



Item Brief

Meeting Date

March 11, 2025

Agenda Item

Public hearing and action: Resolution No. R2025-14: L. Kimbler

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, CONDITIONALLY APPROVING THE "FINAL PLAT" OF THE RANCH AT DELAWARE CREEK, PHASE 3 SUBDIVISION, A 20-LOT RESIDENTIAL SUBDIVISION CONSISTING OF APPROXIMATELY 11.33 ACRES; PRELIMINARY ACCEPTANCE OF PUBLIC STREET, WATER, WASTEWATER AND ELECTRICAL IMPROVEMENTS; AND APPROVING THE MAINTENANCE BOND OF THE INFRASTRUCTURE

1. Staff Presentation
2. Public Hearing
3. Discuss and consider action

Information

The proposed Final Plat of The Ranch at Delaware Creek, Phase 3 Subdivision (Exhibit A) is a residential subdivision on approximately 11 acres. The proposed subdivision will create 19 residential lots, which are zoned District R-1, with one drainage and detention tract.

This subdivision creates the extension of the existing Sunday Drive to connect with Ramsey's Way.

The preliminary plat was approved by P&Z and City Council in August of 2018. Construction plans for the subdivision were approved by City staff and engineer in May of 2019.

The subdivision infrastructure improvements required have been installed, inspected, and are satisfactorily completed. All documentation for preliminary acceptance of the subdivision has been received, including record drawings, certified test results, and electronic files of the improvements.

Pursuant to Chapter 98 the Developer shall warranty the infrastructure for a period of one year. The Developer proposes to secure this warranty by submitting a bond (Exhibit B),

from Western Surety Company, in an amount equal to 10% of the costs of the infrastructure as certified by the Project Engineer and approved by the City Engineer.

Staff Analysis

The Final Plat of The Ranch at Delaware Creek, Phase 3 Subdivision has been reviewed using Code of Ordinances Section 98-24 (Final Plats) as a guide. It has been found to comply with ordinance requirements relating to form and content.

This resolution authorizes the preliminary acceptance of the infrastructure and approves the maintenance bond as the means to assure the Developer's warranty shall be honored. The resolution further:

1. Requires the City Engineer to inspect the infrastructure before the end of the one-year warranty period; and
2. Authorizes the City Engineer to issue a letter of acknowledgement of final acceptance of the improvements if the final inspection finds such improvements free of defect or failure; and
3. Requires the Developer to cure any discovered defect or failure; and
4. Authorizes the City to use the maintenance bond to cure such defect or failure should the Developer fail to do so; and
5. Extends the warranty period for any defect or failure for an additional year after the defect or failure is discovered.

P&Z Report

Planning and Zoning met at their regular scheduled meeting on Monday, March 3rd and recommended approval and acceptance of the Final Plat of the Ranch at Delaware Creek, Phase 3 and Resolution R2025-14 as presented.

Recommendation

Open the public hearing.

Discuss and consider Resolution R2025-14.

RESOLUTION NO. R2025-14

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, CONDITIONALLY APPROVING THE “FINAL PLAT” OF THE RANCH AT DELAWARE CREEK, PHASE 3 SUBDIVISION, A 20-LOT RESIDENTIAL SUBDIVISION CONSISTING OF APPROXIMATELY 11.33 ACRES; PRELIMINARY ACCEPTANCE OF PUBLIC STREET, WATER, WASTEWATER AND ELECTRICAL IMPROVEMENTS; AND APPROVING THE MAINTENANCE BOND OF THE INFRASTRUCTURE

WHEREAS, the City Council of the City of Burnet (City Council), Texas, has approved the Final Plat of The Ranch at Delaware Creek, Phase 3; and

WHEREAS, the City Council has determined that public street, water, wastewater, and electrical distribution improvements (Improvements) constructed within The Ranch at Delaware Creek, Phase 3 has been constructed in accordance with the construction plans approved for construction of said subdivision; and

WHEREAS, the City Council has further determined that as constructed, said plans have been found to be in compliance with applicable City design specifications; and

WHEREAS, the developer of the referenced improvements, has satisfied all applicable provisions of the City of Burnet, Code of Ordinances, Chapter 98 – Subdivisions; and

WHEREAS, the developer desires the infrastructure to be dedicated for public maintenance and use in accordance with the City’s Subdivision Ordinance; and

WHEREAS, the City Engineer conducted a preliminary inspection of the infrastructure and determined that there are no substantive defects preventing acceptance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF BURNET, TEXAS, AS FOLLOWS:

Section One. Findings. The recitals set out above are hereby approved and incorporated herein for all purposes.

Section Two. Approval. The final plat of The Ranch at Delaware Creek, Phase 3, is hereby approved.

Section Three. Preliminary Acceptance of Improvements. The City Council hereby preliminarily accepts for public use and maintenance the street improvements, public water system, and public infrastructure constructed within The Ranch at Delaware Creek, Phase 2; as shown on the plat of the subdivision to be subject to public dedication.

Section Four. Maintenance Guarantee Accepted. The Maintenance Bond for the warranty and maintenance of the public improvements required for The Ranch at Delaware Creek, Phase 3 in an amount equal to ten percent of the cost of improvements verified by the city and running for a period of one calendar year measured from the date of the approval of this resolution is hereby approved subject to the conditions that follows:

- (a) Should a defect or failure of the infrastructure occur within the warranty period, the defect or failure shall be cured by the Developer;
- (b) Should the Developer fail to cure, the City may utilize the Letter of Credit to cure; and
- (c) the warranty period shall extend for an additional year after any cure of a defect or failure and the Developer shall provide fiscal security for the extended warranty period.

Section Five. Final Acceptance of Improvements. Prior to the date of expiration of the Maintenance Bond, the preliminarily accepted improvements shall be inspected by the City Engineer. Should the inspection find such improvements free of defect or failure the City Engineer may issue a letter of acknowledgement of final acceptance of the improvements. However, should a defect or failure be discovered such defect or failure shall be addressed in accordance with section three herein.

Section Six. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

Section Seven. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED on this the 11th day of March 2025.

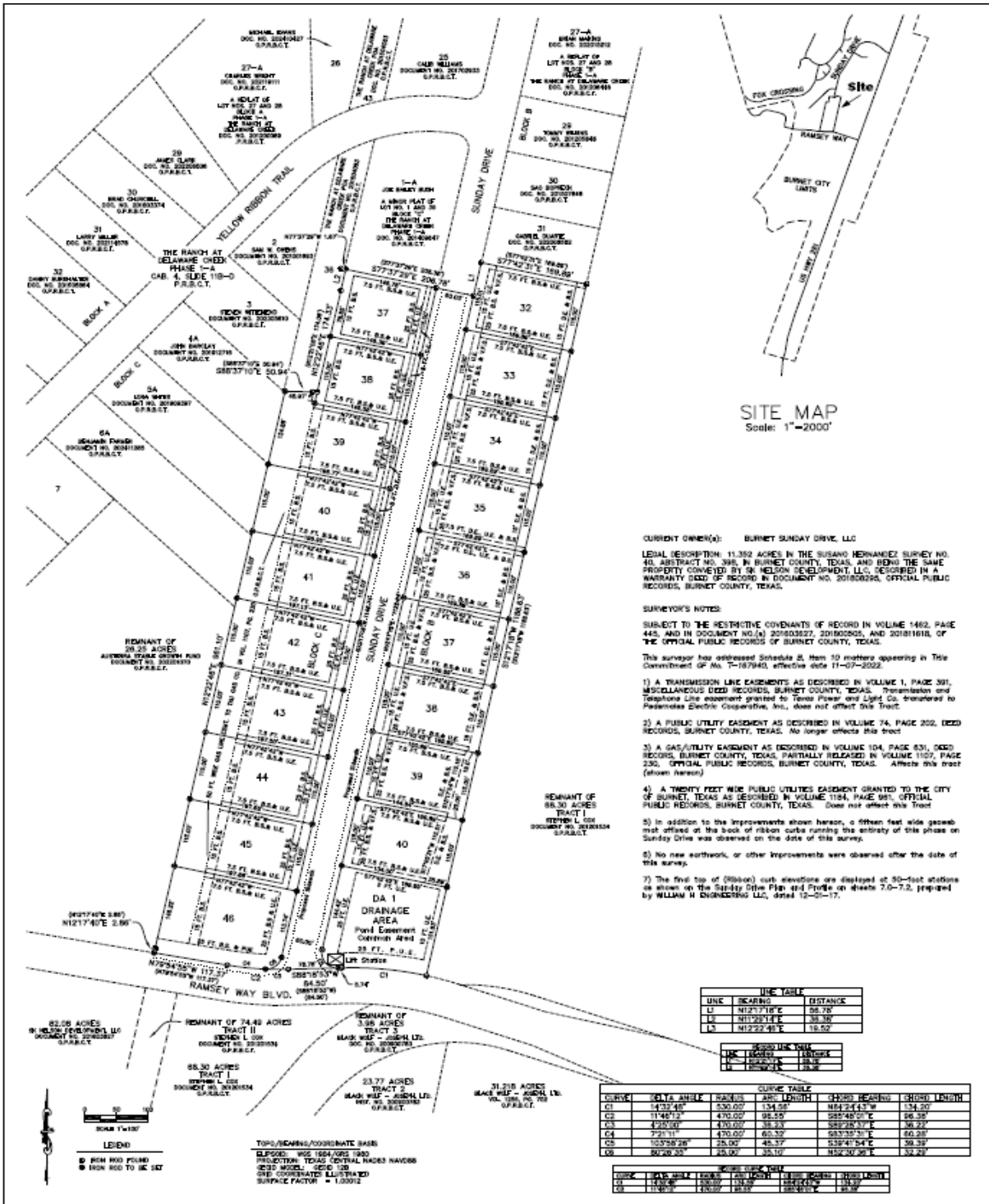
CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary

Exhibit "A" - Final Plat



SITE MAP
Scale: 1"=2000'

CURRENT OWNER(S): BURNET SUNDAY DRIVE, LLC
LEGAL DESCRIPTION: 11.352 ACRES IN THE SUSANO HERNANDEZ SURVEY NO. 40, ABSTRACT NO. 398, IN BURNET COUNTY, TEXAS, AND BEING THE SAME PROPERTY CONVEYED BY SA NELSON DEVELOPMENT, LLC, DESCRIBED IN A WARRANTY DEED OF RECORD IN DOCUMENT NO. 20180225, OFFICIAL PUBLIC RECORDS, BURNET COUNTY, TEXAS.

- SURVEYOR'S NOTES:**
- SUBJECT TO THE RESTRICTIVE COVENANTS OF RECORD IN VOLUME 1462, PAGE 445, AND IN DOCUMENT NO.(S) 20160327, 20160205, AND 20181618, OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS.
 - This surveyor has addressed Schedule B, Item 10 matters appearing in Title Commitment of No. T-167945, effective date 11-07-2022.
 - 1) A TRANSMISSION LINE EASEMENT AS DESCRIBED IN VOLUME 1, PAGE 591, MISCELLANEOUS DEED RECORDS, BURNET COUNTY, TEXAS. Transmission and Telephone Line easement granted to Texas Power and Light Co. transferred to Pedernales Electric Cooperative, Inc., does not affect this tract.
 - 2) A PUBLIC UTILITY EASEMENT AS DESCRIBED IN VOLUME 74, PAGE 202, DEED RECORDS, BURNET COUNTY, TEXAS. No longer affects this tract.
 - 3) A GAS/UTILITY EASEMENT AS DESCRIBED IN VOLUME 104, PAGE 831, DEED RECORDS, BURNET COUNTY, TEXAS, PARTIALLY RELEASED IN VOLUME 1107, PAGE 230, OFFICIAL PUBLIC RECORDS, BURNET COUNTY, TEXAS. Affects this tract (shown hereon).
 - 4) A TWENTY FEET WIDE PUBLIC UTILITIES EASEMENT GRANTED TO THE CITY OF BURNET, TEXAS AS DESCRIBED IN VOLUME 1184, PAGE 951, OFFICIAL PUBLIC RECORDS, BURNET COUNTY, TEXAS. Does not affect this Tract.
 - 5) In addition to the improvements shown hereon, a fifteen feet wide easement met offset at the back of ribbon curbs running the entirety of this phase on Sunday Drive was observed on the date of this survey.
 - 6) No new earthwork, or other improvements were observed after the date of this survey.
 - 7) The final top of (800mm) curb elevations are displayed at 50-foot stations as shown on the Sunday Drive Plan and Profile on sheets T-0-T-2, prepared by WILLIAM H ENGINEERING LLC, dated 12-01-17.

LINE	BEARING	DISTANCE
L1	N127°40'E	66.76
L2	N11°29'18"E	35.36
L3	N122°46'E	16.52

BEARING	LENGTH
N127°40'E	66.76
N11°29'18"E	35.36
N122°46'E	16.52

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	143°45'	530.07'	134.58'	N84°24'43"W	134.20'
C2	114°07'	470.07'	65.25'	S85°48'20"E	66.36'
C3	42°02'	470.07'	33.23'	S82°28'37"E	35.27'
C4	72°11'	470.07'	60.32'	S83°32'33"E	60.28'
C5	103°58'28"	25.00'	45.37'	S39°41'54"E	39.39'
C6	82°00'35"	25.00'	35.17'	N52°30'30"E	32.23'

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N127°40'E	66.76	L2	N11°29'18"E	35.36
L3	N122°46'E	16.52	L4	N127°40'E	66.76

SHEET
1
 OF 2

Scale: 1"=100' Date: 10/25/23
 RML Book: DWA
 Draw by: Staff
 File Name: 23-052.plt
 Appraised by: S.W.
 Project No: 23-052

The Ranch at Delaware Creek, Phase Three

BEING 11.35 ACRES OUT OF THE SUSANO HERNANDEZ SURVEY NO. 40 ABSTRACT NO. 398, CITY OF BURNET, BURNET COUNTY, TEXAS

Steven Warner Wornack, RPLS, PLS, NCEES
 National Council of Examiners for Engineering and Surveying #228
 Texas Registered Professional Land Surveyor #0225
 North Carolina Registered Professional Land Surveyor # L-5643
 E-Mail: SW@SWWornack.com Phone/Fax: (512) 638-0220

Exhibit "B" – Maintenance Bond pg. 1

MAINTENANCE BOND

Bond Number: 67338772

KNOW ALL PERSONS BY THESE PRESENTS, That we J & L Builders, LLC
_____ of
1670 County Road 304, Bertram, TX 78605, hereinafter
referred to as the Principal, and WESTERN SURETY COMPANY,
as Surety, are held and firmly bound unto City of Burnet
of Burnet, TX, hereinafter
referred to as the Obligee, in the sum of Seventy Five Thousand Four Hundred Thirty Four and 00/100
Dollars (\$ 75,434.00), for the payment of which we bind ourselves, our legal representatives, successors
and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a contract with the City of Burnet
_____ dated
_____, for Ranches at Delaware Creed Phase 3
_____.

WHEREAS, said contract provides that the Principal will furnish a bond conditioned to guarantee for the period of
One (1) year(s) after approval of the final estimate on said job, by the owner, against all defects in
workmanship and materials which may become apparent during said period, and

WHEREAS, the said contract has been completed, and was approved on February 1st, 2025

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the
Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which
become apparent during the period of One (1) year(s) from and after February 1st, 2025
then this obligation shall be void, otherwise to remain in full force and effect.

SIGNED, SEALED AND DATED this 1st day of February, 2025.

J & L Builders, LLC

(Principal)

By _____ (Seal)

WESTERN SURETY COMPANY

(Surety)

By _____ (Seal)
Arlene Kay Kuske, Attorney-in-Fact

Exhibit "B" - Maintenance Bond pg. 2

Western Surety Company

POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 67338772

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint Arlene Kay Kuske

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: J & L Builders, LLC

Obligee: City of Burnet

Amount: \$1,000,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

If Bond No. 67338772 is not issued on or before midnight of February 1st, 2026, all authority conferred in this Power of Attorney shall expire and terminate.

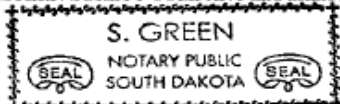
In Witness Whereof Western Surety Company has caused these presents to be signed by its Vice President, Larry Kasten, and its corporate seal to be affixed this 1st day of February, 2025.

STATE OF SOUTH DAKOTA
COUNTY OF MINNEHAHA } ss

WESTERN SURETY COMPANY

Larry Kasten
Larry Kasten, Vice President

On this 1st day of February, in the year 2025, before me, a notary public, personally appeared Larry Kasten, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



My Commission Expires February 12, 2027

S. Green
Notary Public - South Dakota

I, the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 1st day of February, 2025.

WESTERN SURETY COMPANY

Larry Kasten
Larry Kasten, Vice President

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.