

8. **LEED Certification**

(a) Crown Village shall design the Community Recreation Building in Pod 3 to comply with the now existing LEED (Leadership in Energy and Environmental Design) Green Building for New Construction Certified Level [*i.e.*, qualifying for 26 points pursuant to the LEED Rating System for New Construction and Major Renovation, Version 2.2, developed by the Green Buildings Council (the "LEED Rating System")]. Within ten (10) business days following receipt of evidence of such certification by the United States Green Buildings Council ("USGBC"), Gaithersburg shall refund twenty percent (20%) of the building permit fee charged to Crown Village for the Community Recreation Building. If the Community Recreation Building fails to receive certification from the USGBC, Crown Village shall pay Gaithersburg five percent (5%) of the construction cost as shown on the building permit application for the Community Recreation Building, to be used by Gaithersburg for environmental enhancements to the City.

(b) Prior to issuance of building permits for 40% of the Commercial/Retail Development to be constructed in Pod 1, Crown Village agrees to submit certification by a LEED accredited professional that said construction is likely to yield twenty (20) points on the LEED Rating System. As used in this Paragraph 8(b), a "LEED Accredited Professional" means an individual who has passed the LEED Professional Accreditation Exam administered by the USGBC.

(c) Builder-installed kitchen appliances, washers, dryers and applicable HVAC equipment in all units of the Residential Development shall equal or exceed the standards for Energy Star rated appliances in effect as of the date of this Agreement.

(d) Prior to issuance of building permits, Crown Village shall consult with Environmental Affairs staff in a good faith attempt to develop and implement a Construction, Demolition, and Landclearing (CDL) Waste Management Plan with a goal of diverting up to 50% (by weight) of CDL waste from the landfill by one, or a combination of the following activities: salvage, reuse, source-separated CDL recycling, or co-mingled recycling. However, the failure to agree with staff on a CDL Waste Management Plan ("CDL Plan") or achieve any goals established by the CDL Plan shall not delay or prevent the issuance of any building permit or other Development Approvals for the Permitted Development or constitute a default under the CDL Plan or this Agreement.

9. **School Site Donation**

(a) Crown Village has voluntarily agreed to donate to Gaithersburg a parcel of land from the Crown Village Property, not to exceed 32.1 acres, at the location shown in the Approved Sketch Plan and as otherwise generally shown on Exhibit "K" attached hereto and incorporated herein (the "School Site"), for the use and construction of a public high school by Montgomery County Public Schools ("MCPS") and for no other use except as expressly

provided in this Paragraph 9. Such donation shall occur by conveyance of the School Site by Crown Village to Gaithersburg upon recordation of the initial subdivision plat for the Permitted Development in Pod 2 or Pod 3 or at such earlier time as determined by Crown Village, in its sole discretion.

(b) At the time of the conveyance, Crown Village and Gaithersburg will enter into an easement and maintenance agreement that will require Crown Village to maintain the School Site and enable Crown Village to clear, rough grade, and stockpile materials on the site until the earlier to occur of seven (7) years from the date of the conveyance or until such time as MCPS notifies Crown Village that it is ready to begin construction of the school (the "School Site Easement"). The School Site Easement shall also provide Gaithersburg with reasonable controls over where materials may be stockpiled, shall provide for any fencing or other security measures necessary to protect the property and safety of adjoining properties and residents as reasonably determined by Gaithersburg, and provide mechanisms and/or remedies for protecting the School Site during the easement period.

(c) MCPS shall be deemed to be ready to begin construction of the school when the school is fully funded for construction in the first two (2) years of the applicable Montgomery County Capital Improvement Program. Gaithersburg acknowledges that it has obtained confirmation from MCPS that MCPS has agreed to accept the parcel as proposed and shown on the Approved Sketch Plan and described in this Agreement as a site for the construction of a public high school. Gaithersburg agrees that when the construction of the public high school is reasonably determined by MCPS to be needed to serve the students of Montgomery County, Gaithersburg will convey the School Site without cost or payment to MCPS for said construction. Any costs of said conveyance by Crown Village to Gaithersburg or by Gaithersburg to MCPS shall be paid by Gaithersburg.

(d) Prior to conveyance of the School Site, Crown Village shall have the right to clear, rough grade and stockpile materials on the School Site consistent with customary development construction practices for construction of the Permitted Development, subject to receipt of any permits required by law for such activities. Crown Village shall have the right to grant or consent to be granted easements on, over, across, under, and through the School Site as may be required in connection with the Proposed Development, provided that none of such easements shall materially interfere with the construction and use of a school on the School Site.

(e) In the event that MCPS does not move forward with the construction of a high school on the School Site within twenty (20) years of the "Effective Date of this Annexation," as said term is hereinafter defined, Gaithersburg, at its sole discretion, may use the School Site for a public recreational amenity.

(f) Gaithersburg acknowledges that the need for a high school site is not reasonably related to the demand created by the Permitted Development and acknowledges that Gaithersburg or other government entities could not require dedication of a school site as a result of the students to be generated by the Permitted Development or otherwise and that Crown

Village's agreement to convey the School Site to Gaithersburg was completely voluntary and not a requirement or condition imposed by Gaithersburg or other governmental authorities.

(g) The use limitations of this Paragraph 9 shall be contained in the instrument of conveyance from Crown Village to Gaithersburg and deemed a covenant running with the land enforceable by the grantor, and its successors and assigns to whom such right of enforcement is assigned in writing.

10. **Neighborhood Park and Historic Structures**

(a) Crown Village agrees to dedicate a neighborhood public park to Gaithersburg in the location shown on the Approved Sketch Plan (the "Neighborhood Park") and more particularly shown on Exhibit "J". The area to be dedicated for the Neighborhood Park shall contain approximately 5 acres. Gaithersburg acknowledges and agrees that (i) the Neighborhood Park may be used to satisfy any recreation and open space requirements applicable to the Permitted Development, (ii) the dedication of the Neighborhood Park site shall not be required prior to the issuance of the 300th residential building permit for the Permitted Development, (iii) Crown Village may afforest that area of the Neighborhood Park as shown on Exhibit "J", except approximately two (2) acres which Crown Village will grade as open space, as such area is identified on Exhibit "J", and shall receive appropriate forest conservation credits; (iv) Crown Village may install utilities, grade, and stockpile materials in, over and on the Neighborhood Park as required for construction of the Permitted Development, and (v) Crown Village may reserve those easements on or in the Neighborhood Park in the instrument of conveyance of the Neighborhood Park to Gaithersburg as may be necessary for the development or use of the Permitted Development, provided that such easements do not materially and adversely impact the use of the Neighborhood Park for its intended purpose. Crown Village agrees to grade the Neighborhood Park for recreational use as determined by Gaithersburg as part of the SDP Application approval that includes Pod 4, and to raze those existing structures within the Neighborhood Park, including the removal of any underground storage tanks and remediation associated with such removal, at the expense of Crown Village, as may be requested by Gaithersburg during grading of the Neighborhood Park and subject to Gaithersburg's providing all necessary demolition and other permits and approvals for such purpose.

(b) Crown Village agrees to preserve and improve the existing farmhouse located at 9800 Fields Road and the associated tenant log house (the "Historic Structures") which are to be located on the proposed lot as shown on Exhibit "L" (the "Historic House Lot"). Crown Village agrees to improve the Historic Structures for sale as a single-family residential home site, subject to plans and specifications to be mutually approved by Gaithersburg and Crown Village, said approvals not to be unreasonably conditioned or withheld, prior to dedication of the Neighborhood Park. Prior to sale of the Historic Structures and Historic House Lot by Crown Village as provided in this Paragraph 10(b), Crown Village shall record a covenant that provides for the designation of the Historic Structures as historic resources in accordance with applicable Gaithersburg law and regulations and this Agreement. In addition, prior to the alteration or removal of any of the existing structures located within the boundaries of the Neighborhood Park