

Upon recording, please return to:

Cross-Reference to Declaration recorded at:

Book 9534
Page 399

Gaillardia Community Association, INC

5300 Gaillardia Blvd
Oklahoma City, OK 73072
Attn: Ruth Carey

ABOVE SPACE FOR RECORDER'S USE

**SECOND REVOCATION OF PRIOR AMENDMENT AND SECOND AMENDED AND
RESTATED SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
GAILLARDIA**

(Gaillardia Residential Community Section X – Promenade)

THIS SECOND REVOCATION OF PRIOR AMENDMENT AND SECOND AMENDMENT AND RESTATEMENT OF SUPPLEMENTAL DECLARATION is made this ___ day of October, 2021, by GAILLARDIA COMMUNITY ASSOCIATION, INC., an Oklahoma not for profit corporation ("Association") and The Promenade at Gaillardia, LLC, an Oklahoma limited liability company (hereinafter, with its successors and assigns, referred to as the "Promenade").

RECITALS:

A. OPUBCO Development Company, a Delaware corporation ("ODC"), was the previous owner of record of certain improved and unimproved real property located in Oklahoma County, Oklahoma, which property is commonly known as the Gaillardia Residential Community. As such owner and the then Declarant, ODC recorded on July 18, 1997 in Book 9117, at Page 1663, et seq., of the Official Records, that certain Declaration of Covenants, Conditions, and Restrictions for Gaillardia as well as certain amendments and supplements thereto from time to time (collectively, the "Initial Declaration").

B. Effective December 27, 2002, ODC transferred to and vested in Gaillardia Development Company, LLC, an Arkansas limited liability company ("GDC"), all rights and privileges to own, develop, maintain, and operate all improved and unimproved real property within the Gaillardia Residential Community, including without limitation, the transfer to and vesting in GDC all rights, powers, and privileges of the Declarant by means of that certain Amended and Restated Transfer of Covenants, Conditions and Restrictions for Gaillardia made

effective as of December 27, 2002 and recorded by ODC in Book 9534, at Page 302, et seq., of the Official Records.

C. On November 23, 2004, GDC, as the Declarant, filed that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Gaillardia Residential Properties (the "Original Declaration") which was recorded in Book 9534, at Page 399, et seq., of the Official Records. The Declaration was thereafter amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Gaillardia Residential Properties recorded on December 14, 2005, in Book 9954, at Page 322, et seq., of the Official Records (the "First Amendment"), and supplemented by that Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia (Section VII) recorded on December 17, 2004 in Book 9559, at Page 612, et seq., of the Official Records and by that Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia (Section IX) recorded on April 18, 2006, in Book 10078, at Page 1905, et seq., of the Official Records (collectively, the "Prior Supplemental Declarations"). The Declaration, the First Amendment, the Prior Supplemental Declarations, and all other amendments and supplements are collectively referred to herein as the "Declaration." All of the real property described in the Declaration is subject to the Declaration as covenants running with the land, as more particularly described in the Declaration.

D. Pursuant to the terms of Article IX, Sections 9.1 and 9.3 of the Original Declaration, the Declarant reserved the right to expand the Gaillardia Residential Community by recording one or more Supplemental Declarations submitting to the terms of the Declaration all or any portion of the real property described on Exhibit "B" of the Original Declaration (the "Expansion Property") and/or to impose additional covenants and easements on such property, with the consent of the owner of such property, if not the Declarant.

E. On August 17, 2010, Gaillardia Development Company, LLC, without evidence of any approval by the Association, filed that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia (the "Supplemental Declaration for Promenade"), relating to Gaillardia Residential Community Section X – Promenade, which was recorded in Book 9534, at Page 399, et seq., of the Official Records, subjecting the property described on Exhibit "A" to the Supplemental Declaration for Promenade (the "Promenade Property") to the terms of the Declaration and of the Supplemental Declaration for Promenade.

F. On March 6, 2014, Gaillardia Development Company, LLC, resigned and terminated its rights as Declarant under the Declarations, including, but not limited to the Supplemental Declaration for Promenade (the "Resignation and Termination of Rights") and the Association is the successor in interest to the rights of the Declarant under the Declarations.

G. On July 22, 2015, Gaillardia Development Company, LLC, purportedly in its capacity as Declarant, executed and caused to be recorded that certain Amendment to Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia and Assignment relating to Gaillardia Residential Community Section X – Promenade, which was recorded in Book 12882, at Page 15, et seq., of the Official Records, which attempts to amend

the Supplemental Declaration for Promenade (the "Amendment to Promenade Supplemental Declaration").

H. The Amendment to Promenade Supplemental Declaration is null and void due to the failure to comply with Section 12.2 of the Supplemental Declaration for Promenade and was not executed by the Declarant, was not approved by the Association and was not approved by the owner of seventy-five percent (75%) of the owners of Units of the Promenade Property.

I. Promenade has acquired more than seventy-five percent (75%) of the Units covered by the Supplemental Declaration for Promenade.

J. The Association and Promenade desire to file this Second Revocation of Prior Amendment and Amended and Restated Supplemental Declaration of Covenants, Conditions and Restrictions for Gaillardia in order to clarify and amend and restate the covenants, conditions and restrictions affecting the Promenade Property.

NOW, THEREFORE, pursuant to the powers granted to the Association as the Declarant under the Declaration and the affirmative vote of the owners of not less than seventy-five percent (75%) of the Units and lots in the Promenade Property, the Declarant and Promenade hereby execute and deliver this Second Revocation of Prior Amendment and Amended and Restated Supplemental Declaration of Covenants, Conditions and Restrictions for Gaillardia, which shall apply to the Promenade Property in addition to the provisions of the Declaration.

1. **Second Revocation of Amendment to Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia and Assignment.** The Association and Promenade hereby declare null and void those provisions of the Amendment to Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia and Assignment relating to Gaillardia Residential Community Section X – Promenade, which was recorded in Book 12882, at Page 15, et seq., of the Official Records, which attempts to amend the Supplemental Declaration for Promenade (the "Amendment to Promenade Supplemental Declaration") with respect to any action taken by Gaillardia Development Company, LLC, in its alleged capacity as Declarant. GDC previously executed and delivered the Resignation and Termination of Rights as Declarant over the Promenade Property on March 6, 2014, more than one year prior to executing the Amendment to Promenade Supplemental Declaration and had no authority to execute and deliver the same or amend any provision of the Supplemental Declaration for Promenade. Neither, the invalidity of the actions taken by GDC, nor the declaration of those actions being null and void, shall affect the actions taken by Tri-Core Customs Homes, LLC, Tri-Core Construction Company, LLC, Gaillardia Real Estate Company, LLC and or Gaillardia Brownstones I, LLC, with respect to the assignment of certain rights to JLL Consulting LLC.

2. **Second Amendment and Restatement of Supplemental Declaration for Promenade.** The Association, as Declarant, and Promenade, as the owner of not less than seventy-five percent (75%) of the Units with the Promenade Property to hereby amend and restate the Supplement Declaration for Promenade in its entirety to hereinafter read as follows:

**SECOND AMENDED AND RESTATED SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
GAILLARDIA**

(Gaillardia Residential Community Section X – Promenade)

THIS SECOND AMENDED AND RESTATED SUPPLEMENTAL DECLARATION is made this ____ day of October, 2021, by GAILLARDIA COMMUNITY ASSOCIATION, INC., an Oklahoma not for profit corporation ("Association") and The Promenade at Gaillardia, LLC, an Oklahoma limited liability company (hereinafter, with its successors and assigns, referred to as the "Promenade").

RECITALS:

A. OPUBCO Development Company, a Delaware corporation ("ODC"), was the previous owner of record of certain improved and unimproved real property located in Oklahoma County, Oklahoma, which property is commonly known as the Gaillardia Residential Community. As such owner and the then Declarant, ODC recorded on July 18, 1997 in Book 9117, at Page 1663, et seq., of the Official Records, that certain Declaration of Covenants, Conditions, and Restrictions for Gaillardia as well as certain amendments and supplements thereto from time to time (collectively, the "Initial Declaration").

B. Effective December 27, 2002, ODC transferred to and vested in Gaillardia Development Company, LLC, an Arkansas limited liability company ("GDC"), all rights and privileges to own, develop, maintain, and operate all improved and unimproved real property within the Gaillardia Residential Community, including without limitation, the transfer to and vesting in GDC all rights, powers, and privileges of the Declarant by means of that certain Amended and Restated Transfer of Covenants, Conditions and Restrictions for Gaillardia made effective as of December 27, 2002 and recorded by ODC in Book 9534, at Page 302, et seq., of the Official Records.

C. On November 23, 2004, GDC, as the Declarant, filed that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Gaillardia Residential Properties (the "Original Declaration") which was recorded in Book 9534, at Page 399, et seq., of the Official Records. The Declaration was thereafter amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Gaillardia Residential Properties recorded on December 14, 2005, in Book 9954, at Page 322, et seq., of the Official Records (the "First Amendment"), and supplemented by that Supplemental

Declaration of Covenants, Conditions, and Restrictions for Gaillardia (Section VII) recorded on December 17, 2004 in Book 9559, at Page 612, et seq., of the Official Records and by that Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia (Section IX) recorded on April 18, 2006, in Book 10078, at Page 1905, et seq., of the Official Records (collectively, the “Prior Supplemental Declarations”). The Declaration, the First Amendment, the Prior Supplemental Declarations, and all other amendments and supplements are collectively referred to herein as the “Declaration.” All of the real property described in the Declaration is subject to the Declaration as covenants running with the land, as more particularly described in the Declaration.

D. Pursuant to the terms of Article IX, Sections 9.1 and 9.3 of the Original Declaration, the Declarant reserved the right to expand the Gaillardia Residential Community by recording one or more Supplemental Declarations submitting to the terms of the Declaration all or any portion of the real property described on Exhibit “B” of the Original Declaration (the “Expansion Property”) and/or to impose additional covenants and easements on such property, with the consent of the owner of such property, if not the Declarant.

E. On August 17, 2010, Gaillardia Development Company, LLC, , without evidence of any approval by the Association, filed that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia (the “Supplemental Declaration for Promenade”), relating to Gaillardia Residential Community Section X – Promenade, which was recorded in Book 9534, at Page 399, et seq., of the Official Records, subjecting the property described on Exhibit “A” to the Supplemental Declaration for Promenade (the “Promenade Property”) to the terms of the Declaration and of the Supplemental Declaration for Promenade.

F. The real property described on Exhibit “A” attached to this Supplemental Declaration (the “Additional Property”) is a portion of the Expansion Property described on Exhibit “B” to the Original Declaration.

G. On March 6, 2014, Gaillardia Development Company, LLC, resigned and terminated its rights as Declarant under the Declarations and the Association is the successor in interest to the rights of the Declarant under the Declarations.

H. The Association, as Declarant, along with Promenade as the owner of not less than seventy-five percent (75%) of the Units covered by the Additional Property have consented to the second amendment and restatement of the imposition of the easements and covenants provided herein to the Additional Property and have jointly executed this Second Amended and Restated Supplemental Declaration (the “Amended Supplemental”).

NOW, THEREFORE, pursuant to the powers retained by the Declarant under the Declaration, the Declarant hereby subjects the Additional Property to the Declaration and to the provisions of this Supplemental Declaration (including without limitation the Recitals), which shall apply to such property in addition to the provisions of the Declaration. The Additional Property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, both of which shall run with the title to such property and shall be binding upon all persons

having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplemental Declaration shall be binding upon Gaillardia Community Association, Inc., an Oklahoma not for profit corporation (the “Association”), in accordance with the terms of the Declaration.

ARTICLE I **Definitions**

Unless otherwise defined in this Supplemental Declaration, the definitions set forth in Article II of the Original Declaration are incorporated herein by reference.

ARTICLE II **Neighborhood Designation and Neighborhood Assessments; Single Family Use**

2.1 Pursuant to Section 6.4(a) of the Declaration, the Declarant hereby assigns the Additional Property to the specific Neighborhood designations identified on Exhibit “A” attached hereto (collectively referred to herein as the “Promenade Neighborhood”). Each Unit within the Promenade Neighborhood shall be subject to Base Assessments as described in Declaration and shall also be subject to Neighborhood Assessments as more particularly described below. All actual or estimated expenses, including, without limitation, allocations to reserves, incurred or anticipated to be incurred by the Association to provide the Neighborhood Services described below to the Owners within the Promenade Neighborhood shall constitute a Neighborhood Expense. All Units within the Promenade Neighborhood shall be used for residential purposes and such other uses as are permitted by, and comply with, the requirements of the Original Declaration, this Supplemental Declaration, the Master Plan, and other Governing Documents. No structure shall be erected, placed, altered or permitted to remain on any lot other than attached single-family dwellings, together with improvements customarily incidental to the residential use and other permitted uses of the Units, all as more particularly described in, and in accordance with, the Master Plan, the Declaration, and this Supplemental Declaration.

2.2 Neighborhood Services. Once the construction of the residential dwelling is completed and the initial landscaping has been installed, each Unit within the Promenade Neighborhood shall thereafter be subject to the following covenants, conditions, restrictions, and assessments with respect to the maintenance, repair, and replacements of such improvements. The Association’s contractors, as determined by the Association’s Board of Directors (the “Board”) from time to time, shall be responsible for providing to the Owners within the Promenade Neighborhood the following services (the “Neighborhood Services”) as a Neighborhood Expense covered by the Neighborhood Assessment:

a. The maintenance, management, repair, and replacement of the landscaping (which may include trees, shrubs, hedges, bushes, flowers, and/or other plantings) installed on and around each Unit’s front yard (the area between the front of the Unit and the curb of the private street or Common Area), rear yard (the area between the back of the Unit and the curb of the resident lane), and side yard within the Promenade Neighborhood (such front yard, rear yard and side yard collectively referred to as the “Landscape Maintenance Area”). The Association’s responsibilities with respect to

maintenance of such landscaping shall be limited to mowing and fertilizing of lawns, edging, trimming, pruning, trees, shrubs, hedges, bushes, flowers and other plantings, lawn food and weed control (pre-emergent and post-emergent), Spring scalping, Fall leaf cleanup, fertilization of shrubs and flower beds, shrub and tree insect control, mulching, clean up and removal of cuttings, trimmings and dead plantings.

b. Removal and disposal of debris from the Landscape Maintenance Area.

c. Lawn maintenance services for each Unit, including: mowing, edging, trimming and cleanup, turf fertilization; lawn food and weed control (pre-emergent and post-emergent); spring scalping; fall leaf cleanup; tree pruning; fertilization of shrubs and beds; shrub and tree insect control; prune shrubs, weed beds, cultivate tree wells (twice per year); and applications of tip blight control to Pines (twice per year).

2.3 Additional Restrictions. No Owner, occupant or other person shall: (a) construct or install any Improvements within the Landscape Maintenance Area or alter, remove, or supplement any Improvements situated on the Landscape Maintenance Area without the prior written approval of the Board; or (b) obstruct or interfere with the Association, or its agents, employees, or contractors in the performance of the Neighborhood Services. The Board may, upon request of an Owner, permit an Owner to assume that Owner's landscaping maintenance obligations as described in Section 2.2(a) above, but not any other portion of the Neighborhood Services, subject to the right of the Association to re-assume responsibility for such maintenance at any time if the Board determines, in its judgment, that the Owner is not maintaining such landscaping to the Community-Wide Standard. If the Board permits an Owner to maintain its landscaping, there shall be no reduction in the Neighborhood Assessments due on such Unit hereunder by reason of the Owner providing such maintenance. In the event any landscaping, equipment, or other Improvements in the Landscape Maintenance Area are damaged or destroyed due to an act or omission by an Owner or occupant, the Association may assess the Owner or the Owner's Unit, as authorized by the Declaration, to recover the costs of such damage or destruction and repair or replacement directly from the Owner.

2.4 Signage. No Owner shall place or allow to be placed in the Promenade Neighborhood any sign. This signage restriction shall not apply to Declarant, the Real Estate Company or Existing Owner. Notwithstanding the foregoing, Owners will be allowed to place placards (the style and size of which shall be approved by the Architectural Advisory Committee) outside of their Units for the purpose of naming or identifying their Units.

b. Maintenance Easement. The Association shall have a perpetual, non-exclusive easement over each Unit within the Promenade Neighborhood for the purpose of performing the Neighborhood Services as described herein and any other responsibilities the Association may have as described in the Declaration, which easement may be exercised by the Association, its directors, officers, agents, employees, and contractors, and entry upon any Unit for such purpose shall not be deemed a trespass.

2.6 Easement for Irrigation Equipment. The Association shall have a perpetual, non-exclusive easement over, under, and through all exterior portions of each Unit within the

Promenade Neighborhood (except any area upon which building have been erected) for the purpose of installing, maintaining, repairing, replacing, and operating all irrigation equipment, systems, and lines serving all or any portion of the Units within the Promenade Neighborhood.

ARTICLE III
Intentionally Omitted.

ARTICLE IV
Area of Common Responsibility

All Common Areas within the Promenade Neighborhood initially designated on the Final Plat of Gaillardia Residential Community Section X, as Common Areas “A” through “G” including without limitation the Great Lawn, and as subsequently developed and improved by GI , including, without limitation, with private streets, private alleys, parking areas, off-street parking spaces, rights-of-way, entry signs, monuments, features, signage, perimeter walls, perimeter fencing, , landscaped medians, green belts or other areas, irrigation equipment, water features, hardscape features, landscape lighting, street lights, park benches, shall be for the general benefit of all Units subject to the Declaration, and shall be owned, maintained, repaired, replaced, and insured by the Association as Areas of Common Responsibility, the costs for which (including reserves) shall be a Common Expense allocated among all Units as part of the Base Assessment, all as more particularly described in Article VII, Section 7.2, of the Declaration.

ARTICLE V
Street Parking

Notwithstanding anything to the contrary in the Declaration or the Use Restrictions, designated on-street parking will be permitted within the Additional Property for use by Owners and their occupants, guests, and invitees, subject to rules and restrictions that may be adopted by the Association from time to time; provided, however, all mobile homes, campers, trailers, boats and other watercraft, recreational vehicles, stored vehicles or inoperable vehicles, and commercial vehicles and equipment shall be strictly prohibited from parking on the streets within the Promenade Neighborhood, except that construction, service, and delivery vehicles shall be exempt during daylight hours for such period of time as is reasonably necessary to provide service or make a delivery to a Unit or the Common Area, and service and delivery vehicles shall be exempt for such purposes and during such hours as described in Section 4.2 above. Maintenance, repair, and replacement associated with the designated on-street parking and any related improvements shall be performed by or on behalf of the Association as a Common Expense, as more particularly described in Section 4.1 of this Supplemental Declaration.

ARTICLE VI
Owner's Insurance

6.1 **Insurance.** Each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of the individual Units. Each Owner shall obtain and maintain blanket "all-risk" casualty insurance covering the Owner's Unit and all structures constructed thereon and a liability policy covering damage or injury occurring on the Owner's Unit. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from such hazard. The policies required hereunder shall be in effect at all times. The losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Unit as a Specific Assessment.

6.1.1 **Obligation to Repair and Restore.** Subject only to the rights of an Eligible Holder of a first mortgage lien on a damaged Unit, the insurance proceeds from a policy covering a Unit shall first be applied to the repair, restoration, or replacement of such Unit. Notwithstanding anything in the Declaration to the contrary, each Owner shall be obligated to repair, restore, or replace such Unit pursuant to the terms of this Supplemental Declaration. Any repair, restoration, or replacement shall be performed promptly and shall be harmonious and consistent with the original construction of the Unit or other plans and specifications as are approved in accordance with this Supplemental Declaration. If the proceeds of the insurance are insufficient to pay for the cost of repair, restoration, or replacement of a Unit, the Owner shall be responsible for the payment of any such deficiency necessary to complete the repair, restoration, or replacement.

ARTICLE VII
Building Setbacks

7.1 **Side Yard Building Setbacks.** Each Unit shall be subject to the side yard building setbacks. For Units constructed within Blocks 27 and 29, the total building setback on each Lot shall be ten (10) feet, with ten (10) feet as the set back on one side of the Lot and zero (0) feet as the setback on the other side of the Lot. For Units constructed within Block 28, the total building setback on each Lot shall be five (5) feet, with five (5) feet as the setback at each side of the Lot. The intention being each dwelling will be no less than ten (10) feet from the nearest dwelling on an adjacent Lot.

7.2 **Front Yard Building Setbacks.** For Units constructed within Blocks 27 and 29, front yard setbacks shall be set forth as indicated on the Plat. For Units constructed within Blocks 28, the total front yard setback shall be no less than ten (10) feet.

7.3 Rear Yard Building Setbacks. For Units constructed within Blocks 27 and 29, rear yard setbacks shall be set forth as indicated on the Plat. For Units constructed within Blocks 28, the rear yard setback shall be no less than ten (10) feet from the initial dwelling and no less than fifteen (15) feet from the front face of the garage.

ARTICLE VIII

Design Guidelines and Standards and Application of Approved Builder

8.1 Design Guidelines and Standards. Supplemental Design Guidelines and Standards for Promenade at Gaillardia (the “Design Guidelines for Promenade”) have been established to ensure the overall design concepts and aesthetic standards established for the benefit of all Owners will be maintained. The Design Guidelines for Promenade apply to all Units in The Promenade at Gaillardia (“Promenade”) and are in addition to, and not in lieu of, the Gaillardia Residential Design Guidelines dated May 15, 1998 (the “Design Guidelines”). Where there is a conflict between the Design Guidelines and the Design Guidelines for Promenade, the Design Guidelines for Promenade shall control. The Board shall have the right to amend these Design Guidelines for Promenade at any time and from time to time as more particularly described in the Design Guidelines and the Declaration of Covenants, Conditions and Restrictions for Gaillardia.

8.2 Application of Approved Builder. The construction of all Improvements in Promenade, including, without limitation, each and every residential unit and all related improvements to be constructed upon a Unit, shall be performed by a builder who has submitted an application to the Architectural Advisory Committee, and has been granted final approval from the Board, to construct upon a designated Unit within Promenade.

ARTICLE IX

Intentionally Omitted

ARTICLE X

Dispute Resolution

10. Dispute Resolution: Mediation; Binding Arbitration of Disputes. Notwithstanding anything in the Declaration to the contrary, all disputes, controversies or claims of any kind and nature by any Person or Owner arising from the terms and conditions of this Supplemental Declaration, including, the terms and conditions of a Promenade Membership, this Article X shall control.

10.1 Mediation. If the dispute cannot be settled through direct discussions, the parties shall endeavor first to settle the dispute by mediation administered under the Commercial Mediation Rules of the American Arbitration Association. Such mediation shall be conducted by one mediator selected by mutual agreement of the parties. If the parties are unable to agree to a mediator, the parties may request the American Arbitration Association, to appoint a neutral mediator. The mediation shall take place in Oklahoma County, Oklahoma. All mediation fees

shall be shared equally by the parties.

10.2 Binding Arbitration. If within thirty (30) days after written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this Supplemental Declaration shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules including the Emergency Interim Relief Procedures (the "Arbitration Rules"). Either party may commence the arbitration process by filing a written demand for arbitration with the American Arbitration Association and with a copy to the other party(ies) to the dispute. The dispute shall be submitted to one arbitrator selected from the roster of arbitrators of the American Arbitration Association. If the parties do not agree on one arbitrator within thirty (30) days after the demand for arbitration is made, the parties may request the American Arbitration Association to appoint a neutral arbitrator. The parties may by mutual agreement request the mediator involved in the parties' mediation to serve as the arbitrator. Prior to the commencement of hearings, the arbitrator appointed shall provide an oath or undertaking of impartiality. The award of the arbitrator shall be made within sixty (60) days of the filing of the demand for arbitration, and the arbitrator shall agree to comply with this schedule before accepting the appointment. Disputes under this clause shall be governed by the laws of the state of Oklahoma. Initially, the parties shall each pay fifty percent (50%) of the fees and expenses of the arbitration services, subject to the right of the prevailing party to receive an award for its share of the arbitration fees and expenses. The failure by one party to pay its share of arbitration fees constitutes a waiver of the claim or defense in the arbitration.

10.3 Enforceability. In the event of any claim that this arbitration clause is invalid or not enforceable, the arbitrator shall determine whether this arbitration clause is valid and enforceable. The parties agree that this determination, often reserved for the courts, is hereby submitted to the arbitrator.

10.4 Injunctive Relief; Equitable Relief; Award; Confidentiality. Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. The arbitrator will have the right to grant equitable relief including, but not limited to, termination, specific performance, declaratory relief, reformation, and rescission. Either party may apply to the arbitrator to modify a ruling for preliminary relief before or concurrently with the arbitration hearing. However, this time limit may be extended by the agreement of the parties and the arbitrator. The prevailing party shall be entitled to an award of: (a) interest on the amount awarded; and (b) all of its costs and fees incurred in connection with the arbitration, including, without limitation, the arbitrator's fees, administrative fees, travel fees, out-of-pocket expenses such as copying and telephone, witness fees, and attorneys' fees. The arbitrator will have no authority to award punitive damages, consequential damages, or other damages not measured by the prevailing party's actual damages. The award of the arbitrator shall be specifically enforceable as a judgment in any court of competent jurisdiction. Except as may be required by law, no party, mediator or arbitrator may disclose the existence, content, or results of any mediation or arbitration hereunder without the prior written consent of both parties.

10.5 Appeal. Within thirty (30) days of receipt of any award which shall not be binding

if an appeal is taken any party may notify the American Arbitration Association of an intention to appeal to a second arbitral tribunal, constituted in the same manner as the initial tribunal. The appeal tribunal shall be entitled to adopt the initial award as its own, modify the initial award, or substitute its own award for the initial award. However, the appeal tribunal shall not modify or replace the initial award except for manifest disregard of the law or facts by the initial arbitrator. The award of the appeal tribunal shall be final and binding, and judgment may be entered by a court having jurisdiction thereof.

The sole and exclusive remedy for any claim, dispute or controversy arising under this Second Amended Supplemental shall be binding arbitration conducted in Oklahoma County, Oklahoma in accordance with the then current Arbitration Rules.

ARTICLE XI
Amendments

Except as otherwise specifically provided herein, this Supplemental Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of seventy-five percent (75%) of the Owners of Units subject to this Supplemental Declaration and the written consent of the Association acting upon resolution of its Board of Directors.

Notwithstanding the above, no amendment adopted pursuant to this Article 11 shall be effective to withdraw the real property described herein from the provisions of the Declaration unless also approved by Voting Members representing seventy-five percent (75%) of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. The percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. To be effective, any amendment must be recorded in the Official Records of Oklahoma County, Oklahoma.

If an Owner consents to any amendment to this Supplemental Declaration, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

3. **Effect of Second Amended and Restated Supplemental Declaration for Promenade.** This Second Amended and Restated Supplemental Declaration for Promenade supersedes, revokes, amends and restates in its entirety that certain Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia relating to Gaillardia Residential Community Section X – Promenade, recorded in Book 9534, at Page 399, et seq., of the Official Records, which shall be null and void and of no future effect following the recording of this Second Amended and Restated Supplemental Declaration in the Official Records. Notwithstanding the effect of the Second Amended and Restated Supplemental Declaration, in the event the original Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaillardia relating to Gaillardia Residential Community Section X – Promenade is deemed to affect the Promenade Property, to the extent the terms and conditions of the original Supplemental Declaration conflict with or contradict the terms and conditions of the Second Amended and Restated Supplemental Declaration shall be deemed to govern and control the subject matter.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Association and Promenade have executed this Revocation of Prior Amendment and Second Amended and Restated Supplemental Declaration effective as of the date and year first written above.

ASSOCIATION:

GAILLARDIA COMMUNITY ASSOCIATION, INC.,
an Oklahoma not for profit corporation

By: _____
Name: _____
Title: _____

Promenade:

THE PROMENADE AT GAILLARDIA, LLC,
an Oklahoma limited liability company

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss:

This instrument was acknowledged before me on the ___day of October, 2021, by _____ who stated he was the _____ of GAILLARDIA COMMUNITY ASSOCIATION, INC., an Oklahoma not for profit corporation, and who further stated that he had executed the foregoing instrument for the consideration, uses and purposes set forth therein.

Notary Public

My Commission Expires: _____
My Commission Number: _____

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss:

This instrument was acknowledged before me on the ___day of October, 2021, by _____ who stated he was the _____ of The Promenade at Gaillardia, LLC, an Oklahoma limited liability company and who further stated that he had executed the foregoing instrument for the consideration, uses and purposes set forth therein.

Notary Public

My Commission Expires: _____
My Commission Number: _____

EXHIBIT "A"

Additional Property
(Promenade Neighborhood)

<u>Neighborhood Designations</u>	<u>Legal Description</u>
Promenade I	All of Block 27, according to the Final Plat of Gaillardia Residential Community Section X, recorded on November 19, 2009, in the Official Records.
Promenade II	Lots 1-26, of Block 28, according to the Final Plat of Gaillardia Residential Community Section X, recorded on November 19, 2009, in the Official Records.
Promenade III	Lots 27-48, of Block 28, according to the Final Plat of Gaillardia Residential Community Section X, recorded on November 19, 2009, in the Official Records.
Promenade IV	All of Block 29, according to the Final Plat of Gaillardia Residential Community Section X, recorded on November 19, 2009, in the Official Records.

Common Area: Common Areas "A" through "G" according to the Final Plat of Gaillardia Residential Community Section X, recorded on November 19, 2009, in the Official Records, are designated as, and shall be maintained as Areas of Common Responsibility, as more particularly described in this Supplemental Declaration and the Declaration.