



Item Brief

Meeting Date

April 8, 2025

Agenda Item

Public hearing and action: Resolution No. 2025-27: L. Kimbler

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE "FINAL PLAT" OF LOT 1, BLOCK 1, CASEY'S BURNET ADDITION, A COMMERCIAL SUBDIVISION CONSISTING OF APPROXIMATELY 2.0035 ACRES; AND ACCEPTING A PERFORMANCE BOND ASSURING COMPLETION OF PUBLIC SEWER INFRASTRUCTURE

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

Information

The proposed Final Plat of Lot 1, Block 1, Casey's Burnet Addition (Exhibit A) is a commercial subdivision of just over two (2) acres. The proposed subdivision will combine the three tracts within the block to create one large lot for the development of Casey's gas station.

No new roads have been created.

Although the lot has existing utilities, a sewer line currently runs through the middle of the lot. The development of the gas station requires this sewer line to be relocated and upgraded. This will become public infrastructure.

Staff Analysis

The proposed Final Plat of Lot 1, Block 1, Casey's Burnet Addition has been reviewed using the 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.

The applicant has submitted a Performance Bond (Exhibit B) assuring the completion of the sewer infrastructure which allows the applicant to file the Final Plat. The proposed Resolution accepts the Performance Bond subject to the following:

- (a) The public improvements are completed and preliminary accepted before April 8, 2026; and
- (b) At the time of preliminary acceptance of the public improvements the subdivider provides a warranty or maintenance bond, assuring the quality of materials and workmanship, and maintenance of all public improvements; and
- (c) Failure to timely complete the public improvements shall cause the city manager to draw on the performance bond to complete the public improvements; and
- (d) The public improvements shall not be accepted until all improvements have been satisfactorily completed; and
- (e) The City shall withhold all City services to the subdivision until the public improvements are satisfactorily completed and accepted; and

P&Z Report

Planning and Zoning will meet on Monday, April 7; staff will present P&Z's recommendation at the City Council meeting.

Recommendation

Open the public hearing.

Discuss and consider the Final Plat of Lot 1, Block 1, Casey's Burnet Addition and Resolution R2025-27.

RESOLUTION NO. R2025-27

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE “FINAL PLAT” OF LOT 1, BLOCK 1, CASEY’S BURNET ADDITION, A COMMERCIAL SUBDIVISION CONSISTING OF APPROXIMATELY 2.0035 ACRES; AND ACCEPTING A PERFORMANCE BOND ASSURING COMPLETION OF PUBLIC SEWER INFRASTRUCTURE

WHEREAS, the City Council of the City of Burnet (City Council), Texas, has approved the Final Plat of Lot 1, Block 1, Casey’s Burnet Addition; and

WHEREAS, the Planning and Zoning Commission has made its recommendation on the final plat of the Lot 1, Block 1, Casey’s Burnet Addition; and

WHEREAS, the City staff and the City Engineer have opined that the application substantially complies with the subdivision ordinance; and

WHEREAS, accordance with City Code Sec. 98-61, the applicant has requested the final plat be recorded after approval and that the applicant be allowed to provide a performance bond to assure applicant’s completion of infrastructure after plat recordation.

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 Lot 1, Block 1, Casey’s Addition, is hereby approved.

Section Three. Performance Bond Accepted. The Performance Bond is accepted, subject to the following:

- (a) The public improvements are completed and preliminary accepted before April 8, 2026; and
- (b) At the time of preliminary acceptance of the public improvements the subdivider provides a warranty or maintenance bond, assuring the quality of materials and workmanship, and maintenance of all public improvements; and
- (c) Failure to timely complete the public improvements shall cause the City Manager to draw on the performance bond to complete the public improvements; and

- (d) The public improvements shall not be accepted until all improvements have been satisfactorily completed; and
- (e) The City shall withhold all city services to the subdivision until the public improvements are satisfactorily completed and accepted.

Section Four. Authorization. The City Manager is authorized and directed to take those actions that are reasonably necessary to facilitate the purpose of this Resolution. Further, the city manager is to draw on the letter of credit to complete the public improvements, without any further City Council action necessary, should the subdivider fail to complete the public improvements within the period prescribed in this resolution.

Section Five. Recordation. The final plat of Lot 1, Block 1, Casey's Burnet Addition may be recorded in the Public Records of the County Clerk of Burnet County, Texas upon compliance with the requirements of Subdivision Code Sec. 98-24(h) and related regulations.

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 8th day of April 2025.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary

Exhibit "A" – Final Plat

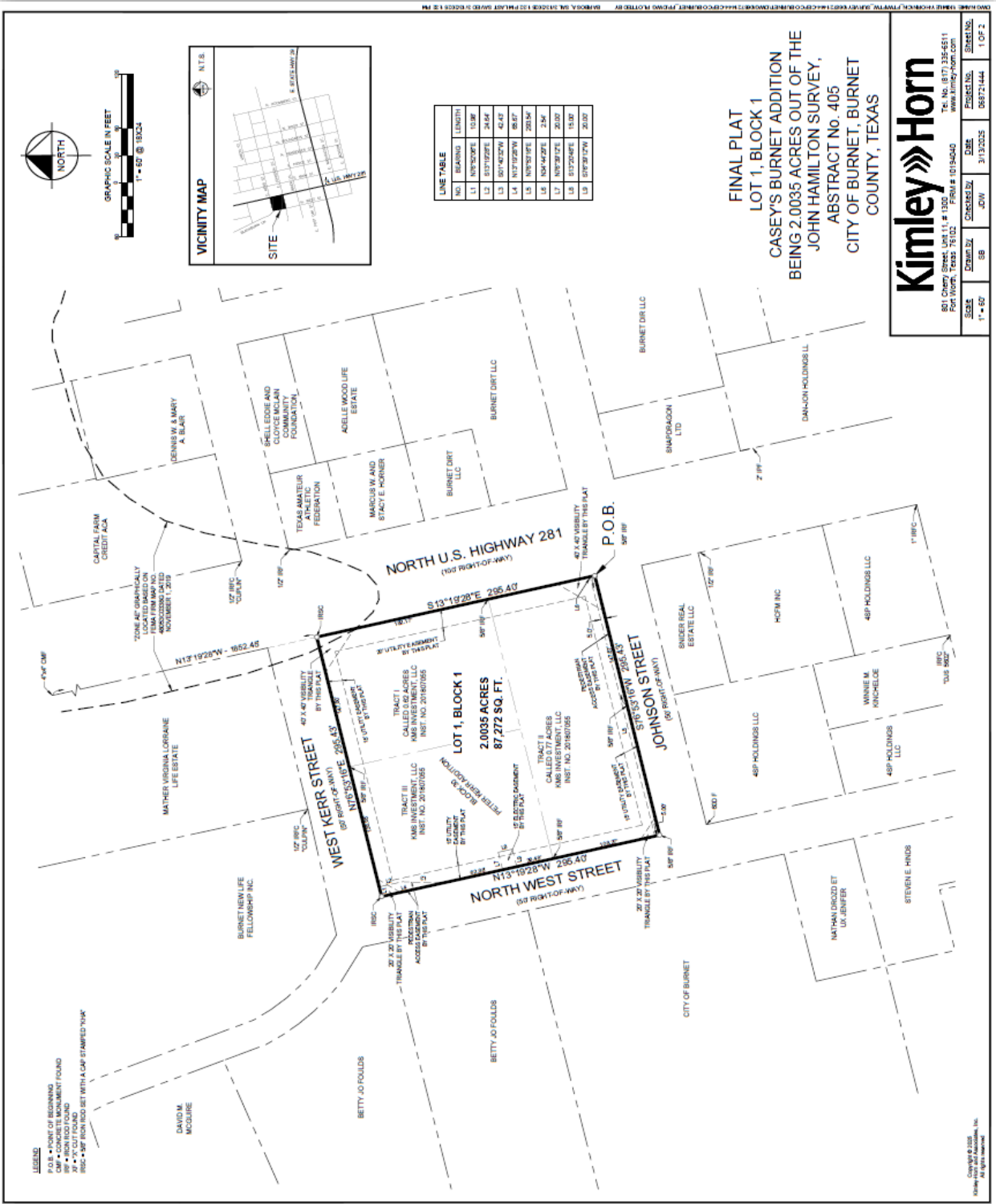


Exhibit "B" – Performance Bond pg. 1

Bond No. 9429734

PERFORMANCE BOND

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF Burnet §

That we, Casey's General Store [DEVELOPER], as Principal herein, and Fidelity and Deposit Company of Maryland [SURETY], a corporation organized and existing under the laws of the State of Texas and who is authorized and admitted to issue surety bonds in the State of Texas, Surety herein, are held and firmly bound unto the **City of Burnet**, Obligee herein, in the sum of Eighty Five Thousand Eight Hundred Forty Six Dollars (\$85,846.00) for the payment of which sum we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has agreed to complete certain infrastructure improvements per the approved engineering plans by the Obligee dated the 8th day of April, 2025, herein referred to as "the Design or Contract" and incorporated herein and made a part hereof for all purposes, for the construction of the following project: Public Sewer Main Extension.

NOW, THEREFORE, the condition of this obligation is such, if the said Principal shall faithfully perform the work in accordance with the plans, specifications, and other Contract Documents and shall fully indemnify and hold harmless the Obligee from all costs and damages which Obligee may suffer by reason of Principal's failure to perform the Work in conformity with the Contract Documents, and reimburse and repay Obligee for all outlay and expense that Obligee may incur in making good such default, then this obligation shall be void; otherwise, to remain in full force and effect.

Whenever Principal shall be declared by Obligee to be in default under the Contract, the Surety shall, upon request of Obligee and within ten (10) calendar days from receipt of Obligee's notice of Principal's default, commence and thereafter complete performance of Contractor's obligations under the Contract. Surety acknowledges that its obligations under this bond and as detailed herein and in the Contract Documents are not conditioned on a termination of the Principal by the Obligee. Surety further acknowledges and agrees that Surety shall obtain the Obligee's approval and consent with respect to the contractor(s) that Surety may retain to replace defaulted Principal or otherwise honor the obligations under this Bond.

Exhibit "B" - Performance Bond pg. 2

This Bond covers all contractual obligations of Contractor under the Contract, including, without limitation, the indemnity, warranty and guaranty obligations. The Surety stipulates and agrees that no change, extension of time, alteration, omission, addition or other modification to the terms of any of the Contract will affect its obligations on this bond, and it hereby waives notice of any such changes, extensions of time, alterations, omissions, additions, or other modifications, to the Contract or to related subcontracts, purchase orders or other obligations, and any notices provided in such regard shall not create as to any party a duty related thereto. The penal limit of this bond shall automatically be increased by the amount of any change order, supplemental agreement or amendment which increases the price of the Contract.

PROVIDED, HOWEVER, that this bond is executed pursuant to Chapter 2253 of the Texas Government Code, as amended, and all rights and liabilities on this bond shall be determined in accordance with the provisions of such statute, to the same extent as if it were copied at length herein. All notices shall be delivered in writing to the addresses shown below or to addresses provided in the Contract Documents.

IN WITNESS WHEREOF, the duly authorized representatives of the Principal and the Surety have executed this instrument.

SIGNED and SEALED this 8th day of April, 2025.

The date of bond shall not be prior to date of Contract.

ATTEST:

(Principal) Secretary

(S E A L)

Witness as to Principal

Casey's General Store

PRINCIPAL

By: _____

Name: _____

Title: _____

Address: Casey's General Store

404 N Water St.

Burnet, TX 78611

Telephone Number: _____

Exhibit "B" - Performance Bond pg. 3

ATTEST:


~~Surety~~

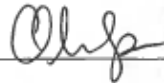
(S E A L)

Joanne Czapinski

Witness as to Surety

Fidelity and Deposit Company of Maryland

SURETY

By: 

Name: Olivia Spada
Attorney in Fact

Address: Fidelity and Deposit Company of Maryland
1299 ZURICH WAY, 10TH FLOOR
SCHAUMBURG, IL 60196 - 1056

Telephone Number: (847) 605-6000

An original copy of Power of Attorney shall be attached to Bond by the Attorney-in-Fact.

Approved as to Form:

City of Burnet
1001 Buchanan Drive, Suite 4
Burnet TX. 78611

By: _____

Title: _____

Date: _____