

**THIS INSTRUMENT PREPARED BY:**

SHUTTS & BOWEN LLP  
ATTN: JULI S. JAMES, ESQ.  
300 S. ORANGE AVE.  
SUITE 1000  
ORLANDO, FL 32801

**AND AFTER RECORDING RETURN TO:**

CITY OF ORLANDO  
ATTN: CITY CLERK  
400 S. ORANGE AVE.  
2ND FLOOR  
ORLANDO, FL32801

**Property Appraisers Parcel Identification Number:**

19-22-30-2450-00-001

\_\_\_\_\_  
SPACE ABOVE THIS LINE FOR RECORDING DATA

**SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENTS AGREEMENT**

THIS SPECIAL WARRANTY DEED AND RESERVATION OF EASEMENTS AGREEMENT (this “**Deed**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016, (the “**Effective Date**”) by CRP-GREP ELAN AUDUBON OWNER, L.L.C., a Delaware limited liability company, (“**Grantor**”) whose address is 1001 Pennsylvania Avenue, NW, Washington, D.C., 20004, to and in favor of CITY OF ORLANDO, FLORIDA, a municipal corporation created and existing under and by virtue of the laws of the State of Florida, situated in Orange County, Florida, (“**Grantee**”) whose address is 400 South Orange Avenue, Orlando, Florida, 32801.

WITNESSETH:

THAT Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by Grantor, by these presents, does hereby grant, bargain, sell, alien, remise, release, convey, and confirm to Grantee all that certain land situated in Orange County, Florida, more particularly described as follows, together with all improvements located thereon (the “**Property**”):

**Tract A, ELAN AT AUDUBON PARK – A REPLAT, according to the plat thereof as recorded in Plat Book 83, Page 134, of the Public Records of Orange County, Florida.**

TOGETHER with all the tenements, hereditaments, and appurtenances belonging or in anywise appertaining to the Property, except as otherwise set forth herein.

TO HAVE AND TO HOLD the same in fee simple, forever. The Property is subject to:

(i) taxes and assessments accruing subsequent to December 31, 2015; (ii) easements, encumbrances, and restrictions of record, but reference thereto shall not serve to reimpose the same; and (iii) the easements reserved herein.

PROVIDED, HOWEVER, that the Property shall be used only for public right-of-way purposes, including without limitation an extension of that certain Grantee-owned and Grantee-maintained public right-of-way known as Warehouse Road (“**Warehouse Road**”), from the current terminus of said Warehouse Road at the southern end of the Property to that certain Grantee-owned and Grantee-maintained public right-of-way known as Woodcock Road (“**Woodcock Road**”) at the northern end of the Property (the “**Warehouse Road Extension**”).

AND PROVIDED, HOWEVER, that Grantor hereby reserves in favor of that certain real property owned by Grantor situated in Orange County, Florida, lying north and west of the Property, such real property being more particularly described as follows (the “**Grantor’s Retained Land**”):

Lot 1, ELAN AT AUDUBON PARK – A REPLAT, according to the plat thereof as recorded in Plat Book 83, Page 134, of the Public Records of Orange County, Florida.

the following described Access Easement, Utilities Easement, Parking Easement, Construction Easement, Maintenance Easement, and Features Easement, each of which easements: (i) are intended to be, and shall be, construed as, covenants running with the Property; (ii) shall be easements appurtenant to Grantor’s Retained Land; (iii) shall include and reserve all incidental rights reasonably necessary for the use and enjoyment of such easements for their respective intended purposes; (iv) shall be exercised in compliance with all applicable laws and all permits, approvals, codes, and requirements of all applicable governmental authorities (including without limitation Grantee); and (v) shall be for the benefit and use of (x) Grantor, and Grantor’s successors-in-interest as fee simple owners of all or any part of the Grantor’s Retained Land; (y) tenants, subtenants, and occupants of all or any part of the Grantor’s Retained Land; (z) the officers, directors, members, managers, stockholders, partners, trustees, fiduciaries, beneficiaries, licensees, invitees, permittees, guests, employees, representatives, contractors, subcontractors, materialmen consultants, and other agents of any person described in subclauses (x) and/or (y) above (collectively, the “**Permittees**”).

A. Grantor hereby reserves a permanent, non-exclusive easement over, under, on, upon, through, and across the Property for purposes of pedestrian and vehicular ingress, egress, access, and passage, including without limitation by large heavy construction vehicles and equipment, by Grantor and the Permittees to/from the Grantor’s Retained Land from/to Warehouse Road and from/to Woodcock Road (the “**Access Easement**”); provided, however, that at such time as construction of the Warehouse Road Extension is completed, the Access Easement shall terminate (in whole or in part) as to any part of the Property (or all of the Property, if applicable): (i) that is thereafter opened to the public as a Grantee-owned, Grantee-maintained, publically dedicated right-of-way (a “**City ROW**”); and (ii) over, under, on, upon, through, and across which Grantor and the Permittees have the rights – in common with the public in general – of pedestrian and vehicular ingress, egress, access, and passage to/from the Grantor’s Retained Land

from/to Warehouse Road and from/to Woodcock Road, by virtue of such part of the Property (or all of the Property, if applicable) having been opened to the public as a City ROW. The Access Easement reserved to Grantor and the Permittees hereby includes, without limitation, the right to: (i) use any Access Improvements (hereinafter defined) within the Property (both those existing on the Effective Date, if any, and those constructed as provided elsewhere in this Deed); and (ii) prior to completion of any Access Improvements, access to the Grantor's Retained Land without the installation or construction of any Access Improvements.

- B. Grantor hereby reserves a permanent, non-exclusive easement for utility purposes over, under, on, upon, through, and across the Property as necessary for the development of the Grantor's Retained Land for its intended use, subject to any and all applicable laws, ordinances, rules, regulations, permits, approvals, and other governmental requirements (the "**Utility Easement**"); provided, however, that at such time as construction of the Warehouse Road Extension is completed, the Utility Easement shall terminate (in whole or in part) as to any part of the Property (or all of the Property, if applicable): (i) that is thereafter opened to the public as a City ROW; and (ii) over, under, on, upon, through, and across which Grantor has the right – in common with the public in general, but subject to applicable permits and approvals – to continue to provide Utility Services (hereinafter defined) to Grantor's Retained Land, by virtue of such part of the Property (or all of the Property, if applicable) having been opened to the public as a City ROW. The Utilities Easement reserved to Grantor and the Permittees hereby includes, without limitation, the right to: (i) use any Utilities Improvements (hereinafter defined) within the Property (both those existing on the Effective Date, if any, and those constructed as provided elsewhere in this Deed); and (ii) provide, by means of the Utility Improvements, potable water, sewer/wastewater, reclaimed/reuse water, electrical, gas, telephone, internet, cable, and/or other utility services (collectively, "**Utility Services**") through the Property to the Grantor's Retained Land, including without limitation to the residential buildings to hereafter be constructed thereon.
- C. Grantor hereby reserves a temporary, exclusive easement over, under, on, upon, through, and across such portions of the Property upon which 90° Parking Spaces (hereinafter defined) have been constructed (both those existing on the Effective Date, if any, and those constructed as provided elsewhere in this Deed) for use by Grantor and the Permittees as additional vehicular parking for the Grantor's Retained Land; provided, however, that at such time as such 90° Parking Spaces are replaced with Parallel Parking Spaces (hereinafter defined), then Grantor hereby reserves a permanent, exclusive easement over, under, on, upon, through, and across such portions of the westernmost three feet (3') of the Property upon which Parallel Parking Spaces have been constructed (as provided elsewhere in this Deed) for use by Grantor and the Permittees of additional vehicular parking for the Grantor's Retained Land (collectively, the "**Parking Easement**").
- D. Grantor hereby reserves a temporary, non-exclusive easement over, under, on, upon, through, and across such portions of the Property as minimally necessary, and with the least amount of disruption as possible to the uses of the Property being made by Grantee, for purposes of Grantor and the Permittees performing such activities on and within the

Property (including without limitation grading, excavating, sloping, harmonizing, filling, and/or sodding the Property) as Grantor may deem reasonably necessary in connection with the initial designing, engineering, permitting, constructing, and installing, in accordance with permits and approvals obtained and/or to be obtained by Grantor and/or the Permittees, of: (i) those streets, roads, driveways, curbing, paving, sidewalks, walkways, trails, crosswalks, and other hardscape within the Property as depicted on **Exhibit "A"** attached hereto (the "**Access Improvements**"); (ii) those potable water, sewer/wastewater, reclaimed/reuse water, electrical, gas, telephone, internet, cable, and/or other utility pipes, lines, mains, valves, conduits, connections, and fixtures (and/or other equipment, accessories, appurtenances, and/or facilities associated therewith, including without limitation manholes, fire hydrants, wet taps, fittings, restraints, lift stations, poles, wires, guy wires, and transformers) within the Property as depicted on **Exhibit "A"** attached hereto (the "**Utility Improvements**"); (iii) those 90-degree parking spaces within the Property as depicted on **Exhibit "A"** attached hereto (the "**90° Parking Spaces**"); provided, however, that at such time as construction of the Warehouse Road Extension commences, Grantor, at Grantor's sole cost and expense, shall remove any and all 90° Parking Spaces within the Property and Grantor hereby reserves in favor of Grantor and the Permittees a right to instead install and construct within the westernmost three feet (3') of the Property those parallel parking spaces within the Property as depicted on **Exhibit "B"** attached hereto (the "**Parallel Parking Spaces**"). In furtherance of such rights and obligations of Grantor and/or the Permittees arising at such time as a Removal Notice (hereinafter defined) is provided by Grantee to Grantor, Grantor hereby further reserves a temporary, non-exclusive easement over, under, on, upon, through, and across such portions of the Property as minimally necessary, and with the least amount of disruption as possible to the uses of the Property being made by Grantee, for purposes of Grantor and the Permittees performing such activities on and within the Property as Grantor may deem reasonably necessary in connection with removing the Conflicting Features (hereinafter defined) and/or with removing the 90° Parking Spaces and designing, engineering, permitting, constructing, and installing, in accordance with permits and approvals to be obtained by Grantor and/or the Permittees, the Parallel Parking Spaces, with all of the foregoing easement reservations described in this paragraph collectively being the "**Construction Easement**". Notwithstanding the foregoing, the Access Improvements, the Utility Improvements, the 90° Parking Spaces, and the Parallel Parking Spaces shall also include: (i) any other equipment, accessories, appurtenances, and/or facilities associated with such improvements, including without limitation subgrade, base, asphalt, street striping, street signage, and/or handicap ramps, and including without limitation stormwater pipes, lines, mains, valves, connections, inlets, manholes, and/or fixtures; and (ii) any other equipment, accessories, appurtenances, facilities, and/or improvements associated with such Access Improvements, Utility Improvements, 90° Parking Spaces, and/or Parallel Parking Spaces that may be permitted and approved by Grantee from time to time for installation within the Property. The Construction Easement granted herein shall terminate as to each of the Access Improvements, the Utility Improvements, the 90° Parking Spaces, and the Parallel Parking Spaces at such time as each of the Access Improvements, the Utility Improvements, the 90° Parking Spaces, and the Parallel Parking Spaces is completed in accordance with permits and approvals obtained and/or to be obtained by Grantor and/or

the Permittees for such improvements.

- E. Grantor hereby reserves a permanent, non-exclusive easement over, under, on, upon, through, and across such portions of the Property as minimally necessary, and with the least amount of disruption as possible to the uses of the Property being made by Grantee, for purposes of Grantor and the Permittees inspecting, operating, maintaining, servicing, repairing, replacing, and/or reconstructing any Access Improvements, Utilities Improvements, 90° Parking Spaces, and/or Parallel Parking Spaces that have been constructed within the Property (the “**Maintenance Easement**”).
- F. Grantor hereby reserves a temporary, non-exclusive easement (the “**Features Easement**”) over, under, on, upon, through, and across the Property for purposes of Grantor and the Permittees constructing and installing in accordance with permits and approvals obtained and/or to be obtained by Grantor and/or the Permittees, and thereafter, inspecting, operating, maintaining, servicing, repairing, replacing, and/or reconstructing landscaping, irrigation, utilities, signage, lighting, fences, walls, entry features, and other improvements required by governmental authorities (including without limitation landscape buffers in accordance with the minimum requirements of Grantee’s code of ordinances) or deemed necessary or beneficial by Grantor in connection with the ownership, improvement, construction, use, occupancy, operation, and/or development of the Grantor’s Retained Land for its intended use (collectively, the “**Features**”); provided, however, that the Features Easement shall terminate at such time as both of the following have occurred: (i) construction the Warehouse Road Extension has commenced; and (ii) Grantor and Grantee have entered into “Street Right-of-Way Utilization and Encroachment Agreement”, or its equivalent, each acting in its reasonable discretion, and Grantee has issued to Grantor a right-of-way utilization permit, providing a right in favor of Grantor and the Permittees for the continued inspection, operation, maintenance, servicing, repair, replacement, and/or reconstruction of those Features that are not required by Grantee to be removed by the Removal Notice (hereinafter defined). For avoidance of doubt, Features do not include the Access Improvements, the Utility Improvements, the 90° Parking Spaces, or the Parallel Parking Spaces.
- G. Grantor shall possess and maintain, at all times during the construction, operation, and maintenance of any improvements within the Property, 1) worker’s compensation insurance in the amount of the Florida Statutory Limit, 2) automobile liability insurance of at least \$2,000,000, and 3) general liability insurance in the amount of at least \$2,000,000, in order to protect Grantee from any liability, claims, damages, losses, or expenses arising from or out of in any way connected with the construction, operation, or maintenance of any improvements by Grantor within the Property. Grantee shall be listed as an additional insured on the automobile and general liability policies. Each of the above liability policies shall contain a contractual liability endorsement in favor of Grantee and shall provide that Grantee will receive at least sixty (60) days notice prior to termination of coverage. Said insurance shall also be primary, and not contributory, as to any insurance coverage maintained by Grantee. This provision shall survive termination of any easement reserved in favor of Grantor herein to the extent necessary to protect Grantee from liability arising during the term of such easements. Nothing herein operates as a waiver of Grantee’s grant of sovereign immunity or the limits of liability established

under Florida law.

- H. Grantor agrees that it shall indemnify, hold harmless, and defend Grantee, its representatives, employees, and elected and appointed officials, from and against all liability, claims, damages, loss, and expenses of any sort including reasonable attorney's fees and costs including appeals, in any way arising out of or resulting from: (i) any tort, intentional action, negligent act, or omission of Grantor, the Permittees, or anyone for whose act or acts either Grantor or the Permittees may be liable, occurring in the Property; or (ii) the construction, operation, or maintenance of any improvements by Grantor within the Property, except to the extent that any such liability, claims, damages, loss, and expenses arise from the negligence or intentional action of Grantee.
  
- I. At such time as construction of the Warehouse Road Extension is ready to commence, but not before such time, Grantee shall send written notification (the "**Removal Notice**") to Grantor, notifying Grantor of such commencement, and specifying which of the Features, if any, need to be removed from the Property, in Grantee's reasonable discretion, to allow the Warehouse Road Extension to be constructed and thereafter opened as a public right-of-way ("**Conflicting Features**"). Within sixty (60) days of the date of such Removal Notice, Grantor shall begin and diligently pursue removal from the Property of both the Conflicting Features and the 90° Parking Spaces (except for the portion, if any, of the 90° Parking Spaces being incorporated into the Parallel Parking Spaces) and restore the portions of the Property impacted by the 90° Parking Spaces and the Conflicting Features (except for the portion of the Property, if any, being used for Parallel Parking Spaces) to substantially the same condition as existing on the Effective Date. If Grantor fails to remove the 90° Parking Spaces and/or Conflicting Features (except for the portion, if any, of the 90° Parking Spaces being incorporated into the Parallel Parking Spaces) within one hundred twenty (120) days of such notice, Grantee may remove the same and charge the reasonable, third-party costs of removal to Grantor. In the alternative, Grantee may, in its sole discretion, instruct Grantor in the Removal Notice that removal of some or all of the 90° Parking Spaces will not be required.

AND Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple, that Grantor has good right and lawful authority to convey the Property, that Grantor hereby fully warrants the title to the Property, and that Grantor will defend the same against the lawful claims of all persons under Grantor but against none other.

*[signature pages follow]*

IN WITNESS WHEREOF Grantor and Grantee have caused this Special Warranty Deed and Reservation of Easements to be executed effective as of the Effective Date.

“GRANTOR”

Signed, sealed, and delivered  
in the presence of:

CRP-GREP ELAN AUDUBON OWNER,  
L.L.C., a Delaware limited liability company

By: CRP-GREP ELAN AUDUBON, L.L.C.,  
a Delaware limited liability company,  
its Sole Member

By: GS AUDUBON HOLDINGS, L.L.C.,  
a Delaware limited liability company,  
its Authorized Member

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2016

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This instrument was sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of GS AUDUBON HOLDINGS, L.L.C., a Delaware limited liability company, the Authorized Member of CRP-GREP ELAN AUDUBON, L.L.C., a Delaware limited liability company, the Sole Member of CRP-GREP ELAN AUDUBON OWNER, L.L.C., a Delaware limited liability company, on behalf of said company. S/He \_\_\_\_\_ is personally known to me OR \_\_\_\_\_ has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name  
My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF Grantor and Grantee have caused this Special Warranty Deed and Reservation of Easements to be executed effective as of the Effective Date.

“GRANTEE”

Signed, sealed, and delivered  
in the presence of:

CITY OF ORLANDO, FLORIDA,  
a municipal corporation created and existing  
under and by virtue of the laws of the State of  
Florida, situated in Orange County, Florida,

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

\_\_\_\_\_

Title: Mayor/Mayor Pro Tem

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_, 2016

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
City of Orlando, Florida, only.

\_\_\_\_\_, 2016

\_\_\_\_\_  
Chief Assistant City Attorney

STATE OF FLORIDA  
COUNTY OF ORANGE

This instrument was sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Mayor/Mayor Pro Tem of CITY OF ORLANDO, FLORIDA, a municipal corporation created and existing under and by virtue of the laws of the State of Florida, situated in Orange County, Florida, on behalf of said municipal corporation. S/He \_\_\_\_\_ is personally known to me OR \_\_\_\_\_ has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Print Name

My Commission Expires: \_\_\_\_\_