Excess Real Property
What do we do with it?

Breaking Ground in Cuyahoga Valley National Park

The National Park Service has officially broken ground on the new Boston Mills Visitor’s Center. ORC was on hand for the exciting event.

On the Road with Bob: Something Different

In this edition Bob shares a letter, and a story, which shows that “out of the box” thinking can go a long way in helping with a difficult situation.
What is excess real property?

Federal funding agencies define this term a little differently, but the basic meaning is the same. FHWA – Excess real property means a real property interest not needed currently or in the foreseeable future for transportation purposes or other uses eligible for funding under title 23, United States Code. (23 CFR 710.105(b)

FTA – Excess property: means property that the recipient determines is no longer required for its needs or fulfillment of its responsibilities, and has not met its useful life under the recipient’s Grant or Cooperative Agreement. (FTA Circular 5010.E, Chapter 1, Paragraph 5. Definitions and Acronyms)

FAA – Excess property – Any property that is not required to meet the mission needs of the owning entity. The term may be applied to both real and personal property and to salvageable
ADAPTABILITY

noun
the quality of being able to adjust to new conditions.

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In business, it can save a project.

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component items associated with real property that are otherwise referred to as related personal property. (FAA Real Estate Guidance, 5.9.1 Appendix A)

How does an agency acquire excess property?

It is not that uncommon for a public agency to take title to real property that it doesn’t need, but people may wonder how or why that happens. If you have a set of plans that designate certain property boundaries, why spend money paying for something extra?

An agency’s purchase of an uneconomic remnant is probably the most apparent example. The Uniform Act regulations define an uneconomic remnant as “a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner’s property, and which the Agency has determined has little or no value to the owner.” [§24.2(a)(27)] When the agency makes this determination, it must offer to acquire the uneconomic remnant, however, the owner chooses whether to sell the remnant or keep it. [§24.102(k)] The purchase of these uneconomic remnants usually become part of an agency’s excess property inventory.

The purchase of additional property beyond the needs of the project may also become an issue during negotiations. Although the owner’s remainder property is economically viable, the agency may use an administrative settlement to purchase a part or all of the remainder if it can demonstrate it is a reasonable use of public funds.

Let’s say, the DOT is going to construct new medians and turn lanes because of increased traffic on Pecan Road, where Sue Mahoney owns and occupies a 3-bedroom house, along with her two young children. The new ROW line comes within a foot of her large front porch, where her children play most afternoons. Although the DOT only needs part of Sue’s property, and the appraisal report includes damages to the remainder, Sue insists during negotiations that she cannot continue to live there with the road so close to her house and children. The DOT can agree to purchase Sue’s entire parcel, with the appropriate justification. The house on the remainder property will become excess property for the agency.

An agency may also have a change in its system - a roadway shifts or a park-and-ride location is no longer needed. Regardless, the real estate becomes excess.

What are the agency’s responsibilities for managing the excess property?

Agencies have different policies and procedures for managing excess property, depending on the federal funding agency. During the acquisition phase, there should be an inventory of the acquired properties, which typically includes all land, structures, machinery, equipment and fixtures acquired. The agency will need to dispose of any improvements prior to construction using demolition, owner retention, public sale or other approved methods. After project construction, a critical management component is to establish an accurate inventory of the excess, i.e., what do we own that we no longer need. Public agencies should have procedures in place to decide how and when to declare real property excess, or surplus, to its needs.

For example, some DOTs have an automatic 2 or 3-year review period for all excess properties in its inventory. Information about these properties is routed to various departments for comments and feedback about whether there is a foreseeable need for the property. You certainly don’t want to sell property this year, only to find out you need it for another project a few years from now.
Agencies may dispose of excess real property either through lease or sale. The value is usually at fair market value, but there are exceptions to this, and the federal agency regulations or guidelines must be followed. The actual disposal process may also depend on the federal funding agency. FHWA requires agencies to address the process in either the Right-of-Way (ROW) manual or the Real Estate Acquisition Management Plan (RAMP). Most other federal agencies have more direct input into the process and approval of the disposal funding.

For example, the FTA Regions work with a grantee to dispose of any excess through lease or sale. The FAA requirements for disposal of noise land self-funds the program for the following year by allowing reinvestment of the sale proceeds in an approved noise compatibility project.

Remember, the next time you acquire some excess property, it doesn’t just get absorbed into the overall project you are working so hard to complete. Someone else will be responsible for managing that real property and maybe returning some revenue back to eligible projects for your agency – but check those federal funding agency rules!

Lisa Barnes, SR/WA, R/W-RAC is the Vice-President of ORC Training, an affiliate of O.R. Colan Associates (ORC), where she develops internal and external training for the company. She has over 20 years experience in work under the Uniform Act, and began her career with the Florida Department of Transportation in the areas of land acquisition, relocation assistance, eminent domain and property management.
Conservancy for the Cuyahoga Valley National Park (CVNP) Breaks Ground on New Visitor Center

By Kevin Robinson, Proposal & Market Research Manager, ORC

On January 8, 2018, the Conservancy for the Cuyahoga Valley National Park (CVNP) broke ground on a new $6 million state-of-the art visitor center. Agent Lauren Falvey of ORC was an invited attendee.

In early 2017, ORC was selected by the National Park Service (NPS) to provide residential relocation assistance for 6 occupants on a tract of land in the Village of Boston in Summit County, OH, property that was donated to the park for the visitor center.

One of the vacated structures, an historic, 3,600 SF building, will soon become the centerpiece of the new Visitor Center.

In addition to the visitor Center, the project also includes two smaller buildings nearby. One will be used for restrooms, and the other for office space.

Congratulations to the CVNP on this exciting development! ORC is proud to have contributed to this long-awaited resource for your millions of yearly visitors!

The existing 3,600 square foot building (inset) will be renovated into a state-of-the-art visitors center, which will serve more than 2 million visitors a year.
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Recent Wins

ORC Utility Sector: ORC U&I – Electric Transmission EPC Projects – Ohio

In January 2018, ORC U&I was awarded two EPC projects with Burns and McDonnell and EPC Services Company which is a joint venture comprised of Electrical Consultants, Inc. and L.E. Myers Company.

AEP Transmission has adopted an alternative solution to managing their capital work plan. The EPC (Engineer, Procure, Construct) model allows AEP to effectively manage their work plan by outsourcing the entire project to an engineering and/or construction firm to manage. In this model ORC U&I is contracted directly with the awarded engineering and/or construction consultant.

The Harpster – Waldo project involves an existing 25.1-mile transmission line. The existing 69kv line was secured with blanket easements in the 1940’s. The existing single pole wood structures will be replaced with a single steel mono pole operating at a 69kv. AEP plans to update their existing easement language. ORC U&I’s scope will include acquiring supplemental easements on 220 parcels. ORC will be responsible for construction support activities, including all property reclamation and damage settlements. The project started in January 2018 with a right-of-way clear date of July 2018. Construction is expected to be complete in late 2020. EPC Services is the EPC company managing the project.

The second project, Delphos Junction / Kossuth, involves an existing 27.66-mile transmission line. ORC U&I’s scope will include acquiring supplemental easements on 256 parcels. The existing 69kv line was secured with blanket easements in the 1920’s. The existing single pole wood structures will be replaced with a single steel mono pole operating at a 69kv. AEP plans to update their existing easement language. ORC will be responsible for construction support activities, including all property reclamation and damage settlements. The project started in January 2018 with a right-of-way clear date of March 2019. Construction is expected to be complete in late 2020. Burns and McDonnell is the EPC company managing the project.

ORC U&I has been awarded 8 total projects through the AEP EPC model within the last 12 months. To accommodate this workload, ORC has hired experienced staff in Ohio within the last six months and anticipates hiring another 2 - 4 employees within the next several months.

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Introducing ORC Metrics Connector
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For more information, please contact Steve Toth at stoth@orcolan.com.
ORC Training: Contract for NCHRP Research Study – Outdoor Advertising Signs

ORC’s training division received a subaward from the National Academy of Sciences, National Cooperative Highway Research Program (NCHRP) to conduct a research study titled Relocation and Acquisition of Outdoor Advertising Signs Impacted by State Highway Projects: Time and Cost Analysis. The objective of this research is to document and compare the approaches State DOTs (SDOTs) use to address impacts to outdoor advertising signs that result from highway improvement projects. The ORC team will conduct research to collect and analyze data on the acquisition and relocation of these signs in two different areas: the cost associated with acquisition compared to relocation and the time needed for acquisition compared to relocation.

The removal of outdoor advertising signs from rights of way for highway projects is a challenging aspect of the project delivery process. We anticipate that SDOTs approach the removal of these signs differently in terms of monetary costs, the time required for negotiation and legal processes, and necessary staff resources. Collecting the data and comparing the time and cost associated with different approaches will provide SDOTs with additional information to improve and streamline the project delivery process. This research study is scheduled for completion by April 2019.

ORC Public Sector: MassDOT - Needham - Newton Reconstruction of Highland Avenue

ORC is assisting the Massachusetts Department of Transportation (MassDOT) to reconstruct portions of the Highland Avenue/Needham Street corridor. The project is approximately two miles long and aims to improve operational deficiencies and make the corridor safer for pedestrians, cyclists, and drivers. The goal is to improve all modes of transportation by adding continuous dedicated sidewalks, a five foot wide raised bike lane, improved turn lanes, and to improve transit by adjusting locations to optimize service. The improvements impact approximately 125 parcels and will require fee acquisitions and various permanent and temporary easements. ORC will be handling the negotiations to acquire the property rights in anticipation of advertising the project in the Spring of 2019.

The project will add new sidewalks, a 5 foot wide raised bike lane, and other traffic safety improvements. (Graphic courtesy Stantec Engineering).
I usually write about traveling, some interesting sites, and some tasty meals. But I decided to make this article a little different.

One of the toughest things in any business is attempting to find “good people” or people who are the “right fit” as employees. Even when jobs were not plentiful, finding an “employee gem” was tough. And even more difficult is finding someone who can think outside the box, and knows when to break the routine of the job.

As I was sitting cramped in my airline seat on a Southwest flight back to St. Louis from Seattle, I happened to pick up the airline magazine and thumb through it. I usually do not bother to read the letters to an airline, since I am cynical and assume they only put in the good ones! But the picture of two people dancing in the airplane aisle caught my eye. So, I read the letter. Wow, what a surprising letter!

I asked Southwest if I could re-print their letter, and they graciously agreed that I could include it in this article (see letter to the right).

Now that was thinking outside the box! Mr. Henderson (the flight attendant) solved an immediate problem and created a lifetime of positive feelings for Southwest. Not only was the writer of the letter appreciative, but just imagine what the other passengers took away. As the letter points out, the other passengers watched in “amazement and gratitude,” which is a huge change from the bad press the airlines have gotten over last few months.

So again, thank you Southwest Airlines for letting me use the letter, and a thank you to James Henderson and the letter’s author, Amy Engelhardt, for permission to use the full content.

What a great example of solving a problem quickly and in a positive way. Innovation like that would solve many right of way issues. Of course, the question remains as to how to develop that skill in any group of people. Training for technical competence is relatively easy and standard. Most DOTs and other agencies do a good job. However, developing and improving the ability to solve problems is a much tougher goal.

Dear Southwest,

I was traveling to Denver, moving my elderly mother to my home. She has dementia, and sometimes seemingly easy tasks become difficult. When it was time to exit the plane, my mom sort of froze and didn’t understand that she needed to walk out to the aisle. Seemingly out of nowhere, flight attendant James Henderson came over and asked me how he could help. I told him I needed help with my mom, and he jumped into action. James strapped my backpack on his back, got in the seat in front of my mom, and asked her if she wanted to dance. He said he wasn’t going to see his wife for three days and needed a dance partner. He reached out for her hands, and the two of them two-stepped off the plane, with Mom smiling all the while! The whole plane watched in amazement and gratitude. The tenderness of this young man toward my mom was heartwarming. He treated her with respect, kindness, and dignity. In my mind, he was an angel who appeared at just the right moment. I already loved flying with Southwest, but I will carry this experience forever in my heart.

- Amy Engelhardt