

Change to Walking

Funding Agreement

2016 Terms & Conditions

TERMS & CONDITIONS: Change to Walking Program

As of 15 April 2016

These Terms and Conditions apply to the 2016 *Change to Walking* Program (Grant Funding) that is being administered by Victoria Walks, with the support of the Victorian Health Promotion Foundation (VicHealth).

By submitting an expression of interest for a *Change to Walking* grant, You agree to be bound by these Terms and Conditions. In the event of any conflict between any terms referred to in any promotional and/or marketing materials and these Terms and Conditions, these Terms and Conditions take precedence.

Parties

Victoria Walks® Inc. (A0052693U) of Level 7, 225 Bourke Street, Melbourne 3000 (“**Victoria Walks**”) (ABN: 884 1942 0305) is the administrator of this Funding Agreement. The party identified as the “Funding Recipient” in Schedule 1 is referred to as “**You**” and “**Your**”.

The Grant Funding and eligibility requirements

1. The Grant Funding is administered by Victoria Walks in accordance with these Terms and Conditions.
2. Expression of Interests for Grant Funding can be lodged from Monday 18 April to Friday 6 May 2016, and all Expression of Interests must be received by Victoria Walks by 3:00pm Eastern Standard Time on the closing date of 6 May 2016.
3. Details of the Grant Funding and all relevant forms, except for the Monitoring and Evaluation Plan, are available on the Victoria Walks website at www.victoriawalks.org.au. You must request, receive and review a copy of the Monitoring and Evaluation Plan from Victoria Walks prior to submitting an Expression of Interest. By participating in this Grant Funding, You agree to act in accordance with:
 - a) These Terms and Conditions; and
 - b) The [Terms and Conditions](#) of the Victoria Walks website.

Eligibility to apply for Funding

4. Victoria Walks provides Funding to Victorian local councils to trial the application of nudge-style behaviour change interventions to support more people walking for local trips.
5. More information about the Grant Funding objectives and Assessment Criteria can be found in the Program Guidelines.
6. Victoria Walks will not Fund an organisation if:
 - a) the organisation operates outside Victoria; and
 - b) the organisation is not classified as a Local Government Authority; and

c) the organisation is a recipient of financial support from tobacco companies.

Submitting an Expression of Interest

7. To participate in the Grant Funding, You must complete the Expression of Interest Form which can be found and downloaded at [Change to Walking](#). You may participate in the Grant Funding Expression of Interest process at any time between Monday 18 April 2016 and the closing date at 3:00pm Eastern Standard Time on Friday 6 May 2016. Late entries will not be accepted.
8. Victoria Walks will only accept Expression of Interests completed on the Expression of Interest Form and sent by email to projects@victoriawalks.org.au in accordance with Clause 7 above.
9. By submitting an Expression of Interest, You warrant that You are an authorised representative with the authority to bind Your organisation to these Terms and Conditions.
10. As part of the Expression of Interest, You are required to provide Victoria Walks with Your ABN.
11. You agree to pay Your own costs in relation to Your Expression of Interest, including but not limited by:
 - a) completing Your Expression of Interest Form and any other associated documents;
 - b) complying with these Terms and Conditions and Program Guidelines; and
 - c) attending to any other matter in relation to Your Expression of Interest.

Assessment of Expression of Interests

12. All valid Expression of Interests will be assessed by Victoria Walks starting the week beginning Monday 9 May 2016.
13. Victoria Walks will:
 - a) assess all Expression of Interests against the Assessment Criteria;
 - b) chair an Assessment Panel of invited representatives to review and assess a short-list of Expressions of Interest; and
 - c) with direction from the Assessment Panel, select the Successful Expression of Interests.
14. In assessing the Expression of Interests, Victoria Walks and the Assessment Panel may:
 - a) consider any Expression of Interest, including any Submission, or any other matter; and
 - b) place any weight on the Assessment Criteria as it sees fit.

Assessment Criteria

15. The assessment of Expression of Interests (including any Submission) will be made against the following Assessment Criteria:

- a) A clearly defined and specific walking behaviour outcome that responds to a specific local area problem or opportunity.
- b) A clear intervention concept, which applies a behaviour insights model, to achieve the specific walking behaviour/s outcome.
- c) Engagement
Proposed engagement (and existing where applicable) with the specific target participants to help in shaping and delivering an appropriate and effective intervention.
- d) Capacity to deliver, realistic budget and timeline
Capacity and commitment by all project partners to deliver the project, including skills, experience and available time to undertake the project. This includes participating in the scoping workshop in late June. Realistic budget and timeline to support delivery of an effective intervention.
- e) Commitment to and capacity to undertake evaluation
Commitment to work in collaboration with Victoria Walks to implement council's components of the evaluation plan. Demonstrated capacity to deliver the MEP (internal resources) based on your proposed project.
- f) Council and/or partner contributions
Level of financial and/or in-kind support your council can bring to the project. This is not compulsory.

16. You acknowledge and accept that Victoria Walks and the Assessment Panel may allocate different weightings to this Assessment Criteria in its assessment of Expression of Interests and any decision to do so is at the sole discretion of Victoria Walks.

Announcement of Successful Organisations

17. Victoria Walks will notify the successful council(s) via the email address provided by You in the Change to Walking Expression of Interest Form by Friday 27 May 2016.

18. Any decision by Victoria Walks to select a successful council or the amount of Funding to be provided to a successful organisation will be at the sole discretion of Victoria Walks.

Provision of Funding to Successful Organisation(s)

19. If You are a successful organisation, Victoria Walks will provide You with Funds to be used towards the Grant Funding in accordance with these Terms and Conditions.

20. Victoria Walks is not under any obligation to provide any successful organisations with *Change to Walking Funds* until the signing of the funding contract by You that must be returned to Victoria Walks prior to release of funds.

21. The award of the Funding may be subject to additional terms and conditions that Victoria Walks may specify in the contractual agreement, including agreed milestone payments for the Funds.
22. Payment of the Funds shall be made electronically to the successful grant recipients' nominated bank account.
23. Victoria Walks will agree milestone payments in relation to the Funding. Councils will be required to invoice Victoria Walks following completion of agreed milestones.
24. Funding may be withheld by Victoria Walks if You do not deliver on agreed milestones, or You do not make reasonable efforts to review the milestone in discussion with and agreement from Victoria Walks.
25. The Funding must be expended by You only for the purposes of carrying out the Grant Funding in accordance with these Terms and Conditions. If, at any time there remains an amount of the Funding that has not been expended in accordance with these Terms and Conditions to Victoria Walks' satisfaction, Victoria Walks may request that You refund all or part of the Funding, as directed by Victoria Walks.
26. You must notify Victoria Walks of any unspent Funds as soon as practicable following the completion of the Grant Funding. At its discretion, Victoria Walks may request the return of the unspent Funds, which You must return to Victoria Walks within 30 days of that request.

Victoria Walks' Decisions Are Final

27. For the avoidance of doubt, any decision by Victoria Walks on any matter in relation to the Grant Funding is final and is not subject to review. This includes a decision by Victoria Walks to:
 - a) Accept an Expression of Interest;
 - b) Determine which organisation will be a successful organisation or the number of successful organisations; and
 - c) Determine the amount of any Funding.
28. You acknowledge and agree that Victoria Walks is under no obligation to discuss or provide feedback to You in relation to an Expression of Interest or other information You have submitted related to the 2016 Change to Walking Grants Program.
29. You also acknowledge and accept that Victoria Walks may not enter into any correspondence with You unless Your Expression of Interest is successful.

Financial Records and Reports

30. You must keep full and accurate Records in relation to the Grant Funding, including, but not limited to, the receipt and expenditure of the Funds, the creation of Submissions and

otherwise as required by law. You must retain such Records for a period of at least 7 years following the completion of the Grant Funding.

31. Victoria Walks may request that within 30 days of completion of the Grant Funding, You complete and return a Certified Financial Acquittal relating to the expenditure of the Funds. Certified Financial Acquittals must identify the Funds provided to You for the Grant Funding and the balance of the Funds on completion of the Grant Funding. The form and structure of the Certified Financial Acquittal will be provided to You if requested by Victoria Walks.
32. A Certified Financial Acquittal, if requested, must be signed by a person in senior management authorised to sign financial documents for Your organisation who must certify that:
 - a) the statement is a true and fair representation of transactions relating to the Funds;
 - b) the Funds were received and expended solely for the purposes of the Grant Making; and
 - c) these Terms and Conditions have been complied with.
33. Victoria Walks may undertake an evaluation of the Grant Funding at any time. You must allow Victoria Walks and its auditor's access to Your Records, Your premises and any other information Victoria Walks may require in order to allow Victoria Walks to audit Your performance of Your obligations under these Terms and Conditions. For the avoidance of doubt, each party will bear its own costs of conducting or participating in an audit under Clause 34.
34. If an audit under Clause 34 reveals that You have failed to comply with any of Your obligations under these Terms and Conditions, You must immediately take such actions as necessary to promptly remedy such non-compliance. You must comply with any reasonable directions or instructions from Victoria Walks as to the manner (including timing) in which such non-compliance must be remedied.
35. At Victoria Walks' request, You must - at Your own cost - cooperate with and assist Victoria Walks in connection with:
 - a) any enquiry or investigation by a government authority, including the Auditor-General; and
 - b) any request made to Victoria Walks concerning the Grant Making or the Funding under the Freedom of Information Act 1982 (Vic).

Change of Contact Information

36. If there is a change to any contact information, You must notify Victoria Walks as soon as practicable following that change and give Victoria Walks the relevant details of that change.

Tobacco Products and Promotion

37. You acknowledge that VicHealth has contracted Victoria Walks to administer the Change to Walking Grants Program and that VicHealth is established under the Tobacco Act 1987 (Vic) and has certain objectives and functions set by that Act.

38. You will not endorse, promote, sponsor or otherwise be affiliated with tobacco, smoking or tobacco related products in relation to any activity that You undertake in connection with the Grant Funding.
39. You must not receive any funding, sponsorship or any other kind of endorsement from any person or organisation involved in or affiliated with the production, manufacture or marketing of tobacco, smoking or tobacco related products.

Communications and acknowledgement

40. You must be willing to apply behavioural insights techniques in relevant communications and to maximise the effectiveness of those communications, as determined by Victoria Walks, they may need to be exempted from Your usual style and communications guide requirements, including corporate branding.
41. Except where it is agreed otherwise to maximise the effectiveness of behaviour change communications, You must acknowledge Victoria Walks and VicHealth's contribution of Funding to the Grant Funding:
 - a) in all public announcements concerning receipt of the Grant Funding or the outcomes of that Grant Funding;
 - b) in all documents, materials, reports and other items relating to the Grant Funding, as agreed with Victoria Walks, and to the outcomes of that Grant Funding;
 - c) at all events (including any lectures) relating to or organised in connection with the outcomes of that Grant Funding;
 - d) as otherwise directed by Victoria Walks and/or VicHealth; and
 - e) include a written acknowledgement of the Funding by Victoria Walks and VicHealth, along with the Victoria Walks branding and VicHealth Trade Marks in all publications, newsletters and other materials relating to the outcomes of the Grant Funding, or as directed by Victoria Walks and/or VicHealth.
42. Victoria Walks and VicHealth grants You a non-exclusive, non-transferable, royalty-free licence to use the Victoria Walks branding and VicHealth Trade Marks for the purpose of acknowledging Victoria Walks and VicHealth's provision of Funding in accordance with clause
43. Victoria Walks and VicHealth may, from time to time, provide You with guidelines as to how We wish the Victoria Walks branding and/or VicHealth Trade Marks to be used and You must comply with those guidelines.
44. You must not:
 - a) use the Victoria Walks branding and VicHealth Trade Marks other than to acknowledge Victoria Walks and VicHealth's contribution to the Grant Funding or as otherwise agreed by Victoria Walks and/or VicHealth in writing;
 - b) authorise any other party to use the Victoria Walks branding and VicHealth Trade Marks without Victoria Walks' and/or VicHealth's prior written consent;

- c) use any of the Victoria Walks branding and VicHealth Trade Marks or any substantially identical or deceptively similar mark as part of any corporate or business name without Victoria Walks' and/or VicHealth's prior written consent;
- d) do any of the things specified in section 26(1) of the *Trade Marks Act 1995 (Cth)*, except as expressly permitted under these Terms and Conditions or with the prior written consent of Victoria Walks and/or VicHealth.

45. You must only use the Victoria Walks branding and VicHealth Trade Marks in a manner that enhances Victoria Walks and VicHealth's credibility and reputation.

Warranties

46. By participating in this Grant Funding, You represent and warrant that:

- a) You have obtained all rights, licences, and permissions necessary, in writing, from any person who may have helped create Your Expression of Interest and any Submissions submitted as part of this Grant Funding; and
- b) Your Expression of Interest and any Submissions lodged with Victoria Walks as part of this Grant Funding complies with these Terms and Conditions (and any applicable third party terms and conditions), and:
 - i. is Your original work;
 - ii. has not previously been submitted in any third party promotion, competition or event;
 - iii. does not contain any use of the names, likenesses, photographs, or other identifying elements, in whole or in part, of any person, living or dead, without permission of the relevant person or their parent or legal guardian using the relevant consent form available on the Victoria Walks Website;
 - iv. does not include trademarks, logos, or copyright protected material which belong to third parties unless You have permission from the owner to use the same in Your entry (including, but not limited to company names, music, photographs, motion picture or television programme clips or audio tracks, works of art, or images published on or in websites, television, movies, or other media);
 - v. is not subject to any third party agreements, and Victoria Walks and VicHealth will not be required to pay any licence fees, royalties or other sums to any person or entity as a result of using the Expression of Interest and/or any Submissions in accordance with these Terms and Conditions;
 - vi. does not defame, misrepresent, or contain disparaging remarks or any other content which could adversely affect the name, reputation or goodwill of Victoria Walks and VicHealth or any other individuals and/or entities, the determination of which shall remain in the sole discretion of Victoria Walks and VicHealth;
 - vii. does not contain pornographic or sexual content, hateful or offensive content, content which promotes violence or harm to another living creature or any other offensive, obscene or inappropriate content, the determination of which shall remain in the sole discretion of Victoria Walks and VicHealth;

- viii. does not include threats of any kind or that intimidate, harass or bully anyone, or invade the privacy of any person, the determination of which shall remain in the sole discretion of Victoria Walks and VicHealth;
- ix. does not violate any applicable laws or include any content that may encourage or provide instructions for a criminal offence;
- x. does not feature, refer to, or mention any brands competing with of Victoria Walks and VicHealth; and
- xi. along with any electronic method of communication used to submit information to Victoria Walks and VicHealth, does not contain any known virus, trojan horse, worm, trapdoor or similar software that may in any way infect or affect any of Victoria Walks and VicHealth (or a third party's) hardware or software systems.

Right to remove or reject organisations

47. Victoria Walks reserves the right to remove or reject from the Grant Funding any organisation that has entered into the Grant Funding process if:
- a) Victoria Walks decides not to select the organisation's Expression of Interest following an assessment of the Expression of Interest against the Assessment Criteria;
 - b) the organisation's Submission is illegible, incomplete or fraudulent or does not comply with these Terms and Conditions;
 - c) the organisation has breached these Terms and Conditions or Victoria Walks suspects that the organisation has breached these Terms and Conditions;
 - d) Victoria Walks receives a complaint about the organisation from a third party in relation to a Submission or any matter relating to this Grant Funding;
 - e) the organisation has tampered with the operation of the Submission , has engaged in cheating, hacking, deception or any other unfair practices such as intending to annoy, abuse, threaten or harass any other organisations or Victoria Walks and/or any of its agents or representatives, or Victoria Walks suspects, on reasonable grounds, that the organisation has done so;
 - f) the organisation submitting the Expression of Interest does any act or does anything that is contrary to prevailing community standards, or is otherwise regarded by the public as unacceptable; or
 - g) Victoria Walks otherwise thinks it is appropriate to do so.

Intellectual Property

48. Subject to Clauses 49 to 51, You will retain all copyright and any other intellectual property rights in the Submission.
49. By submitting any Expression of Interest or other Submission as part of the Grant Funding, You grant to Victoria Walks and VicHealth a worldwide, exclusive, transferable, royalty-free, perpetual, irrevocable license (including a right to sub-license) to use, reproduce, distribute, adapt (including without limitation edit, modify, translate and reformat), derive, transmit, publish, communicate, display and perform (publicly or otherwise), the Submission for the

purpose of evaluating the Submission, and for Victoria Walks' and VicHealth's marketing, advertising and/or promotional activities, which may include, but is not limited to, using, publishing or communicating the Submission on a website, social media or other digital media.

50. You hereby represent and warrant that You have all permissions necessary to grant the rights provided for in Clause 49 and that any use of such Submissions by, or on behalf of, Victoria Walks and VicHealth shall comply with all applicable laws, rules, and regulations and not infringe or otherwise violate the intellectual property, moral rights or other rights of any third party.
51. By participating in the Grant Funding, You accept and agree that you waive any moral rights you may have in relation to any Submission you submit, and that Victoria Walks and VicHealth may use any names, photographs or video footage featured in the Submission in its publicity materials without any obligation for Victoria Walks and VicHealth to provide acknowledgment, payment or other compensation to You. This includes making such names and photographs available for internal business purposes, on the Victoria Walks and VicHealth Websites, the Funding Webpages and other advertising and promotional materials.

Confidentiality

52. Confidential Information disclosed by Victoria Walks and/or VicHealth to You during the Grant Funding must only be used for the express purpose for which it was disclosed. You agree to keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or programs which are of a confidential nature and have been disclosed by Victoria Walks and/or VicHealth to You. You must not, without the prior written consent of Victoria Walks and/or VicHealth, use or disclose the Confidential Information, or permit such Confidential Information to be used or disclosed by any third party, except:
- a) where it is necessary for the purposes of the project and has been checked with Victoria Walks;
 - b) where You have obtained the prior written permission from Victoria Walks and/or VicHealth;
 - c) to Your officer's agents, professional advisers, employees, contractors and insurers, subject to those persons first being bound by confidentiality obligations in relation to that Confidential Information.

Privacy

53. In administering this Grant Funding, Victoria Walks will collect personal information, including without limitation, the names and contact details of persons applying for a Grant Funding.
54. Any personal information collected by Victoria Walks in administering the Grant Funding will be managed in accordance with the *Information Privacy Principles (IPPs)*, the *Privacy and Data Protection Act 2014 (Vic)* and Victoria Walks' [Privacy Statement](#).

55. You acknowledge and accept that personal information will be shared with Victoria Walks and/or VicHealth's employees, agents and sub-contractors to the extent necessary for the Grant Funding to be delivered and for Victoria Walks' and VicHealth's promotional purposes.

Consent Forms

56. If You are a successful organisation, You must obtain:

- a) Privacy and moral rights consents from all individuals appearing in photographs and/or video footage provided, or their parents or legal guardians (where applicable); and
- b) A copyright licence from all individuals or legal entities contributing intellectual property to Your photograph and/or video footage.

Indemnity

57. By participating in this Grant Funding, You will indemnify and hold Victoria Walks and VicHealth and its officers, employees and agents harmless against any loss, liability, or injury arising out of, or in connection with, this Grant Funding including without limitation:

- a) any breach of these Terms and Conditions and the Terms and Conditions on the Victoria Walks Website;
- b) any warranty given by You under these Terms and Conditions being incorrect or misleading in any way;
- c) any breach of confidentiality or breach of privacy by You;
- d) any infringement of a third party's intellectual property rights;
- e) any defamatory statement;
- f) any unlawful activity;
- g) any negligent act or failure to act by You; and
- h) anything else which causes loss, liability, or injury.

58. You shall for the duration of the Grant Funding, and for 7 years following completion of the Grant Funding, maintain public liability insurance of at least \$10,000,000 per event from a reputable insurer (when applicable).

Modification, Cancellation or Suspension of this Funding

59. Victoria Walks reserves the right, at any time and in its sole discretion, to:

- a) alter the structure and/or timing of the Grant Funding;
- b) vary or extend any time or date specified in these Terms and Conditions;
- c) require additional information or clarification from an organisation submitting an Expression of Interest;
- d) modify, cancel, terminate or suspend this Grant Funding in whole or in part; and
- e) will not be liable for any costs or expenses incurred by You or any other person as a result of exercising any of its rights in accordance with this Clause.

60. If Victoria Walks exercises any of its rights outlined in clause 59, Victoria Walks will notify You in writing.

Disclaimer

61. Victoria Walks is not responsible and disclaims all liability for any condition, circumstances, losses, failures or delays caused by events beyond its control.
62. To the maximum extent permitted by law, Victoria Walks and its officers, employees and agents assume no responsibility for any damage, loss, costs, expenses (including special, indirect or consequential losses, or loss of profits) arising out of, or in connection with, this Grant Funding including without limitation to:
- a) any technical, hardware or software failures, lost, faulty or unavailable network connections or difficulties of any kind that may limit or prohibit your ability to participate in the Grant Funding;
 - b) any lost, damaged, defaced, incomplete, illegible or otherwise unreadable Submission;
 - c) any unauthorised access to, or theft, destruction or alteration of any Submission at any point in the operation of this Grant Funding;
 - d) any infringement of third party's intellectual property rights, breach of confidentiality or breach of privacy or other action which arises as a result of:
 - i. Your Submission; or
 - ii. Victoria Walks and/or VicHealth's use or disclosure of a Submission in accordance with these Terms and Conditions; or
 - iii. any defamatory statement; or
 - iv. any unlawful activity by any person; or
 - v. any breach by You of any third party terms and conditions; or
 - vi. any breach of these Terms and Conditions by You or any misleading warranty provided by You; or
 - vii. anything else which causes loss, liability, or injury.
63. By participating in this Grant Funding, You voluntarily and knowingly release, discharge and relinquish any and all claims, actions and lawsuits of any kind against Victoria Walks and VicHealth and agree that no claim relating to any loss or injury arising as a result of any of the above shall be made against Victoria Walks and VicHealth.

Governing Law

64. These Terms and Conditions are governed by, and are to be construed in accordance with, the laws applicable in Victoria and You irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Victoria. You waive any right to object to any proceedings being brought in those courts.

Definitions

“Expression of Interest” means an Expression of Interest made by a Victorian council to secure a *Change to Walking Grant* from Victoria Walks;

“Assessment Criteria” means the selection criteria set out in clause 15;

“Assessment Panel” means representatives invited by Victoria Walks to participate in the assessment of Expressions of Interest and selection of Successful Expressions of Interest;

“Award and Acceptance Email” means the notification and award of a Grant to Successful Organisation/s;

“Certified Financial Acquittal” means a financial statement provided by Victoria Walks to Successful Organisations in accordance with clauses 31 and 32;

“Funding or Funds” means the amount of funding provided by Victoria Walks to Successful Organisations to deliver the Grant;

“Program Guidelines” means the Victoria Walks *Change to Walking Program Guidelines* available at www.victoriawalks.org.au/change-to-walking/

“Funding Webpage” means the webpage on the Victoria Walks Website at www.victoriawalks.org.au/change-to-walking/

“Grant Funding” means Victoria Walks’ 2016 *Change to Walking Grants Program*, which is administered by Victoria Walks on the Victoria Walks Website at www.victoriawalks.org.au/change-to-walking/

“GST” has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

“Records” includes documents, information and data stored by any means, including records of accounts, and all copies and extracts of the same;

“Submission” means completion and lodgement of the Expression of Interest Form and any other tangible or intangible works provided by You to Victoria Walks as part of the 2016 *Change to Walking Grants Program*;

“Successful Expression of Interest” means an Expression of Interest that is selected by Victoria Walks pursuant to Clause 20 which will result in Victoria Walks providing a grant to a successful organisation to deliver the Grant Funding;

“Successful Organisation” means an organisation whose Expression of Interest is selected by Victoria Walks to be the recipient of a 2016 *Change to Walking grant*;

“Trade Marks” means the VicHealth branding;

“VicHealth” means the Victorian Health Promotion Foundation, a statutory authority established pursuant to The Tobacco Act 1987 (Vic), ABN 20734406352 of 15-31 Pelham Street, Carlton 3053;

“VicHealth Website” means the VicHealth website at www.vichealth.vic.gov.au

“Victoria Walks” means Victoria Walks® Inc. (A0052693U), the independent walking health charity organisation established by VicHealth in 2009 to increase the number of Victorians walking located at Level 7, 225 Bourke Street, Melbourne 3000 (ABN: 884 1942 0305);

“Victoria Walks Branding” means the Victoria Walks logo and other promotional material produced by Victoria Walks;

“Victoria Walks Website” means the Victoria Walks website at www.victoriawalks.org.au

“You, Your” means the organisation who has submitted an Expression of Interest.