



## Item Brief

### Meeting Date

October 22, 2024

### Agenda Item

Discuss and consider action: Resolution R2024-79 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 1 AND 2; AND APPROVING A WARRANTY BOND TO ASSURE THE MAINTENANCE OF THE INFRASTRUCTURE IMPROVEMENTS

### Information

Creeksfall Subdivision Phases 1 and 2 is a 134-lot single-family home subdivision. The Final Plats were approved on June 11, 2024. The City Engineer has confirmed the infrastructure 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 submittal of a warranty bond from Harco National Insurance Company in an amount equal to the costs of the infrastructure as certified by the Project Engineer and approved by the City Engineer.

This resolution authorizes the preliminary acceptance of the infrastructure and approves the warranty 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 defects 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.

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.

**Fiscal Impact**

N/A

**Recommendation**

Staff recommends preliminary acceptance of the Creekfall Subdivision, Phase 1 and 2 and approval of Resolution R2024-79 as presented.

## RESOLUTION NO. R2024-79

### 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 1 AND 2; 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, Phases 1 and 2 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, Phases 1 and 2; 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, Phases 1 and 2 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 of 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; and
- (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 22<sup>nd</sup> day of October 2024.

**CITY OF BURNET, TEXAS**

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Gary Wideman, Mayor

**ATTEST:**

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Maria Gonzales, City Secretary

# Warranty Bond



## MAINTENANCE BOND

BOND NO. HSHNSU0855267

KNOW ALL MEN BY THESE PRESENTS: THAT WE, Nelson Lewis, Inc.

as Principal, and

Harco National Insurance Company, Illinois Corporation of

4200 Six Forks Rd, Suite 1400, Raleigh, NC 27605

licensed to do business in the State of Illinois and, as Surety, are held and firmly bound unto  
CITY OF BURNET, 1001 BUCHANAN DRIVE, SUITE 4 | P.O. BOX 1369 BURNET, TX 78611

as Obligee, in the full and just sum of Three Hundred Fifty Eight Thousand Two Hundred Forty Seven Dollars and No Cents  
( \$ 358,247.00 )

Dollars lawful money of the United States of America to the payment of which sum, well and truly to be made,  
the Principal and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these  
presents.

SIGNED, SEALED AND DATED THIS 22nd day of April, 20 24

THE CONDITION OF THIS OBLIGATION IS THAT, WHEREAS the Principal entered into a contract with the  
Obligee for Creekfall Ph1 & Ph 2 Subdivision, Water, Wastewater, Drainage, Electric, Grading and Street Improvements

AND WHEREAS, the Obligee requires a guarantee from the Principal against defective workmanship in  
connection with said Contract.

NOW, THEREFORE, if the Principal shall make any repairs or replacements which may become necessary during  
the period of One-Year thru April 22nd, 2025 because of defective workmanship in connection with said  
contract of which defectiveness the Obligee shall give the Principal and Surety written notice within (30)  
thirty days after discovery thereof, then this obligation shall be void; otherwise it shall be in full force and effect.

All suits at law or proceedings in equity to recover on this bond must be instituted within twelve (12) months after the  
expiration of the maintenance period provided for herein.

Nelson Lewis, Inc.

Witness

Susan Jobler

[Signature]

Principal

Witness

Candella Doss  
Candella Doss, Secretary

Harco National Insurance Company

[Signature]  
Kenneth Nilsche

Attorney-in-Fact