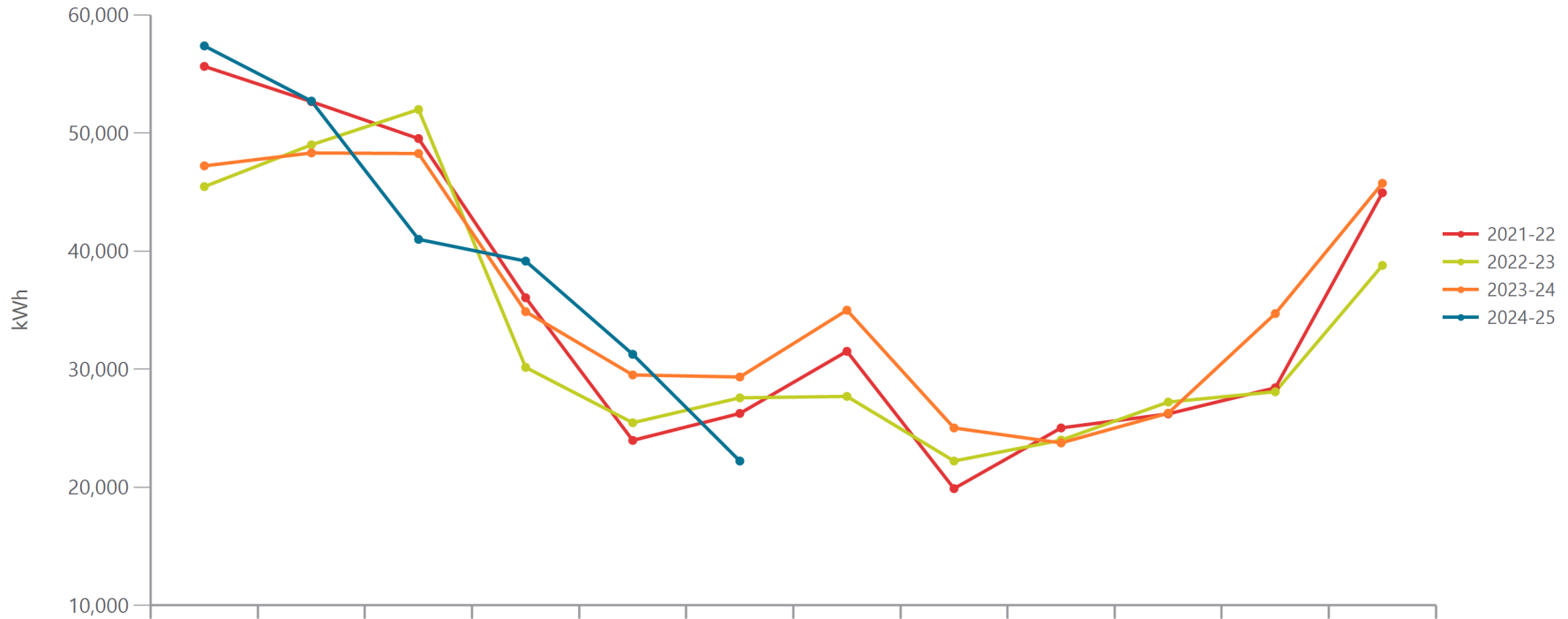
26,087 ft<sup>2</sup>  
Floor Area

9615 Darnestown Rd.  
Rockville, MD, US 20850  
Address

Building  
Place Type

02/27/2013  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	55,643	52,656	49,528	36,052	23,971	26,254	31,513	19,890	25,027	26,214	28,425	44,938	420,111
2022-23	45,460	48,999	51,990	30,154	25,464	27,578	27,696	22,225	23,992	27,216	28,090	38,788	397,652
2023-24	47,219	48,311	48,264	34,876	29,513	29,339	34,999	25,025	23,756	26,274	34,710	45,740	428,026
2024-25	57,377	52,702	40,996	39,155	31,262	22,225							243,717

Monthly Use by Year (Jul - Jun)

**FIRE STATION #35 [4135]**

Fire Station (kWh)  
Primary Use

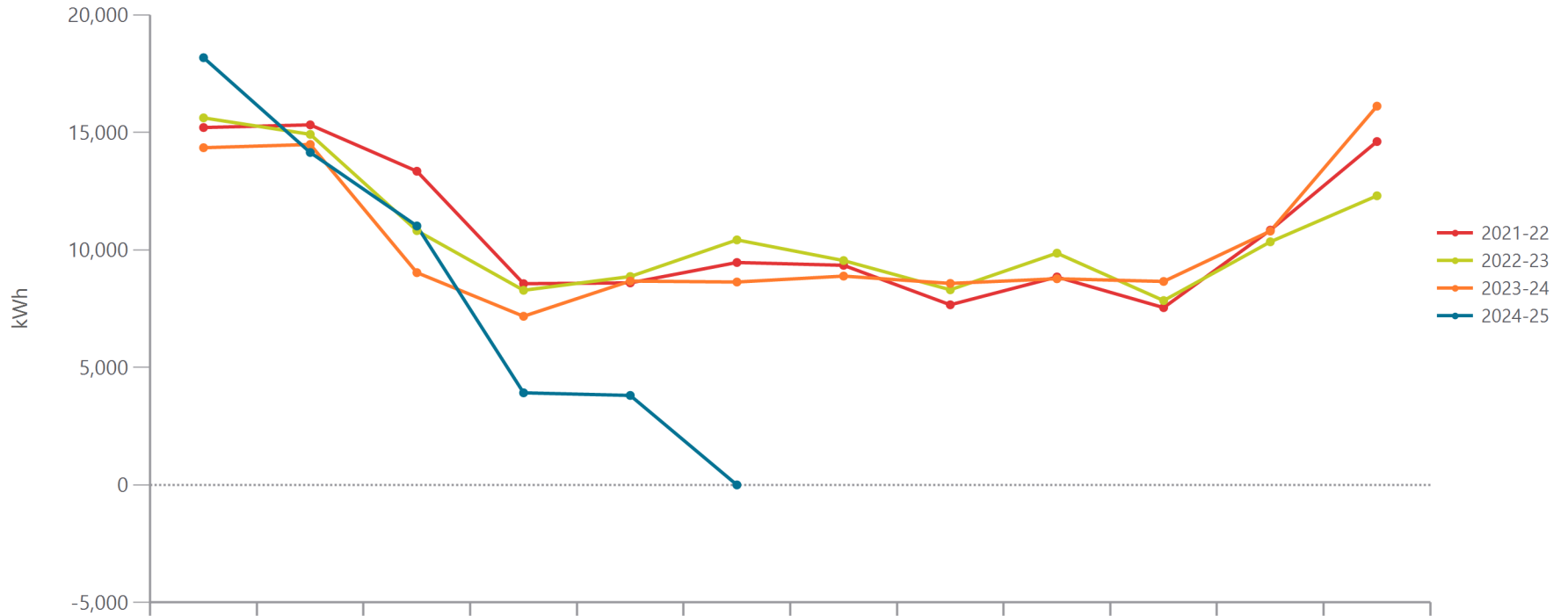
17,295 ft<sup>2</sup>  
Floor Area

22610 Gateway Center Dr.  
Clarksburg, MD, US 20871  
Address

Building  
Place Type

07/01/2001  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	15,206	15,320	13,346	8,563	8,596	9,464	9,343	7,664	8,848	7,544	10,839	14,609	129,342
2022-23	15,617	14,916	10,819	8,281	8,867	10,425	9,546	8,302	9,861	7,843	10,343	12,302	127,122
2023-24	14,347	14,485	9,032	7,175	8,674	8,633	8,885	8,574	8,772	8,657	10,799	16,116	124,149
2024-25	18,178	14,144	11,018	3,918	3,807	0							51,065

Monthly Use by Year (Jul - Jun)

**GOOD HOPE CRC [7109]**

Other - Recreation (kWh)  
Primary Use

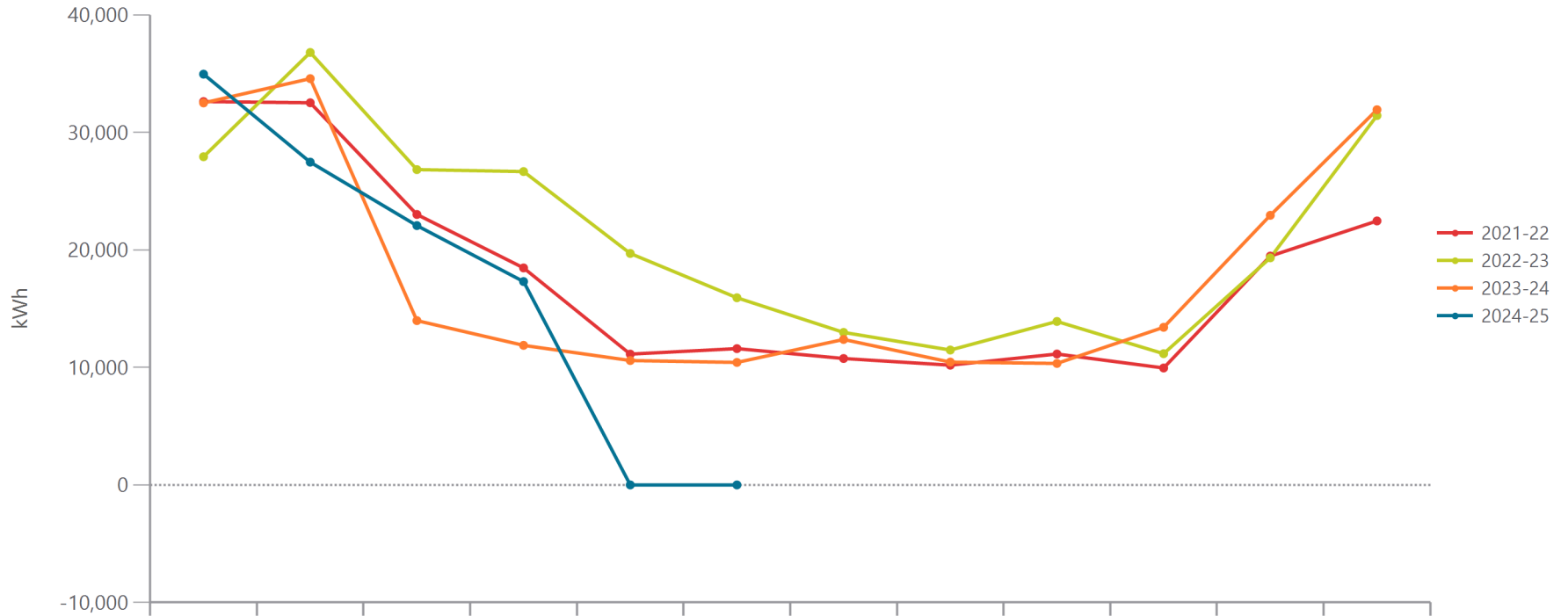
13,720 ft<sup>2</sup>  
Floor Area

14715 Good Hope Road  
Silver Spring, MD, US 20905  
Address

Building  
Place Type

08/18/2001  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	32,620	32,518	23,014	18,465	11,131	11,598	10,758	10,191	11,140	9,951	19,472	22,463	213,321
2022-23	27,928	36,798	26,831	26,665	19,696	15,928	12,978	11,478	13,910	11,168	19,325	31,430	254,135
2023-24	32,507	34,572	13,982	11,877	10,586	10,423	12,379	10,452	10,338	13,412	22,944	31,927	215,399
2024-25	34,953	27,465	22,067	17,304	0	0							101,789

Monthly Use by Year (Jul - Jun)

**GWENDOLYN COFFIELD CRC [7112]**

Other - Recreation (kWh)  
Primary Use

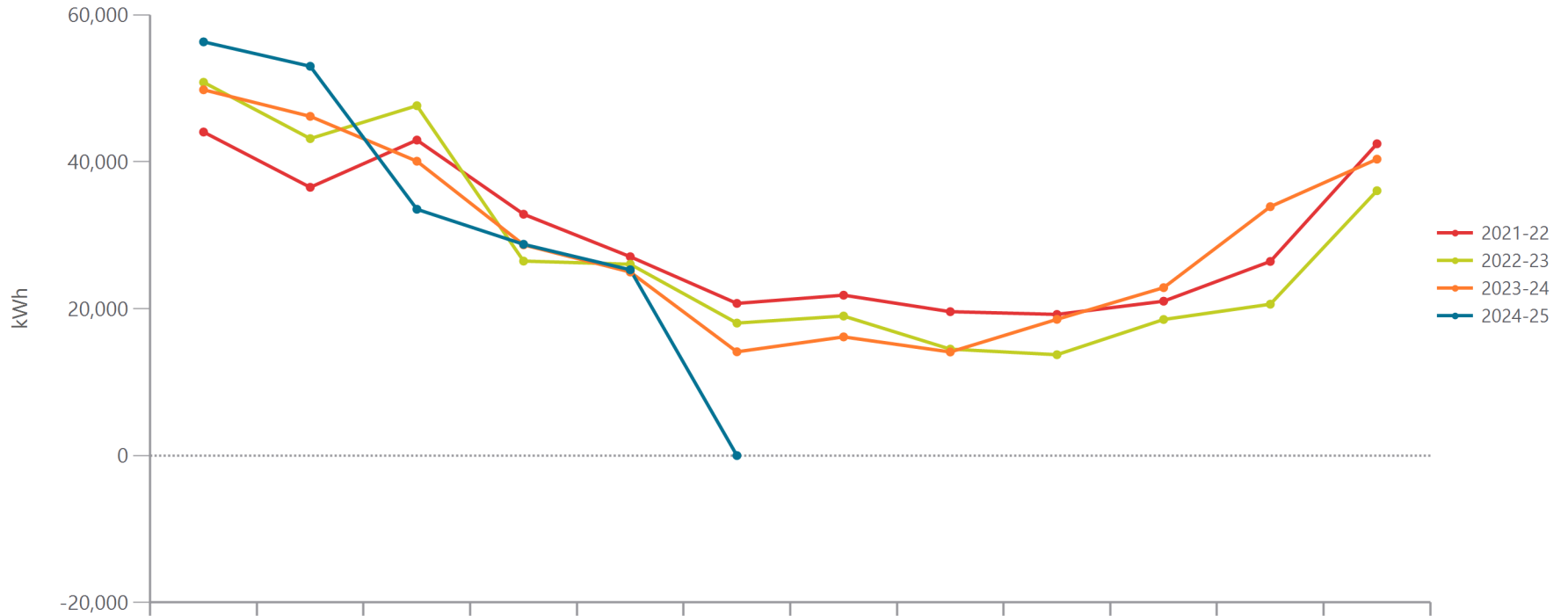
28,394 ft<sup>2</sup>  
Floor Area

2450 Lyttonsville Road  
Silver Spring, MD, US 20910  
Address

Building  
Place Type

05/01/1966  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	44,047	36,520	42,951	32,858	27,071	20,716	21,835	19,588	19,215	21,013	26,427	42,450	354,691
2022-23	50,818	43,151	47,631	26,474	26,044	18,037	18,994	14,489	13,729	18,523	20,605	36,056	334,551
2023-24	49,798	46,180	40,072	28,689	24,988	14,125	16,155	14,102	18,543	22,860	33,885	40,352	349,749
2024-25	56,324	52,997	33,533	28,761	25,291	0							196,906



Monthly Use by Year (Jul - Jun)

**LONG BRANCH RECREATION CENTER [7118]**

Social/Meeting Hall (kWh)

Primary Use

Building

Place Type

26,922 ft<sup>2</sup>

Floor Area

07/01/1986

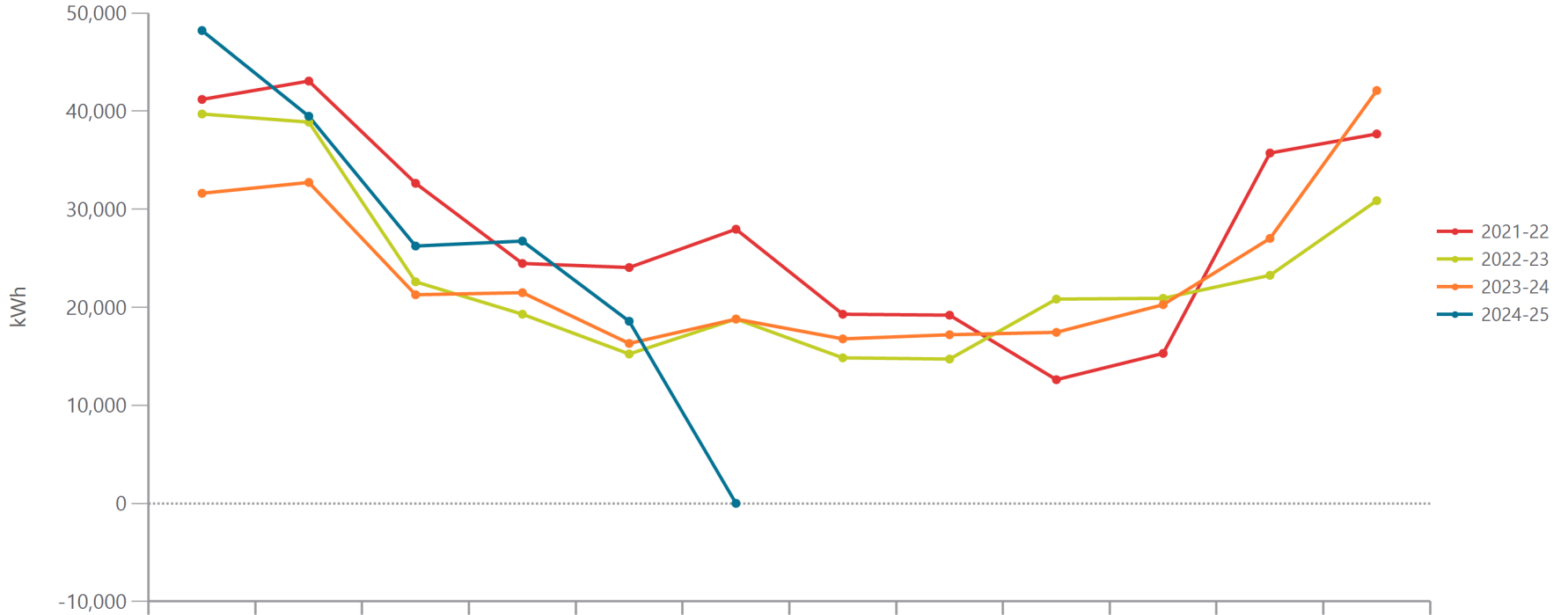
Build Date

8700 Piney Branch Road

Silver Spring, MD, US 20901

Address

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	41,197	43,070	32,644	24,468	24,053	27,961	19,290	19,194	12,615	15,296	35,729	37,677	333,194
2022-23	39,710	38,881	22,599	19,291	15,234	18,802	14,842	14,718	20,836	20,911	23,259	30,873	279,956
2023-24	31,626	32,733	21,277	21,491	16,310	18,797	16,777	17,200	17,445	20,265	27,020	42,104	283,045
2024-25	48,222	39,483	26,243	26,753	18,573	0							159,274

Monthly Use by Year (Jul - Jun)

**MARILYN J PRAISNER CRC [7130]**

**Other - Recreation (kWh)**  
Primary Use

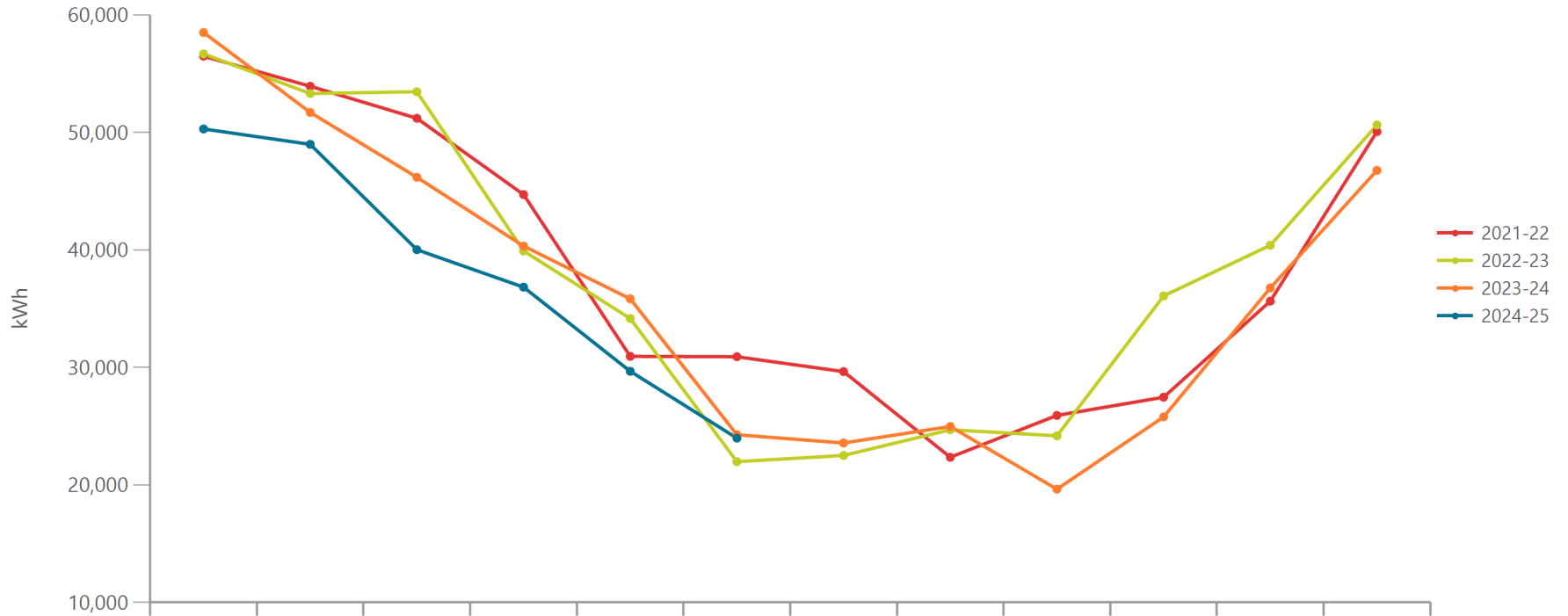
**31,294 ft<sup>2</sup>**  
Floor Area

**14906 Old Columbia Pike**  
**Burtonsville, MD, US 20866**  
Address

**Building**  
Place Type

**07/01/1999**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
<b>2021-22</b>	56,480	53,924	51,197	44,706	30,939	30,909	29,644	22,354	25,914	27,465	35,641	50,062	459,235
<b>2022-23</b>	56,675	53,307	53,456	39,909	34,161	21,979	22,507	24,694	24,179	36,083	40,394	50,633	457,977
<b>2023-24</b>	58,499	51,698	46,178	40,323	35,837	24,271	23,570	24,973	19,637	25,792	36,762	46,768	434,308
<b>2024-25</b>	50,291	48,981	40,014	36,828	29,669	23,980							229,763

Monthly Use by Year (Jul - Jun)

**MID-COUNTY CRC [7139]**

**Other - Recreation (kWh)**  
Primary Use

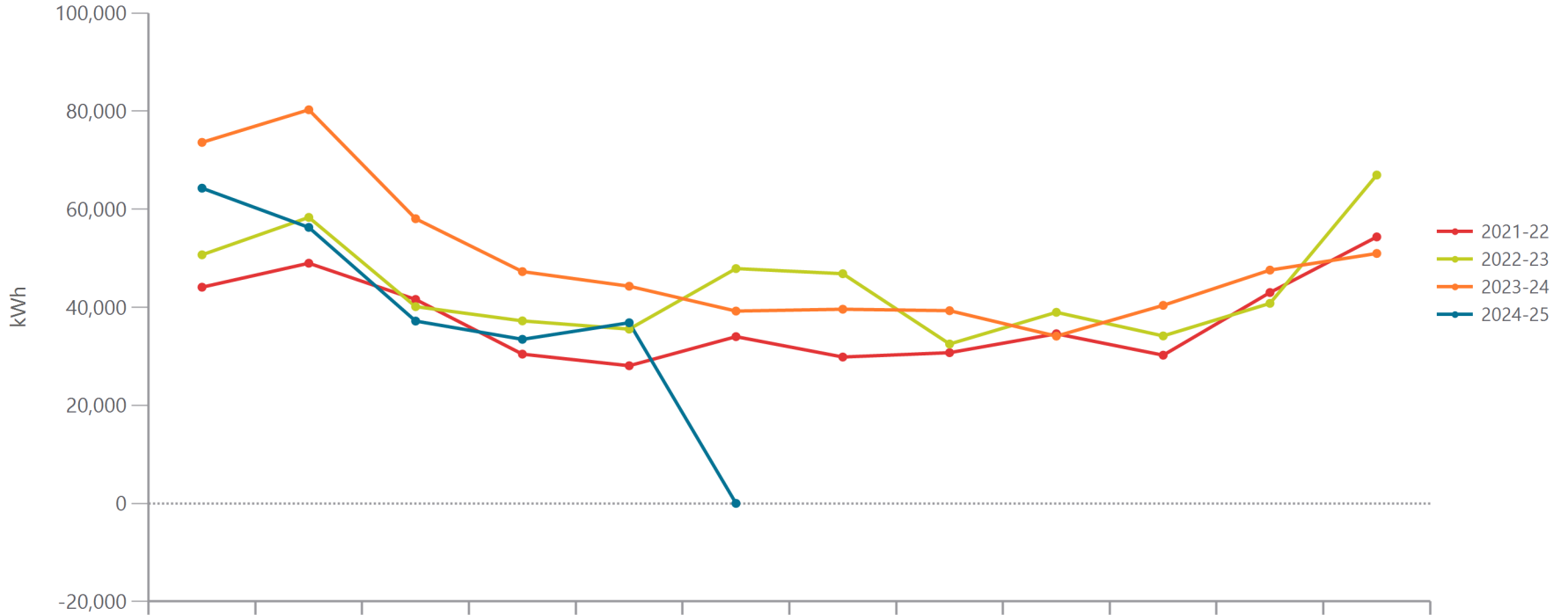
**31,086 ft<sup>2</sup>**  
Floor Area

2004 Queensguard Road  
Silver Spring, MD, US 20906  
Address

**Building**  
Place Type

**07/01/2010**  
Build Date

Monthly Use by Year (Jul - Jun)



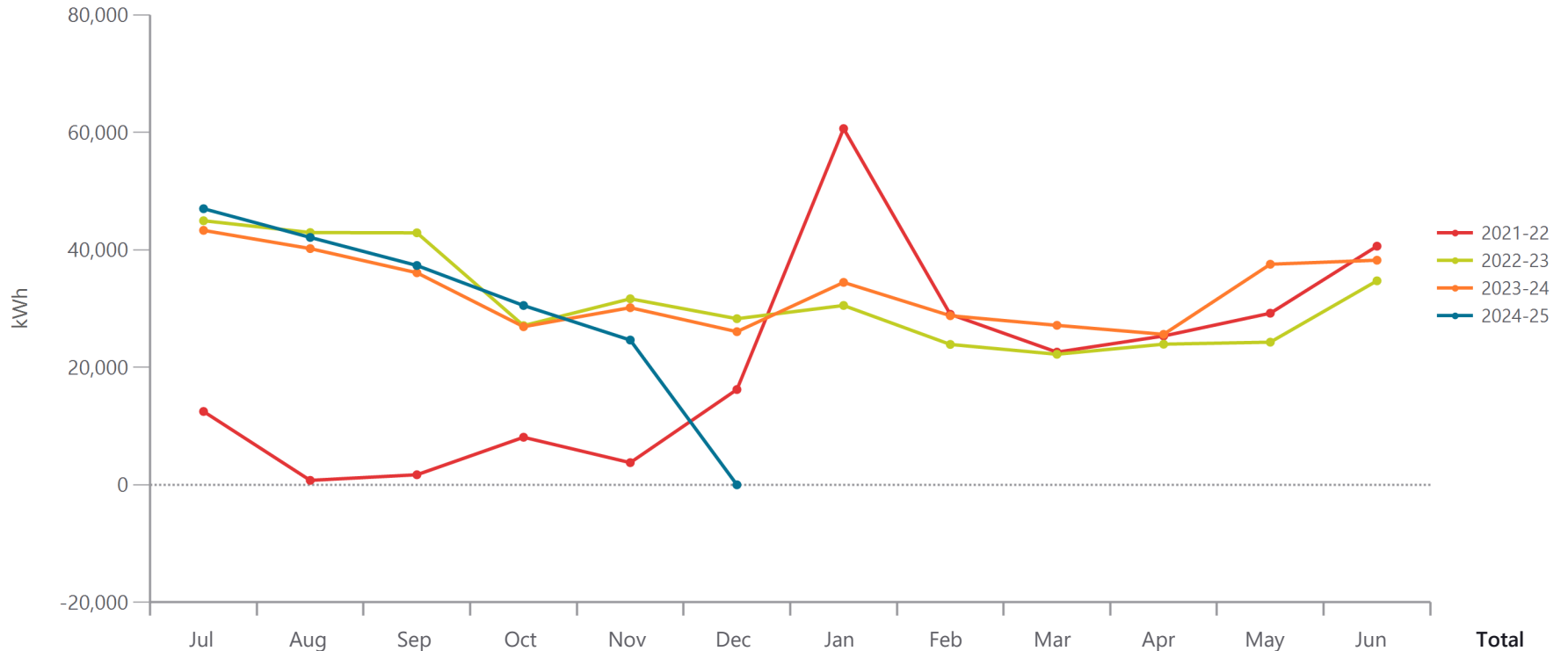
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	44,093	48,984	41,597	30,442	28,075	34,006	29,854	30,739	34,596	30,225	43,010	54,350	449,971
2022-23	50,700	58,337	40,133	37,222	35,544	47,896	46,845	32,509	38,975	34,154	40,801	66,977	530,093
2023-24	73,630	80,284	58,064	47,277	44,291	39,226	39,601	39,305	34,115	40,390	47,582	50,977	594,742
2024-25	64,290	56,291	37,188	33,461	36,844	0							228,074

Monthly Use by Year (Jul - Jun)

**NEBEL STREET SHELTER [3063]**

<b>Other (kWh)</b> Primary Use	<b>31,824 ft<sup>2</sup></b> Floor Area	<b>11600 NEBEL STREET</b> Rockville, MD, US 20852 Address
<b>Building</b> Place Type	---	---
	Build Date	

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
<b>2021-22</b>	12,486	757	1,712	8,095	3,774	16,221	60,637	29,029	22,584	25,332	29,209	40,622	250,458
<b>2022-23</b>	44,954	42,943	42,895	27,094	31,667	28,278	30,529	23,898	22,223	23,940	24,285	34,726	377,432
<b>2023-24</b>	43,312	40,211	36,099	26,916	30,153	26,066	34,459	28,787	27,149	25,616	37,550	38,234	394,552
<b>2024-25</b>	47,001	42,112	37,333	30,520	24,642	0							181,608

County purchased and retrofitted facility between 2022- 2023 Jul through Jan

Monthly Use by Year (Jul - Jun)

**NANCY H. DACEK NORTH POTOMAC CRC [7137]**

Other - Recreation (kWh)  
Primary Use

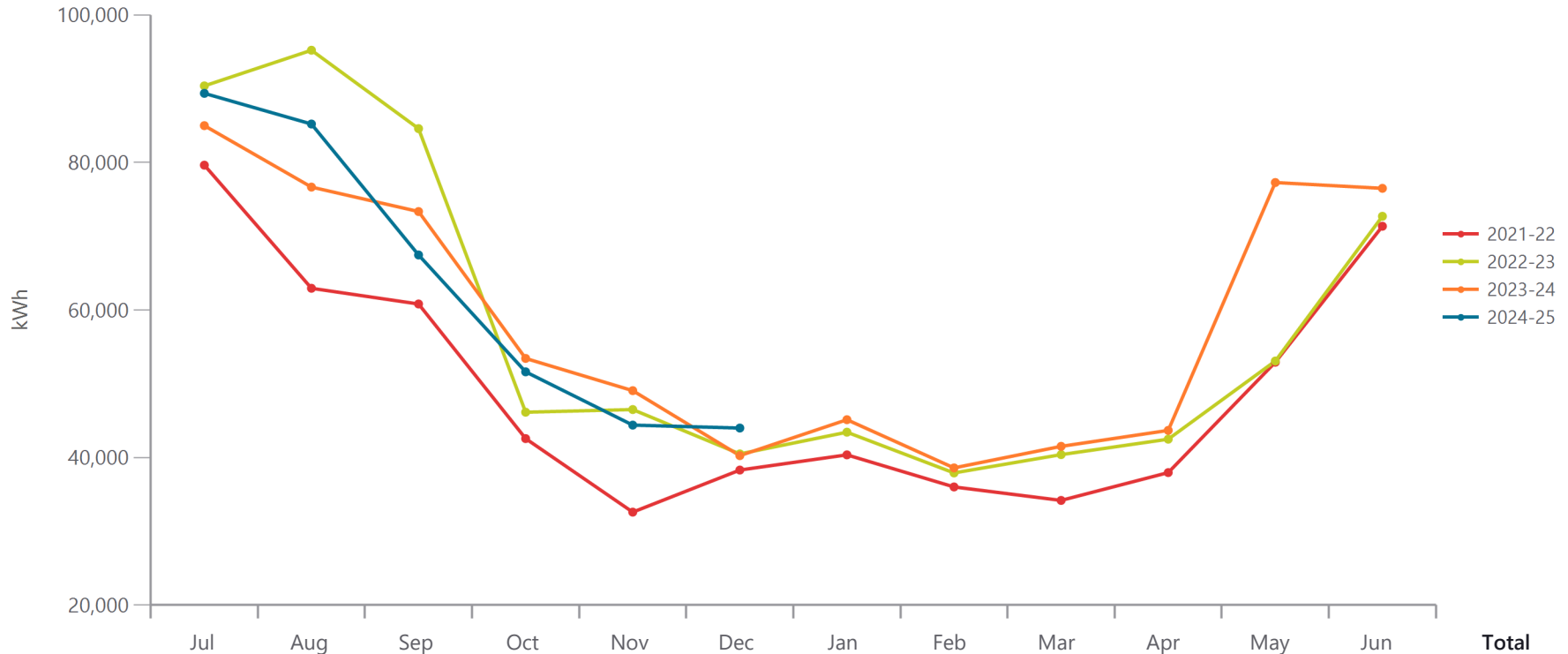
48,084 ft<sup>2</sup>  
Floor Area

13860 Travilah Road  
Rockville, MD, US 20850  
Address

Building  
Place Type

07/01/2016  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	79,634	62,945	60,816	42,569	32,600	38,304	40,364	36,014	34,189	37,959	52,918	71,351	589,663
2022-23	90,380	95,213	84,589	46,146	46,504	40,491	43,435	37,912	40,396	42,490	53,082	72,704	693,342
2023-24	84,991	76,662	73,346	53,435	49,068	40,258	45,129	38,596	41,517	43,680	77,281	76,491	700,454
2024-25	89,368	85,209	67,460	51,617	44,396	43,998							382,048

Monthly Use by Year (Jul - Jun)

**PLUM GAR CRC [7111]**

**Other - Recreation (kWh)**  
Primary Use

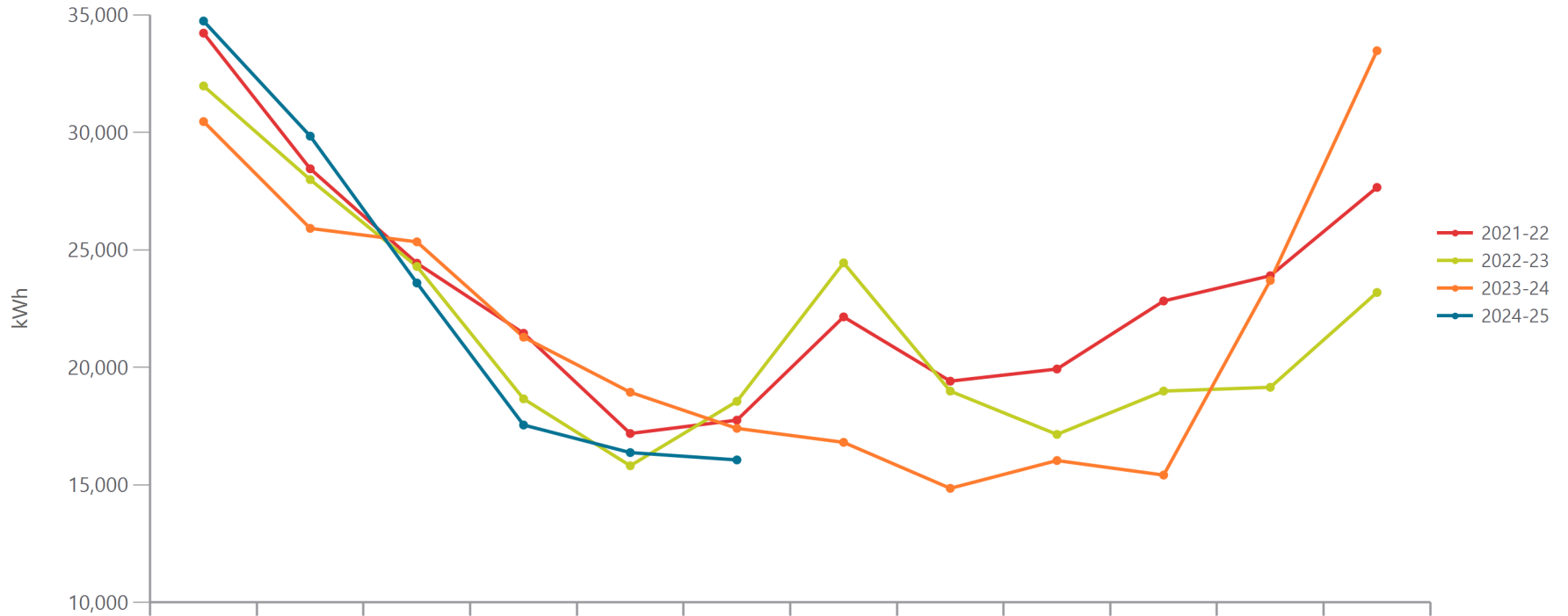
**19,583 ft<sup>2</sup>**  
Floor Area

**19561 Scenery Drive**  
**Germantown, MD, US 20876**  
Address

**Building**  
Place Type

**07/01/2012**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	34,223	28,451	24,433	21,453	17,188	17,756	22,149	19,415	19,931	22,826	23,901	27,658	279,384
2022-23	31,975	27,989	24,295	18,662	15,815	18,556	24,447	18,992	17,149	18,993	19,154	23,188	259,215
2023-24	30,459	25,915	25,342	21,286	18,943	17,406	16,812	14,855	16,038	15,419	23,699	33,474	259,648
2024-25	34,738	29,840	23,592	17,549	16,376	16,064							138,159

Monthly Use by Year (Jul - Jun)

**POTOMAC CRC [7114]**

**Other - Recreation (kWh)**  
Primary Use

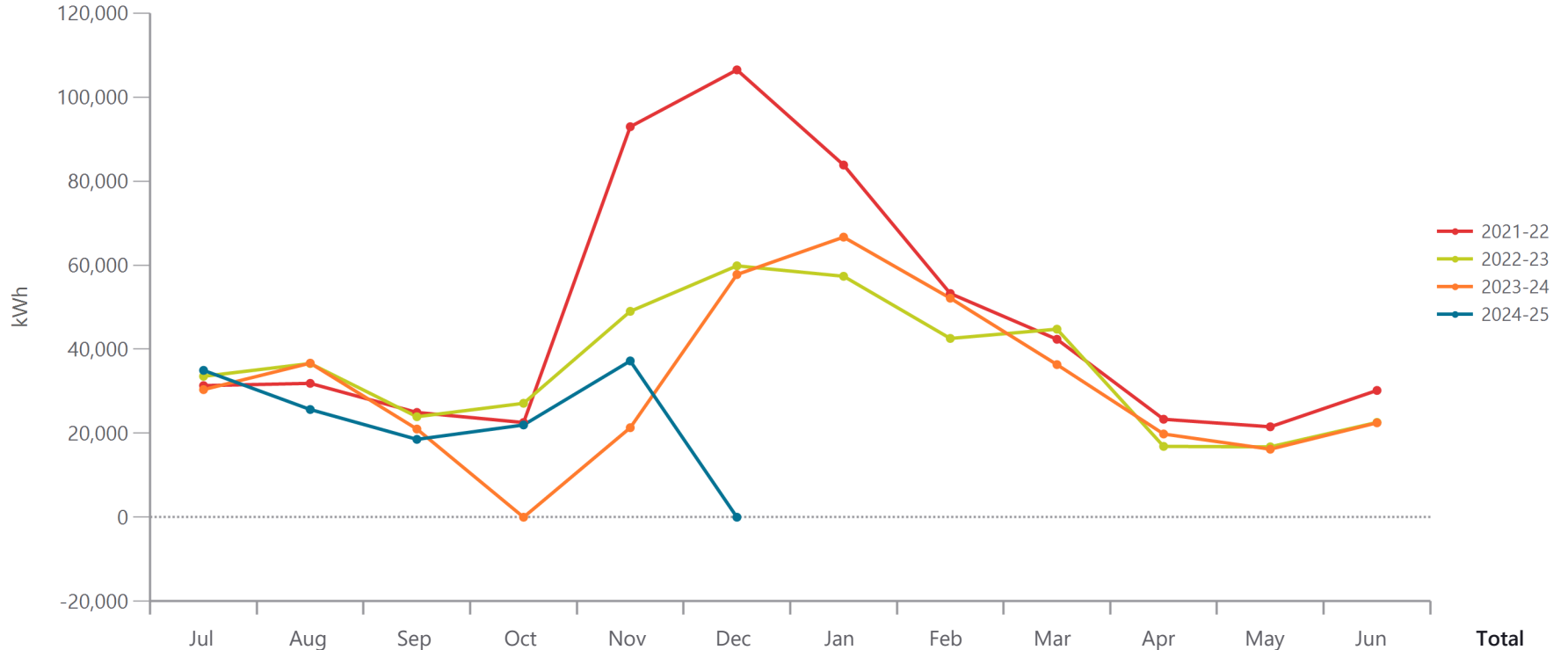
**29,772 ft<sup>2</sup>**  
Floor Area

**11315 Falls Road**  
**Potomac, MD, US 20854**  
Address

**Building**  
Place Type

**01/01/1967**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	31,326	31,863	24,941	22,544	92,952	106,485	83,836	53,254	42,359	23,326	21,526	30,181	564,593
2022-23	33,544	36,595	23,926	27,122	49,011	59,843	57,356	42,554	44,767	16,862	16,750	22,573	430,903
2023-24	30,376	36,677	20,989	24,572	21,311	57,767	66,674	52,143	36,329	19,811	16,192	22,474	405,285
2024-25	34,964	25,642	18,534	21,961	37,201	0							138,302

Monthly Use by Year (Jul - Jun)

**ROSS BODDY CRC [7113]**

Recreation (kWh)  
Primary Use

27,436 ft<sup>2</sup>  
Floor Area

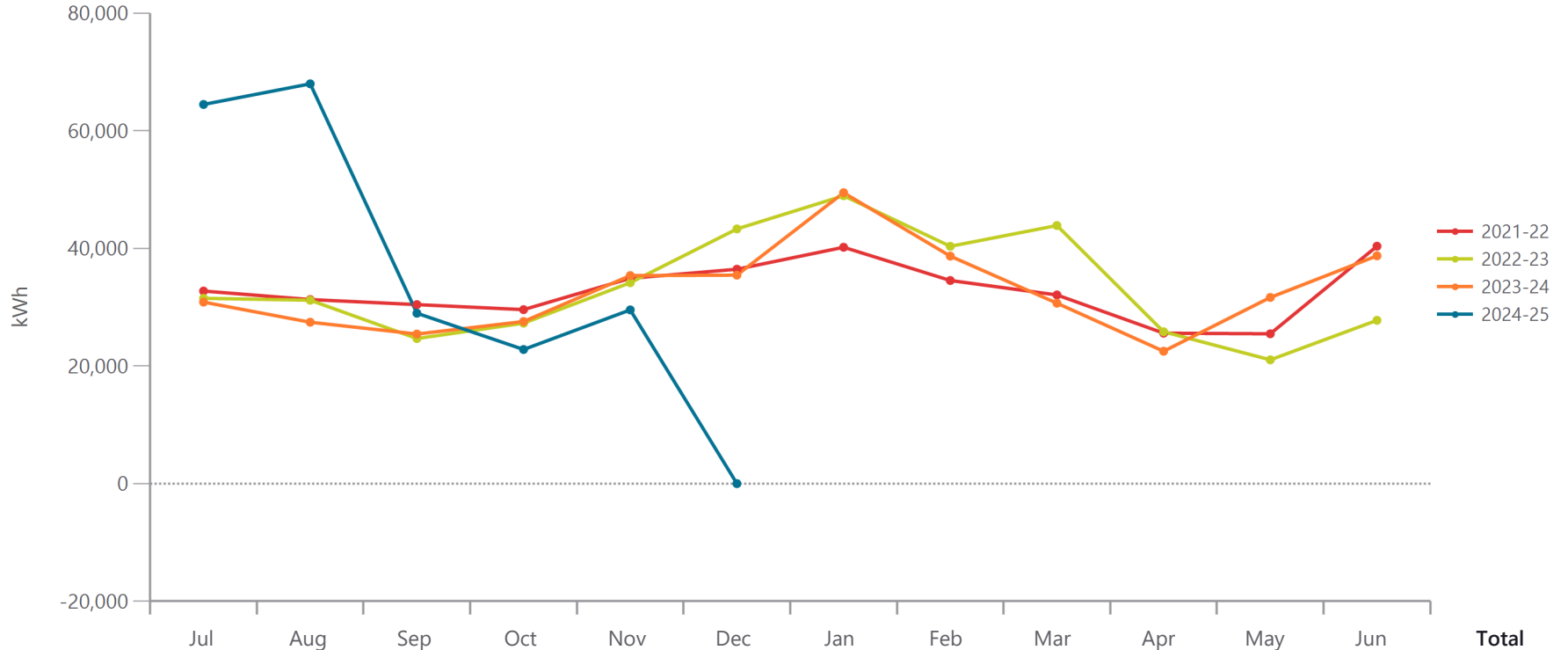
Score: 8, Month: Oct 2024  
ENERGY STAR

18529 Brooke Road  
Sandy Spring, MD, US 20860  
Address

Building  
Place Type

07/01/2016  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	32,742	31,298	30,437	29,580	34,912	36,450	40,188	34,539	32,080	25,583	25,478	40,366	393,653
2022-23	31,506	31,181	24,671	27,279	34,159	43,303	48,953	40,347	43,884	25,818	21,046	27,763	399,910
2023-24	30,857	27,443	25,429	27,565	35,372	35,452	49,462	38,682	30,677	22,510	31,655	38,732	393,836
2024-25	64,470	67,974	28,972	22,803	29,537	0							213,756



Monthly Use by Year (Jul - Jun)

**WHEATON CRC [1026]**

Recreation (kWh)  
Primary Use

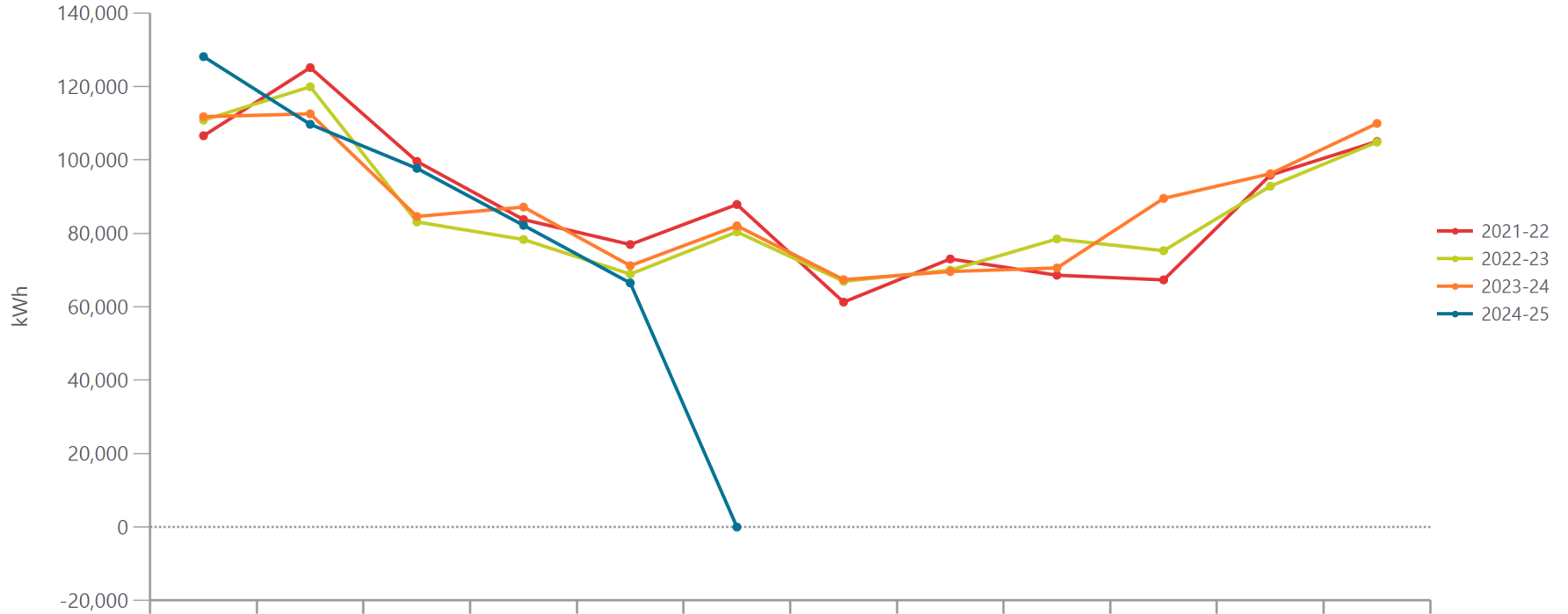
94,000 ft<sup>2</sup>  
Floor Area

11701 GEORGIA AVE  
SILVER SPRING, MD, US 20902  
Address

Building  
Place Type

---  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	106,591	125,141	99,593	83,750	76,958	87,866	61,275	73,027	68,597	67,319	95,856	105,034	1,051,007
2022-23	110,836	119,939	83,111	78,320	68,900	80,395	66,931	69,989	78,474	75,271	92,837	104,849	1,029,852
2023-24	111,781	112,557	84,607	87,159	71,191	82,055	67,384	69,607	70,567	89,526	96,227	109,934	1,052,595
2024-25	128,146	109,698	97,706	82,180	66,486	0							484,216

Monthly Use by Year (Jul - Jun)

**WHEATON RESCUE SQUAD R2 [4202]**

Fire Station (kWh)  
Primary Use

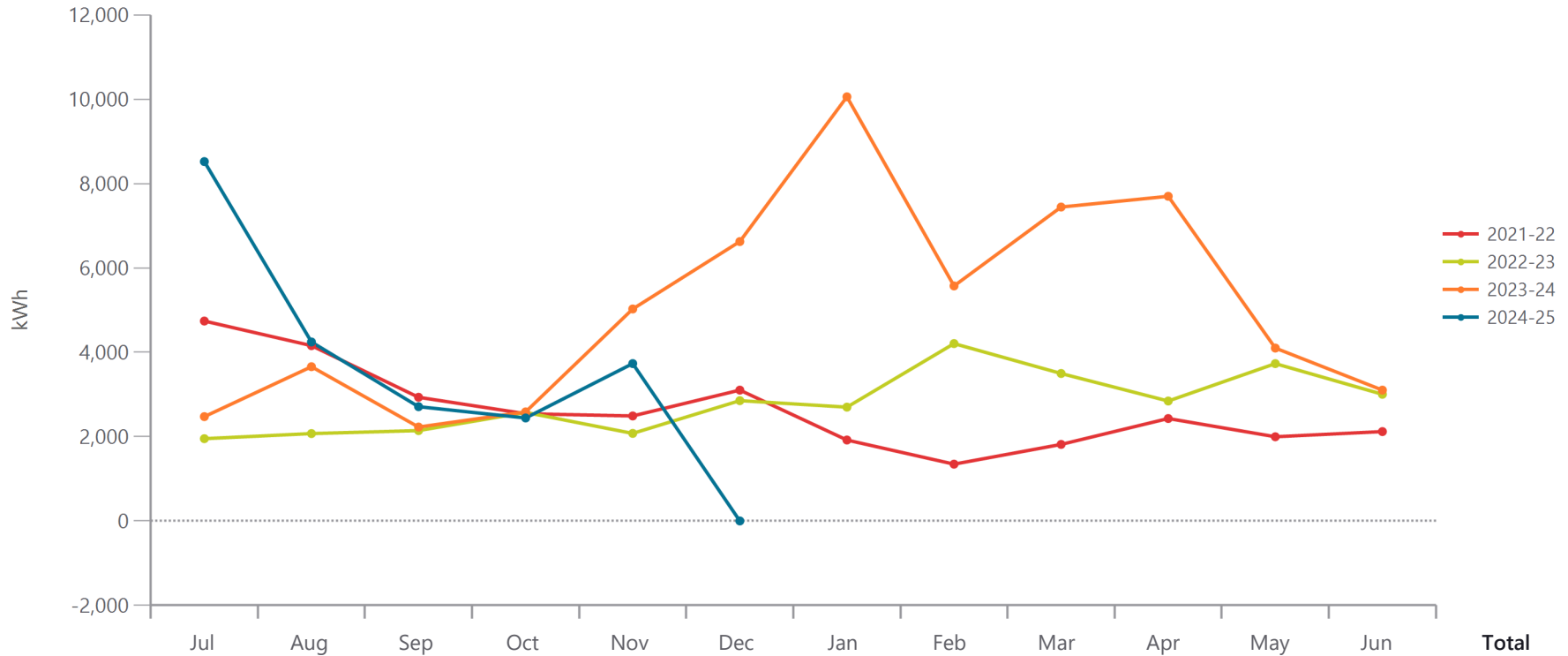
28,984 ft<sup>2</sup>  
Floor Area

2400 Arcola Avenue  
Wheaton, MD, US 20902  
Address

Building  
Place Type

07/01/2013  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	4,741	4,157	2,933	2,543	2,490	3,103	1,919	1,347	1,815	2,429	1,997	2,119	31,593
2022-23	1,951	2,072	2,143	2,574	2,076	2,853	2,699	4,206	3,497	2,844	3,731	3,004	33,650
2023-24	2,474	3,658	2,227	2,587	5,027	6,626	10,058	5,573	7,444	7,699	4,100	3,103	60,576
2024-25	8,522	4,244	2,710	2,442	3,732	0							21,650

Monthly Use by Year (Jul - Jun)

**WHITE OAK CRC [7140]**

Recreation (kWh)  
Primary Use

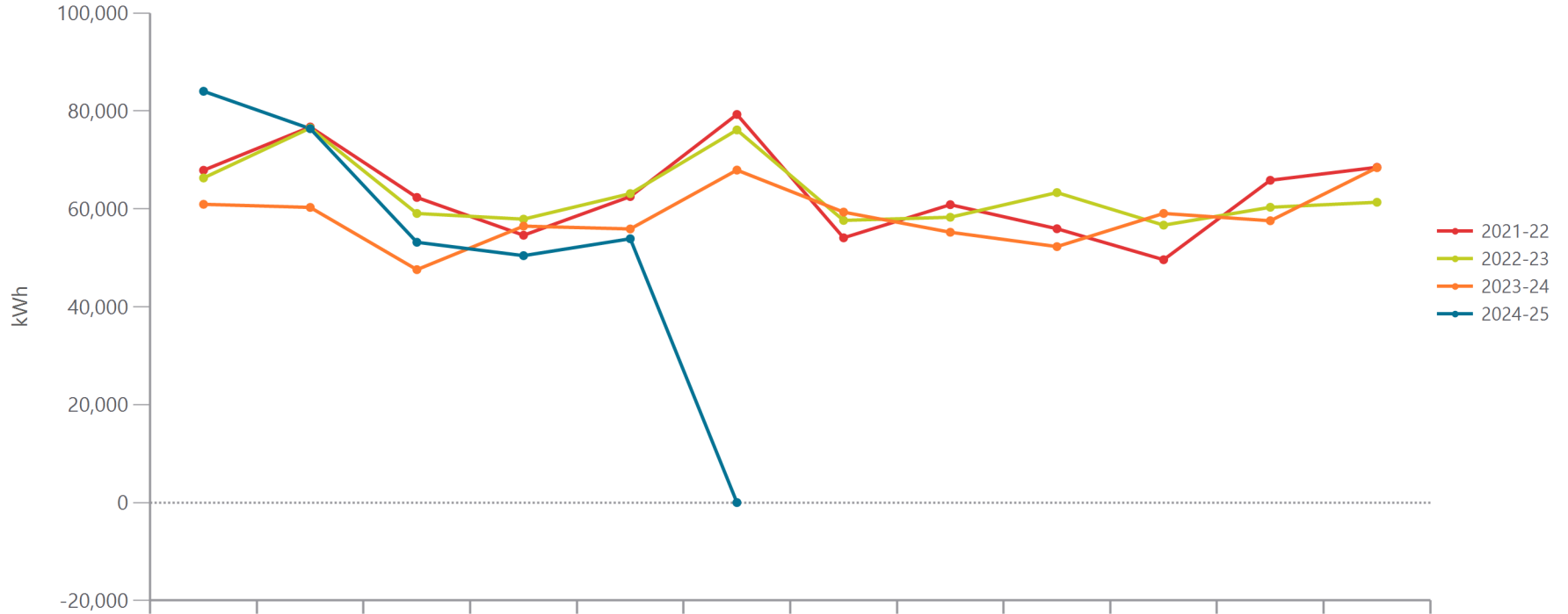
54,022 ft<sup>2</sup>  
Floor Area

1700 April Lane  
Silver Spring, MD, US 20904  
Address

Building  
Place Type

03/01/2012  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	67,885	76,732	62,333	54,611	62,514	79,292	54,089	60,859	55,940	49,610	65,843	68,493	758,201
2022-23	66,316	76,521	59,065	57,899	63,118	76,124	57,644	58,286	63,328	56,672	60,326	61,354	756,653
2023-24	60,932	60,300	47,581	56,474	55,898	67,925	59,336	55,223	52,291	59,071	57,571	68,415	701,017
2024-25	84,029	76,388	53,177	50,440	53,897	0							317,931

Monthly Use by Year (Jul - Jun)

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Monthly Use by Year (Jul - Jun)

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## Monthly Trends—Comparing Year-to-Year – Buildings Report-01-BLDG

Thursday, January 2, 2025 5:03 PM (Coordinated Universal Time)

A line chart (with data table) that reports on a variety of use and cost types for buildings and organizations. You can chart multiple years by month. Set a variance threshold and have the report automatically highlight abnormal results.

### Filters Used

- Data Displayed equals Billing Period
- First Month (1-12) equals 7
- Include Account Charges equals False
- Value Displayed equals Use
- Account is Active equals True
- Bill is Void equals False
- Billing Period greater than 202106
- Building Group equals 5.RE-Resiliency Hub (RFP 12-24-24)
- Commodity equals Electric
- Group Data By equals Place Type - Building

Monthly Use by Year (Jul - Jun)

**3rd\_DISTRICT\_POLICE\_STATION [4013]**

Police Station (THERM)

Primary Use

Building

Place Type

33,884 ft<sup>2</sup>

Floor Area

01/01/2014

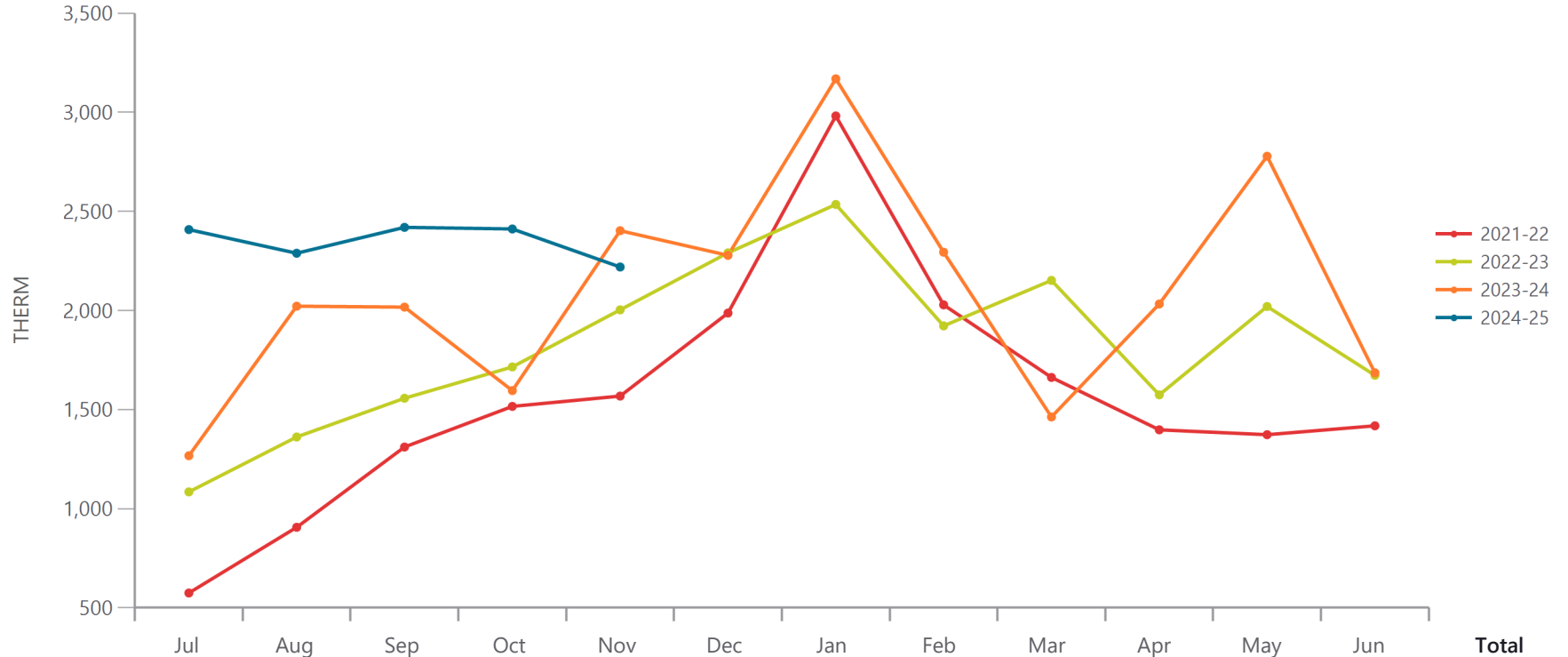
Build Date

1002 Milestone Drive

Silver Spring, MD, US 20904

Address

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	574	906	1,311	1,516	1,568	1,987	2,982	2,028	1,662	1,398	1,373	1,418	18,724
2022-23	1,085	1,362	1,557	1,715	2,003	2,291	2,535	1,922	2,152	1,574	2,020	1,673	21,889
2023-24	1,267	2,022	2,017	1,596	2,403	2,278	3,169	2,294	1,463	2,033	2,778	1,685	25,005
2024-25	2,408	2,289	2,420	2,411	2,219								11,748

Monthly Use by Year (Jul - Jun)

**5th\_DISTRICT\_POLICE\_STATION [4005]**

**Police Station (THERM)**

Primary Use

**24,860 ft<sup>2</sup>**

Floor Area

**20000 Aircraft Drive**

**Germantown, MD, US 20874**

Address

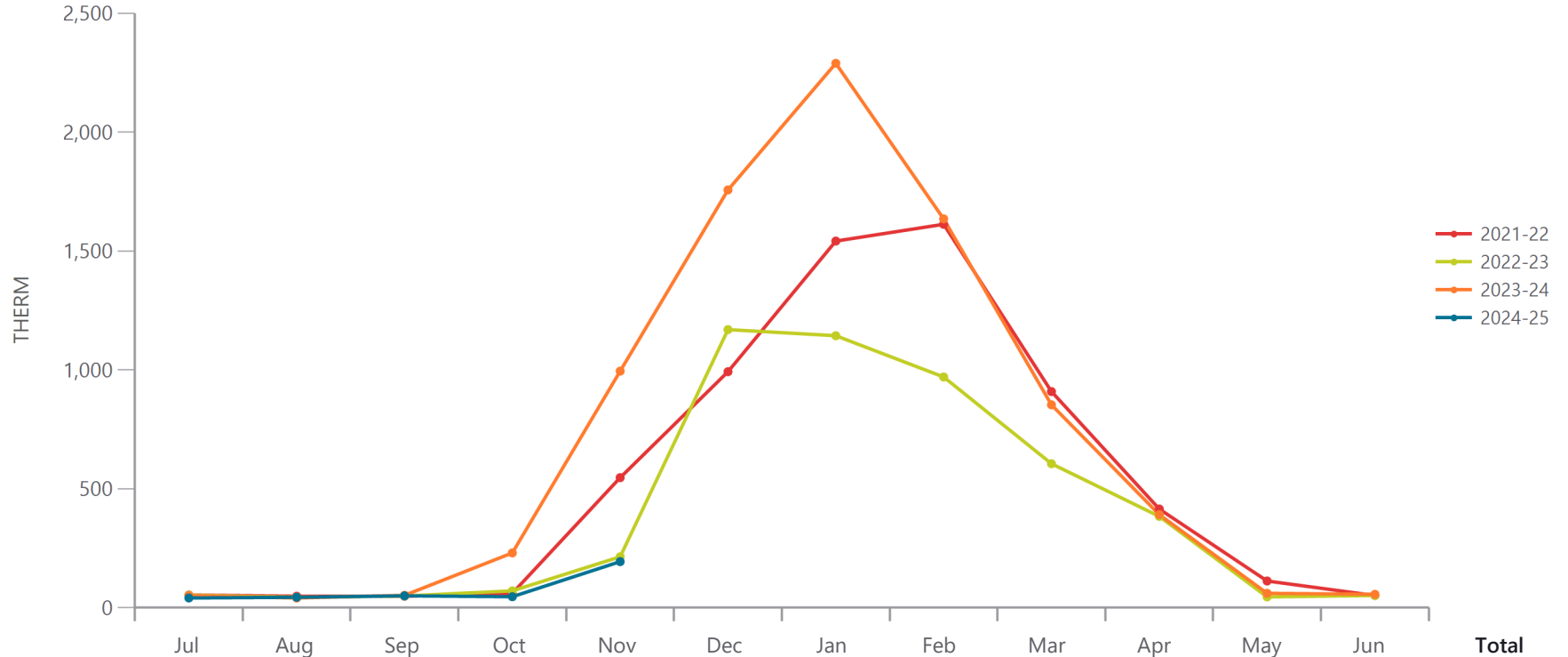
**Building**

Place Type

**07/01/1979**

Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	54	49	48	61	547	993	1,542	1,613	909	415	112	51	6,393
2022-23	52	44	49	71	214	1,170	1,144	970	606	384	45	51	4,802
2023-24	50	41	52	231	995	1,757	2,289	1,635	853	392	61	56	8,412
2024-25	41	44	50	46	194								375

Monthly Use by Year (Jul - Jun)

**DENNIS AVE HEALTH CENTER [3016]**

**Medical Office (THERM)**

Primary Use

53,432 ft<sup>2</sup>

Floor Area

2000 DENNIS AVENUE

Silver Spring, MD, US 20902

Address

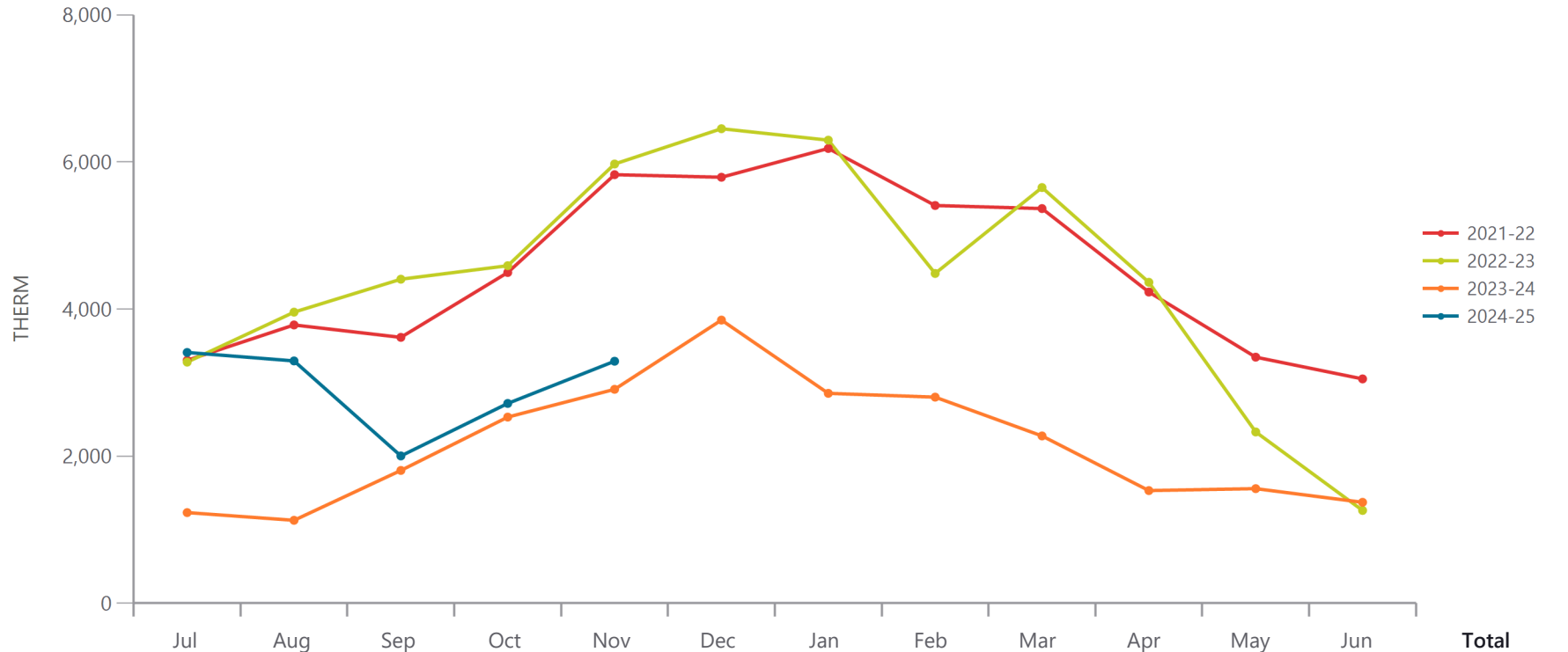
**Building**

Place Type

07/07/2017

Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	3,302	3,784	3,615	4,497	5,827	5,792	6,184	5,408	5,367	4,231	3,346	3,050	54,402
2022-23	3,279	3,958	4,406	4,589	5,972	6,452	6,296	4,484	5,652	4,364	2,329	1,262	53,043
2023-24	1,232	1,128	1,806	2,531	2,908	3,850	2,854	2,802	2,275	1,532	1,558	1,372	25,848
2024-25	3,410	3,295	2,003	2,717	3,291								14,714



Monthly Use by Year (Jul - Jun)

**FIRE STATION #18 [4118]**

Fire Station (THERM)  
Primary Use

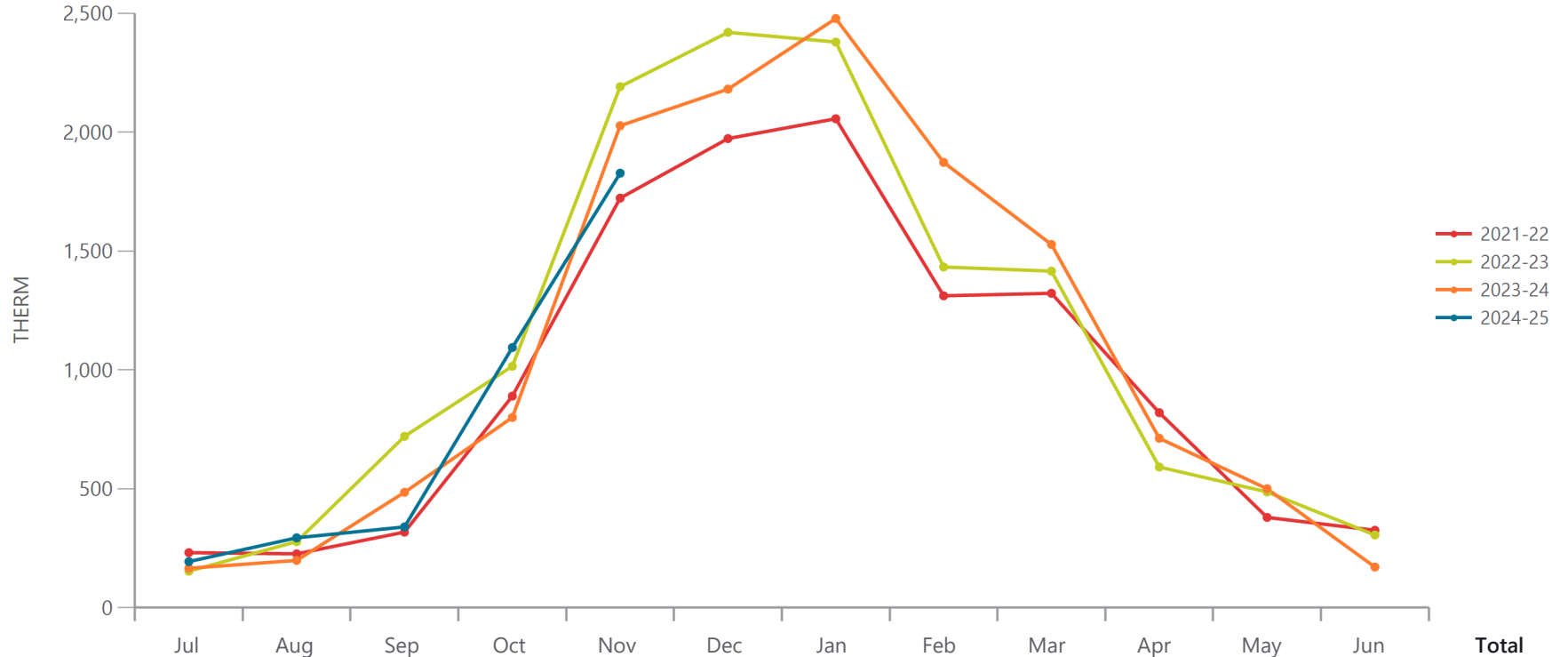
22,564 ft<sup>2</sup>  
Floor Area

12210 Georgia Ave  
Wheaton, MD, US 20902  
Address

Building  
Place Type

10/01/2016  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	232	227	318	890	1,723	1,973	2,056	1,312	1,322	820	380	326	11,578
2022-23	154	278	721	1,016	2,191	2,420	2,379	1,433	1,416	592	487	306	13,390
2023-24	166	199	485	800	2,027	2,181	2,478	1,873	1,528	713	500	171	13,121
2024-25	194	294	340	1,094	1,828								3,749

Monthly Use by Year (Jul - Jun)

**FIRE STATION #25 [4125]**

**Fire Station (THERM)**  
Primary Use

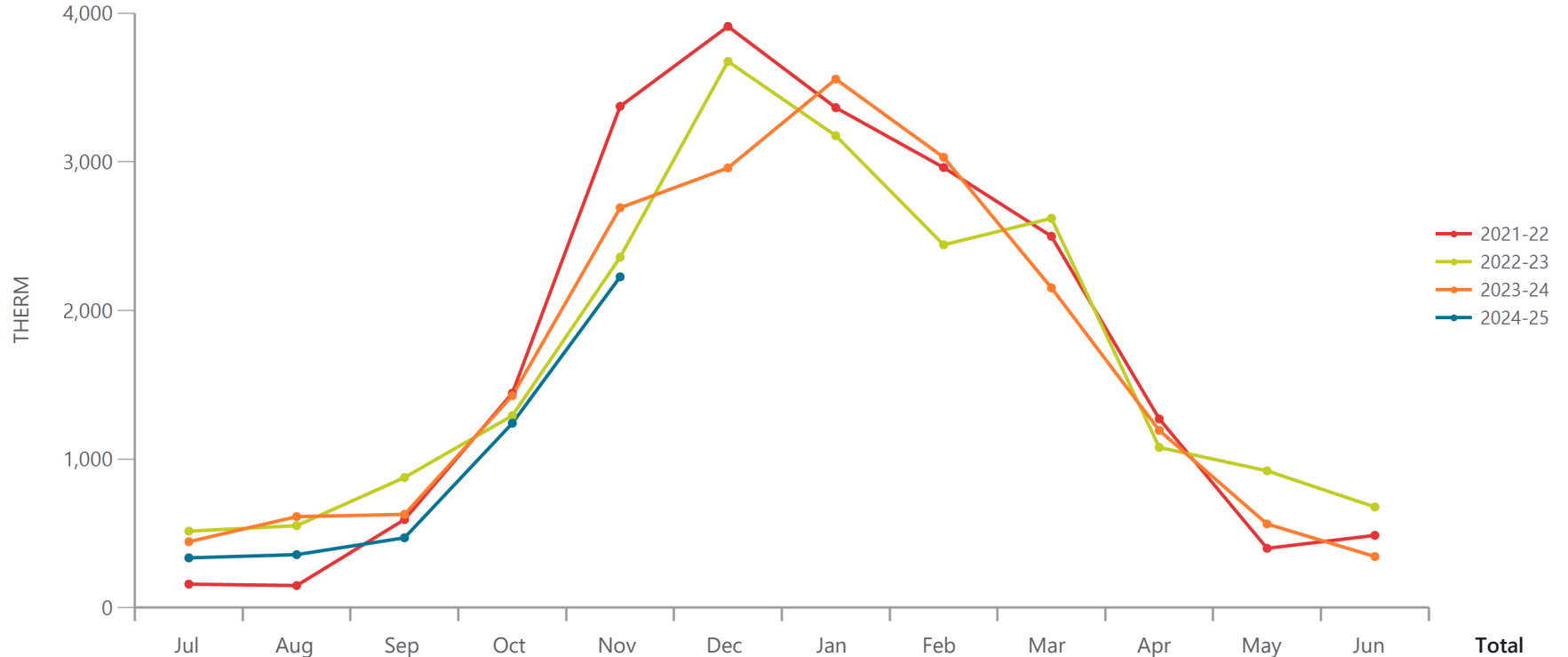
**25,633 ft<sup>2</sup>**  
Floor Area

**14401 Connecticut Avenue**  
**Silver Spring, MD, US 20906**  
Address

**Building**  
Place Type

**07/01/1988**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	159	149	593	1,444	3,374	3,911	3,365	2,962	2,499	1,270	400	487	20,612
2022-23	515	552	876	1,292	2,359	3,676	3,176	2,442	2,620	1,079	921	678	20,186
2023-24	444	613	628	1,427	2,691	2,959	3,557	3,031	2,152	1,193	564	344	19,603
2024-25	336	357	471	1,242	2,226								4,631

Monthly Use by Year (Jul - Jun)

**FIRE STATION #32 [4132]**

**Fire Station (THERM)**  
Primary Use

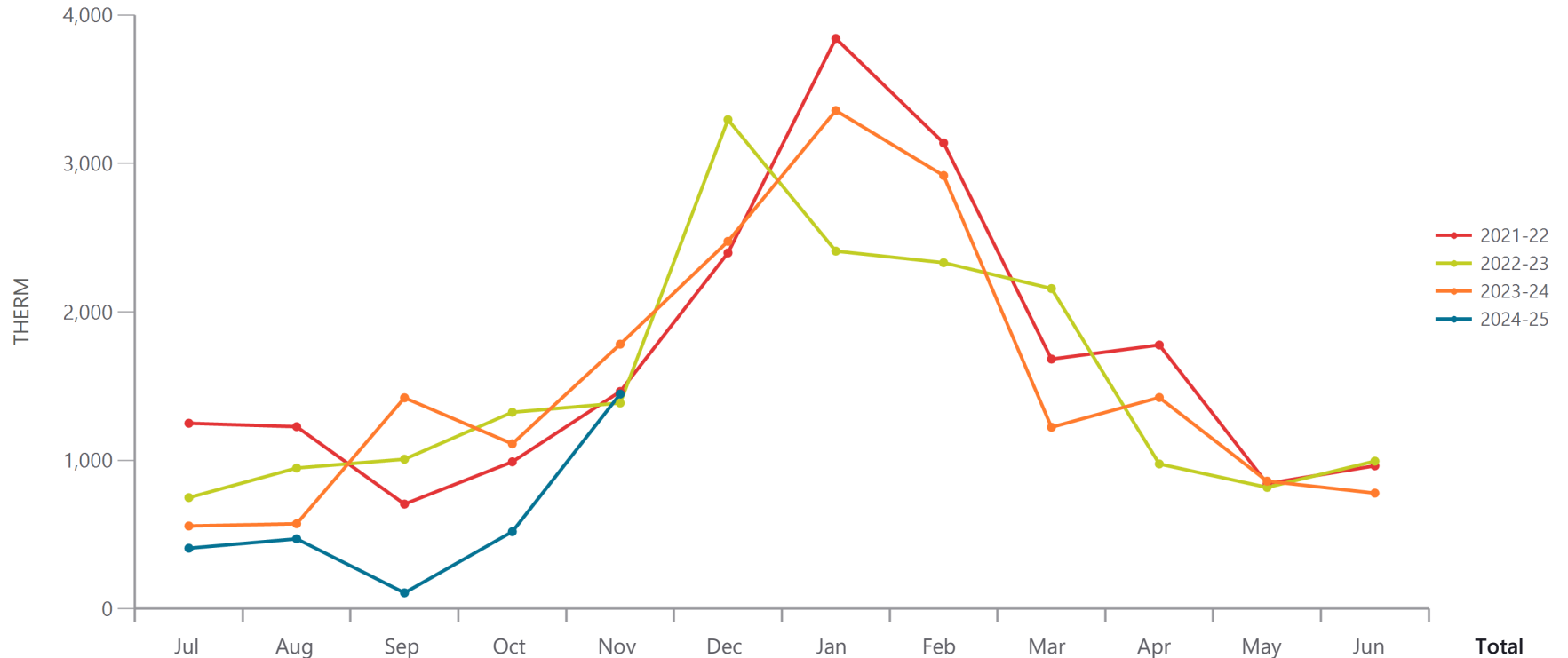
**26,087 ft<sup>2</sup>**  
Floor Area

**9615 Darnestown Rd.**  
**Rockville, MD, US 20850**  
Address

**Building**  
Place Type

**02/27/2013**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	1,250	1,227	705	990	1,464	2,398	3,842	3,138	1,682	1,777	844	963	20,278
2022-23	749	948	1,008	1,324	1,386	3,295	2,410	2,332	2,157	976	818	995	18,396
2023-24	558	573	1,421	1,111	1,783	2,475	3,357	2,918	1,223	1,423	860	779	18,480
2024-25	408	471	108	519	1,446								2,952

Monthly Use by Year (Jul - Jun)

**FIRE STATION #35 [4135]**

Fire Station (THERM)  
Primary Use

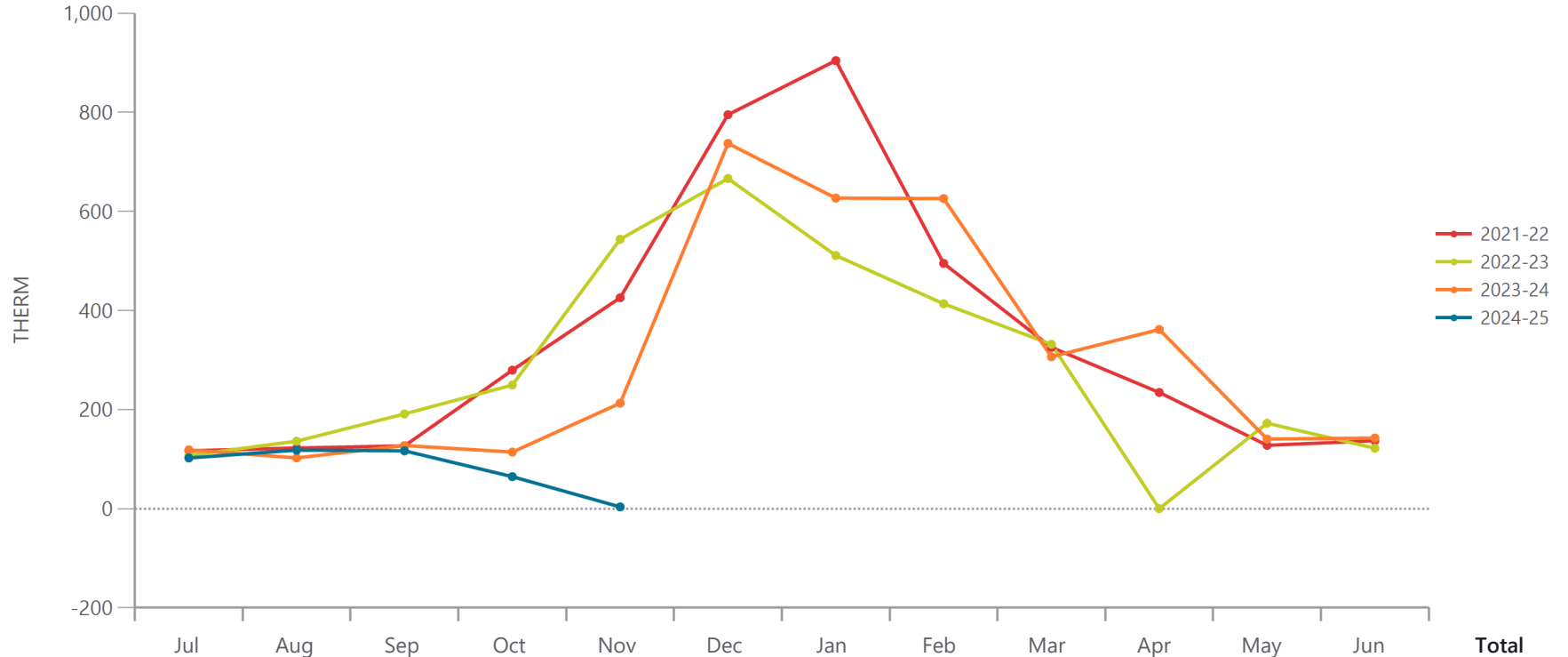
17,295 ft<sup>2</sup>  
Floor Area

22610 Gateway Center Dr.  
Clarksburg, MD, US 20871  
Address

Building  
Place Type

07/01/2001  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	117	122	127	280	426	795	904	495	326	235	128	137	4,091
2022-23	108	136	191	250	544	666	511	414	332	0	172	122	3,445
2023-24	119	102	127	114	213	737	627	626	307	362	141	143	3,617
2024-25	102	118	117	65	4								405

Monthly Use by Year (Jul - Jun)

**GOOD HOPE CRC [7109]**

**Other - Recreation (THERM)**  
Primary Use

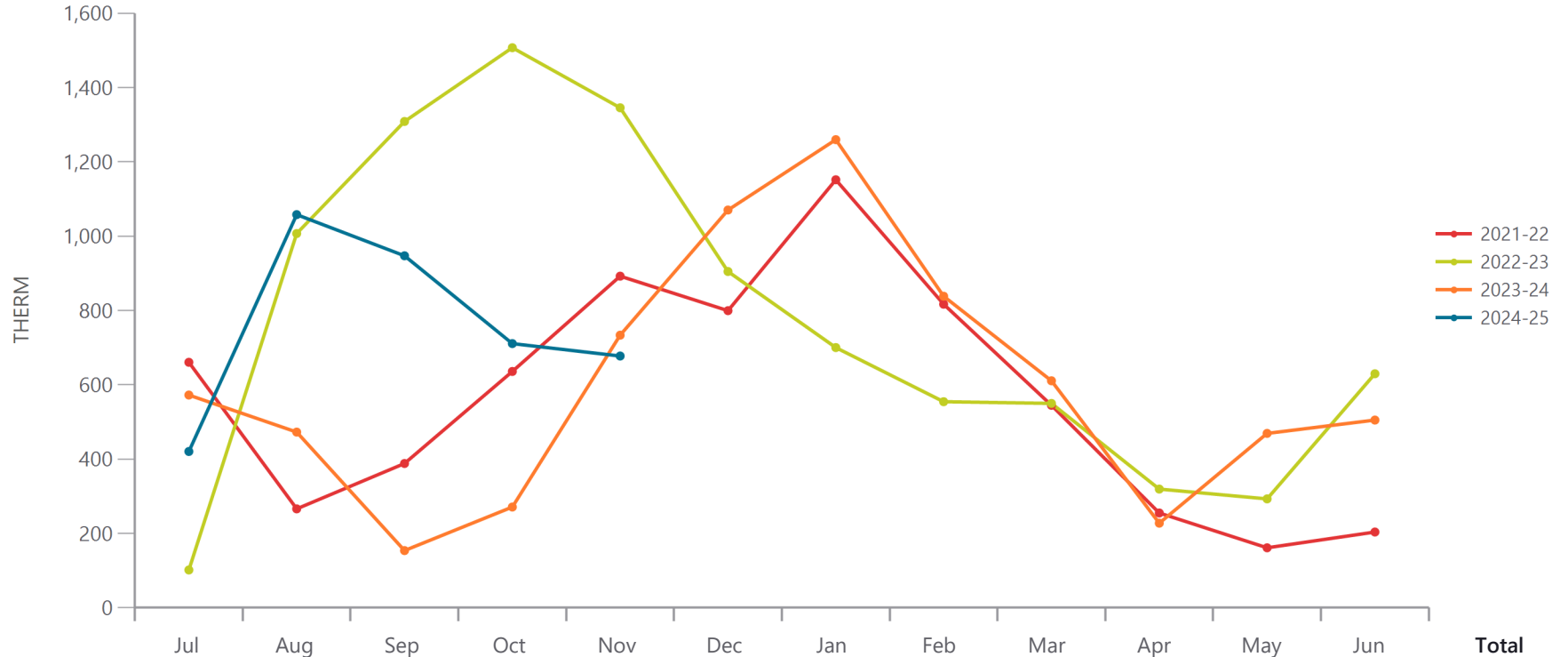
**13,720 ft<sup>2</sup>**  
Floor Area

**14715 Good Hope Road**  
**Silver Spring, MD, US 20905**  
Address

**Building**  
Place Type

**08/18/2001**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	661	266	388	636	892	800	1,152	817	545	255	161	204	6,776
2022-23	102	1,007	1,309	1,507	1,346	905	700	555	550	319	293	630	9,222
2023-24	572	473	154	271	734	1,070	1,260	838	611	228	469	505	7,185
2024-25	421	1,058	947	711	677								3,814

Monthly Use by Year (Jul - Jun)

**GWENDOLYN COFFIELD CRC [7112]**

**Other - Recreation (THERM)**  
Primary Use

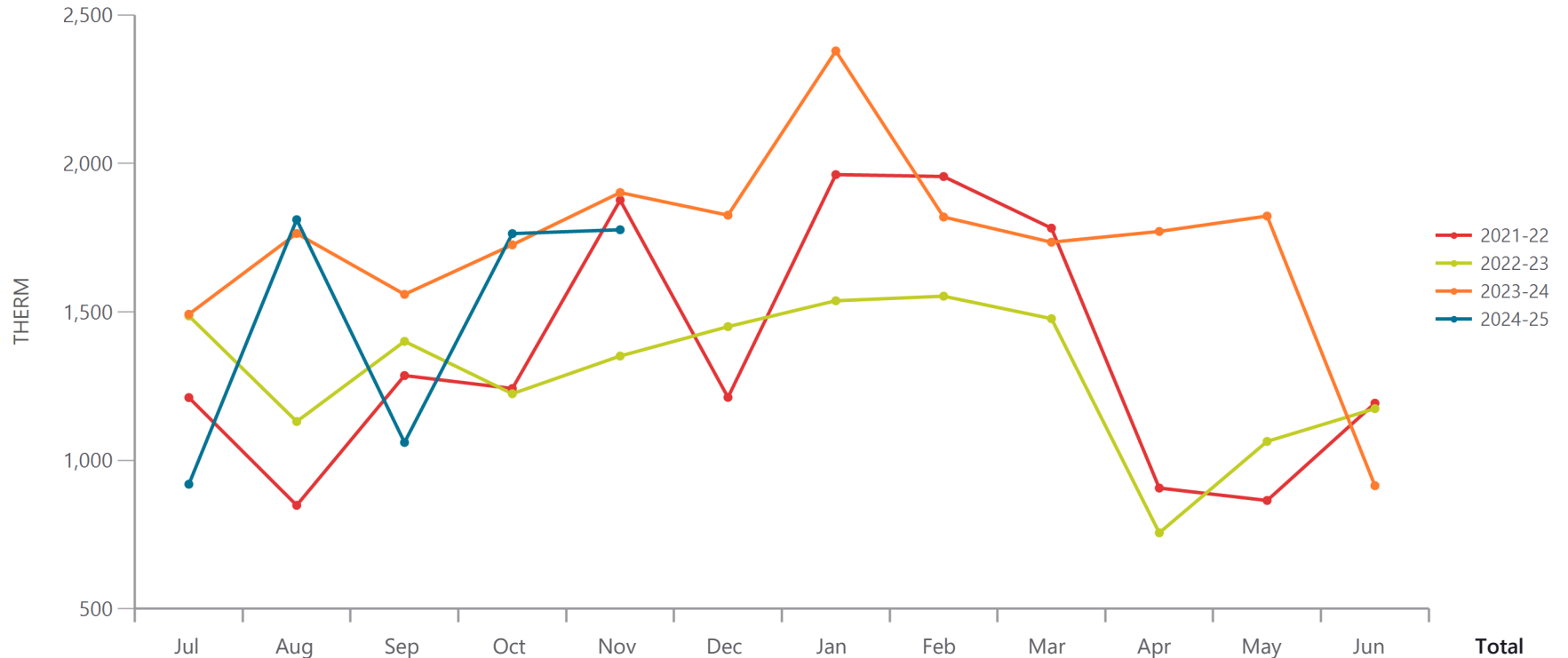
**28,394 ft<sup>2</sup>**  
Floor Area





**2450 Lyttonsville Road**  
**Silver Spring, MD, US 20910**  
Address

**Building**  
Place Type

**05/01/1966**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
 2021-22	1,211	849	1,286	1,242	1,876	1,212	1,962	1,956	1,782	907	865	1,192	16,340
 2022-23	1,486	1,131	1,401	1,224	1,351	1,450	1,538	1,553	1,477	756	1,064	1,174	15,606
 2023-24	1,492	1,764	1,559	1,726	1,902	1,826	2,379	1,820	1,735	1,771	1,823	915	20,710
 2024-25	920	1,811	1,060	1,764	1,777								7,331

Monthly Use by Year (Jul - Jun)

**LONG BRANCH RECREATION CENTER [7118]**

Social/Meeting Hall (THERM)  
Primary Use

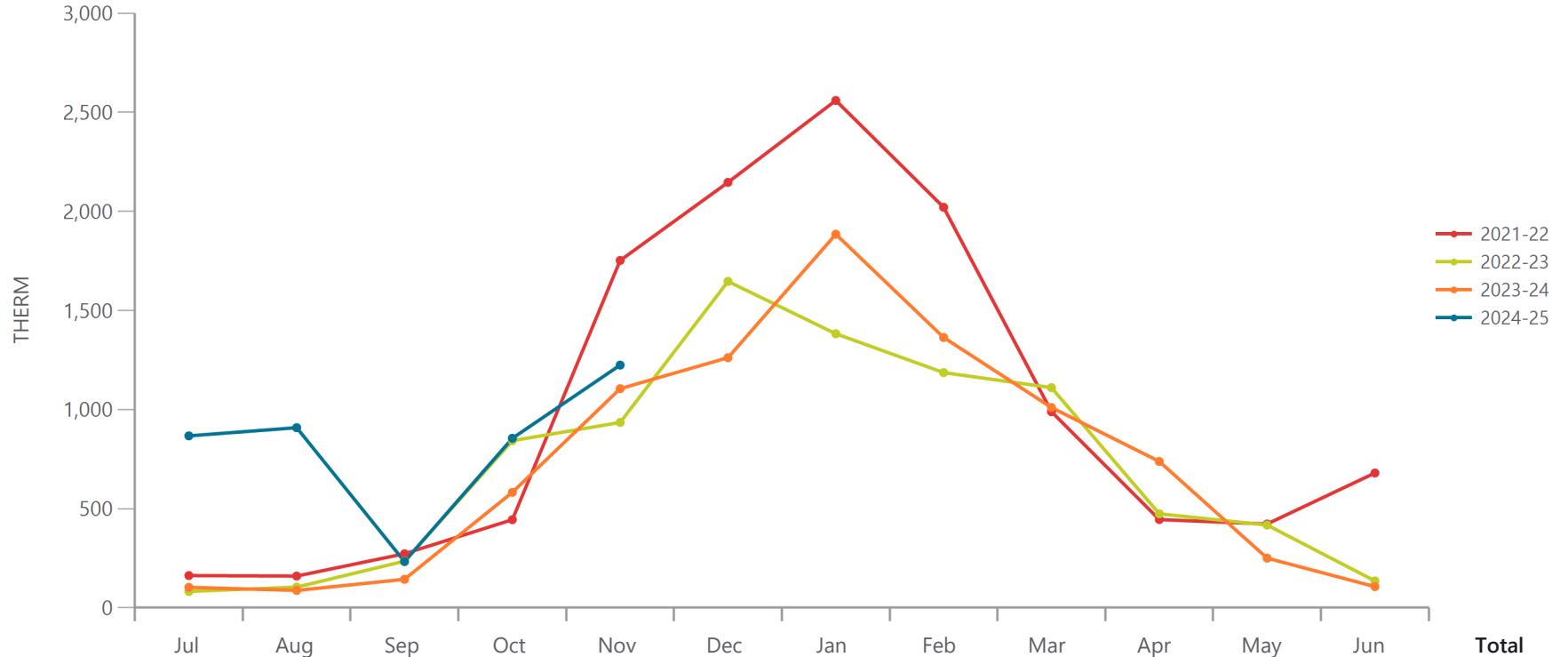
26,922 ft<sup>2</sup>  
Floor Area

8700 Piney Branch Road  
Silver Spring, MD, US 20901  
Address

Building  
Place Type

07/01/1986  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	162	160	272	444	1,753	2,147	2,560	2,021	989	445	423	680	12,055
2022-23	82	104	235	843	935	1,647	1,383	1,187	1,111	474	417	135	8,552
2023-24	103	87	143	582	1,105	1,262	1,885	1,364	1,010	738	250	107	8,636
2024-25	867	909	233	855	1,224								4,088

Monthly Use by Year (Jul - Jun)

**MARILYN J PRAISNER CRC [7130]**

**Other - Recreation (THERM)**  
Primary Use

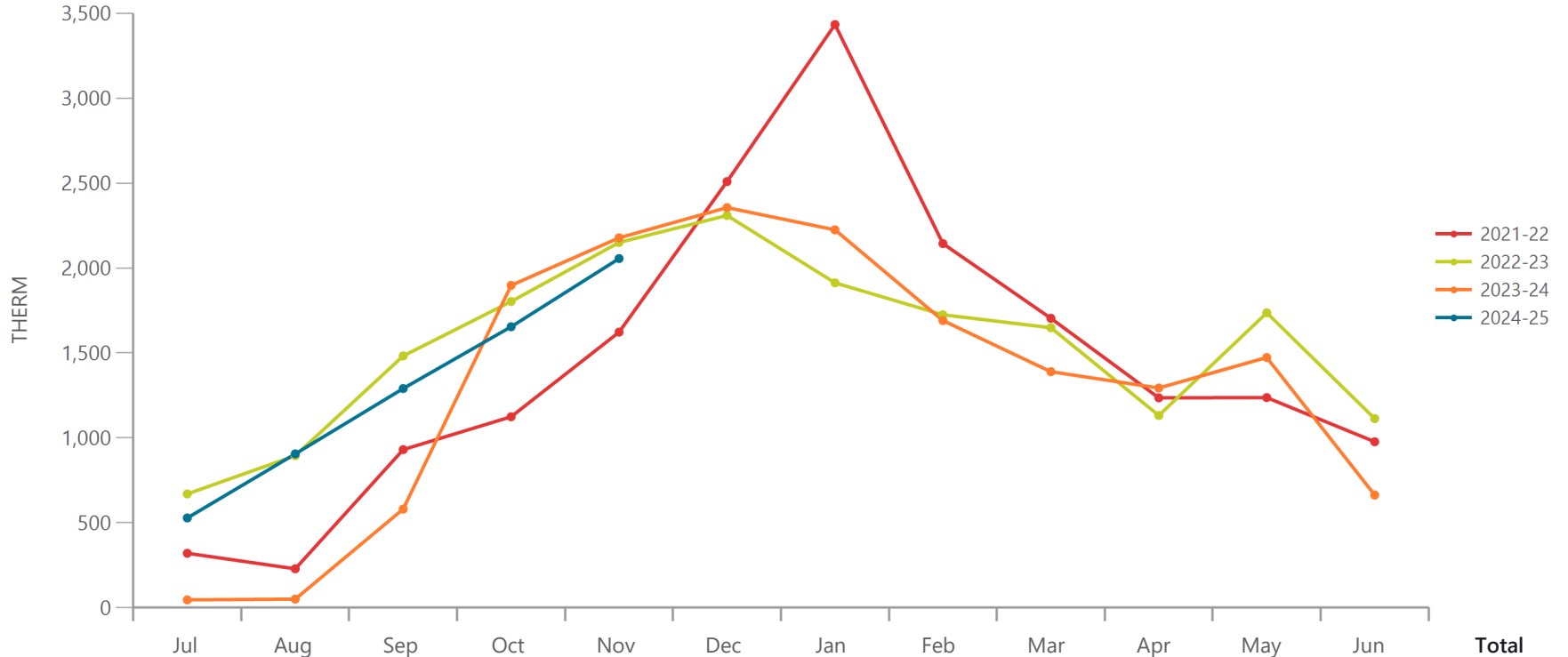
**31,294 ft<sup>2</sup>**  
Floor Area

**14906 Old Columbia Pike**  
**Burtonsville, MD, US 20866**  
Address

**Building**  
Place Type

**07/01/1999**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	321	229	931	1,124	1,623	2,509	3,433	2,144	1,704	1,236	1,237	977	17,467
2022-23	670	895	1,482	1,803	2,150	2,309	1,913	1,725	1,649	1,132	1,736	1,113	18,578
2023-24	46	51	581	1,898	2,178	2,356	2,225	1,691	1,390	1,294	1,473	664	15,845
2024-25	529	906	1,290	1,654	2,056								6,434



Monthly Use by Year (Jul - Jun)

**MID-COUNTY CRC [7139]**

**Other - Recreation (THERM)**  
Primary Use

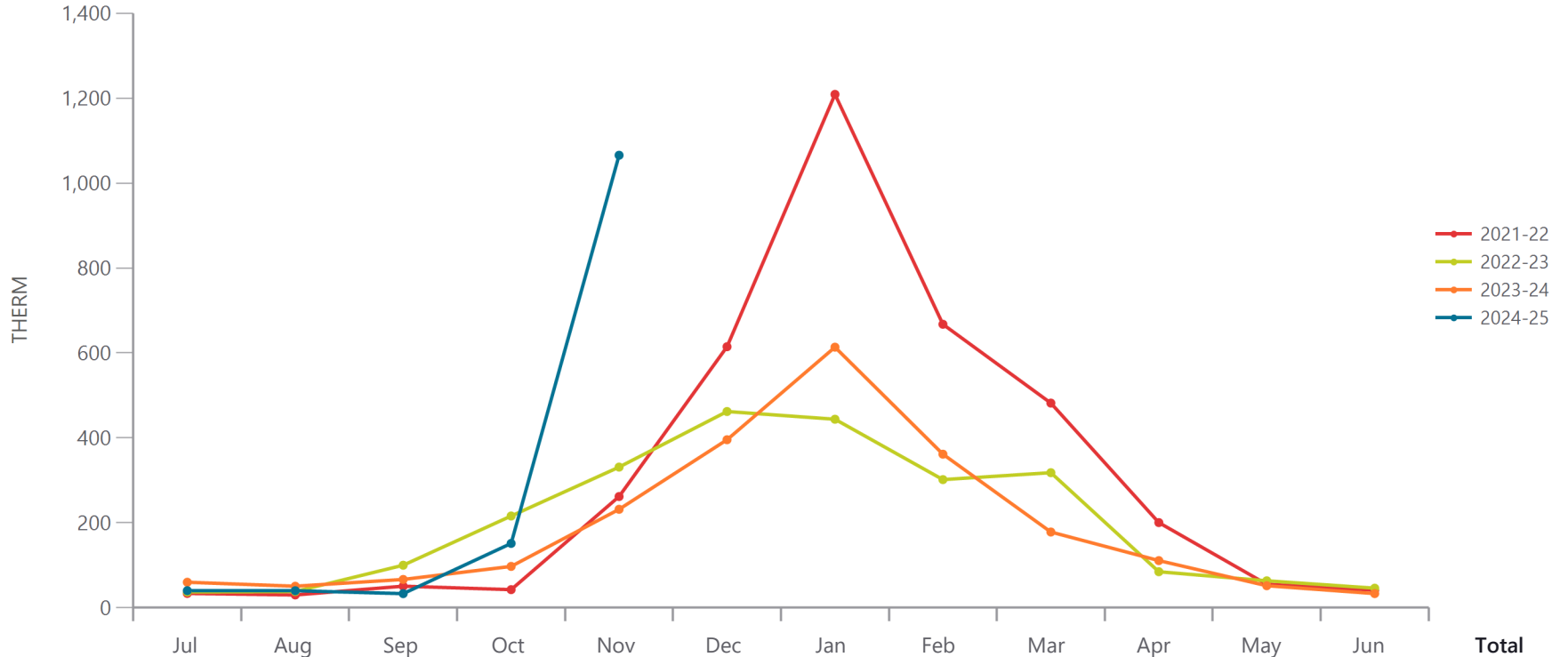
**31,086 ft<sup>2</sup>**  
Floor Area

2004 Queensguard Road  
Silver Spring, MD, US 20906  
Address

**Building**  
Place Type

**07/01/2010**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	34	30	51	43	262	615	1,209	668	482	201	55	41	3,689
2022-23	37	38	100	216	331	462	444	302	318	85	63	46	2,442
2023-24	60	51	67	97	232	396	614	362	178	111	52	33	2,252
2024-25	40	40	33	151	1,066								1,331

Monthly Use by Year (Jul - Jun)

**NEBEL STREET SHELTER [3063]**

**Other (THERM)**  
Primary Use

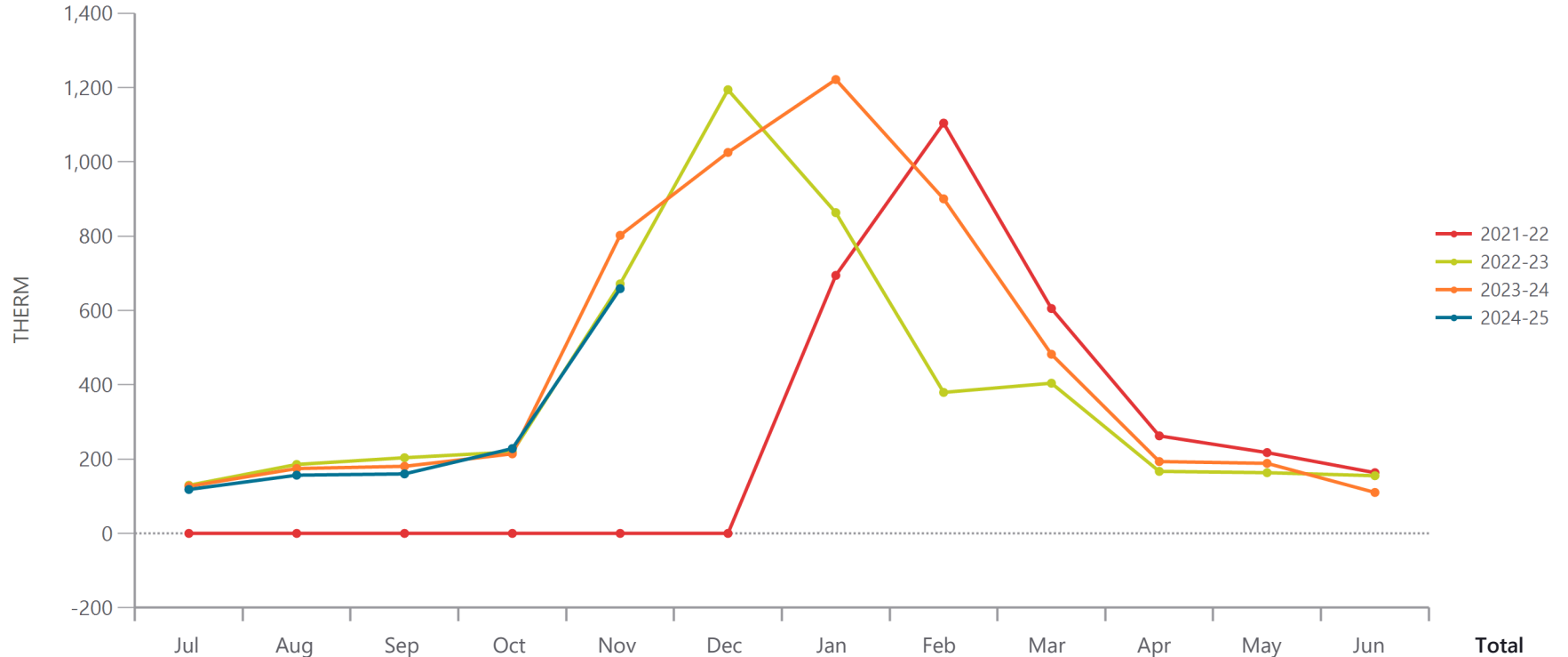
**31,824 ft<sup>2</sup>**  
Floor Area

**11600 NEBEL STREET**  
**Rockville, MD, US 20852**  
Address

**Building**  
Place Type

---  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	0	0	0	0	0	0	694	1,104	605	263	218	163	3,047
2022-23	130	186	204	219	672	1,194	863	380	404	167	163	155	4,737
2023-24	127	175	181	214	802	1,025	1,222	901	482	194	189	110	5,620
2024-25	118	157	160	228	659								1,322

County purchased and retrofitted facility between 2022- 2023 Jul through Jan

Monthly Use by Year (Jul - Jun)

**NANCY H. DACEK NORTH POTOMAC CRC [7137]**

Other - Recreation (THERM)  
Primary Use

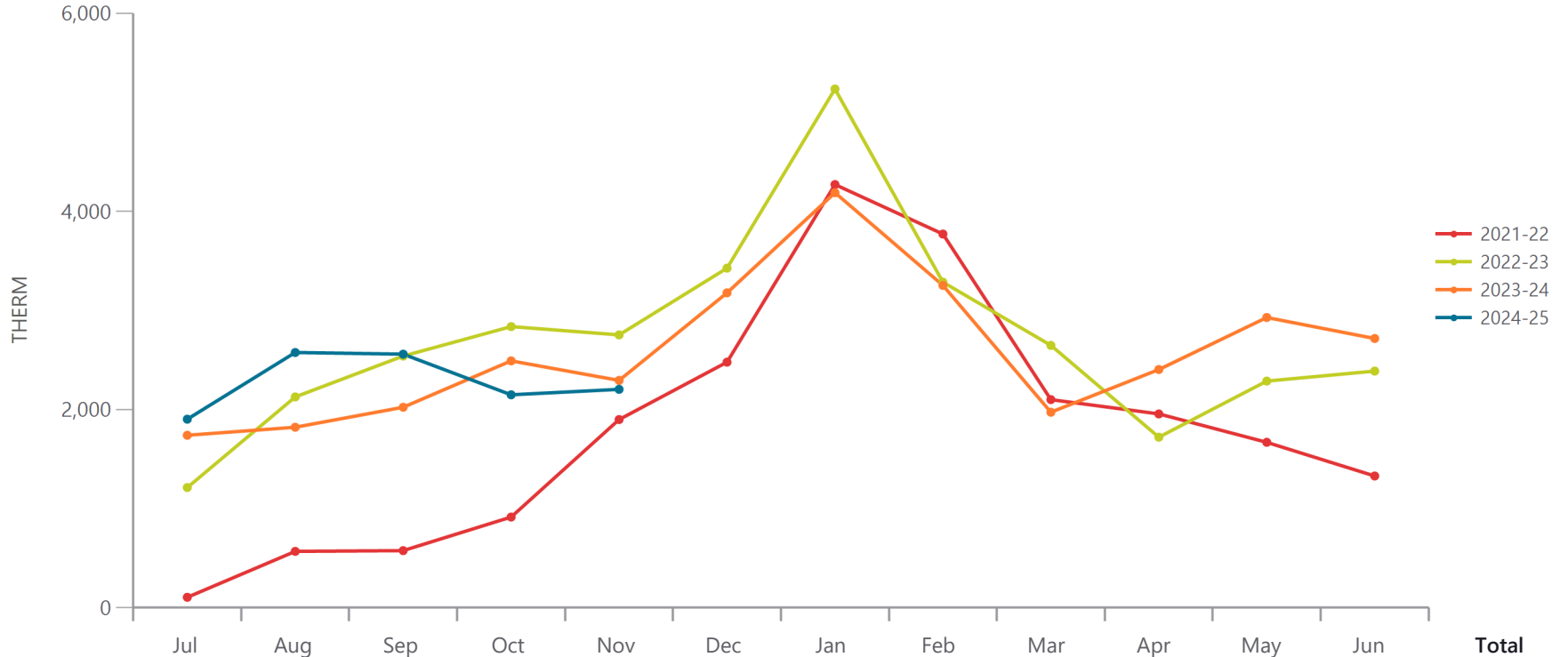
48,084 ft<sup>2</sup>  
Floor Area

13860 Travilah Road  
Rockville, MD, US 20850  
Address

Building  
Place Type

07/01/2016  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	105	569	576	915	1,899	2,479	4,271	3,772	2,100	1,956	1,670	1,329	21,642
2022-23	1,213	2,128	2,540	2,838	2,754	3,427	5,236	3,286	2,648	1,721	2,287	2,388	32,466
2023-24	1,741	1,822	2,023	2,492	2,294	3,178	4,189	3,253	1,973	2,404	2,929	2,717	31,016
2024-25	1,903	2,576	2,559	2,149	2,204								11,391

Monthly Use by Year (Jul - Jun)

**PLUM GAR CRC [7111]**

**Other - Recreation (THERM)**  
Primary Use

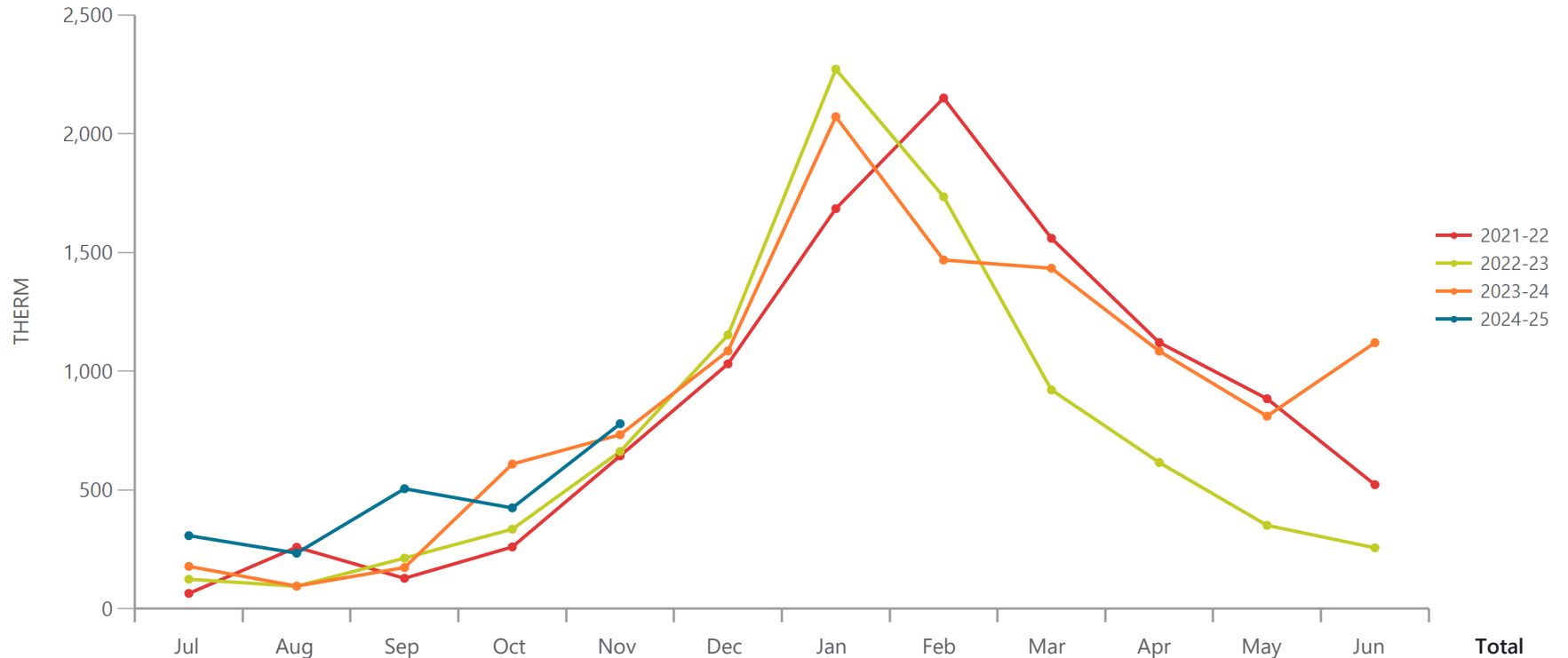
**19,583 ft<sup>2</sup>**  
Floor Area

**19561 Scenery Drive**  
**Germantown, MD, US 20876**  
Address

**Building**  
Place Type

**07/01/2012**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	65	259	128	260	644	1,031	1,685	2,150	1,560	1,121	884	523	10,310
2022-23	124	95	213	335	662	1,153	2,272	1,735	922	616	351	257	8,735
2023-24	178	96	174	609	733	1,086	2,072	1,469	1,434	1,085	811	1,120	10,865
2024-25	308	234	506	425	779								2,252

Monthly Use by Year (Jul - Jun)

**WHEATON CRC [1026]**

Recreation (THERM)  
Primary Use

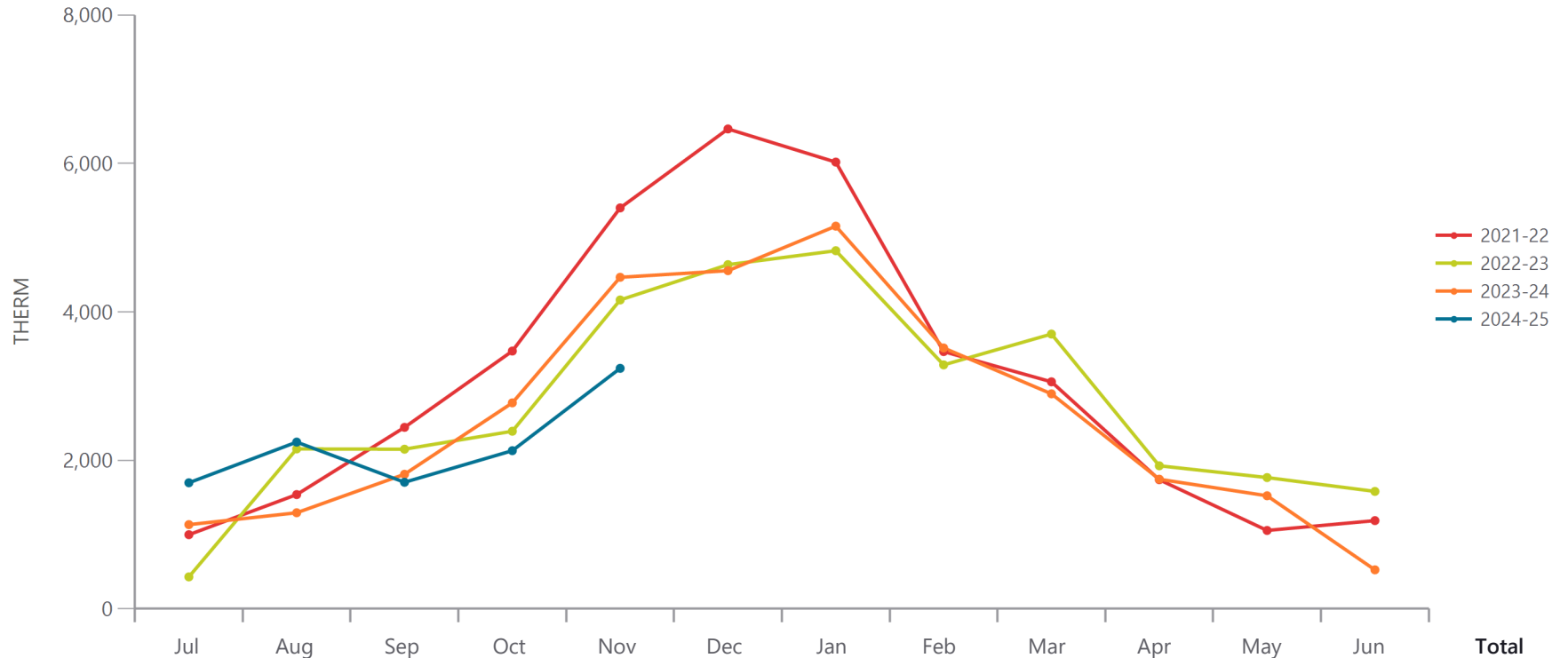
94,000 ft<sup>2</sup>  
Floor Area

11701 GEORGIA AVE  
SILVER SPRING, MD, US 20902  
Address

Building  
Place Type

---  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	998	1,539	2,445	3,472	5,401	6,465	6,018	3,465	3,058	1,739	1,055	1,188	36,843
2022-23	430	2,154	2,150	2,392	4,161	4,637	4,824	3,286	3,701	1,927	1,768	1,581	33,011
2023-24	1,134	1,294	1,812	2,775	4,466	4,555	5,155	3,514	2,896	1,746	1,523	525	31,395
2024-25	1,698	2,246	1,705	2,130	3,239								11,018

Monthly Use by Year (Jul - Jun)

**WHEATON RESCUE SQUAD R2 [4202]**

**Fire Station (THERM)**  
Primary Use

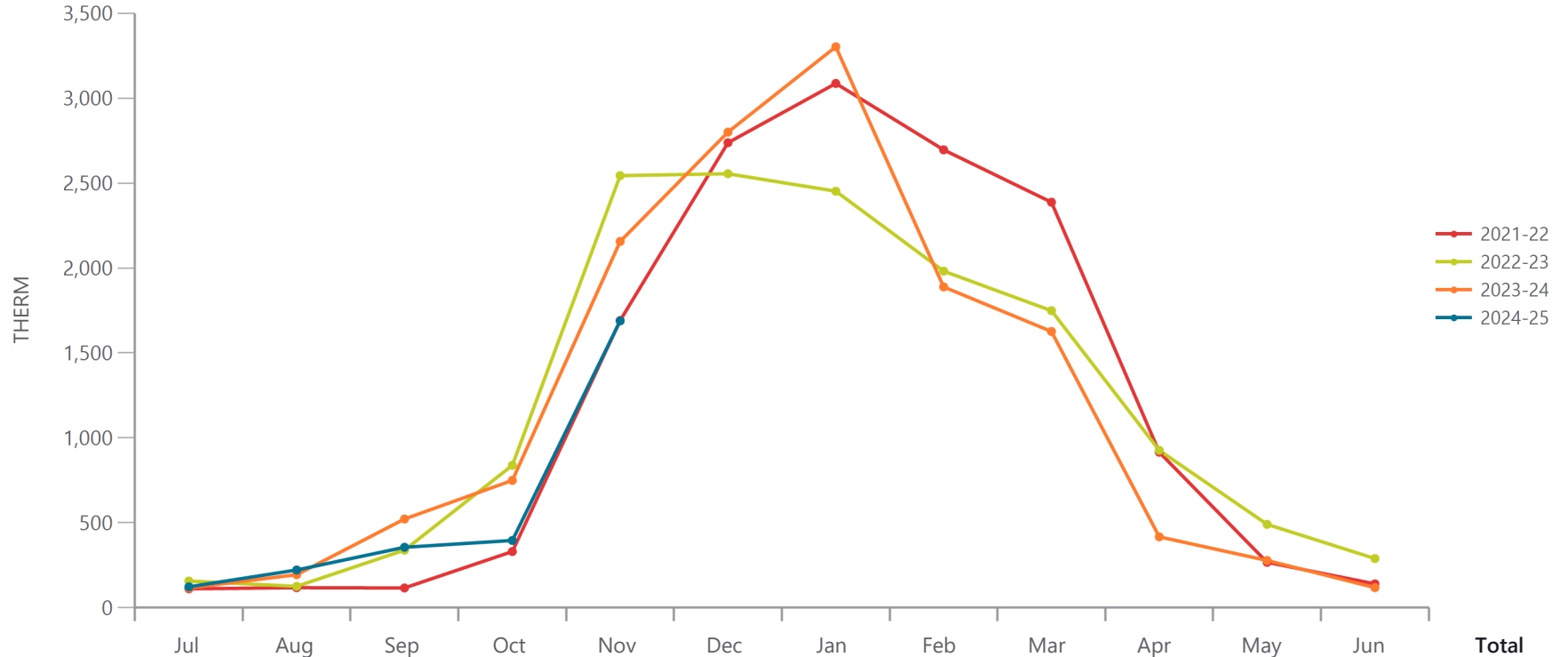
**28,984 ft<sup>2</sup>**  
Floor Area

**2400 Arcola Avenue**  
**Wheaton, MD, US 20902**  
Address

**Building**  
Place Type

**07/01/2013**  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	111	118	116	331	1,691	2,738	3,087	2,696	2,387	916	267	141	14,598
2022-23	157	126	339	839	2,544	2,555	2,452	1,982	1,749	927	491	290	14,449
2023-24	117	194	522	750	2,156	2,800	3,303	1,889	1,626	417	278	118	14,171
2024-25	123	222	356	396	1,689								2,786

Monthly Use by Year (Jul - Jun)

**WHITE OAK CRC [7140]**

Recreation (THERM)  
Primary Use

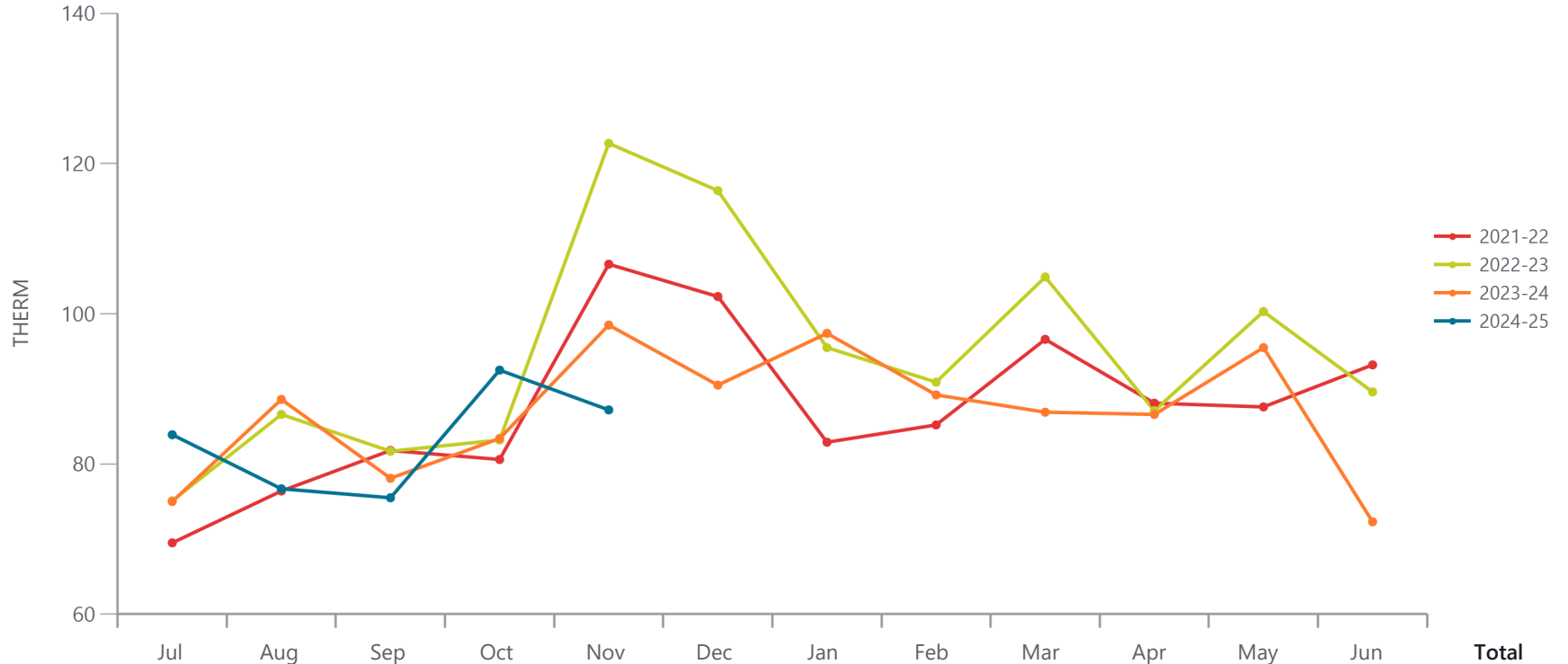
54,022 ft<sup>2</sup>  
Floor Area

1700 April Lane  
Silver Spring, MD, US 20904  
Address

Building  
Place Type

03/01/2012  
Build Date

Monthly Use by Year (Jul - Jun)



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2021-22	70	76	82	81	107	102	83	85	97	88	88	93	1,051
2022-23	75	87	82	83	123	116	96	91	105	87	100	90	1,134
2023-24	75	89	78	83	99	91	97	89	87	87	96	72	1,042
2024-25	84	77	76	93	87								416

Monthly Use by Year (Jul - Jun)

---

Facilities which do not use Natural Gas:

BAUER DRIVE CRC

DAMASCUS CRC

POTOMAC CRC

ROSS BODDY CRC



Monthly Use by Year (Jul - Jun)

---

## Monthly Trends—Comparing Year-to-Year – Buildings Report-01-BLDG

Thursday, January 2, 2025 5:31 PM (Coordinated Universal Time)

A line chart (with data table) that reports on a variety of use and cost types for buildings and organizations. You can chart multiple years by month. Set a variance threshold and have the report automatically highlight abnormal results.

### Filters Used

- Data Displayed equals Billing Period
- First Month (1-12) equals 7
- Include Account Charges equals False
- Value Displayed equals Use
- Account is Active equals True
- Bill is Void equals False
- Billing Period greater than 202106
- Building Group equals 5.RE-Resiliency Hub (RFP 12-24-24)
- Commodity equals Natural Gas
- Group Data By equals Place Type - Building

# Attachment No. 03

## Facility Generator Listing

<b>Facility</b>	<b>Generator Size</b>	<b>Manufacturer</b>	<b>Fuel Type</b>
Gwendolyn Coffield CC	200 KW Portable	MTU	Diesel
Mid County CC	300 KW Portable	MTU	Diesel
North Potomac CC	360KW	Kohler	Diesel
Long Branch CC	No Generator	-	-
Praisner CC	No Generator	-	-
Plum Gar CC	No Generator	-	-
Bauer Drive CC	No Generator	-	-
Germantown CC	No Generator	-	-
Potomac CC	No Generator	-	-
Damascus CC	No Generator	-	-
Good Hope CC	No Generator	-	-
White Oak CC	350KW	Cummins	Diesel
Wheaton CC/Library	300KW (2)	Generac	Natural Gas
5th District Police (Germantown)	100KW	MTU	Diesel
3rd District Police (Milestone)	400KW	Cummins	Diesel
Fire Station 18 (Glenmont)	250KW	Kohler	Diesel
Fire Station 32 (Travilah)	350KW	Generac	Diesel
Fire Station 35 (Clarksburg)	275KW	Kohler	Diesel
Fire Station 25 (Aspen Hill)	250KW	Kohler	Diesel
Wheaton Rescue Squad (VRS2)	350 KW	MTU	Diesel
Ross Boddy CRC	150KW	Cummins	Natural Gas
Dennis Ave Health Center	600KW (2)	Generac	Natural Gas
Nebel Street Shelter	No Generator	-	-

# Attachment No. 04

## MID-ATLANTIC PURCHASING TEAM RIDER CLAUSE

USE OF CONTRACT(S) BY MEMBERS COMPRISING MID-ATLANTIC PURCHASING TEAM COMMITTEE

**A. Extension to Other Jurisdictions**

The [issuing jurisdiction] extends the resultant contracts(s), including pricing, terms and conditions to the members of the Mid-Atlantic Purchasing Team, as well as all other public entities under the jurisdiction of the United States and its territories.

**B. Contract Agreement**

Any jurisdiction or entity using the resultant contract(s) may enter into its own contract with the successful Contractor(s). There shall be no obligation on the party of any participating jurisdiction to use the resultant contract(s). Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to the jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue.

**C. A negative reply will not adversely affect consideration of your bid.**

**D. It is the awarded offeror's responsibility to notify the members shown below of the availability of the Contract(s)**

**E. The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to the jurisdiction by the awardee.**

**F. Inclusion of Governmental and Nonprofit Participants (Optional Clause)**

This shall include but not be limited to private schools, Parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government and/or state community and/or private colleges/universities that require these goods, commodities and/or services.

**G. Notification and Reporting**

The Contractor agrees to notify the issuing jurisdiction of those entities that wish to use any contract resulting from this solicitation and will also provide usage information, which may be requested. The Contractor will provide the copy of the solicitation and resultant contract documents to any requesting jurisdiction or entity.

**MID-ATLANTIC PURCHASING TEAM:**

YES	NO	JURISDICTION	YES	NO	JURISDICTION
_____	_____	Alexandria, Virginia	_____	_____	Howard County Schools
_____	_____	Alexandria Public Schools	_____	_____	Herndon, Virginia
_____	_____	Alexandria Sanitation Authority	_____	_____	Leesburg, Virginia
_____	_____	Annapolis City	_____	_____	Loudoun County, Virginia
_____	_____	Anne Arundel County	_____	_____	Loudoun County Public Schools
_____	_____	Anne Arundel Schools	_____	_____	Loudoun County Water Authority
_____	_____	Arlington County, Virginia	_____	_____	Manassas, Virginia
_____	_____	Arlington County Public Schools	_____	_____	City of Manassas Public Schools
_____	_____	Baltimore City	_____	_____	Manassas Park, Virginia
_____	_____	Baltimore County Schools	_____	_____	MD-National Capital Park & Planning Comm.
_____	_____	Bladensburg, Maryland	_____	_____	Metropolitan Washington Airports Authority
_____	_____	Bowie, Maryland	_____	_____	Metropolitan Washington Council of Governme
_____	_____	BRCPC	_____	_____	Montgomery College
_____	_____	Carroll County	_____	_____	Montgomery County Public Schools
_____	_____	Carroll County Schools	_____	_____	Prince George's County, Maryland
_____	_____	Charles County Government	_____	_____	Prince George's Public Schools
_____	_____	Charles County Schools	_____	_____	Prince William County, Virginia
_____	_____	City of Fredericksburg	_____	_____	Prince William County Public Schools
_____	_____	College Park, Maryland	_____	_____	Prince William County Service Authority
_____	_____	District of Columbia Government	_____	_____	Rockville, Maryland
_____	_____	District of Columbia Schools	_____	_____	Spotsylvania County Govt. & Schools
_____	_____	District of Columbia Water & Sewer Auth.	_____	_____	Stafford County, Virginia
_____	_____	Fairfax County, Virginia	_____	_____	Takoma Park, Maryland
_____	_____	Fairfax County Water Authority	_____	_____	Upper Occoquan Sewage Authority
_____	_____	Falls Church, Virginia	_____	_____	University of the District of Columbia
_____	_____	Fauquier County Schools & Govt., Virginia	_____	_____	Vienna, Virginia
_____	_____	Frederick, Maryland	_____	_____	Washington Metropolitan Area Transit Auth.
_____	_____	Gaithersburg, Maryland	_____	_____	Washington Suburban Sanitary Commission
_____	_____	Greenbelt, Maryland	_____	_____	Winchester, Virginia
_____	_____	Harford County	_____	_____	Winchester Public Schools
_____	_____	Harford County Schools			
_____	_____	Howard County			

Vendor Name

# Attachment No. 5

**MASTER POWER PURCHASE AGREEMENT**

**BETWEEN**

**MONTGOMERY COUNTY, MARYLAND**

**AND**

**[CONTRACTOR NAME]**

**CONTRACT NO. XXXXXX**

# Attachment No. 5

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# Attachment No. 5

## MASTER POWER PURCHASE AGREEMENT

This Master Power Purchase Agreement ("Master Agreement") is by and between Montgomery County, Maryland (hereinafter referred to as "County" or "Purchaser") and [Seller Name and Address] (hereinafter referred to as "Seller" or "Contractor") and sets forth certain general terms and conditions with respect to the sale by Seller and purchase by Purchaser of Products generated by one or more Systems.

Whereas, the Parties may from time to time enter into one or more Project Schedule(s) in the form attached hereto as Attachment 3, with each such Project Schedule relating to a particular System, including but not limited to, the purchase and sale of (i) electric energy and electric capacity in the case of a solar photovoltaic generating System, (ii) electric capacity and thermal capacity in the case of a CHP generating System, and (iii) electrical energy and resilience in the case of a generator System; and

Whereas, each such Project Schedule will incorporate by reference the terms and conditions set forth in this Master Agreement which, taken together, shall constitute a single, integrated agreement with respect to the applicable System (the "Agreement"), and any similar agreement incorporating this Master Agreement with respect to any other System shall be referred to herein as an "Other Agreement";

Now, therefore, the Parties hereby agree as follows:

### ARTICLE 1

#### DEFINITIONS

The following words and phrases, here appearing capitalized and in quotes, have the following meanings:

- a. "ADDITIONAL TERM": As set forth in Section 2.b.
- b. "AGREEMENT": With respect to a particular System, collectively, this Master Power Purchase Agreement and all Attachments hereto together with the applicable Project Schedule.
- c. "CHANGE IN LAW": As set forth in Section 8.
- d. "CHP": Combined heat and power systems as defined by the US Department of Energy's CHP initiative program.
- e. "CLAIM": As set forth in Section 15.b.
- f. "COMMERCIAL OPERATION DATE": Date specified in Seller's written notification to Purchaser that (i) the System has achieved Respective Electrical System Completion and has been energized, (ii) all work has been completed to allow for the safe operation of the System, (iii) the System satisfies the interconnection requirements of the Utility, if applicable and (iv) is ready to deliver Product to the Delivery Point.
- g. "CONDITION SATISFACTION DATE": The date so indicated on the applicable Project Schedule.
- h. "CONFIDENTIAL INFORMATION": As set forth in Section 19.a.
- i. "CONSTRUCTION AGREEMENT": An agreement between Seller and a Contractor to install the System.
- j. "CONTRACT ADMINISTRATOR": The individual identified in Section 21.m.ii responsible for the administration of this Agreement in accordance with the authorities and limitations delegated to them by the Director as specified in this Agreement.

## Attachment No. 5

- k. “CONTRACTOR”: The person and/or entity entering into a Construction Agreement with the Seller to install the System.
- l. “CONTRACT PRICE”: As set forth in Section 3.a.
- m. “COUNTY” or “PURCHASER”: Montgomery County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland.
- n. “COUNTY INDEMNIFICATION STATUTES”: As set forth in Section 15.d.
- o. “CURTAILMENT”: Any period in which the operation of the System is subject to reduction, in whole or in part, as a result of (i) a directive from or on behalf of the Utility or (ii) any outages caused or directed by Purchaser, save for any permitted Scheduled Outages.
- p. “DEFAULTING PARTY”: As set forth in Section 11.a.
- q. “DEFAULT EVENT”: As set forth in Section 11.a.
- r. “DELIVERY POINT”: Each of the delivery points identified in the applicable Project Schedule.
- s. “DEPARTMENT OF GENERAL SERVICES”: The County Department responsible for the County’s buildings, electrical energy procurement, maintenance, energy purchasing, and contracting operations.
- t. “DIRECTOR”: The Director, Department of General Services. The Director is the Contracting Officer for the County for the purposes of the procurement of electricity.
- u. “EARLY PURCHASE OPTION”: As set forth in Section 14.b.
- v. “EARLY TERMINATION PAYMENT”: The applicable amount with respect to a System in the Project Schedule, as set forth in Section 11.c.
- w. “END OF TERM PURCHASE OPTION”: As set forth in Section 14.b.
- x. “ENERGY CHARGE”: The price per kWh that is identified in Attachment 3.
- y. “EFFECTIVE DATE”: The date so indicated in the Master Agreement and the applicable Project Schedule.
- z. “ENVIRONMENTAL ATTRIBUTES”: Any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of Product from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (Sox), nitrogen oxides (Nox), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradable renewable credits, and Green-e® products. Environmental Attributes do not include Environmental Incentives and Tax Credits.

# Attachment No. 5

- aa. “ENVIRONMENTAL INCENTIVES”: Any and all credits, rebates, subsidies, payments, or other incentives that relate to the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.
- bb. “FACILITY”: The County’s facility specified in the applicable Project Schedule, which will receive Product generated by the System.
- cc. “FAIR MARKET VALUE”: As set forth in Section 14.b.
- dd. “FINANCING PARTIES”: As set forth in Section 18.d.
- ee. “FORCE MAJEURE”: As set forth in Section 17.a.
- ff. “GOVERNMENTAL AUTHORITY”: Any national, state, or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public, or statutory instrumentality, authority, body, agency, bureau, or entity (including the Federal Energy Regulatory Commission or the Maryland Public Service Commission), excluding Purchaser.
- gg. “GREEN TAG REPORTING RIGHTS”: Any right of a Party to report the ownership of accumulated greenhouse gas emissions reductions in compliance with federal or state law, if applicable, and to a federal or state agency or any other Party and include such rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation, or bill, and international or foreign emissions trading program.
- hh. “HAZARDOUS SUBSTANCE”: As set forth in Section 15.b.i.
- ii. “INDEMNIFYING PARTY”: As set forth in Section 15.a.
- jj. “INDEMNIFIED PARTY”: As set forth in Section 15.a.
- kk. “INITIAL TERM”: As set forth in Section 2.a.
- ll. “LIABILITIES”: As set forth in Section 15.a.
- mm. “LOCAL GOVERNMENT TORT CLAIMS” or “LGTC”: As set forth in Section 15.c.
- nn. “LOST SELLER REVENUES”: Where this Agreement specifically entitles Seller to recovery of Lost Seller Revenues with respect to a particular period, all revenues that Seller did not receive under this Agreement or in connection with the System including: (i) payments that Purchaser would have made to Seller hereunder for Product that would have been produced by the System; (ii) revenues that Seller would have received under any incentive or assistance program with respect to Product that would have been produced by the System; (iii) revenues from Environmental Attributes that Seller would have received with respect to Product that would have been produced by the System (provided such attributes accrue to Seller under the applicable Project Schedule); and (iv) Tax Credits that Seller (or if Seller is a pass-through entity for tax purposes, Seller’s owners) would have received with respect to Product that would have been produced by the System.
- oo. “MASTER AGREEMENT”: This Master Power Purchase Agreement.
- pp. “MICROGRID”: A local energy grid with control capability, which means it can disconnect from the traditional grid and operate autonomously.
- qq. “NAE Notice”: As set forth in Section 3.e.i.
- rr. “NON-APPROPRIATION EVENT”: As set forth in Section 3.e.i.
- ss. “NON-DEFAULTING PARTY”: As set forth in Section 11.a.i.
- tt. “OPERATOR”: As set forth in Section 18.b.



# Attachment No. 5

- uu. “OSHA”: The Occupational Safety and Health Act of 1970.
- vv. “OTHER AGREEMENT:” Any agreement between the Parties consisting of a Project Schedule incorporating this Master Agreement with respect to any other System.
- ww. “PARTIES”: Seller and the County collectively.
- xx. “PARTY”: Either Seller or the County individually.
- yy. “PAYMENT DEFAULT”: As set forth in Section 11.a.i.
- zz. “PERFORMANCE CRITERIA:” The standards by which performance of a System is evaluated as set forth in a Project Schedule.
- aaa. “PREMISES”: As set forth in Section 5.a.i.
- bbb. “PRODUCT”: Electric energy (measured in kWh) and/or electric capacity (measured in kW), in each case as set forth in the applicable Project Schedule.
- ccc. “PROJECT COST REIMBURSEMENT”: The sum total of all actual, reasonable, and documented project costs incurred by Seller in advance of the Conditions Satisfaction Date.
- ddd. “PROJECT SCHEDULE”: A project schedule in the form attached as Attachment 3 and duly executed by the Parties.
- eee. “PURCHASE OPTION”: An Early Purchase Option or End of Term Purchase Option, as applicable.
- fff. “PURCHASER PERMITS”: Any permit, approval, or authorization necessary for the development, construction or operation of the System set forth in the applicable Project Schedule, including any zoning, land use, electric, environmental, air quality or other permits, but excluding any Seller Permits.
- ggg. “REGULATIONS”: As set forth in Section 11.b.
- hhh. “RENEWABLE ENERGY CERTIFICATE” or “REC”: The renewable attributes of one megawatt hour (MWh) of electricity generated using renewable energy, tracked in a regional exchange administrated by the regional transmission operator (RTO) or equivalent.
- iii. “REPRESENTATIVES”: As set forth in Section 19.a.
- jjj. “RESILLIENCE FEE”: The Resilience Fee is all applicable charges including, but not limited to, the operation and maintenance of the System, and fees not contained in the Energy Charge.
- kkk. “RESPECTIVE ELECTRICAL SYSTEM COMPLETION”: means (i) all engineering and design work described in Attachment 3 and Attachment 4 complete; (ii) the System has been delivered to the applicable Premises; (iii) the System has been installed; (iv) the System is ready for energization; and (v) the System is operational in accordance with Attachments 3 and 4.
- lll. “RUN HOURS”: As set forth in Section 3.a.ii.
- mmm. “SCHEDULED OUTAGE”: Any period so designed under the applicable Project Schedule.
- nnn. “SELLER” or “CONTRACTOR” has the meaning as set forth in the preamble.
- ooo. “SELLER PERMITS”: Any permits identified in the applicable Project Schedule as being the responsibility of Seller.

# Attachment No. 5

- ppp. “SOLAR RENEWABLE ENERGY CERTIFICATE” or “SREC”: The renewable attributes of one MWh of electricity generated using solar energy, tracked in a regional exchange administrated by the RTO or equivalent. Attributes include Environmental Attributes. For purposes of this Agreement, SRECs shall come from zero-emissions resources.
- qqq. “START OF CONSTRUCTION”: The date on which the conditions specified in Section 5 herein have been satisfied and Seller commences construction and installation of the System as evidenced by the issuance by Seller of a full notice to proceed to the contractor under the Construction Agreement.
- rrr. “SYSTEM”: Each of the Distributed Energy Resources (DER) that are identified in the Project Schedule (Attachment 3).
- sss. “TAX CREDITS”: Any and all (i) investment tax credits, (ii) production tax credits, (iii) depreciation benefits and (iv) similar tax credits or grants under federal, state, or local law relating to the construction, ownership, or production of Product from the System, whether owned by Seller or any Financing Party, all of which shall be calculated on a post-tax, fully grossed-up tax basis.
- ttt. “TERM”: The Initial Term, together with any applicable Additional Term.
- uuu. “TERMINATION EVENT”: Any of the following events resulting in early termination of this Agreement: (i) termination by Seller as a result of a non-appropriation by Purchaser pursuant to Section 3.e, (ii) termination by Seller as a result of Change in Law pursuant to Section 8, (iii) termination for cessation of operations or otherwise pursuant to Section 16, termination by Seller as a result of the termination of an Other Agreement pursuant to Section 11.d, (v) termination for convenience by Purchaser under Section 27 of Attachment 1 after Seller shall have commenced work under this Agreement.
- vvv. “UTILITY”: The company that owns the power lines and equipment necessary to provide electric distribution and interconnection services to Purchaser at the Facility.

## ARTICLE 2

### GENERAL PROVISIONS

1. Definitions and Interpretation. Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
2. Term.
  - a. Initial Term. This Agreement is effective as of the Effective Date. The initial term for payment of compensation under this Agreement shall commence on the Commercial Operation Date and continue for the length of time specified in the applicable Project Schedule (“Initial Term”), unless earlier terminated as provided for in this Agreement. Upon Purchaser’s request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller’s Contractor and the interconnection or similar agreement with the entity authorized and required under applicable law to provide electric distribution service to Purchaser at the Facility, if applicable.

# Attachment No. 5

- b. Additional Terms. If Purchaser has not exercised its option to purchase the System in accordance with Section 14.b below, the Parties may elect to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in the applicable Project Schedule (each an "Additional Term"). If the Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current Additional Term, as applicable. Otherwise, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.
- c. Delivery. Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the Product generated by the System during the Initial Term and any optional Additional Term. Product generated by the System will be delivered to Purchaser at the Delivery Point. Purchaser shall take title to the Product generated by the System at the Delivery Point. Purchaser may purchase Product for the Facility from other sources if Purchaser's requirements at the Facility exceed the output of the System. The County will not be responsible for charges for the Product generated by the System until the Commercial Operation Date.

### 3. Billing and Payment.

- a. Monthly Charges. Purchaser shall pay Seller monthly for one hundred percent (100%) of the Product generated by the System and delivered to the Delivery Point at the rate shown in the applicable Project Schedule (the "Contract Price"). The monthly payment for such Product will be equal to the sum of the following, as applicable:
  - i. For generators and solar photovoltaic generating Systems: (1) a monthly Resiliency Fee (in \$/kW) to be set in the Project Schedule; (2) an Energy Charge (in \$/kWh) to be set forth in the Project Schedule multiplied by the number of kWh of Product generated during the applicable month; and (3) any Lost Seller Revenues.
  - ii. For CHP generating Systems: (1) a monthly Resiliency Fee (in \$/kW) to be set in the Project Schedule; (2) a variable monthly O&M Charge (in \$/Run Hours) to be set in the Project Schedule; and (3) any Lost Seller Revenues. For each month, "Run Hours" includes any hour (or part thereof) in which any Product was delivered.
- b. Monthly Invoices. Seller shall invoice Purchaser monthly. Monthly invoices shall state for each System (i) the amount of Product produced by such System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement, (iii) any Lost Seller Revenues and (iv) the total amount due from Purchaser.

All invoices must be sent to:

Attention: Utilities Management Team  
Office of Energy and Sustainability  
Department of General Services  
101 Monroe St., 9<sup>th</sup> Floor  
Rockville, MD 20850-2540

- c. Payment Terms. All amounts due under this Agreement shall be due and payable net thirty (30) days from County's receipt of an invoice that meets the requirements set forth in subsection (b) above. Interest shall accrue, in accordance with Montgomery County Code § 11B-34, on any undisputed portion of the invoice amount not paid within the thirty (30) day period. If payable under § 11B-34, interest accrues beginning on the 31<sup>st</sup> day after County's receipt of an invoice and is calculated using the interest rate paid by five-year U.S. Treasury Bills as of the date the interest first begins to accrue.
- d. Taxes. Subject to Section 3(f)(i), Purchaser shall either pay or reimburse Seller for any and all Taxes assessed on the generation, sale, delivery, transportation or consumption of Product produced by the System or the interconnection of the System to the Utility's electric distribution system, including property taxes on the System and incremental assessment in the real property taxes resulting from the installation of the System at the Premises; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver Product to Purchaser due to the action or omission of Seller. If Purchaser exercises an option to purchase the System or has otherwise conveyed title to the

# Attachment No. 5

System, Purchaser shall pay any applicable sales or use tax on the purchase price, and other applicable governmental charges, including any amounts that may be imposed on, or required to be collected by, Seller with respect to the recapture or forfeiture of any government incentives, including any related government penalties. For purposes of this Section 3.d, "Taxes" means any federal, state, and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges, or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of Product under this Agreement, which shall be Seller's responsibility.

e. Non-Appropriation Event.

- i. This Agreement is subject to applicable laws relating to the appropriation of funds to be paid by the Purchaser including Section 311 of the Montgomery County Charter and COMCOR Section 11B.04.01, Electricity Procurement Regulations. Purchaser represents to Seller that its applicable budgetary entity has appropriated and encumbered sufficient funds for the work to be performed by Seller and payments to be made by Purchaser from the Effective Date of the first fiscal year following the Commercial Operation Date. Further, and notwithstanding anything to the contrary in this Agreement, including Section 25 of Attachment 1, it is the present intention and expectation of Purchaser that the applicable budgetary entity, within the limits of available funds and revenues, will continue to appropriate and encumber a sufficient amount to fund Purchaser's obligations hereunder during each fiscal year of the Term; provided, however, this declaration of intent shall not be binding upon any future applicable budgetary entity in any future fiscal year, except to the extent of any previously appropriated funds. Purchaser shall use reasonable good faith efforts to have funds properly budgeted, appropriated, allotted, or otherwise made available for this Agreement (including obtaining legislative and other authorizations for use of such funds) and to satisfy such conditions in a timely manner. If an appropriation for this Agreement is not made for Purchaser by the applicable budgetary entity for any fiscal year of Purchaser during the Term (a "Non-Appropriation Event"), Purchaser shall promptly give notice of such Non-Appropriation Event (the "NAE Notice"). Notwithstanding the occurrence of a Non-Appropriation Event or the delivery of the NAE Notice, Purchaser will not interrupt or impair the delivery of Product or jeopardize Seller's sale, transfer or other monetization of Environmental Attributes, Environmental Incentives (to the extent allocated to Seller under the applicable Project Schedule) or Tax Credits.
- ii. Following receipt by Seller of an NAE Notice, Seller may, in its sole discretion, (a) terminate this Agreement and a Termination Event shall be deemed to have occurred, or (b) continue to operate the System, as Seller may deem commercially reasonable under its sole discretion, and deliver the Product to Purchaser or to a third party or utility company without payment by Purchaser therefor during the applicable fiscal year (and each fiscal year thereafter until an appropriation is made). Under the circumstances of (b), other than with respect to the purchase and sale obligations for electricity, all obligations of Purchaser and Seller under this Agreement (including, without limitation, the Site Access and License Agreement), shall remain in full force and effect, and Purchaser shall provide Seller with all assistance reasonably requested by Seller to secure another buyer for the Product.
- iii. Within thirty (30) days of Seller's receipt of the NAE Notice, Seller shall give notice to Purchaser of Seller's election among options (a) and (b) under subsection (ii) above. If Seller does not provide notice to Purchaser of Seller's election under this subsection (iii) within such period, Seller shall be deemed to have elected option (b) under subsection (ii) above, provided that, if Seller elects or is deemed to have elected option (b) and if a Non-Appropriation Event is continuing, Seller may subsequently change its election at any time upon prior written notice to Purchaser.

4. Environmental Attributes and Environmental Incentives.

- a. Seller is solely responsible for identifying, applying for, and securing any Environmental Attributes, Environmental Incentives, and/or Tax Credits available in connection with the installation or operation of the System from various sources including, but not limited to, the federal and state governments. Seller must notify the Purchaser of all Environmental Attributes, Environmental Incentives, and Tax Credits received for the installation or operation of the System.

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- b. Unless otherwise specified in the applicable Project Schedule, the Contract Price is calculated based on the assumption that Seller shall be entitled to any Environmental Attributes, Environmental Incentives, and/or Tax Credits available with respect to the System, unless otherwise specified on the applicable Project Schedule. Purchaser's purchase of Product under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller.
- c. Notwithstanding the foregoing, to the extent that, under Maryland law, Purchaser is the owner of any SRECs associated with the System's electric output, Purchaser hereby assigns all of its right, title and interest in all such SRECs to Seller, provided that, if Purchaser purchases the System pursuant to a Purchase Option, all right, title and interest to such SRECs generated following such purchase shall revert to Purchaser.
- d. Purchaser shall cooperate with Seller in obtaining, securing, and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the Product generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 4, to the extent applicable. If any Environmental Attributes or Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller.

## 5. Conditions to Obligations.

- a. Conditions to Seller's Obligations. Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date set forth on the applicable Project Schedule:
  - i. Seller's completion of a physical inspection of the Facility and the property upon which the Facility is located (the "Premises") including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;
  - ii. Approval of (a) this Agreement and (b) the Construction Agreement (if any) for the System by Seller's Financing Parties, if applicable;
  - iii. Confirmation by Seller that Seller will obtain all applicable Environmental Attributes and Environmental Incentives (to the extent allocated to Seller under the applicable Project Schedule) and Tax Credits;
  - iv. Confirmation by Seller, with confirmation from the Utility, that the natural gas line has sufficient capacity to support systems on site and can be installed in accordance with the Project Schedule;
  - v. With the assistance of Purchaser, receipt by Seller of all Seller Permits;
  - vi. With the assistance of Seller, receipt by Purchaser of all Purchaser Permits;
  - vii. Application for and execution by Seller of the Interconnection Agreement;
  - viii. Execution by Purchaser of the Interconnection Agreement;
  - ix. Prior to Start of Construction, Purchaser shall give Seller proof of insurance maintained by Purchaser as described in Section 13.b.ii.
- b. Failure of Conditions. If any of the conditions listed in Section 5.a above are not satisfied by the Condition Satisfaction Date, the Parties will attempt in good faith to negotiate an equitable adjustment to the Contract Price and/or new dates for the satisfaction of the failed conditions. If the Parties are unable to negotiate new dates, then Seller may terminate this Agreement upon ten (10) days written notice to Purchaser without liability on the part of either Party. In the case of termination for failure of any condition set forth in Section 5.a, due to any act or omission of Purchaser and through no fault of Seller, Purchaser shall pay Seller the Project Cost Reimbursement not to exceed twenty-five thousand dollars (\$25,000.00).

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## 6. Seller's Rights and Obligations.

- a. Permits and Approvals. Subject to the conditions set forth in Section 5 above, Seller shall use commercially reasonable efforts to obtain all Seller Permits, at its sole cost and expense, but with Purchaser's reasonable cooperation and assistance.
- b. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the entity authorized and required under applicable law to provide electric distribution service to Purchaser at the Facility, if applicable
- c. Standard System Repair and Maintenance. Seller shall construct and install the System at the Facility. During the Term, Seller will operate (unless otherwise set forth in the applicable Project Schedule) and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement or the Site Access and License Agreement. Seller's responsibilities include replacement or refurbishment of all System components during the Term. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost, or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at the then current standard rates of Seller, its contractor or Operator, as applicable. Any dispute regarding the reasonableness of such rates shall be resolved by an independent construction estimator or other Party mutually agreed upon by Seller and Purchaser. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.
- d. Unforeseen Costs. If Seller incurs costs to develop, construct, design, operate or maintain the System due to: (i) conditions at the Facility that arise after the Effective Date and that are not related to the System, (ii) requirements imposed by the Utility or any Governmental Authority, (iii) underground obstacles, upgrades or repair to customer or utility electrical or mechanical infrastructure, and obstructions, interference, damage or any other condition found in the Facility or on the Premises that could not reasonably have been foreseen as of the Effective Date, (iv) the inaccuracy of any information provided by Purchaser and relied upon by Seller, (v) any changes to the design or specification of the System required by Purchaser, or (vi) delays by Purchaser in (1) the construction of the Facility or (2) performance of Purchaser responsibilities described in Attachment 4, Purchaser shall reimburse Seller for such extra costs either through a one-time payment or an equitable increase to the Contract Price. In such event, Purchaser will be notified, and the Parties will negotiate such equitable adjustment in good faith.
- e. In the event of termination of the Agreement prior to Start of Construction, Purchaser shall pay Seller one-third of the Project Cost Reimbursement, not to exceed seventy-five thousand dollars (\$75,000), and the actual, reasonable, and documented costs incurred by Seller in procuring, in advance of the Conditions Satisfaction Date, equipment comprising the System described in Attachment 3 and Attachment 4.
- f. Breakdown Notice. Seller shall notify Purchaser reasonably following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of Product from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.
- g. Suspension. Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of Product from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to Purchaser.



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- h. Use of Contractors and Subcontractors. Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. Notwithstanding the foregoing, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors.
- i. Curtailment. To the extent operation of the System is subject to Curtailment, Purchaser shall compensate Seller for any Lost Seller Revenues associated with such period of Curtailment.

## 7. Purchaser's Rights and Obligations.

- a. Facility Access Rights. Seller's access rights to the Premises and Purchaser's obligations with respect to such access rights shall be as set forth in the Site Access and License Agreement incorporated into this Agreement and attached hereto as Attachment 5.
- b. OSHA Compliance. Both Parties shall ensure that all OSHA requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.
- c. Maintenance of Facility. Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the Utility grid at all times. Purchaser will not permit, within its operational control, the cessation of electric service to the Facility from the Utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical and mechanical systems (including any electrical or mechanical infrastructure beyond the Delivery Point installed by Seller in connection with the System) and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System. Purchaser shall compensate Seller for any Lost Seller Revenues associated with any failure of the requirements of this Section 7.c.
- d. Additional Services. Upon request by Purchaser for additional services not expressly included in this Agreement, including Attachments 3 and 4, Seller may prepare and submit a proposal for such additional services to Purchaser for approval. Additional services, if agreed between the Parties, will be treated separately from a cost and effort perspective, and require a separate written Project Schedule, change order or amendment executed by the Parties, to be incorporated by reference and made a part of this Agreement.  
Additional Services, ordered but not completed by the expiration of this Master Agreement, must be completed by the Contractor with all of the provisions of this Master Agreement, and applicable Project Schedule, in force and effect.
- e. No Alteration of Facility. Purchaser shall not make any alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work, and any replacement of the System after completion of Purchaser's alterations and repairs shall be performed at Purchaser's cost. All alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.
- f. Liens.
  - i. Purchaser shall not, directly or indirectly, cause, create, incur, assume, or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance, or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance, or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller. To the full extent allowed under law, Purchaser shall indemnify Seller against all costs and expenses incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance, or other claim.

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- ii. If any construction liens are filed relating to the Seller's obligations scope of the System installation, then Seller shall, at its sole cost and expense, remove and discharge, by payment, bond or otherwise, such liens within twenty (20) days after receipt of written notice of the liens from Purchaser. If Seller fails to remove and discharge any such liens within such twenty (20) day period, Purchaser may, in its sole discretion and in addition to any other rights that it has under the Agreement, at law or equity, remove or discharge such liens using whatever means that Purchaser, at its sole discretion deems appropriate, including the payment of settlement amounts that it determines in its sole discretion as being necessary to remove or discharge such liens. In such circumstance, Seller shall be liable to Purchaser for all costs incurred by Purchaser arising out of or relating to such removal and discharge. To the fullest extent allowed under law, Seller shall indemnify Purchaser against all costs and expenses incurred in discharging and releasing any such liens.
  - g. Security. Purchaser shall be responsible to maintain the physical security of the Facility and the System against known risks and risks that should have been known by Purchaser. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.
  - h. Background Checks. If required by the Purchaser, Seller must provide criminal background checks on all of its employees, and subcontractors who will have access to the Purchaser's Facility. Seller must ensure that the following persons are not assigned to perform onsite services for the work performed under this Agreement: (a) any person refusing to undergo such background checks, and (b) any person whose background check results are unacceptable to Seller or that, after disclosure to the Purchaser (if required), the Purchaser advises are unacceptable to the Purchaser. Seller must include the preceding requirement in all resultant subcontracts.
  - i. Breakdown Notice. Purchaser shall promptly, but always within twenty-four (24) hours, notify Seller following the discovery by Purchaser of anything adversely affecting the System, including a material malfunction, interruption in the supply of Product or discovery of an emergency condition, of which Purchaser should reasonably be aware.
  - j. Purchaser Permits. Subject to the conditions set forth in Section 5 above, Purchaser shall obtain and maintain, at its sole cost and expense, but with Seller's reasonable cooperation and assistance, all Purchaser Permits.
8. Change in Law. A "Change in Law" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided that a change in federal, state, county, or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement, which termination shall constitute a Termination Event.

9. Removal of System at Expiration or Early Termination. Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise a Purchase Option under Section 14.b), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than ninety (90) days after the expiration or early termination of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition. If Seller fails to remove or commence substantial efforts to



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remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials, and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

10. Measurement. Product delivered to the Premises shall be measured by the monitoring systems installed and maintained by Seller as part of the System. The Seller must provide Purchaser with System performance data that interfaces and is compatible with the Purchaser's then existing platform to collect System data.

11. Default, Remedies and Damages.

a. Default. A Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below and does not cure such experience or circumstance within the time period specified, shall be deemed a "Defaulting Party" and each event of default shall be a "Default Event":

i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the other Party (the "Non-Defaulting Party") of such failure to pay ("Payment Default");

ii. failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;

iii. if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

iv. if any material impairment of Seller's rights under the Site Access and License Agreement occurs, and Purchaser fails to deliver within one hundred twenty (120) days an acceptable substitute premises, to the extent permitted and in compliance with any requirements on substitute premises set forth in the applicable Project Schedule;

v. a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or

vi. Purchaser prevents Seller from installing the System or otherwise prevents the delivery of Product from the System.

b. Remedies. Any claim arising from a Default Event shall be governed by Code of Montgomery County Electricity Procurement Regulations (COMCOR) Section 14.2 ("Regulations"). Notwithstanding anything to the contrary in the Regulations, Contractor shall have one hundred eighty (180) days from the event giving rise to the claim to file a dispute.

c. Damages. Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, unless Purchaser shall have timely exercised an Early Purchase Option under Section 14.b, if applicable, the Defaulting Party shall pay an Early Termination Payment to the Non-Defaulting Party determined as follows (the "Early Termination Payment"):

i. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Early Termination Payment to Seller shall be equal to the sum of (i) the Early Termination Payment

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specified in the applicable Project Schedule, (ii) the cost to remove the System as required pursuant to Section 9, (iii) all costs, if any, (including liquidated damages, termination fees, breakage fees or penalties) associated with the termination of any other agreements relating to the System (such as hedging arrangements, third party contractor agreements, arrangements with the Utility or Environmental Attribute sale agreements) and (iv) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller.

The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Early Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Early Termination Payment shall not be less than zero. Subject to Section 311 of the Montgomery County Charter and COMCOR Section 11B.04.01, Electricity Procurement Regulations, it is the expectation of Purchaser that the applicable budgetary entity will appropriate and encumber a sufficient amount to fund the Early Termination Payment upon or promptly following the occurrence of a Seller termination of the Agreement for such Purchaser default. Purchaser shall use reasonable, good faith efforts to have funds properly budgeted, appropriated, allotted, or otherwise made available for this Early Termination Payment in the case of a Seller termination pursuant to this Section 11(c)(i).

- ii. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, Seller shall, at its sole cost and expense, remove the System as required pursuant to Section 9.
- iii. Mitigation. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.
- d. Cross Termination. If, after Commercial Operation, any Other Agreement is terminated early for any reason (save as a result of a Default Event thereunder where Seller is the Defaulting Party), Seller shall have the option to terminate this Agreement effective as of the termination of such Other Agreement, and a Termination Event with respect to this Agreement shall be deemed to have occurred.
- e. Termination Events. Upon a termination of this Agreement by either Party as a result of a Termination Event, Purchaser shall pay Seller an Early Termination Payment calculated in the same manner as if Purchaser were the Defaulting Party pursuant to Section 11.c.1 (unless Purchaser shall have timely exercised an Early Purchase Option under Section 14.b, if applicable, in which case such early termination shall convert to a purchase thereunder).

## 12. Representations and Warranties.

- a. General Representations and Warranties. Each Party represents and warrants to the other the following as of the Effective Date:
  - i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership, trust or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
  - ii. Such Party has obtained all licenses, authorizations, consents, and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.
- b. Purchaser's Representations, Warranties and Covenants. Purchaser represents and warrants to Seller the following as of the Effective Date and covenants that throughout the Term:

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- i. License. Purchaser has title to or a leasehold or other property interest in the Facility. Purchaser has the full right, power, and authority to grant the Site Access and License Agreement contained in Attachment 5. Such grant of the License does not violate any law, ordinance, rule, or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility. If Purchaser does not own the Premises or Facility, Purchaser has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.
  - ii. Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
  - iii. Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated energy requirements, is accurate to the best of Purchaser's knowledge.
  - iv. Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.
  - v. Hazardous Substances. There are no Hazardous Substances at, on, above, below, or near the Facility or Premises that will adversely affect the System or any of Seller's personnel during construction, operation, repair, and maintenance of the System.
  - vi. Municipal Issues. Purchaser (i) has fully complied with all procurement, public bidding, and municipal contracting requirements under applicable law and (ii) represents that prevailing wage requirements are not applicable to the construction or operation of the System.
- c. NO OTHER WARRANTY. OTHER THAN AS EXPRESSLY SET FORTH HEREIN, NO WARRANTY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

## 13. System and Facility Damage and Insurance.

### a. System and Facility Damage.

- i. Seller's Obligations. If the System is damaged or destroyed such that operation of the System is materially impaired or prevented, Seller shall have the option to (A) restore the System, in which case this Agreement shall remain in effect, or (B) terminate this Agreement without liability to Purchaser.
- ii. Purchaser's Obligations. If the Facility is damaged or destroyed by casualty of any kind or any other occurrence other than due to Seller's negligence or willful misconduct, such that the operation of the System and/or Purchaser's ability to accept the Product produced by the System are materially impaired or prevented, Purchaser shall have the option to either: (i) promptly repair and restore the Facility to its pre-existing condition at Purchaser's sole cost and expense; or (ii) to purchase the System at the Early Termination Payment specified in the applicable Project Schedule and pay all other costs previously accrued but unpaid under this Agreement, and thereupon terminate this Agreement. Such option shall be exercised within sixty (60) days from the occurrence of such casualty event. If Purchaser fails to timely elect either (i) or (ii), Seller may provide written notice of such failure to Purchaser. If Purchaser fails to make a timely election within ten (10) days following such written notice, Purchaser shall be deemed to have elected option (ii) and shall purchase the System.

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- b. Insurance Coverage. At all times during the Term, Seller and Purchaser shall maintain the following insurance:
  - i. Seller's Insurance. Seller shall maintain the insurance specified in Attachment 2 and provide Purchaser proof of insurance annually.
  - ii. Purchaser's Insurance. Purchaser is a member of the Montgomery County Self-Insurance Program. General liability coverage is in the amounts of eight hundred thousand dollars (\$800,000) aggregate and four hundred thousand dollars (\$400,000) each occurrence. These are the maximum limits of liability for which the Montgomery County Self-Insurance Program is responsible, as determined by the LGTCA (as defined below).
- c. Policy Provisions. All insurance policies provided hereunder shall (i) contain a provision that, if any of the policies be cancelled before the expiration date thereof, written notice must be delivered to Purchaser by Seller thirty (30) days in advance, ten (10) days in the event of non-payment, (ii) be written on an occurrence basis, and (iii) as respects Seller's insurance, will be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other Party.
- d. Certificates. Upon the other Party's request, each Party shall deliver the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.
- e. Deductibles. Each Party shall be responsible for the payment of its own deductibles and/or retentions.

## 14. Ownership; Option to Purchase.

- a. Ownership of System. Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes (unless otherwise provided in the applicable Project Schedule), and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture of, the Facility or the Premises. Seller and Purchaser agree that Seller is the tax owner of the System, and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance, or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. For the avoidance of doubt, in either circumstance, Seller shall file such disclaimer. Upon request, Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises. To the extent that Purchaser does not own the Premises or Facility, Purchaser shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or Facility or termination of Purchaser's lease of the Premises and/or Facility.
- b. Option to Purchase. Purchaser may purchase the System from Seller for a purchase price equal to the Fair Market Value of the System after the sixth (6th) contract year, so long as Purchaser is not in default under this Agreement. The "Fair Market Value" of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination

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in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

- c. Notice of Exercise of Purchase Option. With respect to the End of Term Purchase Option, Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the expiration of the Term, and the purchase shall be completed prior to the expiration of the Term. With respect to any Early Purchase Option, Purchaser must provide notice as soon as reasonably practicable, but not less than five (5) days prior to the effective date of such early termination, in which case (i) the early termination shall be converted to a purchase and (ii) such purchase shall be completed within sixty (60) days following Purchaser's notice of exercise of Early Purchase Option.
- d. Purchase Terms. In connection with any purchase under this Section 14, Seller shall transfer good title to the System to Purchaser upon Seller's receipt of the purchase price but otherwise disclaims all warranties of any kind, express or implied, concerning the System, "as is, where is, with all faults"; provided that Seller shall assign to Purchaser any manufacturer's warranties that are in effect as of the purchase, and which are assignable pursuant to their terms. Upon purchase of the System or portion thereof, Purchaser will assume complete responsibility for the operation and maintenance and performance thereof, and Seller shall have no further liabilities or obligations hereunder with respect thereto.

### 15. Indemnification and Limitations of Liability.

- a. General. To the full extent allowable under applicable law, each Party (the "Indemnifying Party") shall indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "Indemnified Parties"), from and against all loss, damage, expense, liability and other claims, including court costs (collectively, "Liabilities") resulting from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 15.a however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 15.c.
- b. Notice and Participation in Third Party Claims. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "Claim"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 15.b unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. To enable Purchaser to comply with its County Charter which requires the County Attorney's Office to represent the County in all legal matters, Purchaser will evaluate any third-party claim against it concerning which Seller has agreed to indemnify Purchaser. If Purchaser chooses not to tender to Seller the control of the defense of a third-party claim for which Seller has agreed to indemnify Purchaser, then Seller will have no duty to defend, indemnify or hold Purchaser harmless for the claim not tendered. If Purchaser chooses to tender the claim to Seller, then Seller must provide the defense and indemnity as provided in this Agreement; and the County Attorney's Office may participate in the defense to the extent necessary to protect Purchaser's interests but may not unreasonably



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interfere with the defense provided by Seller. Seller agrees not to settle or compromise the third-party claim without the prior written consent of the County Attorney's Office if the settlement or compromise would result in Purchaser admitting liability, exposing Purchaser or its employees or agents to liability, or would result in Purchaser paying money to the third-party claimant as a result of this indemnification provision, or otherwise.

- c. Environmental Indemnification. Seller shall indemnify, defend, and hold harmless all of Purchaser's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined below) to the extent deposited, spilled or otherwise caused and due to the negligence or willful misconduct by Seller or any of its contractors or agents. Purchaser shall indemnify, defend, and hold harmless all of Seller's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused and due to the negligence or willful misconduct of Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill, or release of any Hazardous Substance.
- i. "Hazardous Substance" means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.
- d. Any indemnification given by Purchaser is, to the extent permitted by applicable law, contingent upon the appropriation and encumbrance of funding, and subject to the notice requirements and damages limitations stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. I Sec. 5-301, et seq. (2016.) (the "LGTCA"); and Md. Code Ann. Cts. & Jud. Proc. \* § 5-5A-02 (2016.), (together the "County Indemnification Statutes"), all as amended from time to time.
- e. Limitations on Liability.
- i. No Consequential Damages. Except with respect to indemnification of third-party claims pursuant to Section 15, and without limiting any damages payable under Section 11.b, neither Party, nor its directors, officers, shareholders, partners, members, agents and employees subcontractors, or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. The Parties agree that (A) in the event that Seller is required to recapture any Tax Credits or other tax benefits as a result of a breach of this Agreement by Purchaser, such recaptured amount shall be deemed to be direct and not indirect or consequential damages, and (B) in the event that Seller is retaining the Environmental Attributes produced by the System, and a breach of this Agreement by Purchaser causes Seller to lose the benefit of sales of such Environmental Attributes to third parties, the amount of such lost sales shall be direct and not indirect or consequential damages.
- ii. Actual Damages. Except with respect to indemnification of third party claims pursuant to Section 15 and except as otherwise limited in Section 12.c, Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall in no case exceed one million dollars (\$1,000,000); provided, however, Seller's aggregate liability under this Agreement for property damage to the Facility to the extent caused by the negligence, willful misconduct or intentional acts of Seller shall in no case exceed five million dollars (\$5,000,000). The provisions of this section shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise. Any action against Seller must be brought within one (1) year after the cause of action accrues.

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16. Cessation of Operation. If (i) Purchaser ceases to conduct business operations at and/or vacates the Premises or (ii) Seller is prevented from operating the System at the Premises (through no fault of Seller) or (iii) the System is otherwise prevented from delivering Product (through no fault of Seller), in each case prior to the expiration of the Term, Purchaser shall have the option to (i) propose an assignment of this Agreement to any substitute owner or occupant of the Premises or the Facility, subject to Article 18 hereof or (ii) terminate this Agreement, which termination shall constitute a Termination Event.
17. Force Majeure.
- a. "Force Majeure" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of energy due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority or any delay in receipt of any necessary approvals by the Utility (provided that such action has been timely requested and diligently pursued); failure of interconnection or distribution service, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.
  - b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible, it being understood that a Party affected by a civil strike, work stoppage, slow-down, or lock-out shall not be required to enter into any negotiations or settlements in connection therewith. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.
  - c. Notwithstanding anything herein to the contrary, a Force Majeure Event shall not excuse any obligation of Purchaser to make any payments (including any capacity payments) required with respect to the System, or to make any payment for energy delivered during such Force Majeure event.
  - d. If a Force Majeure event continues for a period of one hundred (100) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then the Party not claiming Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).
18. Assignment and Financing.
- a. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Assignee must be in good standing with all applicable federal, State, and local authorities and must certify that it has not been debarred, suspended, or otherwise excluded from participating in any public procurement process by any government authority. If Purchaser has been provided with reasonable proof that a proposed assignee has comparable experience in operating and maintaining systems comparable to the System and the financial capability to do the same, Purchaser's withholding of consent shall be deemed unreasonable. Seller shall be permitted to condition its consent to assignment of this Agreement upon the simultaneous assignment of any Other Agreement by Purchaser.

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- b. Notwithstanding Section 18.a, Seller may, without the prior written consent of Purchaser, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to any Financing Party, any entity through which Seller is obtaining financing from a Financing Party, any affiliate of Seller, or any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee); provided that, with respect to any assignment described above, the assignee (A) is an entity that has the appropriate experience and ability to operate and maintain distributed energy resource systems and the financial capability to do same (an "Operator"); or (B) enters into a contract with an Operator, pursuant to which (1) such Operator shall be responsible for all System operation and maintenance under this Agreement and (2) Seller shall have granted to Operator all other rights granted to Seller herein necessary for operation and maintenance of the System (including access rights to the Facility) as required by this Agreement. When an assignment is executed, Seller must provide notice to the Contract Administrator within thirty (30) days, including the corporate name and address of the assignee.
- c. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the Parties.
- d. Financing. The Parties acknowledge that Seller may obtain debt or equity financing or other credit support from lenders or third parties (including tax equity or similar investors) ("Financing Parties") in connection with the installation, construction, ownership, operation, and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties.

## 19. Confidentiality and Publicity.

- a. Confidentiality. Subject to the Maryland Public Information Act, if either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Purchaser's business ("Confidential Information") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement, including but not limited to obtaining financing for the System. Notwithstanding the above, a Party may provide such Confidential Information to its affiliates and to its and its affiliates' respective officers, directors, members, managers, employees, agents, contractors, consultants, lenders and Financing Parties (collectively, "Representatives"), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this section by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this section. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this section but shall be in addition to all other remedies available at law or in equity.
- b. Permitted Disclosures. Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant



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to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party, or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

- c. Notwithstanding any of the above, neither Party may hold confidential any information that is required to be disclosed under any applicable public records law or regulation, including the Maryland Public Information Act. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law, including redacting any trade secret or proprietary information.

20. Goodwill and Publicity. Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of the other Party. County and Seller shall agree upon guidelines for public announcements related to the execution and existence of this Agreement, including, specifically, sensitive areas that may require mutual review. In this case, each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other publicity statements that refer to this Agreement (except for filings or other statements or releases as may be required by applicable law). Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

## 21. General Provisions

- a. Choice of Law. The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.
- b. Survival. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive.
- c. Further Assurances. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- d. Right of Waiver. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time (other than with respect to and/or relating to the obligation to make any payment due under this Agreement); provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.
- e. Non-Dedication of Facilities. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that

## Attachment No. 5

preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 9 of this Agreement.

- f. Estoppel. Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other Party hereto, shall deliver a written instrument, duly executed, certifying to such requesting Party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such Party the other Party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- g. Service Contract. The Parties intend this Agreement to be a “service contract” within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of Product from the System.
- h. No Partnership. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.
- i. Full Agreement, Modification, Invalidity, Counterparts, Captions. This Agreement completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. Counterparts may be executed and delivered via facsimile, electronic mail (including “.pdf” or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com), or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
- j. Precedence. In the event of a conflict, the following order of precedence shall apply: (i) the Project Schedule and the terms of this Master Agreement, (ii) Attachments A and B and (iii) the remaining Attachments.
- k. Forward Contract. The transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge e and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.
- l. No Third-Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.
- m. Contract Administrator
  - i. The Director, Department of General Services, is the delegated Contracting Officer. Therefore, the Director or designee must approve amendments, modifications, or changes to the terms, conditions, or Minority, Female, Disabled Person Subcontractor Performance Plans in writing.
  - ii. Using Department

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The Contract Administrator for this Agreement is:

Chief, Office of Energy and Sustainability  
Department of General Services  
101 Monroe St., 9<sup>th</sup> Floor  
Rockville, MD 20850-2540

The Contract Administrator's duties include, but are not limited to, those described in Paragraph 6, Contract Administration, of the Electricity Purchase Terms and Conditions of Contract between County and Contractor.

iii. Notices

Any notice required by this Agreement or other communications to either Party by the other must be in writing and deemed given when delivered personally or when deposited in the United States Post Office, first class, postage prepaid, addressed as follows, or to such other address as must be duly given by notice meeting the requirement of this section. The Contract Administrator may conduct or request electronic communication at his/her discretion.

To Purchaser:

Chief, Office of Energy and Sustainability  
Department of General Services  
101 Monroe St., 9<sup>th</sup> Floor  
Rockville, MD 20850-2540

To Seller:

[Insert name, title, contact information]

[SIGNATURE PAGE TO FOLLOW]

# Attachment No. 5

This Master Agreement is effective on the date of execution by the Director, Department of General Services.

[SELLER NAME]

MONTGOMERY COUNTY, MARYLAND

By: \_\_\_\_\_

By: \_\_\_\_\_

David E. Dise, Director  
Department of General Services

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

RECOMMENDED BY:

Date: \_\_\_\_\_

\_\_\_\_\_  
Donald Scheuerman, Jr., Chief  
Office of Energy and Sustainability  
Department of General Services

Date: \_\_\_\_\_

APPROVED AS TO  
FORM AND LEGALITY BY THE OFFICE OF  
THE COUNTY ATTORNEY

\_\_\_\_\_  
Puja K. DeWire,  
Assistant County Attorney

Date: \_\_\_\_\_

# Attachment No. 5

## Attachment 1

### ELECTRICITY PURCHASE TERMS AND CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

#### 1. ACCOUNTING SYSTEM AND AUDIT. ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

#### 2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq.

#### 3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Electricity Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Electricity Procurement Regulations, the Electricity Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state, and local laws, codes, and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

Contractor and all of its subcontractors must provide the same benefits to an employee with a domestic partner as provided to an employee with a spouse, in accordance with County Code §11B-33D. An aggrieved employee is a third-party beneficiary who may, by civil action, recover the cash equivalent of any benefit denied in violation of §11B-33D or other compensable damages.

#### 4. ASSIGNMENTS AND SUBCONTRACTS

The contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Department of General Services. Unless performance is separately and expressly waived in writing by the Director, Department of General Services, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Department of General Services. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests. The contractor is fully responsible to the County for the acts and omissions of itself, its subcontractors, and any person either directly or indirectly employed by them. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the County, and nothing in the contract documents is intended to make any subcontractor a beneficiary of the contract between the County and the Contractor.

#### 5. CHANGES

The Director, Department of General Services, may unilaterally change the work, materials, and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Department of General Services, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

#### 6. CONTRACT ADMINISTRATION

A) The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Department of General Services, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Department of General Services, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Department of General Services;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B) The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate, or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

# Attachment No. 5

## 7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Electricity Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Department of General Services, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

## 8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Electricity Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Department of General Services, the head of the County department, office, or agency ("Department Head") of the contract administrator is the designee of the Director, Department of General Services, for the purpose of dispute resolution. The Department Head or his/her designee, must forward to the Director, Department of General Services, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Department of General Services, or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Department of General Services, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Department of General Services, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

## 9. DOCUMENTS, MATERIALS AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

## 10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

## 11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

## 12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b)
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under Title 14 of the Election Law, Annotated Code of Maryland.

## 13. GUARANTEE

- A) Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B) Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C) All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D) The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances, and regulations in providing the goods, and performing the services or construction.
- E) Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.



# Attachment No. 5

## 14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

## 15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

## 16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

## 17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

## 18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

## 19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

## 20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

## 21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Department of General Services, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Thirty days written notice to the County of cancellation or material change in any of the policies is required, unless a longer period is required by applicable law. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Department of General Services, may waive the requirements of this section, in whole or in part.

# Attachment No. 5

## TABLE A. - INSURANCE REQUIREMENTS

(See Paragraph #21 Under the Electricity Purchase Terms and Conditions)

### CONTRACT DOLLAR VALUES (IN \$1,000's)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
	<u>BODILY INJURY BY</u>			
Accident (each)	100	100	100	See Attachment
Disease (policy limits)	500	500	500	
Disease (each employee)	100	100	100	
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300	500	1,000	See Attachment
Minimum Automobile Liability (including owned, hired and non- owned automobiles) Bodily Injury				
each person	100	250	500	See Attachment
each occurrence	300	500	1,000	
Property Damage each occurrence	300	300	300	
Professional Liability* for errors, omissions Attachment and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See

Certificate Holder  
Montgomery County Maryland (Contract #)  
Office of Procurement  
27 Courthouse Square  
Suite 330  
Rockville, MD 20850

\*Professional services contracts only

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# Attachment No. 5

TABLE B. - INSURANCE REQUIREMENTS  
(See Paragraph #21 Under the Electricity Purchase Terms and Conditions)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder  
Montgomery County Maryland (Contract #)  
Office of Procurement  
27 Courthouse Square  
Suite 330  
Rockville, MD 20850

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# Attachment No. 5

## 22. LICENSES AND AUTHORIZATIONS

The Contractor warrants and covenants that (a) it will possess, and will continue to possess for the duration of the Contract term, all required licenses and authorizations mandated by federal, state and local law in order to provide Electricity Supply Service under this Contract, and (b) it will at all times comply with all terms and conditions of such licenses and authorizations. The Contractor warrants and covenants that, for the duration of the Contract term, it will maintain in good standing its license and authorization as a Supplier and/or Marketer, as defined in the applicable jurisdiction's statutes and laws, including, but not limited to, Maryland Annotated Code, Public Utility Companies Article, Section 1-101(o). The Participant may request and the Contractor will promptly furnish evidence that the Contractor meets its warranties and covenants under this paragraph.

## 23. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

## 24. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

## 25. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

## 26. PAYMENTS

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Department of General Services prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

## 27. PAYMENT CARD INDUSTRY COMPLIANCE

In any contract where the Contractor provides a system or service that involves processing credit card payments (a "Payment Solution"), the Payment Solution must be Payment Card Industry Data Security Standard Compliant ("PCI-DSS Compliant"), as determined and verified by the Department of Finance, and must (1) process credit card payments through the use of a Merchant ID ("MID") obtained by the County's Department of Finance by and in the name of the County as merchant of record, or (2) use a MID obtained by and in the name of the Contractor as merchant of record.

## 28. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

## 29. PROTECTION OF PERSONAL INFORMATION BY GOVERNMENT AGENCIES

In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

# Attachment No. 5

## 30. TERMINATION FOR DEFAULT

The Director, Department of General Services, may terminate the contract in whole or in part, and from time to time, whenever the Director, Department of General Services, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Department of General Services, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

## 31. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

## 32. TIME

Time is of the essence.

## 33. WORK UNDER THE CONTRACT

Work may not commence under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

## 34. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

## 35. TITLE TO ELECTRICITY

The Contractor warrants good and marketable title to all electric energy delivered to the points of delivery under this Contract on behalf of the County, and will indemnify, defend and hold harmless the County and its directors, officers, elected officials and employees from and against all loss, cost, damage and other expenses, including attorney's fees and litigation expenses arising out of (a) Contractor's breach of the above-stated warranty, or (b) Contractor's title to and delivery of electricity, such claims including but not limited to environmental pollution liability. The Contractor's indemnification obligation under this paragraph is in addition to and not in derogation of any or all of the Contractor's indemnification obligations under conditions provided, however, that the Contractor's indemnification under this provision is limited to its liabilities in connection with the supply of electricity and/or performance of its obligations under the Contract.

**THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.**

# Attachment No. 5

## Attachment 2

### MANDATORY INSURANCE REQUIREMENTS

#### ***Microgrid System Installations at Various County Buildings*** ***Public Private Partnership – Install, Own and Operate Systems***

Prior to the execution of the contract by the County, the Seller and their contractors (if requested by County) must obtain, at their own cost and expense, the following *minimum* (not maximum) insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. If coverage is written on an occurrence form, coverage including but not limited to additional insured coverage shall extend until the expiration of time within which all claims may be brought under all applicable laws. If coverage is written on a claims-made form, coverage shall be continually renewed for no less than three (3) years following the termination of this Agreement. The insurance must be evidenced by a certificate of insurance and supporting additional insured and waiver of subrogation endorsements and if requested by the County, the Seller shall provide a copy of the insurance policies. The minimum limits of coverage listed below shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the Seller to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of Seller's obligation to provide the insurance coverage specified. Seller's insurance shall be primary, and any insurance or self-insurance of County shall be excess and non-contributory. With respect to Professional Liability and Builder's Risk, the Seller at its election may cause such coverages to be provided directly by its contractor provided that the coverage otherwise complies with the provisions hereof.

#### Commercial General Liability

A minimum limit of liability of five **million dollars (\$5,000,000)**, for bodily injury, personal injury, and property damage coverage per occurrence including the following coverages:

- Contractual Liability - broad form
- Premises and Operations
- Independent Contractors & Subcontractors
- Products and Completed Operations
- No sublimit or exclusion for liability arising from wildfire
- No sublimit or exclusion for liability arising from the use of cranes
- Coverage shall be endorsed to apply on a per project or per contract basis
- Sudden and Accidental Pollution
- Mobile Equipment

#### Professional Liability

Professional liability insurance covering acts, errors and omissions and negligent acts committed during the period of contractual relationship with the County with a limit of liability of at least **five million dollars (\$5,000,000)** per claim and aggregate.

#### Business Automobile Liability Coverage

A minimum limit of liability of **one million dollars (\$1,000,000)**, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles
- Loading and unloading

#### Worker's Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$1,000,000 each accident***
- Bodily Injury by Disease - \$1,000,000 policy limits***
- Bodily Injury by Disease - \$1,000,000 each employee***

#### Property Insurance

# Attachment No. 5

On or before Commercial Operation Date, Seller shall procure all-risk property insurance covering the full replacement cost of the System. Such coverage shall include business interruption, including contingent business interruption coverage, with a twelve-month indemnity period.

## Additional Insured/Loss Payee

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees must be named as an additional insured on Seller's Commercial Liability Insurance for ongoing and completed operations liability arising out of Seller's products, goods and services provided under the Agreement. County shall also be included as a loss payee on the Seller's Property Insurance (to the extent of County's insurable interest), and Installation Floater/Builders Risk policy and as Additional Insured on the Business Automobile Liability policy.

## Waiver of Subrogation

All policies required above, including self-insurance if applicable, shall waive all rights of subrogation against County and Seller shall obtain approval for such a waiver from the carriers prior to the execution of the agreement.

## Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County thirty days in advance, ten days in the event of non-payment.

## Certificate Holder

Montgomery County, Maryland  
DGS / Office of Energy and Sustainability / Donald Scheuerman, Jr., Chief  
101 Monroe Street, 9<sup>th</sup> Floor  
Rockville, Maryland 20850

# Attachment No. 5

## Attachment 3

### PROJECT SCHEDULE

[insert project name]

This Project Schedule is entered into as of the Effective Date by and between Montgomery County, Maryland (hereinafter referred to as "County" or "Purchaser") and [Seller Name] (hereinafter referred to as "Seller"). This Project Schedule defines a stand-alone Power Purchase Agreement, where Seller will develop, own and operate a microgrid system a defined location, and Purchaser will agree to purchase all Products generated by the Microgrid ("System" or "Seller's Equipment"). This Project Schedule incorporates by reference the Master Power Purchase Agreement Contract No. [to be inserted] between Seller and Purchaser and, taken together, constitutes the definitive agreement with respect to the sale by Seller and purchase by Purchaser of Products generated by the System.

**System:** [to be inserted]

**System Location:** [to be inserted]

**System Size (kW electric rated output):** [to be inserted]

#### Expected Annual Energy Production

Contract Year	kWh-AC
1	[to be inserted]

**Performance Guarantee for System.** "Seller's Energy Delivery Obligation" for the twenty-four (24) month period immediately preceding the end of each Contract Year commencing at the end of the second full Contract Year ("Calculation Period") must equal one hundred sixty percent (160%) of the Expected Annual Energy Production applicable to the Calculation Period. At the end of each Calculation Period, if the sum of metered output plus any lost output that would be eligible under the definition of: (i) Lost Seller Revenues, and (ii) Scheduled Outage, (collectively, "Total Production") during the applicable Calculation Period does not equal or exceed Seller's Energy Delivery Obligation, then an "Event of Deficient Energy Deliveries" will have occurred. The positive amount, if any, by which the applicable Calculation Period's Seller's Energy Delivery Obligation exceeds the Total Production for such Calculation Period shall be deemed the "Deficient Energy Amount". If an Event of Deficient Energy Deliveries occurs, Seller shall cure such shortfall by including a credit on the second monthly invoice issued following the end of the Calculation Period in an amount equal to the product of (i) the Deficient Energy Amount, and (ii) the positive difference, if any, between the average energy cost on a dollars per kWh basis the Purchaser incurred to replace the Deficient Energy Amount, and the average Contract Price for the Calculation Period.

**Initial Term:** [to be inserted], beginning on the Commercial Operation Date.

**Additional Terms:** Up to two (2) Additional Terms of five (5) years each.

**Product:** Commodity and Resiliency Services and all Products generated from the Microgrid (as described in Additional Terms (a) Performance Criteria below and in Attachment 4).

#### **Environmental Incentives and Environmental Attributes Accrue to Seller.**

Seller shall be deemed to have taken title to the Environmental Attributes with respect to each month's electrical production upon payment of the invoice associated with such electrical production. Seller shall be solely responsible for any registration, tracking, or other administrative processes required for Seller to monetize, claim, certify, or otherwise benefit from the Environmental Attributes.

# Attachment No. 5

**Contract Price:** [to be inserted]

### Resilience Charge (if applicable)

Contract Year	\$/year	Contract Year	\$/year

### Energy Charge (based upon output)

Contract Year	\$/kWh	Contract Year	\$/kWh

### Early Termination Payment

Year	Amount
1	[to be inserted]

**Drawing(s):** [to be inserted]

**Seller Permits:** Seller Permits will be determined on a project-by-project basis dependent on the site location.

**Purchaser Permits:** Purchaser Permits will be determined on a project-by-project basis dependent on site location.

Permit/Agreement	Permitting Authority/Issuing Entity	Notes
All permits required for completion of the Facility and the System	[to be inserted]	Seller's System should be considered part of the Facility for the purposes of permitting, so that no separate construction or environmental permits are required
Tree removal permits	[to be inserted]	As required
Utility work in a public right of way	[to be inserted]	To be determined based on development plan.
Development Plan Approval	[to be inserted]	As required
Conditional Use Permit	[to be inserted]	To be determined based on development plan
BuildNew Service Request	[to be inserted]	Electrical and gas service to serve Facility
Stormwater Management	[to be inserted]	
Forest Conservation	[to be inserted]	
Fire Protection	[to be inserted]	

# Attachment No. 5

Structural	[to be inserted]	
Civil	[to be inserted]	

## Additional Terms:

- a. Performance Criteria. The System as described in this Schedule is designed to operate for a minimum of 168 consecutive hours during an interruption of electric power to the Facility (“Utility Service Interruption”). The System will have the capability to reduce the magnitude and duration of a Utility Service Interruption through its control of the electric generation and distribution equipment installed pursuant to the Agreement as set forth in the Microgrid Sequence of Operation attached hereto as Attachment 4 (D). Seller will provide all operations and maintenance on the System. The Purchaser will be responsible for any incremental costs incurred by Seller in performing any work at the Facility that is not directly attributable to the System. Seller will, from time to time throughout the Term, conduct testing to validate the System’s ability to perform the Microgrid Sequence of Operation (each such test, a “Microgrid Test”). Such testing shall be in accordance with a procedure to be developed by the Seller prior to the Commercial Operation Date and to be incorporated into, and made a part of, the Agreement. Seller shall perform testing at least four times per year during the Term. Purchaser shall be responsible to resolve any Microgrid Performance Issues that are not attributable to the System pursuant to the Agreement.
- b. Customer Care Services. Following Commercial Operation, (i) Seller shall assign a dedicated contract manager to meet virtually with the Purchaser each month for the first six (6) months of the Initial Term to provide general support, answer questions and arrange for a virtual training of Seller’s digital platform; and (ii) Customer access to technical support personnel via phone and a digital platform from 8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday except holidays (“Normal Business Hours”) or in case of an emergency, via phone twenty-four (24) hours per day, seven (7) days per week. If Customer initiates a technical support request through phone or the digital platform, support personnel will create a case, assess the nature of the request, classify the request priority and respond to the request with a preliminary action plan in accordance with the response times in the following table. Should Seller determine that the System cannot be operational, Seller shall as soon as reasonably possible notify Purchaser and (i) present a preliminary action plan to resume Services in accordance with the response times in the table below, (ii) use Prudent Industry Practices and commercially reasonable efforts to maintain, protect and repair the System during the Term; (iii) use Prudent Industry Practices and commercially reasonable efforts to maintain, protect and repair the System and as soon as practicable to minimize any interruption in the provision of the Services, and (iv) meet with Purchaser either virtually or in person at least once a week to provide updates on the status of the suspension and Seller’s plans to expedite resumption of Services. For any case where the System cannot be operational, Seller shall provide a root cause analysis and schedule for rehabilitation, remediation, and/or repairs.
- [insert Seller’s response time based on level of criticality]
- c. Scope of Work. See Attachment 4.
- d. Operation and Maintenance. Seller shall be the Operator of the System and shall perform all scheduled and unscheduled Maintenance of the System.
- e. Engineering Information. Seller and Purchaser shall cooperate and exchange information necessary to confirm (1) the physical location of the System at the Premises, and (2) the mechanical and electrical points of interconnection the System will have to the existing electric distribution system at the Premises.
- f. Fuel Supply & Utilities. Purchaser shall provide, or arrange for the provision of, at its sole cost and expense, any and all electricity, water (in appropriate quantities and quality that meets the System specifications), wastewater, fuel, auxiliary power, workplace lighting, and other utility requirements in connection with the System.
- g. Mowing and Snow Removal. Purchaser shall be responsible for mowing the grass and removing snow and ice within the perimeter of the ground-mounted portion of the System so as to prevent any interference with the System’s accessibility or performance by such snow, ice, grass, or vegetation.



## Attachment No. 5

- h. Removal. Seller's removal obligation shall include above-ground equipment only and shall exclude support structures (such as concrete pads) and below-ground equipment (such as pipes and wiring).
- i. Purchaser Obligations. Purchaser shall perform or cause to be performed regular maintenance on all equipment and systems on Purchaser's side of any point of interconnection as described in Attachment 4 and as shown in Attachment 4-1b, including circuitry, and controls components. Purchaser shall repair or replace without delay any equipment (including switches, and transformer, conduits, pipes, etc.) and equipment controls on Purchaser's side of any point of interconnection, the operation of which has a material impact on the operation of the System or the delivery of Product. Purchaser to inform Seller of major load changes that will impact the sequencing of load requirements and system critical support.

# Attachment No. 5

This Project Schedule is effective on the date of execution by the Director, Department of General Services.

[SELLER NAME]

MONTGOMERY COUNTY, MARYLAND

By: \_\_\_\_\_

By: \_\_\_\_\_

David E. Dise, Director  
Department of General Services

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

RECOMMENDED BY:

Date: \_\_\_\_\_

\_\_\_\_\_  
Donald Scheuerman, Jr., Chief  
Office of Energy and Sustainability  
Department of General Services

Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
BY THE OFFICE OF THE COUNTY ATTORNEY

\_\_\_\_\_  
Puja K. DeWire,  
Assistant County Attorney

Date: \_\_\_\_\_

# Attachment No. 5

## Attachment 4

### SCOPE OF WORK, DRAWINGS, MICROGRID SEQUENCE OF OPERATION & MICROGRID TEST

#### **(A) Purchaser and Seller Responsibilities – [Insert Project Name and Site Location]**

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Seller's Equipment is depicted in Attachment 4 and may include, but is not limited to:

1. **Main Service Disconnect Switch**
  2. **Utility Disconnect Switch,**
  3. **Energy Control Center (ECC), [include specifics] with separately-mounted control and power cabinets**
  4. **Automatic Transfer Switch Manual Transfer Switch/Gen Connection Cabinet,**
  5. **Natural Gas Genset**
  6. **Solar PV Panels and Racking**
  7. **Battery Energy Supply System**
- b. Full specifications of Seller's Equipment are shown in Attachment 4-1a. Where Attachment 4-1a conflicts with Attachment 4, Attachment 4 shall take precedent.
- c. For all Seller Equipment, Purchaser shall install all foundations, wiring and conduits to connect with Seller's Equipment to meet Seller's design and manufacturer requirements and in accordance with Purchaser's schedule for installation, included as Attachment 4-2.
- d. Seller shall set Seller's Equipment in place and make all final wiring connections inside Seller's Equipment in order to facilitate commissioning of Seller's Equipment.
- e. Seller shall provide gas utility connection, including piping up to the generator, and all-natural gas necessary to operate the generator at all times that meets the required fuel specifications set forth in Attachment 4-3, Fuel Standards, as well as operation pressures and flow specified in Attachment 4-1a.
- f. Seller shall support Purchaser's designer of record with equipment specifications and any special installation instructions and shall review/approve Purchaser's engineering designs to facilitate proper installation of Seller's equipment.
2. Seller shall provide data required for Purchaser to complete electrical arc flash or short circuit coordination studies as necessary for Facility, including the impact of the System. Purchaser will provide the protection settings to be configured in the equipment provided by the Seller.
3. Seller shall provide the Engineer of Record and Purchaser shall provide support such that the Engineer of Record may complete design drawings and specifications for permitting.
4. Electrical Utility Interconnection: Seller is responsible for all Utility Interconnection work.
5. System Commissioning and Testing:
- a. Seller shall provide system startup, testing and commissioning of the System. Seller shall utilize a load bank for commissioning, as all customer loads are not expected to be connected at the time of commissioning.
  - b. Purchaser shall coordinate and assist Seller as necessary with system commissioning and testing.
  - c. During operation of the System and prior to [DATE], Seller shall perform one on-site Building System Integration Test, in order to support Purchaser's commissioning of their Facility and any new electrical loads which have been added since commissioning of the System. Two days of onsite support is included.
6. Purchaser Personnel Training:
- a. Seller must train Purchaser personnel related to System operations.
7. Rebates: No rebates or grant program support is included.
8. Project Management and Coordination:
- a. Seller shall provide project management services, including on-site supervision to ensure project is implemented in a timely manner and will coordinate with Purchaser to align with Purchaser's Facility construction schedule, shown in Attachment 4-2.

# Attachment No. 5

- b. Seller shall coordinate any required building or utility outages with Purchaser during System installation and commissioning.

If needed, temporary power will be provided by the generator supplied by Seller.

## 9. System Maintenance Services:

- a. Following substantial completion of project construction activities and successful system startup and commissioning, Seller is responsible for maintaining the System as follows:
  - i. Planned and unplanned maintenance in order to keep the System functional. System support will be made available to the Purchaser through Seller's Digital platform during normal weekday business hours in case of issues with System operation or in case any abnormal conditions of the System are observed by Purchaser or on-site personnel. Contact information along with a "decision tree" or similar instructions will be developed by the Seller for the Purchaser's use.
  - ii. Seller will provide Customer access to support personnel via phone or through Seller's Digital platform from 8:00 am to 7:00 pm Eastern, Monday through Friday except holidays ("Normal Business Hours") or in case of an emergency, via an on-duty phone number twenty-four (24) hours per day, seven (7) days per week.

## 10. System Performance Data:

- a. Seller will provide System Performance Data to Purchaser's dashboard.

### **(B) Exceptions and Assumptions applicable to Scope of Work:**

1. No work associated with remediating site environmental conditions is included in this proposal, including, but not limited to:
  - a. Underground or above-ground environmental waste.
  - b. Unknown underground obstructions (e.g., foundations, storage tanks, etc.).
  - c. Remediation or abatement of hazardous materials (e.g., asbestos, lead, PCB, oil, etc.).
2. No upgrades or repair of Purchaser-owned equipment is included, as may be required by permitting authorities except where otherwise noted. No specific customer-defined plant standards for equipment or materials of construction are assumed.
3. No new equipment or upgrades to existing equipment on the facility or utility systems are included.
4. Purchaser shall provide adequate space and access for staging and construction of the System.
5. All work is expected to be performed during normal business hours however, a minor amount of off-hour work may be required to minimize operational disruption during limited phases of the project. Seller and Purchaser shall mutually agree on when and how many hours such off-hour work will be performed with the objective to minimize the amount of off-hour work. Purchaser shall allow full access to the work areas at all times.
6. Purchaser shall allow adequate shutdown time for installation of equipment and electrical connections, as needed.
7. Seller assumes no liability for Purchaser-provided equipment that malfunctions or breaks due to lack of prior maintenance of that equipment.
8. No interface between the new equipment and the Building Management System (BMS) is included. Seller shall provide communications hardware to facilitate future interface of read-only data points from Seller's ECC equipment and Purchaser's BMS and make data points available to Purchaser only upon completion of further design work. Any BMS integration or modifications desired by Purchaser are at Purchaser's expense.
9. Internet connections and IP addresses for equipment, where required (e.g., monitoring software, etc.) are to be provided by Purchaser.
10. If applicable, Seller shall complete forms MD DEP Form 42 and MD PSC CPCN Exemption or similar, if necessary to register or exempt the generator from air permitting. No fees or additional work related to air permitting is included.

# Attachment No. 5

11. **Seller neither provides a guarantee that the System is performing as intended during an islanding event, nor will the Seller guarantee any energy production/delivery during such islanding event to the Facility. Instead, Purchaser and Seller shall complete regular system testing to ensure proper operation, as described above.**
12. Purchaser will provide, or arrange for the provision of, at its sole cost and expense, any and all electricity, water (in appropriate quantities and quality that meets the System specifications), wastewater, fuel, auxiliary power, workplace lighting, and other utility requirements in connection with the System.
13. Seller's removal obligations with respect to the System exclude the following equipment: Electrical switchboards, breakers, transfer switches, and power wiring which are necessary for providing power from the utility electric service to the facility's loads. Purchaser agrees to pay Fair Market Value to Seller for any equipment not removed from the premises following termination of the Agreement.
14. Any work in respect to any defect or malfunction arising from a drawing, design or specification supplied by Purchaser is excluded.
15. If any obstructions around the System are added which impair Seller's access beyond what exists at the time of system commissioning and cause increased repair or maintenance costs, then Purchaser shall be responsible for reimbursing Seller for the additional costs. Seller shall propose a site-access plan, including equipment clearance and access requirements prior to system commissioning.
16. Purchaser shall perform or cause to be performed regular maintenance on all equipment and systems on Purchaser's side of any point of interconnection, including circuitry and building automation system components. Purchaser shall repair or replace, without delay, any equipment (including stand-by generators, switches and transformer, conduits, pipes and associated pumps, etc.) and equipment controls on Purchaser's side of any point of interconnection, the operation of which has a material impact on the operation of the System or the delivery of Product.
17. No special cybersecurity-related work is included. No special cybersecurity-related requirements are expected.
18. Any equipment specifications, make and model (including as shown in Attachments 4-1) are for reference only and subject to change at Seller's discretion, including based on availability of supply. Purchaser shall not unreasonably withhold approval for any change to Seller equipment specifications, make or model.

## **(C) Drawings and Schematics:**

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**Refer to Attachments 4-1a and 4-1b for all drawings and schematics.**

## **(D) Microgrid Sequence of Operation and Microgrid Test**

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The Microgrid Sequence of Operation and Microgrid Test shall be in accordance with a procedure to be developed by the Seller prior to the Commercial Operation Date and to be incorporated into, and made a part of, the Agreement.

Microgrid Testing:

1. On a Quarterly basis (i.e., no less than four per year), Seller will test the System to ensure that it is functioning properly (*actual test procedure will be developed as part of the on-site commissioning process*). After a review of logged events and system diagnostic reports, Seller will log any issues or potential issues as a support case and manage the case until its final resolution. Seller will coordinate with the Purchaser to perform testing at a mutually agreeable time.
2. If during quarterly testing, the microgrid fails to properly isolate and operate in its intended manner, Seller shall perform system repairs and upgrades and then additional testing until the system performs as intended. Additional testing required to address failed system operations shall not count toward the number of yearly tests required in the agreement.

The following conceptual sequence of operations is for general reference and may be modified or replaced by Seller prior to the Commercial Operation Date:

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# Attachment No. 5

1. The sequence of operation for normal or grid parallel mode shall be as follows:

On loss of power from the electric utility, the System must switch from normal mode to island mode as detailed in Attachment [to be inserted].

# Attachment No. 5

## Attachment 4-1

- (a) EQUIPMENT TECHNICAL SPECIFICATIONS
- (b) FACILITY ELECTRICAL SET

(To be inserted per project schedule)

# Attachment No. 5

## Attachment 4-2

### PROJECT INSTALLATION SCHEDULE

(To Be Attached)



# Attachment No. 5

## Attachment 5

### SAMPLE SITE ACCESS AND LICENSE AGREEMENT

#### SITE ACCESS AND LICENSE AGREEMENT

THIS SITE ACCESS AND LICENSE AGREEMENT ("Agreement") is made this \_\_\_\_ day of 20\_\_\_\_, by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic and a political subdivision of the State of Maryland (hereinafter referred to as the "COUNTY"), having an address of 101 Monroe Street, Rockville, Maryland 20850, and [LICENSEE'S Name, Address, State of Formation and Entity Type], authorized to conduct business in the State of Maryland (hereafter referred to as "LICENSEE"), (the LICENSEE and the COUNTY are each a "Party" and together the "Parties").

#### RECITALS

- A. The COUNTY and LICENSEE have entered into a Project Schedule which incorporates the Master Power Purchase Agreement, and any amendments thereto, with an Effective Date of \_\_\_\_\_, 20\_\_ (collectively, the "Covered Agreement").
- B. Capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Covered Agreement.
- C. Pursuant to the Covered Agreement, LICENSEE intends to install and operate the System at the Premises for the purpose of providing the electric and thermal energy to the COUNTY. For purposes of this Agreement, "System" means the system of [to be inserted based on project].

In consideration of the services and agreements made pursuant to the Covered Agreement, and other good and valuable covenants and obligations as hereinafter contained, the Parties agree as follows:

#### 1. USE OF LICENSED PREMISES:

(a) COUNTY hereby grants to LICENSEE non-exclusive (except as noted herein) license (the "License") for access to, on, over, under and across the Premises for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Seller's obligations and enforcing all of Seller's rights set forth herein and in the Covered Agreement; and (c) installing, using and maintaining electric lines and equipment, including meters, necessary to interconnect the System to Purchaser's electric system at the Facility and/or to the Utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance, or repair of the System. The COUNTY's grant of the License is subject to all of the terms and conditions contained in the Covered Agreement and herein. The location of installation for the System at the Facility is described in the applicable Project Schedule to the Covered Agreement and is hereinafter referred to as the licensed premises ("Licensed Premises"). The License shall be exclusive with respect to the Licensed Premises, subject to the terms of Section 5 below. No variation in the Licensed Premises will be permitted without the prior written consent of the COUNTY, such consent not to be unreasonably conditioned, delayed or withheld. During the License Term (defined below), the COUNTY shall ensure that LICENSEE's rights under the License and LICENSEE's access to the Licensed Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access.

(b) LICENSEE shall have the right of reasonable ingress and egress, to install and maintain the System and all accessories and appurtenances for use of the System, subject to the restrictions in this paragraph. The Facility is a public facility opened [XX] hours per day, [X] days per week. LICENSEE, its employees, agents, and subcontractors shall be entitled to access the System and the Licensed Premises during normal working hours as scheduled and approved by the Project Manager and Property Manager. In the case of an emergency, LICENSEE shall check in at COUNTY Security by calling (240) 777-6161 upon arrival and advise Facility maintenance staff by calling (240) 777-7777. LICENSEE must comply with the Licensor's security requirements for all workers and adhere to the ingress and egress procedures prior to commencing any work at the Facility.

(c) LICENSEE shall use the Licensed Premises for the purpose of installation, operation, and maintenance of the System. In connection therewith, the LICENSEE may complete all work necessary to prepare the Licensed Premises for

**Contract No. XXXXXXXX**

# Attachment No. 5

operation of the System including, but not limited to, installation of all photovoltaic equipment, inverters, wiring, and ancillary equipment necessary for System operations. LICENSEE shall use commercially reasonable efforts to cause minimal disruption to COUNTY in the LICENSEE's performance of all work on the Licensed Premises and improvements thereto. Except as expressly set forth in the Covered Agreement, all work, including the plans and specifications for such work, shall be at LICENSEE'S sole cost and expense, and must comply with all permitting rules and regulations and COUNTY insurance requirements, and shall be subject to prior review and written approval of the COUNTY, such approval not to be unreasonably conditioned, delayed or withheld. During the initial plan review, COUNTY and LICENSEE shall agree upon the final location for the installation of the System at the Licensed Premises. The LICENSEE will maintain the Licensed Premises in good condition. LICENSEE shall repair any damage to the COUNTY Facility caused by LICENSEE exercising its right of access under this Agreement.

(d) Title to the System and all accessories and appurtenances associated therewith installed by LICENSEE shall remain personal property of the LICENSEE. The Parties agree that the System is the personal property of the LICENSEE and not a fixture to the Facility, and neither Party shall take any action contrary to this intention. The LICENSEE may remove all or part of the System at its sole expense on or before the expiration or earlier termination of this Agreement and shall make any necessary repairs to the Licensed Premises resulting therefrom, normal wear and tear excepted.

(e) At LICENSEE'S sole cost and expense, and after approval of all plans by the COUNTY, LICENSEE'S electric service shall be tied into the COUNTY service at the Facility.

(f) LICENSEE shall provide an as-built engineer's drawing showing the location of the System on the Licensed Premises within ninety (90) days of the Condition Satisfaction Date set forth in the Covered Agreement.

## 2. TERM:

(a) This License shall commence upon execution by the COUNTY and shall be co-terminus with the term of the Covered Agreement, including any renewal term thereof, provided that this License shall remain in effect for a period of 120 days following the expiration or earlier termination of the Covered Agreement (except a termination following the COUNTY's exercise of its purchase option under the Covered Agreement) to allow the LICENSEE to remove the System and otherwise fulfill its obligations under Section 9 (Removal of System at Expiration) of the Covered Agreement (such date, the "Termination Date"). For the avoidance of doubt, this Agreement will terminate automatically upon the expiration or termination of the Covered Agreement.

## 3. LICENSEE INDEMNIFICATION:

The Parties shall each indemnify the other as set forth in Section 15 of the Covered Agreement.

## 4. LICENSEE INSURANCE:

Throughout the term of the License, the Parties shall carry the insurance required under the Covered Agreement.

## 5. RIGHT OF ENTRY:

Emergency Access: In cases of emergency involving imminent risk of injury or death to persons or damage to property, as determined by COUNTY in its sole discretion, COUNTY, its agents or employees, without prior notice to LICENSEE, may enter the Licensed Premises, however, COUNTY will attempt, but is not required, to notify LICENSEE of any such entry under this Article 5 as soon as is practicable under the circumstances.

## 6. SURRENDER OF POSSESSION:

This Agreement shall terminate on the Termination Date without the necessity of notice from either COUNTY or LICENSEE. LICENSEE'S AND COUNTY'S duties, obligations, and rights upon termination of this Agreement shall be as provided in the Covered Agreement.

## 7. COMPLIANCE WITH LAWS:

LICENSEE shall comply with all current and future enacted statutes, laws, rules, orders, regulations, and ordinances, as such may be amended from time to time (collectively "Laws") affecting the use or operation of the Licensed Premises. LICENSEE shall not use the Licensed Premises in any manner other than as described in Section 1 above, or

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in a manner that violates or may lead to a violation of any environmental laws or regulations or that creates or may lead to the creation of any environmental liabilities under Federal, State, or local environmental protection laws.

## 8. CHOICE OF LAW:

This Agreement and the performances thereof shall be governed, interpreted, construed, and regulated by the laws of the State of Maryland.

## 9. CHOICE OF FORUM:

Any action involving a dispute relating in any manner to this Agreement, the use or occupancy of the Licensed Premises, and/or any claim of injury or damage arising under this Agreement shall be administered pursuant to the terms of the Covered Agreement.

## 10. ASSIGNMENT AND OTHER TRANSFER:

(a) LICENSEE may assign this License only in accordance with Section 18 of the Covered Agreement and in conjunction with an assignment of the Covered Agreement. The COUNTY shall assign this License to any entity that takes possession of the Licensed Premises and will make best efforts to ensure that any such assignee takes the Licensed Premises subject to the LICENSEE's rights hereunder.

(b) Other Transfer: This Agreement may not be sold or transferred, and the LICENSEE shall not sublet or permit any other party to use the Licensed Premises or Facility or any of the System at the Facility.

## 11. NOTICES:

All notices hereunder must be in writing and shall be deemed validly given if hand delivered to the other Party or if sent by certified mail, return receipt requested, addressed as specified in Section 3 of the Covered Agreement (or such other address as the Party to be notified has designated to the sender by like notice).

## 12. RELATIONSHIP OF THE PARTIES:

It is expressly understood that the COUNTY shall not be construed or held to be a partner, co-venturer, agent, or associate of the LICENSEE; it being expressly understood that the relationship between the Parties hereto is and shall remain at all times that of the LICENSOR and LICENSEE.

## 13. LIENS:

LICENSEE shall not do or suffer anything to be done whereby the Licensed Premises or Facility shall be encumbered by any lien, including mechanic's lien.

## 14. DEFAULT:

(a) LICENSEE shall be in default if it fails to perform any obligation or responsibility under this Agreement or as set forth in the Covered Agreement and fails to correct such failure within the applicable cure period. Such event shall be a "Default Event."

(b) If a Default event occurs, COUNTY may terminate this Agreement and avail itself of the rights and remedies set forth in the Covered Agreements and any other rights and remedies available at law or in equity.

## 15. WAIVER:

The waiver at any time by either Party of any particular covenant, condition, obligation, or duty under this Agreement shall extend to the particular case only, and for the particular time and in the particular manner specified, and such waiver must not be construed or understood as waiving any further or other rights of either Party.

## 16. SEVERABILITY:

# Attachment No. 5

If any part, term, or provision of this Agreement is held void, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions must not be affected thereby; provided that the material economic terms of this Agreement remain substantially the same as contemplated by the entire Agreement.

17. ENTIRE AGREEMENT:

This Agreement contains all agreements, representations, and understandings of the Parties hereto and supersedes any previous understandings, proposals, commitments, or agreements, whether oral or written, and may be modified or amended pursuant to a written instrument signing by both Parties.

18. AUTHORIZATION:

Each Party hereby represents and warrants that its respective signatory is duly authorized to execute this Agreement on its behalf.

19. COUNTY OBLIGATIONS:

COUNTY'S performance hereunder, and any obligation of COUNTY hereunder is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the notice requirements and damage caps stated in Maryland law, including the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. Sec. 5-301, *et seq.* and Md. Code Ann., Cts. & Jud. Proc. Sec. 5-5A-02, all as amended from time to time.

**SIGNATURE PAGE FOLLOWS**

# Attachment No. 5

IN WITNESS WHEREOF, the Parties hereto have set their hand and affixed their respective seals the day and year first above written.

WITNESS:

LICENSEE:

[LICENSEE Name]

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

WITNESS:

MONTGOMERY COUNTY, MARYLAND

By: \_\_\_\_\_

By: \_\_\_\_\_

(Name)

Assistant Chief Administrative Officer

Date: \_\_\_\_\_

Approved for legal form and legality:

Recommended by:

Office of the County Attorney

By: \_\_\_\_\_  
Puja K. DeWire, Assistant County Attorney

By: \_\_\_\_\_  
David E. Dise, Director  
Department of General Services

Date: \_\_\_\_\_

Date: \_\_\_\_\_