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January 8, 2020

Mr. Ryan Fowler
Senior Planner,
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Email: rfowler@cityofmenifee.us

Re: Rockport Ranch Specific Plan – Menifee

Dear Mr. Fowler,

Thank-you for the opportunity to offer questions and comments regarding Rockport Ranch Specific Plan (the “Project”).

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Better Neighborhoods is an organization established to help people have a voice in local development decisions as prominent as that of planners and developers. Our aim is to encourage smart growth consistent with the needs of the community while protecting the natural environment and places of historic and aesthetic significance, supporting California’s need for affordable housing and balancing the desire for growth with the need for features that make cities livable.

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We are concerned primarily with two issues the Project raises. First, the City appears to have no protocols or procedures in place regarding farmland conversion, which is regulated at both the state and federal level. Second, cryptic hints throughout the draft Environmental Impact Report (the “DEIR” or “Report”), suggest the City has been less than frank regarding Applicant’s land holdings and plans for contiguous development of which Rockport Ranch may be but one component.

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Farmland Conversion

The City seems to have no regard for the important public policy and legal requirement of preserving agricultural land as set forth in Gov. Code, § 51220, subd. (a), Pub. Resources Code, § 10201, subd. (c), and Civ. Code, § 815. There is no evidence to show the City even consulted the Department of Conservation, the Department of Agriculture, the federal Department of Agriculture

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nor indeed the excellent Farm Aid organization, which connects farmers and local governments to an extensive network of organizations across the country that help farmers find the resources they need to access new markets, transition to more sustainable and profitable farming practices and survive natural disasters and pressure from developers to sell. All provide various programs, including grants, toward the worthy goal of farmland conservation. Why has the City no legal protocols to apply when faced with a proposal for farmland conversion? If the City fails to consult or even notify these authorities, how can the agencies possibly fulfill their mandate? What support would authorities offer in this case? The City is legally bound to make this inquiry. Why hasn't it?

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cont.

In addition to federal and state laws regarding farmland conservation, the Menifee General Plan sets out the following goals:

LU-1.1: Concentrate growth in strategic locations to **help preserve rural areas** (emphasis added), create place and identity, provide infrastructure efficiently, and foster the use of transit options.

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LU-1.4: Preserve, protect, and **enhance established rural** (emphasis added), estate, and residential neighborhoods by providing sensitive and well-designed transitions (building design, landscape, etc.) between these neighborhoods and adjoining areas.

In view of such worthy goals, what support has the City offered toward retaining the 79 acres of good farmland at issue?

The City's commitment to farmland preservation appears weak, to say the least. When we searched the terms, "agriculture, farm, rural," in the City of Menifee General Plan Vision 2030, there was no mention of any of them! Nor was there any mention of agriculture in the Economic Development Element ED-1: Diverse & Robust Economy statement. It looks very much as if the City finds no value in agriculture, an attitude that may help explain why there is a crisis among farmers, who struggle in isolation with little or no support from local government.

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A developer, on the other hand, enjoys nothing but help and encouragement. Note the number of times – four, in fact - that the Report reiterates the same, tired pro-farmland conversion goals and unsupported presumptions of agricultural failure despite the Project site's location in the midst of some of the most renowned farmland anywhere in the world (including ideal conditions for growing lemons, avocados and vineyards, among other things):

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According to the GPEIR (p. 5.2-13): "The City is focusing on developing land in an economically productive way that would serve the growing population. Thus, Menifee's future development emphasizes mixed use, commercial, industrial, and residential projects rather than supporting the continuation of agricultural uses, which are becoming less economically viable. Considering the small size of the areas mapped as farmland and the economic and regulatory constraints on agriculture in western Riverside County discussed

above, along with the currently approved Specific Plans and individual projects, some of these properties would not be available for agricultural use, and it is unlikely that any of these areas would remain in agricultural production even without adoption of the Menifee General Plan.” (Report, p. 4.3-3). 10g cont.

One would be hard-pressed to find a more hostile view of farming and the City’s legal obligation to preserve farmland!

The Report delivers a blow not only to farmland conservation laws and policy, it also tells anyone still in the business of agriculture that they can expect no support from local government if/when they are pressured to sell. 10h

This negativity is most evident in the death knell summary of the Land Evaluation and Site Assessment (LESA) analysis:

The result of the LESA analysis for this site in Menifee was an overall LESA score of 40.357. According to the LESA Model scoring thresholds, agricultural resource impacts associated with a LESA score of 40.357, which is not considered to be a significant impact, because the Land Evaluation Score and the Site Assessment scores are not both greater than 20. The conversion of the project site to residential use is, therefore, not considered a significant adverse impact to agricultural resources. (Appendix B, Agricultural Land Evaluation and Site Analysis, p. 2). 10i

However, as the same study indicates a little further on, “Not considered in the rating are availability of water for irrigation, local climate, size and accessibility of mapped areas, distance to markets and other factors that might determine the desirability of growing certain plants in a given locality. Therefore, the index should not be used as the only indicator of land value.” 10j

As we learn later in the Report, the Project site enjoys two highly productive water wells, near perfect growing weather and proximity one of America’s most important ports, Los Angeles. How would the LESA value change if these crucial features were considered? 10k

Artificially lowering the Project site LESA score meant that conservation easements were not considered.

The California Farmland Conservancy Program (CFCP) is a statewide grant program that supports local efforts to establish agricultural conservation easements and planning projects for the purpose of **preserving important agricultural land resources**. (emphasis added). 10l

CFCP provides grants to qualifying applicants, primarily land trusts, to purchase agricultural conservation easements. Each easement project must meet standards for the State's investment, including a willing seller, documented development pressure, local government support, and match funding. Agricultural conservation easements involve extensive 10m

negotiation and relationship-building between the participants. The use of agricultural conservation easements represents a long-term commitment by landowners, local governments, and land trusts to conserve and steward agricultural land resources. CFCP also provides policy planning grants to develop and evaluate local and regional land conservation strategies and potential conservation projects. (The California Department of Conservation, see <https://www.conservation.ca.gov/dlrp/grant-programs/cfcp>, accessed Dec. 6/19).

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cont.

Why didn't the City partake of this excellent resource?

The City must broaden its artificially narrow view of the Project site's agricultural potential and examine properly and fully whether and how the state conservancy program would apply. Agricultural conservation easements (ACEs) may mitigate the direct loss of farmland, and a lead agency errs by failing to consider ACEs as a potential mitigation measure for this direct loss. *Friends of Kings River v. County of Fresno*, 232 Cal. App. 4th 105, 181 Cal. Rptr. 3d 250, 2014 Cal. App. LEXIS 1114 (Cal. App. 5th Dist. December 8, 2014).

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Although the Riverside County General Plan Final EIR originally required mitigation that would establish an Agricultural Mitigation Land Bank, shortly after EIR certification a CEQA decision by the California Court of Appeal held that a mitigation measure of this nature does not actually avoid or reduce the loss of farmland subject to development (*Friends of the Kangaroo Rat v. California Department of Corrections* (August 18, 2003) Fifth Appellate District Number F040956). Therefore, the Agricultural Land Mitigation Bank was not a valid form of mitigation for farmland conversion impacts. Accordingly, the County of Riverside deleted the EIR Mitigation Measure, and found farmland conversion impacts significant and unavoidable. Since then, two other California appellate courts have issued conflicting rulings on whether preservation of offsite farmland mitigates conversion of farmland on a project site to non-agricultural uses. The three rulings are unpublished and are not legal precedents but do include arguments that might be used in future legislation or court opinions on this topic. One of the rulings: *County of Santa Cruz v. City of San Jose* (2003; WL No. 1566913) by the Sixth District Appellate Court found that preservation of offsite farmland does not mitigate conversion of farmland by a project because it does not create new farmland or offset the loss of farmland due to the project. The other ruling, *South County Citizens for Responsible Growth v. City of Elk Grove* (2004; WL No. 219789) by the Third District Court disagreed with the earlier two rulings. The last ruling stated that conservation fees can mitigate for the loss of agricultural lands by diminishing development pressures due to the conversion of farmland and reducing the domino effect created by projects. The question of whether offsite preservation of farmland mitigates conversion of farmland to non-agricultural uses has yet to be settled by the courts or the legislature. (General Plan Draft EIR, p. 6-2).

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Happily, as you can see from decisions, such as *Friends of Kings River v. County of Fresno, supra*, there is now more recent authority regarding agricultural conservation easements:

Offsite agricultural conservation easements (ACEs) may appropriately mitigate for the direct loss of farmland when a project converts agricultural land to a non-agricultural use, even though an ACE does not replace the onsite resources. ACEs preserve land for agricultural use in perpetuity. Civ. Code, §§ 815.1, 815.2; Pub. Resources Code, § 10211. The permanent protection of existing resources off-site is effective mitigation for a project's direct, cumulative, or growth-inducing impacts because it prevents the consumption of a resource to the point that it no longer exists. If agricultural land is permanently protected off-site at, for example, a 1:1 replacement ratio, then at least half of the agricultural land in a region would remain after the region has developed its available open space. By thus preserving substitute resources, ACEs compensate for the loss of farmland within the definition of mitigation in Cal. Code Regs., tit. 14, § 15370, subd. (e), which includes compensating for the impact by replacing or providing substitute resources or environments. There is no good reason to distinguish the use of offsite ACEs to mitigate the loss of agricultural lands from the offsite preservation of habitats for endangered species, an accepted means of mitigating impacts on biological resources. *Masonite Corp. v. County of Mendocino*, 218 Cal. App. 4th 230, 159 Cal. Rptr. 3d 860, 2013 Cal. App. LEXIS 590, 2013 WL 3865101 (Cal. App. 1st Dist. July 25, 2013).

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Because farmland conversion is a permanent transformation, the City must reconsider LESA with the additional factors – water, climate, market access - set out above to make a fair and proper determination regarding the applicability of conservation easements. This is particularly important in view of the domino effect farmland conversion likely would have on all agricultural uses in the City.

The land which is best for agriculture happens to be best for building too. But it is limited – and once destroyed, it cannot be regained for centuries.

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In the last few years, suburban growth has been spreading over all land, agricultural or not. It eats up this limited resource and, worse still, destroys the possibility of farming close to cities once and for all. But we know ... that it is important to have open farmland near the places where people live. Since the arable land which can be used for farming lies mainly in the valleys, it is essential that the valley floors within our urban regions be left untouched and kept for farming. ...

Preserve all agricultural valleys as farmland and protect this land from any development which would destroy or lock up the unique fertility of the soil. Even when valleys are not cultivated now, protect them; keep them for farms and parks and wilds.

Keep town and city development along the hilltops and hillsides. And in the valleys, treat the ownership of the land as a form of stewardship, embracing basic ecological responsibilities. (Chapter 4, Agricultural Valleys, A Pattern Language, Towns, Buildings, Construction, Christopher Alexander, Sarah Ishikawa and Murray Silverstein, pp. 27-28). See also Ian McHarg (Design With Nature, New York: Natural History Press, 1969). In his "Plan for the Valleys" (Wallace-McHarg Associates, Philadelphia, 1963), he shows how town development can be diverted to the hillsides and plateaus, leaving the valleys clear. The pattern is supported also by the fact that there are several possible practical approaches to the task of implementation (McHarg, pp. 79-93).

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cont.

These are classic, time-tested planning principles the City seems to have forgotten. Have they been supplanted, one wonders, and, if so, why and with what?

Is Rockport Ranch but a portion of a much larger plan?

A second concern is that the City did not refute the following statement in the Report taken from a letter by challenger Jan L. Westfall:

Project proponent owns additional contiguous properties which are not being used for agriculture and may be used for development. The Project may not be segmented into individual pieces for purposes of the review and thus avoid analysis of the totality of the Project. (Report, p. 4.11-2, letter from Jan L. Westfall 10/4/17.

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What is the basis of this contention? Is there any substance to it? Has the City inquired? What, if any, other developments is the Applicant planning? Are alternative sites available and have they been considered?

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Illegal Demolition

We were shocked to learn of the outrageous events of 2016, when, according to page 4.5-3 of the Report, the Applicant undertook demolition of concrete and fill at the site without a permit. A City inspector who happened to be passing by the site on Briggs Road inspected the operation and promptly issued a Stop Work notice. More outrageous still is the Report's assertion at pages 4.5-3-4, "Had the demolition work not been completed ahead of the entire Project, it would have occurred during the site preparation/grading of the Project site."

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Why were the parties so certain the Project would be approved?

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Is it usual in Menifee for work to commence on a Project that is still at the proposal stage?

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The Report then goes on to assure us that courts have held that "a CEQA document does not need to analyze prior illegal activity." Maybe so, but illegal activity must weigh heavily against a Project if not precluding it altogether. What penalties are applied to a Project in these circumstances? What

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penalties/disciplinary measures are applied to City staff who facilitate such illegal activity? How will both the Applicant and the City restore good faith and trust after this outrage? | 10w cont.

Project Description

The Rockport Ranch Project would convert an estimated 79.68 acres of prime farmland to a gated subdivision with 38.4 acres of single-family homes and multi-family apartments in clusters thereby increasing the area’s density to 3.82 dwelling units per acre. The Project would also include 20.1 acres of open space in two categories: passive open space (landscaping, bio-retention basins, open turf areas and a large lake) and recreational open space (trails, community pool area, tot lots and barbeque stations). | 10x

The proposal is conditioned on the adoption/approval of the Rockport Ranch - Planning Application Nos. General Plan Amendment No. (GPA) 2016-287, Change of Zone No. (CZ) 2016-288, Specific Plan No. (SP) 2016-286, and Tentative Tract Map No. (TR) 2016-285 (TR 37131). GPA No. 2016-287 would change the Project site’s designation in the General Plan Land Use Element from Agriculture (AG) to Specific Plan (SP). CZ No. 2016-288 would change the site’s zoning from Heavy Agriculture – 10- Acre Minimum (A-2-10) to Specific Plan (SP). | 10y

The new Specific Plan would follow guidelines for landscape and architectural design, infrastructure plans and “phasing of development and administrative procedures.” Phasing how? Which development and administrative procedures? “Figure 3-13, Phasing Plan. Phases 1 through 7 pertain to the Project phasing internal to the Project. This phasing is more applicable to the *marketing phasing* of the Project.” (emphasis added). (Report, p. 4.4-2). Does this mean completion on the Project would depend on unpredictable market forces? What conditions would the City apply to such a perilous undertaking? | 10z

Existing infrastructure such as water, sewer, storm drain and roadways would also be expanded. Southern California Edison overhead distribution lines along Briggs Road and Old Newport Road would be relocated. New flood control facilities would be built along with water quality basins to improve the quality of stormwater runoff. | 10aa

Surrounding Uses

The Project site is bounded as follows: Old Newport Road and Tierra Shores residential development to the north; Wilderness Lakes RV Resort to the south; Briggs Road, Ramona Egg Ranch and agricultural land to the east and The Lakes residential development to the west. | 10bb

Project Objectives

What legal tests does the City typically apply when asked to convert rare agricultural land to another use? Why weren’t federal and state farmland authorities consulted? | 10cc

Are there any special tests applied to a conversion favoring residential use? For example, would approval depend on whether the Project meets one or more housing targets described in the General Plan Housing Element and, if so, how is it measured? | 10dd

According to the Report, the Project would provide a variety of housing opportunities through a range of unit types, sizes and bedroom counts, including 3-, 4-, 5-, and 6-bedroom units, as well as a range of affordability to accommodate a full spectrum of family demographics and the growing housing needs of the region. How well would the Project accommodate the need for low, very low and extremely low-income housing set out in Table 21: 2014–2021 Regional Housing Needs Allocation at page 60 of the City of Menifee General Plan Draft Housing Element 2013-2021? How well is the City generally meeting its housing goals? | 10ee

How would Project development standards within the Specific Plan area compare with existing residential development and recreational opportunities? | 10ff

How would existing residents feel about more than 20 acres of good farmland set aside for the exclusive enjoyment of a gated community? | 10gg

What does it mean to “Develop a financing plan that provides for the efficient and timely provision of infrastructure and public services prior to and **as development occurs**” (emphasis added)? This implies, again, that Project completion would depend on market conditions and not on a solid, well-researched plan that has been fully and adequately financed? | 10hh

According to the Report, the Project would implement a maintenance program to ensure all common areas are maintained to standards set forth in the City’s General Plan. Does this mean single-family owners would have to negotiate maintenance duties and expenses alongside the multi-family apartment dwellers? What about the two lakes? Who would be responsible for their maintenance? How would maintenance work as a practical matter? | 10ii

How exactly was the figure of 305 residential units determined? How was the ratio of construction per lot calculated? What are the factors that determine acceptable density in the City? | 10jj

Why ‘single-family courtyard’ – multi-family row housing, really - and not smaller, more modest single-family development to confer title free and clear of the aggravation of having to persuade neighbors with competing interests to approve maintenance and alterations? |

Do everything possible to make the traditional forms of rental impossible, indeed, illegal. Give every household its own home, with space enough for a garden. Keep the emphasis in the definition of ownership on control, not on financial ownership. Indeed, where it is possible to construct forms of ownership which give people control over their houses and gardens, but make financial speculation impossible, choose these forms above all others. In all cases give people the legal power, and the physical opportunity to modify and repair their own places. Pay attention to this rule especially, in the case of high density apartments: build | 10kk

the apartments in such a way that every individual has a garden, or a terrace where vegetables will grow, and that even in this situation, each family can build and change, an add on to their house as they wish. (Chapter 79, Your Own Home, pp. 395-6, A Pattern Language, Towns Buildings Construction, Alexander, Christopher, New York: Oxford University Press, 1977).

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cont.

What planning and design principles and authorities guided the authors of the City Housing Element 2013-2021?

Zoning

GPA No. 2016-287 proposes to amend the Project site's designation in the General Plan Land Use Element from Agriculture (AG) to Specific Plan (SP). CZ No. 2016-288 proposes to change the zoning classification of 79.68-acres on the southwest corner of Briggs Road and Old Newport/Rockport Road (APNs 364-190-004 and 364-190-005) from Heavy Agriculture – 10-Acre Minimum (A-2-10) to Specific Plan (SP). Were any other options available and considered? What if the Specific Plan zoning referred only to the actual amount of land sought for housing development leaving the rest as farmland?

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“An internal system of trails has been proposed to add depth to the Circulation Plan. The trails will allow residents to walk and bike throughout the Project and will connect residents to the various open space areas located throughout the site.” (Report, p. 3-9). How does a network of trails with swimming pools and manmade lakes fed by local water, for the exclusive use of residents of a gated community possibly offset the devastating environmental impact of farmland conversion?

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The lake, with two main footprints connected by a box culvert to maintain one water surface level between the two, is intended to also serve as a wet pond for water quality treatment as well as serve the community's peak flow detention capacities to allow for release of storm water at predeveloped rates. The private storm drainage system will discharge into the lake/wet pond/detention basin system through hydraulically-designed forebays to provide velocity dissipation and settlement pre-treatment prior to the ultimate goal of the wet pond to settle out pollutants within the lake. (Report, p. 3-9).

The complexity of this system and its crucial multiple purposes should be investigated and explained much more fully. What are its weaknesses? Are there examples of similar features in the City?

Current zoning of the Project site is Heavy Agriculture (A-2-10), which permits heavy agricultural uses, including, but not limited to, nurseries, crops, grazing, processing and packaging, dairy farms, farms, menageries, etc. However, according to the Report, such uses are somehow not feasible:

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Option 11 is defined as land where in non-drought years irrigated production is feasible; however, physical and economic restrictions exist. In drought years, irrigated production is

not feasible. This is because the well that supplies water on site contains high levels of Total Dissolved Solids (TDS) over 2,000 parts per million (ppm), which is considered severe and will restrict crop growth. The well water would need to be filtered or supplemented with potable City water and then blended. Both options are cost prohibitive for agricultural production. (Report, p. 4.3-18-19).

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Would state agricultural and district water authorities concur with this negative assessment?

“Menifee’s future development emphasizes mixed use, commercial, industrial, and residential projects rather than supporting the continuation of agricultural uses, which are becoming less economically viable.” (Report, p. 4.3-29). Such a claim, which is unsupported by evidence, suggests dangerously that Menifee is somehow above federal and state laws to preserve farmland especially of the high quality featured at the Project site. Again, what are the obligations of local governments regarding farmland conversion? Must the City notify authorities when farmland is under threat of conversion? If not, how would authorities track crucial farmland?

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As the Report notes:

Suburban, residential development on this site has the potential to create conflicts with the existing, adjacent agricultural uses, particularly the Ramona Egg Ranch located to the east of the Project site, across Briggs Road. There may be pressure to convert this adjacent, existing agricultural use to a non-agricultural use primarily due to the odors emanating from the Ramona Egg Ranch. The Project is subject to Assembly Bill 2881 – Right-to-Farm Disclosure, as discussed above. Mitigation can be achieved by providing disclosure to future residents that the property is located within 1 mile of farmland as designated on the most-recent Important Farmland Map. In addition, the Project is subject to City of Menifee Ordinance No. 625 (Right-to-Farm Ordinance). This Ordinance requires prospective buyers of property adjacent to agricultural land to be notified through the title report that they could be subject to inconvenience or discomfort resulting from accepted farming activities as per provisions of the City’s Right-to-Farm ordinance. (Report, p. 4.3-29).

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Is this true - the City offers local farmers no protection or encouragement beyond a requirement to warn future residents that they will be co-existing with good and earnest souls who provide our food as if they are a blight on the landscape? Contrary to assertions at page 4.3-31 of the Report, it’s clear that this Project would almost certainly cause open hostility toward farmers, adversely impacting agricultural resources and the value of those resources. The Project’s impact on agricultural resources almost certainly would be devastating.

Aesthetics

Yes, an elite, much higher-density, gated housing subdivision would reduce the quality of the City’s notable scenic vistas, substantially damaging scenic resources, including, but not limited to, trees

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and rock outcroppings. The Project site previously featured a pastoral scene replete with grazing dairy cows – one many of the world’s greatest painters have sought to capture. On the other hand, how many gated subdivisions are featured in fine art? Yes, the Project would degrade the existing visual character or quality of the site and its surroundings and create a new source of substantial light and glare which would adversely affect day and nighttime views in the area.

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cont.

Six architectural styles are included in the Specific Plan and were chosen based on their historic usage and popularity with homeowners in California. The six architectural styles are: • California Bungalow; • California Craftsman; • California Ranch; • Cottage; • Farmhouse; and • Monterey. (Report, p. 3-23). When and how was this popularity tested?

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The computer graphics on pages 3-25 and 6 are typical of luxury homes unaffordable to many if not most. How many scaled-down, single-family California Bungalows, for example, might fit in place of the far less private and autonomous multi-family ‘courtyard’ development?

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How much of the Project would include barrier free/accessibility features? Has this crucial aspect of housing design been considered?

Another cited challenge was that many homes built today are not conducive to seniors aging in place. New homes often do not contain built-in modifications and universal design elements that would make the home barrier free and usable by residents of all ages and levels of ability. Many builders do not incorporate universal design features into new and existing homes because they claim that such improvements are too expensive. As a result, many adults will need to move from their homes when they experience age-related disabilities or mobility issues. (Housing Element, Special Needs Housing, p. 28).

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Why must consumers bear all the risk and expense of having to move? Why not developers?

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How well would the Project accommodate the changing demographics noted at page 8 of the Housing Element:

Traditionally, younger adults prefer apartments, condominiums, and smaller single-family units that are affordable. Middle-aged adults and families prefer larger homes that offer the space to more easily accommodate children. Seniors often prefer smaller units that are more affordable and easily maintained. Therefore, if Menifee’s existing population (specifically baby boomers) continue to age and younger families continue to migrate to the community, **this may increase the demand for smaller and more affordable housing products than built in recent years in Menifee.** (emphasis added).

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Would there be any provision at the 79-acre Project site for California’s burgeoning homeless population?

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State law now requires that all jurisdictions allow at least one year-round emergency shelter in their community. Transitional housing must be allowed by right in all residential zones and treated in the same manner as other residential uses in the same zone. Moreover, permanent housing must also be treated in the same manner as transitional housing. Finally, **all jurisdictions must identify sufficient land that could accommodate housing commensurate with the identified needs of homeless people**. The Housing Plan has policies and implementation programs to comply with state law and improve the housing opportunities for homeless people living in Menifee. (Housing Element, 2013-2021, p. 29).

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cont.

What effort has the City made to fulfill the neighborhood involvement requirement under the Housing Element regarding the Project? How have nearby residents responded to the proposed Project?

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HE-2.6 Neighborhood Involvement. Encourage resident participation in their neighborhood organizations to help identify local needs and implement programs to beautify, improve, and preserve neighborhoods. (Housing Element, p. 73).

Has the City been meeting its inclusion goals described below?

HE-3.3 Special Needs. Support the provision of community services and housing for people with special needs, such as disabled people, seniors, lower income families, and people without shelter.

HE-3.4 Preservation of Affordable Housing. Preserve affordable rental housing by working with interested parties and providing technical assistance, as feasible and appropriate.

HE-3.5 Collaborative Partnerships. Collaborate with non-profit groups, developers, the business community, special interest groups, and state and federal agencies to provide housing assistance.

HE-3.6 Fair Housing. Support and implement housing law in all aspects of the building, financing, sale, rental, or occupancy of housing based on protected status in accordance with state and federal law. (Housing Element, p. 74).

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What about the City's fair housing obligations?

Housing for People with Disabilities State law requires that community care facilities serving six or less must be permitted by right in all residential zones similar to other residential uses in the same zone. The Riverside County Zoning Code, which the City uses until a substitute is adopted, does not clearly define or permit such facilities. Rather, the Zoning Code uses the term congregate care, which is very different in requirements than residential care facilities. **Fair housing law requires local governments to implement a reasonable accommodation procedure to provide flexibility in the application of land**

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use policies, zoning regulations, and City procedures to accommodate the needs of persons with disabilities. (emphasis added). Currently, the City makes reasonable accommodations through a variance on a case-by-case basis, which is not in keeping with fair housing law. (Housing Element, p. 78).

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cont.

Until the courts are willing to overrule housing policies that fail to address these worthy goals, we rely on local government alone to ensure such goals and policies are enforced. Surely within almost 80 acres the City would be able to address some if not most of its inclusion deficits, if any.

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How effective have Menifee’s gated communities been in achieving the City’s Housing Element inclusion goals?

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Air Quality

Given that the proposed density of single-family residences was not anticipated under the existing General Plan land use designation, the proposed land uses would wildly exceed population projections in the City’s General Plan thus conflicting with and exceeding the assumptions used to develop the AQMP. Incredibly, the Report asserts that “This inconsistency can only be corrected **when** SCAQMD amends AQMP based on updated Southern California Association of Governments (SCAG) growth projections **after the Project has been approved.**” (Report, p. 4.4-11). Why is the author so certain that a project to convert valuable farmland would be approved?

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“It should be noted that the Project impacts are within the SCAQMD standards with mitigation incorporated.” (Report, p. 4.4-22). This is an incredible assertion unsupported by any evidence. The section on air quality wants review once district authorities provide comments.

Geology and Soils

The Project site is in a seismically active region with hard, granite bedrock susceptible to landslides that would menace structures downslope. Granite weathers into large boulders, creating a rockfall hazard.

Although subsidence has not been reported in Menifee, this hazard has been documented nearby in the San Jacinto Valley, from Hemet to Moreno Valley, and in Temecula and Murrieta. In the San Jacinto Valley and Temecula, the subsidence and related ground fissuring have been attributed to groundwater withdrawal. In Murrieta, rapid growth of the area led to large-scale application of landscape water to arid alluvial soils. This caused a rise in the water table and subsequent collapse of the soils, resulting in localized surface land subsidence and ground fissures, which cost millions of dollars in property damage to homes, schools, and infrastructure. (Report, p. 4.7-12).

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How does this Project site differ from those of Murrieta? Certainly, the Project would also qualify as sudden, rapid growth. Would the mitigation recommended for the Project have saved Murrieta?

What is the actual risk of subsidence and lateral spreading at the Project site? Intention to comply with legal requirements is not an answer. | 10eee

Appendix F2 Soils Analysis 2-2016 does not disclose whether the Project site was tested for agricultural toxins beyond methane that might be dangerous if released during construction. Shouldn't it be more thoroughly tested? | 10fff

Greenhouse Gas Emissions

Why has the state air quality authority asked to be advised about the Project regarding air quality? What is the concern? | 10ggg

SB 375 makes regional and local planning agencies responsible for developing strategies to meet state GHG targets as part of the federally required metropolitan transportation planning process and the state-mandated housing element process. (Report, p. 4.8-12). What are the City's strategies for this purpose? | 10hhh

The CEC has further indicated that the 2020 Energy Code will require new residential developments to achieve zero-net energy use. What does this mean for the Project? In the absence of this information, it's premature to assert as the Report does that Project GHG emissions would be less than significant. | 10iii

According to the Report, the City has not yet adopted its own design review standards for evaluating a project's contribution to communitywide GHG emissions and currently follows SCAQMD guidance for determining whether a project supports state goals. Is this acceptable for a Project involving a 79-acre farmland conversion to a large-scale residential subdivision, which may be only a part of the Applicant's full and complete plan? | 10jjj

Hazards/Hazardous Materials

What is the risk of disturbing soil at the Project site containing methane during construction? What other agricultural toxins might the soil contain and what is the risk if they are released during construction? | 10kkk

"Should specific uses generate hazardous materials during the life of the Project, subsequent analysis may be required to ascertain impacts and mitigation, if required (i.e., medical wastes, chemical wastes, etc.)." (Report, p. 4.9-19). This is but another of the cryptic clues contained in the Report suggesting the Project represents only a portion of Applicant's actual plan for a private Potterville. The California Environmental Quality Act (CEQA) requires nothing less than full and frank disclosure. | 10lll

Section 4.9.5 of the Report discloses the presence of potential safety hazards for future residents of the Project posed by proximity to March Air Reserve Base/Inland Port Airport. Full disclosure is required before assessing the sufficiency of the proposed mitigation. What is the threat? | 10mmm

Hydrology/Water Quality

With respect to the reliability of water supply, regard should be had to the reasoning in *Manro v. City of Tulare*, 2016 Cal. App. Unpub. LEXIS 8074, 2016 WL 6426390 (Cal. App. 5th Dist. October 31, 2016):

The California Supreme Court set forth principles for assessing the sufficiency of an EIR's water-supply analysis in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 53 Cal. Rptr. 3d 821, 150 P.3d 709 (Vineyard Area Citizens). In that case, the EIR evaluated a community plan for a 22,000-unit residential development project and a specific plan for a portion of the larger project. (Id. at p. 422.) Various difficulties were involved in predicting whether the groundwater and surface water sources counted on by the developers would actually be available when needed. (Id. at pp. 422-424, 427-428.) As framed by the court, the question presented was "how firmly future water supplies for a proposed project must be identified or, to put the question in reverse, what level of uncertainty regarding the availability of water supplies can be tolerated in an EIR for a land use plan." (Id. at p. 428.)

The court articulated four principles. First, "CEQA's informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to 'evaluate the pros and cons of supplying the amount of water that the [project] will need.' [Citation.]" (*Vineyard Area Citizens, supra*, 40 Cal.4th at pp. 430-431.)

Second, for a large project that will be developed over a period of years, an EIR's analysis "cannot be limited to the water supply for the first stage or the first few years." (*Vineyard Area Citizens, supra*, 40 Cal.4th at p. 431.) "[T]he future water sources for a large land use project and the impacts of exploiting those sources are not the type of information that can be deferred for future analysis" in lower-tier EIR's. (Ibid.)

Third, the water sources the EIR identifies "must bear a likelihood of actually proving available" and cannot be speculative or unrealistic. Further, the EIR must analyze the circumstances affecting the likelihood of the water's availability. (*Vineyard Area Citizens, supra*, 40 Cal.4th at p. 432.)

Fourth, "where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies." It is not enough for the land use plan simply to provide that development will not proceed if the water proves unavailable, although that can be a legitimate technique where the EIR analyzes various alternatives but

acknowledges that uncertainty remains. (*Vineyard Area Citizens, supra*, 40 Cal.4th at p. 432.)

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cont.

More thorough analysis is needed to assess the amount of water the Project would use, whether the amount is available and any vulnerabilities, including the potential impact if the proposed stormwater system doesn't work as planned.

According to the Report, a well test (conducted in April 2018) showed that the Project site's two wells could generate up to 243 gallons of water per minute (gpm) for 6 hours with only 3 feet of drawdown. In addition, no other potential source of water quality degradation (besides methane) has been identified at the Project site, except a potential for erosion and sedimentation during heavy precipitation. (Report, p. 4.10-9). Shouldn't the Project site be fully tested for agricultural soil toxins beyond methane? Why would water be available to supply the Project and two lakes but not a farm?

10ooo

The SWPPP and WQMP must address the hydrologic conditions of concern by maintaining pre-development flows once the Project is developed and treatment of the surface runoff from the site before discharge to the Canyon Lake/Salt Creek. The protection of water quality and future runoff volumes will be accomplished by reducing, to the extent feasible, the amount of impervious surface and through on-site retention. (Report, p. 4.10-11)

What would be "the extent feasible" in this case? What is meant by "on-site retention" in this case? Page 4.10-19 of the Report describes a very complex, perhaps unique drainage system as well as potentially very significant impacts caused by on- or off-site erosion and/or siltation. What is the likelihood of such occurrences? Is there an example of a drainage system similar to the one proposed here, elsewhere in the City?

Land Use and Planning

Applicant proposes conversion of an estimated 79 acres of prime farmland to construct a gated community likely intended to shelter an elite residential community. It's not clear whether the City has properly consulted state and federal agricultural authorities, whose mandate is to conserve and protect agricultural land. Despite its obligations to support this mandate, the City appears to offer little or no protection to local farmers, who are hardly mentioned in the 2030 Vision statement. This Project would have multiple unavoidable significant adverse impacts. Every farmland conversion threatens every remaining farmer in the City.

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The Project would also create a sudden spike in population which would in turn attract still more people anxious to offer goods and services to this elite gated community.

10qqq

Public services would require expansion further threatening agricultural uses.

10rrr

Perhaps most concerning is that if it's this easy to obtain such a radical conversion it will likely prompt others to try until zoning and General Plan restrictions apply only to some and not to all equally.

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Noise

A quiet, rural, low-density community would suddenly become much higher density with all the noise that goes with urban encroachment.

10ttt

Public Services

The Riverside Unit Riverside County Fire Department has already indicated that the Project would have a cumulative adverse impact on its ability to provide an acceptable level of service. It is therefore premature to conclude as the Report did at page 4.14-2 that fire services would be sufficient to accommodate the Project.

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Recreation

There is no reason to assume residents of the proposed gated community would not also access City facilities despite private open space with swimming pool/s and lakes. The Report fails to contemplate this likelihood.

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It would be odd if not louche for the City to permit the dedication of more than 20 acres of rare farmland to private recreation, as the Project proposes. Unless this subdivision is not the only development planned at the Project site.

However, **as future residential development is proposed** (emphasis added), the Project would require developers to provide the appropriate amount of parkland or pay the in-lieu fees, which would contribute to future recreational facilities. Payment of these fees and/or implementation of new parks on a project-by-project basis would offset cumulative parkland impacts by providing funding for new and/or renovated parks equipment and facilities, or new parks. (Report, p. 4.14-25).

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This is another of the Report's cryptic clues to a hidden agenda. To what future residential development does the above statement refer?

Transportation

Suburban, residential development on this site has the potential to create conflicts with the existing, adjacent agricultural uses; particularly the Ramona Egg Ranch located to the east of the Project site, across Briggs Road. The Project may increase hazards/incompatibility due to the interface between residential and agricultural uses (e.g. farm equipment). (Report, p. 4.16-79).

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While residential development is permitted in multiple areas of the City, farmers don't enjoy such luxury, and the law requires the City to protect agricultural land and uses. Farmland must therefore take priority in this case.

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cont.

Alternatives

Incredibly, no alternatives to the Project were evaluated, considered or even proposed. The argument we are given against alternatives is the standard one: "fewer dwelling units would not generate sufficient funds to meet the goals of the Project proponent." (Report, p. 5-2). Surely there are alternatives that would meet Applicant's financial goals while preserving the farmland. What would multi-disciplinary Farm Aid experts suggest?

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We have suggested hilltop and hillside development leaving the valley for agriculture. The suggestion is based on time-honored principles set out in a classic community design treatise by Christopher Alexander, a widely influential architect and design theorist now emeritus professor at the University of California, Berkeley. His theories about the nature of human-centered design have affected fields beyond architecture, including urban design, software, sociology and others. Alexander has designed and personally built over 100 buildings, both as an architect and a general contractor. A Pattern Language provides applicable community design best practices amply illustrated with helpful drawings and photos. If in doubt, the City may contact the author personally at UC Berkeley (see <https://ced.berkeley.edu/ced/faculty-staff/christopher-alexander>, accessed online Dec. 17, 2019).

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Agricultural land is so valuable, it would be prudent for the City to explore all options to preserve as much of it as possible.

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Sincerely,



J. Michael Goolsby
President and CEO
Better Neighborhoods, Inc.