



Transmitted via e-mail

October 16, 2012

Mr. John Laird, Secretary  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Dear Mr. Laird:

**Final Report—City of Modesto Propositions 40 and 50 Grant Audits**

The Department of Finance, Office of State Audits and Evaluations, has completed its audits of the City of Modesto's (City) grants 40719-02 and R81609-0 issued by the California Natural Resources Agency.

The enclosed report is for your information and use. The City's response to the report observations and our evaluation of the response are incorporated into this final report. This report will be placed on our website.

We appreciate the assistance and cooperation of the City. If you have any questions regarding this report, please contact Diana Antony, Manager, or Jon Chapple, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, CPA  
Chief, Office of State Audits and Evaluations

Enclosure

cc: Mr. Patrick Kemp, Assistant Secretary for Administration and Finance, California Natural Resources Agency  
Mr. Bryan Cash, Deputy Assistant Secretary, California Natural Resources Agency  
Ms. Julie Alvis, Deputy Assistant Secretary, California Natural Resources Agency  
Ms. Polly Escovedo, Bonds and Grants Manager, California Natural Resources Agency  
Ms. Laurie Heller, Grants Administrator, California Natural Resources Agency  
Mr. Greg Nyhoff, City Manager, City of Modesto  
Ms. Julie Hannon, Director, Parks, Recreation and Neighborhoods Department, City of Modesto  
Mr. Loren Holt, Acting Division Manager, Parks, Recreation and Neighborhoods Department, City of Modesto  
Ms. Jena Dotson, Financial Analyst, Finance Department, City of Modesto  
Ms. DeAnna Espinoza, Principal Accountant, City of Modesto

# AUDIT REPORT

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## City of Modesto Propositions 40 and 50 Bond Programs Grant Agreements 40719-02 and R81609-0



Title: Future Look of Tuolumne River Regional Park  
Source: City of Modesto Website: [www.ci.modesto.ca.us](http://www.ci.modesto.ca.us)

Prepared By:  
Office of State Audits and Evaluations  
Department of Finance

**MEMBERS OF THE TEAM**

Diana Antony, CPA  
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Final reports are available on our website at <http://www.dof.ca.gov>

You can contact our office at:

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# TABLE OF CONTENTS

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Background, Scope and Methodology.....	1
Results.....	3
Response.....	5
Evaluation of Response .....	9

# BACKGROUND, SCOPE AND METHODOLOGY

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## BACKGROUND

In March and November 2002 voters passed two bond measures: the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40); and the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50). Proposition 40 provided \$2.6 billion and Proposition 50 \$3.44 billion in bond funds for projects that support a broad range of programs that protect, preserve, and improve water quality and resources.

The City of Modesto (City) received the following grants from the California Natural Resources Agency (Resources):

- *Tuolumne River Regional Park—Gateway Parcel Development Project* (grant agreement 40719-02). Multi-phased plan to develop an 87 acre parcel into a passive recreational area. This project uses \$1,140,000 of Proposition 40 funds to create floodplain terraces that revitalize the Tuolumne River’s riparian habitat, plant native vegetation, and install an irrigation system.
- *Tuolumne River Regional Park Phase 1—Gateway Parcel Development Project* (grant agreement R81609-0). Uses \$1,526,000 of Proposition 50 funds to restore habitat and improve flood conveyance on 17 acres of the Gateway Parcel along the north bank of the Tuolumne River. The project includes an ADA trail for access to the Tuolumne River, and also prepares the site for future construction of additional walking and biking trails, interpretive areas, and river access for fishing and canoeing.

## SCOPE

In accordance with the Department of Finance’s bond oversight responsibilities, we audited the following grants:

<u>Grant Agreement</u>	<u>Grant Period</u>	<u>Award</u>
40719-02	July 10, 2004 through December 31, 2009	\$1,140,000
R81609-0	December 1, 2006 through May 1, 2009	\$1,526,000

The audit objectives were to determine whether the City’s grant expenditures claimed were in compliance with applicable laws, regulations, and grant requirements, and to determine whether the grant deliverables were completed as required. We did not assess the efficiency or effectiveness of program operations.

The City’s management is responsible for ensuring accurate financial reporting and compliance with applicable laws, regulations, and grant requirements. Resources is responsible for the state-level administration of the bond programs.

## **METHODOLOGY**

To determine whether grant expenditures were in compliance with applicable laws, regulations, and the grant requirements and if the grant deliverables were completed as required, we performed the following procedures:

- Interviewed key personnel to obtain an understanding of the grant-related internal controls.
- Examined the grant files, the grant agreements, and applicable policies and procedures.
- Reviewed the grantee's accounting records, contracts, payment estimates, and payment disbursements.
- Selected a sample of expenditures to determine if costs were allowable, grant-related, incurred within the grant period, supported by accounting records, and properly recorded.
- Performed procedures to determine if other revenue sources were used to reimburse expenditures already reimbursed with grant funds.
- Conducted a site visit to verify project existence.
- Evaluated whether a sample of grant deliverables required by the grant agreement were met.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The results of the audit are based on our review of documentation, other information made available to us, and interviews with staff directly responsible for administering grant funds.

Except as noted below, the grant expenditures were in compliance with applicable laws, regulations, and grant agreements. The Schedules of Claimed and Questioned Amounts are presented in Table 1.

**Table 1: Schedules of Claimed and Questioned Amounts**

<b>Grant Agreement 40719-02 Tuolumne River Regional Park—Gateway Parcel Development Project</b>		
<b>Category</b>	<b>Claimed</b>	<b>Questioned</b>
Project Management	\$ 285,000	\$ 0
Site Preparation	141,798	0
Grading & Drainage	303,214	1,776
Fencing & Walls	18,433	0
Electrical Work	12,128	0
Irrigation	264,403	0
Planting	89,950	70,039
Vegetation Establishment	25,074	18,321
<b>Total Expenditures</b>	<b>\$1,140,000</b>	<b>\$90,136</b>

<b>Grant Agreement R81609-0 Tuolumne River Regional Park Phase 1—Gateway Parcel Development Project</b>		
<b>Category</b>	<b>Claimed</b>	<b>Questioned</b>
Site Preparation	\$ 703,648	\$0
Planting	529,210	0
Trail Surfacing	293,142	0
<b>Total Expenditures</b>	<b>\$1,526,000</b>	<b>\$0</b>

**Observation 1: Ineligible Expenditures Claimed for Reimbursement**

The City claimed reimbursement for \$90,136 of ineligible expenditures under grant 40719-02. Specifically, the City submitted reimbursement claims relating to labor and material expenditures incurred and accounted for under grant R81609-0 and other unidentified City projects.

The grant agreement provides that only direct project-related costs incurred during the project performance period and specified in the project budget will be eligible for reimbursement.

**Recommendations:**

- A. The City should remit \$90,136 to Resources. Resources will make the final determination regarding resolution of this observation.
- B. The City should review claimed expenditures prior to submission to ensure they are eligible for reimbursement.

**Observation 2: Noncompliance with Grant Guidelines**

During our site visit in February 2012, we noted public access to the bond funded projects was limited and project maintenance was needed. Specifically:

- The public must enter a park in order to access the trail. However, during our site visit the park was closed due to vandalism. Additionally, a locked gate at the beginning of the trail further prevented public access. The gates locking the park and trail entrance appeared to prohibit foot traffic on the trail.
- There was no public parking allowed in the park (since it was closed) and along the adjoining public street (due to “no parking” signs). As a result, the public was prevented from parking near the trail entrance.
- Overgrown shrubs and weeds obstructed parts of the trail. According to the City, maintenance on the trail is completed once a year (generally during the spring).
- For the Proposition 40 grant, the City claimed reimbursement of \$42,000 for 35 bollards which were to be used to light the trail at night. During the site visit, we could not locate the bollards. The City informed us the bollards were removed from the project and placed into storage because they were continuously vandalized.

The grant agreements and grant guidelines for both projects require the City to provide public access and maintain the projects. Further, grant 40719-02 requires the grantee to use the property for the purposes for which the grant was made and shall make no other use, sale, or other disposition of the property. If the property is sold or otherwise disposed of, an amount equal to (1) the amount of the grant, (2) the fair market value of the real property, or (3) the proceeds from the sale other disposition, whichever is greater, shall be reimbursed to the State.

**Recommendations:**

- A. The City should ensure the bond funded projects are accessible to the public and properly maintained in accordance with the grant agreements and grant guidelines.
- B. The City should ensure the bond funded property is returned to the project and used for grant purposes. If the City is unable to utilize the bollards for the project, an amount equal to the proceeds from the sale or other disposition, whichever is greater, should be reimbursed to the State. The ultimate disposition of this issue will be determined by Resources.





**City of Modesto  
Parks, Recreation and Neighborhoods  
Department**

*1010 Tenth Street, Suite 4400  
Modesto, CA 95354*

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Mr. David Botelho, Chief  
Office of State Audits and Evaluations  
Department of Finance  
915 L Street  
Sacramento, CA 95814-3706

**RE: Draft Report – City of Modesto Proposition 40 and 50 Grant Audits**

Dear Mr. Botelho,

Please accept this communication in response to the Recommendations provided in your Draft Audit Report. I thank you for the opportunity to respond to your recommendations and provide clarification in the areas that your team identified.

Following are the City of Modesto's responses to the recommendations for each grant:

**40719-02 – Proposition 40 Tuolumne River Regional Park – Gateway Parcel Development Project**  
**R81609-0 – Proposition 50 Tuolumne River Regional Park Phase 1 – Gateway Parcel Development Project**

**Observation 1: Ineligible Expenditures Claimed for Reimbursement**

The audit determined that \$90,136 of ineligible expenses were claimed for reimbursement under grant 40719-02 in three (3) categories; Grading & Drainage \$1,776, Planting \$70,039 and Vegetation Establishment \$18,321.

**Recommendations:**

- A. The City should remit \$90,136 to Resources.
- B. The City should review claimed expenditures prior to submission to ensure they are eligible for reimbursement.

**Response:**

The expenses claimed for reimbursement by grant 40719-02 were all directly related to this project and grant. Labor costs of \$20,292.13 that were associated with the planting, vegetation establishment, staking and surveying for the grading were all in the course of the development of this project. Various City staff performed the surveying necessary for the contractor to grade the site, constructed growing beds to propagate the site-collected native plants, grew and maintained the native plants in preparation for planting on the project site and then planted and maintained the area during the course of the plant establishment.

In addition, \$69,843.67 in project expenses to various vendors was questioned as being eligible for this project grant reimbursement. These expenses, which included purchasing the necessary supplies to propagate, purchase and grow the native plants identified to be planted in this project, were a direct expense of this project. Another expense that was identified as part of the overall ineligible expenses was a payment for mitigation of the Valley Elderberry Longhorn Beetle (VELB) in the amount of \$10,500. During the development of Phase 1.1, two Elderberry shrubs needed to be moved due to extensive site development and were transplanted to an area reserve that is identified by the State of California to receive these transplanted shrubs. In addition to transplanting the shrubs, a fee was required to be paid for the mitigation.

The development of this particular project was identified in the City of Modesto Capital Improvement Plan as TRRP Gateway Phase 1.1. This development project was also identified internally by several miscellaneous account codes including N441, P844, 3912 and 4712 all of which had expenses allocated to them during the course of the construction period for this project. The Draft Audit Report specifically identified expenses that were coded internally to accounts P844, 3912 and 4712. Even though these are separate accounts, the identified items charged to these accounts were specific to the development of the TRRP Gateway Phase 1.1 which is covered by Grant 40719-02.

Therefore, the City of Modesto holds that the \$90,136 in expenses that were identified in the Draft Audit Report as being ineligible for reimbursement under Grant 40719-02 are actually eligible for grant reimbursement due to the fact that they were a direct expense of the project and were reviewed internally by City of Modesto project and finance staff during the course of the project and prior to submission to Resources to determine that they were indeed an eligible expense.

**Observation 2: Noncompliance with Grant Guidelines**

The audit noted that public access to the bond funded projects was limited and project maintenance was needed. In addition it noted that 35 lighted trail bollards were paid for but not installed due to vandalism.

**Recommendations:**

- A. The City should ensure bond funded projects are accessible to the public and the property is maintained in accordance with the grant agreements and grant guidelines.
- B. The City should ensure the bond funded property is returned to the project and used for grant purposes.

**Response:**

The City of Modesto, as are other municipalities in the surrounding locale, is faced with vandalism in its parks. During this time of reduced operating budgets, it is now difficult to respond immediately to these various acts of vandalism city-wide. The Tuolumne River Regional Park (TRRP) and the Gateway Parcel have not been spared from the vandalism that occurs on a fairly regular basis. When the vandalism is reported or observed, it is prioritized based on the location and the potential for increased risk to public safety with the areas that exhibit an increased risk to public safety being addressed first followed by the other sites.

Shortly before the site visit for the audit, the Gateway Parcel and adjacent Beard Brook Park had fallen victim to a rash of vandalism that included the theft of electrical wire, brass fittings from the water system including the restroom facilities and graffiti. Due to other vandalized parks in

the City of Modesto system having a higher risk to public safety at the same time, it was decided to close off access to the Beard Brook parking lot which limited access to the Gateway Parcel site by users who travel by vehicle. The park site was still accessible by pedestrian, bus and bicycle users as the gate across the entrance prevented vehicular access only and the closest bus stop is approximately 1 block from the entrance. Since the audit, the gate preventing access to the parking lot has generally be open except during heightened times of vandalism. The City works with county-wide high school volunteers who are members of their school's Hispanic Youth Leadership Club to perform twice yearly maintenance in the Gateway Parcel. They typically schedule two workdays, attended by over 200 volunteers for each event, in April and September to come in to trim back overgrown trails, remove trash and litter and perform minor repairs such as painting over graffiti or repairing trail signage. Due to the nature of this park site being a riparian habitat reforestation and not a typical well-maintained fescue or rye grass turf park site the maintenance, at times, can appear to be overgrown. The City will step up efforts to ensure that the maintenance of the trail provides for access by the public at all times.

The City recognizes that items purchased by the bond, when vandalized or rendered inoperable by theft, cannot be replaced by the state. Of the 35 trail bollards that were installed during the construction process, 16 had been broken or vandalized to the point of being inoperable over one weekend period. In order to salvage the remaining 19 and protect them from any further damage, the City determined it would be best to remove them and place them in storage until a future date when the trail was more developed and could support an increase in use so that vandals would be discouraged from creating more havoc with the bollards. At that time the City will reinstall the lighted trail bollards, with possible modifications to make them resistant to vandalism, at its own cost and will purchase replacement bollards in order to complete the trail lighting as designed.

The City of Modesto holds that the above responses provide sufficient clarification to the audit recommendations in order for Resources to make final determinations of the audit.

Original Signed By

Loren R. Holt  
Acting Manager, Park Planning and Development  
City of Modesto

# EVALUATION OF RESPONSE

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We have reviewed the City of Modesto's (City) response to the draft report and provide the following comments:

## **Observation 1: Ineligible Expenditures Claimed for Reimbursement**

The City notes in its response that \$20,292 in labor costs and \$69,844 in vendor costs (equaling the questioned costs of \$90,136) are eligible project costs for grant 40719-02. However, our review of City accounting records reveals these costs were accounted for under grant R81609-0 and other unidentified City projects. Specifically, our audit found the City posted these costs to account codes P844, 3912, and 4712 in its accounting records. According to City staff, these codes are associated with the following projects:

<u>Account Code</u>	<u>Project Associated With Account Code</u>	<u>Amount</u>
P844	R81609-0	\$ 88,330
3912, 4712	Unidentified	<u>1,806</u>
	Total	\$ 90,136

Because the City provided no additional information in its response to support the questioned costs, our observation and recommendations remain unchanged. The Natural Resources Agency will make the final determination regarding eligibility of these costs.

## **Observation 2: Noncompliance with Grant Guidelines**

The City acknowledges limited public access to the bond funded projects (due to vandalism), and also notes it will step up efforts to ensure maintenance on the trail. Additionally, the City acknowledges the bollards were removed from the project due to vandalism and theft, and states the bollards will be replaced "at a future date." Based on this information, our observation and recommendations remain unchanged.