



PERFORMANCE AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN:

THE NGWATHE LOCAL MUNICIPALITY
herein represented by

LESAOANA DAVID KAMOLANE
(herein referred as the Municipal Manager)

AND

NIKELWA SAMYALA

(herein referred to as the employee)

FOR THE

FINANCIAL YEAR: 03 AUGUST 2015 - 30 JUNE 2016

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WHEREAS

A. The Employer has entered into a Agreement 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);

B. Section 57(1)(b) of the Local Government: Municipal Systems Act, 2000, read with the Memorandum of Agreement of Employment concluded between the parties, requires the parties to conclude an annual Performance Agreement within ninety days of assumption of duty, and renew it annually within one month of the commencement of the beginning of the financial year;

C. The parties must 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 local government policy goals as defined in the municipal Integrated Development Plan; and

D. The parties must ensure that there is compliance with Sections 57(4A), 57(4B) and 57(5) of the Local Government: Municipal Systems Act, 2000,

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

INTERPRETATION AND DEFINITIONS

1. In this Agreement, unless the context indicates otherwise—

- (a) an expression, which denotes any gender, includes the other genders, a natural person includes an judicial person and vice versa, and the singular includes the plural and vice versa;
- (b) clause headings are for convenience only and will not be used in its interpretation, and the following expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings—

“agreement” means this Performance Agreement and all the Appendices hereto;

“Employee” means NIKELWA SAMYALA;

“MEC” means the Member of the Free State Executive Council responsible for local government;

“MFMA” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“Municipality” means the Ngwathe Local Municipality, established in terms of Structures Act;

“parties” means the Municipality and the Employee;

“Regulations” means the Local Government: Performance Regulations for Municipal

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Managers and Managers Directly Accountable to Municipal Managers, 2006,

promulgated in the Government Gazette as Regulation Notice 805 on 1 August 2006;

"Structures Act" means the Local Government: Municipal Structures Act, 2000 (Act No. 117 of 1998); and

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and the Regulations promulgated in terms of the Act;

(c) words and expressions defined in any sub-clause, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub clause; and

(d) this agreement is governed by and construed in accordance with the laws of the Republic of South Africa.

PURPOSE OF THIS AGREEMENT

2. The purpose of this Agreement is to –

- (a) comply with the provisions of Section 57(1)(b),(4A),(4B) and (5) of the Systems Act as well as the Memorandum of Agreement of Employment entered into between the parties;
- (b) communicate the Employer's performance expectations and accountabilities to the Employee, by specifying objectives and targets as defined in the IDP;
- (c) specify accountabilities as set out in the Performance Plan, which must be in a format substantially compliant with Appendix "A";
- (d) monitor and measure performance against set targeted outputs;
- (e) use this Agreement and the Performance Plan as the basis for assessing the performance of the Employee and to establish whether the Employee has met the performance expectations applicable to the position; and
- (f) appropriately reward the Employee in accordance with the Employer's performance management policy in the event of outstanding performance.

COMMENCEMENT AND DURATION

3.(1) This Agreement will commence on **03 August 2015** and will remain in force until **30 June 2016** where after a new Agreement, Performance Plan and Personal Development Plan must be concluded between the parties for each of the following financial years or any portion thereof for the duration of the Agreement of Employment.

(2) This Agreement will terminate on the termination of the Employee's employment for any reason whatsoever.

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(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) 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 must immediately be revised.

(5) Any significant amendments or deviations must take cognisance of the requirements of sections 34 and 42 of the Systems Act, and regulation 4(5) of the Regulations.

PERFORMANCE OBJECTIVES

4.(1) The Performance Plan must set out the–

- (a) the performance objectives and targets that must be met by the Employee; and
- (b) the time frames within which those performance objectives and targets must be met.

(2) The performance objectives and targets reflected in the Performance Plan must–

- (a) be set by the Employer in consultation with the Employee;
- (b) be based on the Integrated Development Plan and Budget of the Employer; and
- (c) include key objectives, performance indicators, target dates and weightings.

(3) It is agreed that–

- (a) the key objectives must describe the main tasks that must be performed by the Employee;
- (b) the key performance indicators provide the details of the evidence that must be provided to indicate that a key objective has been achieved;
- (c) the target dates describe the timeframe in which the work must be achieved; and
- (d) the weightings indicate the relative importance of the key objectives to each other.

(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.

PERFORMANCE MANAGEMENT SYSTEM

5.(1) The Employee agrees to participate in the performance management system that the Employer adopts or introduces for the Municipality, and accepts that the purpose of the performance management system is to provide a comprehensive system, with specific performance standards, to assist Municipality to perform to the standards required.

(2) The Employer must consult the Employee about the specific performance standards that are included in the performance management system that are applicable to the Employee.

(3) 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.

(4) The Employee must be assessed on his performance in terms of the performance indicators

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identified in the attached Performance Plan and include–

(a) the Key Performance Areas; and

(b) Core Managerial Competencies,

with a weighting of 80:20 allocated to sub-clause (a) and (b) respectively.

(5) The Key Performance Areas will make up 80% of the Employee's assessment score, and will contain the following Areas:

Key Performance Areas (KPA's)	Weighting
Basic Service Delivery	20%
Municipal Institutional Development and Transformation	10%
Local Economic Development (LED)	10%
Municipal Financial Viability and Management	50%
Good Governance and Public Participation	10%
Total	100%

(6) The Core Management Criteria will make up the other 20% of the Employee's assessment score, and 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) FOR EMPLOYEES 20% of Total Weighting		
CORE MANAGERIAL COMPETENCIES (CMC)	✓	WEIGHT
Strategic Capability and Leadership		10%
Programme and Project Management		5%
Financial Management	compulsory	18%
Change Management		1%
Knowledge Management		1%
Service Delivery Innovation		5%
Problem Solving and Analysis		5%
People Management and Empowerment	compulsory	10%
Client Orientation and Customer Focus	compulsory	10%
Communication		1%

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CORE COMPETENCY REQUIREMENTS (CCR) FOR EMPLOYEES 20% of Total Weighting		
CORE MANAGERIAL COMPETENCIES (CMC)	√	WEIGHT
Honesty and Integrity		2%
CORE OCCUPATIONAL COMPETENCIES (COC)		
Competence in Self Management		2%
Interpretation of and implementation within the legislative an national policy frameworks		2%
Knowledge of Performance Management and Reporting		5%
Knowledge of global and South African specific political, social and economic contexts		1%
Competence in policy conceptualisation, analysis and implementation		5%
Knowledge of more than one functional municipal field / discipline		5%
Skills in Mediation		1%
Skills in Governance		4%
Competence as required by other national line sector departments		2%
Exceptional and dynamic creativity to improve the functioning of the municipality		5%
Total percentage		100%

EVALUATING PERFORMANCE

- 6.(1) The Performance Plan, attached hereto as Appendix "A", must set out the–
 (a) the standards and procedures for evaluating the Employee's performance; and
 (b) the intervals for the evaluation of the Employee's performance.

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(2) Despite the establishment of agreed intervals for evaluation, the Employer may in addition review the Employee's performance at any stage during the validity of the Agreement of Employment.

(3) Personal growth and development needs identified during any performance review discussion, as well as the actions and time frames agreed to, must be documented in a Personal Development Plan, which must be in a format substantially compliant with Appendix "B."

(4) The Employee's performance will be measured in terms of contributions to the goals and strategies contemplated in the Employer's Integrated Development Plan.

(5) The annual performance appraisal must involve—

(a) an assessment of the achievement of results as outlined in the performance plan;

(b) an assessment of each Key Performance Area 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;

(c) a rating on the five-point scale for each Key Performance Area; and

(d) the use of the applicable assessment rating calculator to add the scores and calculate a final Key Performance Area score.

(6) The Core Management Criteria must be assessed—

(a) according to the extent to which the specified standards have been met;

(b) with an indicative rating on the five-point scale for each Criteria; and

(c) by using the applicable assessment rating calculator to add the scores and calculating a final score.

(7) An overall rating is calculated by using the applicable assessment-rating calculator, which represents the outcome of the performance appraisal, provided that the performance assessment of the Employee will be based on the following rating scale for both Key Performance Indicators and Core Management Criteria:

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.					

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Level	Terminology	Description	Rating				
			1	2	3	4	5
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.					

(8) The performance of the Employee must be evaluated by an evaluation panel constituted in terms of regulation 27(4)(d), (e) and (f) of the Regulations.

SCHEDULE FOR PERFORMANCE REVIEWS

7.(1) The performance of each Employee in relation to his performance agreement must be reviewed during–

- (a) July to September for the First quarter;
- (b) October to December for the Second Quarter;

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(c) January to March for the Third quarter

(d) April to June for the Fourth quarter,

Provided that reviews in the first and third quarter may be verbal if performance is satisfactory.

(2) The Employer must keep a record of the mid-year review and annual assessment meetings, and feedback must be based on the Employer's assessment of the Employee's performance.

(3) The Employer may amend the provisions of the Performance Plan whenever the performance management system is adopted, implemented or amended, provided that the Employee must be consulted before any such change is made.

OBLIGATIONS OF THE EMPLOYER

8. The Employer must-

(a) create an enabling environment to facilitate effective performance by the Employee;

(b) provide access to skills development and capacity building opportunities;

(c) work collaboratively with the Employee to solve problems and generate solutions to common problems that may impact on the performance of the Employee;

(d) on the request of the Employee delegate such powers reasonably required by the Employee to enable her to meet the performance objectives and targets established in this Agreement; and

(e) make available to the Employee such resources as the Employee may reasonably require from time to time to assist her to meet the performance objectives and targets established in this Agreement.

CONSULTATION

9.(1) The Employer agrees to consult the Employee timeously where the exercising of the powers will-

(a) have a direct effect on the performance of any of the Employee's functions;

(b) commit the Employee to implement or to give effect to a decision made by the Employer; and

(c) have a substantial financial effect on the Employee.

(2) The Employer agrees to inform the Employee of the outcome of any decisions taken pursuant to the exercise of powers contemplated in sub-clause (1) above, as soon as is practicable to enable the Employee to take any necessary action without delay.

MANAGEMENT OF EVALUATION OUTCOMES

10.(1) The evaluation of the Employee's performance will form the basis for rewarding outstanding performance or correcting unacceptable performance.

(2) A performance bonus of between 5% and 14% of the inclusive annual remuneration package may

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be paid to the Employee in recognition of outstanding performance, as per regulation 32(2) of the Regulations.

(3) In the case of unacceptable performance, the Employer—

(a) must provide systematic remedial or developmental support to assist the Employee to improve her performance; and

(b) may, after appropriate performance counselling and having provided the necessary guidance and support as well as reasonable time for improvement in performance, consider steps to terminate the contract of employment of the Employee on grounds of unfitness or incapacity to carry out her duties.

DISPUTE RESOLUTION

11.(1) Any disputes about the nature or content of the Employee's Performance Agreement, must be mediated by —

(a) the Member of the Executive Council responsible for local government in the province, in the case of the Municipal Manager, or any other person appointed by the said Member of the Executive Council; and

(b) the Mayor, in the case of Managers directly accountable to the Municipal Manager, within thirty days of receipt of a formal dispute from the Employee.

(2) Any disputes about the outcome of the Employee's performance evaluation, must be mediated by—

(a) the Member of the Executive Council for local government in the province, or any other person appointed by the MEC, in the case of the Municipal Manager; and

(b) a Municipal Councillor, in the case of Managers directly accountable to the Municipal Manager, provided that such a Councillor was not part of the evaluation panel contemplated in regulation 27(4)(e) of the Regulations, within thirty days of receipt of a formal dispute from the Employee.

(3) The decision of the Mediator contemplated in sub-clauses (1) and (2) will be final and binding on both parties.

GENERAL

12.(1) The Employer must make the contents of this Agreement and the outcome of any review conducted in terms of the Performance Plan available to the public as contemplated in section 46 of the Systems Act.

(2) Nothing in this agreement diminishes the obligations, duties or accountabilities of the Employee in terms of her Agreement of Employment, or the effects of existing or new regulations, circulars, policies, directives or other instruments.

(3) The performance assessment results of the Municipal Manager must be submitted to the Member of the Executive Council responsible for local government in Free State as well as the National Minister responsible for local government, within fourteen days after the conclusion of the assessment.

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SIGNED AT PARY'S ON THIS, THE 03 DAY OF August 2015

AS WITNESSES:

1. [Signature]

2. [Signature]

[Signature]

THE MUNICIPALITY

SIGNED AT Parys ON THIS, THE 03 DAY OF August 2015

AS WITNESSES:

1. [Signature]

2. [Signature]

[Signature]

THE EMPLOYEE

[Signature]