REGIONAL DISTRICT OF NANAIMO

REQUEST FOR PROPOSALS No. 22-064

Coats Marsh Replacement Weir Elevation Study

ISSUED: June 27, 2022

CLOSING DATE AND TIME:
Submissions must be received on or before:
3:00 PM (15:00 hrs) Local Time on July 26, 2022

Submissions and Questions are to be directed to:
Jordan Vander Klok, Parks Planner
jvanderklok@rdn.bc.ca

Questions are requested at least five (5) business days before the closing date.

Proposals will not be opened in public

1. Instructions to Proponents

1.1 Closing Date/Time/Submission Method
Submissions must be received on or before 3:00 PM (15:00 hrs), Local Time, on July 26, 2022.

Submission Method:

By Email: In PDF format with "22-064 Coats Marsh Replacement Weir Elevation Study" as the subject line at this electronic address:

jvanderklok@rdn.bc.ca

Please note: Maximum email file size limit is 20MB, or less. The RDN will not be liable for any technological delays of submissions.

Submissions received in any other manner will not be accepted.

1.2 Amendment to Proposals
Proposals may be amended in writing and sent via email to the RDN contact person identified on the cover page on or before the closing. Such amendments should be signed by the authorized signatory of the Proponent.

1.3 Addenda
If the RDN determines that an amendment is required to this RFP, the RDN will post the Addendum only on the RDN website at https://www.rdn.bc.ca/current-bid-opportunities. Each addendum will be incorporated into and become part of the RFP. No amendment of any kind to the RFP is effective unless it is contained in a written addendum issued by the RDN. It is the sole responsibility of the Proponent to check the RDN website and ensure all amendments are included prior to submitting their final Proposal submission.

1.4 Withdrawal of Proposals
The Proponent may withdraw their Proposal at any time by submitting a written withdrawal email to the RDN contact person identified on the cover page on or before the closing.

1.5 Unsuccessful Vendors
The Regional District will offer debriefings to unsuccessful Proponents, on request, at a mutually agreeable time.

2. INTRODUCTION

The purpose of this Request for Proposal is to solicit submissions from qualified firms to recommend the optimum elevation for a concrete weir replacement in Coats Marsh Regional Park, located on Gabriola Island.

This project will result in a report that compares the costs, environmental impacts, and long-term risks of three different potential weir elevations. The study will recommend an optimum elevation for the replacement weir.

It is anticipated that the work will begin as soon as possible upon contract award. The final report is to be completed by **October 28, 2022.**

3. BACKGROUND

Coats Marsh Regional Park is the first protected wetland on Gabriola Island. The primary management objective for the park, as identified in the 2010 Management Plan, is environmental conservation. Water levels are controlled by a concrete outlet weir that is approximately 0.6m thick, 6m wide, and 3.3m high (on the downstream side). The *Coats Marsh Weir Assessment* (Attachment #1) was completed by a Professional Engineer in 2020 and the weir was found to have notable deterioration. There is a risk of private property flooding downstream should the weir fail. Pending the outcome of this report, the RDN intends to replace or reinforce the weir in 2023.

There is an existing beaver dam in the marsh that effectively elevates the marsh's water level above the existing weir's "design" spill level. Currently, a siphon system is in place to draw down the marsh's water levels. Detailed information regarding the siphons can be found in *A Proposed Strategy for Water Level Management – Coats Marsh, Gabriola Island, BC* (Attachment #2). The long-term management goal is to phase out the siphon system in order to return the marsh hydrology to a more naturally regulated state and to protect wetland habitat.

4. SCOPE OF SERVICES

RDN requires a report which examines three different weir elevation scenarios and recommends an optimum long-term elevation of the new replacement weir.

The three potential weir elevation scenarios that require study are:

1. Maintain the status quo. Reinforce or replace the weir at the existing elevation.
2. Raise the weir to match the elevation of the existing beaver dam.
3. Raise the weir to an intermediate elevation above existing and below the top of the beaver dam.

Each of the weir elevation scenarios in the report is to provide the following information:

A. Regulatory considerations, including information on any relevant provincial or federal legislation that will impact the work.

B. A conceptual plan showing the approximate extents of required grading and construction works needed to retain the water at the proposed elevation and maintain the path connections and bridge over the weir.
C. A summary of the environmental and hydrological impacts of the proposed water elevation(s).
D. A Class 'C' cost estimate.
E. For Scenarios 1 and 3, which may involve two separate water elevations behind the weir and behind the beaver dam, the report should include recommendations on long term management of the siphons, the beaver dam, and any other recommended water level controls.

The report is to recommend which scenario provides an optimum elevation for the weir and summarize the supporting evidence. The primary considerations in determining the optimum weir elevation are construction costs, environmental impact, and management of long-term hydrological risk (i.e. downstream flooding due to an adverse event).

Additional factors as recommended by the consultant team in the report will be taken into consideration.

5. DELIVERABLES AND OUTCOMES

The required outcome of this work is a report that compares three potential weir elevations and recommends the optimum elevation for construction.

The following list of project meetings and deliverables are the minimum requirement and not a comprehensive list.

1) Project Kick-Off meeting
    - Discussion of available project information, review of project schedule
2) Site Meeting
    - On-site meeting to review site conditions, including beaver dam and existing concrete weir
3) 70% Report Submission
    - Includes preliminary study results
    - Class 'D' cost estimate for each weir height scenario
4) 90% Report Submission
    - Includes study results and preliminary recommendation
    - Class 'C' cost estimate for each weir height scenario
5) Final Report Submission

6. REFERENCE/BACKGROUND INFORMATION

The reference information included in this RFP are as follows:

1. ***Coats Marsh Weir Assessment***, by SRM Projects
2. ***A Proposed Strategy for Water Level Management – Coats Marsh, Gabriola Island, BC,***

by Madrone Environmental Services

7. PROPOSAL SUBMISSION AND EVALUATION

To assist in receiving similar and relevant information, and to ensure your Proposal receives fair evaluation, the RDN asks Proponents to provide the following information.

Please include with your proposal:

a) Description of project team, including the corporate background and areas of expertise of each firm on the project team;
b) Curriculum vitae of key project team members, reasons why they were selected for this project and demonstrate how they will add value. At minimum, the project team is to include a Professional Engineer and an environmental professional with an applicable certification (i.e. R.P.Bio, A.Sc.T., or equivalent)
c) Include two to three examples of similar or relevant past projects completed within the past five years by the proponent.
d) Identify challenges, constraints and obstacles in the project and advise strategy to minimize;
e) What suggestions does your firm have to add value to the project?
f) Please tell us about your company's environmental, social, and ethical sustainability initiatives.
g) Provide a project schedule, in the form of a Gantt Chart that clearly shows the anticipated projects schedule, including all submissions and key milestones;
h) Comprehensive proposed fee, in Canadian Dollars, in a Schedule of Effort Table, identifying all project contributors, their per hour charge out rates, individual tasks, hours and all disbursements including travel.

Proposals will be evaluated on the following basis 60% Technical, 40% Financial.

The lowest price proposal will receive full marks. Other proposals will receive reduced scores based on the proportion higher than the lowest price. i.e. Score = Min Cost/Cost x Fee Points.

Proposals submitted should be in enough detail to allow the RDN to determine the Proponent's qualifications and capabilities from the documents received. The selection committee, formed at the RDN's sole discretion, will score the Proposals in accordance with the criteria provided.

The RDN may evaluate proposals on a comparative basis by comparing one proponent's proposal to another proponent's proposal. The RDN reserves the right to not complete a detailed evaluation if the RDN concludes the proposal is materially incomplete or, irregular or contain any financial or commercial terms that are unacceptable to the RDN.

The selection committee may proceed with an award recommendation or the RDN may proceed to negotiate with the highest evaluated proponent with the intent of developing an agreement. If the parties after having bargained in good faith are unable to conclude a formal agreement, the RDN and the Proponent will be released without penalty or further obligations other than any surviving obligations regarding confidentiality and the RDN may, at its discretion, contact the Proponent of the

next best rated Proposal and attempt to conclude a formal agreement with it, and so on until a contract is concluded or the proposal process is cancelled.

The RDN reserves the right to award the assignment in whole or in part or to add or delete any portion of the work. Throughout the evaluation process, the evaluation committee may seek additional clarification on any aspect of the Proposal to verify or clarify the information provided and conduct any background investigation and/or seek any additional information it considers necessary.

8. *PROPOSED PURCHASE CONTRACT*

The RDN's preferred form of Contract is attached herein. Proponents should carefully review this form of Contract. Should any vendors request that RDN consider revisions to the form of Contract, Proponents should include any clauses of concern in their proposal submission and suggest replacement language.

9. GENERAL CONDITIONS

9.1 No Contract

By submitting a Request for Proposal and participating in the process as outlined in this RFP, proponents expressly agree that no contract of any kind is formed until a fully executed contract is in place.

9.2 Privilege Clause

The lowest or any proposal may not necessarily be accepted.

9.3 Acceptance and Rejection of Submissions

This RFP does not commit the RDN, in any way to select a preferred Proponent, or to proceed to negotiate a contract, or to award any contract. The RDN reserves the right in its sole discretion cancel this RFP, up until award, for any reason whatsoever

The RDN may accept or waive a minor and inconsequential irregularity, or where applicable to do so, the RDN may, as a condition of acceptance of the Submission, request a Proponent to correct a minor or inconsequential irregularity with no change in the Submission.

9.4 Conflict of Interest

Proponents shall disclose in their Proposals any actual or potential Conflict of Interest and existing business relationships it may have with the RDN, its elected officials, appointed officials or employees.

9.5 Solicitation of Board Members and RDN Staff

Proponents and their agents will not contact any member of the RDN Board or RDN Staff with respect to this RFP, other than the RDN Contact named in this document.

9.6 Litigation Clause

The RDN may, in its absolute discretion, reject a Proposal submitted by Proponent, if the Proponent, or any officer or director of the Proponent is or has been engaged either directly or indirectly through another corporation in legal action against the RDN, its elected or appointed officers and employees in relation to:

(a) any other contract for works or services; or
(b) any matter arising from the RDN's exercise of its powers, duties, or functions under the Local Government Act, Community Charter or another enactment within five years of the date of this Call for Proposals.

In determining whether to reject a Proposal under this clause, the RDN will consider whether the litigation is likely to affect the Proponent's ability to work with the RDN, its consultants and representatives and whether the RDN's experience with the Proponent indicates that the RDN is likely to incur increased staff and legal costs in the administration of this Contract if it is awarded to the Proponent.

9.7 Exclusion of Liability

Proponents are solely responsible for their own expenses in preparing and submitting a Proposal and for any meetings, negotiations, or discussions with the RDN. The RDN will not be liable to any Proponent for any claims, whether for costs, expense, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP. Except as expressly and specifically permitted in these Instructions to Proponents, no Proponent shall have any claim for compensation of any kind whatsoever, as a result of participating in this RFP, and by submitting a Proposal each Proponent shall be deemed to have agreed that it has no claim.

9.8 Ownership of Proposals

All Proposals, including attachments and any documentation, submitted to and accepted by the RDN in response to this RFP become the property of the RDN.

9.9 Freedom of Information

All submissions will be held in confidence by the RDN. The RDN is bound by the Freedom of Information and Protection of Privacy Act (British Columbia) and all documents submitted to the RDN will be subject to provisions of this legislation. The successful vendor and value of the award is routinely released.

REGIONAL DISTRICT OF NANAIMO

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT made the <Day> day of <Month>, 20<XX>.

BETWEEN:

REGIONAL DISTRICT OF NANAIMO
6300 Hammond Bay Road
Nanaimo, BC
V9T 6N2

(hereinafter called the "Regional District" or "Client")

AND:

<VENDOR NAME>
<Street Address>
<City, Province>
<Postal Code>

(hereinafter called the "Consultant")

NOW THIS AGREEMENT WITNESSETH:

THAT in consideration of the terms, conditions and covenants hereinafter set forth, the Regional District and the Consultant covenant and agree each with the other as follows:

1 Appointment

The Regional District retains the Consultant to provide the Services (herein called the "Services") described in Schedule 'B' which is attached hereto and forms part of this Agreement.

2 Term

The Consultant will provide the Services during the period (hereinafter called the "Term") commencing on <Enter Start Date> and ending on <Enter End Date>, unless sooner terminated as hereinafter provided.

3 Payment

The Regional District will pay to the Consultant, for the Services, the amount, in the manner and at the times set out in Schedule 'A' attached hereto. The Consultant agrees to accept the amount as full payment and reimbursement. No additional amounts may be charged by the Consultant unless pre-approved by the Regional District in writing.

SAMPLE

4 Independent Contractor

The Consultant will be an independent contractor and not the servant, employee, or agent of the Regional District. The Consultant is not, and must not claim to be the Regional District's agent for any purpose unless the Regional District gives the Consultant authorization in writing to act as the Regional District's agent for specific purposes that are reasonably necessary to the Consultant's rendering of the Services pursuant to this Agreement.

5 Assignment and Sub-Consultants

The Consultant will not, without the prior written consent of the Regional District, assign or subcontract this Agreement or any portion thereof. The Consultant may retain subconsultants to assist in the performance of the Services provided that the terms of this Agreement shall apply to the subconsultants and provided that the Consultant shall be wholly responsible for the professional standards, performance and all actions of the subconsultants. The Consultant shall only employ subconsultants having the appropriate standards, qualifications, and experience in their respective areas of expertise. Notwithstanding the foregoing, Consultant may, where appropriate, subcontract any portion of the Services its affiliates without the Regional District's prior written consent and Consultant shall remain liable for the performance of such affiliates.

6 Ownership of Documents and Confidentiality

a) The Regional District will own all written material that is prepared for and delivered to it under this Agreement, except as follows: the Consultant will own the Certificate of Registration, its working papers, pre-existing materials and software, as well as any general skills, know-how, processes, proprietary methodologies, questions and questionnaires (except to the extent that the Regional District has provided such material), or other intellectual property (including a non-Regional District specific version of any deliverables) which the Consultant may have discovered or created as a result of the Services ("Consultant Materials").

b) The title, property rights, moral rights and ownership in and to all copyright in all present and future literary or artistic works including, but not limited to, computer programs and software, plans, drawings and specifications and the title, property rights and ownership in and to all patent rights in any invention developed during the course of or out of providing the Services shall remain with the Consultant. The Regional District has a non-exclusive, non-transferable, perpetual, irrevocable, royalty-free, and fully paid-up license to use any Consultant Materials included in the deliverables for the Regional District's own internal use as part of those deliverables (the "IP License").

c) The Consultant shall upon request by the Regional District, do all such things and execute and deliver to the Regional District all such documents and instruments as the Regional District shall reasonably require in order to maintain the Regional District's IP License and title, property rights and ownership in the written deliverables.

d) The Client may copy and use any of the Instruments of Service for record and maintenance purposes and for any future renovation, repair, modification, and extension work, including updating the original work, with respect to that part of the Project to which the Services relate.

7 Conflict

The Consultant shall not, during the term, perform a service for or provide advice to any person, firm or corporation where the performance of the service or the provision of the advice may or does, in the reasonable opinion of the Regional District, give rise to a conflict of interest between the obligations of the consultant to the Regional District under this Agreement, and the obligations of the Consultant to such other person, firm or corporation.

8 Limits of Liability

In consideration of the provision of the Services by the Consultant to the Client under this Agreement, the Client agrees that any and all claims which the Client may have against the Consultant, its employees, officers, agents, representatives and Sub-Consultants in respect of the Services, howsoever arising, whether in contract or in tort, save and except for claims arising out of or in connection with any malicious act or malicious omission under paragraph 9, shall be absolutely limited to the amount of the insurance available at the date such claim is brought, including any deductible portion therein, provided that neither the Consultant nor any of its employees, officers, agents, representatives nor Sub-Consultants has done anything to prejudice or impair the availability of such insurance.

In no event shall the Consultant be liable for any loss or damage occasioned by delays or other causes or circumstances beyond the Consultant's reasonable control.

9 Indemnity

Notwithstanding the provision of any insurance coverage by the Client, and subject to paragraph 8, the Consultant shall indemnify and save harmless the Client, its officers, employees, agents, successors, assigns, representatives, Contractors and Other Consultants from and against any losses, claims, damages, actions and causes of action, costs, expenses, judgments and proceedings arising out of or in connection with any error, or negligent or malicious act or omission, by the Consultant or any of its officers, agents, representatives, employees or Sub-Consultants, except to the proportionate extent of any contributing negligent or wrongful act or omission of the Client, or any of its officers, agents, representatives, employees, Contractors or Other Consultants. The terms and conditions, of this indemnity provision shall survive the completion of all Services and the termination of this Agreement for any reason.

10 Insurance

At the Consultant’s expense, provide and maintain any insurance that the Consultant is required to provide by law. The Consultant must provide satisfactory proof of insurance coverage to the Regional District upon request.

Comprehensive General Liability Insurance in an amount not less than two million dollars ($2,000,000.00) inclusive per occurrence against bodily injury and property damage. The Regional

District is to be added as an additional insured under this policy, is to be endorsed to provide the Regional District with 30 days advance written notice of cancellation or material change and include a cross liability clause.

Professional liability (errors and omissions) insurance coverage shall be maintained to a limit of not less than $250,000 per claim, $1,000,000 aggregate.

Automobile third party liability insurance in an amount not less than $2,000,000 inclusive per occurrence for bodily injury, death, and damage to property, covering all vehicles owned or leased by the Consultant.

The Consultant will responsible for paying any insurance deductibles.

11 Termination

Notwithstanding any other provision of this Agreement:

a) If the Consultant fails to comply with any provision of this Agreement, then, and in addition to any other remedy or remedies available to the Regional District, the Regional District may, at its option, terminate this Agreement immediately by giving written notice of termination to the Consultant.

b) Either Party may terminate this Agreement at any time upon giving the other Party seven (7) days' notice of such termination.

If either such option is exercised by the Regional District, the Regional District will be under no further obligation to the Consultant except to pay the Consultant such amount as the Consultant may be entitled to receive, pursuant to Schedule 'A', for services provided and expenses incurred to the date the said notice is given or delivered to the Consultant. The Consultant will refund to the Regional District any payment already made to the Consultant not yet earned.

12 Prior Dealings

All prior negotiations and agreements between the parties relating to the subject matter of this Agreement are superseded by this Agreement. There are no representations, warranties, understandings, or agreements other than those expressly set forth in the Agreement or subsequently agreed to in writing, which writing shall be executed by a duly authorized officer of the party to be bound thereby prior to the commencement of the work.

13 Waiver

The failure of either party at any time to require the other party's performance of any obligation under this Agreement shall not affect the right to require performance of that obligation in the future. Any waiver by either party of any such breach or any such provision hereof shall not be construed as a waiver or modification of this provision itself, or a waiver or modification of any other right under this Agreement.

14 Counterparts

This Agreement may be executed in counterparts with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

15 Dispute Resolution

If the parties to this Agreement are unable to agree on the interpretation or application of any provision in the Agreement, or are unable to resolve any other issue relating to this Agreement, the parties agree to the following process in the order it is set out:

a) the party initiating the process will send written notice to the other party (the "Dispute Notice"); and;
b) the parties will promptly, diligently and in good faith, including the senior management of both parties, take all reasonable measures to negotiate an acceptable resolution to the disagreement or dispute.
c) if the dispute is not resolved through collaborative negotiation within 30 Business Days of the dispute arising, the parties should then attempt to resolve the dispute through mediation under the rules of the Mediate BC Society and will be held in Nanaimo, BC. unless otherwise agreed.

16 Freedom of Information

The Consultant acknowledges and agrees that any Confidential Information disclosed by it to the RDN under this Agreement may be subject to a request for public disclosure under the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c.165, as amended from time to time.

17 Collection of Personal Information

Unless the Agreement otherwise specifies or the Regional District otherwise directs in writing, the Consultant may only collect or create Personal Information that is necessary for the performance of the Consultant's obligations, or the exercise of the Consultant's rights, under the Agreement.

Unless the Agreement otherwise specifies or the Regional District otherwise directs in writing, the Consultant must collect personal information directly from the individual the information is about.

Unless the Agreement otherwise specifies or the Regional District otherwise directs in writing, the Consultant must tell an individual from whom the Consultant collects personal information:

a) the purpose for collecting it;

b) the legal authority for collecting it; and

c) the title, business address and business telephone number of the person designated by the Regional District to answer questions about the Consultant's collection of personal information.

18 Governing Law

This Agreement is governed by and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

19 Worksafe BC Coverage

Prior to the commencement of the work, all employers with employees must be registered with WorkSafe BC and remittance up to date. Self-employed proprietors or partners in a partnership, must have Personal Optional Protection coverage.

20 Confidentiality

The Consultant shall not disclose any information, data or confidential information of the Regional District to any person, other than representatives of the Regional District duly designated for that purpose in writing by the Regional District and shall not use for its own purposes or for any purpose other than for the purpose of providing the Services any such information, data or confidential information it may acquire as a result of its engagement under this Agreement.

21 Delay in Performance

Neither the RDN nor the Consultant shall be deemed to be in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to abnormal weather conditions, flood, earthquake, fire, epidemic, pandemic, war, riot and other civil disturbance, strike, lockout, work slowdown and other labour disturbances, sabotage, judicial restraint and inability to procure permits, licenses or authorizations from any local, provincial or federal agency for any of the supplies, materials, accesses or services required to be provided by either the RDN or the Consultant under this Agreement. If any such circumstances occur, the non-performing party shall, as soon as possible after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

22 Miscellaneous

All provisions of this Agreement in favour of the Regional District and all rights and remedies of the Regional District, either at law or equity, will survive the expiration or sooner termination of this Agreement.

SIGNATORIES

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

For the Regional District of Nanaimo:

_____
Signature

_____
Printed Name, Title

For the Consultant, <Company Name or Consultant's Name>:

_____
Signature

_____
Printed Name, Title

REGIONAL DISTRICT OF NANAIMO

SCHEDULE 'A'
FEES & EXPENSES

Total compensation to be paid to the Consultant by the Regional District of Nanaimo shall not exceed a maximum of **$<Enter Amount>** in Canadian Dollars, unless pre-approved by the Regional District in writing This compensation includes all fees and expenses including GST. If the services are completed by the consultant at less cost than maximum amount, the Regional District shall be billed only for actual hours worked and actual expenses incurred. If the Consultant receives the Maximum Fee, but has yet to complete the Services, it shall continue to provide the Services until it has provided all the Services.

The Consultant shall submit invoices to the Regional District for Services performed monthly (the "billing period") during which the Services are performed under this Agreement; such invoices to be submitted as soon as practicable after each billing period. The invoice submitted for each billing period shall be clearly itemized to show the amount of work performed, the billing rates, the reimbursable expenses and the costs incurred to employ any subconsultants. Except for the amounts which the Regional District in good faith is disputing and except for invoices (or portions of invoices) in respect of which the Regional District has requested and not received supporting evidence, the Regional District shall pay invoices submitted to it for the Services within 30 days' receipt thereof.

SCHEDULE 'B'
SCOPE OF WORK

Enter/Attach RFP, Scope of Work, Deliverables and Timeframe