

TOWN OF PINETOP-LAKESIDE

RESOLUTION NO. 23-1663

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, APPROVING A THREE-YEAR EXTENSION TO THE AGREEMENT FOR TOWN ATTORNEY SERVICES WITH SIMS MACKIN, LTD AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN.

WHEREAS, on August 4, 2014, The Town Council appointed William J. Sims, III as Town Attorney and approved an Agreement for Town Attorney services with the firm of Sims Murray, Ltd. and now named as Sims Mackin, Ltd.; and

WHEREAS, the Town Council has determined that the agreement with Sims Mackin, Ltd. should be renewed for a three year period commencing as of March 1, 2023; and

WHEREAS, the Town Attorney has prepared a three-year agreement for the period March 1, 2023 through June 30, 2026; and

WHEREAS, the agreement specifies that Sims Mackin, Ltd. is retained to provide continuing legal services to the Town of Pinetop-Lakeside from March 1, 2023 through June 30, 2026 with William J. Sims, III serving as Town Attorney and authorize the Town Manager to execute the Agreement on behalf of the Town.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Pinetop-Lakeside, Arizona, that it hereby approves the “Agreement for Services for Town Attorney” with the firm of Sims Mackin, Ltd, attached hereto as “Exhibit A”, and reaffirms William J. Sims, III appointment as the Town Attorney.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, this 16th day of March 2023.

TOWN OF PINETOP-LAKESIDE



Stephanie Irwin

Stephanie Irwin
Mayor

ATTEST:

APPROVED AS TO FORM:

Kristi Salskov
Kristi Salskov
Town Clerk

William Sims
William J. Sims, III
Town Attorney

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES (“**Agreement**”) is made and entered into effective as of March 1, 2023, by and between the TOWN OF PINETOP-LAKESIDE, ARIZONA, a municipal corporation (“**Town**”) and SIMS MACKIN, LTD., an Arizona corporation (“**Sims Mackin**”) for services as Town Attorney.

RECITALS:

A. The Town desires to contract for the provision of legal services by counsel not in its employ to be designated as the “Town Attorney” and perform the duties of Town Attorney pursuant to Town Code Chapter 2.10 “Town Attorney”.

B. Sims Mackin has represented that it is professionally qualified to perform such services, and the Town has relied on such representation in entering into this Agreement.

NOW, THEREFORE, it is agreed between the parties as follows:

AGREEMENT:

1. Scope of Service and Representation. Sims Mackin agrees to act as general legal counsel for the Town providing civil, transactional services including but not limited to:

a. Drafting ordinances and resolutions; drafting and negotiating contracts and leases; reviewing agendas and minutes; attending meetings of the Town Council and other boards and commissions as needed; coordinate with Town staff for review of documents prepared in-house; providing general legal advice and counsel in areas such as election law, property law, planning and zoning, code enforcement, contract law, procurement law and contracts, personnel, improvement districts, open meeting law, grants, insurance, state and federal law and municipal law; and either perform or oversee Town Prosecution and litigation. Currently the prosecutions of State Statute offenses are handled by the Navajo County Attorney’s office under an IGA between the County and the Town; and the Town has risk and liability coverage as provided by the Arizona Municipal Risk Retention Pool.

b. Attendance at most regular meetings of the Town Council and such other meetings as requested or required, including special meetings of the Council and meetings of the Planning and Zoning Commission.

c. Pursuant to Town Code Chapter 2.10 “Town Attorney” accepts appointment as Town Attorney and will perform the duties and obligations of that office.

2. Advice and Status Reporting. Sims Mackin shall provide Town with timely advice on all significant developments arising during performance of their services hereunder orally or in writing, as Sims Mackin considers appropriate.

3. Compensation and Payment. Town agrees to pay Sims Mackin for services rendered hereunder as provided in this Agreement. All services not specified shall be billed at actual cost and stated hourly billing rates. Fees and expenses shall be billed on a monthly basis and paid by Town within forty-five (45) days.

a. Whenever possible, attorneys shall minimize time spent consulting with one another and agree to use their best efforts to minimize the costs of the legal representation of the Town.

b. All consultants, experts and subcontractors engaged to provide services to Sims Mackin in the performance of this Agreement, and the use and extent of those services, shall be approved by the Town prior to them providing the services.

c. Billing rate increases may be requested by Sims Mackin during the Town's budget cycle for the next fiscal year but not later than thirty (30) days prior to the end of the end of the Town's fiscal year of June 30. Any increased rate shall be based on mutual consent of the Town and Sims Mackin.

d. The hourly rates initially extended to the Town will be: William J. Sims III (Primary Contact) \$225/hour; Kristin M. Mackin (Partner) \$225/hour; and Anthony W. Contente-Cuomo (Partner) \$225/hour.

4. Reimbursement for Expenses. The cost of photocopies necessary in the ordinary course of business, faxes sent and received, long distance telephone charges, postage and West Law electronic legal research will not be billed to the Town. Large-volume photocopying jobs contracted to an offsite vendor, courier services, and Federal Express will be billed at the actual cost incurred for those services. All costs and other disbursements for outside services not specified herein shall be billed at actual cost.

5. Term. The term of this Agreement shall be for the period from March 1, 2023 through June 30, 2026, with options to extend for successive fiscal year periods by mutual agreement of the parties. Approximately sixty (60) days or more before the termination date of the initial term of this Agreement, the parties will meet to discuss a proposed renewal of this Agreement and the factors related to such a renewal. If the parties cannot agree on terms for the renewal period at least thirty (30) days before the termination date, the contract will expire as scheduled.

6. Cancellation. The Town reserves the right to cancel the whole or any part of this Agreement without cause. The Town will issue a written sixty (60) day notice of such cancellation.

7. Indemnification For and Liability and Professional Liability. To the fullest extent permitted by law, Sims Mackin, its successors, assigns and guarantors, shall defend, indemnify and hold harmless the Town, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorneys' fees, courts costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any negligent, or intentional actions, acts, errors, mistakes or

omissions caused in whole or in part by Sims Mackin relating to work or services in the performance of this Agreement, including but not limited to anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Sims Mackin's and subcontractor's employees.

8. Choice of Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

9. Whole Agreement. This Agreement constitutes the entire understanding of the parties, and no representations or agreements, oral or written, made prior to its execution shall vary or modify its terms.

10. Amendments. Any amendment, modification or variation from the terms of this Agreement shall be in writing and shall be effective only after approval of all parties signing the original Agreement.

11. Non-Assignment. Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the Town.

12. Cancellation. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.

13. Independent Contractor Status. The services Sims Mackin provides to the Town under this Agreement are those of an independent contractor, not an employee.

14. Primary Contact- information. William J. Sims III will be the primary contact for Sims Mackin and will officially hold the title of Town Attorney of Pinetop-Lakeside, Arizona.

William J. Sims III
Sims Mackin, Ltd.
3101 N. Central Avenue, Suite 870
Phoenix AZ 85012
Direct: 602-772-5501
Fax: 602-772-5509
Cell: 602-524-0575
Legal Assistant: 602-772-5502
wjsims@simsmackin.com

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first above written.

TOWN OF PINETOP-LAKESIDE

SIMS MACKIN, LTD.

By: Stephanie Lwin

William Sims
William J. Sims III, Partner

ATTEST:

Kristi Sabokw
Town Clerk