

20 AUG 2010

Fc 73-04-253

Agreement for Project Partners concerning the partnership for the implementation of the 'River Wye and Usk Exemplar' project.

Nature of the Agreement

Nothing in this Agreement will be construed as creating a legal partnership or joint venture. The Partners enter into this Agreement in good faith and in the spirit of co-operation in order to achieve common aims.

The Agreement is between

- (1) COUNTRYSIDE COUNCIL FOR WALES (CCW), whose address is Maes y Ffynnon, Penrhosgarnedd, Bangor, Gwynedd, LL57 2DW
- (2) WYE AND USK FOUNDATION (WUF) whose address is Dolgarreg, 29 North Road, Builth Wells, Powys, LD2 3DD
- (3) ENVIRONMENT AGENCY (EA) whose principal address is Rio House, Waterside Drive, Aztec West, Almondsbury, Bristol, BS32 4UD whose address for service is Rivers House, St Mellons Business Park, St Mellons, Cardiff, CF3 0EY

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A Definitions

“Agreement”	Means this Agreement
“The Project”	River Wye and Usk Exemplar Project
“Lead Partner”	Wye and Usk Foundation
“The Partners”	Countryside Council for Wales Environment Agency
“The Project Steering Group”	Dr Stephen Marsh-Smith – WUF Phil Stone – CCW David Jones Powell – Usk Owners Nick Brabner – WUF Norman Tyler – Wye Owners, CLA Richard Tyler – Powys CC Chris Charters – BOPA Canoe and ODCs (up to 4 reps) Dane Broomfield - EA (2 reps) Chris Res
“Contractor”	WUF

B Glossary

CCW	Countryside Council for Wales
WUF	Wye and Usk Foundation
EA	Environment Agency
ODCs	Outdoor Centres

1 Project Outline

See project specification in Annex 1.

2 Duration of the Agreement

2.1 This Agreement shall take effect on 23rd July 2007. It shall remain in force until 15th March 2008 unless further extended in accordance with paragraph 6.3.

3 Funding Arrangements

3.1 The Project will be funded by the funding partners to a total cost of £16,000 as follows:

CCW: £10,000

WUF £2,000 in kind

EA £4,000

3.2 Funding Partners will provide their contribution to the Project in accordance with the following schedule of payments:

December 1st 2007: CCW to make payment of £5000 and EA £4000

February 15th 2008: CCW to make payment of £5000

From Commencement WUF £2000 in Kind

4 Duties of the Partners

4.1 The objective of the Partners within this Project is to co-operate and foster the implementation of the Project. The Partners commit themselves to doing everything in their power to achieve the implementation and successful outcome of the Project.

4.2 Each Partner will implement the portion of the Project for which they are responsible.

4.3 No Partner shall be responsible to any other Partner (whether for breach of contract, negligence or otherwise) in respect of loss of profit, loss of revenue, or loss of contracts or for indirect or consequential loss or damages.

4.4 The aggregate liability of each Partner under or in connection with this Agreement (whether for breach of contract, negligence or otherwise) shall not exceed the total budgeted contribution of the Partner to the project of £10,000 for CCW £2000 for Wye and Usk Foundation and £4000 EA

4.5 Nothing contained in 4.3 or 4.4 above shall operate to exclude the liability of any Partner for death or of the personal injury caused by it's negligence.

4.6 Each Partner shall be responsible for the employment of all necessary personnel and the provision of all necessary accommodation, equipment and services.

- 4.7 Each Partner will accept the Project's budget and pledge to release their part of the co-funding and/or staff or other resources in accordance with the documents referred to in Section 3 above.
- 4.8 Each Partner undertakes to notify the Lead Partner of any event that is liable to prejudice or delay the performance of the Project as soon as possible and assist the Project Board/Steering Group in rapidly finding a workable solution.
- 4.9 Each Partner will appoint a representative to the Project Board/Steering Group.
- 4.10 Each Partner shall ensure the accuracy of any information it provides to any other Partner(s) for the purposes of the implementation of the Project and to notify any errors in any such information as soon as is practicable to the Partner(s) concerned. The Partner supplying the information shall be under no further obligation in respect of such error and no warranty, condition or representation of any kind is made, given or to be implied in any case as to the sufficiency, accuracy and rights of Third Parties by the use of such information. The Partner receiving that information shall in any case be responsible for the use it puts that information.
- 4.11 Each Partner shall retain all and any documentation required for the implementation of the Project or any other use identified by the Lead Partner for at least seven years following the completion of the Project.
- 4.12 Each Partner shall comply at its own expense with all relevant legislation pertinent to the implementation of the Project including without limitation all health and safety legislation, legislation under the Data Protection Act 1998 and the Freedom of Information Act 2005.
- 4.13 Each Partner shall be responsible for reporting any financial information required by the working Partner in the format of standard accounting procedures (see para 7.1).
- 4.14 Each Partner shall be responsible for the disbursement of all monies and the use of all funds as described in the Project Plan.

5 Duties of the Lead Partner

- 5.1 The duties of the Lead Partner comprise the administrative financial and Project Management functions. The Lead Partner will coordinate the delivery of all aspects of the Project.

6 Project Management

- 6.1 The Project will be overseen by a Project Board/Steering Group consisting of representatives from CCW, WUF and EA. Additional members eg specialists, may be co-opted to the Project Board/Steering Group as necessary with the joint approval of all Partners. (Contractors may attend these meetings but it is not desirable that they should be present at all meetings or for all agenda items).
- 6.2 The Project Board/Steering Group will meet as required for the purpose of reviewing the progress of the Project to date against set milestones or performance measures and to consider the future direction of the Project. All meetings will be formally minuted.

7 Administration

- 7.1 The Wye and Usk Foundation shall be responsible as Lead Partner for the financial arrangements relating to this Project. The Wye and Usk Foundation shall prepare Statements of Expenditure in accordance with standard accounting procedures.
- 7.2 Each Partner shall maintain proper records relating to the Project. All Partners shall reserve the right to request reasonable access to such documentation for the purposes of examining all records relating to the Project by appropriate staff.
- 7.3 The Project Board/Steering Group may appoint an auditor, with the approval of all Partners to this Agreement, for the purpose of certifying any matters determined by the Project Board/Steering Group.
- 7.4 Each Partner shall maintain an Inventory of any Capital item purchased for the purpose of implementing the Project and shall inform the Lead Partner and Project Board/Steering Group of any such purchase. All items so purchased shall remain the property of the purchasing Partner who will safeguard and maintain the item(s) in an appropriate manner.

8 Copyright and Freedom of Information

- 8.1 Ownership and copyright of any matter arising from this Project shall be deemed to be shared equally between all Partners to the Agreement in perpetuity. The use of such copyright material during the life of the Project by any Partner shall be agreed by the Project Board/Steering Group. Access to any copyright material shall include rights of access to the Project on reasonable request.
- 8.2 Dissemination of information, publicity and any results, together with acknowledgements relating to the Project, shall be determined and agreed by the project Board/Steering Group taking into account the provisions of paragraph 8.3 below.
- 8.3 CCW and EA, as Assembly Government Sponsored Bodies (AGSBs) are required to adhere to Freedom of Information legislation. There is therefore a presumption that information on any aspect of CCW or EA's work, including this Project, may be disclosed. The Project Board/Steering Group has the responsibility for identifying any aspect of this Project which may not be disclosed. The basis for any such decision must be recorded. CCW and EA will advise the Project Board/Steering Group of any requests for information identified for non-disclosure.

9 Insurance

- 9.1 Each Partner is advised to make provision to insure themselves against all damages incurred by sub contractors and other third parties caused by the implementation of the Project and also of this Agreement.
- 9.2 Each Partner including the Lead Partner (being the organisations not the individual representatives) shall be responsible for the work to be rendered by that Partner (and any sub contractors). Each Partner shall indemnify and hold harmless such other Partners against liabilities, damages and costs resulting from the non-compliance of

their performance, duties and obligations as described in this Agreement and its annexes.

10 Working Language

10.1 The working language of this Agreement shall be English

11 Governing Law

11.1 This Agreement will be governed by the law of England and Wales as it applies in Wales.

12 Entire Agreement

12.1 The Partners agree that this Agreement constitutes the entire contract between them and may not be varied except by written agreement in the form of Addendum to be signed by all Partners.

13 Notices

13.1 Any notice to this Agreement shall be sent in writing and be sufficiently served on any Partner at the address given above, or any other address stipulated in writing by the Partner. Notices shall be served by recorded delivery in an envelope marked with the Project name. Any change in domicile shall be forwarded to the Lead Partner within 15 days following the change of address, by registered mail.

14 Nullity

14.1 Should one of the provisions of the Agreement be declared null or void in the law governing this Agreement, this shall not render the remaining provisions null and void.

14.2 The fact that one of the Partners does not demand application of one of the provisions of the Agreement does not imply that this Partner waives such provision.

15 Lapse of Time

15.1 Legal proceedings concerning any issue from this Agreement may not be lodged before the courts more than three years after the facts giving rise to the claim or after the Partner making the claim first became aware of the facts giving rise to the claim. In the event of legal proceedings concerning a claim to refund funds, a period of three years following the last transfer shall be applied.

16 Force Majeure

16.1 No Partner shall be held liable for not complying with obligations ensuing from this Agreement should the non-compliance be caused by force majeure. All events or circumstances outside the reasonable control of the Partners and that impede the implementation of the Agreement shall be deemed to constitute force majeure.

16.2 If such a case arises, the Partner involved should notify the Lead Partner and/or Project Manager immediately in writing. In turn the Lead Partner and/or Project Manager will inform other Partners in writing as soon as is practicable.

17 Legal Succession

17.1 In cases of legal succession (eg where the Lead Partner changes its legal form) the Lead Partner is obliged to transfer all duties under this Agreement to the legal successor.

18 Procurement

18.1 All Partners should adhere to their own procurement procedures that meet or exceed the requirements specified under EC Procurement Directives.

18.2 Partners may not tender for any aspect of the Project as they may have an unfair advantage from their position within the Project. Partners may undertake work for other Partners in connection with the implementation of the Project provided that they are reimbursed at cost only ie not for profit. Such costs may be subject to scrutiny by an auditor at the request of the Project Board/Steering Group or Lead Partner.

19 Assignment

19.1 No Partner shall assign or transfer any interest in this Agreement without prior written joint agreement by all other Partners.

20 Non fulfilment of obligations or delay

20.1 Further to the provisions of paragraph 4.8, should one of the Partners be in default of its obligations, the Project Board/Steering Group (acting by a simple majority of the Partners other than the defaulting Partner) may require the defaulting Partner to remedy the default within a reasonable period of time.

20.2 Should the default not be remedied within the time specified as above, the Lead Partner may decide with two thirds majority of remaining members of the Project Board/Steering Group to debar the defaulting partner from the Project.

20.3 The debarred Partner may be required to refund Project monies to the Lead Partner if they cannot provide that they have been used for the implementation of the Project.

20.4 In cases where the non-fulfilment of a Partner's obligation has financial implications for the funding of the project as a whole, the Lead Partner may demand compensation to cover the sum involved.

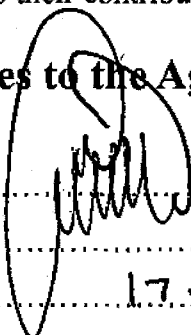
21 Arbitration

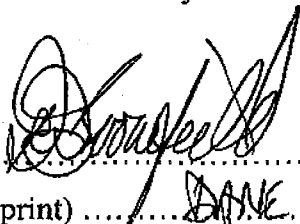
21.1 Any dispute or difference arising from interpretation of the terms of this Agreement shall, at the option of any aggrieved Partner, be referred to the arbitration of a single arbitrator to be agreed upon by all Partners. Failing any such agreement an arbitrator shall be selected by a mutually acceptable institution.

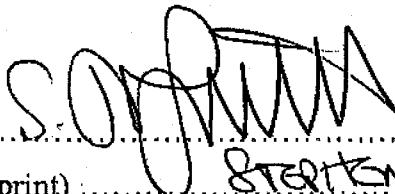
22 Termination

- 22.1 Any Partner to this Agreement may give 1 month's notice in writing of an intention to withdraw from the Agreement to the Lead Partner, giving a full explanation for the reasons for termination.
- 22.2 The remaining Partners will consider the impact of the withdrawal of the terminating Partner and decide upon appropriate action to maintain implementation of the Project.
- 22.3 The remaining Partners will not be required to take on the responsibility or financial liability of a withdrawing Partner. Should the remaining Partners choose to increase their contribution, financial or otherwise, then this will be reflected in an Addendum to the Agreement, signed by all remaining Partners.
- 22.4 If the withdrawal of a Partner effectively terminates the Project, all funding Partners shall be reimbursed any share of contributions unspent at the point of termination in proportion to their contribution.

23 Signatures to the Agreement

Signed: 
Name (please print) Mark Gaddard
Date 17.10.07
Organisation Countryside Council for Wales

Signed: 
Name (please print) DANE Bloomfield
Date 21/10/07
Organisation Environment Agency

Signed: 
Name (please print) STEVEN MARYHON
Date 26/10/07
Organisation Wye and Usk Foundation

WATER-BASED RECREATION WYE AND USK EXEMPLAR PROJECT: DRAFT PROJECT BRIEF

1. Background

The Countryside Council for Wales has been requested by the Welsh Assembly Government (WAG) to fund the development and delivery of exemplar projects that provide opportunities for water-based recreation in Wales. The project work is to be implemented during 2007/08, and will need to be completed by March 2008.

The Wye and Usk Project could be split into the following sections:

- 1) Llanwrthwl Bridge – Builth Wells
- 2) Builth Wells – Glasbury
- 3) Glasbury – Hay on Wye
- 4) River Usk, Brecon - Crickhowell

2. Aim and Objectives

The overall aim of the project is to pilot methods of facilitating opportunities for water-based recreation.

In order to achieve this aim, the following objectives will be delivered:

- Contact all relevant riparian landowners, and set up database.
- Contact local and other appropriate Outdoor Centres, activity providers and canoeing groups and include in database.
- Organise meetings of riparian owners and fishing groups.
- Organise meetings with outdoor centres, activity providers and canoeing groups
- Determine site-specific appropriate river levels and seasons for canoeing, that ensure that the environment is sufficiently protected
- Develop the use of river level data as a management and publicity tool, both on-site and via real-time mobile technologies (website), based on a 'traffic light' system. Liaise with the Environment Agency to ensure that river level data and mobile technologies are compatible with those developed by other exemplar projects in Wales.
- Make available via the website, appropriately annotated maps detailing each section of the river.
- Review the requirements, in terms of facilities and information, for a range of different water-based activities, and of different types of users (for example families, experts)

- Identify any new infrastructure requirements (signage, access and egress points, parking,) as required.
- Investigate and encourage the development of opportunities for small-scale local businesses in relation to the provision of associated services (for example: accommodation)
- Evaluate the impact of the pilot on: extent of opportunities provided; levels of use; behaviour of users; capacity (of the river and facilities); environmental quality; commercial and economic benefits.
- Make the arrangements as simple but at the same time workable as possible!

3. Project Scope

The selected area has to be sufficiently diverse to enable the above objectives to be piloted. Secondly, the budget and timescale have to be taken into consideration in order to ensure that the pilot is deliverable. In relation to these points, the Wye and Usk has been selected, on the basis that it:

- Provides a range of different landownership.
- Offers potential opportunities for Kayaking, Canoeing and rafting by people of varying abilities from white water to flat water.
- The whole river is has been designated as a SSSI and SAC.
- Has a range of existing uses, including angling, canoeing and rafting.

4. Outcomes

The following outcomes will be delivered:

- An increase in opportunities for Kayaking, Canoeing and Rafting
- A robust management system that can be replicated on other sites
- An evaluation report on the process and impacts, that can be used to inform other public and voluntary bodies along with private sector landowners
- Guidance on implementation that can be used to inform the delivery of opportunities identified in the Environment Agency Wales' Strategic Plan for Water-based Sport and Recreation
- An agreement accepted by users, based on river levels and environmental consideration and a notion of shared usage.
- A website indicating up to date access information and data on daily river levels

5. Next Steps

At this initial stage the following next steps are required:

- Establish a working group to advise and oversee the delivery of the project
- Determine a project timescale, with key milestones
- Allocate the budget

FINANCIAL COSTS**EXPENDITURE**

DESCRIPTION OF ITEMS	EA CONTRIBUTION Amount in £	WUF CONTRIBUTION Amount in £	CCW Contribution. Amount in £
<i>Description of what the money is for</i>	4000		
Setting up of database, development of river level 'traffic light system' and development of website information			10000
Benefits in kind :Wye and Usk Foundation (WUF)		2000	
Staff Time			
TOTAL	4000	2000	10000

INCOME PROFILE

PARTIES TO AGREEMENT	CONTRIBUTION IN FINANCIAL YEARS		
	2007/08	2008/09	Future
CCW	5000 (1/12/07)	5000 (15/2/08)	
EA	4000 (1/12/07)		
WUF	2000		