

## RESOLUTION

A RESOLUTION AUTHORIZING, APPROVING, AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF THE THORNTON DEVELOPMENT AUTHORITY TAX INCREMENT REVENUE REFUNDING BONDS (EAST 144<sup>TH</sup> AVENUE AND I-25 PROJECT), SERIES 2025; APPROVING DOCUMENTS IN CONNECTION THEREWITH; AND RATIFYING PRIOR ACTIONS.

WHEREAS, the Thornton Development Authority (Authority) is a public body corporate and politic and has been duly created, established and authorized by the City of Thornton to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting part 1 of article 25 of title 31, Colorado Revised Statutes, as amended (Act); and

WHEREAS, an urban renewal plan, known as the “East 144<sup>th</sup> Avenue and I-25 Urban Renewal Plan” (Plan), has been duly and regularly approved by the City Council of the City for urban renewal projects under the Act; and

WHEREAS, all applicable requirements of the Act and other provisions of law for and precedent to the adopting and approval by the City of the Plan have been duly complied with; and

WHEREAS, pursuant to Section 31-25-109 of the Act, the Authority has power to issue bonds to finance the activities or operations permitted and authorized to be undertaken by the Authority under the Act and to issue refunding or other bonds from time to time for the payment, retirement, renewal, or extension of any bonds previously issued by the Authority under the Act; and

WHEREAS, the City and Thornton Development, L.L.C., a Missouri limited liability company (Developer) entered into a Purchase and Sale Agreement dated March 21, 2012 (Purchase and Sale Agreement), a Post-Closing Agreement dated March 21, 2012 (Post-Closing Agreement), and a Developer’s Agreement dated as of August 31, 2012 (Developer’s Agreement) relating to the construction of a retail facility and related public improvements and infrastructure in the Urban Renewal Area (collectively, the Improvement Project); and

WHEREAS, the City entered into the Purchase and Sale Agreement, the Post-Closing Agreement, and the Developer’s Agreement with the specific understanding by both the City and the Authority that the Authority would reimburse the City for the value of the property conveyed to the Developer pursuant to the Purchase and Sale Agreement and that the eligible costs paid by the City to the Developer or other designated entities in accordance with the Post-Closing Agreement and the Developer’s Agreement would be considered advances by the City to the Authority and that the City would receive reimbursement from the Authority for the value of the property and such payments made by the City; and

WHEREAS, in order to evidence the Authority's obligation to reimburse the City for such costs incurred in connection with the Improvement Project and the value of the property conveyed by the City to the Developer (collectively, the Loan), the Authority and the City entered into the East 144<sup>th</sup> Avenue and I-25 Urban Renewal Area Cooperation Agreement, dated as of November 13, 2012, as amended by the First Amendment, dated as of April 23, 2013, the Second Amendment, dated October 13, 2015, and the Third Amendment, dated October 22, 2015 (collectively, the 2012 Cooperation Agreement); and

WHEREAS, in order to provide funds to refinance the Loan, the Authority issued its Tax Increment Revenue Bonds (East 144<sup>th</sup> Avenue and I-25 Project), Series 2015B in the original aggregate principal amount of \$27,580,000 (2015B Bonds or Refunded Bonds), which are currently outstanding in the aggregate principal amount of \$21,360,000; and

WHEREAS, the outstanding 2015B Bonds are currently subject to redemption prior to their respective maturity dates on any date, at the option of the Authority, in whole or in part, in any order of maturity and by lot within a maturity (giving proportionate weight to 2015B Bonds in denominations larger than \$5,000), at a redemption price equal to the principal amount of each 2015B Bond, or portion thereof, so redeemed, plus accrued interest to the redemption date, without premium; and

WHEREAS, the Board of Commissioners of the Authority (Board) has determined, and hereby determines, that it is advantageous and in the best interests of the Authority to refund all of the outstanding 2015B Bonds (Refunding Project); and

WHEREAS, in order to finance the Refunding Project, the Authority desires to issue its Tax Increment Revenue Refunding Bonds (East 144<sup>th</sup> Avenue and I-25 Project), Series 2025 (Bonds), pursuant to an Indenture of Trust relating to the Bonds (Indenture) between the Authority and U.S. Bank Trust Company, National Association, as trustee (Trustee); and

WHEREAS, the Bonds will be special and limited obligations of the Authority payable solely from and secured by the Trust Estate (as defined in the Indenture); and

WHEREAS, the Board has determined to sell the Bonds to Piper Sandler & Co. (Underwriter) pursuant to the provisions of a Bond Purchase Agreement (Bond Purchase Agreement) between the Authority and the Underwriter; and

WHEREAS, in connection with the issuance of the Bonds, the City and the Authority will enter into a Fourth Amendment to the 2012 Cooperation Agreement (Fourth Amendment and together with the 2012 Cooperation Agreement, the Cooperation Agreement); and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (Supplemental Act), provides that a public entity, including the Authority, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act; and

WHEREAS, there are on file with the Secretary of the Board (Secretary): (a) the proposed form of the Indenture; (b) the proposed form of the Preliminary Official Statement, (Preliminary Official Statement), prepared for use in connection with the offering and sale of the Bonds; (c) the proposed form of the Continuing Disclosure Certificate (Disclosure Certificate) relating to the Bonds; (d) the proposed form of the Bond Purchase Agreement; and (e) the proposed form of the Fourth Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE THORNTON DEVELOPMENT AUTHORITY AS FOLLOWS:

1. All actions not inconsistent with the provisions of this resolution heretofore taken by the Board and the employees, agents, officials and officers of the Authority directed toward implementing the Refunding Project and the issuance, sale and delivery of the Bonds therefor are hereby ratified, approved and confirmed.
2. In order to provide funds to finance the costs of the Refunding Project, the Authority is hereby authorized to issue its Tax Increment Revenue Refunding Bonds (East 144<sup>th</sup> Avenue and I-25 Project), Series 2025, all in accordance with the provisions of the Indenture and the Sale Certificate (hereinafter defined). The Bonds shall be dated, shall bear interest, shall mature, and shall be subject to redemption in advance of maturity as provided in the Indenture, and as set forth in the Sale Certificate.
3. The Board has elected and does hereby declare its intent to exercise on behalf and in the name of the Authority its option to redeem the outstanding 2015B Bonds on the redemption date set forth in the Sale Certificate. The Authority hereby authorizes and directs the registrar or trustee for the Refunded Bonds to give notice of refunding, defeasance and redemption of the Refunded Bonds to the registered owners of the Refunded Bonds in accordance with the Indenture authorizing the issuance of the Refunded Bonds. The Board delegates to the Chairperson of the Board (Chairperson) or the Executive Director of the Authority (Executive Director) the independent authority to determine which, if any, of the 2015B Bonds should be refunded, and to set forth such determination in the Sale Certificate.

4. The Board hereby elects to apply all of the Supplemental Act to the Bonds and in connection therewith delegates to the Chairperson or the Executive Director the independent authority to make any determination delegable pursuant to Section 11-57-205, of the Supplemental Act, to accept and sign the Bond Purchase Agreement, to make determinations in relation to the Bonds, and to execute a sale certificate (Sale Certificate) setting forth such determinations, subject to the following parameters and restrictions:
  - (a) the aggregate principal amount of the Bonds shall not exceed \$22,000,000;
  - (b) the Bonds shall mature no later than December 1, 2037;
  - (c) the Bonds shall (a) not be subject to redemption prior to maturity at the option of the District, or, (b) be subject to optional redemption at such time or times as permitted by Colorado law and as set forth in the Sale Certificate, at a redemption price not to exceed 100%;
  - (d) the net present value savings achieved by issuing the Bonds must be 3.0% or greater; and
  - (e) the purchase price of the Bonds shall not be less than 98% of the original principal amount on the Bonds.

The Chairperson or the Executive Director is hereby independently authorized to determine if obtaining municipal bond insurance for all or a portion of the Bonds is in the best interests of the Authority, and if so, to select a bond insurer to issue a municipal bond insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. The Chairperson or the Executive Director is hereby independently authorized to determine if obtaining a reserve fund insurance policy for deposit into the Reserve Fund is in the best interests of the Authority, and if so, to select a surety provider to issue a reserve fund insurance policy for all or any portion of the Reserve Fund Requirement related to the Bonds and execute any related documents or agreements required by such commitment.

The delegation set forth in this Section 4 shall be effective for one year following the date hereof.

5. The forms, terms and provisions of the Indenture, the Fourth Amendment, the Bond Purchase Agreement, and the Disclosure Certificate (collectively, the Documents) are hereby authorized and approved, and the Authority shall enter into the Documents in substantially the forms on file with the Secretary, but such Documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this resolution and as the Executive Director shall approve, the execution thereof being deemed conclusive approval of any such changes by the Authority. The Chairperson is hereby authorized and directed to execute and deliver the Indenture, the Fourth Amendment, and the Disclosure

Certificate for and on behalf of the Authority and the Secretary is hereby authorized and directed to affix the seal of the Authority to, and to attest the Indenture, the Fourth Amendment and the Disclosure Certificate, to the extent required. The Bond Purchase Agreement shall be executed by either the Chairperson or the Executive Director as authorized pursuant to Section 4 hereof.

6. A final Official Statement, in substantially the form of the Preliminary Official Statement on file with the Secretary, is in all respects approved and authorized. The Chairperson is hereby authorized and directed, for and on behalf of the Authority, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the Secretary, with such changes as may be approved by the Chairperson or the Executive Director. The distribution of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the Bonds is hereby ratified, approved and authorized. The Chairperson or the Executive Director is hereby independently authorized to deem the Preliminary Official Statement as final for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934. The execution of a final Official Statement by the Chairperson shall be conclusively deemed to evidence the approval of the form and contents thereof by the Authority.
7. The form, terms and provisions of the Bonds, in substantially the form contained in the Indenture and upon the terms to be set forth in the Sale Certificate, are hereby approved, with such changes therein as are approved by the Chairperson or the Executive Director; and the manual or facsimile signature of the Chairperson is hereby authorized and directed to be placed on the Bonds, the seal of the Authority, or a facsimile thereof, is hereby authorized and directed to be affixed to the Bonds, and the Secretary is hereby authorized and directed to attest the Bonds, in accordance with the Indenture.
8. The officers, employees, and agents of the Authority are hereby authorized and directed to take all action which they deem necessary or appropriate in conformity with the Act and this resolution to issue the Bonds, including the paying of issuance expenses, which are hereby authorized to be paid, and for carrying out, giving effect to and consummating the transactions contemplated by this resolution, the Documents and the Official Statement, including, without limitation, the execution and delivery of any necessary or appropriate closing documents to be delivered in connection with the issuance, sale, and delivery of the Bonds. The execution of any document or instrument by the aforementioned officials, employees or agents of the Authority shall be conclusive evidence of the approval by the Authority of

such document or instrument in accordance with the terms hereof and thereof.

9. The Bonds are and shall be special, limited obligations of the Authority, equally and ratably secured by an irrevocable pledge of and lien on, and payable as to principal and interest solely from, the Trust Estate (as defined in the Indenture), without priority between or among the Bonds with respect to number, date of sale, date of execution or date of delivery. Principal of and interest on the Bonds shall not constitute an indebtedness of the City, the State of Colorado or any other political subdivision thereof, and none of the City, the State of Colorado or any political subdivision thereof, other than the Authority, shall be liable thereon, nor shall the principal of, premium, if any, or interest on the Bonds constitute general obligations of the Authority or be payable out of any funds or properties of the Authority other than the Trust Estate granted by the Authority pursuant to the Indenture. Further, the Bonds shall not constitute a debt or an indebtedness within the meaning of any constitutional, statutory, or charter debt limitation or provision applicable to the City. Neither the Commissioners of the Authority nor any persons executing the Bonds shall be liable personally on the Bonds.
10. U.S. Bank Trust Company, National Association, is hereby appointed Trustee for the Bonds under the Indenture. The Trustee may resign or be replaced as provided in the Indenture.
11. The Chairperson, Secretary, Executive Director, and all other employees and officials of the Authority that are authorized or directed to execute any agreement, document, certificate, instrument, or other paper in accordance with this resolution (collectively, the Authorized Documents) are hereby authorized to execute Authorized Documents electronically via facsimile or email signature. Any electronic signature so affixed to any Authorized Document shall carry the full legal force and effect of any original, handwritten signature. This provision is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. It is hereby determined that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.
12. The Board hereby designates the Chairperson and the Executive Director to serve as the initial Authority Representatives, as defined and as further provided in the Indenture. The Authority Representatives may be changed by a certificate executed by the Chairperson designating such Authority Representative, as further provided in the Indenture.

13. After the Bonds are issued, this resolution shall be and remain irrevocable until the Bonds shall have been fully paid, canceled, and discharged in accordance with the Indenture.
14. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.
15. All bylaws, orders, and resolutions or parts thereof inconsistent herewith or with the documents hereby approved are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, or resolution or part thereof heretofore repealed.
16. This resolution shall be in full force and effect immediately upon its passage and approval.

PASSED AND ADOPTED at a regular meeting of the Thornton Development Authority of the City of Thornton, Colorado on \_\_\_\_\_, 2025.

THORNTON DEVELOPMENT AUTHORITY

\_\_\_\_\_  
Jan Kulmann, Chairperson

ATTEST:

\_\_\_\_\_  
Kristen N. Rosenbaum, City Clerk