3.1 General

For the purposes of this section, Right-of-Way (ROW) is considered fee-owned land and/or easement.

CVWD owns approximately 7,000 acres of land and has approximately 3,240 easements. CVWD ROW contains a host of facilities required to provide domestic water, wastewater (sanitation), non-potable water, irrigation/drainage, stormwater, and groundwater management services.

In addition, CVWD has unique ROW obligations related to the irrigation system. The irrigation system is comprised of the Coachella Branch of the All-American Canal, Protective Works (Flood Protection Dikes and Channels), and Irrigation Distribution System. The United States Bureau of Reclamation (USBR) owns these facilities and CVWD operates and maintains (O&M) them in perpetuity. Accordingly, CVWD is responsible for administering and protecting USBR ROW. These facilities are located in the geographical area known as Improvement District No. 1 (ID 1). See Appendix J for a map of ID 1.

CVWD’s ROW Division provides the following essential services in regards to the development design process:

- Dedication of real estate assets including land, buildings, and other facilities
- Dedication and quitclaim of easements including those related to managed assets for the USBR
- Processing of CVWD encroachment permits and Noninterference Review Letters (NIRL)
- Processing of USBR License (fee-owned land) and Consent (easements) Agreements
- Processing Irrigation and Drainage System Relocations and Abandonments
- Final map review and approval

The following subsections provide the details for these essential services.

3.2 Dedication of Real Estate Assets

The developer is required to dedicate to CVWD real estate assets for a variety of utility purposes as a condition of development. This may include raw land and/or improved land for well sites, pump stations, reservoirs, lift stations, treatment facilities, stormwater facilities, etc. There are two methods for dedicating real estate assets to CVWD; (1) dedication by final map or (2) dedication by separate instrument/document. In either case, the recorded instrument/document
numbers and/or map book and page must be shown on the plans prior to release of the plans for construction (see Figure 1).

The dedication of real estate assets is defined in the Special Installation Agreement (see Section 1.4.2 and Appendix B). The Special Installation Agreement defines the basic requirements of the real estate asset(s), e.g. size, type, general location, etc. and the timing of the dedication. Please note CEQA/NEPA compliance is the responsibility of the developer.

CVWD requires four items for each dedication by separate instrument/document; (1) Preliminary Title Report (PTR) and Title Insurance (TI), (2) Substitution of Trustee and Partial Reconveyance (ENG RW - 009) if applicable, (3) Proof of the signer’s capacity to sign on the fee title owner’s behalf (Corporate Resolution, Operating Agreement, etc.) and (4) Grant Deed (ENG RW - 005). The PTR/TI ensures that the real estate asset(s) has no adverse encumbrances. The Partial Reconveyance ensures that the real estate asset is not subject to beneficiary foreclosure. The Grant Deed includes Exhibit “A” (legal description) and Exhibit “B” (plat depiction of the real estate asset(s), both Exhibits to be prepared by a CA Licensed Surveyor and are subject to the CVWD Standards for Legal Descriptions and Plats). CVWD will require a Record of Survey (including field survey and monument placement) and Certificate of Compliance to be filed if the parcel(s) are a part of a larger parcel. Examples of these four documents are located in Appendix F.

3.3 Dedication of Easement

The developer is required to dedicate easements for a variety of utility purposes as a condition of development. Typically easements are dedicated for pipelines and appurtenances but could be dedicated for other facilities.

There are two methods for dedicating easements to CVWD; (1) dedication by final map or (2) dedication by separate instrument/document. Typically, easements for pipelines and appurtenances located within the final map development area are dedicated on the final map and off-site easements are dedicated by separate instrument/document. In either case, the recorded easement instrument/document numbers and/or map book and page must be shown on the plans prior to release of the plans for construction (see Figure 1).

CVWD requires a Title Policy Commitment (TPC) and TI for each easement dedication by separate instrument/document. The TPC/TI ensures that the real estate asset(s) has no adverse encumbrances. The developer is responsible for providing these items at no cost to CVWD. These are subject to CVWD’s review and approval. Please refer to the Title Insurance Steps for easements in Appendix F.

In addition, CVWD requires three items for each dedication by separate instrument/document: (1) Grant of Easement/Pipeline(s) (ENG RW - 004), (2) Proof of the signer’s capacity to sign on the fee title owner’s behalf (Corporate Resolution, Operating Agreement, etc.) and (3) Subordination Agreement (ENG RW - 003), if required. The Grant of Easement includes Exhibit “A” (legal description) and Exhibit “B” (plat depiction of the real estate asset(s), both
Exhibits to be prepared by a CA Licensed Surveyor and are subject to the CVWD Standards for Legal Descriptions and Plats). Examples of these documents are located in Appendix F.

Dedication by final map is further elaborated in Section 3.8.

### 3.4 CVWD Noninterference Review Letter and Encroachment Permit Process

CVWD may allow limited access to its ROW holdings for temporary access or permanent construction. A Noninterference Review Letter (NIRL) and Encroachment Permit (EP) process has been established to formalize review and approval of proposed encroachments. The CVWD EP process is also utilized in conjunction with the USBR permitting process as further defined in Section 3.5. This process ensures the proposed activity will not unreasonably interfere with CVWD’s or USBR’s use of the ROW.

#### 3.4.1 Interference

CVWD and the USBR have defined interference as follows:

- CVWD—anything that would unreasonably interfere with the easement rights, endanger the CVWD facility, or cause additional funds to be expended on O&M
- USBR—anything that would compromise the USBR facility, impede use or access, or cause additional funds to be expended on O&M

#### 3.4.2 Noninterference Review Letter (NIRL)

CVWD requires the project proponent to submit a request for noninterference review for certain activities within CVWD and USBR easements. Examples of interference and noninterference include:

**Interference Examples**

- Activities that cause interference include permanent structures including buildings, walls, gates, fences, swimming pools, etc.
- Potential interference may include driveway, sidewalk, parking lot, curb and gutter—depending on prior rights and extent of improvements. CVWD may suggest replacement/relocation of CVWD/USBR facility at applicant’s cost to prevent future damage to surface improvements. If CVWD/USBR facility is not replaced/relocated, then any damage to surface improvements would not be CVWD’s responsibility.

**Noninterference Examples**

- Grass and plants less than 3 feet in height
- Trees outside 15 feet of CVWD/USBR infrastructure (e.g. pipelines)
- Landscape irrigation system
• Perpendicular and parallel underground wet and dry utilities with proper separating distance
• Other activities not listed will be considered on a case-by-case basis

CVWD will make a noninterference determination and issue a NIRL that requires acknowledgement by the project proponent. CVWD’s NIRL package and an example of a NIRL is located in Appendix F. The typical processing time for a CVWD NIRL is 30 days from receipt of a complete request. See Fee Section for CVWD’s applicable fees.

3.4.3 Encroachment Permit (EP)

CVWD administers three types of EPs as defined below:

• Permanent EP—a recordable permit required for the permanent use of CVWD fee-owned land; or a non-recordable permit required for the permanent use of any stormwater channel facility where CVWD has easement.
• Construction EP—required for each entity/contractor installing:
  o Any improvement within USBR fee-owned land or easement
  o Any improvement within CVWD fee-owned land
  o Improvement involving CVWD facilities within CVWD easement if CVWD facilities are at risk
• Temporary EP—required for all temporary uses of CVWD/USBR ROW, e.g. potholing, temporary canal water use, etc.

Upon completion of the NIRL process, it may be determined that an EP is required. Each EP is executed by CVWD and the applicant. Permanent recordable EPs are recorded in the respective County. CVWD’s EP packages and examples of the EPs are located in Appendix F. The typical processing time for a CVWD EP is 30 days from receipt of a complete application package. See Fee Section for CVWD’s applicable fees and deposits.

3.5 USBR License Agreement and Consent Agreement Process

As outlined in Section 3.1, CVWD is responsible for administering and protecting USBR ROW. USBR will allow limited access to its ROW holdings for temporary access or permanent construction if CVWD approves the encroachment. The following subsections describe the USBR ROW permitting process in general and the process for abandoning and relocating irrigation laterals.

3.5.1 General

USBR utilizes two primary ROW permitting documents; (1) License Agreement and (2) Consent Agreement. USBR also issues Temporary Access and Temporary Construction Permits on a limited basis. The first step is to complete the USBR Right-Of-Use Application-Federal Form 299 (see Appendix F) which will be utilized by the USBR to determine which permitting document applies.
The License Agreement is required for all projects affecting USBR fee-owned land. Engineering review by CVWD and USBR is required. A CVWD Construction EP is issued after the License Agreement has been fully executed by all parties.

The Consent Agreement must be secured for any projects that may interfere with USBR facilities within USBR easements over private lands. Engineering review by CVWD and USBR is required. A CVWD Construction EP is issued after the Consent Agreement has been fully executed by all parties.

CVWD NIRL (see 3.4.2) alone may be acceptable for minor perpendicular utility crossings and other minor activities that do not interfere with USBR facilities within USBR easements over private lands.

CVWD Temporary EP can be utilized for temporary noninterference activities, e.g. potholing, temporary canal water use, etc. within USBR fee-owned land or USBR easements over private lands.

Interfere means anything that would compromise the USBR facility, impede use or access, or cause additional funds to be expended on O&M.

3.5.2 USBR Irrigation Pipeline (Lateral) Abandonment and Relocation Process

Within the irrigation/drainage service area known as ID 1, USBR owns approximately 485 miles of irrigation piping (laterals). The irrigation laterals deliver Colorado River water from the Coachella Branch of the All-American Canal to the high point of each 40 acre parcel within the majority of the ID 1 boundary. As agricultural land transforms to urban uses, some irrigation laterals will become obsolete and may be abandoned. However, many of these facilities will be needed in the future to service agriculture that remains and non-potable water uses in the lower portion of the Coachella Valley. CVWD may condition a development to abandon, relocate, or replace an irrigation lateral as a condition of development.

The irrigation laterals are located within USBR ROW which was obtained in the 1940s pursuant to the 1890 Act and may not be recorded. Therefore, many of these easements will not show up in a PTR and it is incumbent on the developer/engineer to contact the Utility Coordinator (CVWD Engineering) to obtain the as-built and ROW information for these facilities and show the facilities and associated ROW on the plans. The following describes the steps for the irrigation lateral abandonment, abandonment and relocation, and replacement process. The USBR Abandonment and Abandonment and Relocation Application Packages are located in Appendix F.

3.5.2.1 Identify Affected Irrigation Laterals

- Contact the Utility Coordinator (CVWD Engineering) to obtain the as-built and ROW information
• Plot the irrigation laterals and USBR ROW on the proposed plans showing all proposed improvements
• Schedule a meeting with Irrigation Engineering Division through Development Services to determine which facilities need to be abandoned, relocated, or replaced

3.5.2.2 Irrigation Lateral Abandonment Only

• Coordinate abandonment plan with Engineering Irrigation Division
• Existing irrigation laterals may be abandoned by four methods; (1) physically remove, (2) crush in place, (3) fill with 2-sack slurry, or (4) abandon in place with an indemnity quitclaim. See Irrigation Standard Details in Appendix J.
• Irrigation lateral abandonment plans must be prepared in the same format as domestic water improvement plans.
• Once the irrigation lateral abandonment mylars are approved by CVWD, submit USBR abandonment application package (located in Appendix F)
• After USBR approval, obtain CVWD Construction EP
• USBR will issue the Quitclaim Deed after final inspection and approval by CVWD
• USBR abandonment application deposit is $3,000
• See Fee Section for CVWD’s applicable fees and deposits
• Total process time after a complete application is received is typically 90 days.

3.5.2.3 Irrigation Lateral Abandonment and Relocation/Replacement

• Coordinate relocation plan with Engineering Irrigation Division
• CVWD will determine the size and location of the relocated facilities. New irrigation laterals will be PVC pipe (see Irrigation Standard Details in Appendix J). Existing irrigation laterals may be abandoned by four methods; (1) physically remove, (2) crush in place, (3) fill with 2-sack slurry, or (4) abandon in place with an indemnity quitclaim. See Irrigation Standard Details in Appendix J.
• Irrigation lateral abandonment and relocation/replacement plans must be prepared in the same format as domestic water improvement plans.
• Once the irrigation lateral abandonment and relocation/replacement mylars are approved by CVWD, submit USBR abandonment and relocation application package if the relocation is outside of the existing easement. If relocation (replacement) is within the existing easement then apply for CVWD Construction EP only.
• Applicant executes a USBR Relocation Agreement/Grant of Easement
• After USBR approval, obtain CVWD Construction EP to relocate the irrigation line.
• Apply for CVWD Construction EP to abandon irrigation line once the newly relocated line is progressed for service.
• USBR will issue the Quitclaim Deed after final inspection and approval by CVWD
• USBR lateral abandonment and relocation application deposit is $5,000
• See Fee Section for CVWD’s applicable fees and deposits
• Total process time after a complete application is received is typically 180 days.

3.6 CVWD Drainage Pipeline Abandonment and Relocation/Replacement Process

Within the irrigation/drainage service area known as ID 1, CVWD owns approximately 166 miles of underground drainage pipeline and 21 miles of open drains. The drainage system was installed for two purposes; (1) keep the high groundwater table below the root zone and (2) act as a conduit for salinity leaching. As agricultural land transforms to urban uses, some drainage pipelines will become obsolete and may be abandoned. However, many of these facilities will be needed in the future to service agriculture in the lower portion of the Coachella Valley. CVWD may condition a development to abandon or relocate/replace a drainage pipeline as a condition of development.

CVWD will consider use of these drainage facilities for urban drainage if (1) the surface and subsurface drainage facilities can physically handle the new urban drainage, (2) the area is incorporated into the National Pollutant Discharge Elimination System permit and Waste Discharge Requirements for the discharge of stormwater in the Whitewater River Watershed, which is known as the MS4 Permit and (3) the project is annexed into a future district(s) for recovery of capital and operation/maintenance costs associated with the new urban drainage system.

The drainage pipelines are located in CVWD ROW and they should appear in a PTR. However, it is incumbent on the developer/engineer to contact the Utility Coordinator (CVWD Engineering) to obtain the as-built and ROW information for these facilities and show the facilities and associated ROW on the plans. The following describes the steps for the drain pipeline abandonment or relocation/replacement process.

3.6.1 Identify Affected Drainage Pipelines

• Contact the Utility Coordinator (CVWD Engineering) to obtain the as-built and ROW.
• Plot the drainage pipelines and ROW on the proposed plans showing all proposed improvements.
• Schedule a meeting with Irrigation Engineering Division through Development Services to determine which facilities need to be abandoned or relocated/replaced.

3.6.2 Drainage Pipeline Abandonment Only
• Coordinate abandonment plan with Irrigation Engineering Division.
• Existing drainage pipelines may be abandoned by four methods; (1) physically remove, (2) crush in place, (3) fill with 2-sack slurry, or (4) abandon in place with indemnity quitclaim. See Irrigation Standard Details in Appendix J.
• Once mylars are approved by CVWD, submit formal request in writing to abandon and if applicable, obtain letter of authorization from any upstream users.
• Provide PTR and legal description and plat (Exhibits “A” and “B”, both Exhibits to be prepared by a CA Licensed Surveyor and are subject to the CVWD Standards for Legal Descriptions and Plats) for easement to be quitclaimed. Examples of these documents are located in Appendix F.
• Obtain CVWD Construction EP to physically abandon the drainage pipeline.
• See Fee Section for CVWD’s applicable fees and deposits.
• CVWD will issue and record the Quitclaim Deed after final inspection and approval by CVWD. See Section 3.7 for Compensation for CVWD ROW.

3.6.3 Drainage Pipeline Relocation/Replacement Requirements

• Coordinate abandonment and relocation/replacement plan with Irrigation Engineering Division.
• Existing drainage pipelines may be abandoned by four methods; (1) physically remove, (2) crush in place, (3) fill with 2-sack slurry, or (4) abandon in place with an indemnity quitclaim. See Irrigation Standard Details in Appendix J.
• Once mylars are approved by CVWD, submit written request along with PTR and legal descriptions and plats (Exhibits “A” and “B”, both sets of Exhibits to be prepared by a CA Licensed Surveyor and are subject to the CVWD Standards for Legal Descriptions and Plats) for the new easement and easement to be quitclaimed. Examples of these documents are located in Appendix F. If the replacement is within existing easement, then apply for CVWD Construction EP only.
• Applicant executes a Grant of Easement and obtains a Subordination Agreement, if applicable.
• After CVWD approval, obtain CVWD Construction EP to relocate the drainage pipeline.
• Apply for CVWD Construction EP to physically abandon the drainage pipeline once the newly relocated line is progressed for service.
• See Fee Section for CVWD’s applicable fees and deposits.
• CVWD will issue and record the Quitclaim Deed after final inspection and approval by CVWD. See Section 3.7 for Compensation for CVWD ROW.

3.7 Compensation for CVWD ROW

The majority of CVWD ROW is currently utilized for domestic water, wastewater (sanitation), non-potable water, irrigation/drainage, stormwater, groundwater management services, and conservation mitigation purposes. Some CVWD fee title land and easements are held for future
use. However, in some cases these property rights can be relinquished if they are deemed surplus.

There are four general property rights categories by which CVWD might receive compensation:

1. **Sale of CVWD’s Fee Title Land**- Resolution No. 2006-198, Disposal of Surplus Real Estate Policy, was approved by the Board of Directors on September 12, 2006. This policy describes the procedures to be utilized for selling CVWD fee title land that has been deemed surplus. CVWD fee-owned land will be sold at current market value or higher (see Appendix F).

2. **Leasing of CVWD Fee Title Land**- CVWD fee title land may be leased at current market value or higher. If similar leases are not available for comparative purposes, the lease value shall be based on the true carry-cost of the asset. Examples of current leases include:
   - Cell Tower Sites - $1,300 to $2,300/month
   - Wind Energy Sites - $6,125 to $55,000/quarter + royalties
   - Golf Course - $450 to $650/acre/year
   - Ag Land - $350 to $4,500/acre/year
   - Parking Lot - $2,700/year (0.32 acres)
   - Dog Park - $4,000/year (0.50 acres)

3. **Quitclaim of CVWD Easement Rights**- CVWD easements (or portions of easements) may be quitclaimed to an applicant if there is no interference with existing or planned CVWD infrastructure or mitigation within the easement area to be quitclaimed.

   Private party applicants (developers, individuals, etc.) will be required to compensate CVWD for relinquishing this property right. The fee title market value may be established by appraisal or using CVWD’s standard market values in effect. The fee title market value will then be discounted by an easement value factor (20% to 80%), as determined by CVWD, to obtain the value of the quitclaimed easement.

   This is consistent with Resolution 2007-100, CVWD Right of Way Encroachment Policy, approved by the Board of Directors on May 8, 2007 which calls for “full mitigation” of CVWD property rights (see Appendix F).

4. **Overlying Easement Within Existing CVWD Easement**- An existing CVWD easement may be utilized by an applicant if there is no interference with existing or planned CVWD utility infrastructure or mitigation within the easement area. The applicant will be required to obtain the approval of the underlying fee owner. Private party applicants (developers, utilities, individuals, etc.) will be required to compensate CVWD for the use of this property right. The fee title market value may be established by appraisal or using CVWD’s standard market values in effect. The fee title market value will then be discounted by an easement value factor (20% to 80%) as determined by CVWD to obtain the value of the easement. The applicant will be required to obtain all necessary CVWD EPs.
3.8 Final Map Review and Approval Process

Section 66436 of the Subdivision Map Act provides that a public entity or utility has the right to review and approve a tract or parcel map (final map). If the public entity or utility finds that the proposed activity as defined by the final map will unreasonably interfere with the full and complete exercise of its ROW, then the public entity or utility can object to the recording/filing of the final map. It is strongly suggested that the developer/engineer work with CVWD to ensure the final map is correct before filing. CVWD will not release plans until the final map or separate instrument/document easements are recorded.

CVWD reviews each final map in detail to ensure there will be no interference with CVWD/USBR existing and/or future ROW. A typical final map has three sections of interest to CVWD: (1) Proposed CVWD easements and fee title parcels/lots to be dedicated via the final map, (2) Signature Omissions-listing existing CVWD and USBR easements, and (3) Environmental Constraints. These are further elaborated below.

3.8.1 Proposed Easements

CVWD will cross check the approved plans to ensure the proposed easements match with the proposed infrastructure plans.

3.8.2 Signature Omissions

All existing CVWD and USBR easements must be shown on the final map. As outlined in Section 3.5.2, many USBR easements are not recorded and will not show up on a PTR. Therefore, it is incumbent on the developer/engineer to contact the Utility Coordinator (CVWD Engineering) to obtain the as-built and ROW information for these facilities and show the facilities and associated ROW on the plans and final map.

3.8.3 Environmental Constraints

As described in Section 8-Stormwater, CVWD is the major regional stormwater agency for the Coachella Valley. It is important that the Environmental Constraints portion of the final map contain the necessary language to call out stormwater requirements.

If interference is discovered during the review of the final map, then CVWD will issue an Interference Objection Letter to the City or County to ensure the final map is corrected.