

IMPLEMENTATION PROTOCOL

between the

**Western Cape Government via its Department of Environmental Affairs and
Development Planning (DEA&DP)**

Herein represented by **Mr PS van Zyl**, in his capacity as Accounting Officer, duly authorised
thereto
(Hereinafter referred to as "**the WCG**")



and

City of Cape Town

Herein represented by Mr Achmat Ebrahim in his capacity as City Manager, duly authorised
thereto
(Hereinafter referred to as "**the Municipality**")



(jointly referred to as "**the Parties**")



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PREAMBLE

- A. HAVING REGARD TO** the Cabinet Resolutions of the WCG taken on 11 December 2013 and 22 January 2014, respectively regarding the selection of the Municipality as participant in the transversal and intergovernmental VPUU Western Cape Programme;
- B. ACKNOWLEDGING** that the successful roll-out of the transversal and intergovernmental VPUU Western Cape Programme is dependent on the participation of different organs of state and co-ordination of their actions;
- C. NOW THEREFORE** the parties hereby enter into an implementation protocol for purposes of executing Phase 4 of the VPUU Western Cape Programme.

1. Definitions

For the purpose of this Protocol, unless the context indicates otherwise:-

"the Implementation Protocol Guidelines" means the guidelines published in terms of section 47(1)(d) of the IRF Act, under Government Notice R No. 696 in Government Gazette No. 30140 of 3 August 2007;

"the IRF Act", means the *Intergovernmental Relations Framework Act, 2005* (Act no. 13 of 2005);

"the MFMA", means the *Local Government: Municipal Finance Management Act, (Act No. 56 of 2003)*;

"the Project Executing Agency" means the Violence Prevention through Urban Upgrading-NPC, a non-profit company, registered in terms of the *Companies Act, 2008* (Act 71 of 2008) with Registration number [2013/060455/08], assigned to assist and support the WCG as agent in the implementation of the VPUU methodology;



"Phase 4 of the VPUU Western Cape Programme" means the KfW technical assistance that the Municipality is receiving via the Project Executing Agency, as set out in the specific scope of work attached to this Protocol as **Annexure 3**, and as it relates to the four VPUU Safe Node Areas, namely, Khayelitsha, Manenberg, Hanover Park and Gugulethu – Nyanga (GUNYA);

"this Protocol" means the Agreement set out in this document and the Annexures attached hereto;

"the VPUU methodology" means the methodological approach, based on international best practice such as the UN Habitat Safer Cities approach, the World Health Organisation Violence and Crime Prevention and others, which has been adopted for the South African context into the VPUU Strategy with for components (Prevention, Cohesion, Protection, Research) and based on the following five spheres of Intervention: Situational, Social and Institutional Crime Prevention, Community Participation and Knowledge Management; and

"the VPUU Western Cape Programme" means the transversal and intergovernmental roll-out and implementation of the VPUU methodology in the identified VPUU nodes within the Municipality.

2. Purpose and duration of this Protocol

- 2.1 The object of this Protocol is to coordinate the actions of the WCG and the Municipality, so as to ensure the successful execution of Phase 4 of the VPUU Western Cape Programme within the metropolitan area.
- 2.2 The VPUU Western Cape Programme's fundamental principles and approaches are primarily derived from the following documents; however, this referral does not incorporate these documents into this Protocol:

- 2.2.1 the State-to-State Agreement as signed on 13 June 2014;



- 2.2.2 the Financing and Project Agreement as signed on 19/24 June 2014;
 - 2.2.3 the Separate Agreement as signed on 10 December 2014;
 - 2.2.4 the Provincial Cabinet resolutions dated 11 December 2013 and 22 January 2014, respectively;
 - 2.2.5 the Western Cape RSEP/VPUU Programme Implementation and Governance Framework dated 3 February 2014, and
 - 2.2.6 the Violence Prevention through Urban Upgrading – a manual for safety as a public good.
- 2.3 Without derogation to the principles contained in the documents referred to in clause 2.2 above, the fundamental principles and approaches of the VPUU Western Cape Programme are also based on:
- 2.3.1 building resilient neighbourhoods, establishing social cohesion and inclusivity to improve quality of life;
 - 2.3.2 a voluntary system which supports teamwork and partnership formation whilst still maintaining accountability;
 - 2.3.3 ensuring co-ordination of actions and interventions by the Parties, either directly or through an intermediary, according to agreed processes and methodologies;
 - 2.3.4 strengthening co-funding principles between the WCG, international donors and the Municipality to entrench the concept of broad-based action and accountability;

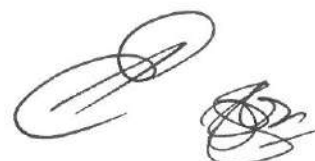


- 2.3.5 linking the VPUU Western Cape Programme with the City of Cape Town IDP and achievement of alignment with local, provincial and national policy imperatives, and
- 2.3.6 joint learning which includes *inter alia* the Centre of Excellence for learning and leadership training for the Western Cape VPUU "Community of Practise".
- 2.4 This Agreement commences on **1 July 2016** (notwithstanding the date of signature hereto), and in order to coincide with the Municipality's fiscal year, it remains in force until **30 June 2018**, unless otherwise agreed to between the Parties.
- 2.5 Notwithstanding the commencement date referred to above, the Parties note and acknowledge the fact that the project has been implemented since **July 2014**.

3. Roles and responsibilities of the Parties

3.1 The WCG

- 3.1.1 The WCG has the duties contained in this clause 3.1, in addition to any other obligation it has under this Protocol.
- 3.1.2 The WCG will, to the extent set out in clause 3.3 below, be assisted by the Project Executing Agency for purposes of the implementation of the VPUU Western Cape Programme. As such, the WCG will facilitate, and oversee the implementation of the VPUU Western Cape Programme in the Municipality.



- 3.1.3 The WCG shall be responsible for designating appropriate existing governance resources for the oversight of the VPUU Western Cape Programme in the Municipality.
- 3.1.4 The WCG will fulfil its commitment as reflected in 3.1.3 through its DEA&DP Programme Office, which in turn will, as far as possible, mobilise the inputs and support of different Provincial Departments.

3.2 The Municipality

- 3.2.1 The Municipality has the duties contained in this clause 3.2, in addition to any other obligation it has under this Protocol.
- 3.2.2 The Municipality confirms and accepts its responsibilities in participating in the VPUU Western Cape Programme, and as such, it is accepted that the Municipality:
 - 3.2.2.1 commits to do all that is necessary to ensure the success of the Programme, and as such commits to abide by administrative processes set up for this purpose, including assisting with the oversight of the work performed by the Project Executing Agency as contemplated in clause 3.3;
 - 3.2.2.2 will take ownership of future assets emanating from the project as mutually agreed between the parties;
 - 3.2.2.3 will follow due process as required in relevant and applicable legislation to ensure compliance with South African law;
 - 3.2.2.4 will as far as reasonably practicable encourage the involvement of local communities in the programme, as required in terms of



Section 4 of the Local Government: Municipal Systems Act No. 32 of 2000 and in terms of the founding principles of the programme;

3.2.2.5 agrees to provide the internal staffing, co-funding and resources to ensure the successful implementation of the VPUU Western Cape Programme as it is planned for the Municipality, within the limits of budgetary and other resources;

3.2.2.6 will, subject to available budget and resources, provide support to the WCG and the Project Executing Agency in the implementation and mainstreaming of the VPUU Western Cape Programme to the other participating RSEP/VPUU Municipalities;

3.2.2.7 accepts the Scope of Work in respect of the four Safe Node Areas included in Phase 4 of VPUU Western Cape Programme, as depicted in **Annexure 3**.

3.3 Implementation mandate of the Project Executing Agency

3.3.1 The Parties envisage that the Project Executing Agency will be responsible for the implementation of the VPUU Western Cape programme, in collaboration with the Municipality as per agreed parameters and project plans, as outlined in **Annexure 3**.

4. **Contributing Resources**

4.1. Over and above the duties set out in clause 3 hereto, the Parties agree to contribute financial and non-financial resources to the VPUU Western Cape Programme as follows:-



- 4.1.1 The VPUU Municipal Cost & Benefit Plan is set out in **Annexure 1**. The Municipality commits to provide the co-funding as referred to and guided by the Co-funding Position Statement, attached as **Annexure 2** hereto.
- 4.1.2 The Municipality acknowledges that failure on its part to demonstrate continued commitment to the VPUU Western Cape Programme for the duration thereof, may lead to a situation where the Municipality can be compromised in receiving further VPUU Western Cape Programme resource allocations.

5. Managing this Protocol

- 5.1 The Parties undertake to establish the following institutional arrangements, including their composition and functions, for the effective management and implementation of the Protocol -

5.1.1 WCG

- 5.1.1.1 The WCG has set up a dedicated RSEP/ VPUU Programme Office to support the VPUU Western Cape Programme and the Municipality where needed/ requested by the Municipality.

- 5.1.1.2 The following person or his/her successor shall be the WCG's contact person for purposes of managing this Protocol:

Francois Wüst

Programme Manager: RSEP/VPUU

Email: francois.wust@westerncape.gov.za

Contact number: 021 483 8376

5.1.2 Municipality



CITY OF CAPE TOWN VPUU PROGRAMME IMPLEMENTATION PROTOCOL

5.1.2.1 The Municipality will appoint a Project Manager and provide him/her with the necessary resources and support.

7.1.1.2 The following person or his/her successor shall be the Municipality's contact person for purposes of managing this Protocol:

Alastair Graham - Alastair.Graham@capetown.gov.za

Contact number: 071 895 1004

- 5.2 The Parties will meet regularly and as may be mutually agreed between them, but not less than once every three months, to discuss progress made in the rolling out of the VPUU Western Cape Programme and matters incidental thereto.
- 5.3 Neither of the Parties shall at any time during the term of this Protocol, release any statement to the press, or make any other public statement of any nature which could reasonably be expected to be published in any media regarding the relationship between the Parties or the subject matter of this Protocol insofar as it relates to the funding of the VPUU Programme and the appointment of the Project Executing Agent, without the prior written consent of the other Party.
- 5.4 Where applicable, the Parties will appoint a designated person to ensure all communications and press releases are approved by both Parties within 2 working days, or such reasonable period, after receiving such press releases from either Party.
- 5.5 In their dealings with each other for the purpose of this Protocol, the Parties -
- 5.5.1 undertake to act in good faith and reasonableness, and will take into consideration the impact of their decisions on the other Parties, and
- 5.5.2 warrant that they shall not do anything or shall refrain from doing anything that might prejudice or detract from the statutory powers and functions of



each other, as well as from their respective roles and responsibilities under this Protocol.

- 5.6 This Protocol does not in any way limit any statutory powers and functions of the Parties.

6. Dispute resolution

- 6.1 Any dispute which arises between the Parties in connection with the management of this Protocol shall be resolved amicably through consultation and negotiation.
- 6.2 Should a dispute mentioned in clause 6.1 above remain unresolved, the provisions of sections 41 to 45 of the IRF Act, shall apply.

7. Intellectual Property

- 7.1 All intellectual property rights of whatsoever nature belonging to a respective Party prior to the commencement of this Protocol, including, without limitation, the Parties' logo, emblem or any other form of corporate identity, shall remain vested at all times in the Party.
- 7.2 Neither Party shall, under any circumstances whatsoever reproduce, copy or use the other Parties' corporate identity or permit the use of their intellectual property by any third party, except as otherwise provided for herein and with such Party's prior written consent.
- 7.3 A Party (including its representatives, agents and employees) will not at any time, or in any manner, lower the dignity, standing and reputation of the other Parties or in any way contest the validity of, or prejudice, any of the other Parties' Intellectual Property rights, including its corporate identity, emblem or logo.



- 7.4 Insofar as a Party is considered in law to be the original owner of the Copyright in any document, drawing, material or record developed or acquired by itself in the course of discharging its obligations under this Protocol, it hereby grants the other Parties the right to copy such document, drawing, material or record, for internal and external reporting and any other reasonable purpose.

8. Force Majeure

- 8.1 If either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Protocol by any cause beyond the reasonable control of that Party, including, without limitations, acts of God, civil commotion, riots, insurrection, acts of government, fire, explosion, the elements, epidemics, governmental embargoes or like causes ("force majeure"), the Party so affected shall, to the extent so prevented, may be relieved of its obligations hereunder during the period of such events and might not be liable for any delay or failure in the performance of any obligations hereunder or loss or damage either general, special or consequential which the other Parties may suffer due to or resulting from such delay or failure; provided always that written notice of the occurrence constituting force majeure shall be given within 2 calendar weeks by the affected Party to the other Parties
- 8.2 The Parties agree that, should a written notice mentioned in clause 8.1 be received, the Parties would meet and endeavour to ensure continuation and completion of the notice-giving Party's obligations in this Protocol.
- 8.3 The Parties agree that a guiding principle in such instances would be the re-allocation and re-utilisation of all resources, until the non-performance due to force majeure has been resolved.

9. General Provisions



- 9.1 Notwithstanding anything contained in this Protocol, the Parties' maximum liability as between each other shall be limited to the extent of their VPUU Western Cape Programme commitments.
- 9.2 The failure of either Party to insist upon the strict performance of any provision of this Protocol or to exercise any right, power or remedy consequent upon a breach hereof shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Protocol.
- 9.3 This Protocol constitutes the entire agreement between the Parties, and no amendment, alteration, addition or variation of any right, term or condition of this Protocol will be of any force or effect unless reduced to writing and signed by the Parties.
- 9.4 The Parties agree that there are no conditions, variations or representations, whether oral or written and whether expressed or implied or otherwise, other than those contained in this Protocol.
- 9.5 This Protocol replaces any other previous verbal or written agreement entered into between the Parties.
- 9.6 The parties acknowledge that the Municipality may from time to time during the duration of the project undertake work and make modifications to property owned by the WCG. Permission will be sought from the WCG prior to the undertaking of such work and modifications.

10. Notices and Domicillum

- 10.1 The Parties choose as their *domicilia citandi et executandi* the following addresses:-

10.1.1 The WCG



CITY OF CAPE TOWN VPUU PROGRAMME IMPLEMENTATION PROTOCOL

*The Head of the Department: The Department of Environmental Affairs and
Development Planning*

*Utilitas Building
1 Dorp Street
CAPE TOWN
8001*

10.1.2 The Municipality

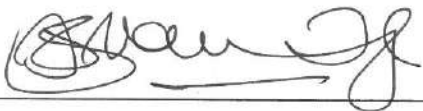
*The City of Cape Town
c/o the Director: SPUD*

*12 Hertzog Boulevard
Cape Town
8001*

10.2 Either Party shall be entitled from time to time and by written notice to the other Parties, to vary its *domicilium* to any other physical address.

SIGNED AT CAPE TOWN

ON THIS th28 DAY OF SEPTEMBER 2016



THE WCG

SIGNED AT CAPE TOWN

ON THIS 20th DAY OF OCTOBER 2016



THE MUNICIPALITY

ANNEXURE A:

RSEP/VPUU PROGRAMME FUNDING, COST AND BENEFIT ALLOCATION PROJECTION

08 Mar 2016: Scen A

Main Program	Extended Program
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All figures are initial estimates and are subject to factors related to project selection, implementation readiness, support from all role-players and Supply Chain Management.

INITIALLY KNOWN AND COMMITTED FUNDING

KfW	Prov
183	72
	111

allow unforeseen expenditure of R11m, to be allocated to highest yield projects

MAIN CATEGORIES OF SPENDING

LOCAL PROJECTS	REG'NAL PROJ's	PROV Staff&cost	NPC/AHT	"Items 2-6"
78.5	10.0	21.5	51.4	15.5

Exchange rate 14.20 176.9

ALLOCATION OF FUNDING AND VALUE ADD

Funded by:		VPUU		VPUU municipalities				RSEP mun's		KfW Priority Spending	Prov Priority Spending	VPUU RSEP	
		euro	All	PO/JLM*	Reg Proj	City	TWK&Drak	BV, SW, Solid				per mun	per mun
	Total	115.4	176.9	23.1	12.0	16.8	63.5	61.5		20.4	68.10	31.8	20.5
KfW	Projects	20.4	20.4				20.4			20.4	1.44	10.2	0.0
WCG	Projects	15.6	68.1		10.0		5.6					2.8	17.5
KfW	Items 2-6	14.1	14.1			4.0	10.1			14.1	0.99	5.0	0.0
WCG	Items 2-6	1.4	1.4				1.4					0.7	0.0
WCG	Prov Staff	14.5	21.5	9.5	2.0	1.0	2.0				21.50	1.0	2.3
KfW	NPC	25.0	25.0	6.7		8.3	10.0			25.0	1.76	5.0	0.0
KfW	AHT	11.5	11.5	3.0		5.5	5.0			11.5	0.81	2.5	0.0
WCG	NPC	12.9	14.9	3.9		0.0	9.0				14.90	4.5	0.7
Total KfW													
Total WCG													

Note: "Professional fees construction" and "Planning and studies" are included in "Projects" and "Items 2-6" respectively

A quarter of PO/JLM allocation should benefit the RSEP municipalities in BV, SW and Solid

Other RSA counter funding (notional)

	115	180	5	45	65	65
Prov Line depts	35	55				
Nat Govt & SOEs	30	50				
Municipalities	40	60				
Private Sector	10	15				
Total Value	230	357				

This category of counter-funding will be secured as projects are defined and the programme unfolds. These estimates are over and above the R100m provincial RSEP funding. Lastly also note that the distribution between spheres of government and between the municipalities are subject to the projects as identified.

*PO/JLM:
Mun / WCG (35%)
PSG / Game Changers (35%)
Academic & Research (15%)
International (15%)

Municipal Co-Funding Position Statement - Implementation Protocol

	Financial Year							
	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Total	Owner Department
Hanover Park								
Capital Projects								
Aqua Centre	335 700	879 750	9 440 395	11 844 185			22 500 000	Sport and Rec
Media Centre		1 715 964	1 732 727	8 788 494	33 125 174	33 125 175	78 494 134	Community Services
Youth Lifestyle Centre		1 719 788	2 135 721	6 837 893	37 984 367	37 984 367	86 682 116	Community Services
Public Space Upgrade			300 000	583 590	8 921 458	8 921 456	14 726 502	TCT
Market			885 134	7 837 492	9 363 328	3 741 784	21 827 718	Econ Dev
Live Work Units		42 102	884 176	8 932 896	12 991 130	56 138	20 506 242	Property
Safe-T Box		20 145	90 856	2 342 156			2 482 957	Safety and Security
MyCiti Feeder Station: Hanover Park Avenue		Currently under consideration - budget not yet defined						TCT
MyCiti Trunk Station: Govan Mbeki Road		Currently under consideration - budget not yet defined						TCT
Reconstruction of Concrete Roads	73 500 000 allocation over 3 years						73 500 000	TCT
NMT Upgrading	20 000 000 allocation over 3 years from a bulk / multi ward fund						20 000 000	TCT
Shotspotter - gunshot detection	4 000 000	4 000 000					8 000 000	Safety and Security
Operational Projects								
Safety Lab, Ceasefire, Social Crime Prevention and Stabilisation	15 844 000 The bulk of this funding will be spent in Hanover Park and Manenberg with smaller portion being spent in the balance of the MURP areas						15 844 000	MURP, Safety and Security
Manenberg								
Capital Projects								
Shotspotter - gunshot detection	4 000 000	4 000 000					8 000 000	Safety and Security
Manenberg integrated Community Services Facility Marico Park	544 000	5 000 000	10 000 000				15 544 000	Community Services
NMT Upgrading	20 000 000 allocation over 3 years from a bulk / multi ward fund						20 000 000	TCT
Reconstruction of Concrete Roads	90 000 000 allocation over 3 years						90 000 000	TCT
Operational Projects								
Safety Lab, Ceasefire, Social Crime Prevention and Stabilisation	15 844 000 The bulk of this funding will be spent in Hanover Park and Manenberg with smaller portion being spent in the balance of the MURP areas							MURP, Safety and Security
						Projected Total	496 077 689	

The items highlighted in red are to be submitted to National Treasury (NDP) who are likely to fund on or two of the projects in the Hanover Park Town Centre. A budget proposal has also been submitted to the City of Cape May in 2018 to secure funds over the medium term expenditure period on the City's budget.

Scope of works of works in City of Cape Town for VPUU NPC as part of VPUU WC

The redevelopment of Hanover Park Town Centre has been prioritized by the Executive Mayor which she communicated publicly at a press conference in the third Quarter of 2016 held in the Hanover Park Library.

The Mayors Urban Regeneration Programme in collaboration with Spatial Planning and Urban Design are managing / coordinating the conceptual design, costing and community engagement processes underpinning this redevelopment.

The urban regeneration of Manenberg and Hanover Park is guided by Public Investment Framework's which were launched by the Premier of the WC and Mayor of CoCT in 2015.

Following areas of work are agreed between the City of Cape Town and the VPUU NPC:

1. Project Management Services

The VPUU NPC functions as overall project manager for the Hanover Park Town Centre infrastructure work which includes the coordination and lead for the various consulting teams of the capital cost of construction.

- a. Input into land assembly,
- b. Input into the preparation of business plans to secure grant/ donor funding,
- c. Define and identify processes for the various projects to be taken to implementation, "Packaging of projects for implementation",
- d. Brokering / facilitation of line and community buy-in into the concept,
- e. Support MURP in community facilitation,
- f. Compilation of scopes of works for consulting teams,
- g. Support with documentation of tender processes,
- h. Liaison with WCG line departments around an integrated approach,
- i. Coordination of consulting teams,
- j. Regular reporting on progress of the design and implementation of the projects to CoCT.

2. Architectural and Principal Agent services

VPUU NPC shall provide architectural and principal agent services for agreed facilities of the Hanover Park Town Centre Upgrading Programme, while the rest of the consultants are sourced via normal SCM processes and funded separately by CoCT. These services will be limited by the availability of funds.

3. Management Plan

Sustainability is a key element of this important project. The VPUU NPC is tasked with the development of a high level Area-Based Management Plan for the Hanover Park Town Centre to be undertaken concurrent to the development of the design for the various facilities and infrastructure elements.



It is proposed that the Facilities Optimization Working Group provide oversight and access with respect to the development of the Area-Based Management Plan and also then expose line departments to the benefits of integration and clustering from an operational efficiency perspective and in turn enable line departments to influence design in terms of their functional requirements. This will be dependent upon this Working Group still being in existence.

4. Social Development Fund

Establish and set up the Social Development Fund in terms of the VPUU methodology R250 000 for Hanover Park and R250 000 for Manenberg. The Social Development Fund will be managed and coordinated by the MURP SDF Coordinator, while the financial administration will be managed by the VPUU NPC.

5. Urban Design Support

The VPUU NPC is tasked to provide urban design services in Hanover Park and Manenberg:

- a. To finalise the Concept Plan for Hanover Park,
- b. Compilation of precinct plans in particular but not restricted to the Hanover Park town centre emanating from the Public Investment Frameworks,
- c. Above precinct plan will include the positioning of the CHC in the town centre, and close cooperation with CoCT and WCG line departments,
- d. Preparation of design guidelines for the Manenberg Youth Lifestyle Campus / Promenade with a focus on the interface between the walkways / public streets / public facilities and the surrounding residential areas. This will specifically influence NMT and the reconstruction of concrete roads investments in the areas as allocated within the medium term budget and should focus on safety for the youth and families,
- e. Co design workshops and conceptual designs for specific interventions to implement the Youth and Lifestyle Campus.

It is agreed that as work packages become available separate SLA's are signed between the CoCT and VPUU NPC to ensure efficient recourse utilisation in line with the budget provision via the KfW funds.

The CoCT reserves the right to enter into contractual relationships from CoCT own budget that may cover elements of above scope of work or additional items.

