



**REQUEST FOR PROPOSALS
INDEPENDENT CONTRACTOR SERVICES
TO ASSIST AVON'S CREATIVE FOUNDING COMMITTEE**

The Town of Avon, Colorado, invites qualified individuals or businesses to submit a proposal to assist the recently formed Creative Founding Committee to meet the Scope of Services described in the Request for Proposals (RFP).

**PROPOSALS ARE DUE NO LATER THAN APRIL 30, 2018 NOON, MDT
LATE SUBMITTALS WILL NOT BE ACCEPTED**

**PLEASE SUBMIT ONE DIGITAL COPY IN PDF FORMAT TO:
TOWN CLERK DEBBIE HOPPE AT: dhoppe@avon.org
WITH THE SUBJECT LINE: PROPOSAL – AVON CFC**

SCOPE OF SERVICES

The Town of Avon (Avon) seeks to retain part-time independent contract services to assist Avon's Creative Founding Committee (CFC). CFC volunteer membership was organized in January 2018, at the invitation of Councilors Amy Phillips and Jake Wolf, and was called into action to initiate the establishment of an arts and cultural organization, with participation from creative organizations, individuals, and businesses. The longer-term objective is to build a nonprofit organization, association or collective focused on building broad community support and buy-in for the creative industries and arts in Avon, with the intention of Avon ultimately meeting the requirements for certification as a Creative District.

In seeking to support the work of the CFC, the Avon Town Council has appropriated \$10,000.00 to retain a qualified independent contractor, for approximately six months, to assist the CFC in accomplishing the following objectives:

- Serve as a point of contact for the organization and build membership.
- Lead the formation of an organization and develop the advisory/governing board.
- Develop, with board membership, a Strategic Plan.
- Develop and maintain an operating budget for the organization.
- Assist in funding program and project development through fundraising, grant writing, etc.

Meeting Availability – The independent contractor must be available for CFC meetings. Meeting dates have been reserved for the first Friday of each month from 12:30 to 2:00 pm, in Avon. Times, however, may change based upon the CFC membership concurrence.

While the independent contractor will be managed by the Avon Town Manager or her designee, for oversight and reporting, responsibilities of the contract will be met through work with the CFC, as led by Councilors Phillips and Wolf.

PROPOSAL CONTENT

Any interested individual or business must submit a proposal that clearly demonstrates the ability to provide the Scope of Services. The following information shall be organized in the order listed below to facilitate fair and equal evaluation of the responses.

1. Cover Letter

A cover letter shall be provided which includes:

- 1.1 Interest in the project
- 1.2 Qualifications to meet the Scope of Services
- 1.3 Availability during the business week
- 1.4 At least two (2) references for work of similar scope and size completed in the past three (3) years
- 1.5 Name, physical and postal address, email and phone number

2. Cost of Services

The Scope of Work is estimated to not exceed \$10,000.00. Please include a fixed-not-to-exceed-fee for the Scope of Work, including all expenses attributable to the project. Provide hourly billing rate.

3. Conflict of Interest & Litigation:

Submit a statement regarding any conflicts of interest and listing of litigation, if any, in the past two (2) years and lawsuit dismissal and/or termination outcomes.

4. Acceptance of Town of Avon Independent Contractor Agreement

Submit a statement that proposer has reviewed the attached Independent Contractor Agreement and is able to meet all insurance requirements (Attachment 1).

SELECTION PROCESS

The Town Manager or designee will review all proposals with three or more CFC and/or staff representatives and select the most qualified proposer or proposers for an interview, which may be in person or via Skype. The CFC Committee is comprised of artists and creative representatives living in the Vail Valley. The successful proposer shall be selected based upon the following criteria:

- Responsiveness and clarity of the proposal
- Qualifications
- Cost of Services
- References

The Selection Process Schedule is found in Attachment 2.

The Town of Avon reserves the right to reject all proposals and to waive any irregularities or informalities. This RFP does not commit the Town of Avon to award or contract, nor pay any costs incurred, in the preparation and submission of proposals in the anticipation of a contract. The Town retains all rights to include additional services or projects deemed necessary by the Town with the successful proposer.

PROPOSER QUESTIONS

Proposal questions will be accepted by email only. Please email questions to dhoppe@avon.org, by not later than April 30, 2018.

ATTACHMENT 1
INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Service Agreement (“**Agreement**”) dated April x, 2018, is between the Town of Avon, a Colorado home rule community (“**Town**”) and [Name] (“**Contractor**”).

1. **Services:** Contractor agrees to provide services (“**Services**”), as described in the attached statement of Scope of Services. To the extent the provisions of this Agreement conflict with the Proposal, the terms of this Agreement shall control. Contractor shall provide and complete the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Colorado. Contractor hereby warrants that it has the workforce, training, experience and ability necessary to properly complete the Services in a timely fashion. Contractor will comply, and cause all its employees, agents and subcontractors to comply, with applicable safety rules and security requirements, while performing the Services.

2. **Independent Contractor:** The Contractor shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the Town other than as a contracting party and independent contractor. The Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor’s employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers’ compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions.

3. **Insurance:**
 - 3.1 Minimum Amounts. The Contractor shall obtain and shall continuously maintain during the term of this Agreement insurance of the kind and in the minimum amounts specified in this Section 3.1. The Required Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Besfs Key Rating Guide. All required Insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor.

The Contactor shall secure and maintain the following ("Required Insurance"):

- 3.1.1 IF A BUSINESS WITH EMPLOYEES: Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.
- 3.1.2 Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) Dollars each occurrence and of One Million Dollars (\$1,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis.

Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.

3.1.3 Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.

3.1.4 Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) Dollars each occurrence and of One Million Dollars (\$1,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.

3.2 Additional Requirements for All Policies. In addition to specific requirements imposed on insurance by this Section 3. INSURANCE and its subsections, insurance shall conform to all the following:

3.2.1 For both Contractor Insurance and Required Insurance, all policies of insurance shall be primary insurance, and any insurance carried by the Town, its officers, or its employees shall be excess and not contributory insurance to that provided by the Contractor; provided, however, that the Town shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services. The Contractor shall not be an insured party for any Town-obtained insurance policy or coverage.

3.2.2 For both Contractor Insurance and Required Insurance, the Contractor shall be solely responsible for any deductible losses.

3.2.3 For Required Insurance, no policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

3.2.4 For Required Insurance, every policy of insurance shall provide that the Town will receive notice no less than thirty (30) days prior to any cancellation, termination, or a material change in such policy.

3.3 Failure to Obtain or Maintain Insurance. The Contractor's failure to obtain and continuously maintain policies of insurance in accordance with this Section 3. INSURANCE and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the Town may immediately terminate this Agreement, or, at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town immediately upon demand by the Town, or at the Town's sole discretion, the Town may offset the cost of the premiums against any monies due to the Contractor from the Town pursuant to this Agreement.

- 3.4 Insurance Certificates.** Prior to commencement of the Services, the Contractor shall submit to the Town certificates of insurance for all Required Insurance. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section 3. INSURANCE and its subsections shall be indicated on each certificate of insurance. Certificates of insurance shall reference the Project Name as identified on the first page of this Agreement. The Town may request and the Contractor shall provide within three (3) business days of such request a current certified copy of any policy of Required Insurance and any endorsement of such policy. The Town may, at its election, withhold payment for Services until the requested insurance policies are received and found to be in accordance with the Agreement.
- 4. Payment:** Payment for Services shall be up to \$10,000.00 due as Services are completed to the Town's satisfaction and after Contractor has submitted an invoice for the amount due complete with the Contractor's taxpayer identification number or social security number. Town shall pay Contractor within thirty (30) days after an invoice in proper form is submitted to Town.
- 5. Ownership of Documents:**
- 5.1 Work Product is Property of Town. Upon complete payment for services rendered, the Work Product, as defined in Section 1, shall be deemed work made for hire and made, in the course of Services performed under this Agreement, and will be the exclusive property of Town. Town will have unlimited right to make, have made, use, reconstruct, repair, modify, reproduce, publish, distribute and sell the Work Product, in whole or in part, or combine the Work Product with other matter, or not use the Work Product at all, as it sees fit. Any reuse of the Work Product produced under this Agreement for any purpose not directly related to this Agreement will be at the sole risk of Town.
- 5.2 Obligations of Contractor's Personnel and Subcontractors. Contractor warrants it has enforceable written agreements with all its personnel and subcontractors to be involved in performing the Services that:
- 5.2.1 Assign to Contractor ownership of all patents, copyrights and other proprietary rights created during his/her/their employment or engagement, and
- 5.2.2 Obligate such personnel or subcontractors upon terms and conditions no less restrictive than are contained in this Section 5 OWNERSHIP OF DOCUMENTS, not to use or disclose any proprietary rights or information teamed or acquired during such employment or engagement including, without limitation, any Work Product, all Contractor property and any other information pursuant to this Section 5 OWNERSHIP OF DOCUMENTS.
- 5.3 Assignment of Proprietary Rights. To the extent that any title to any Work Product may not, by operation of law, vest in Town, or such Work Product may not be work made for hire, Contractor hereby irrevocably transfers and assigns to Town in perpetuity all worldwide right, title and interest in and to the patent rights, copyrights, trade secrets and other proprietary rights in and ownership of, the Work Product.
- 5.4 Town Furnished Information. Title to all materials and all documentation furnished by Town to Contractor will remain in Town. Contractor will deliver to Town and any all Work Product and property, including copies thereof on whatever media rendered, upon the first to occur of:

- 5.4.1 Town's written request; or
- 5.4.2 Completion of the Services under this Agreement; or
- 5.4.3 Termination of this Agreement.

5.5 The Contractor waives any right to prevent its name from being used in connection with the Services.

6. Illegal Aliens: This Agreement is subject to the provisions of the Illegal Aliens-Public Contracts for Services Act found at C.R.S. Section 8-17.5-101 et seq. By execution of this Agreement, Contractor certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program or Department Program to confirm the eligibility of all employees who are newly hired for employment to perform work under this Agreement. As used in this Section 5, "Department" means the Colorado Department of Labor and Employment.

6.1 Specifically, Contractor shall not:

- 6.1.1 Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
- 6.1.2 Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

6.2 Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or Department Program.

6.3 Contractor shall use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while this Agreement is in effect.

6.4 If Contractor obtains actual knowledge that any of its subcontractors performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:

- 6.4.1 Notify the subcontractor and Town, within three (3) days of discovery of such fact, that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- 6.4.2 Terminate the contract with the subcontractor if, within three (3) days of receiving the notice required above, the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor need not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information establishing that the subcontractor has not knowingly employed or contracted with an illegal alien.

6.5 Contractor shall comply with any reasonable request by the Department made during an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Section 8-17.5-102(5).

6.6 If Contractor violates any of the provisions of this Section 6, Town shall have the right to terminate the Agreement for breach of contract and, in such case, Contractor shall be liable to Town for all

actual and consequential damages incurred by Town as a result of such breach and the termination of this Agreement.

6.7 Town will notify the Office of the Secretary of State if Contractor violates this provision of this Agreement and the Town terminates this Agreement for such breach.

7. **Town Unilateral Termination:** Town may terminate this Agreement without cause upon delivery of written notice to the Contractor at least ten (10) days prior to the effective date of termination or may terminate this Agreement immediately upon delivery of written notice if Contractor fails to provide the Services in accordance with the terms of this Agreement.
8. **No Waiver of Governmental Immunity:** Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors, or agents, or any other person acting on behalf of the Town and governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
9. **Affirmative Action:** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Contractor will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
10. **No Third-Party Beneficiaries:** Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or sub-contractor of Contractor. Absolutely no third-party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.
11. **Limitation of Damages:** The parties agree that Contractor's remedies for any claims asserted against the Town shall be limited to proven direct damages in an amount not to exceed payment amounts for Services due under the Agreement and that Town shall not be liable for indirect, incidental, special, consequential or punitive damages, including but not limited to lost profits.
12. **Indemnity:** To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless Town, its members, affiliates, officers, directors, partners, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising out of the performance of the Services, provided that any such claim, damage, loss or expense is caused by any negligent act or omission of Contractor, anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable, except to the extent any portion is caused in part by a party indemnified hereunder.
13. **Governing Law, Venue, and Enforcement:** This Agreement shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Eagle County, Colorado. To reduce the cost of dispute resolution and to expedite the resolution of disputes under this Agreement, the parties hereby waive all right either may have to request a jury trial in any civil action relating primarily to the enforcement of this

Agreement. The parties agree that the rule that ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

AGREEMENT READ, UNDERSTOOD AND APPROVED:

TOWN OF AVON

CONTRACTOR

BY: _____
Virginia Egger, Town Manager

BY: _____
[Name]

**SCOPE OF SERVICES
TO THE
INDEPENDENT CONTRACTOR AGREEMENT**

Assist Avon’s Creative Founding Committee (CFC) over the next six months to accomplish the following objectives:

- Serve as a point of contact for the organization and build membership.
- Lead the formation of an organization and develop the advisory/governing board.
- Develop, with board membership, a Strategic Plan.
- Develop and maintain an operating budget for the organization.
- Assist in funding program and project development through fundraising, grant writing, etc.

CFC Meeting Attendance:

Assist in the preparation of agendas and meeting materials and actively participate as staff in support of the meeting co-chairs Councilors Amy Phillips and Jake Wolf. Meeting dates have been reserved for the first Friday of each month from 12:30 to 2:00 pm, in Avon. Times, however, may change based upon the CFC membership concurrence.

ATTACHMENT 2
Selection Process Schedule
Subject to Change
All times are MDT

April 17, 2018	RFP Solicitation Released
April 30, 2018 Noon	Proposal Submittal Deadline
May 4, 2018	Successful Proposer(s) notified of Interview
May 7, 2018 9:30 – 11:30 a.m.	Interview(s) in Avon, by phone or via Skype
May 22, 2018	Independent Contractor Agreement Executed