

NOTICE OF INTENT TO ACQUIRE AND GOOD FAITH OFFER

February 8, 2021

Act Investments, LLC
3560 Dolson Court
Suite P
Carroll, OH 43112

Registered Agent: Rick L. Snider
SAS Agent for Service, Inc.,
Stebelton, Aranda & Snider, a Legal Professional Association
Lancaster, OH 43130

Re: FAI – SR 37 – 6.10
Parcel Number: PCL 002
Interest Acquired: SH1, SH2

THE NOTICE OF INTENT TO ACQUIRE

TO: Act Investments, LLC

The Ohio Department of Transportation [“ODOT”] needs your property for a highway project identified as FAI - SR 37 – 6.10 and will need to acquire the following from you:

***Parcel 002 SH1, SH2** is an identifier to acquire rights of way for a highway improvement where fee simple title is not required and limitation of access from adjoining land is not desired*

Ohio law authorizes ODOT to obtain **Parcel 002 SH1 and SH2** from your property for the public purpose of a highway project. The legal description of your property that ODOT needs for the highway project is set out in the Good Faith Offer that is included with this Notice of Intent to Acquire, that legal description is referred to as **Exhibit A** in the Good Faith Offer.

The Good Faith Offer included with this Notice of Intent to Acquire is ODOT’s determination of the fair market value of your property. This fair market value (FMV) is what a willing buyer who is under no compulsion to buy and a willing seller who is under no compulsion to sell would value your property on the open market.

You will have a minimum of 30 days from the time you receive the Good Faith Offer included with this Notice of Intent to Acquire to accept or reject the offer. We are available to discuss the offer with you at any time. If you reject the offer or we are unable to come to an agreement, we

may have to exercise our eminent domain authority to appropriate your property. This will require a court procedure. In a court proceeding, you may disagree with whether our offer reflects the fair market value of the property.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, ODOT is required to make a good faith effort to purchase Parcel 002 SH1 and SH2.
2. We are to provide you with a written offer and the appraisal or valuation upon which we base that offer. The amount offered to you will not be less than the approved fair market value estimate of the property needed for the project. This compensation is based on the valuation of your property by qualified real estate personnel who have analyzed current market data. Their valuation work has been reviewed by a preapproved review appraiser prior to ODOT establishing its fair market value estimate for your property needed for the project.
3. **You do not have to accept this offer** and ODOT is not required to agree to your demands.
4. You are to be provided a copy of the valuation document during the first negotiation visit by an agent of ODOT.
5. You are to be provided with pertinent parts of the highway plans which are:
 - ROW Summary Sheet, page 10 of 37
 - Right-of-Way Detail Sheet, pages 18-19, 26-31 of 37
 - Existing Typical Sections, page 3 of 136
 - Proposed Typical Sections, page 4 and 5 of 136
 - General Notes, pages 7 and 8 of 136
 - Detour Map, pages 12-17 of 136
 - Maintenance of Traffic / Phase 1, pages 22 and 23 of 136
 - Maintenance of Traffic / Phase 2A, page 32 of 136
 - Maintenance of Traffic / Phase 2B, pages 37 of 136
 - Maintenance of Traffic / Phase 3, pages 45, 50-52 of 136
6. The Plan Letter Attachment included with the Good Faith Offer attached to this Notice Of Intent To Acquire describes the interest in the real property that is to be acquired from you, the description and location of the real property to be acquired, and any improvements such as buildings or structures situated on the property to be acquired, if any.
7. You will be provided with a booklet entitled "When ODOT Needs Your Property". This booklet briefly explains the acquisition process and your rights in this process.
8. You have the right to seek the advice of an attorney, real estate appraiser, or any other person of your choice in this matter.

9. You have the right to object to ODOT's decision to acquire your property by writing, within ten business days of receiving this notice, to:

Governor Mike DeWine
Care of: Ohio Department of Administrative Services
General Services Division
Real Estate Services
4200 Surface Road
Columbus, Ohio 43228-1395

And to:

Jack Marchbanks, Ph. D., Director
Ohio Department of Transportation
1980 West Broad Street
Mailstop 1000
Columbus, Ohio 43223

The Governor has the discretion to veto this project, and if he does, it will not proceed.

10. If you do not accept this offer, and we cannot come to an agreement on the acquisition of **Parcel 002 SH1 and SH2**, ODOT has the right to file suit to acquire **Parcel 002 SH1 and SH2** by eminent domain in the county in which the property is located. This action, referred to as an "appropriation proceeding" ensures your rights will be fully protected while at the same time allowing the construction of the highway project to proceed for the benefit of all.
11. When filing the appropriation, the Director of Transportation will deposit the value of the property sought to be acquired with the court. At that time, ODOT gains the right to enter upon and use the property acquired subject to Section 163.06 (B) of the Ohio Revised Code. If you agree to accept the deposited money as full payment, the appropriation case will be closed.
12. If you are not satisfied with the amount of the deposit, you must file an answer with the court in the manner and within the time specified in the summons which is served upon you by the court. Once the answer is filed, you may apply to the court to withdraw the deposited money, subject to the rights of any other parties having an interest in the property. Withdrawing your share of the deposit does not interfere with your right to have a jury determine the FMV of your property. Interest will not accrue on any money deposited under this procedure. If the money withdrawn under this procedure should exceed the final award, the owner will be required to return the excess payment.
13. As part of your answer you may request a trial by jury. After a trial, a jury will decide the amount you are to be awarded for your property that is acquired, for the damage that is caused by the acquisition, if applicable, and for other damages permitted by law, which could either exceed or be less than our offer. At the trial you may testify and present evidence as to the value of your property.

14. If your property qualifies as an “Agricultural Use” as defined under ORC 163.21 (C)(2), and a jury awards you an amount that is more than 150% of ODOT’s final offer as determined by law, you may be entitled to recover attorney fees and other litigation costs.
15. You also have the right to request that the issue of the value of your property be submitted to nonbinding mediation. You **must** submit your written request for mediation to the court within ten business days after you file your answer. If a settlement is not reached at mediation, the matter will proceed to a jury valuation trial.

THE GOOD FAITH OFFER

The amount offered to you in good faith as just compensation for the acquisition of Parcel 002 SH1 and SH2 of Project FAI – SR 37 – 6.10 is:

Real Property To Be Acquired	\$18,218.00
Damages To Your Property Which Is Not Acquired	
Temporary Construction Easement	
Total Good Faith Offer	\$18,218.00

Tenant-owned improvements, if any, are to be identified in this Good Faith Offer, and if there are any such improvements, the amount offered to you does not include compensation for these improvements. Choose an item..

Your property may be encumbered with a mortgage lien as security for a loan. It is possible that ODOT may conclude this acquisition of property without obtaining a partial release of such mortgage lien from your lender. In that event, you as the borrower and grantor of the mortgage lien should consult your loan and mortgage documents concerning possible requirements to apply proceeds from a public acquisition to your outstanding loan balance or contact your lender about responsibilities and obligations when part of your property is acquired for public use.

While ODOT may not provide legal advice, we will make all efforts to answer questions you have concerning this process and provide any copies of the law or our records that you may need to fully understand your rights, the project, and the process. If you have any questions concerning this matter, you may contact us at:

Ohio Department of Transportation

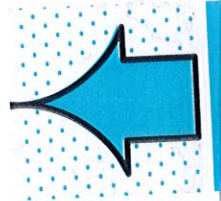
District 05
9600 Jacksontown Rd., Jacksontown, Ohio 43030
740-323-5422

Kimber L. Heim, Realty Specialist Manager

**ACKNOWLEDGMENT OF RECEIPT
OF
NOTICE OF INTENT TO ACQUIRE AND GOOD FAITH OFFER**

Re: FAI – SR 37 – 6.10
Parcel Number: PCL 002
Interest Acquired: SH1, SH2

Each of the undersigned acknowledges that a copy of the foregoing Notice of Intent to Acquire and Good Faith Offer was delivered to the undersigned by ODOT. This Acknowledgment of Receipt of Notice of Intent to Acquire and Good Faith Offer does NOT indicate or imply in any way that the undersigned has waived or will waive any objections the undersigned might have, to ODOT's efforts to acquire the undersigned's property. Furthermore, the undersigned's signature on this Acknowledgment of Receipt of Notice of Intent to Acquire and Good Faith Offer does NOT indicate or imply in any way that the undersigned has accepted or will accept any of the terms, provision or conditions set out in this Good Faith Offer.



(Owner's signature)

(Date)

(Print owner's name)

(Owner's signature)

(Date)

(Print owner's name)

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Ver. Date 09/11/20

PID 110412

**PARCEL 2-SH1
FAI-37-06.10
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the State of Ohio, Department of Transportation, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Fairfield, Township of Walnut, and being a part of Section 30, Township 16, Range 18, being part of a 62.33 acre parcel conveyed to **WAGNER RENTALS, LLC**, by Official Record Volume 1434, Page 2871, and being more particularly described below:

Being a parcel of land lying left of the Centerline of Right of Way of FAI-37-06.10 made by Mead & Hunt for the Ohio Department of Transportation as recorded in Plat Book _____, Page _____ in the records of Fairfield County, and being located within the following described boundary points in the boundary thereof:

Commencing from a monument box set at the intersection of the Centerline of Right of Way of State Route 37 and the Centerline of Right of Way of State Route 256, said point being the southeast corner of Section 19, said point also being the southwest corner of Section 20, said point also being the northwest corner of Section 29, said point also being the northeast corner of Section 30, said point also being the northeast corner of the a 6.91 acre parcel conveyed to the Grantor by Original Record Volume 1434, Page 2868, said point also being the southwest corner of a 3.12 acre parcel conveyed to Chaos, LLC by Official Record Volume 1729, Page 1874, said point also being the northwest corner of a 113.854 acre parcel conveyed to Eichhorn Limited Partnership by Official Record Volume 1477, Page 2270, said point also being the southeast corner of a 6.94 acre parcel conveyed to MAC'S CONVENIENCE STORES LLC, by Original Record Volume 1734, Page 4486, said point also being at PI Station 18+34.80 of the Centerline

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of Right of Way of State Route 37 and at PI Station 26+23.94 of the Centerline of Right of Way of State Route 256;

Thence North 87 Degrees 18 Minutes 17 Seconds West along the Centerline of Right of Way of State Route 256, said line also being the northerly line of Section 30 and the southerly line of Section 19, a portion of said line being the northerly line of the Grantor, a portion of said line being the southerly line of said parcel conveyed to MAC'S CONVENIENCE STORES LLC, a portion of said line also being the northerly line of a 2.62 acre parcel conveyed to Betty Joan Sakas by Official Record Volume 1120, Page 596, a portion of said line also being the southerly line of a 81.06 acre parcel conveyed to DONALD L. KULL, TRUSTEE and MARILYN J. KULL, TRUSTEE, OF THE KULL FAMILY TRUST AGREEMENT, DATED OCTOBER 26, 2016, by Official Record Volume 1751, Page 1628, a distance of **1118.00 feet** to a northeast corner of the Grantor, said point also being the northwest corner of said parcel conveyed to Betty Joan Sakas, said point also being Station 15+05.94 of the Centerline of Right of Way of State Route 256, said point marking the **Principle Point of Beginning** for the parcel described herein;

1. **Thence South 03 Degrees 20 Minutes 03 Seconds West** along a eastern line of the Grantor, said line also being the western line of said parcel conveyed to Betty Joan Sakas, a distance of **55.00 feet** to an iron pin set, said point being 55.00 feet right of Station 15+05.94 of the Centerline of Right of Way of State Route 256;
2. **Thence North 86 Degrees 39 Minutes 57 Seconds West** parallel to the Centerline of Right of Way of State Route 256, a distance of **55.94 feet** to an iron pin set 55.00 feet right of Station 14+50.00 of the Centerline of Right of Way of State Route 256;
3. **Thence North 84 Degrees 03 Minutes 48 Seconds West**, a distance of **550.57 feet** to an iron pin set on the existing southerly Right of Way line of State Route 256, said pin being 30.00 feet right of Station 9+00.00 of the Centerline of Right of Way of State Route 256;
4. **Thence North 03 Degrees 20 Minutes 03 Seconds East** perpendicular to the Centerline of Right of Way of State Route 256, a distance of **30.00 feet** to the Centerline of Right of Way of State Route 256, said line also being the northerly line of Section 30 and the southerly line of Section 19, said line also being the northerly line of the Grantor, said line also being the southerly of a 66.00 acre parcel conveyed to Dale Louis Klamfoth, Sr. and Kathleen Klamforth, CO-TRUSTEES, The Dale Louis Klamfoth, Sr. and Kathleen Klamfoth Revocable Living Trust, Dated the 15th day of September, 2003, said point being at Station 9+00.00 of the Centerline of Right of Way of State Route 256;
5. **Thence South 86 Degrees 39 Minutes 57 Seconds East** along the Centerline of Right of Way of State Route 256, said line also being the northerly line of Section 30 and the southerly line of

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Section 19, said line also being the northerly line of the Grantor, a portion of said line being the southerly line of said parcel conveyed to the Klamforth Revocable Living Trust, a portion of said line being the southerly line of a 2.75 acre parcel conveyed to Ruth Ann Taylor by Official Record Volume 604, Page 735, a portion of said line also being the southerly line of said parcel conveyed to the Kull Family Trust Agreement, a distance of **605.94 feet** to the **Principle Point of Beginning** and enclosing 0.607 acres, more or less of which the present road occupies 0.417 acres, resulting in a net take of 0.190 acres;

The above described area is all within Fairfield County Permanent Parcel Number 0490263400;

The iron pins set are 3/4 inch diameter x 30 inch long rebar with a 2 inch diameter aluminum cap marked ODOT R/W Mead & Hunt, Inc. 8294. Mag nails set are 1/2 inch diameter x 2 inch long steel nail. Monument Boxes Set are 1 inch steel rods with a 3 inch aluminum cap set encased in a monument box assembly. Concrete Monuments Set are 3/4 inch iron pins encased in an 8 inch diameter concrete cylinder with a 3 inch diameter aluminum cap. Both the Monument Box Set and Concrete Monuments Set (Reference Monument) are detailed by ODOT standard construction drawing RM-1.1, dated 7-18-14. These monument boxes and concrete monuments are set by the highway contractor under the direction of a Professional Surveyor.

Bearings are relative to Grid North of the Ohio State Plane, South Zone. The Values were based on control set in January, 2019 using the Ohio VRS projection set: Ohio South NAD 83(2011) Datum. Bearings are for the purpose of indicating angular measurement only.

The Stations referred to herein are from the Centerline of Right of Way of State Route 256, as found on Right of Way Plan FAI-37-06.10.

This description was prepared and reviewed under the supervision of Steven J., Scheid, Jr., P.S., 8294 of Mead & Hunt on September 11, 2020 from a survey made in January, 2019.



Steven J., Scheid, Jr., P.S.
Professional Surveyor 8294
September 11, 2020



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Ver. Date 09/11/20

PID 110412

**PARCEL 2-SH2
FAI-37-06.10
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS**

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the State of Ohio, Department of Transportation, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Fairfield, Township of Walnut, and being a part of Section 30, Township 16, Range 18, being part of a 62.33 acre parcel conveyed to **WAGNER RENTALS, LLC**, by Official Record Volume 1434, Page 2871, and a 6.91 acre parcel conveyed by Official Record Volume 1434, Page 2868, and being more particularly described below:

Being a parcel of land lying left of the Centerline of Right of Way of FAI-37-06.10 made by Mead & Hunt for the Ohio Department of Transportation as recorded in Plat Book _____, Page _____ in the records of Fairfield County, and being located within the following described boundary points in the boundary thereof:

Beginning from a monument box set at the intersection of the Centerline of Right of Way of State Route 37 and the Centerline of Right of Way of State Route 256, said point being the southeast corner of Section 19, said point also being the southwest corner of Section 20, said point also being the northwest corner of Section 29, said point also being the northeast corner of Section 30, said point also being the northeast corner of the a 6.91 acre parcel conveyed to the Grantor by Original Record Volume 1434, Page 2868, said point also being the southwest corner of a 3.12 acre parcel conveyed to Chaos, LLC by Official Record Volume 1729, Page 1874, said point also being the northwest corner of a 113.854 acre parcel conveyed to Eichhorn Limited Partnership by Official Record Volume 1477, Page 2270, said point also being the southeast corner of a 6.94 acre parcel conveyed to MAC'S CONVENIENCE STORES LLC, by Original Record Volume 1734, Page 4486, said point also being at PI Station 18+34.80 of the Centerline

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of Right of Way of State Route 37 and at PI Station 26+23.94 of the Centerline of Right of Way of State Route 256, said point marking the **Principle Point of Beginning** for the parcel described herein;

1. **Thence South 03 Degrees 22 Minutes 29 Seconds West** along the Centerline of Right of Way of State Route 37, said line also being the easterly line of Section 30 and westerly line of Section 29, said line also being the easterly line of the Grantor, said line also being the westerly line of said parcel conveyed to Eichhorn Limited Partnership, a distance of **321.75 feet** to a southeastern corner of the Grantor, said point also being the northeast corner of a 3.099 acre parcel conveyed to Heather Mae Warner by Official Record Volume 1667, Page 2868, said point being at Station 15+13.05 of the Centerline of Right of Way of State Route 37;
2. **Thence North 86 Degrees 42 Minutes 48 Seconds West** along a southerly line of the Grantor, said line also being the northerly line of said parcel conveyed to Heather Mae Warner, a distance of **30.00 feet** to an iron pin set on the existing westerly Right of Way line of State Route 37, said pin being 30.00 feet left of Station 15+13.01 of the Centerline of Right of Way of State Route 37;
3. **Thence North 03 Degrees 22 Minutes 29 Seconds East** along the existing westerly Right of Way line of State Route 37, a distance of **231.99 feet** to an iron pin set 30.00 feet left of Station 17+45.00 of the Centerline of Right of Way of State Route 37;
4. **Thence North 56 Degrees 23 Minutes 15 Seconds West**, a distance of **39.23 feet** to an iron pin set, said point being 63.89 feet left of Station 17+64.75 of the Centerline of Right of Way of State Route 37, said point also being 70.00 feet right of Station 25+60.00 of the Centerline of Right of Way of State Route 256;
5. **Thence North 86 Degrees 39 Minutes 57 Seconds West** parallel to the Centerline of Right of Way of State Route 256, a distance of **754.06 feet** to an iron pin set on a westerly line of the Grantor, said line also being the easterly line of a 2.62 acre parcel conveyed to Betty Joan Sakas by Official Record Volume 1120, Page 596, said pin being 70.00 feet right of Station 18+05.94 of the Centerline of Right of Way of State Route 256;
6. **Thence North 03 Degrees 20 Minutes 03 Seconds East** along a westerly line of the Grantor, said line also being the easterly line of said parcel conveyed to Betty Joan Sakas, a distance of **70.00 feet** to the Centerline of Right of Way of State Route 256, said line also being the northerly line of Section 30 and the southerly line of Section 19, said line also being the southerly line of a 81.06 acre parcel conveyed to DONALD L. KULL, TRUSTEE and MARILYN J. KULL, TRUSTEE, OF THE KULL FAMILY TRUST AGREEMENT, DATED OCTOBER 26, 2016, by Official Record Volume 1751, Page 1628, said point being

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northwestern corner of the Grantor, said point being the northeast corner of said parcel conveyed to Betty Joan Sakas, said point being at Station 18+05.94 of the Centerline of Right of Way of State Route 256;

7. Thence South 86 Degrees 39 Minutes 57 Seconds East along Centerline of Right of Way of State Route 256, said line also being the northerly line of Section 30 and the southerly line of Section 19, said line also being the northerly line of the Grantor, a portion of said line also being the southerly line of said parcel conveyed to the Kull Family Trust Agreement, a portion of said line being the southerly line of said parcel conveyed to MAC'S CONVENIENCE STORES LLC, a distance of **818.00 feet** to the **Principle Point of Beginning** and enclosing 1.496 acres, more or less of which the present road occupies 0.775 acres, resulting in a net take of 0.721 acres;

The above described area contains 0.206 acres of land, more or less, of which the present road occupies 0.088 acres of land, more or less, within Fairfield County Permanent Parcel Number 0490263400, and 1.290 acres of land, more or less, of which the present road occupies 0.687 acres of land, more or less, within Fairfield County Permanent Parcel Number 0490263420;

The iron pins set are 3/4 inch diameter x 30 inch long rebar with a 2 inch diameter aluminum cap marked ODOT R/W Mead & Hunt, Inc. 8294. Mag nails set are 1/2 inch diameter x 2 inch long steel nail. Monument Boxes Set are 1 inch steel rods with a 3 inch aluminum cap set encased in a monument box assembly. Concrete Monuments Set are 3/4 inch iron pins encased in an 8 inch diameter concrete cylinder with a 3 inch diameter aluminum cap. Both the Monument Box Set and Concrete Monuments Set (Reference Monument) are detailed by ODOT standard construction drawing RM-1.1, dated 7-18-14. These monument boxes and concrete monuments are set by the highway contractor under the direction of a Professional Surveyor.

Bearings are relative to Grid North of the Ohio State Plane, South Zone. The Values were based on control set in January, 2019 using the Ohio VRS projection set: Ohio South NAD 83(2011) Datum. Bearings are for the purpose of indicating angular measurement only.

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The Stations referred to herein are from the Centerline of Right of Way of State Route 37 and the Centerline of Right of Way of State Route 256, as found on Right of Way Plan FAI-37-06.10.

This description was prepared and reviewed under the supervision of Steven J., Scheid, Jr., P.S., 8294 of Mead & Hunt on September 11, 2020 from a survey made in January, 2019.



Steven J., Scheid, Jr., P.S.
Professional Surveyor 8294
September 11, 2020

