

GROWING A FOCUSED, SUSTAINABLE AND DEVELOPMENTAL DBSA

TRANSPORT

ENERGY

ICT

WATER

**Training Workshop for Developing successful Public-Private Partnerships (PPPs)
for increased transport connectivity in Botswana**

Virtual, 11-12 October 2021

Time Zones: Gaborone 09:00hrs; New York 03:00hrs

PUBLIC TRANSPORT PPP TYPE INFRASTRUCTURE PROCUREMENT TOOL

THE DRIVERS FOR INFRASTRUCTURE

Regional & National Imperatives SADC INDUSTRIALISATION STRATEGY/PLANS National Development Plan

Achieve financial sustainability as foundation for future growth

DBSA - financial sustainability - medium term (grow equity greater than inflation) within acceptable risk framework:

- Revenue maximisation
- Non-interest income growth, operational cost and impairments management
- Direct delivery:
- activities approved s/holder
- full cost recovery basis

Provision of development finance and delivery capacity to deliver infrastructure

Infrastructure funding

- **CORE SECTORS: ENERGY, TRANSPORT, WATER, ICT**
- South Africa (muns, SOEs, public entities, PPP & private sector intermediaries)
- SADC

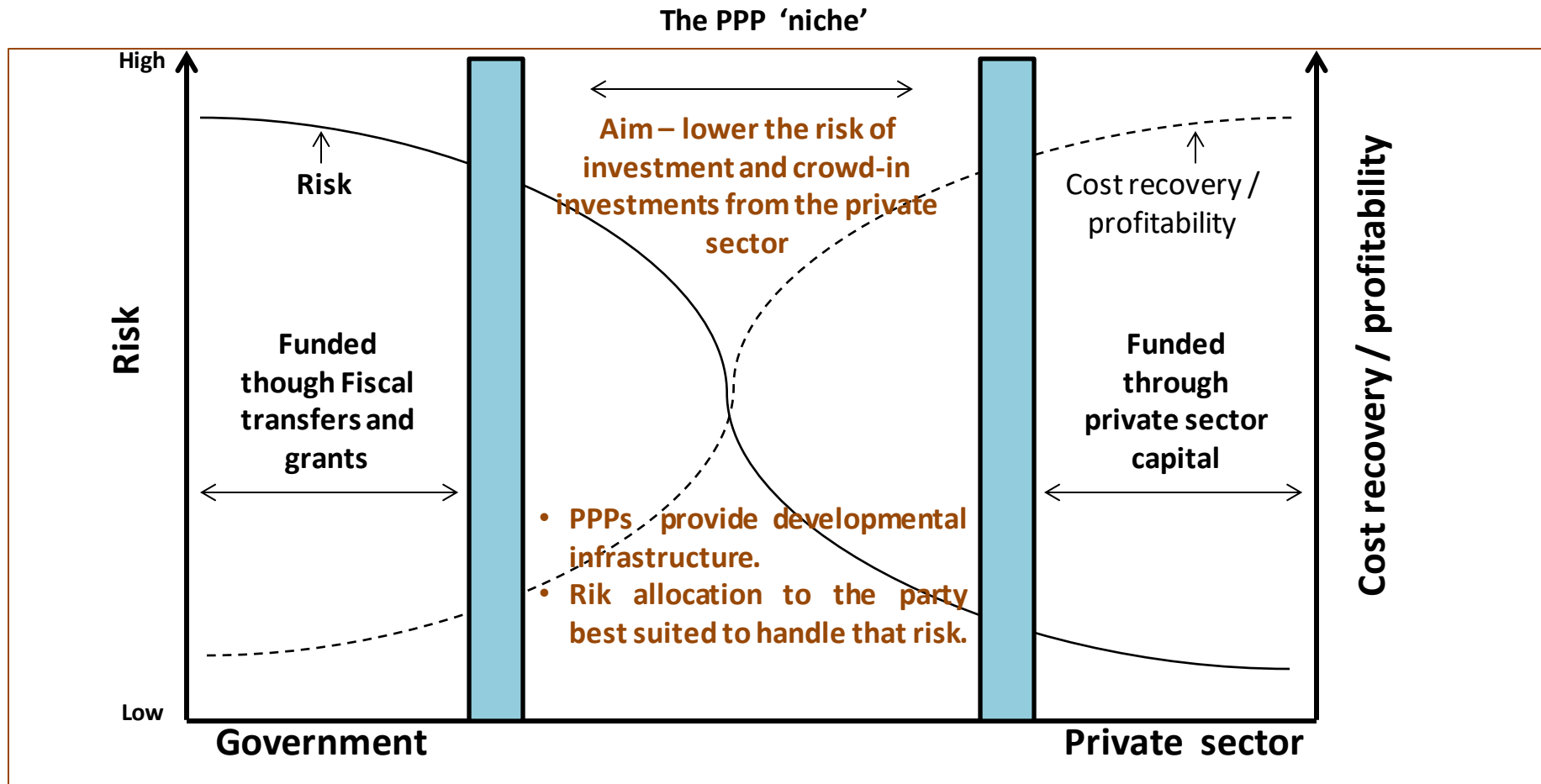
- Grow development assets
- Leverage third-party funds
- Diversify product offering in support of infrastructure development

Infrastructure delivery support and programme implementation

Support key government priorities: local government, health, education and regional integration.

PPP – KEY PARTICIPANTS – GOVERNMENT VS PRIVATE SECTOR

PPPs are a form of government intervention in the financial system, with the aim of addressing market failures in the provision of infrastructure. PPPs provide KEY infrastructure into those segments that are not well served by the financial system. These segments include projects whose social benefits exceed their commercial ones; long-term projects or projects with a long lead time; new or risky ventures.



INTEGRATED INFRASTRUCTURE FUNDING OPTIONS



Services

- Plan**
 - Municipal assessments
 - Infrastructure plans
 - Advisory role infrastructure planning
- Prepare**
 - Project Preparation funding
 - Feasibility assessments
 - Technical assistance
 - Financial structuring
 - Lead arranger
- Finance**
 - Provide vanilla and boutique financing opportunities
 - Debt
 - Mezzanine Finance
 - Limited non-recourse lending
- Build**
 - Managing the design and construction of key projects in the education, health and housing sectors
 - Project Management support
- Maintain / improve**
 - Supporting the maintenance and/or improvement of key infrastructure projects

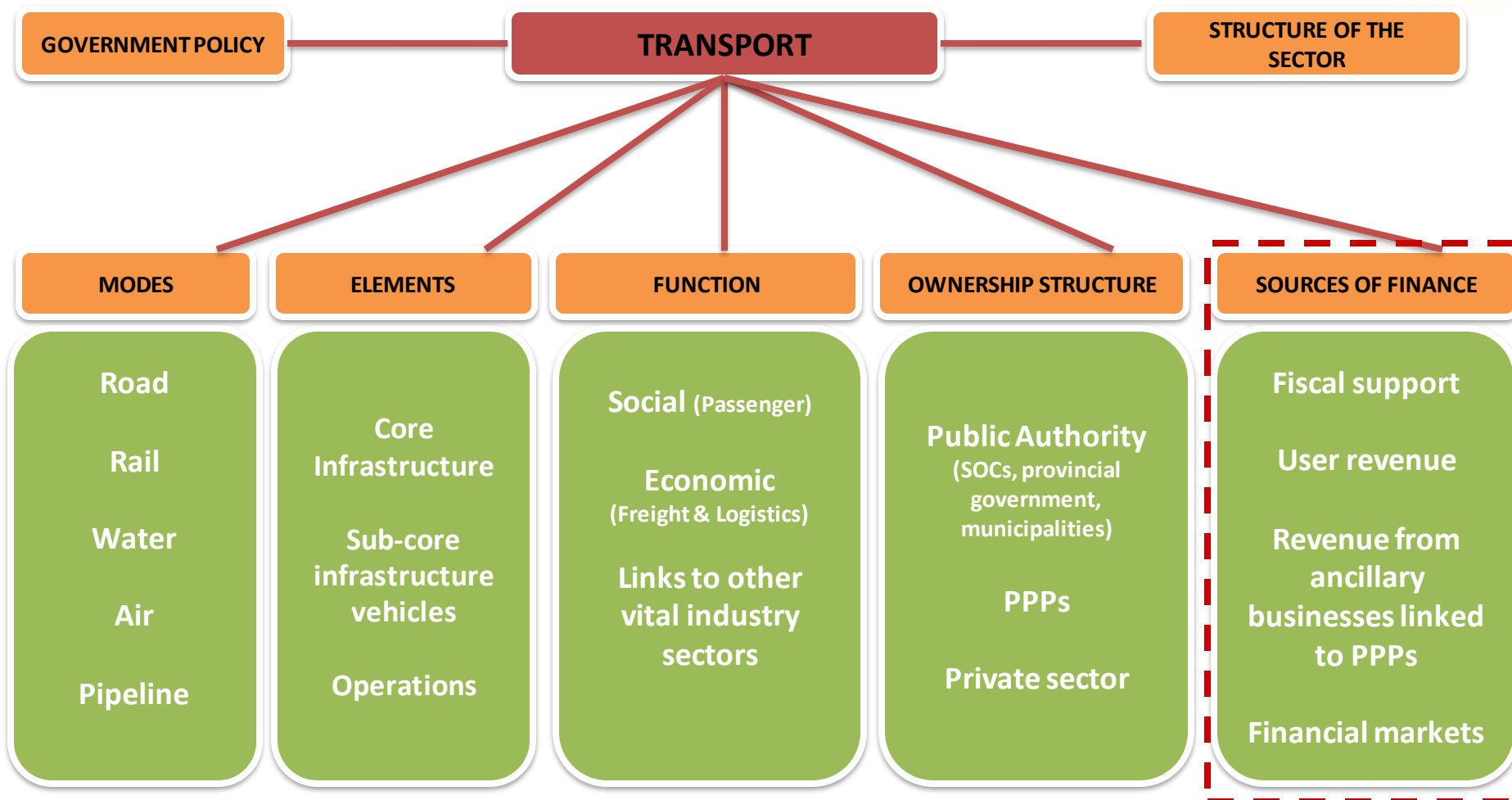
Clients

- South Africa**
 - Under resourced municipalities
- South Africa**
 - Municipalities
 - SOE
 - PPP
 - Private sector
- Rest of Africa**
 - SOE
 - Public-Private Partnerships
- South Africa**
 - Municipalities
 - SOE
 - PPP
 - Private sector
- Rest of Africa**
 - SOE
 - Public-Private Partnerships
- National and provincial government departments**
 - Municipalities
- National and provincial government departments**
 - Municipalities

 DBSA primary focus area

Through integrating across the value chain, DBSA is able drive infrastructure delivery in an effective and timely manner

TRANSPORT SECTOR CHARACTERISTICS



TRANSPORT PPP PROJECTS - SA

ROADS – Tolled, National and Provincial

RAPID RAIL – Gautrain

BUS RAPID TRANSIT -Jo'burg (Rea Vaya), Tshwane (A Re Yeng), Ekurhuleni (Harambee)



TRANSPORT PPPS -BRT SYSTEMS INTERNATIONAL



São Paulo



Curitiba



Quito



Bogotá

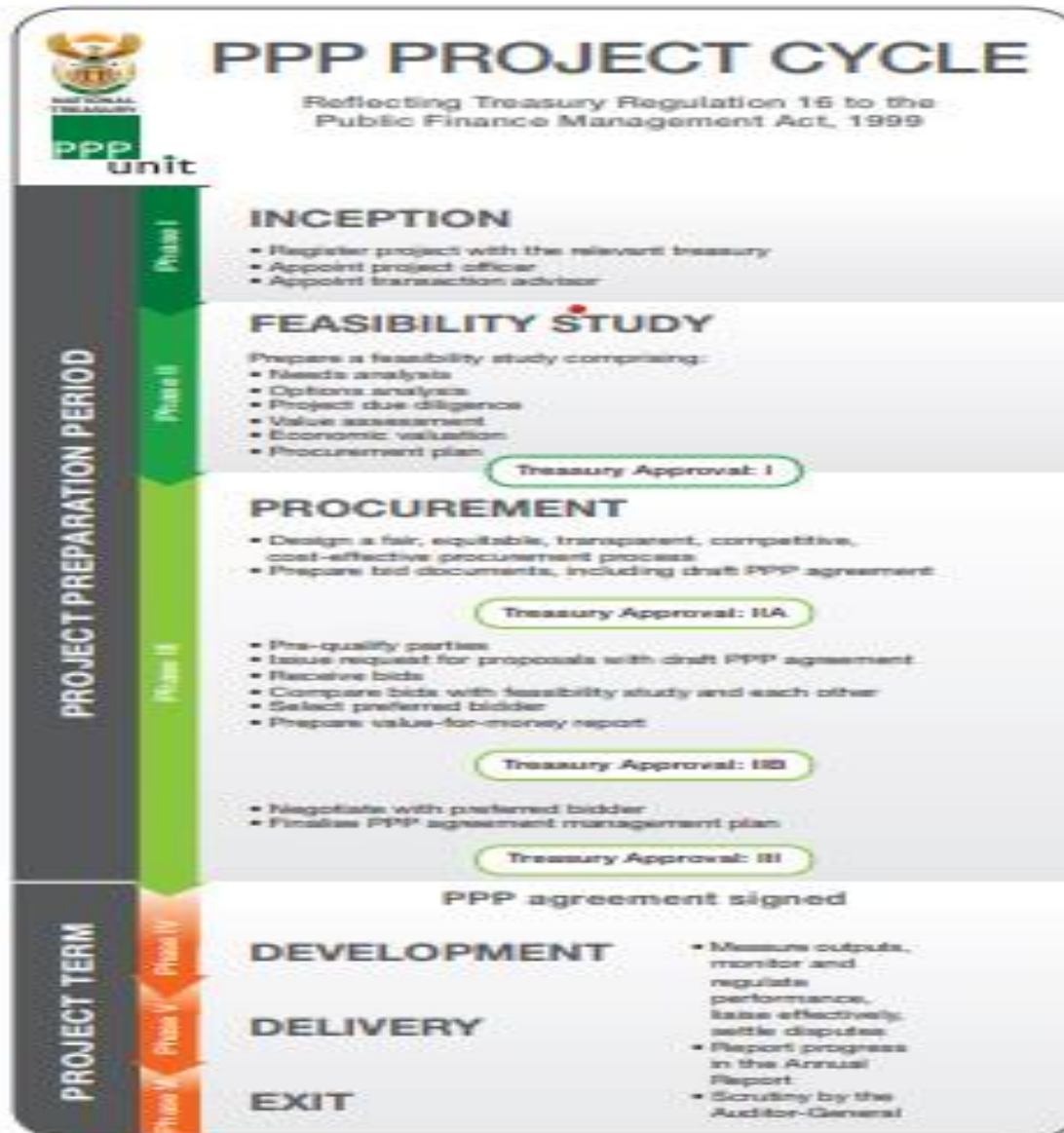


Mexico City



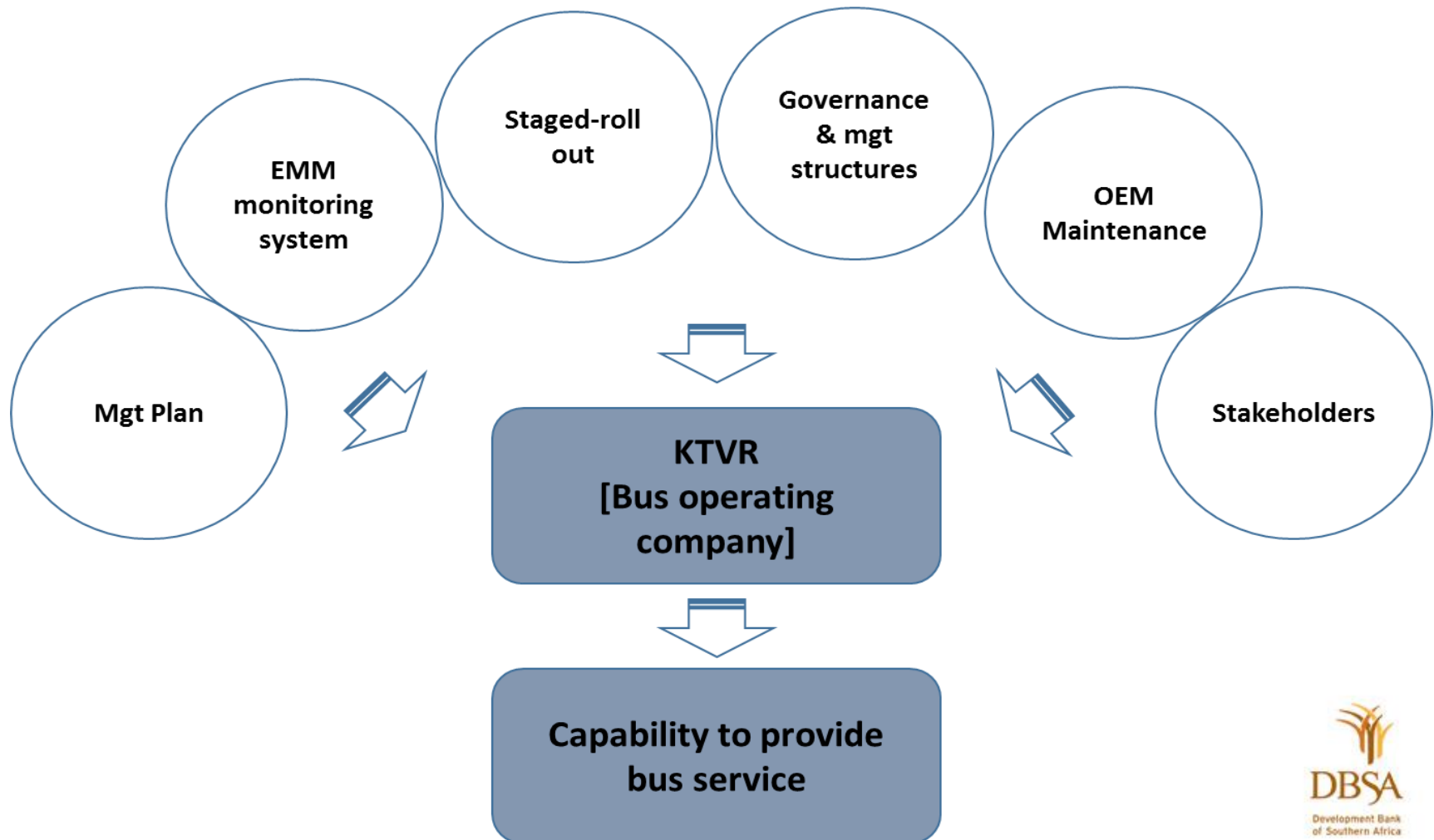
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PPP PROJECT CYCLE



PPP Manual reference	
Module 1	Module 2
MODULE 3	Module 8
Module 1	Module 2
MODULE 4	Module 6
Module 6	Module 7
Module 8	Module 9
Module 1	Module 2
Module 4	
MODULE 5	Module 6
Module 6	Module 7
Module 8	Module 9
Module 1	Module 2
Module 2	Module 5
MODULE 6	Module 7
Module 7	Module 8
Module 8	Module 9

GENESIS - OPERATIONAL CAPACITY PILLARS



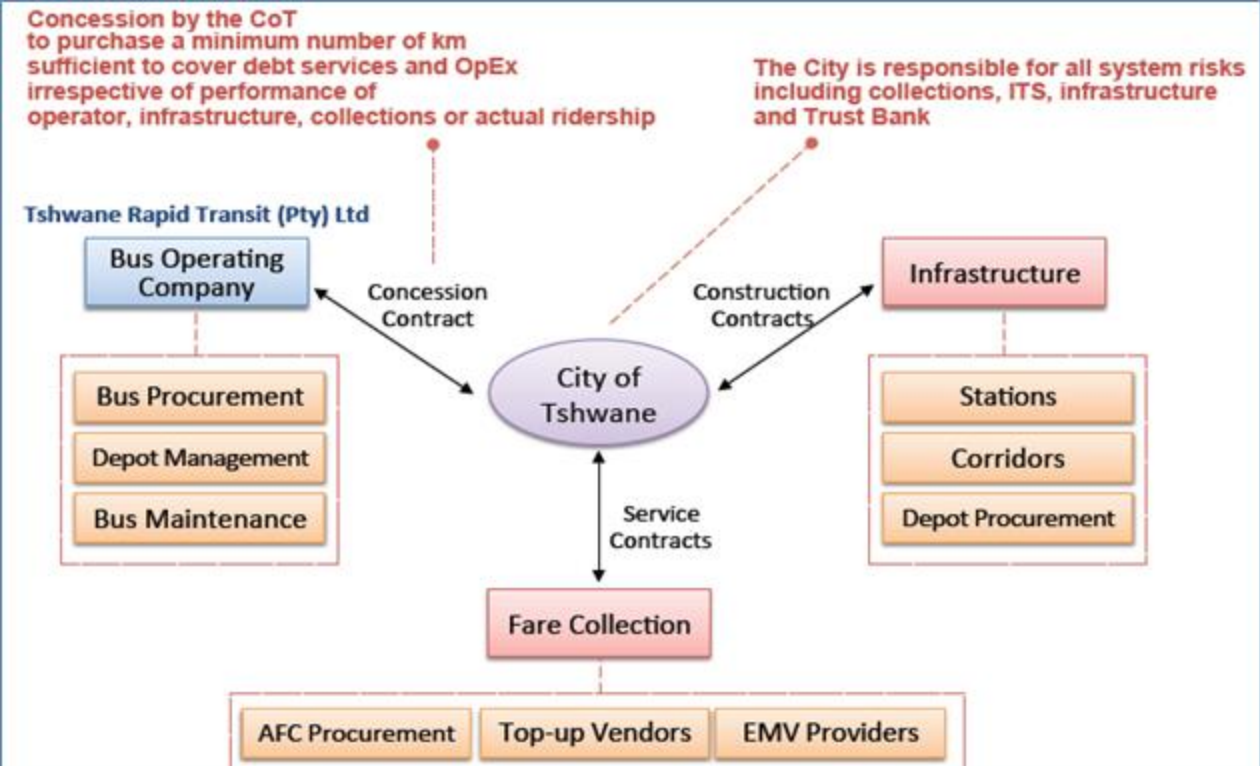


Structuring financial agreements for PPPs and Commercial Agreements involving infrastructure development through PPP.



I THE CONCESSION AGREEMENT

G STRUCTURE



AGREEMENT KEY SECTIONS

PART A: DEFINITIONS, PURPOSE AND SUSPENSIVE CONDITIONS

PART B: APPOINTMENT, DURATION AND BOC FEES

PART C: THE BOC ACQUISITION AND FUNDING OF VEHICLES

PART D: BUS OPERATING SERVICES

PART E: MAINTENANCE OF VEHICLES

PART F: DEPOT LEASE, MAINTENANCE AND SECURITY

PART G: MONITORING AND MANAGING MAINTENANCE FOR AFC ON-BOARD FARE PAYMENT SUBSYSTEM AND APTMS UNITS

- **RIGHTS AND OBLIGATIONS OF THE CITY, THE AFC CONTRACTOR AND THE APTMS CONTRACTOR IN RESPECTS OF AFC ON-BOARD FARE PAYMENT SUBSYSTEM AND APTMS UNITS ON-BOARD UNITS**
- **OBLIGATIONS OF THE BOC IN RESPECT OF AFC ON-BOARD FARE PAYMENT SUBSYSTEM AND APTMS UNITS**
- **RISK AND OWNERSHIP OF THE AFC ON-BOARD BOARD FARE PAYMENT SUBSYSTEM AND APTMS UNITS MANAGEMENT OF APTMS CONTRACT AND LIABILITY FOR LOSS TO CITY.**

AGREEMENT KEY SECTIONS

PART H: PRE BUSINESS RESCUE PROCEDURE AND BREACH MANAGEMENT RIGHTS

- CIRCUMVENTION OF MATERIAL BREACH
- THE CITY'S MATERIAL BREACH MANAGEMENT RIGHTS

PART I: GENERAL OBLIGATIONS OF THE BOC

- PROVIDE PROOF OF INSURANCE
- SERVICES IN COMPETITION WITH THE A RE YENG SYSTEM
- NO SHARE ISSUANCE TO PAY DIVIDENDS
- CHANGE IN CONTROL
- ACCESS TO AND DISCLOSURE OF INFORMATION
- ACCOUNTING MATTERS AND RIGHT TO ATTEND MEETINGS
- CESSION AND DELEGATION

PART J: SETTLEMENT OF DISPUTES

- GENERAL,
- MEDIATION
- ARBITRATION

PART K: GENERAL TERMS AND CONDITIONS

- BREACH, PENALTIES IN THE EVENT OF BREACH BY THE BOC
- INTERPRETATION, CHOICE OF LAW,
- CONFIDENTIALITY AND PUBLIC ANNOUNCEMENTS
- CONTRACT DOCUMENTS
- OWNERSHIP OF DOCUMENTS
- INDEPENDENT CONTRACTOR
- FORCE MAJEURE, NOTICES, GENERAL, COSTS

PART L: INTERIM ARRANGEMENT: INCEPTION SERVICES

CONCESSION AGREEMENT – SUMMARY

- The Bus Operating Company Contract (VOCC) is the agreement entered into between the City and the vehicle operating company for the provision of the bus operating services on the IRPTN Routes
- The agreement is concluded in terms of section 41 of the NLTA and will typically be for a period of 12 years from date of commencement of services.
- Some of the terms of the agreement must be negotiated and agreed with the affected operators who will own the Vehicle Operating Company.
- The VOCC includes provisions relating to the arrangements in respect of the buses, including the funding arrangements, the repayment as well as operations and maintenance issues.

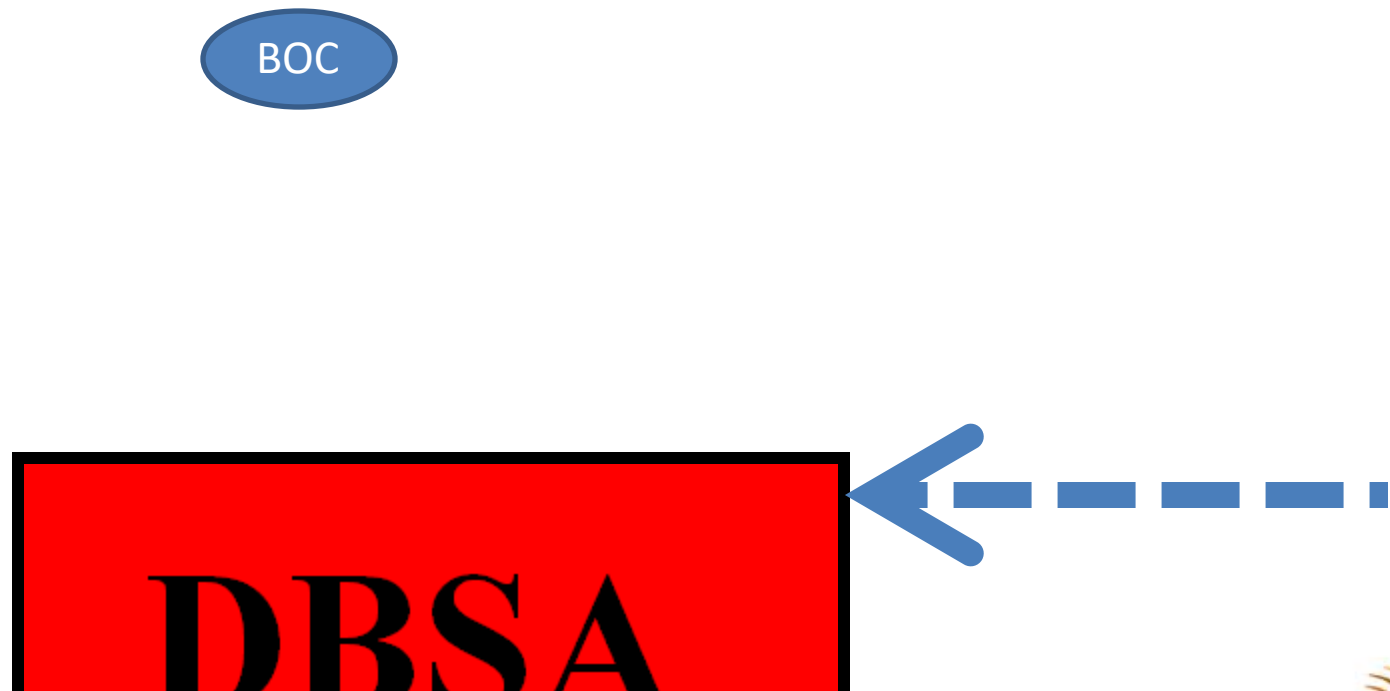
BRT SYSTEM KEY ROLES & RESPONSIBILITIES

SYSTEM COMPONENT	CITY's IRPTN	VOC	OEM
System operational plan and management - operating hours, frequency, route lengths (km's) etc.	√		
Bus monitoring – CCTV, GPS, ITS (TMC)	√		
Fare collection & ticket management	√		
Safety & security	√		
Traffic control & law enforcement	√		
Public info, marketing, surveys & reporting	√		
Stations management services	√		
Vehicle Operations: <ul style="list-style-type: none"> - Licensing, insurance, driver employment & training - Vehicle and driver allocations (as per City schedule) - Bus driving - Depot management 		√ √ √ √	
Bus Supply			√
Bus maintenance: <ul style="list-style-type: none"> - 1-5 years (initial maintenance period) - 5-15 years (subsequent maintenance period) 		√	√ √



II THE FINANCIAL AGREEMENT

BANK FACILITY FINANCING STRUCTURE



BANK FACILITY AGREEMENT OVERVIEW

	Senior Facility
Loan Amount:	USD XXX million (ZAR Equivalent)
Loan Term:	12 years (incl. availability)
Capital Grace Period:	None
Disbursements:	Lease contracts & ATPs.
Margin:	[] basis points, nominal p.a. compounded monthly
Security Ranking:	Secured parri pasu with ECA facility
Commitment Fee:	[] basis points p. a.
Applicable Interest Rate:	6 month ZAR Jibar
Interest Payment Dates:	6 Monthly in arrears
Principal Repayment:	6 Monthly instalments
Front-end Fee:	[1.5] % of the amount financed by the Bank
Security Package:	Priority mortgages on all immovable assets of the Company, including all land use and other real rights of the Company. Cessions in security over all Principal Documentation, including the Concession Agreement, Authorizations and all revenue streams, including (but not limited to) insurance proceeds and monies on deposit in domestic and foreign bank accounts and Direct Agreements relating to certain designated Principal Documentation.
Availability Period	No later than a date

BANK FACILITY AGREEMENT OVERVIEW



- 1. PARTIES
- 2. INTERPRETATION
- 3. RECORDAL
- 4. THE LOAN
- 5. CONDITIONS PRECEDENT
- 6. INTEREST
- 7. COMMITMENT FEES
- 8. REPAYMENT
- 9. EARLY PAYMENT
- 10. MANDATORY PREPAYMENT
- 11. ECONOMIC FAILURE
- 12. DEBT SERVICE RESERVE ACCOUNT
- 13. PAYMENT COVENANTS
- 14. SUSPENSION/CANCELLATION OF
DISBURSEMENTS
- 15. TAXES
- 16. INCREASED COSTS
- 17. MITIGATION
- 18. OTHER INDEMNITIES AND BREAK COSTS
- 20. DISTRIBUTIONS

- 21. UNDERTAKINGS
- 22. FINANCIAL COVENANTS
- 23. REPRESENTATIONS AND WARRANTIES
- 24. RIGHTS AND REMEDIES
- 25. EVENTS OF DEFAULT
- 26. CHANGES TO THE LENDER
- 27. SEVERABILITY
- 28. CESSION AND DELEGATION
- 29. APPLICABLE LAW AND JURISDICTION
- 30. MISCELLANEOUS
- 31. CERTIFICATE OF INDEBTEDNESS
- 32. REMEDIES AND WAIVERS
- 33. COSTS
- 34. NOTICES AND DOMICILIA
- 35. RELAXATION
- 36. VARIATION
- 37. INDEPENDENT ADVICE
- 38. EXECUTION IN COUNTERPARTS
- 39. WHOLE AGREEMENT

Annexure A: Disbursement Schedule


Annexure B: Disbursement Request

Annexure C: FICA Compliance Documents

Annexure D: Form of Transfer Certificate



III ENSURING PERFORMANCE



Managing long term PPP contracts
ensuring service delivery, price
regulation and dispute resolution

RISK PROFILING

Know your customer (KYC)

Political Risks

- “White Elephant Risk”
- Sources of Funding Assured?
- Political Will to Make Change?
- Strength of vested interests? Who wants the Project to fail?
- Timeframe?

- Project being bid in stages?
- Ability of Government to with draw/change the rules?

Legal Framework for BRT/Concession

General Risks

Operator Performance Risk

- Experienced BRT Operator involved?
- Pirate Buses
- Workforce?
- Culture?
- Plans for Removal / Distribution of “Old” Buses

Equator Principles / Environmental Impact Analysis

Technology Risk

- New technology?
- Proven?
- Working in similar conditions?
- Guarantee of operational costs/ Spare Parts costs and availability?
- Bus life?

Collection Risk/ Demand Risk

Operators

- Robust cashflows looking at worst case scenario?
- Capital Base?
- Security Package built into bid/concession documents?

- Cash reserve?
- Ridership Fee?
- Inflation/Fuel / FX variations covered?

Collection

- Closed Collection Points / Closed Bus Stops?
- Speed of loading passengers?
- Smart Cards or cash?

Ticket Price

- Variable ticket price
- Political Acceptability
- Public Reaction

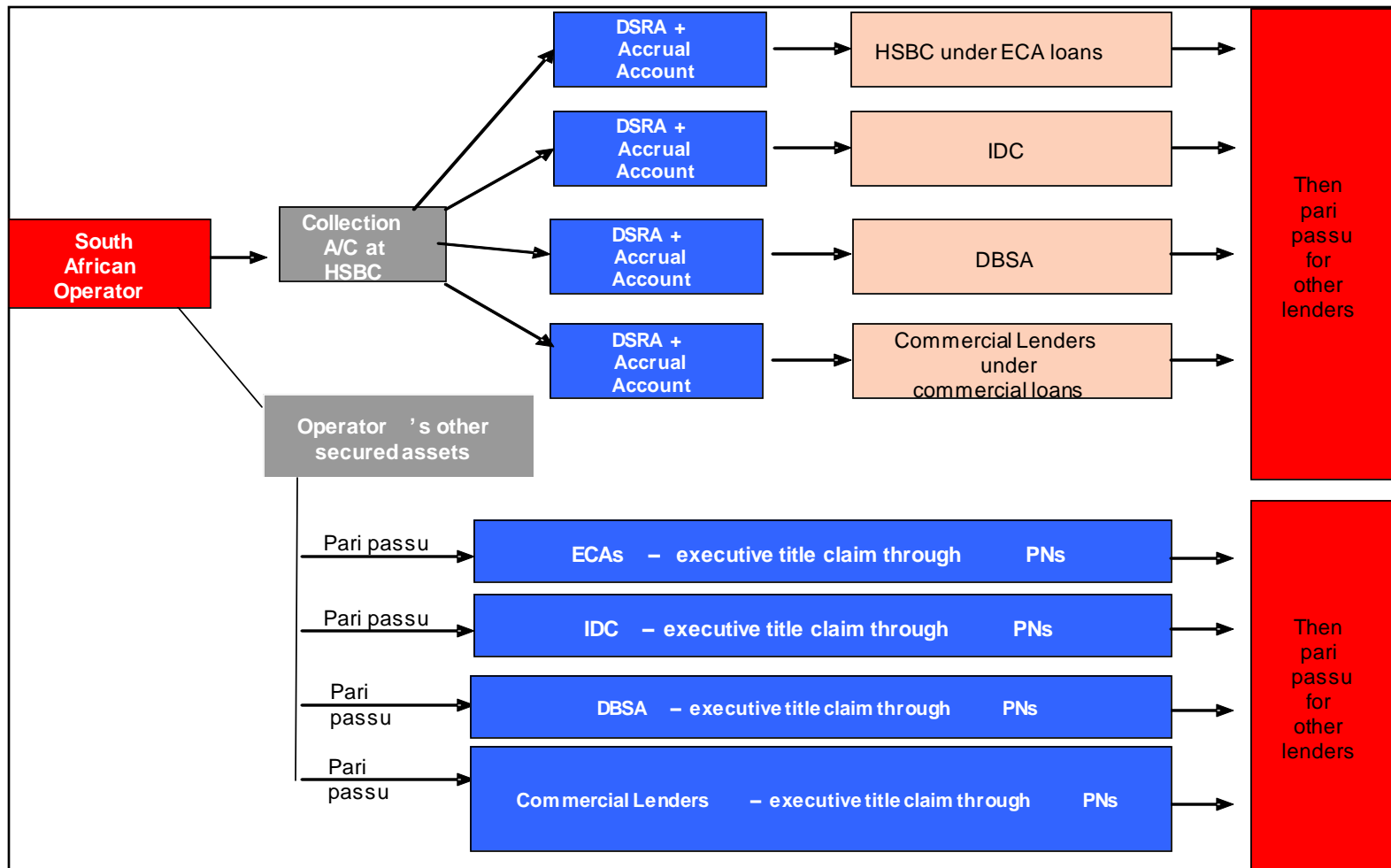
THE PLANS

SCHEDULE 6: FRAMEWORK FOR DEVELOPING THE PLAN – Required In Terms Of CONCESSION AGREEMENT CLAUSE 14.8.

- FINANCIAL PLAN
 - P/L PROFORMA
 - BALANCE SHEET
 - CASHFLOW
- HUMAN RESOURCES MATTERS
 - ORGANOGRAM
 - JOB DESCRIPTIONS
 - TRAINING
 - MANAGEMENT SYSTEMS AND PROCEDURES
- GOVERNANCE PROCEDURES

SKIN IN THE GAME - Security Structure

In addition to the debt service reserve accounts and control of funds from the Systems Bank, the Financial Parties also will benefit from a pledge on all of the Bus Operators assets including step in rights to the concession through a pledge of the Operator, Company's shares.



III ENSURING PERFORMANCE



Material breach of the concession agreement by BOC, City shall observe the following process:

- CITY will demand specific performance and/ or claim damages first
- After consultation and agreement with lender(s), CITY can cancel the concession agreement and appoint a third party operator or operate the buses itself.
- In the interest of the continuity of services, CITY has an obligation to lenders to secure a third party/alternative operator to replace BOC or to purchase buses at the value of the outstanding debt within six months of cancellation of concession agreement with BOC.
- The lenders retain rights, to nominate an alternative BOC which can be exercised at their election if after cancellation, the CITY fails to appoint an alternative BOC within a period of 6 months and CITY itself does not elect to operate the buses.



1. PENALTIES

Penalties for deviating from this Schedule or for failure to comply with its obligations as stipulated in the BOCA, shall be applied by the City, provided that such incidents are not caused by any action or inaction on the part of the City. The Parties shall within 6 months from the commencement of the Inception Services, negotiate and agree on the money value of each penalty point to apply during the 12 year Bus Operation Company Agreement (BOCA). During the Inception Services, the value of each penalty point will be equal to R400-00. During the first three months of operation the Bus Operating Company will receive notice of penalties incurred without the value of the penalties being deducted from the payable remuneration in accordance with the rules contained under general below.

Points Grading System

LEVEL	DESCRIPTOR	DESCRIPTION
1	Minor	Affects reliability and convenience of passengers and system reputation
2	Moderate	A compromise on service quality and system credibility
3	Major	Major event requiring urgent attention, threatens system integrity

DISPUTE RESOLUTION MECHANISMS

PPPS are long-term and complex, contracts tend to be incomplete,
HENCE Adjustment Mechanisms NEEDED.

1. Mediation and conciliation.
2. Recourse to a sector regulator.
3. Judicial system.
4. Panel of experts as arbitrators
5. International arbitration.

(Kerf et al. 1998)



IV PRICE DETERMINANTS

PRICE DETERMINANTS

Price Regulation - Determination of price controls - Section 11.

- (1) Every regulated entity is subject to price regulation in accordance with a price control determined by the Regulator.
- (2) The price control for a regulated entity may comprise—
 - (a) a schedule of tariffs, charges, fees, tolls or other amounts that may be imposed
by the regulated entity for the use of, or access to, any transport service or facility offered by that regulated entity;
 - (b) a limit on the total amount of revenue it may raise from the facilities and services offered by it;
 - (c) a limit on the return it may derive from the assets utilised by it to provide its facilities and services; or
 - (d) any other appropriate pricing method, including any combination of the methods contemplated in paragraphs.

PRICE DETERMINANTS

In terms of the DoT conditions for the PTIS Grant and National Policy, IPTN or IRPTN fares are to be in line with current minibus taxi fares for the area. As such, the CoT proposes zonal based hybrid fare regime for the TRT's six identified zones as compared to a completely flat fare or a pure distance-based fare regime.

The fare structure will consist of:

- a) an access fare of R10.00 for each initial boarding (trunk, complementary and feeders);
- b) a distance-based km fare of R0.20/km should apply and
- c) the access fare of R10.00 would apply as a flat fare for short internal zone trips, i.e. for travelling within a zone on a feeder service without accessing the trunk or making use of the trunk within a zone. This fare is similar to the typical average short distance local trips of the minibus taxi industry.

$$C_i(Op_j) = [(K_{ij}(AV) \times CK_{j,m}(AV)) + (K_{ij}(SV) \times CK_{j,m}(SV))] - P_{ij}$$

Where,

$C_i(Op_j)$ is the compensation to BOC j for services rendered in week i

$K_{ij}(AV)$ is the number of kilometers operated with Articulated Vehicles by BOC j during week i.
(Kilometres scheduled but not operated due to BOC own volition should not be included)

$K_{ij}(SV)$ is the number of kilometers operated with Complementary Vehicles by BOC j during week i.
(Kilometres scheduled but not operated due to BOC own volition should not be included)

$CK_{j,m}(AV)$ is the fee per kilometer paid during month m to BOC j, in compensation or the operation of Articulated Vehicles. This fee per kilometer will be adjusted on the 10th business day of each month using the escalation formula for Articulated Vehicles.

$CK_{j,m}(SV)$ is the fee per kilometer paid during month m to BOC j in compensation for the operation of Complementary Vehicles. This fee per kilometer will be adjusted on the 10th business day of each month, using the escalation formula for Complementary Vehicles.

P_{ij} is the total value of penalties imposed on week i to BOC j

KEY LESSONS LEARNT FROM OTHER BRTS

LESSON	BRT SYSTEM
Lender engagements with the City – Direct Agreement	BOC (Tshwane)
Government support required for infrastructure and operations	All
Involvement of industry representatives in the negotiations and VOC operations (Board Level)	BOC (Tshwane)
Managing behavioral and culture change (Taxi operators and users)	MyCiti (Cape Town) Rea Vaya (Joburg) BOC (Tshwane)
Appointment of qualified & experienced Executive Team at VOC	All
Adequate VOC advisory – during negotiations with the City & Lenders and operations	BOC (Tshwane)
If City procures buses, Auditor General consolidates	Rea Vaya (Joburg)
Readiness of supporting infrastructure: - potential roll-out delays	BOC (Tshwane)
Municipality support to taxi industry in operations set up and other requirements	All

THANK YOU

Contact

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