

The California Department of Transportation (Caltrans) is the steward of the California State highway system. The safety of the traveling public, highway workers and permittees is our primary concern. Caltrans also cooperates with other public agencies and with private parties to promote the safe use of our highways.

Caltrans issues encroachment permits to:

- Ensure the safety of the traveling public, highway workers and permittees,
- Protect, maintain, and enhance the quality of the State highway system during and after permitted work,
- Ensure that the proposed encroachment is compatible with the primary uses of the State highway system,
- Protect the State's and public's investment in the highway facility, and
- Ensure that temporary uses of State highway right-of-way for special events, filming, etc. are conducted safely and with minimum inconvenience to the traveling public.

Encroachment permits are issued under the authority of law. In processing permit applications, Caltrans draws upon the extensive experience of its workforce in advising permittees to use safe procedures and equipment.

101 WHAT IS AN ENCROACHMENT PERMIT?

An *encroachment* is defined in Section 660 of the California Streets and Highways Code as “any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building, or any structure, object of any kind or character not particularly mentioned in the section, or special event, which is in, under, or over any portion of the State highway right-of-way. “Special event” means any street festival, sidewalk sale, community-sponsored activity, or community-approved activity.”

An encroachment permit issued by Caltrans (or issued by an authorized local agency in certain circumstances), is permissive authority for the permittee to enter State highway right-of-way to construct, alter, repair, improve facilities or conduct specified activities. An encroachment permit is a valid contract between Caltrans and the permittee. Acceptance is acknowledged when any of the specified acts or work is performed under the conditions of the permit.

An encroachment permit is not a property right. It authorizes only the permittee or the permittee's agent to perform work, and the permittee may not transfer or assign a permit to another party. A permit is not transferred with the property to a new owner at the time of sale. New property owners must apply for and obtain a new permit. This new permit should be issued for notice and records purposes only.

An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under, or over the State highway right-of-way. Some examples of work requiring an encroachment permit are: utilities, excavations, encroachment renewals,

advertisements (when allowed by statute), vegetation planting or trimming, surveys, mail boxes, driveways, installation or removal of tire chains for compensation, special events, and commercial filming activities.

Encroachment permits are not issued to allow building structures to extend into the State highway right-of-way, e.g., bay windows, cornices, and decorative features that extend beyond the surface of a building. To do so would grant exclusive use of public property to private entities without compensation. (Exception: see Advertising Displays, Section 501.3)

102 STATUTORY AUTHORITY

Authority for Caltrans to control encroachments within the State highway right-of-way is contained in the California Streets and Highways Code starting with Section 660.

103 WHO NEEDS AN ENCROACHMENT PERMIT?

Individuals, contractors, corporations, utilities, cities, counties, Native American Tribes, and other government agencies proposing to conduct any activity within, under, or over the State highway right-of-way need an encroachment permit.

All entities (other than Caltrans' forces under a State highway construction contract with Caltrans and operating within their contract limits, consultants under contract with Caltrans, and local agency forces with a delegation of a maintenance agreement operating within their jurisdictional boundaries and within the scope of their maintenance responsibilities) must obtain an encroachment permit before conducting any activity within, under, or over the State highway right-of-way.

104 ENCROACHMENT PERMITS ISSUED BY CALTRANS

Only Caltrans has authority to approve and issue permits for activities on State highway right-of-way. However, Caltrans may delegate permit issuing authority to cities and counties for routine encroachments by agreement, but retains sole authority over the State highway right-of-way even after delegation. Agreements must contain provisions for city or county-issued encroachment permits. (See Appendix B and section 500.4)

105 ROUTINE ENCROACHMENT PERMITS ISSUED BY CITIES OR COUNTIES

Cities or counties may issue routine State highway encroachment permits on specified State highway facilities located within their jurisdictional boundaries. Local agencies must be authorized by agreement with Caltrans to issue permits. (See Appendix B and section 500.4)

106 WORK EXEMPT FROM WRITTEN ENCROACHMENT PERMITS

Work within the State highway right-of-way is exempt from encroachment permits only when it is:

- A State highway construction contract
- A service contract that specifically exempts the contractor

- A delegation of a maintenance agreement
- Authorized by District Right of Way when the work is located in non-operating State highway right-of-way.
- Authorized by the California Vehicle Code and the associated activities do not affect highway operation and/or safety.

In certain instances placement of an encroachment may be authorized before issuing a written permit, e.g., verbal permission granted under emergency conditions. An application for a permit shall be submitted as follow-up after the emergency condition ceases. Work that can be completed under regular conditions is not considered emergency work. Law enforcement agencies may not be required to obtain encroachment permits for specified enforcement activities performed during the course of duty (See section 517.4).

107 OFFICE LOCATIONS AND HOURS

Caltrans issues encroachment permits through twelve District Encroachment Permits Offices. Applicants should direct inquiries and permit applications to the appropriate District Encroachment Permits Office having jurisdictional authority over the proposed encroachment site. Addresses and contact information can be found at:

[http://www.dot.ca.gov/hq/traffops/developserv/permits/pdf/manual/Appendix_G_\(WEB\).pdf](http://www.dot.ca.gov/hq/traffops/developserv/permits/pdf/manual/Appendix_G_(WEB).pdf)

All applications for commercial filming permits shall be submitted through the California Film Commission. Additional information can be found at:

<http://www.film.ca.gov/Default.htm>

California Government Code Section 11020 requires all State Agencies to be open for the transaction of business from 8:00 a.m. to 5:00 p.m. except weekends and holidays. Staggered lunch hours shall be used to provide continuous service throughout the day.

108 OVERVIEW OF THE ENCROACHMENT PERMIT PROCESS

The encroachment permit process is summarized in Figure 1.1. Permitted activities range from single-family residential driveway connections to multi-million dollar construction projects. Applications for various permit categories have different review and approval processes, but in all cases the District Permit Engineer must follow appropriate policies and procedures.

An application for an encroachment permit must be on a current “Standard Encroachment Permit Application” (form TR-0100) and signed by the owner or an authorized representative whose authority is validated by a letter or contract. In situations where a long-term lessee is developing land, e.g., a hotel, the permit to construct access may be issued to the lessee. When short-term leases exist, the property owner shall be the applicant. The application forms and related documents can be found at:

<http://www.dot.ca.gov/hq/traffops/developserv/permits/applications/index.html>

108.1 Oversight Projects vs Encroachment Permit Projects

As the steward of the public's investment in the State highway system, the Department reviews projects-funded-by-others using two main review processes to evaluate a project's impact on the SHS; Oversight Project (OP) and Encroachment Permit (EP). The District Permit Engineer, in consultation with other functional units, will determine which review process will be used. The determination is as follows:

- 1) Projects over \$1 million will use the OP process.
- 2) Projects under \$1 million and *complex* will use the OP process.
- 3) Projects under \$1 million and *non-complex* will use the EP process.
- 4) Drainage easement projects and utility projects, regardless of cost, will use the EP process.

The above dollar amounts are construction estimates for work within existing and future State right-of-way only and do not include work for routine drainage, utility or the value of dedicated right-of-way.

A project is considered *complex* if it is ineligible for a combined PSR-PR. Other factors that can contribute to the complexity of a project are included in "Considerations for a Combined PSR-PR" (see PDPM Chapter 9, Article 9).

http://www.dot.ca.gov/hq/oppd/pdpm/chap_pdf/chapt09.pdf

In addition, the project may be considered *complex* if the encroachment activity:

- 1) Creates 5,000 square feet or more of new non-highway impervious surface (Order, Provisions E.2.d.2.a), or
- 2) Creates 1 acre or more of new highway impervious surface (Order, Provisions E.2.d.2.a),
or
- 3) Is within, or partially within an Environmentally Sensitive Area (ESA) or may discharge to an ESA, or
- 4) Requires a Storm Water Data Report (SWDR).

To assist in the determination, the District Permit Engineer can arrange a processing assessment meeting to obtain input from the District Encroachment Permits Office, Program/Project Management, Design, and Traffic Operations. Inclusion of other functional units depends on project scope and features. Meeting outcomes and basis for decisions should include the same items above and may include items such as: cost estimate verification; availability of reimbursement funding; Right of Way processes; increase in State tort liability; Structure Design involvement; and Electrical unit review.

If the construction cost increases above \$1,000,000, the encroachment permit application is denied and the project must be reviewed and approved using the Oversight Project process.

Oversight Projects – These projects are generally complex and are financed with a sales tax measure, locally funded non-sales tax, or private funds. **Project Development has responsibility for these projects including workplan development, plan review, obtaining encroachment permits and executing cooperative or highway improvement agreements.** For more information on the Oversight Project process, see the Project Development Procedures Manual and Deputy Directive DD-23-R1 and Section 500.10 “Oversight Projects” of this Manual.

An “Encroachment Permit Administrative Route Slip” (form TR-0154) is used by the Project Manager to request from the District Permit Engineer the issuance of an encroachment permit. It certifies that the project has been reviewed and approved and does not require any further coordination. Encroachment permit staff charges expended effort to the Oversight Projects Project Code and not to Encroachment Permits Project Code.

Encroachment Permit Projects – These projects are 100% funded, designed, and constructed by a local agency, transportation agency, Sales-tax measure sponsor, or a private entity. Projects are non-complex and construction cost within the existing or future State right-of-way is under \$1 million. The project scope is defined, funding secured, and plans are complete. Some types of encroachment permits require cooperative agreements or highway improvement agreements. Utility projects and drainage easement projects are Encroachment Permit Projects regardless of construction cost or complexity. Only Encroachment Permit projects should be administered entirely by the District Encroachment Permits Office.

The State representative responsible for overseeing the project construction will be provided by the Construction Unit if construction cost exceeds \$300,000. Projects with construction costs of \$300,000 or less, may be overseen by either the Construction Unit or the Permits Unit. (see PDPM Chapter 2, Section 5)

108.2 Maintenance Work Performed by Volunteers

The Adopt-A-Highway (AAH) Program allows private: litter removal, seedling tree and shrub planting, wildflower planting, graffiti removal, Mission Bell placement, and vegetation control in the State highway right-of-way. Encroachment permits issued for AAH projects are exempt from permit fees and are issued for a five year term. For additional information see Section 500.1 and the Adopt-A-Highway Program’s website at:

<http://adopt-a-highway.dot.ca.gov/index.htm>

Program participants may include: individuals, businesses, corporations, and organizations. Excluded from participation are entities that advocate, violence, violation of the law, or discrimination based upon race, religion, color, national origin ancestry, physical handicap, medical condition, marital status, age, or sex. Also excluded from participation are individuals, businesses, or organizations involved in the distribution, display, advertisement, or promotion of pornography, including those web sites that provide pornographic materials.

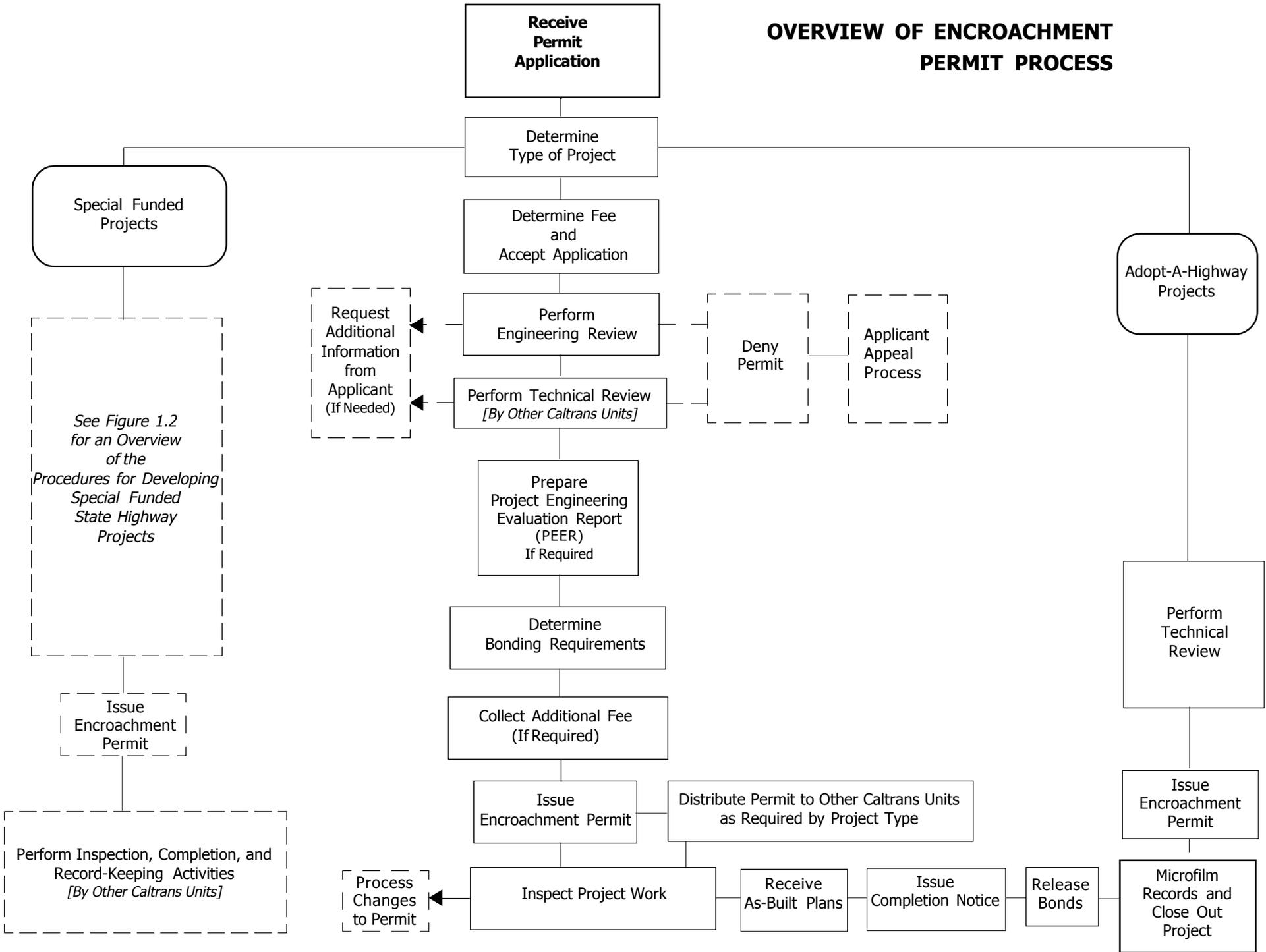
Applications for an AAH project are received and processed by the District AAH Coordinators. They respond to all program questions and conduct all technical reviews. The minimum age requirement for Adopt-A-Highway participation is sixteen years old. An encroachment permit is

usually issued by the District Permit Engineer with the recommendation of the AAH Coordinator. At the discretion of the District Permit Engineer, this responsibility may be delegated to the AAH Coordinator. Records associated with the project are microfilmed, and the project is closed-out when the permit expires.

Renewal of an expiring AAH permit normally is accomplished by issuing a new permit rather than extending the existing permit.

A “Consent Letter” (form TR-0131) may be issued by the Maintenance Area Superintendent for one-day highway litter removal, vegetation control, and landscape maintenance in the State highway right-of-way fronting upon an owner's property. The Deputy District Director-Maintenance may approve multiple dates at his or her discretion (maximum of three consecutive days).

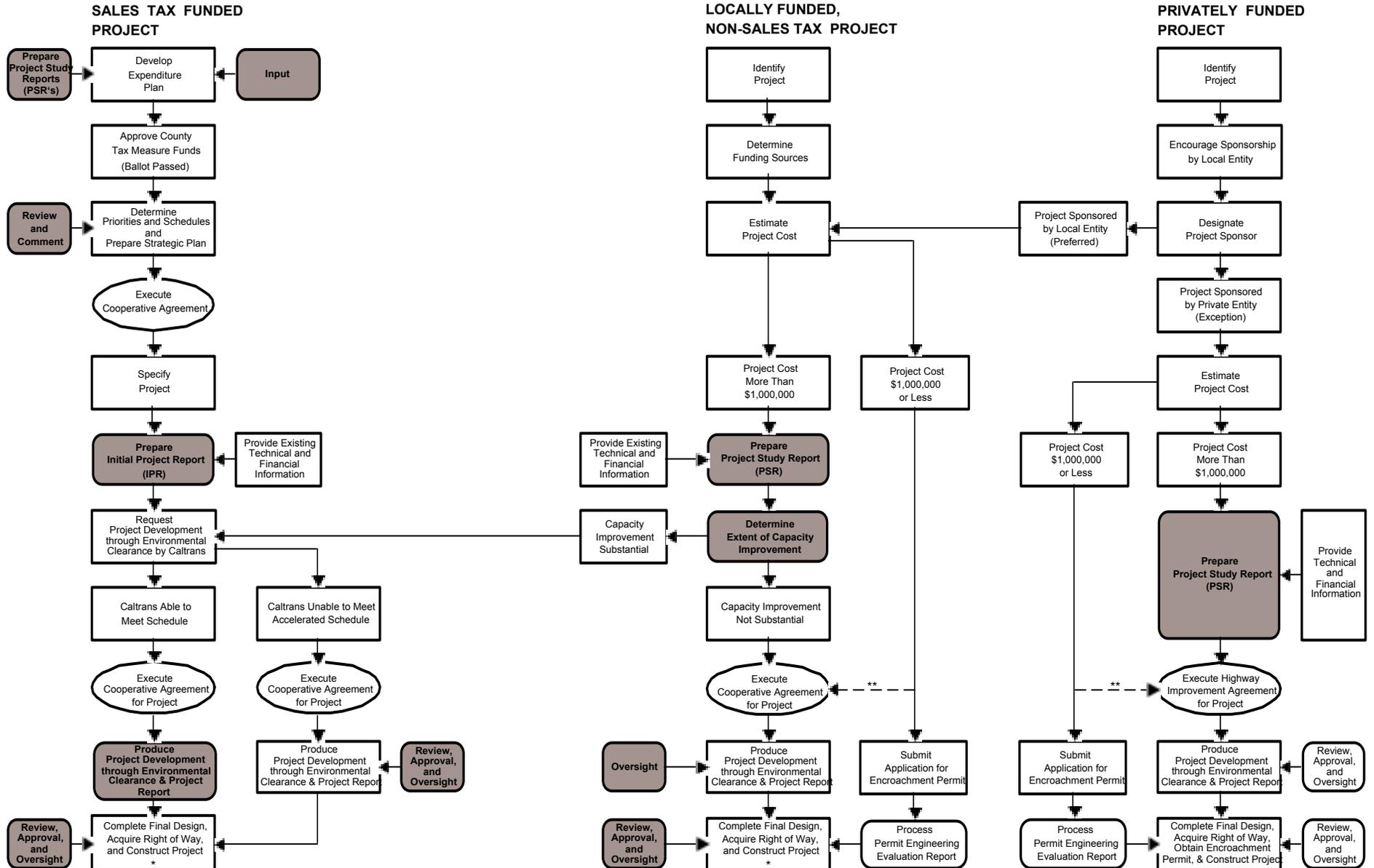
OVERVIEW OF ENCROACHMENT PERMIT PROCESS



Task and Funding Responsibilities:



Figure 1.2
SPECIAL FUNDED STATE HIGHWAY PROJECTS
Roles and Funding Responsibilities



* Caltrans may agree to perform these activities at sponsor's cost.

** All landscaping projects.

CALTRANS PROJECT PROCESSES

