

DRAFT
PERFORMANCE AGREEMENT

ENTERED INTO BETWEEN

The eThekweni Municipality

DULY REPRESENTED BY MR. BONGUMUSA MBHELE
in his capacity as **City Manager** of ETHEKWINI MUNICIPALITY

AND

SIBUSISO MAKHANYA

Deputy City Manager:

TRADING SERVICES CLUSTER

FOR THE

PERIOD: 1 JULY 2023 – 30 JUNE 2024

1. INTRODUCTION

- 1.1 EThekwini Municipality ("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").
- 1.2 Section 57(1) (b) of the Systems Act, read with the Contract of Employment concluded between the employer and employee, requires the parties to conclude an annual Performance Agreement.
- 1.3 The parties will 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 secure the eThekwini Municipality's goals.
- 1.4 The parties will ensure that there is compliance with Sections 57(4A), 57(4B) and 57(5) of the Systems Act.

2. THE PARTIES

The eThekwini Municipality duly represented by Mr. T.B Mbhele in his capacity as City Manager,
(Hereinafter referred to as "**The Employer**")

And

SIBUSISO MAKHANYA

(Hereinafter referred to as "**The Employee**")

3. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to -

- 3.1 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;
- 3.2 specify objectives and targets established for the Employee and to communicate to the employee the Employer's expectations of the Employee's performance and accountabilities;
- 3.3 specify accountabilities as set out in the Performance Plan (Annexure A);
- 3.4 monitor and measure performance against set targeted outputs;
- 3.5 use the Performance Agreement and Performance Plan as the basis for assessing whether the Employee has met the performance expectations applicable to his job;
- 3.6 appropriately reward the Employee in accordance with the Employer's performance management policy in the event of outstanding performance;
- 3.7 give effect to the Employer's commitment to a performance-orientated relationship with the Employee in attaining equitable and improved service delivery.

4. COMMENCEMENT AND DURATION

- 4.1 This Agreement will commence on 1 JULY 2023 and will remain in force until 30 JUNE 2024, whereafter 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.
- 4.2 The parties will review the provisions of this Agreement during April each year and will conclude a new Performance Agreement and Performance Plan that replaces this Agreement at least once a year but not later than the beginning of each successive financial year.
- 4.3 This Agreement will terminate on the termination of the Employee's contract of employment for any reason.
- 4.3 The content of this Agreement may be revised at any time during the abovementioned period to determine the applicability of the matters agreed upon.
- 4.4 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.

5. PERFORMANCE OBJECTIVES

- 5.1 The Performance Plan (Annexure A) sets out:-
- 5.1.1 The performance objectives and targets that must be met by the Employee; and
 - 5.1.2 The time frames within which those performance objectives and targets must be met.
- 5.2 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 and the Budget of the Employer, and shall include key objectives; key performance indicators; target dates and weightings.
- 5.3 The key objectives describe the main tasks that need to be done. The key performance indicators provide the details of the evidence that must be provided to show that a key objective has been achieved. The target dates describe the timeframe in which the work must be achieved. The weightings show the relative importance of the key objectives to each other.
- 5.4 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 (IDP).

6. PERFORMANCE MANAGEMENT SYSTEM

- 6.1 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.
- 6.2 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.

7. The Employee agrees to participate in the performance management and development system that the Employer adopts.

7.1 The Employee undertakes to actively focus towards the promotion and implementation of the Key Performance Area's (KPA's) (including special projects relevant to the employee's responsibilities) within the local government framework.

7.2 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.

7.2.1 The Employee must be assessed against both components, with a weighting of 80:20 allocated to the Key Performance Areas (KPAs) and the Competency Framework Structure (CFS), respectively.

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

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

7.3 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.

7.4 The CFS will make up the other 20% of the Employee's assessment score, which will be recorded in the performance plan (Annexure "A").

8. EVALUATING PERFORMANCE

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

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

8.1.2 The intervals for the evaluation of the Employee's performance.

8.2 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.

8.3 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.

8.4 The Employee's performance will be measured in terms of contributions to the goals and strategies set out in the Employer's IDP.

8.5 The annual performance assessment will involve:

8.5.1 Assessment of the achievement of results as outlined in the performance plan:

(a) Each KPA should 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.

- (b) An indicative rating on the five-point scale should be provided for each KPA.
- (c) The applicable assessment rating calculator (refer to paragraph 8.5.3 below) must then be used to add the scores and calculate a final KPA score.

8.5.2 Assessment of the CFS:

- (a) Each CFS should be assessed according to the extent to which the specified standard has been met.
- (b) An indicative rating on the five-point scale should be provided for each CFS.
- (c) The applicable assessment rating calculator (refer to paragraph 8.5.1 above) must then be used to add the scores and calculate a final CFS score.

8.5.3 Overall rating:

An overall rating is calculated by using the applicable assessment-rating calculator. Such overall rating represents the outcome of the performance appraisal.

8.6 The assessment of the performance of the Employee will be based on the following rating scale for KPA's 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 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.	
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8.7 For purposes of evaluating the performance of the Employees, an evaluation panel constituted by the following persons will be established.

8.7.1 The evaluation panel shall comprise the following persons:-

- 8.7.1.1 The Municipal Manager;
- 8.7.1.2 The Chairperson of the Performance Audit Committee.
- 8.7.1.3 The Representative of the Executive Committee;
- 8.7.1.4 Municipal Manager from another Municipality;

9. SCHEDULE FOR PERFORMANCE REVIEWS

9.1 The performance of each Employee in relation to his/her performance agreement shall be reviewed for the following dates.

First quarter	:	July	-	September
Second quarter	:	October	-	December
Third quarter	:	January	-	March
Fourth quarter	:	April	-	June

9.2 The Employer shall keep a record of all reviews and assessment meetings.

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

9.4 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.

9.5 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.

10. DEVELOPMENTAL REQUIREMENTS

The Personal Development Plan (PDP) for addressing developmental gaps is attached as Annexure B.

11. OBLIGATIONS OF THE EMPLOYER

11.1 The Employer shall –

- 11.1.1 Create an enabling environment to facilitate effective performance by the employee;
- 11.1.2 Provide access to skills development and capacity building opportunities;
- 11.1.3 Work collaboratively with the Employee to solve problems and generate solutions to common problems that may impact on the performance of the Employee;

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- 11.1.4 Where necessary delegate such powers to the Employee to enable him/ her to meet the performance objectives and targets established in terms of this Agreement; and
- 11.1.5 Make available to the Employee such resources as the Employee may reasonably require from time to time to assisting him/ her to meet the performance objectives and targets established in terms of this Agreement.

12. MANAGEMENT OF EVALUATION OUTCOMES

- 12.1 The evaluation of the Employee's performance will form the basis for rewarding outstanding performance or correcting unacceptable performance.
- 12.2 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:-
 - 12.2.1 a score of 130% to a 149% is awarded, a performance bonus ranging from 5% to 9% and
 - 12.2.2 a score of 150% and above is awarded, a performance bonus ranging from 10% to 14%.
- 12.3 The Employee will be eligible for progression to the next higher remuneration package, within the relevant remuneration band, after completion of at least 12 (TWELVE) consecutive months service at the current remuneration package on 30 June (end of financial year) subject to a fully effective assessment.
- 12.4 In the case of unacceptable performance, the Employer shall, after appropriate performance counselling and having provided the necessary guidance and/or support as well as a reasonable time for improvement in performance, take steps to terminate the contracts of employment of the employee on the grounds of unfitness or incapacity to carry out his or her duties.

13. DISPUTE RESOLUTION

- 13.1 Any dispute about the nature of the Employee's performance agreement, whether it relates to key responsibilities, priorities, methods of assessment, and/or salary increment in this agreement shall be mediated by:-
 - 13.1.1 The Executive Mayor/ Mayor ;
 - 13.1.2 The mediation shall take place within a period of 30 (Thirty) days of receipt of a formal dispute from the employee;
 - 13.1.3 The mediator's decision will be final and binding on both parties.
- 13.2 Any disputes about the outcome of the employee's performance evaluation must be mediated by:-
 - 13.2.1 A member of the Municipal Council provided that such member was not part of the evaluation panel

referred to in clause 8.7 above.

13.2.2 The mediation shall take place within a period of 30 (Thirty) days of receipt of a formal dispute from the employee;

13.1.3 The mediator's decision will be final and binding on both parties.

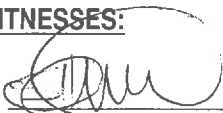
14. GENERAL


14.1 The contents of this agreement shall be placed on the Employer's website.


14.2 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.

SIGNED AT Durban ON THIS THE 6th DAY OF June 2023

AS WITNESSES:

1. 


2. 





THE EMPLOYEE

SIGNED AT DURBAN ON THIS THE 1th DAY OF July 2023

AS WITNESSES:

1. 

2. 



THE EMPLOYEE