



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")

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[Signature]

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

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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 **1st July 2014** and will remain in force until **30th June 2015**, where after a new PA, PP and PDP shall be concluded between the Parties for the next financial year or any portion thereof.
- 3.2 The Parties shall review the provisions of this Agreement during June each year.
- 3.3 The parties will conclude a new PA, PP and PDP that replaces this Agreement at least once a year by not later than the beginning of each successive financial year.
- 3.4 This Agreement will terminate on the termination of the Employee's Contract of Employment for any reason.
- 3.5 The content of this Agreement may be revised at any time during the periods specified in clause 3.1 above, to determine the applicability of the matter agreed upon.
- 3.6 If at any time during the validity of this Agreement the work environment alters (whether as a result of Government or Council decision or otherwise) to the extent that the content of this Agreement are no longer appropriate, the contents shall immediately be revised.

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4. PERFORMANCE OBJECTIVES

4.1 The PP 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 the PP are set by the Employer in consultation with the employee and based on the Integrated Development Plan, Service Delivery and Budget Implementation Plan and the Budget of the Employer, and shall include key objectives, key performance indicators, targets dates and weighting.

4.2.1 The key objectives describe the 27 key main tasks that need to be performed or executed.

4.2.2 The KPI's and means of verification provide the details of the evidence that must be provided to show that a key objectives has been achieved

4.2.3 The target dates describe the time frames within which the work must be achieved.

4.2.4 The weighting shows 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 of the Municipality, management and staff of the Employer.

5.2 The Employee accept that the purpose of the performance management system will be to provide a comprehensive system with specific performance standards to assist the municipality, management and staff to perform to the standard required.

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

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- 5.4 The Employee undertakes to actively focus towards the promotion and implementation of the KPA's (including special projects relevant to the Employee's responsibility) 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 Agreement.
 - 5.5.1 The Employee must be assessed against both components, with a weighting of 80:20 allocated to the KPA's and CCR's respectively.
 - 5.5.2 Each area of assessment will be weighted and will contribute a specific part to the total score.
 - 5.5.3 KPA's covering the main areas of work will account for 80% (eighty percent) and CCR's will account for 20% (twenty percent) of the final assessment.
- 5.6 The Employee's assessment will be based on his/her performance in terms of the output/outcomes (KPI's) identified in the Performance Plan, which are linked to the KPA's, and will constitute 80%(eighty percent) of the overall assessment result as per the weightings agreed to between the Employer and Employee:

Key Performance Areas	Weighting
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 The KPA's related to the functional area of the Employee shall be subject to negotiation between the municipal manager and the Employee.
- 5.8 The CCR's will make up of the other 20% (twenty percent) of the Employee's assessment score.
- 5.9 CCR's that are deemed to be most critical for the Employee's specific job must be selected (4) from the list below as agreed to be between the Employer and Employee:

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CORE COMPETENCY REQUIREMENTS FOR EMPLOYEES		
CORE MANAGERIAL COMPETENCIES		WEIGHT
Strategic capability and leadership		15%
Programme and Project Management		5%
Financial Management	Compulsory	20%
Service Delivery Innovation		5%
Problem Solving and Analysis		5%
People Management and Empowerment	Compulsory	10%
Client Orientation and Customer Focus	Compulsory	10%
CORE OCCUPATIONAL COMPETENCIES		
Interpretation of and implementation within the legislative and national policy framework		15%
Knowledge of developmental local government		5%
Knowledge of performance management and reporting		5%
Skills in mediation		5%
TOTAL PERCENTAGE	-	100%

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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:

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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 result against all performance criteria and indicators as specified in the PA and PDP 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 result 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 standard 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 PDP.					
2	Not fully effective	Performance below the standard required for the job in key areas. Performance meets some of the standard expected for the job. The review / assessment indicate that the Employee has achieved below fully effective result against more than half the key performance criteria and indicators as specified in the PA and PDP.					
1	Unacceptable performance	Performance does not meet the standard expected for the job. The review / assessment indicate that the employee has achieved below fully effective result against almost all of the performance criteria and indicators as specified in the PA and PDP. 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 improvements.					

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6.7 For purpose of evaluating the annual performance of the Employee, an evaluation panel constituted of the following persons must be established-

6.7.1 Municipal Manager

6.7.2 Chairperson of the Performance Audit Committee or the Chairperson or designated performance management specialist of the Audit Committee in the absence of a Performance Audit Committee:

6.7.3 Member of the Mayoral Committee; and

6.7.4 Municipal Manager from another Municipality

6.8 The manager responsible for human resources of the municipality must provide secretariat services to the evaluation panel referred to in sub-clause 6.7

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 2014	Before 31 October 2014
Second	01 October 2014 – 31 December 2014	Before 31 January 2015
Third	01 January 2015 – 31 March 2015	Before 30 April 2015
Fourth	01 April 2015 – 30 June 2015	Before 31 July 2015

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 shall be entitled to review and make reasonable changes to the provisions of the PP from time to time for operational reasons, subject thereto that the Employee shall be fully consulted before any such change is made.

7.5 The Employer may amend the provisions of the PP whenever a performance management system is adopted, implemented and/or amended by the municipality,

as the case may be, subject thereto the Employee will be fully consulted before any such changes 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.

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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 shall form the basis for rewarding outstanding performance or correcting unacceptable performance.

11.2 A performance bonus ranging from 5% (five percent) to 14% (fourteen percent) of all-inclusive annual remuneration package may be paid to the Employee in recognition of outstanding performance, subject thereto that, in determining the performance bonus, the relevant percentage is based on the overall rating calculated by using the applicable assessment-rating calculator: Provided that –

11.2.1 A score of 130% (one hundred and thirty percent) to 153% (one hundred and fifty three percent) is awarded a performance bonus ranging from 5% (five percent) to 10% (ten percent); and

11.2.2 A score of 154% (one hundred and fifty four percent) and above is awarded a performance bonus of between 11 and 14% (eleven and fourteen percent).

11.3 The performance bonus in recognition of outstanding performance as contemplated in clause 11.2 shall be constituted as follows –

SCORE	BONUS%
130 – 133	5%
134 – 137	6%
138 – 141	7%
142 – 145	8%
146 – 149	9%
150 – 153	10%
154 – 157	11%
158 – 161	12%
162 – 165	13%
164 – 167	14%

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11.4 A pro rata bonus shall be payable to the Employee based on the amount of full months employed, in the event that the evaluation period is not for a full financial year, subject to the following –

11.4.1 That the evaluation period be no less than 6 (six) months;

11.5 In the case of unacceptable performance, the Employee shall –

11.5.1 Provide systematic remedial or developmental support to assist the Employee to improve his/her performance; and

11.5.2 After appropriate performance counselling and having provided the necessary guidance and/or support as well as reasonable time for improvement in performance, and performance does not improve, the Employer may consider step to terminate the Contract of Employment of the Employee on grounds of unfitness or incapacity to carry out his/her duties.

12. DISPUTE RESOLUTION

12.1 DISPUTE ON PERFORMANCE AGREEMENT

Any disputes about the nature of the Performance Agreement, whether it relates to key responsibilities, priorities, methods of assessment and/or any other matter provided for, shall be mediated by a member of the Municipal Council: provided such member was part of the evaluation panel provided for in sub-regulation 27(4) (e) of the Regulations, within 30 (thirty) days of receipts of a formal dispute from the Employee whose decision shall be final and binding on both parties.

12.2 DISPUTE ON OUTCOME OF PERFORMANCE EVALUATION

Any disputes about the outcome of the employee's performance evaluation must be mediated by 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), within 30 (thirty) days of receipts of a formal dispute from the employee whose decision shall be final and binding on both parties.

13. GENERAL

13.1 The contents of this Agreement shall be made available to the public by the Employer.

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- 13.2 Nothing in this Agreement diminishes the obligation, 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 Employee shall be submitted to the MEC responsible for local government in the Province of the Free State as well as the National Minister for local government within 14 (fourteen) days after conclusion of the assessment.

Thus done and signed at **Vrede**, on this **28** day of **July 2014** in the presence of the undersigned witnesses:

For the employee:

Witness 1: 


Witness 2: 

Employee: 
Sello Albert Nyapholi

Thus done and signed at **Vrede**, on this **28** day of **July 2014** in the presence of the undersigned witnesses:

For the employer:

Witness 1: 

Witness 2: 

Employer: 
Bruce William Kannemeyer