



PERFORMANCE AGREEMENT

MADE AND ENTERED into by and between

PHUMELELA LOCAL MUNICIPALITY

AS REPRESENTED BY THE MUNICIPAL MANAGER

BRUCE WILLIAM KANNEMEYER

(HEREIN REFERRED AS "EMPLOYER")

AND

SELLO ALBERT NYAPHOLI

CHIEF FINANCIAL OFFICER

(Identity Number: 730706 5308 084)

(HEREIN REFERRED TO AS THE "EMPLOYEE")

PREAMBLE

WHEREAS the employer has entered into a contract of employment with the employee in terms of section 57(1) (a) of the local government: municipal systems act, 2000 (Act No. 32 of 2000)

AND WHEREAS Section 57(1) (b) of the Act, read with the Contract of Employment concluded between the parties, requires them to conclude an annual performance Agreement;

AND WHEREAS the parties wish to ensure that there is compliance with Section 57(4a) 57(4b) and 57(5) of the Act, that they are clear about the goals to be achieved and secure commitment of the employee to a set of outcomes that will secure local government policy goals;

NOW THEREFORE THE PARTIES AGREES AS FOLLOWS:

1. DEFINITIONS

- 1.1 "the Act shall mean the local government: municipal systems act, 2000 (act No. 32 of 2000)
- 1.2 "the Parties" shall mean the employer and the employee)
- 1.3 "KPA or KPA's" shall mean the key performance area(s)
- 1.4 "KPI or KPI's" shall mean the key performance indicator(s)
- 1.5 "CMC or CMC's" shall mean core managerial competencie(s)
- 1.6 "COC or COC's" shall mean core occupational competencie(s)
- 1.7 "CCR or CCR's" shall mean core competency requirement(s)
- 1.8 "PA" shall mean this Performance Agreement;
- 1.9 "PP" shall mean the Performance Plan attached as **Annexure "A"** to this agreement, which shall be regarded as having been incorporated into the Agreement by reference;
- 1.10 "PDP" shall mean the Personal Development Plan attached as **Annexure "B"** to this agreement
- 1.11 "Regulation" shall mean the local government: Municipal Systems Act, 2000 (Act No. 32 of 2000); Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006

2. PURPOSE OF AGREEMENT

- 2.1 Comply with the provisions of section 57(1) (b), (4A), (4B) and 5 of the Act as well as the Contract of Employment entered into between the Parties
- 2.2 Specify objectives and targets defined and agreed with the Employee and communicate to the Employee's the Employers expectations of the employee's performance and accountabilities in alignment with the Integrated Development Plan, Service Delivery and Budget Implementation Plan and the Budget of the Municipality
- 2.3 Specify accountability as set out in the PP, which performs **Annexure "A"** to this agreement;
- 2.4 Monitor and measure performance against set targeted output;

- 2.5 Use the Agreement as the basis for assessing whether the Employee has met the performance expectations applicable to his/her job;
- 2.6 In the event of outstanding performance, to appropriately reward the Employee; and
- 2.7 Give effect to the Employer's commitment to a performance-orientated relationship with the Employee in attaining equitable and improved service delivery.

3. COMMENCEMENT AND DURATION

- 3.1 This Agreement will commence on the 1 July 2016 and will remain in force until 30 June 2017 thereafter a new Performance Agreement, Performance Plan and Personal Development Plan shall be concluded between the parties for the next financial year or any portion thereof.
- 3.2 The parties will review the provisions of this Agreement during June each year. The parties will conclude a new Performance Agreement and Performance Plan that replaces this Agreement at least once a year by not later than the beginning of each successive financial year.
- 3.3 This Agreement will terminate on the termination of the **Employee's** contract of employment for any reason.
- 3.4 The content of this Agreement may be revised at any time during the above-mentioned period to determine the applicability of the matters agreed upon.
- 3.5 If at any time during the validity of this Agreement the work environment alters (whether as a result of government or council decisions or otherwise) to the extent that the contents of this Agreement are no longer appropriate, the contents shall immediately be revised.

4. PERFORMANCE OBJECTIVES

4.1 The Performance Plan (Annexure A) sets out-

- 4.1.1 the performance objectives and targets that must be met by the **Employee**; and
 - 4.1.2 the time frames within which those performance objectives and targets must be met.
- 4.2 The performance objectives and targets reflected in Annexure A are set by the **Employer** in consultation with the **Employee** and based on the Integrated Development Plan, Service Delivery and Budget Implementation Plan (SDBIP) and the Budget of the **Employer**, and shall include key objectives; key performance indicators; target dates and weightings.
- 4.2.1 The key objectives describe the main tasks that need to be done.
 - 4.2.2 The key performance indicators provide the details of the evidence that must be provided to show that a key objective has been achieved.

4.2.3 The target dates describe the timeframe in which the work must be achieved.

4.2.4 The weightings show the relative importance of the key objectives to each other.

4.3 The **Employee's** performance will, in addition, be measured in terms of contributions to the goals and strategies set out in the **Employer's** Integrated Development Plan.

5. PERFORMANCE MANAGEMENT SYSTEM

5.1 The **Employee** agrees to participate in the performance management system that the **Employer** adopts or introduces for the **Employer**, management and municipal staff of the **Employer**.

5.2 The **Employee** accepts that the purpose of the performance management system will be to provide a comprehensive system with specific performance standards to assist the **Employer**, management and municipal staff to perform to the standards required.

5.3 The **Employer** will consult the **Employee** about the specific performance standards that will be included in the performance management system as applicable to the **Employee**.

5.4 The **Employee** undertakes to actively focus towards the promotion and implementation of the KPAs (including special projects relevant to the employee's responsibilities) within the local government framework.

5.5 The criteria upon which the performance of the **Employee** shall be assessed shall consist of two components, both of which shall be contained in the Performance Agreement.

5.5.1 The **Employee** must be assessed against both components, with a weighting of 80:20 allocated to the Key Performance Areas (KPAs) and the Core Competency Requirements (CCRs) respectively.

5.5.2 Each area of assessment will be weighted and will contribute a specific part to the total score.

5.5.3 KPAs covering the main areas of work will account for 80% and CCRs will account for 20% of the final assessment.

5.6 The **Employee's** assessment will be based on his / her performance in terms of the outputs / outcomes (performance indicators) identified as per attached Performance Plan (**Annexure A**), which are linked to the KPA's, and will constitute 80% of the overall assessment result as per the weightings agreed to between the **Employer** and **Employee**:

Key Performance Areas	Weighting
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Municipal Institutional Development and Transformation	15%
Basic Service Delivery	5%
Local Economic Development (LED) – Covered under Basic Services	0%
Municipal Financial Viability and Management	60%
Good Governance and Public Participation	20%
TOTAL	100%

- 5.7 In the case of managers directly accountable to the municipal manager, key performance areas related to the functional area of the relevant manager, must be subject to negotiation between the municipal manager and the relevant manager.
- 5.8 The CCRs will make up the other 20% of the **Employee's** assessment score. CCRs that are deemed to be most critical for the **Employee's** specific job should be selected (✓) from the list below as agreed to between the **Employer** and **Employee**.

CORE COMPETENCY REQUIREMENTS (CCR)		Weight
Leading Competencies		
Strategic Direction and Leadership	<ul style="list-style-type: none"> • Impact and Influence • Institutional Performance Management • Strategic Planning and Management • Organisational Awareness 	25
People Management	<ul style="list-style-type: none"> • Human Capital Planning and Development • Diversity Management • Employee Relations Management • Negotiation and Dispute Management 	10
Program and Project Management	<ul style="list-style-type: none"> • Program and Project Planning and Implementation • Service Delivery Management • Program and Project Monitoring and Evaluation 	5
Financial Management	<ul style="list-style-type: none"> • Budget Planning and Execution • Financial Strategy and Delivery • Financial Reporting and Monitoring 	15
Change Management	<ul style="list-style-type: none"> • Change Vision and Strategy • Process Design and Improvement • Change Impact Monitoring and Evaluation 	10
Governance Leadership	<ul style="list-style-type: none"> • Policy Formulation • Risk and Compliance Management • Cooperative Governance 	20
Core Competencies		
Moral Competence		
Planning and Organising		
Analysis and Innovation		
Knowledge and Information Management		5
Communication		10
Results and Quality Focus		
Total Percentage		100%

6. EVALUATING PERFORMANCE

6.1 The PP attached as Annexure "A" to this agreement, set out –

6.1.1 The standard and procedures for evaluating the Employee's performance' and

6.1.2 The interview for evaluation of the Employee's performance

6.2 Despite the establishment of agreed intervals for evaluation, the Employer may in addition review the Employee's performance at any stage while the Contract of Employment remains in force.

6.3 Personal growth and development needs identified during any performance review discussion shall be documented in a PDP as well as the actions agreed to and implementation must take place within set time frames.

6.4 The Employee' performance shall be measured in terms of contributions to the goals and strategies set out in the Employer's Integrated Development Plan

6.5 The annual performance appraisal shall involve:

6.5.1 Assessment of the achievement of result as outlined in the PP:

(a) Each KPA shall be assessed according to the extent to which the specified standards or KPI's have been met and with due regard to ad hoc tasks that had been performed under the KPA's.

(b) An indicative rating on the 5 (five) point scale should be provided for each KPA must be used to add the scores and calculate a final KPA score.

6.5.2 Assessment of the CCR's

(a) Each CCR should be assessed according to the extent to which the specified standards have been met.

(b) An indicative rating on the 5 (five) points scale be provided for each CCR.

(c) This rating shall be multiplied by the weighting given to each CCR during the contracting process to provide a score.

(d) The applicable assessment rating calculator (refer to clause 6.5.1) shall be used to add the score and calculate a final CCR score

6.5.3 Overall rating

An overall rating is calculated by using the applicable assessment-rating calculator, which shall represent the outcome of the performance appraisal.

6.6 The assessment of the performance of the Employee will be based on the following rating scale for KPA's and CCR's:

Level	Terminology	Description	Rating				
			1	2	3	4	5
5	Outstanding performance	Performance far exceeds the standard expected of an employee at this level. The appraisal indicates that the Employee has achieved above fully effective results against all performance criteria and indicators as specified in the PA and Performance plan and maintained this in all areas of responsibility throughout the year.					
4	Performance significantly above expectations	Performance is significantly higher than the standard expected in the job. The appraisal indicates that the Employee has achieved above fully effective results against more than half of the performance criteria and indicators and fully achieved all others throughout the year.					
3	Fully effective	Performance fully meets the standards expected in all areas of the job. The appraisal indicates that the Employee has fully achieved effective results against all significant performance criteria and indicators as specified in the PA and Performance Plan.					
2	Not fully effective	Performance is below the standard required for the job in key areas. Performance meets some of the standards expected for the job. The review/assessment indicates that the employee has achieved below fully effective results against more than half the key performance criteria and indicators as specified in the PA and Performance Plan.					
1	Unacceptable performance	Performance does not meet the standard expected for the job. The review/assessment indicates that the employee has achieved below fully effective results against almost all of the performance criteria and indicators as specified in the PA and Performance Plan. The employee has failed to demonstrate the commitment or ability to bring performance up to the level expected in the job despite management efforts to encourage improvement.					

6.6 b The assessment of the performance of the Employee will be based on the following rating scale for CCRs:

Level	Terminology	Description	Rating				
			1	2	3	4	5
5	Superior	Has a comprehensive understanding of local government operations, critical in shaping direction and change, develops and applies comprehensive concepts and methods					
4	Advanced	Develops and applies progressive concepts, methods and understanding. Effectively directs and leads a group and executes in-depth analysis					
3	Competent	Develops and applies complex, methods and understanding. Plans and guides the work of others and executes progressive analyses					
2	Basic	Applies basic concepts, methods, and understanding of local government operations, but requires supervision and development intervention					
1	Insufficient	Not able to apply competency as required in terms of expectations					

6.7 For purposes of evaluating the annual performance of the municipal manager, an evaluation panel constituted of the following persons must be established -

- 6.7.1 Executive Mayor or Mayor;
- 6.7.2 Chairperson of the performance audit committee or the audit committee in the absence of a performance audit committee;
- 6.7.3 Member of the mayoral or executive committee or in respect of a plenary type municipality, another member of council;
- 6.7.4 Mayor and/or municipal manager from another municipality; and
- 6.7.5 Member of a ward committee as nominated by the Executive Mayor or Mayor.

6.8 For purposes of evaluating the annual performance of managers directly accountable to the municipal managers, an evaluation panel constituted of the following persons must be established -

- 6.8.1 Municipal Manager;
- 6.8.2 Chairperson of the performance audit committee or the audit committee in the absence of a performance audit committee;
- 6.8.3 Member of the mayoral or executive committee or in respect of a plenary type municipality, another member of council; and
- 6.8.4 Municipal manager from another municipality.

6.9 The manager responsible for human resources of the municipality must provide secretariat services to the evaluation panels referred to in sub-regulations (d) and (e).

7. SCHEDULE FOR PERFORMANCE REVIEWS

7.1 The performance of the Employee in relation to his/her PA shall be reviewed on the following dates, with the understanding that reviews in the 3rd (third) quarter may be verbal if performance is satisfactory:

Quarter	Period	Target Month
First	01 July 2014 – 30 September 2016	Before 31 October 2016
Second	01 October 2014 – 31 December 2016	Before 31 January 2017
Third	01 January 2015 – 31 March 2017	Before 30 April 2017
Fourth	01 April 2015 – 30 June 2017	Before 31 July 2017

7.2 The **Employer** shall keep a record of the mid-year review and annual assessment meetings.

7.3 Performance feedback shall be based on the **Employer's** assessment of the **Employee's** performance.

7.4 The **Employer** will be entitled to review and make reasonable changes to the provisions of Annexure "A" from time to time for operational reasons. The **Employee** will be fully consulted before any such change is made.

7.5 The **Employer** may amend the provisions of Annexure A whenever the performance management system is adopted, implemented and / or amended as the case may be. In that case the **Employee** will be fully consulted before any such change is made

8. DEVELOPMENTAL REQUIREMENTS

The Personal Development Plan for addressing developmental gaps is attached as **Annexure "B"** and shall form part of this Agreement.

9. OBLIGATION OF THE EMPLOYER

9.1 The Employer shall –

9.1.1 Create an enabling environment to facilitate effective performance by the Employee

9.1.2 Provide access to skills development and capacity building opportunities;

9.1.3 Work collaboratively with the Employee to solve the problems and generate solutions to common problems that may impact on the performance of the Employee;

9.1.4 On the request of the Employee, delegate such powers reasonably required by the Employee to enable him/her to meet the performance objectives and targets established in terms of this Agreement; and

9.1.5 Make available to the Employee such resources as the employee may reasonably require from time to time assisting him/her to meet the performance objectives and targets established in terms of this Agreement.

10. CONSULTATION

10.1 The Employer agrees to consult the Employee timeously where the exercising of the powers will have, amongst others –

- 10.1.1 A direct effect on the performance of any of the Employee's functions;
- 10.1.2 Commit the Employee to implement or to give effect to (a) decision(s) taken by the Employer; and
- 10.1.3 A substantial financial effect on the Employer.
- 10.2 The Employer agrees to inform the Employee of the outcome of any decision taken pursuant to the exercise of powers contemplated in clause 10.1 as soon as is practicable to enable the Employee to take any necessary action without delay.

11. MANAGEMENT OF EVALUATION OUTCOMES

- 11.1 The evaluation of the **Employee's** performance will form the basis for rewarding outstanding performance or correcting unacceptable performance.
- 11.2 A performance bonus of between 5% to 14% of the all-inclusive annual remuneration package may be paid to the **Employee** in recognition of outstanding performance to be constituted as follows:
 - 11.2.1 a score of 130% to 149% is awarded a performance bonus ranging from 5% to 9%; and
 - 11.2.2 a score of 150% and above is awarded a performance bonus ranging from 10% to 14%.
- 11.3 In the case of unacceptable performance, the **Employer** shall –
 - 11.3.1 provide systematic remedial or developmental support to assist the **Employee** to improve his or her performance; and
 - 11.3.2 after appropriate performance counselling and having provided the necessary guidance and/ or support as well as reasonable time for improvement in performance, the **Employer** may consider steps to terminate the contract of employment of the **Employee** on grounds of unfitness or incapacity to carry out his or her duties.

12. DISPUTE RESOLUTION

- 12.1 Any disputes about the nature of the **Employee's** performance agreement, whether it relates to key responsibilities, priorities, methods of assessment and/ or any other matter provided for, shall be mediated by –
 - 12.1.1 the MEC for local government in the province within thirty (30) days of receipt of a formal dispute from the **Employee**; or
 - 12.1.2 any other person appointed by the MEC.
 - 12.1.3 In the case of managers directly accountable to the municipal manager, a member of the municipal council, provided that such member was not part of the evaluation panel provided for in sub-regulation 27(4)(e) of the Municipal Performance Regulations, 2006, within thirty (30) days of receipt of a formal dispute from the employee;

whose decision shall be final and binding on both parties.

12.2 In the event that the mediation process contemplated above fails, clause 20.3 of the Contract of Employment shall apply.

13. GENERAL

13.1 The contents of this agreement and the outcome of any review conducted in terms of Annexure A may be made available to the public by the **Employer**.

13.2 Nothing in this agreement diminishes the obligations, duties or accountabilities of the **Employee** in terms of his/ her contract of employment, or the effects of existing or new regulations, circulars, policies, directives or other instruments.

13.3 The performance assessment results of the municipal manager must be submitted to the MEC responsible for local government in the relevant province as well as the national minister responsible for local government, within fourteen (14) days after the conclusion of the assessment.

Thus done and signed at **Vrede**, on this **28** day of **July 2016** in the presence of the undersigned witnesses:

For the employee:

Witness 1: 

Employee: 
Sello Albert Nyapholi

Witness 2: 

Thus done and signed at **Vrede**, on this **28** day of **July 2016** in the presence of the undersigned witnesses:

For the employer:

Witness 1: 

Employer: 
Bruce William Kannemeyer

Witness 2: 