

**TOLLING AGREEMENT
BETWEEN THE TOWN OF APPLE VALLEY AND
THE SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT**

This Tolling Agreement ("Agreement") is entered into on February 27, 2019 ("Effective Date"), by and between the TOWN OF APPLE VALLEY, a municipal corporation ("Town") and the SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT, a 501(c)(3) nonprofit organization ("SVREP"), through its attorneys at Shenkman & Hughes PC. "Town" and "SVREP" are individually referred to herein as "Party" and collectively as "Parties."

RECITALS

WHEREAS, on January 2, 2019, the Town received a letter from attorney Kevin Shenkman of the law firm Shenkman & Hughes, PC, on behalf of SVREP, asserting that the Town's at-large election system might violate the California Voting Rights Act ("CVRA"), found at Elections Code section 14025 *et seq.*, and threatening litigation if the Town does not voluntarily transition to a by-district election system; and

WHEREAS, Elections Code section 10010 sets forth a process by which a jurisdiction may expeditiously transition to a by-district election system and avoid the high cost of litigation under the CVRA; and

WHEREAS, Elections Code section 10010 delays the initiation of CVRA litigation and limits attorneys' fees associated with a CVRA claim if, within forty-five (45) days of receipt of written notice of a potential violation of the CVRA, the Town adopts a resolution stating its intent to transition from at-large to district-based elections, and then, within ninety (90) days of adoption of the resolution of intent, the Town adopts an ordinance establishing district-based elections for all future elections for its governing board; and

WHEREAS, on February 15, 2019, the Apple Valley Town Council adopted Resolution No. 2019-04 stating its intent to transition from at-large elections to district-based elections; and

WHEREAS, Elections Code section 10010 further provides that if the public entity timely adopts a resolution stating its intent to transition from at-large to district-based elections, no action to enforce the CVRA may be initiated within 90 days of the resolution's passage; and

WHEREAS, Elections Code section 10010 (e)(3)(C)(i) permits the Parties to mutually agree to extend this 90-day period to 180 days; and

WHEREAS, the proposed extension would provide the necessary time for the Town to conduct public outreach, encourage public participation, and receive meaningful public input about a transition from at-large to by-district elections;

NOW, THEREFORE, in consideration of the mutual terms, covenants, conditions and promises contained herein, the Parties hereto agree as follows:

1. Recitals. All of the foregoing recitals are true and correct and are incorporated herein by reference.

2. Tolling. In accordance with Elections Code section 10010 (e)(3)(C)(i), the Parties hereby agree to extend the 90-day period under Elections Code section 10010 (e)(3)(B), during which time SVREP shall not commence an action to enforce the CVRA, to 180 days. SVREP agrees that no legal action shall be commenced by it against the Town under the CVRA or Elections Code section 10010 before Wednesday, August 14, 2019.

3. Termination. This Agreement will automatically terminate on August 14, 2019 (the "Termination Date") unless extended in writing by the Parties.

4. No Admission of Liability. This Agreement shall not be construed as an admission of any fact or actual or potential liability on the part of any Party. This Agreement may not be offered as evidence of an admission of any liability or fact in any court proceedings.

5. Binding Effect. Except as otherwise provided in this Agreement, this Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns. Except as expressly provided herein, nothing in this Agreement is intended to confer on any person, other than the Parties hereto and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

6. Authority to Bind Parties. Each person executing this Agreement warrants that he or she is empowered and authorized to so execute and has the authority to fully bind the entities in the manner herein described.

7. Notices. Any further notices shall be delivered:

TO TOWN:

Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attn: Doug Robertson, Town Manager
drobertson@applevalley.org

with a copy to:

Thomas A. Rice, Town Attorney
Best Best & Krieger LLP
2855 E. Guasti Rd., Suite 400
Ontario, CA 91761
thomas.rice@bbklaw.com

TO SVREP:

Southwest Voter Registration Education
Project
2914 N. Main St., 1st Floor, Suite B
Los Angeles, CA 90031
Attn: Lydia Camarillo, President
lcamarillo@svrep.org

with a copy to :

Kevin I. Shenkman
Shenkman & Hughes, PC
28905 Wight Road
Malibu, CA 90265
kishenkman@shenkmanhughes.com

8. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California and is binding upon the Parties. Venue for any action arising from this Agreement shall be in San Bernardino County.

9. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the Parties had signed the same document. All counterparts shall be construed together and shall constitute one agreement.


10. Entire Agreement. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter thereof; fully supersedes any and all prior understandings and/or agreement between the Parties hereto, or any of them, pertaining to the subject matter thereof; and may be modified only by written agreement signed by all of the Parties thereto.

11. Captions. The captions of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.


IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed the day and year first written above.

TOWN:
Town of Apple Valley, a municipal corporation


SVREP:
Southwest Voter Registration Education Project, a 501(c)(3) nonprofit organization

By: 

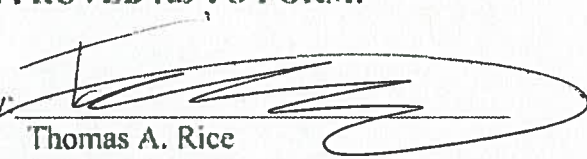
Doug Robertson
Town Manager

By: 

Kevin Shenkman, Its Attorney

ATTEST:
By: 

La Yonda M-Pearson
Town Clerk

APPROVED AS TO FORM:
By: 

Thomas A. Rice
Town Attorney