

City of Burnet City Council



Item Brief

Meeting Date

August 12, 2025

Agenda Item

Public hearing and action: Resolution No. R2025-63: L. Kimbler

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, CONDITIONALLY APPROVING THE "FINAL PLAT" OF CREEKFALL PHASE 3 SUBDIVISION, A PROPOSED 115-LOT RESIDENTIAL SUBDIVISION CONSISTING OF APPROXIMATELY 37.72 ACRES; AND ACCEPTING A PERFORMANCE BOND ASSURING COMPLETION OF SUBDIVISION INFRASTRUCTURE

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

Information

The proposed Final Plat of Creekfall Phase 3 Subdivision (Exhibit A) is a single-family residential subdivision with 115 residential lots and four drainage tracts. This subdivision will extend the existing streets, Desert Drive and Big Sugar Road, into the subdivision and has created five new roads to be named: Gristmill Road, Wheel Horse Road, Bridle Road, Prairie Dew Road, and Hayburner Road. The subdivision has also provided additional future connections for surrounding undeveloped properties.

The preliminary plat was approved by P&Z and City Council in March of 2022. Construction plans for Creekfall Phase 3 Subdivision were approved by city staff and engineer in January 2025.

Staff Analysis

The proposed Final Plat of Creekfall 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.

At this time, the contractor has not begun paving activities. The applicant has indicated that paving is scheduled to commence around August 14th, with anticipated completion by August 15th. Following consultation with the Fire Marshal and the City Engineer, staff

has identified concerns regarding the recordation of the plat prior to the completion of paving improvements. Therefore, staff recommends that the City Council consider approval of the plat with the condition that it shall not be recorded until all required pavement improvements have been completed and have received satisfactory inspection and approval by the City Engineer.

The applicant is requesting City Council to accept a Performance Bond (Exhibit B) assuring the completion of the subdivision infrastructure which allows the applicant to file the Final Plat. Pursuant to Chapter 98, the bond shall warranty the completion of the infrastructure in an amount equal to 110% of the costs of the remaining items certified by the Project Engineer and approved by the City Engineer (Exhibit C).

In addition to the conditional approval, the proposed Resolution accepts the Performance Bond subject to the following:

- (a) The public improvements are completed and preliminary accepted before August 12, 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.

P&Z Report

Planning and Zoning will meet on Monday, August 4th and did recommend approval of the Final Plat for Creekfall Phase 3 Subdivision.

Recommendation

Open the public hearing.

Discuss and consider Resolution R2025-63.

Exhibit A – Final Plat

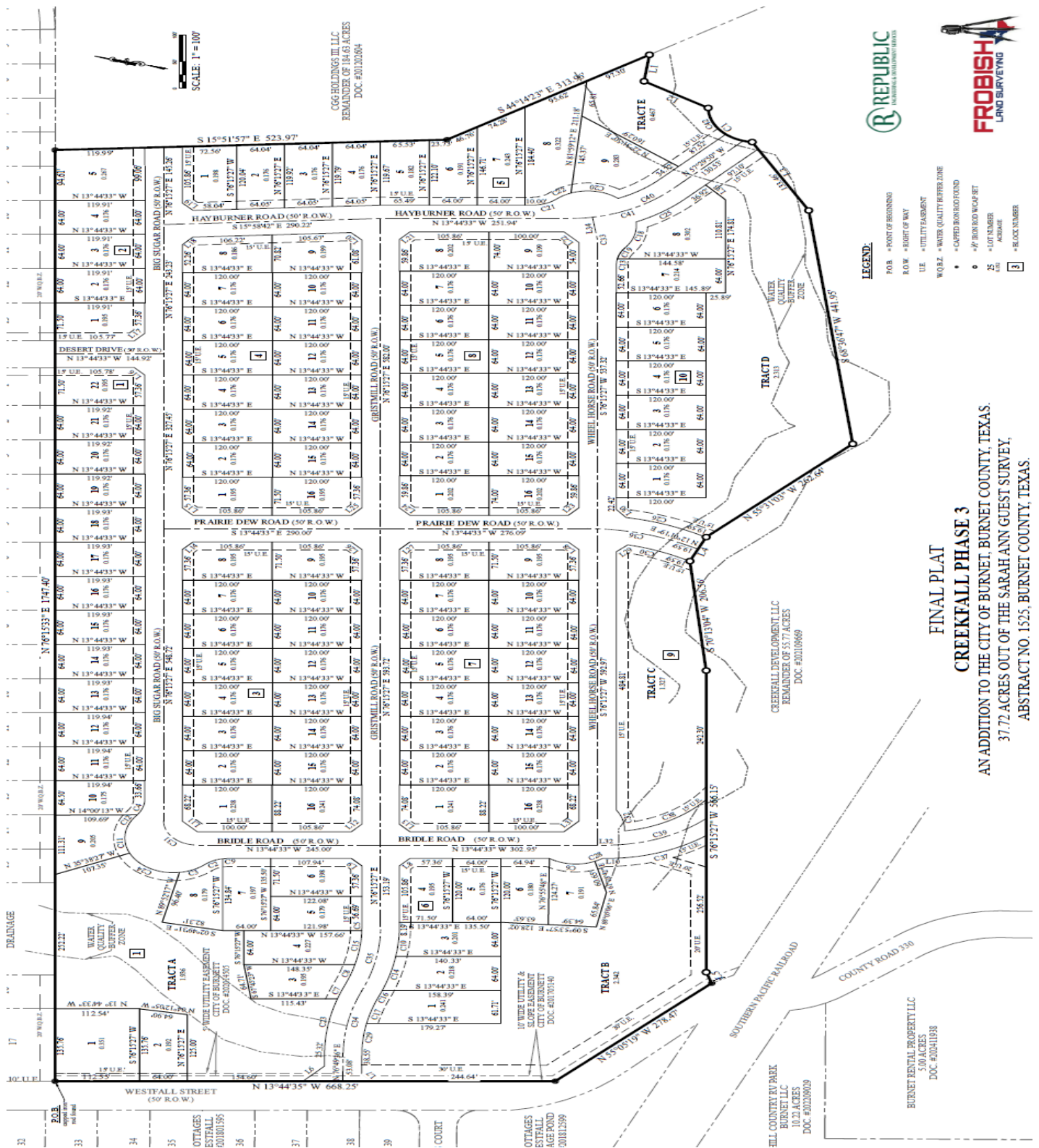


Exhibit B – Performance Bond pg. 1

Bond No. DUA003775

PERFORMANCE BOND

THE STATE OF TEXAS

§
§
§

KNOW ALL BY THESE PRESENTS:

COUNTY OF Burnet

That we, Meritage Homes of Texas, LLC [DEVELOPER], as Principal herein, and AXIS Insurance Company [SURETY], a corporation organized and existing under the laws of the State of Illinois 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 Five Hundred Nineteen Thousand Six Hundred Eighty Eight and 70/100 Dollars (\$519,688.70) 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 ____ day of ____, 20__, 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: Creekfall, Phase 3.

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 25th day of July, 2025.

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

ATTEST:

Braylen Chumbley
(Principal) Secretary Braylen Chumbley

(S E A L)

Kyle McKee
Witness as to Principal Kyle McKee

Meritage Homes of Texas, LLC

PRINCIPAL

By: L.A. Albers

Name: Lisa Albers

Title: VP-National Land Development

Address: 12301 Research Blvd.

Bldg 4, Suite 400

Austin, TX 78759

Telephone Number: 720-688-3331

Exhibit B – Performance Bond pg. 3

ATTEST:

Sinem Nava
Secretary Sinem Nava

(S E A L)

Alexa Costello
Witness as to Surety Alexa Costello

AXIS Insurance Company

SURETY

By: Mt M

Name: Martin Moss
Attorney in Fact

Address: 10000 Avalon Blvd
Suite 200
Alpharetta, GA 30009

Telephone Number: 678-746-9000

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: _____

Exhibit C – Engineer’s Opinion of Probable Cost (OPC) pg. 1



✉ info@RepublicEDS.com

📍 6305 Pat Cole
Temple, TX 76502

July 31, 2025

To Whom it May Concern,

The purpose of this letter is to report the Engineer’s Opinion of Probable Cost for outstanding construction items, as of the date of this letter, for the Creekfall Phase 3 development. This OPC is intended to accompany City of Burnet Project #2025-PZ-336. This opinion of probable cost is based on actual bid information received on projects in the same market and quantities pulled from the current set of construction plans. The following table shows the cost of each required improvement as well as the total for the development phase.

DESCRIPTION	PHASE TOTAL	% OUTSTANDING	AMOUNT OUTSTANDING
EROSION CONTROL			
Remove Concrete Washout	\$50.00	100%	\$50.00
Remove Silt Fence	\$5,051.20	100%	\$5,051.20
Remove Rock Berm	\$10,100.00	100%	\$10,100.00
Revegetation	\$12,720.84	69%	\$8,777.38
EROSION CONTROL TOTAL	\$65,998.84		\$23,978.58
EARTHWORK			
Excavation	\$313,452.00	10%	\$31,345.20
Embankment	\$313,452.00	17%	\$53,286.84
EARTHWORK TOTAL	\$880,054.00		\$84,632.04
WATER IMPROVEMENTS			
Punch List Misc.	-	100%	\$5,000.00
WATER IMPROVEMENTS TOTAL	-		\$5,000.00

Exhibit C – Engineer's Opinion of Probable Cost (OPC) pg. 2



SEWER IMPROVEMENTS			
Punch List Misc.	-	100%	\$5,000.00
SEWER IMPROVEMENTS TOTAL	-		\$5,000.00
STORM IMPROVEMENTS			
36" SET	\$11,700.00	33%	\$3,861.00
20" Curb Inlet	\$14,000.00	20%	\$2,800.00
15" Curb Inlet	\$31,500.00	20%	\$6,300.00
10" Curb Inlet	\$63,000.00	20%	\$12,600.00
STORM IMPROVEMENTS TOTAL	\$787,083.00		\$25,561.00
POND 2 IMPROVEMENTS			
Gabion Wall	\$14,260.00	100%	\$14,260.00
Trash Rack W/ Drain Pipe	\$10,000.00	50%	\$5,000.00
Rip Rap Apron	\$1,725.00	100%	\$1,725.00
POND 2 IMPROVEMENTS TOTAL	\$25,985.00		\$20,985.00
POND 3 IMPROVEMENTS			
Gabion Wall	\$33,480.00	100%	\$33,480.00
Trash Rack W/ Drain Pipe	\$10,000.00	50%	\$5,000.00
Rip Rap Apron	\$4,050.00	100%	\$4,050.00
Rip Rap Overflow	\$5,600.00	100%	\$5,600.00
POND 3 IMPROVEMENTS TOTAL	\$53,130.00		\$48,130.00
HMAC IMPROVEMENTS			
Striping & Signage	\$13,000.00	100%	\$13,000.00
HMAC IMPROVEMENTS TOTAL	\$686,361.00		\$13,000.00
CONCRETE IMPROVEMENTS			
Sidewalk	\$372,424.00	42%	\$156,418.08

Exhibit C – Engineer’s Opinion of Probable Cost (OPC) pg. 3



Flume	\$6,750.00	100%	\$6,750.00
CONCRETE IMPROVEMENTS TOTAL	\$737,044.00		\$163,168.08
ELECTRIC IMPROVEMENTS			
Electric material & install	\$287,500.00	15%	\$43,125.00
ELECTRIC IMPROVEMENTS TOTAL	\$287,500.00		\$43,125.00
\$432,579.70			

Sincerely,

Tyler Freese

Tyler Freese, P.E.

07/31/2025



RESOLUTION NO. R2025-63

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, CONDITIONALLY APPROVING THE “FINAL PLAT” OF CREEKFALL PHASE 3 SUBDIVISION, A PROPOSED 115-LOT RESIDENTIAL SUBDIVISION CONSISTING OF APPROXIMATELY 37.72 ACRES; AND ACCEPTING A PERFORMANCE BOND ASSURING COMPLETION OF SUBDIVISION INFRASTRUCTURE

WHEREAS, the City Council of the City of Burnet (City Council), Texas, has approved the Final Plat of Creekfall Phase 3 Subdivision; and

WHEREAS, the Planning and Zoning Commission has made its recommendation on the Final Plat of Creekfall Phase 3 Subdivision; and

WHEREAS, the city staff and the city engineer have opined 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. Conditional Approval. The Final Plat of Creekfall Phase 3 Subdivision is hereby approved with the condition that the plat shall not be recorded until all required pavement improvements have been completed and have received satisfactory inspection and approval by the City Engineer.

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

- (a) The public improvements are completed and preliminarily accepted before August 12, 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 performance bond 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 Creekfall Phase 3 Subdivision 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 12th day of August 2025.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary