



**Issue:** **VACATION OF A SANITARY SEWER EASEMENT AT NIXA HIGH SCHOOL AND ACCEPTING A REPLACEMENT EASEMENT**

**Date:** May 10, 2021

**Submitted By:** Garrett Tyson, Director of Planning and Development

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## **Background**

Nixa R-II School District has submitted a Vacation of Easement request for a sanitary sewer main easement located at the Nixa High School, 514 South Nicholas. The sanitary sewer main needs to be moved to allow for the Performing Arts Center addition to the High School. The project will relocate the sanitary sewer main away from the new addition and place it in a new sanitary sewer easement.

## **Analysis**

The applicant is requesting that the City vacate a sanitary sewer easement located on the East side of the Nixa High School. The sanitary sewer line will be relocated as part of the Performing Arts Center addition at the High School. The new sanitary sewer line will be placed in a new easement that will be outside of the building footprint. The new sanitary sewer easement has been submitted and is ready to be recorded after the easement vacation has been recorded.

## **Recommendation**

Staff recommends approval. The Planning and Zoning Commission voted unanimously in favor of the easement vacation.

# NHS Easement Vacation



S NICHOLAS RD

Approx. Location of  
Easement Vacation

Realigned  
SS Main

## Legend

- Hydrants
- Water Main
- Wastewater Main
- ForceMain

2  
3 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA VACATING A**  
4 **CERTAIN SANITARY SEWER EASEMENT LOCATED AT 514 SOUTH NICHOLAS**  
5 **ROAD AND ACCEPTING REPLACEMENT EASEMENT RIGHTS.**  
6  
7

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8 **WHEREAS** an application has been submitted requesting that the City vacate a  
9 certain sanitary sewer easement generally located at 514 South Nicholas Road; and  
10

11 **WHEREAS** the purpose of this request is to accommodate the construction of  
12 the Performing Arts Center by Nixa Public Schools; and  
13

14 **WHEREAS** the Planning and Zoning Commission, at their meeting of May 3,  
15 2021, recommended approval of the request to vacate said easement; and  
16

17 **WHEREAS** the City Council finds that, provided the conditions of this Ordinance  
18 are fully complied with, the easement vacation requested is appropriate and thereby the  
19 Council desires to relinquish said easement consisted with the provisions of this  
20 Ordinance.  
21

22 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
23 **NIXA, AS FOLLOWS, THAT:**  
24

25 **SECTION 1:** The City Council hereby vacates and relinquishes that portion of the  
26 City's sanitary sewer easement described on "Council Bill Exhibit A," and which is  
27 generally located at 514 South Nicholas Road. Provided that, said vacation and  
28 relinquishment shall not become effective until the conditions contained in this  
29 Ordinance have been fully complied with. "Council Bill Exhibit A" is attached hereto and  
30 is incorporated by this reference as though fully set forth herein.  
31

32 **SECTION 2:** The City Council hereby accepts the dedication to the City of the  
33 perpetual sanitary sewer easement described on "Council Bill Exhibit B." Said  
34 easement's purpose is to provide the City with replacement easement rights for sanitary  
35 sewer infrastructure as a result of the City's vacation and relinquishment of its existing  
36 easement rights. "Council Bill Exhibit B" is attached hereto and is incorporated by this  
37 reference as though fully set forth herein.  
38

39 **SECTION 3:** The vacation and relinquishment contemplated by this Ordinance  
40 shall not become effective until the replacement easement described on "Council Bill  
41 Exhibit B," is dedicated to the City and properly recorded.  
42

43 **SECTION 4:** City Council finds that the sections contained in this Ordinance are  
44 an integral part of its decision to vacate said easement and, if for any reason, any  
45 section or provision of this Ordinance is found to be null and void, the whole Ordinance  
46 shall be considered null and void.

**SECTION 5:** Upon the Director or Planning and Development certifying in writing to the City Clerk that the conditions contained in this Ordinance have been fully complied with, to the reasonable satisfaction of said Director, then this Ordinance shall be in full force and effect from and after its final passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.

**ADOPTED BY THE COUNCIL OF THE CITY OF NIXA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.**

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

**APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.**

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

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Title of Document: VACATION OF SANITARY SEWER EASEMENT

Date of Document:: \_\_\_\_\_

Grantor(s): CITY OF NIXA, MISSOURI

Grantee(s): NIXA R-II SCHOOL DISTRICT

Legal Description: See Attached Exhibit A

Reference Book and Page(s): \_\_\_\_\_

Mail Recorded Document to: City of Nixa  
Attention: Cindy Robbins  
P.O. Box 395  
Nixa, Missouri 65714

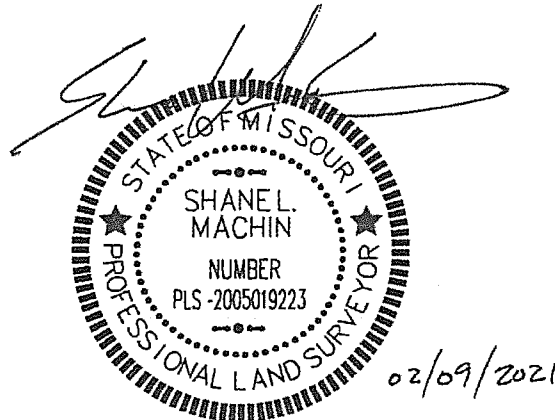
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## EXHIBIT A

A PORTION OF AN EXISTING PERPETUAL SANITARY SEWER EASEMENT, TO BE VACATED, BEING A PART OF LOT 2 IN NIXA RII SUBDIVISION, A SUBDIVISION IN THE CITY OF NIXA, CHRISTIAN COUNTY, MISSOURI RECORDED IN PLAT BOOK G AT PAGE 794 IN THE CHRISTIAN COUNTY RECORDER'S OFFICE. SAID EASEMENT VACATION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

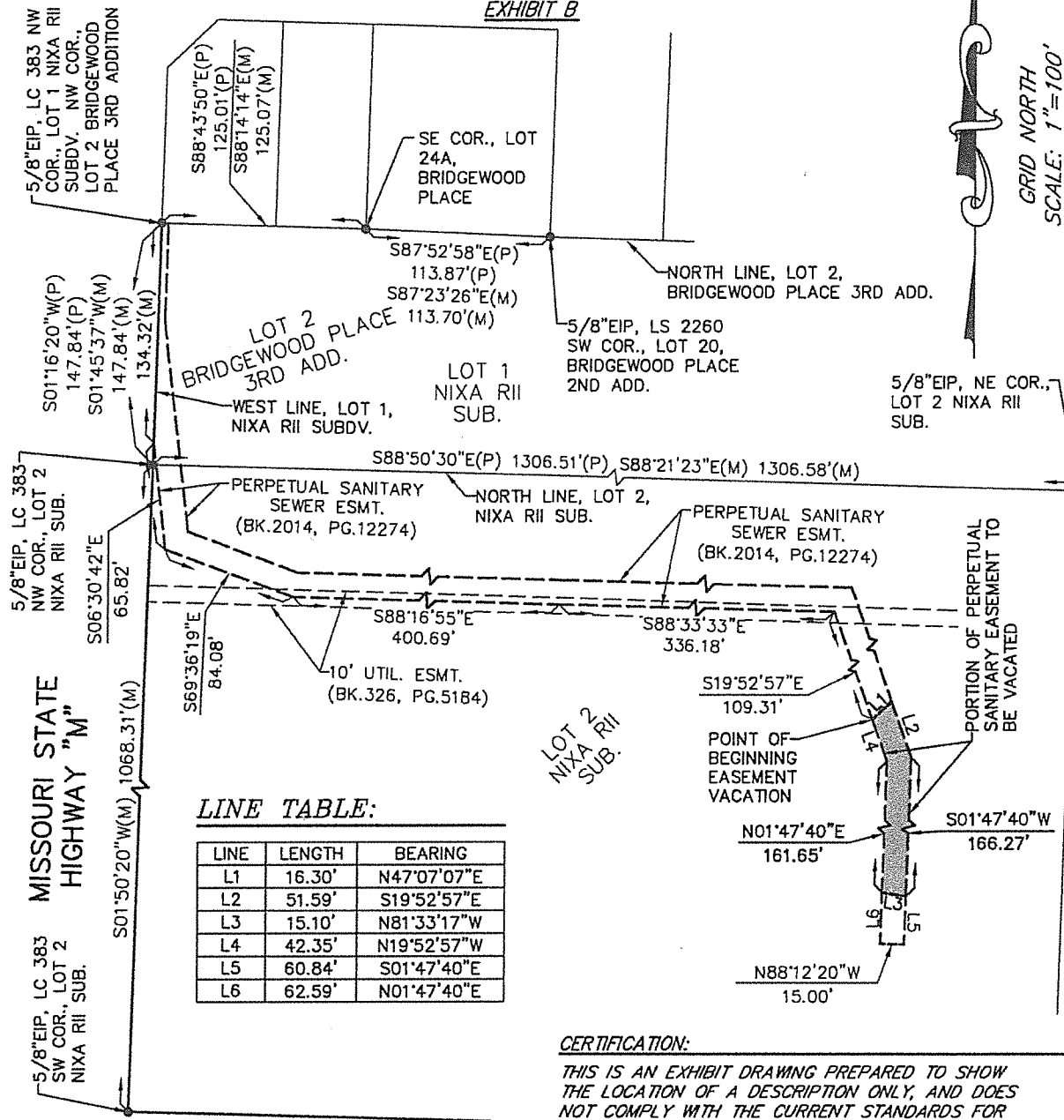
BEGINNING AT AN EXISTING IRON PIN AT THE NORTHWEST CORNER OF LOT 1 IN SAID NIXA RII SUBDIVISION, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 2 IN BRIDGEWOOD PLACE 3RD ADDITION, A SUBDIVISION IN THE CITY OF NIXA, CHRISTIAN COUNTY, MISSOURI; THENCE S01°45'37"W, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE 134.32 FEET; THENCE ALONG THE WESTERLY AND SOUTHERLY LINE OF SAID EXISTING PERPETUAL SANITARY SEWER EASEMENT, AS DESCRIBED IN BOOK 2014 AT PAGE 12274 IN THE CHRISTIAN COUNTY RECORDER'S OFFICE, THE FOLLOWING FIVE (5) COURSES: 1) THENCE S06°30'42"E, A DISTANCE 65.82 FEET; 2) THENCE S69°36'19"E, A DISTANCE OF 84.08 FEET; 3) THENCE S88°16'55"E, A DISTANCE 400.69 FEET; 4) THENCE S88°33'33"E, A DISTANCE OF 336.18 FEET; 5) THENCE S19°52'57"E, A DISTANCE OF 109.31 FEET TO THE POINT OF BEGINNING OF SAID PORTION OF AN EXISTING PERPETUAL SANITARY EASEMENT TO BE VACATED; THENCE N47°07'07"E, A DISTANCE OF 16.30 FEET, TO A POINT ON THE EASTERLY LINE OF SAID EXISTING PERPETUAL SANITARY SEWER EASEMENT; THENCE S19°52'57"E, ALONG THE EASTERLY LINE OF SAID EXISTING PERPETUAL SANITARY SEWER EASEMENT, A DISTANCE OF 51.59 FEET; THENCE S01°47'40"W, CONTINUING ALONG SAID EASTERLY LINE, A DISTANCE OF 166.27 FEET; THENCE N81°33'17"W, A DISTANCE OF 15.10 FEET, TO A POINT ON THE WESTERLY LINE OF SAID EXISTING PERPETUAL SANITARY SEWER EASEMENT; THENCE N01°47'40"E, ALONG THE WESTERLY LINE OF SAID EXISTING PERPETUAL SANITARY SEWER EASEMENT, A DISTANCE OF 161.65 FEET; THENCE N19°52'57"W, CONTINUING ALONG SAID WESTERLY LINE, A DISTANCE 42.35 FEET TO THE POINT OF BEGINNING. SAID EASEMENT VACATION CONTAINS 3,164 SQUARE FEET (MORE OR LESS).

(BEARINGS ARE BASED ON GRID NORTH, MISSOURI COORDINATE SYSTEM OF 1983, CENTRAL ZONE.)



THIS IS A SKETCH FOR REFERENCE PURPOSES ONLY. THIS IS NOT A BOUNDARY SURVEY, AND SHOULD NOT BE USED AS SUCH.

EXHIBIT B



LINE TABLE:

LINE	LENGTH	BEARING
L1	16.30'	N47°07'07"E
L2	51.59'	S19°52'57"E
L3	15.10'	N81°33'17"W
L4	42.35'	N19°52'57"W
L5	60.84'	S01°47'40"E
L6	62.59'	N01°47'40"E

CERTIFICATION:

THIS IS AN EXHIBIT DRAWING PREPARED TO SHOW THE LOCATION OF A DESCRIPTION ONLY, AND DOES NOT COMPLY WITH THE CURRENT STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

AREA:

EASEMENT VACATION: 3,164 SQ. FT±

PREPARED FOR:

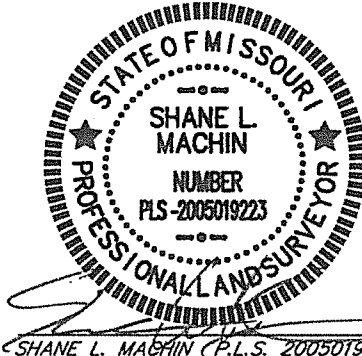
CITY OF NIXA  
BOOK 2014, PAGE 12274

**SHAFFER & HINES, inc.**

CONSULTING ENGINEERS - PROFESSIONAL LAND SURVEYORS

731 W. MT. Vernon, Nixa, Missouri 65714  
Phone (417) 725-4663 - Fax (417) 725-5230

PROJECT NO.: 190024 DATE: 02-09-2021



02/09/2021  
DATE



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Title of Document: **PERPETUAL SANITARY SEWER EASMENT**

Date of Document:: \_\_\_\_\_

Grantor(s): NIXA R-II SCHOOL DISTRICT

Grantee(s): CITY OF NIXA, MISSOURI

Legal Description: See Attached Exhibit A

Reference Book and Page(s): \_\_\_\_\_

Mail Recorded Document to: City of Nixa  
Attention: Cindy Robbins  
P.O. Box 395  
Nixa, Missouri 65714

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## **PERPETUAL SANITARY SEWER EASEMENT**

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of ONE DOLLAR (\$1.00) in cash and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NIXA R-II SCHOOL DISTRICT, a Missouri school district, with a mailing address of 301 S. Main St., Nixa, Missouri 65714 (also known as Nixa Public Schools, and referred to herein as "Grantor") does hereby grant, bargain and convey to the CITY OF NIXA, MISSOURI, with a mailing address of P.O. Box 395, Nixa, Missouri 65714 (together with its successors, licensees, lessees, and assigns, referred to herein as "Grantee"), a PERPETUAL SANITARY SEWER EASEMENT, together with the right, privilege and authority to construct, reconstruct, repair, maintain, patrol, and replace sanitary sewer pipes, manholes, laterals and such appurtenances thereto as are deemed necessary by Grantee, in, on, through, over, under, and across that certain land owned by Grantor in the COUNTY OF CHRISTIAN, State of Missouri, and more particularly described on the attached Exhibit A and depicted on the exhibit sketch attached hereto as Exhibit B (the "Easement Area").

TO HAVE AND TO HOLD the same, together with (i) all rights, privileges and appurtenances thereto belonging, (ii) the right, privilege and authority to remove from the Easement Area any obstructions which interfere with the construction, maintenance or operation of the improvements described above; provided, however, that Grantee shall repair, replace or otherwise return the Easement Area to a good and safe condition, and as close to the condition existing prior to such removal as is reasonably possible, and (iii) the right of ingress to and egress from the Easement Area over and across Grantor's adjacent land as necessary or useful for the enjoyment of the easement herein granted.

Grantor warrants that it has good title to the Easement Area and the right to convey the same, and it will warrant and defend the easement herein conveyed unto the said Grantee against the lawful claims and demands of all persons claiming by, through or under it, except for any restrictions, easements, reservations and other matters of record.

Grantor, and Grantor's tenants, heirs, successor, and assigns, shall have the right to use and enjoy the Easement Area fully, so long as such use does not interfere with the rights and privileges hereinbefore granted to the Grantee; provided however, that no buildings or structures shall be erected or placed upon said Easement Area, nor shall the terrain be altered, nor shall any other roads be placed in on, through, over, or across the Easement Area without the prior written consent of Grantee (such consent not to be unreasonably withheld, conditioned or delayed).

IN WITNESS WHEREOF, said Grantor has executed this perpetual sanitary sewer easement this 23<sup>rd</sup> day of March, 2021.

Linda L. Daugherty

President, Nixa Board of Education

STATE OF MISSOURI     )  
  )SS.  
COUNTY OF Christian )

On the 23<sup>rd</sup> day of March, 20  , before me, a Notary Public, within and for the        County and        State aforesaid,        personally appeared Linda Daugherty

to me known to be the person(s) described in, and who executed the foregoing instrument, and who severally acknowledged that they had read said instrument, and that they had executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal the day and year first above written.

Brenda Kay Rantz  
Notary Public

My Commission Expires the 14<sup>th</sup> day of March, 2022.

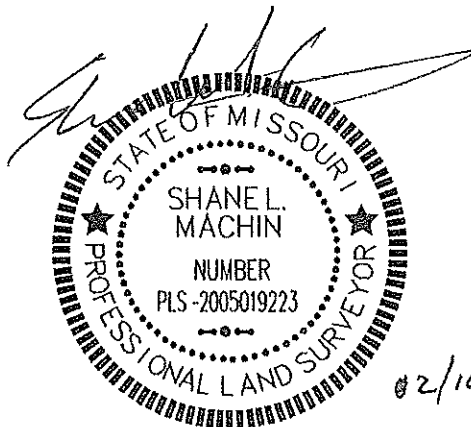
BRENDA KAY RANTZ  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Christian County  
My Commission Expires Mar. 14, 2022  
Commission #14437467

## EXHIBIT A

A 15.00 FEET WIDE PERPETUAL SANITARY SEWER EASEMENT, BEING A PART OF LOT 2 IN NIXA RII SUBDIVISION, A SUBDIVISION IN THE CITY OF NIXA, CHRISTIAN COUNTY, MISSOURI RECORDED IN PLAT BOOK G AT PAGE 794 IN THE CHRISTIAN COUNTY RECORDER'S OFFICE. SAID PERPETUAL SANITARY SEWER EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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(BEARINGS ARE BASED ON GRID NORTH, MISSOURI COORDINATE SYSTEM OF 1983, CENTRAL ZONE.)

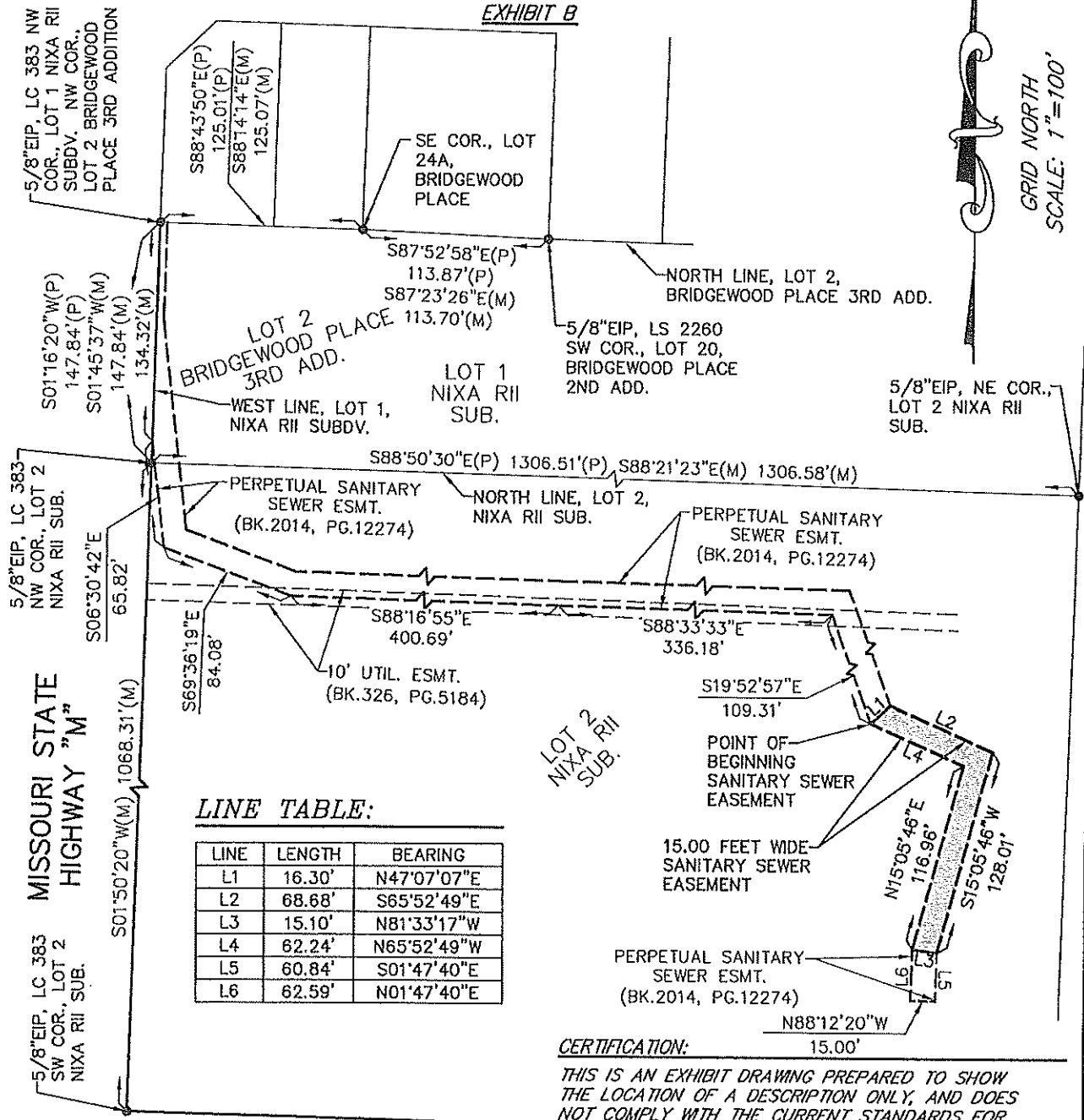


02/10/2021

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EXHIBIT B

GRID NORTH  
SCALE: 1"=100'



AREA:

SANITARY SEWER EASEMENT: 3,799 SQ. FT±

PREPARED FOR:

NIXA REORGANIZED SCHOOL DISTRICT RII  
BOOK 307, PAGE 3445

**SHAFFER & THINES, inc.**

CONSULTING ENGINEERS - PROFESSIONAL LAND SURVEYORS  
731 W. MT. Vernon, Nixa, Missouri 65714  
Phone (417) 725-4663 - Fax (417) 725-5230

PROJECT NO.: 190024 DATE: 02-10-2021



SHANE L. MACHIN P.L.S. 2005019223

62/10/2021  
DATE