



## Item Brief

### **Meeting Date**

February 10, 2026

### **Agenda Item**

Discuss and consider action: Resolution R2026-06 L. Kimbler

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, PRELIMINARILY ACCEPTING PUBLIC STREET, WATER, AND ELECTRICAL IMPROVEMENTS CONSTRUCTED WITHIN THE CREEKFALL SUBDIVISION, PHASES 3; AND APPROVING A WARRANTY BOND TO ASSURE THE MAINTENANCE OF THE INFRASTRUCTURE IMPROVEMENTS

### **Information**

Creekfall Subdivision Phase 3 is a 115-lot single-family home subdivision. The Final Plat was approved on August 12, 2025. The City Engineer has confirmed the infrastructure is complete and meets all requirements of Chapter 98.

Pursuant to Chapter 98, the Developer shall warranty the infrastructure for a period of one year. The Developer proposes to assure this warranty by submitting a warranty bond in an amount equal to 10% of the costs of the infrastructure as certified by the Project Engineer and approved by the City Engineer.

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.

This resolution authorizes the preliminary acceptance of the infrastructure and approves the maintenance bond as the means to ensure 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 bond to cure such defect or failure should the Developer fail to do so; and

5. extend the warranty period for any defect or failure for an additional year after the defect or failure is discovered.

**Fiscal Impact**

N/A

**Recommendation**

Staff recommends preliminary acceptance of Creekfall Subdivision, Phase 3 and approval of Resolution R2026-06 as presented.

## **RESOLUTION NO. R2026-06**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, PRELIMINARILY ACCEPTING PUBLIC STREET, WATER, AND ELECTRICAL IMPROVEMENTS CONSTRUCTED WITHIN THE CREEKFALL SUBDIVISION, PHASE 3; AND APPROVING A WARRANTY BOND TO ASSURE THE MAINTENANCE OF THE INFRASTRUCTURE IMPROVEMENTS**

**WHEREAS**, the City Council of the City of Burnet (Council), Texas, has determined that public street, water, wastewater, and electrical distribution improvements (Improvements) constructed within the Creekfall Subdivision, Phase 3 have been constructed in accordance with the construction plans approved for construction of said subdivision; and

**WHEREAS**, 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;

**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. 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 Creekfall Subdivision, Phase 3; as shown on the plat of the subdivision to be subject to public dedication.

**Section Three. Maintenance guarantee accepted.** The Maintenance Bond for the warranty and maintenance of the public improvements required for The Creekfall Subdivision, 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 bond 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 Four. Final Acceptance of Improvements.** Prior to the date of expiration of the Warranty 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 Five. 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 Six. Effective Date.** That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

**PASSED AND APPROVED** on this the 10<sup>th</sup> day of February 2026.

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Maria Gonzales, City Secretary

## Warranty Bond

### Philadelphia Indemnity Insurance Company

One Bala Plaza, Suite 100  
Bala Cynwyd, PA 19004  
877-438-7459

Bond No. PB03016801414

#### MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we DNT Construction, LLC as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to do business in the State of Texas as Surety, are held and firmly bound unto City of Burnet as Obligee, in the penal sum of Four Hundred Thirty-Three Thousand Five Hundred Thirty-Four Dollars and 58/100 (\$433,534.58) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a contract with Meritage Homes of Texas, LLC for Construction Plans For Creekfall Phase 3, which contract is hereinafter referred to as the "Contract."

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of One year (s) from date of acceptance of the work performed under the Contract against all defects in workmanship and materials which would have been the responsibility under the Contract for which written notice is made to Surety during said period

NOW THEREFORE, THE CONDITIONS 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 may become apparent and with respect to which notice is delivered to Surety in writing during the period of One year (s) from and after date of acceptance of the work under the Contract, then this obligation shall be void, otherwise to remain in full force and effect.

No right of action shall accrue hereunder to or for the benefit of any person or entity other the Obligee named herein, nor shall any suit be filed or action maintained on this bond more than thirteen (13) months after the date of the earliest timely notice of defect by Obligee to Surety.

SIGNED, SEALED AND DATED THIS 7th day of January 2026.

DNT Construction, LLC  
Principal

By: 

Dean Tomme, President

Philadelphia Indemnity Insurance Company

By: 

Raquel Martinez, Attorney-in-Fact