



Grant agreement

Details and recitals

Dated: day of 2022

Parties

Name	Hobart City Council ABN 39 055 343 428
Short form name	Council
Notice details	50 Macquarie Street, Hobart, Tasmania, Australia 7000 GPO Box 503, Hobart, Tasmania, Australia 7001 Email: ecdev@hobartcity.com.au Attention: Nick Andrew, Manager – City Economy

Name	Business Events Tasmania 33 009 589 584
Short form name	Recipient
Notice details	5/39 Murray Street Hobart 7000 Email: mcraig@betasmania.com.au Attention: Marnie Craig - CEO

Recitals:

- a. The Council has agreed to provide a monetary grant to the Recipient upon the terms and conditions set out in this Agreement.
- b. The Recipient has agreed to accept the Grant on the terms and conditions set out in this Agreement.

Schedule 1

Item 1	Approved Purpose for which the Grant is provided
	The Approved Purpose is to provide funding support to the Recipient to secure and strategically market Business Events to be held in the Hobart Local Government Area (here in referred to as LGA) and to increase the visibility to conference organisers both nationally and internationally as a business events destination, with a secondary focus on pre and post event tours and activities to the benefit of the Hobart business community.
Item 2	Grant Amount
	The amount of the grant is \$114,932 (excluding GST).
Item 3	Payment method for the Grant
	<p>The Grant is to be paid to the Recipient in one instalment within fourteen (14) days from the receipt of a Tax Invoice to the Council or from the preparation of a Recipient Created Tax Invoice (RCTI).</p> <p>The Grant is to be paid by Electronic Funds Transfers (EFT) to the bank account specified on the tax invoice or on the Method of Payment Form annexed and marked with the letter "B" ("Method of Payment Form").</p>
Item 4	Conditions precedent to payment of the Grant
	<p>It is a condition precedent to the payment of the Grant that the Recipient provide to the Council:</p> <p>4.1 a suitable Tax Invoice or a completed Method of Payment Form</p> <p>4.2 A list of existing and/or proposed business events scheduled so far for the next 12 months from the date of this agreement.</p>
Item 5	Date for commencement of the Approved Purpose
	Upon full execution of this agreement.
Item 6	Date for completion of the Approved Purpose
	12 months from full execution of this agreement.
Item 7	Reporting and Key Performance Indicator requirements
	<p>The Recipient must provide:</p> <p>Due Six months from the full execution date of this agreement, A Six Month Summary Report that includes numbers for any confirmed events, plus:</p> <p>7.1 An updated list of booked business events scheduled to be held in the Hobart LGA, that includes:</p>

Item 7	Reporting and Key Performance Indicator requirements
	<p>7.1.1 Note any proposed or recommended pre/post event touring destinations located within the Hobart LGA</p> <p>7.1.2 noting the representative sector of each event</p> <p>7.1.3 delegate numbers and source regions (where possible), e.g. local, interstate or international</p> <p>7.1.4 progress towards meeting the following KPIs:</p> <p>a) Secure at least 10 strategically important conferences linking to topics or research, aligned to strategically important Council interest areas. These include but are not limited to International Education; Science, Tourism, Retail, Maritime, Antarctic or investment attraction, community and care services, and planning sectors.</p> <p>b) Confirm at least 10 instances of the Council's Tasmanian Travel and Information Centre being promoted to support tours or conference bookings by BET</p> <p>c) Confirm at least 10 instances of Tasmanian Travel and Information Centre being promoted as a preferred booking agent to conference organisers by BET</p> <p>d) Provide 11 Monthly updates to council in a form agreed by both parties on possible collaborative marketing opportunities and business events bookings that can be shared with and for the benefit of the local Hobart Business Community</p> <p>e) Set a target to win at least 74 Bid Wins based in the Hobart LGA</p> <p>Due within 60 days from the end of this agreement:</p> <p>7.2 Provide a Final 12 month Acquittal Summary Report that includes all of the information requested in the Six Month Report for the second 6 months of this agreement, plus the following additional information for the whole 12 month period:</p> <p>7.2.1 Summary of promotional activities of Hobart as a conference destination and examples of credits,</p> <p>7.2.2 Summary of major achievements or issues,</p> <p>7.2.3 Summary of number and break down of events secured and held for the City and</p> <p>7.2.4 confirmation in writing of use of funds for the approved purpose by the Recipient's Chief Financial Officer, Accountant, Auditor or Treasurer</p>

Item 8	Recognition of support from the Council
	<p>The Recipient must acknowledge the Council's support of the Approved Purpose in accordance with the City of Hobart Grant and partnership Acknowledgment Guidelines as they are amended from time to time, a copy of which are attached and marked with the letter "C".</p>

Item 9	Special terms and conditions
	<p>The following are Special Conditions to this Agreement</p>

Item 9	Special terms and conditions
	<p>1. The Recipient must:</p> <ul style="list-style-type: none"> (a) comply with any and all applicable laws in respect of the Approved Purpose. Without limiting the applicability of this special condition, the Recipient must ensure the Approved Purpose is conducted in accordance with the <i>Work Health and Safety Act 2012 (Tas)</i>, <i>Work Health and Safety Regulations 2012 (Tas)</i>, <i>Building Act 2000 (Tas)</i>, <i>Building Regulations 2014 (Tas)</i>, <i>Plumbing Regulations 2014 (Tas)</i> and any directions made under the <i>Emergency Management Act 2006 (Tas)</i> or the <i>Public Health Act 1997 (Tas)</i>. (b) prepare and maintain a COVID-19 Safety Plan for the Approved Purpose (as BET Operations) and to comply with direction as required by Director of Public Health as it relates to the Approved Purpose. (c) take out and maintain a policy of insurance with a reputable insurer for Public Liability insurance ("The Public Liability Policy") in respect of all activities comprising and associated with the Approved Purpose, covering: <ul style="list-style-type: none"> (i) personal injury to, or death of, any person; or (ii) either or both loss of, or damage to, the property of any person, for a sum not less than \$20 million in respect of any single event. <p>The Public Liability Policy shall cover such risks and be subject only to such conditions and exclusions as are approved by the Council and shall extend to cover the Council in respect to claims for death, personal injury or property damage including arising out of the negligence of the Recipient.</p> <p>The Recipient will work collaboratively with Council to include and suggest the involvement of Hobart places of business and venues to be involved in hosting business events or elements of those events, including the use of City of Hobart venues where appropriate.</p> <p>The Recipient will share images and or video content of supported events in the Hobart LGA for City promotional purposes without copyright restrictions or fees payable.</p> <p>If requested by the Grantor, BET to make request to the conference organiser for the opportunity for up to three (3) City of Hobart representatives to attend any or all bids, conferences or business events hosted in the Hobart LGA, including speaking opportunities for the Lord Mayor or Deputy Lord Mayor for those events deemed strategically relevant and important to the City.</p>

Operative Provisions

1. Definitions

In this agreement, unless the contrary intention appears:

Approved Purpose means the activity described in Item 1.

Commencement Date means the date of the Agreement as shown on the cover page.

Covid-19 means the disease known as the Coronavirus Disease 2019 (COVID-19) declared to be a notifiable disease under section 40 of the *Public Health Act 1997* (Tas).

Covid-19 Safety Plan means a plan prepared in accordance with the Direction made under section 16 of the *Public Health Act 1997* (Tas) titled "Workplace COVID Plan – No. 1" made on 14 June 2020.

Disease Outbreak means a disease outbreak, epidemic or pandemic declared by the World Health Organisation including Covid-19 and any virus or disease related to or derived from that coronavirus disease.

Disease Outbreak Event means any one or more, or a combination, of the following:

- (a) the Council decides (in its reasonable discretion) to close down its business/operations (in part or in full) as part of its response to a Disease Outbreak;
- (b) the Recipient decides (in its reasonable discretion) to close down its business (in part or in full) as part of its response to a Disease Outbreak;
- (c) the Council must close down its business/operations (in part or in full) as a result of an applicable Legislative Requirement or a direction from a Government Agency;
- (d) the Recipient must close down its business (in part or in full) as a result of an applicable Legislative Requirement or a direction from a Government Agency with jurisdiction in respect of the Approved Purpose;
- (e) the Recipient is prohibited from conducting the relevant Approved Purpose as a result of an applicable Legislative Requirement or a direction from a Government Agency; or
- (f) the Recipient is unable to supply sufficient labour to perform its obligations under this Agreement due to the effects of a Disease Outbreak.

Expiry Date means the date recorded in Item 6;

Force Majeure Event means each of those events described in clause 11 (a)-(i);

Grant means the payment of the Grant Amount by the Council to the Recipient subject to the terms and conditions of this agreement;

Grant Amount means the sum recorded in Item 2;

GST means:

- (a) the same as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (b) any goods and services tax, or any tax applying to this transaction in a similar way;
and
- (c) any additional tax, penalty tax, fine, interest or other charge under a law for that tax;

Intellectual Property Rights means all present and future rights under statutes, general law or in equity resulting from intellectual activity in the industrial, scientific, literary and artistic fields, including patents, copyrights, trademarks, company or business names, logos, domain names, semiconductor or circuit layout rights, designs (including, but not limited to, the City of Hobart Logo, and the City of Hobart Brand Guidelines);

Item means the relevant item number as set out in Schedule 1;

Term means the period of time commencing on the Commencement Date and expiring on the Expiry Date.

Termination Date means the date this Agreement is terminated.

2. Interpretation

In this agreement, unless the contrary intention appears:

- (a) the singular number include the plural and vice versa;
- (b) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (c) a reference to an annexure is to the annexures attached to this agreement;
- (d) the annexures to this agreement form part of this agreement;
- (e) a party includes its successors, assigns, executors and administrators; and
- (f) a reference to the Recipient is a reference to both individuals, jointly and severally.

3. Term

This Agreement is in force from the Commencement date and ceases on the earlier of the Expiry Date or the Termination Date.

4. Grant

- (a) In consideration of:
- (i) the provision of the Benefits as defined in Item 8;
 - (ii) the Approved Purpose being held and substantially completed between the dates specified in Item 5 and Item 6; and
 - (iii) the Approved Purpose being conducted substantially in accordance with the Proposal,

the Council agrees, during the term of this Agreement, to pay to the Recipient the Grant Amount.

- (b) All costs associated with Council services that are necessary for the Approved Purpose (if applicable), including, but not limited to, road closures and street closures, and charges such as those associated with application for licences and approvals shall be met by Recipient.
- (c) The Grant must be used solely for the Approved Purpose.
- (d) The Recipient must conduct the Approved Purpose in accordance with all of the Council's By-laws and any applicable Policies.

5. Grant Provider Benefits

- (a) In return for the Grant Amount, the Recipient agrees to provide to the Council the benefits as defined in Item 8 for the term of this Agreement, unless otherwise terminated in accordance with the terms and conditions of the Agreement.
- (b) All advertising and promotional materials produced, published, broadcast, displayed or exhibited specifically by the Recipient for the Approved Purpose pursuant to the benefits identified in Item 8 must be first approved by the Council.

6. Use of Name of the Recipient and Approved Purpose

- (a) Nothing in the Agreement entitles the Council to acknowledge, display, use, publish or otherwise refer to the Recipient and Approved Purpose logo, name, product names, symbols and other trade indicia (Approved Purpose's trade identification) other than as provided in the terms and conditions of this Agreement.
- (b) The Council:
- (i) is permitted to promote the Approved Purpose during the Term as it reasonably determines; and

- (ii) agrees to use the Approved Purpose's trade identification in a way which is not to affect adversely or detrimentally the goodwill and reputation of the Recipient.
- (c) The Council agrees to cease and desist from using, or otherwise referring to, the Approved Purpose's trade identification on the termination or expiration of this Agreement.

7. Use of the Council's Name

- (a) Nothing in the Agreement entitles the Recipient to acknowledge, display, use, publish or otherwise refer to the Council's logo, name, product names, symbols and other trade indicia ("Council trade identification") other than in strict accordance with the terms and conditions of this Agreement.
- (b) The Recipient:
 - (i) is permitted to use the Council trade identification for the purposes of providing those parts of the benefits set out in Item 8; and
 - (ii) agrees to use the Council trade identification in a way which is not to affect adversely or detrimentally the goodwill and reputation of the Council.
- (c) The Recipient agrees to cease and desist from using, or otherwise referring to, the Council trade identification on the termination or expiration of this Agreement.

8. Payment Schedule

The Council agrees to pay to the Recipient the Grant Amount for the Approved Purpose, in accordance with Item 3.

9. Repayment of Grant

- (a) In the event the Grant Amount exceeds the actual costs and expenses incurred by the Recipient in delivering the Approved Purpose, the extent to which the Grant Amount exceeds those costs is repayable to the Council within 14 days of the end of the Term.
- (b) In the event that this agreement is terminated or suspended pursuant to clause 10 or clause 11, then the Recipient will be entitled to retain payment for any reasonably incurred expenses in the pursuit of the Approved Purpose up to the date that such termination or suspension took effect, such amount not exceeding the Grant Amount, or if the payment of the Grant Amount is to be made in instalments, no more than the sum of the previous instalment.

- (c) If the value of the actual costs and expenses incurred by the Recipient prior to the date on which termination or suspension took effect is less than the value of the Grant Amount, or if the payment of the Grant Amount is to be made in instalments, then less than the previous instalment of the Grant Amount, then the Council may seek to recover the relevant difference in value from the Recipient.
- (d) If the Council, acting reasonably, determines that the Approved Purpose was not delivered and completed substantially in accordance with the Proposal, the Recipient must immediately refund the Grant Amount to the Council.

10. Termination

- (a) This Agreement may be terminated as follows:
 - (i) by the Council and the Recipient agreeing in writing; or
 - (ii) by the Council without notice, if the Recipient commits any act which would entitle the Council to cancel this Agreement, including:
 - i. conviction of an offence precluding or inhibiting the further performance of the Recipient under this Agreement; or
 - ii. failure to respect the confidentiality of the business transactions or decisions of the Council, which could cause loss or be calculated to cause loss to the Council.
- (b) The Council may terminate this Agreement at any time by giving written notice of such termination to the Recipient, where:
 - (i) the Recipient:
 - i. becomes insolvent; or
 - ii. makes an assignment for the benefit of its creditors; or
 - iii. is involved in proceedings in voluntary bankruptcy instituted on behalf of or against it; or
 - iv. has a receiver or trustee of the said party's property appointed.
 - (ii) any of the terms of the Agreement are breached by the Recipient; or
 - (iii) the Council determines, acting reasonably, that the Approved Purpose does not adequately fulfil the requirements set out in the Acknowledgement Guidelines described in Item 8 or any key performance indicators as set by the Council from time to time; or

- (iv) the Suspension Period noted in clause 11 below cumulatively subsists for three months or longer after its commencement or is reasonably likely to subsist for three months or longer after its commencement.

11. Force Majeure

If either party is prevented from performing all or a material part of its obligations required by this Agreement to the extent that such prevention is caused by or due to:

- (a) an act of God;
- (b) any Governmental requisition, control, intervention, requirement or interference;
- (c) any circumstances arising out of war, threatened act of war or warlike operations, act of terrorists or the consequences thereof;
- (d) riots, civil commotions, blockages or embargoes;
- (e) Disease Outbreak Event (whether or not foreseen or existing at the time this Agreement was entered into);
- (f) earthquakes, landslides, floods or other extraordinary weather conditions;
- (g) strikes, lockouts or other industrial action, but only if of a general nature and not limited to the Affected Party and/or the contractors of the Affected Party;
- (h) fire, accident or explosion except where caused by the proven negligence of the Affected Party or its employees, agents or contractors; or
- (i) any other act or circumstance which is beyond the reasonable control of the Affected Party, and unforeseen by both parties, which makes performance of an obligations under this Agreement impossible, and not merely more onerous or uneconomical,

then:

- (j) that party must give notice of the Force Majeure Event to the other party as soon as practicable and must use all reasonable diligence and all reasonable means to mitigate or minimise the effect of the Force Majeure Event to that party and this Agreement;
- (k) the relevant obligations of each party will be suspended from the time that the Force Majeure Event prevents the performance of such obligations until the time that such obligations are no longer affected by the Force Majeure Event (Suspension Period);
- (l) if either the Approved Purpose was scheduled to be held or substantially completed during the Suspension Period, then the Parties must agree in writing within twenty eight (28) days from the cessation of the Suspension Period to reschedule the Approved Purpose;

- (m) if the Parties fail to agree in writing to reschedule the Approved Purpose pursuant to clause 11(l) then the Recipient must refund the Grant Amount to the Council;
- (n) neither party will be liable to the other party in respect of the failure to perform the relevant obligations during the Suspension Period to the extent that such failure is caused by the Force Majeure Event;
- (o) the Recipient's obligations in relation to holding and maintaining insurance as set out in the Agreement will continue to be adhered to for the Suspension Period; and
- (p) the suspension will be without prejudice to any rights or obligations of the parties which have accrued prior to the commencement of the Suspension Period.

Each party must bear its own costs incurred arising out of or in connection with a Force Majeure Event, the consequences of a Force Majeure Event and the Suspension Period.

12. Goods and Service Tax (GST)

- (a) The amount payable under this Agreement shall, where any amount does not already include any GST, be increased by the amount of GST.
- (b) Where the Council pays the Recipient any amount applicable to GST, the Recipient shall supply the Council with a Tax Invoice for that amount, together with all reasonable documentation as may be required by the Council.
- (c) In this Agreement:
 - (i) GST includes any replacement or similar tax imposed under the GST Act;
 - (ii) GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and all other legislation in relation to GST;
 - (iii) terms used in this Agreement but not defined in this Agreement which are defined in the GST Act have the meaning set out in the GST Act.

13. Warranties and Indemnities

- (a) Each party warrants that any and all advertising and promotional material produced, published, broadcast, displayed or exhibited by it in respect of this agreement shall:
 - (i) comply with all applicable Australian laws;
 - (ii) comply with all codes of conduct and industry standards;
 - (iii) comply with the requirements of all government and statutory bodies; and
 - (iv) not infringe the rights of any person.

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- (b) The Recipient indemnifies, and keeps indemnified, the Council against any legal liability, loss, claim or proceedings arising from damages suffered by, personal injury to or loss of income by the Recipient arising from carrying out the responsibilities under this Agreement, other than damage, personal injury or loss of income caused by any negligent act or omission by the Council.
 - (c) The Council makes no warranties or representations in respect to the content of any material provided to the Recipient as part of the Grant. The Recipient acknowledges that where any material is provided by the Council to the Recipient as part of the Grant that the Recipient bears the responsibility for ensuring that that material meets its needs and satisfies its requirements. The Recipient indemnifies the Council against any legal liability, loss, claim or proceedings arising from damage suffered by, personal injury to or loss of income by the Recipient arising from reliance on any materials provided by the Council to the Recipient as part of the Grant.

14. Intellectual Property

The Approved Purpose and all associated intellectual property, including all logos and event livery, and all sponsorship secured by the Recipient or its agents for the Approved Purpose, is the property of the Recipient.

15. Logos

Should the Recipient specifically develop logos for the Approved Purpose, the Council will have the right to use the logo(s) on marketing and promotional material associated with its support of the Approved Purpose.

16. Marketing/promotional material

The Council must receive recognition of its support on all marketing and promotional material associated with the Approved Purpose as detailed in Item 8.

17. Signage

Not Applicable

18. Confidentiality

Any information supplied by Council and/or the Recipient shall not be disclosed to a third party nor used for any other purpose other than that specified in this Agreement or as is required by law.

19. Negation

The Recipient shall not represent itself as being an employee or agent of the Council.

20. Income Tax

The Recipient shall be responsible for payment of income tax due to the Commonwealth of Australia on any payments received pursuant to this Agreement.

21. Agreement

This Agreement comprises the whole of the Agreement between the parties.

22. Variation

- (a) This agreement may only be varied by mutual agreement between the parties in writing.
- (b) A variation for the purposes of this clause includes a variation of the terms of this Agreement and/or a variation of any aspect of the Approved Purpose. For the removal of doubt, an aspect of the Approved Purpose includes, but is not limited to its:
 - (i) Start or end date
 - (ii) Attendance capacity
 - (iii) Venue
 - (iv) Ticket price
 - (v) Number of activities within the project
 - (vi) Key people delivering project, including paid and volunteer positions
 - (vii) Project budget increase or decrease by 10%
 - (viii) The intent of the approved activity.

23. Disputes

- (a) All disputes or differences arising out of this Agreement, or concerning the performance or the non-performance by either party of its obligations under this Agreement, whether raised before or after the completion of the Approved Purpose

under this Agreement, shall be referred to an arbitrator agreed upon in writing by the parties within 28 days of the dispute arising. It is agreed the decision of the arbitrator shall be final and conclusive and his/her costs shall be born as he/she may direct.

- (b) In the absence of the parties agreeing to the appointment of an arbitrator, the dispute will be determined by an arbitrator appointed in accordance with the Commercial Arbitration Act 1986 (Tasmania).
- (c) No further action or suit will be brought by either party until an award has been obtained by the arbitrator.

24. Notices

Without prejudice to any other means of giving or serving notice any notice or demand or other document requiring to be served under this Agreement is sufficiently served on the party on whom service is intended if it is left addressed to or forwarded by prepaid letter to that party at the address specified in this Lease or such other address as may be notified in writing for that purpose by that party served on the party to whom it is addressed (including email).

25. Severability

If any part of this Agreement is found to be invalid or of no force or effect under any applicable laws, executive orders or regulations of any government authority having jurisdiction, this Agreement shall be construed as though such part had not been inserted and the remainder of this Agreement shall retain its force and effect.

26. Relationship

The only relationship between the parties is that of independent contractors, and that no agency, employment, joint venture or partnership is created by the parties.

27. Waiver

The failure of either party to enforce any provision of this Agreement shall in no way, affect its rights to require complete performance by the other party, nor shall the waiver of any subsequent breach of any such provision, be a waiver of the provision itself. Any waiver to be effective must be in writing and signed by the parties.

28. Special Conditions

The Special Conditions set out in Item 9 shall form part of this Agreement.

29. Applicable Law

The Agreement shall be governed by and construed in accordance with the laws for the time being in force in the State of Tasmania.

30. Provision of Information

The Recipient agrees to provide to the Council the information set out in Item 7 by no later than three (3) months from the Expiry Date.

This clause survives the expiration of the Agreement.

Execution

Executed as an agreement

Signed for and on behalf of the **Hobart City Council** by

Witnessed By:

Signature

Signature

Full Name

Full Name

Position

Position

Date

Date

Signed for and on behalf of **Business Events Tasmania (ABN 33 009 589 584)** by

Witnessed By:

Signature

Signature

Full Name

Full Name

Position

Position

Date

Date