City guarantee that, upon the successful annexation of the Property, City will provide the facilities and infrastructure needed to serve the Project and/or the necessary municipal services to the Project (including the operation and maintenance of all such facilities, infrastructure and services).

(p) Developer shall pay City’s reasonable costs relating to all City actions taken pursuant to this Annexation Agreement, including reasonable consultant costs, and including such LAFCO fees, costs and charges relating to the annexation of the Property that LAFCO charges to City.

(q) If City’s first Resolution of Application to LAFCO requesting annexation of the Property is denied by LAFCO, then the Parties shall continue to work together to secure such annexation in such a manner as they may mutually agree, including annexing only portions of the Property at different times until such time as all of the Property is annexed to City. To the extent that the law requires a date be set forth within this Annexation Agreement by which annexation of the Property must be accomplished, that date shall be two (2) days prior to the termination of the Term of this Annexation Agreement.

ARTICLE B-3. MISCELLANEOUS

B-3.01. Applicable Law and Attorneys’ Fees. This Annexation Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by a Party for breach of this Annexation Agreement or to enforce any provision herein, the prevailing Party of such action shall be entitled to reasonable attorneys’ fees, court costs, and such other costs as may be fixed by the court.

B-3.02. Interpretation. As used in this Annexation Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

B-3.03. Legal Challenge.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Annexation Agreement) challenging the validity of this Annexation Agreement or the sufficiency of any environmental review under CEQA ("Third Party Challenge"), the Parties shall cooperate with each other in good faith in the defense of such Third Party Challenge.

(b) City shall have the option to defend such Third Party Challenge or to tender the complete defense of such Third Party Challenge to Developer ("Tender"). If City chooses to defend the Third Party Challenge or Developer refuses City’s Tender, City shall control all aspects of the defense and Developer shall pay City’s attorneys fees and costs (including related court costs).

(c) If Developer accepts City’s Tender, Developer shall control all aspects of the defense and shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge. If City wishes to assist Developer when Developer has accepted
the Tender, Developer shall accept that assistance and City shall pay City's own attorneys fees and costs (including related court costs) ("City Costs"), and Developer shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Annexation Agreement is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Annexation Agreement; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Annexation Agreement, and then adopting or re-enacting such part of this Annexation Agreement as necessary or desirable to permit execution of this Annexation Agreement.

B-3.04. Attorneys’ Fees. Should any legal action be brought by a Party for breach of this Annexation Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court. The definition of "prevailing party" shall be in accordance with Civil Code section 1717.

B-3.05. Assignment. This Annexation Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants, obligations, benefits and burdens shall be binding upon and inure to the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Property, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns.

B-3.06. Right to Assign. Developer's right to assign (by sale, transfer, or otherwise) its rights and obligations under this Annexation Agreement to any person, business entity, association, organization, or other such entity, shall be subject to the provision of Development Agreement section 4.08.

B-3.07. Amendments of Annexation Agreement. This Annexation Agreement may be amended from time to time only in writing and upon the mutual consent of the Parties.

B-3.08. Time Is of the Essence. Time is of the essence in the performance of this Annexation Agreement and each and every provision hereof.

B-3.09. Default. If either Party ("Demanding Party") has a good faith belief that the other Party ("Defaulting Party") is not complying with the terms of this Annexation Agreement, the Demanding Party shall give written notice of the default (with reasonable specificity) to the Defaulting Party and demand the default be cured within (30) days of the notice. The Parties shall meet and confer regarding the alleged default no later than fifteen (15) days after the notice. If the Defaulting Party is actually in default of this Annexation Agreement and fails to cure the default within thirty (30) days after the notice; or, if more than thirty (30) days are reasonably required to cure the default and the Defaulting Party fails to give adequate written assurance of due performance within fifteen (15) days after the notice, the Demanding
Party may terminate this Annexation Agreement, and neither Party shall have further obligations under this Annexation Agreement; provided, however, in the event of a breach of the covenant of good faith, the Demanding Party may seek all remedies available at law and equity, upon written notice to the Defaulting Party.

B-3.10. Notices. All notices, demands, or other communications that this Annexation Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City:

City Manager
City of Stockton
425 N. El Dorado Street
Stockton, CA 95202
Telephone: (209) 937-8333
Facsimile: (209) 937-8898

and

City Attorney
City of Stockton
425 N. El Dorado Street
Stockton, CA 95202
Telephone: (209) 937-8212
Facsimile: (209) 937-8898

If to Developer:

French Camp Investments, LLC
3400 East Eight Mile Road, Suite A
Stockton, CA 95212
Attention: Matthew Arnaiz
Tel: (209) 956-9303
Fax: (209) 956-5936

Monteceno Investments, LLC
9781 Blue Larkspur Lane, Suite 101
Monterey, CA 93940
Attention: Chip Bowlby
Fax: (831) 642-9179

Toyon Investments, LLC
9781 Blue Larkspur Lane, Suite 101
Monterey, CA 93940
Fax: (831) 642-9179
Sequoia Tidewater Investment, LLC
19800 MacArthur Boulevard, Suite 700
Irvine, CA 92612
Attention: Douglas C. Neff
Fax: (949) 851-8284

With a Copy To:

Michael D. Hakeem, Esq.
Hakeem, Ellis & Marengo
3414 Brookside Road, Suite 100
Stockton, CA 95219
Tel: (209) 474-2800
Fax: (209) 474-3654

Either Party may change the address stated herein by giving notice in writing to the other Party, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to Developer as required by this Annexation Agreement shall also be given to all other signatory Parties hereto and any lender which requests that such notice be provided. Any signatory Party or lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Annexation Agreement.

B-3.11. Jurisdiction and Venue. The interpretation, validity, and enforcement of the Annexation Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Annexation Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

B-3.12. Waivers. Waiver of a breach or default under this Annexation Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Annexation Agreement.

B-3.13. Execution/Entire Agreement. This Annexation Agreement may executed in two (2) duplicate originals, each of which is deemed to be an original. This Annexation Agreement, including these pages and all the exhibits inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

B-3.14. Signatures. The individuals executing this Annexation Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Annexation Agreement on behalf of the respective legal entities of Developer and City. This Annexation Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

B-3.15. Exhibits. The following exhibits are attached to this Annexation Agreement and are hereby incorporated herein for all purposes as if set forth herein in full:

Exhibit A Property Legal Description
Exhibit B Costs Incurred by City

IN WITNESS WHEREOF, the Parties do hereby agree to the full performance of the terms set forth herein.

"City":

CITY OF STOCKTON,
a municipal corporation

By: ________________________________

_____________________, Mayor

ATTEST:

By: ________________________________

_____________________, City Clerk

APPROVED AS TO FORM:

By: ________________________________

Ren Nosky, City Attorney

"Developer":

French Camp Investments, LLC,
a California limited liability company

By: ________________________________

Matthew Arnaiz

Its: ________________________________

Monteheno Investments, LLC
a Nevada limited liability company

By: ________________________________

Chip Bowlby

Its: ________________________________
Toyon Investments, LLC
a Nevada limited liability company

By: ____________________________________________
    Thomas J. Merschel

Its: ____________________________________________

Sequoia Tidewater Investment, LLC
a Delaware limited liability company

By:  IHP Investment Fund III, L.P.,
a California limited partnership
    Sole Member

By:  Institutional Housing Partners III, L.P., a California limited partnership
    General Partner

By:  IHP Capital Partners, a California corporation, General Partner

By:  ____________________________________________

Its:  ____________________________________________

EXHIBIT C

CITY AUTHORIZATION TO RECORD DEVELOPMENT AGREEMENT

C-1. Pursuant to Section 1.03 of this Agreement, this Agreement may be recorded against a Subject Other Property when all of the following has occurred:

(a) The Subject Other Property is located within the Property and its legal description prepared and added to Exhibit A of this Agreement;

(b) Owner has acquired a legal or equitable interest in the Subject Other Property;

(c) The Subject Other Property is included within the City's Sphere of Influence; and

(d) The City Council has determined that the Subject Other Property has satisfied the requirements of subdivisions (a), (b) and (c) above and has authorized its designated agent to sign the "City Authorization to Record Development Agreement."

C-2. On ______________________, 20__ , the City Council determined that such Subject Other Property has satisfied the requirements of subdivisions (a), (b) and (c) above. The City Council hereby authorizes the City Manager to sign this City Authorization to Record Development Agreement and have it recorded against such Subject Other Property.
EXHIBIT D

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "Assignment Agreement") is entered into this __ day of ___, 2___ ("Assignment Date"), by and between PCCP Mariposa Lakes, LLC, a Delaware limited liability company (hereinafter called "Developer") and _______________________, (hereinafter called "Assignee"). Developer and Assignee are, from time to time, also hereinafter referred to individually as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

REQUITALS

A. On October 28th, 2008, the City of Stockton and Developer entered into a "Development Agreement", approved by Ordinance, relative to the development known as Mariposa Lakes (hereinafter "Property"). Section 4.08 of the Development Agreement provides that Developer shall have the right to sell, assign, or transfer the Development Agreement with all its rights, title and interests therein to any person, firm or corporation (such as the Assignee) acquiring an interest in the Property and/or Project at any time during the term of this Agreement provided that (i) Developer shall provide City with written notice of any assignment or transfer of all or a portion of the Property no later than thirty (30) days prior to such action; (ii) any proposed assignment shall be subject to the express written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned; (iii) City’s approval of a proposed assignment or transfer shall be based upon the proposed assignee’s reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property to completion; (iv) express written assumption by an Assignee, to the satisfaction of the City Attorney, of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred, shall relieve Developer of such obligations so assumed. Any such assumption of Developer’s obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assignment and Assumption Agreement attached as Exhibit E to the Development Agreement or such other form as may be approved by the City Attorney.

B. Developer and Assignee have entered into a purchase and sale agreement whereby a portion of the Property will be sold to Assignee, which portion of the Property is identified and described in Attachment E-1, attached hereto and incorporated herein by this reference as if set forth herein in full (hereinafter the "Assigned Parcel(s)").

C. Developer desires to assign to Assignee all of Developer’s interests, rights, obligations and other terms and conditions of the Development Agreement (collectively, "Benefits and Burdens") with respect to the Assigned Parcel(s), and Assignee desires to assume from Developer all such Benefits and Burdens with respect to the Assigned Parcel(s).
D. On ____. 2____, which was at least thirty (30) days prior to the actions contemplated in this Assignment Agreement, Developer provided City with written notice of its desire to assign and Assignee's desire to assume all such Benefits and Burdens with respect to the Assigned Parcel(s) (collectively, the "Requested Assignment"), as well as information regarding the proposed Assignee's reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property and Project to completion. On ____. 2____, the City Attorney reviewed this Assignment Agreement and the express written assumption by Assignee it contains and found them to be satisfactory. On ____. 2____, City provided its express written consent to and approval of the Requested Assignment and this Assignment Agreement.

**ARTICLE D - 1**

D-1. Developer hereby assigns, effective as of the Assignment Date, the Benefits and Burdens of the Development Agreement with respect to only the Assigned Parcel(s). Developer retains all Benefits and Burdens under the Development Agreement with respect to all other portions of the Property that do not include Assigned Parcel(s) that Developer continues to own.

D-2. Assignee hereby assumes all of the Benefits and Burdens of the Development Agreement with respect to the Assigned Parcel(s), and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Developer and Assignee that, upon the execution of this Assignment Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel(s) and the Developer shall be unconditionally and irrevocably released therefrom.

D-3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors and assigns.

IN WITNESS HEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

**DEVELOPER / ASSIGNOR**

By: ____________________________

By: ____________________________

**ASSIGNEE**

By: ____________________________

747933.07/SF
C4016-005/10-21-08/mpd/mpd

EXHIBIT E

-2-
EXHIBIT E

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION is given this ___ day of ________, 20__, by the City of Stockton ("City") for the benefit of ____________________, a ____________________, (hereinafter "Owner").

1. On ________, 2008, the City and Owner entered into a Development Agreement, approved by Ordinance ("Agreement"), relative to the development known as Tidewater Crossing ("Subject Property").

2. (Alternate #1) Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in Exhibit "A," attached hereto and incorporated herein by this reference ("Released Property"). Pursuant to Section 4.13 of the Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

3. (Alternate #2) The Parties have terminated the Agreement and pursuant to Section 4.13 of the Agreement, the Development Agreement is no longer in effect.

CITY OF STOCKTON

By: ________________________________

City Manager

NOTE: SIGNATURE MUST BE NOTARIZED
DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF STOCKTON

AND

FRENCH CAMP INVESTMENTS, LLC, MONTAHENO INVESTMENTS, LLC,
TOYON INVESTMENTS, LLC AND SEQUOIA TIDEWATER INVESTMENT, LLC

REGARDING

TIDEWATER CROSSING
Resolution No. __________

STOCKTON CITY COUNCIL

RESOLUTION AUTHORIZING THE FILING WITH THE LOCAL AGENCY FORMATION COMMISSION OF THE TIDEWATER CROSSING MASTER DEVELOPMENT PLAN ANNEXATION PROJECT TO THE CITY OF STOCKTON (A-05-1), INCLUDING DETACHMENT FROM THE FRENCH CAMP-MCKINLEY AND THE LATHROP-MANTECA FIRE PROTECTION DISTRICTS AND THE SAN JOAQUIN COUNTY RESOURCE CONSERVATION DISTRICT

This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code; and

The subject territory is adjacent to existing City limits; and

The proposal is consistent with the Sphere of Influence for the City of Stockton; and

The petition for annexation is for the purpose of obtaining general City services as outlined in the City Services Plan; and

The property owners and residents in the subject territory will, upon annexation, be able to receive normal City services; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Manager is authorized to file with the San Joaquin Local Agency Formation Commission, the above-noted annexation request and the City Services Plan, attached as Exhibit "A" and incorporated herein by this reference.

2. The San Joaquin Local Agency Formation Commission is hereby requested to approve (a) the above-entitled annexation of territory depicted on Exhibit "B" attached hereto and incorporated herein by reference and (b) the detachment of said territory from the French Camp-McKinley and the Lathrop-Manteca Fire Protection Districts and the San Joaquin County Resource Conservation District.

PASSED, APPROVED, AND ADOPTED ________________________.

ATTEST:

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

EDWARD J. CHAVEZ, Mayor
of the City of Stockton

City Atty: [Signature]
Review Date: OCT 23, 2008
City Services Plan

September 18, 2008

TIDEWATER CROSSING
Annexation Application #A-05-01

Prepared for:

French Camp Investments, LLC.
3400 Eight Mile Road
Stockton, Ca. 95212
209/931.9740

Prepared by:

JB Anderson Planning
139 S. Stockton Ave.
Ripon, Ca. 95366
209/599.8377
EXHIBIT A
DESCRIPTION OF ANNEXATION NO. _____
TO CITY OF STOCKTON
SAN JOAQUIN COUNTY, CALIFORNIA

All that certain real property, situate in the unincorporated territory of the County of San Joaquin, State of California, and being a portion of sections 14, 26, 27, 38, 39, 50 and 51 of the C. M. Weber Grant, "El Rancho Del Campo De Los Franceses", and a portion of Section 5, Township 7 South, Range 7 East, Mount Diablo Meridian, described as follows:

Beginning at the intersection of the northerly line of said Section 26 with the centerline of French Camp Slough, said point being on the existing City of Stockton boundary per Stockton Airport Industrial Reorganization/Annexation No. A-82-2;

Thence, from said point of beginning, along said City of Stockton Boundary, the following two (2) courses:

  (1)  South 45°54'04" East  228.12 feet;
  (2)  North 72°50'56" East  790.64 feet;

Thence,  (3)  leaving said City of Stockton boundary, South 47°29'54" East 1,123.06 feet;
Thence,  (4)  North 72°55'56" East  583.57 feet;
Thence,  (5)  South 17°04'04" East  1,043.35 feet;

Thence,  (6)  Along a non-tangent curve to the right with
             Radius 5,759.65 feet
             Delta 00°57'21"
             Arc Length 96.08 feet
             Chord Length 96.08 feet
             Chord Bearing South 42°19'51" East
             Radial Bearing South 47°11'28" West;

Thence,  (7)  North 72°53'07" East  4,531.87 feet;
Thence,  (8)  South 17°18'36" East  1,652.93 feet;
Thence,  (9)  South 89°35'31" East  1,723.55 feet;
Thence,  (10) South 54°23'31" East  1,536.28 feet;
Thence,  (11) South 02°51'31" East  311.55 feet;
Thence,  (12) North 89°33'31" West  1,024.94 feet;
Thence,  (13) South 02°51'31" East  425.00 feet;
Thence,  (14) North 89°33'31" West  1,582.67 feet;
Thence,  (15) North 03°04'58" West  108.59 feet;

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Exhibit A
DESCRIPTION OF ANNEXATION NO. ___
TO CITY OF STOCKTON
SAN JOAQUIN COUNTY, CALIFORNIA

Thence, (16) South 72°52'02" West 2,265.05 feet to a point on the City of Stockton Sphere of Influence;

Thence, along said City of Stockton Sphere of Influence, the following fourteen (14) courses:

(17) North 68°19'53" West 425.94 feet;
(18) North 55°21'03" West 211.00 feet;
(19) North 34°51'03" West 500.00 feet;
(20) North 49°48'15" West 97.30 feet;
(21) North 66°50'45" West 279.55 feet;
(22) North 89°44'57" West 718.73 feet;
(23) South 75°17'00" West 64.03 feet;
(24) South 80°35'41" West 255.14 feet;
(25) South 56°44'14" West 486.51 feet;
(26) North 82°55'16" West 266.18 feet;
(27) North 47°21'58" West 423.14 feet;
(28) North 29°58'56" West 300.54 feet;
(29) North 05°28'56" West 405.87 feet;
(30) North 65°44'58" West 29.02 feet;

(31) leaving said City of Stockton Sphere of Influence, along a non-tangent curve to the right with
Radius 4,254.56 feet
Delta 07°37'58"
Arc Length 566.78 feet
Chord Length 566.36 feet
Chord Bearing South 20°06'26" West
Radial Bearing North 73°42'33" West;

(32) South 23°55'25" West 1,443.52 feet;

(33) along a tangent curve to the right with
Radius 4,966.15 feet
Delta 03°11'52"
Arc Length 277.17 feet
Chord Length 277.14 feet
Chord Bearing South 25°31'21" West;
Exhibit A
DESCRIPTION OF ANNEXATION NO. ___ TO CITY OF STOCKTON
SAN JOAQUIN COUNTY, CALIFORNIA

(34) North 37°08'05" West 808.70 feet;
(35) North 19°52'24" West 130.00 feet;
(36) North 72°50'36" East 24.00 feet;
(37) North 16°44'47" West 1,904.09 feet;
(38) South 72°56'47" West 2,313.13 feet;
(39) South 16°31'13" East 646.51 feet;
(40) North 61°00'53" West 610.81 feet;

(41) along a non-tangent curve to the right with
Radius 3,779.92 feet
Delta 01°30'24"
Arc Length 99.40 feet
Chord Length 99.38 feet
Chord Bearing North 57°48'10" West
Radial Bearing North 31°26'38" East;

(42) North 51°39'07" East 278.42 feet;
(43) North 51°00'53" West 726.66 feet;
(44) South 10°02'53" East 449.19 feet;
(45) North 51°00'53" West 30.51 feet;
(46) North 10°02'53" West 1,856.20 feet;
(47) North 73°25'07" East 505.39 feet;
(48) South 16°31'13" East 944.79 feet;
(49) North 72°52'47" East 2,300.19 feet;
(50) North 16°54'33" West 945.98 feet;
(51) North 72°50'56" East 239.23 feet to the point of beginning.

Containing 633.9 acres of land more or less.

For assessment purposes only. This description of land is not a legal property
description as defined in the Subdivision Map Act and may not be used as the basis for
an offer of sale of the land described.
PLAT TO ACCOMPANY LEGAL DESCRIPTION
PROPOSED ANNEXATION NO. ____________
TO THE CITY OF STOCKTON
SAN JOAQUIN COUNTY, CALIFORNIA
AUGUST 2008

Carlson, Barbee, & Gibson, Inc.
CIVIL ENGINEERS  SURVEYORS  PLANNERS
16974 SOUTH HARLAN ROAD, LATHROP, CALIFORNIA 95330
TELEPHONE: (209) 858-4944  FAX: (209) 858-4977