

Chapter 10 –Settlements

Exhibits

Exhibit A – Form #227 (Recommendation for Settlement)

**COLORADO DEPARTMENT OF TRANSPORTATION
RECOMMENDATION FOR SETTLEMENT**

PROJECT/PARCEL IDENTIFICATION

CDOT REGION:	_____	PARCEL NO:	_____
PROJECT CODE:	_____	OWNER NAME:	_____
PROJECT NO.:	_____	COUNTY:	_____
LOCATION:	_____	TRIAL DATE:	_____
CDOT ATTY:	_____	AG NO.:	_____

TYPE OF SETTLEMENT

- | | |
|---|--|
| <input type="checkbox"/> ADMINISTRATIVE SETTLEMENT – REGION | <input type="checkbox"/> LEGAL SETTLEMENT – REGION |
| <input type="checkbox"/> ADMINISTRATIVE SETTLEMENT – CENTRAL OFFICE | <input type="checkbox"/> LEGAL SETTLEMENT – CENTRAL OFFICE |
| <input type="checkbox"/> OTHER SETTLEMENT | |
-

PROPOSED SETTLEMENT AMOUNT

The amount of the proposed settlement is:	\$ _____
The established fair market value is:	\$ _____
The amount of variance is:	\$ _____

SUPPORT DATA

Owner Appraisal	\$ _____	Appraiser	_____
Second Owner Appraisal	\$ _____	Appraiser	_____
CDOT Appraisal	\$ _____	Appraiser	_____
Second CDOT Appraisal	\$ _____	Appraiser	_____

Distribution: Project Development Branch, ROW Services – Original
Acquisition/Relocation, Project Development Branch, ROW Services
Appraisal/Review, Project Development Branch, ROW Services
Office of the Attorney General
Region

SETTLEMENT JUSTIFICATION

Settlement is recommended for the following reasons:

- The variance from the FAIR MARKET VALUE appears substantial and the proposed settlement cannot be justified in accordance with Federal Aid Regulations. If settlement is made as proposed, \$ _____ of the amount of VARIANCE should be taken as non-participating.

REGION APPROVAL

Recommend Settlement:

Right of Way Specialist Trial Attorney

_____ Date

Approved for Settlement:

I concur

Region Right of Way Manager/Supervisor

_____ Date

CENTRAL OFFICE APPROVAL (as applicable)

Recommend Settlement:

_____ Statewide ROW Program Manager

_____ Date

Approved for Settlement:

_____ Chief Engineer

_____ Date

INSTRUCTIONS FOR COMPLETION OF RECOMMENDATION FOR SETTLEMENT (FORM 227)

This form is used to provide a self-explanatory narrative of all considerations that support a settlement. The relevant parcel details, factors considered in the settlement, and reasoning used in arriving at the settlement amount must be clearly explained.

The extent of the written recommendation must be consistent with the situation, circumstances and the consideration involved. The component parts of the settlement, land, improvements, real estate damages, fees and costs, etc., must be itemized to the greatest extent possible.

Recommendations for settlement of federal aid parcels must emphasize federal participating items. The participating items to be emphasized are the factors related to the acquisition value, real estate damages, owner sympathy, recent adverse awards in comparable cases, and other related factors. Any portion of the increase attributable to nonparticipating items must be identified or estimated and handled as nonparticipating.

PROJECT/PARCEL IDENTIFICATION: The following information can be obtained from the legal documents, appraisal, Right of Way map, and the parcel file:

CDOT Region	Parcel Number
Project Code	Owner Name
Project Number	County
Location	Trial Date
CDOT Attorney	Attorney General Number

TYPE OF SETTLEMENT: Identify the settlement type; Administrative Settlement, Legal Settlement, or other settlement.

RECOMMENDED SETTLEMENT: Each component of the settlement must be itemized to the greatest extent possible in the Settlement Justification section. For all-inclusive settlement, if the actual amount attributed to each component cannot be documented, the negotiator must estimate a reasonable amount for each appropriate component based on all available information for the parcel and known amounts for similar parcels previously settled.

SUPPORT DATA: Any appraisal documentation or claims that have been provided by CDOT or the owner must be identified in this section.

SETTLEMENT JUSTIFICATION: Provide a detailed explanation of why the settlement is recommended. The settlement justification must address specific details of the parcel and the basis of the counter-offer, including the criteria set forth in Chapter 10 of the Right of Way Manual, which support the settlement as being reasonable, prudent, and in the public interest:

- Information contained in all available appraisal reports, including the owner's;
- Substantial differences of opinion regarding valuation issues;
- Complexity of severance or other issues leading to uncertainty in value;
- Handling of legal issues in approved appraisals;
- Consideration of time to anticipated title transfer date;
- Credibility of expert witnesses;
- Likelihood of jury sympathy for the owner;
- Possibility of obtaining an unbiased jury;
- Recent court awards for eminent domain takings;
- Potential cost of litigation; and
- Other relevant information.

If the settlement includes a non-monetary benefit, an explanation and quantification of the benefit must be included. Fees and costs must be supported and be based on the requirements of Chapter 10 of the CDOT Right of Way Manual.

RECOMMENDATION AND APPROVAL: For settlements within Region authority, this section requires the signatures of the ROW specialist or trial attorney recommending the settlement and approval by the Region ROW Manager. For settlements not within Region authority, this section requires the signatures of the ROW specialist or trial attorney recommending the settlement, concurrence by the Region ROW Manager, recommendation of the Statewide Right of Way Program Manager in the Project Development Branch, ROW Services and the Chief Engineer's approval. Approval authority must be granted in accordance with Chapter 10 of the CDOT Right of Way Manual.