

PERFORMANCE AGREEMENT

ENTERED INTO BETWEEN:

The eThekweni Municipality

**Duly Represented by His worship The Mayor
CLLR. MXOLISI KAUNDA**

("The Employer")

AND

**The City Manager
BONGUMUSA MBHELE**

("The Employee")

FOR THE

FINANCIAL YEAR: 1 JULY 2023 – 30 JUNE 2024

PERFORMANCE AGREEMENT ENTERED INTO AND BETWEEN:

EThekwini Municipality herein represent by Cllr. Mxolisi Kaunda, in his capacity as the mayor
(Hereinafter referred to as the Employer or Supervisor)

And

Mr. BONGUMUSA MBHELE, the City Manager of the eThekwini Municipality
(Hereinafter referred to as the Employee)

WHEREBY IT IS AGREED AS FOLLOWS:

1. INTRODUCTION

- 1.1 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 32 of 2000 ("the Systems Act"). The Employer and the Employee together are hereinafter referred as "the Parties";
- 1.2 Section 57(1)(b) of the Systems Act, read with the Contract of Employment concluded between the parties, requires the parties to conclude an annual Performance Agreement;
- 1.3 The parties wish to ensure that they are clear about the goals to be achieved, and secure the commitment of the employee to a set of outcomes that will promote local government goals.
- 1.4 The parties wish to ensure that there is compliance with Sections 57 (4A), 57 (4B) and 57 (5) of the Systems Act.
- 1.5 In this Agreement the following terms will have the meaning ascribed thereto:
 - 1.5.1 "This Agreement"– means the performance agreement between the employer and the employee and the Annexures thereto;
 - 1.5.2 "Exco"– means the Executive Committee of the Municipality constituted in terms of section 55 of the local Government: Municipal Structures Act 117 of 1998 ("The Structures Act") as represented by its chairperson, the mayor;
 - 1.5.3 "The Employee" means the City Manager appointed in terms of Section 82 of the Structures Act;
 - 1.5.4 "The Employer" means eThekwini Municipality; and
 - 1.5.5 "The Parties" means the Employer and the Employee.
- 1.6 In this Agreement the following acronyms and abbreviations will have the meaning ascribed thereto:

ABM: Area Based Management
AIDS: Acquired Immune Deficiency Syndrome
BPM: Business Process Management
CCTV: Closed Circuit Television

CIFAL:	"Centre International de Formation des Acteurs Locaux in French and "Centro Internacional de Formacion para Actores Locales" in Spanish
COGTA:	Department of Co-operative Governance and Traditional Affairs
CPI:	Consumer Price Index
EMA:	EThekweni Municipal Area
HIV:	Human Immunodeficiency Virus
HR:	Human Resources
ICT:	Information Communication Technology
IDP:	Integrated Development Plan
INK:	Inanda, Ntuzuma and KwaMashu
IT:	Information Technology
KPA:	Key Performance Areas
KPI:	Key Performance Indicator
KZN:	KwaZulu Natal
LED:	Local Economic Development
MEC:	Member of Executive Council
MFMA:	Municipal Finance Management Act
MILE:	Municipal Institute of Learning
MPRA:	Municipal Property Rates Act
MSA:	Municipal Systems Act
SDBIP:	Service Delivery Budget and Implementation Plan
SMME:	Small Medium and Micro Enterprises
SDF:	Spatial Development Framework
UD:	Urine Diversion
VIP:	Ventilated Improved Pit Latrines

2. PURPOSE OF THIS AGREEMENT

- 2.1 To comply with the provisions of Section 57(1) (b), (4A), (4b) and (5) of the Systems Act as well as the Contract of Employment entered into between the parties;
- 2.2 To specify objectives and targets established for the Employee and to communicate to the Employee the Employer's expectations of the Employee's performance targets and accountabilities;
- 2.3 To specify accountabilities as set out in the Performance Plan (Annexure A);
- 2.4 To monitor and measure performance against set targeted outputs and outcomes;
- 2.5 To appropriately reward the Employee in accordance with section 11 of this agreement;
- 2.6 To establish a transparent and accountable working relationship; and
- 2.7 To give effect to the Employer's commitment to a performance-oriented relationship with the Employee in attaining improved service delivery.

3. COMMENCEMENT AND DURATION

- 3.1 This Agreement will commence on 01 July 2023 and will remain in force until 30 June 2024 where after a new Performance Agreement, Performance Plan and Personal Development Plan shall be concluded between the parties for the following 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 31st of July of the succeeding financial year;
- 3.3 This Agreement will terminate on the termination of the Employee's contract of employment for any reason; and
- 3.4 The content of this Agreement may be revised at any time during the abovementioned period to determine the current applicability of the matters previously 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 content 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;
 - 4.1.2 The time frames within which those Performance objectives and targets must be met; and
 - 4.1.3 The Competency Framework Structure (Annexure C) defined as the management skills regarded as critical to the position held by the Employee.
- 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:
 - 4.2.1 Key objectives that describe the main tasks that needs to be done:
 - 4.2.2 Key performance indicators that provide the details of the evidence that must be provided to show that a key objective has been achieved;
 - 4.2.3 Target dates that describe the timeframe in which in which the targets must be achieved; and
 - 4.2.4 Weightings showing the relative importance of the key objectives to each other.

5. PERFORMANCE MANAGEMENT SYSTEM

- 5.1 The Employee agrees to participate in the performance management System that the employer adopted for the employees 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 employees and service providers to perform to the standards required;

- 5.3 The Employer will consult the Employee about the specific performance standards and targets that will be included in the performance management system applicable to the Employee;
- 5.4 The Employee undertakes to actively focus on the promotion and implementation of the Key Performance Areas (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 (KPA's) and the Competency Framework Structure (CFS) 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% and CFS will account for 20% of the final assessment.
- 5.6 The Employee's assessment will be based on his performance in terms of the outputs/outcomes (performance indicators) identified as per attached performance plan, are linked to the KPA's, and will constitute 80% of the overall assessment results as per the weightings agreed to between the Employer and Employee:

KPA No	Key Performance Areas (KPA's)
1	Service Delivery and Infrastructure
2	Municipal Transformation and Institutional Development
3	Local Economic Development
4	Municipal Financial Viability and management
5	Good Governance, Public participation Accountability and Transparency

5.7 The CFS will make up the other 20% of the Employee's assessment score. CFS is deemed to be most critical for the employee's specific job is reflected in the list below as agreed to between the Employer and Employee:

COMPETENCY FRAMEWORK STRUCTURE

LEADING COMPETENCIES	
Strategic direction and leadership	Impact and Influence
	Institutional Performance Management
	Strategic Planning and management
	Organisational Awareness
People management	Human capital Planning and development
	Diversity Management

	Employee Relations Management
	Negotiation and Dispute Management
Program and Project Management	Program and Project Planning and Implementation
	Service Delivery Management
	Program and Project Monitoring and Evaluation
Financial Management	Budget Planning and Execution
	Financial Strategy and Delivery
	Financial Reporting and Delivery
Change Leadership	Change Vision and Strategy
	Process Design and Improvement
	Change Impact Monitoring and Evaluation
Governance Leadership	Policy Formulation
	Risk and Compliance Management
	Cooperative Governance
CORE COMPETENCIES	
Moral Competency	
Planning and Organising	
Analysis and Innovation	
Knowledge and Information Management	
Communication	
Results and Quality Focus	

6. PERFORMANCE ASSESSMENT

6.1 The Performance Plan (Annexure A) to this Agreement sets out –

6.1.1 The standards and procedures for evaluating the Employee's performance; and

6.1.2 The intervals for the 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 must be documented in a Personal Development Plan as well as the actions agreed to and implementation must take place within set time frames;

6.4 The Employee's performance will be measured in terms of contributions to the goals and strategies set out in the Employer's Integrated Development Plan (IDP);

6.5 Assessment of the achievement of results as outlined in the performance plan;

6.5.1 Each KPA shall be assessed according to the extent to which the specified standards or performance indicators have been met and with due regard to ad-hoc tasks that had to be performed under the KPA;

6.5.2 A rating on the five point scale shall be provided for each KPA which will then be multiplied by the weighting to calculate the final score; and

6.5.3 An overall score will be calculated based on the total of the individual scores calculated above.

6.6 Assessment of the CFS:

6.6.1 Each CFS shall be assessed according to the extent to which the specific standards for the required proficiency level have been met;

6.6.2 A rating on the five point scale shall be provided for each CFS which will then be multiplied by the weighting to calculate the final score; and

6.6.3 An overall score will be calculated based on the total of the individual scores calculated above.

6.7 Overall rating

6.7.1 An overall rating is calculated by adding the overall scores as calculated in 6.5.3 and 6.6.3 above; and

6.7.2 Such overall rating represents the outcome of the performance appraisal.

6.8 The assessment of the performance of the Employee will be based on the following rating scale for KPIs and CFS:

Level	Terminology	Description	Rating of 1 to 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 Performance Agreement 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 Performance Agreement 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 Performance Agreement 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 Performance Agreement 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.	

6.9 For purposes of evaluating the performance of the Employee, an evaluation panel constituted by the following persons will be established:-

6.9.1 The Mayor;

6.9.2 Chairperson of the Performance Audit Committee or in his/her absence thereof, the Chairperson of the Audit Committee;

6.9.3 The member of the Executive Committee nominated by the Mayor;

6.9.4 A Member of a Ward Committee as nominated by the Mayor;

6.9.5 The Mayor from another municipality.

7. SCHEDULE FOR PERFORMANCE REVIEWS

7.1 The performance of the Employee in relation to his/her performance agreement shall be reviewed on the following dates with the understanding reviews in the first and third quarter may be verbal if performance is satisfactory:

Quarter	Review Period	Review to be completed by end
1	July – September	October
2	October – December	January
3	January – March	April
4	April – June	July

7.2 The Employer shall keep a record of the mid-year and year-end assessment meetings;

7.3 The Mayor will give performance feedback to the employees after each quarterly and annual assessment meetings. 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; and
- 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 (PDP) for addressing developmental gaps is attached as **Annexure B**.

9. OBLIGATIONS 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 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 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 its powers will have amongst others-
- 10.1.1 A direct effect on the performance of any of the employee' functions;
 - 10.1.2 Commit the Employee to implement or to give effect to a decision made 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 executive of powers contemplated in clause 10.1 as soon as is practicable to enable the Employee to take any necessary action with 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 payment of the performance bonus is determined by the performance score obtained during the 4th quarter and as informed by the quarterly performance assessments;
- 11.3 A performance bonus of between 5% and 14% of the inclusive annual remuneration package may be paid to the Employee in recognition of outstanding performance. In determining the performance bonus the relevant percentage is based on the overall rating, calculated by using the applicable assessment rating calculator; provided that: -
- 11.3.1 A score of 130% to a 149% is awarded, a performance bonus ranging from 5% to 9% and
- 11.3.2 A score of 150% and above is awarded, a performance bonus ranging from 10% to 14%.
- 11.4 In the event of the Employee terminating his services during the validity period of this Agreement, performance will be evaluated for the portion during which he was employed and he will be evaluated to a pro-rata performance bonus based on his evaluated performance for the period of actual service; and
- 11.5 The Employer will submit the results of the annual assessment and the scoring report of the Employee, to Council or the delegated authority for purposes of recommending the bonus allocation.
- 11.6 In the case of unacceptable performance, the Employer shall-
- 11.6.1 Provide systematic remedial or developmental support to assist the Employee to improve his performance; and
- 11.6.2 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 dispute 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 (" MEC ") for Local Government in the KwaZulu-Natal 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.

12.2 In the event that the mediation process contemplated above fails, the relevant clause 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; and

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

THIS DONE AND SIGNED AT DURBAN ON THIS THE 18th DAY OF July 2023

AS WITNESSES:

1. [Signature]

2. [Signature]

[Signature]
CITY MANAGER

THIS DONE AND SIGNED AT Durban ON THIS THE 18 DAY OF July 2023

AS WITNESSES:

1. [Signature]

2. [Signature]

[Signature]
MAYOR