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DR NKOSAZANA DLAMINI-ZUMA LOCAL MUNICIPALITY

PERFORMANCE AGREEMENT

Made and entered into by and between

DR NKOSAZANA DLAMINI-ZUMA MUNICIPALITY

(represented by Nkosiyezwe Cyprian Vezi in his duly-authorised capacity as Municipal
Manager of the municipality, hereinafter referred to as the Employer)

and

MR MKHUMBUZENI PHILLIP MTUNGWA

(CHIEF FINANCIAL OFFICER)

(Hereinafter referred to as the Employee)

Financial year 01 July 2023 to 30 June 2024

INTRODUCTION

1. (1) The Employer has entered into a contract of employment with the Employee in terms of section 57(1)(a) – managers’ employment contracts to be in writing - of the Local Government: Municipal Systems Act 32 of 2000 (“the Systems Act”). The Employer and the Employee are hereinafter referred to as “the Parties”.

(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. The employer must conclude a Performance Agreement within 60 days of assumption of duty and renew it annually within one month of the commencement of the beginning of the financial year.

(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 local government policy goals as defined in the municipality’s IDP.

(4) The parties will ensure that there is compliance with the Municipal Systems Act Sections 57(4A) – MFMA responsibilities of the accounting officer regarded as being included in this performance agreement, 57(4B) – payment of bonuses, and 57(5) – performance objectives and targets to be practical, measureable and based on the KPIs set out in the IDP.

2. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to –

2.1 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;

2.2 communicate to the Employee the Employer’s performance expectations and accountabilities by specifying objectives and targets as defined in the IDP, SDBIP and budget of the municipality;

2.3 specify accountabilities as set out in the Performance Plan (in a format substantially compliant with Appendix “A”);

2.4 monitor and measure performance against set targeted outputs;

2.5 appropriately reward the Employee in the event of outstanding performance; 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 **01 July 2023** and will remain in force in line with the Employment agreement until **30 June 2024** where after 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, if applicable.

3.2 The parties will review the provisions of this Agreement during June each year and will conclude a new Performance Agreement (and Performance Plan and Personal Development Plan) that replaces this Agreement at least once a year but not later than one month after the commencement of the new financial year, in line with the Employment Agreement.

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 abovementioned 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.

3.6 Any significant amendments/ deviations referred to in 3.4 and 3.5 above must take cognisance of, where relevant, the requirements of sections 34 (annual review and amendment of the integrated development plan) and 42 (community to be involved in setting performance indicators and targets) of the Systems Act, and must be done in terms of regulation 4 (5) (submission of employment contracts and performance agreements to the provincial and national ministers responsible for local government) of the Local Government: Municipal Performance Regulations for Municipal Managers and managers directly accountable to the Municipal Manager, 2006 ("the Regulations");

4 PERFORMANCE OBJECTIVES

4.1 The Performance Plan (Appendix "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 Appendix "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.

4.3 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.

4.4 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.

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 itself, 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.

6.1 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.

6.2 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.

6.2.1 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.

6.2.2 KPAs covering the main areas of work (KPAs) will account for 80% and CFSs will account for 20% of the final assessment.

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

6.3 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 (Appendix "A"- **objectives that are specific to the office of the Manager: Financial Services/ CFO**) and will constitute 80% of the overall assessment result as per the weightings agreed to between the Employer and Employee:

Key Performance Areas (KPA's) - FOR THE KPAs PER ANNEXURE A		Weighting
Basic Service Delivery		20%
Municipal Institutional Development and Transformation		20%
Social and Local Economic Development (LED)		0 %
Municipal Financial Viability and Management		40%
Good Governance and Public Participation		15%
Cross-cutting interventions		5%
Total		100%

6.4 The Leading Competencies (LCs) and Core Competencies (CC's) set out in Annexure A of the Local Government : Competency Framework for Senior Managers (Government Gazette No. 37245 dated 17 January 2014), will make up the other 20% of the Employee's assessment score. There is no hierarchical connotation and all competencies are essential to the role of a senior manager. All competencies must therefore be included in the assessment and weighted equally as follows:

LEADING COMPETENCIES	Driving competency (of the leading competency)	WEIGHT
Strategic Direction and Leadership	- Impact and Influence - Institutional Performance Management - Strategic Planning and Management - Organisational Awareness	8.333%
People Management	- Human Capital Planning and Development - Diversity Management - Employee Relations Management - Negotiation and Dispute Management	8.333%
Programme and Project Management	- Program and Project Planning and Implementation - Service Delivery Management - Program and Project Monitoring and Evaluation	8.333%
Financial Management	- Budget Planning and Execution - Financial Strategy and Delivery - Financial Reporting and Monitoring	8.333%
Change Leadership	- Change Vision and Strategy - Process Design and Improvement - Change Impact Monitoring and Evaluation	8.333%
Governance Leadership	- Policy Formulation - Risk and Compliance Management - Co-operative Governance	8.333%
CORE COMPETENCIES		
Moral Competence		8.333%
Planning and Organising		8.333%
Analysis and Innovation		8.333%
Knowledge and Information Management		8.333%
Communication		8.333%
Results and Quality Focus		8.333%
Total Percentage		100%

6.4 The employee specifically acknowledges that, in addition to the leading and core competencies, focus must also be placed upon the eight *Batho Pele* principles:

- Consultation
- Setting service standards
- Increasing access
- Ensuring courtesy
- Providing information
- Openness and transparency
- Redress
- Value for money

7. EVALUATING PERFORMANCE

7.1 The Performance Plan/scorecard (Appendix "A") to this Agreement sets out –

7.1.1 the standards and procedures for evaluating the Employee's performance; and

7.1.2 the intervals for the evaluation of the Employee's performance.

7.2 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.

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

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

7.5 The annual performance appraisal will involve:

7.5.1 Assessment of the achievement of results as outlined in the performance plan (Annexure A):

(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 (including the KPA weighting factors) must then be used to add the scores and calculate a final KPA score.

(d) The outcome scores, arising from items 7.5.1 (a) to (c) above, for each national KPA on Annexure A, will then be weighted with the percentages agreed to in paragraph 6.3 above.

7.5.2 Assessment in terms of the Leading Competencies (LCs) and Core Competencies (CCs) as set out in the Competency Framework Structure for Senior Managers

(a) Each LC and CC should be assessed according to the extent to which the specified standards (achievement levels) have been met: **basic, competent, advanced and superior** (refer to Annexure A of the Local Government : Competency Framework for Senior Managers (Government Gazette No. 37245 dated 17 January 2014 for the standards set for each achievement level).

(b) An indicative rating on the five-point scale should be provided for each CMC (**basic = 2 points, competent = 3 points, advanced = 4 points and superior = 5 points**).

(c) The applicable assessment rating calculator must then be used to add the scores and calculate a final CFS score.

7.5.3 Overall rating

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

7.6 The assessment of the performance of the Employee will be based on the following rating scale for the KPA's (but not the CFSs):

Level	Terminology	Description
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.

7.7 For purposes of evaluating the performance an evaluation panel constituted in terms of **Regulation 27(4)(e)** will be established.

8. SCHEDULE FOR PERFORMANCE REPORTING, MONITORING, EVALUATION AND REVIEW

8.1 The performance of the Employee in relation to his performance agreement shall be monitored and evaluated on or about the following dates with the stipulation that the reviews for the second and fourth quarter will be recorded in writing. Quarterly evaluations will be subject to an internal audit process being concluded. The first and third quarter reviews may be verbal if performance is satisfactory:

QUARTER	PERIOD	REVIEW TARGET DATE
First	July to September 2023	31 October 2023
Second	October to December 2023	31 January 2024
Third	January to March 2024	30 April 2024
Fourth /Annual	April to June 2024	31 July 2024 (as a basis for preparation of the 2023/24 Annual Report)

8.2 The Employer shall keep a record of the mid-year and annual review meetings:

8.3 The Employee is responsible for maintaining a Portfolio of Evidence, which must be made available at the informal and formal evaluation sessions, and for audit purposes

8.4 Performance scoring and feedback shall be based on the Employer's assessment of the Employee's performance against Actuals reported and evidence provided.

8.5 The Employer will be entitled to review and make reasonable changes to the provisions of Appendix "A" in line with Mid Year Assessment for operational reasons. The Employee will be fully consulted before any such change is made.

8.6 The Employer may amend the provisions of Appendix "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.

9. DEVELOPMENTAL REQUIREMENTS

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

10. OBLIGATIONS OF THE EMPLOYER

10.1 The Employer shall –

10.1.1 create an enabling environment to facilitate effective performance by the employee;

10.1.2 provide access to skills development and capacity building opportunities;

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

10.1.4 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

10.1.5 make available to the Employee such resources as the Employee may reasonably require from time to time to assist him/ her to meet the performance objectives and targets established in terms of this Agreement.

11. CONSULTATION

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

11.1.1 a direct effect on the performance of any of the Employee's functions;

11.1.2 commit the Employee to implement or to give effect to a decision made by the Employer; and

11.1.3 a substantial financial effect on the Employer.

11.2 The Employer agrees to inform the Employee of the outcome of any decisions taken pursuant to the exercise of powers contemplated in 11.1 as soon as is practicable to enable the Employee to take any necessary action without delay.

12. MANAGEMENT OF EVALUATION OUTCOMES

12.1.1 The evaluation of the Employee's performance will form the basis for rewarding outstanding performance or correcting unacceptable performance

12.1.2 A performance bonus may be paid in terms of **section 32(2)** of the Local Government : Municipal Performance Regulations, 2006 and any other policy of Council,

12.2 In the case of unacceptable performance, the Employer must implement Procedures for dealing with substandard performance as prescribed in section 16 of the Local Government : Disciplinary Code and Procedures for Senior Managers which is attached hereto as Appendix C.

12.3.1 12.3.1 Negative audit outcomes i.e. disclaimed audit opinion, adverse audit opinion and qualified audit opinion shall be regarded as poor performance and the Municipal Council shall not authorise the payment of performance bonuses to an Employee (Senior Manager) in the event of a negative audit outcome.

12.3.1.2 As part of consequence management the Municipal Council shall not authorise the payment of performance bonuses to Senior Managers who will be found after an investigation by the Municipal Public Accounts Committee (MPAC) responsible for the Unauthorised, Irregular, Fruitless and Wasteful Expenditure.

13. DISPUTE RESOLUTION

13.1 Any disputes about the nature of the Employee's **performance agreement**, whether it relates to key responsibilities, priorities, methods of assessment, and/ or salary increment in the agreement, must—

13.1.1 in the case of the Municipal Manager be mediated by the MEC for local government in the province, or any other person appointed by the MEC within thirty (30) days of receipt of a formal dispute from the employee; and

13.1.2 in the case of Managers directly accountable to the Municipal Manager, the Mayor, within thirty (30) days of receipt of a formal dispute from the Employee;

whose decision shall be final and binding on both parties.

13.2 Any disputes about the outcome of the employee's **performance evaluation**, must -

13.2.1 In the case of the Municipal Manager be mediated by the MEC for local government in the province within thirty (30) days of receipt of a formal dispute from the Employee or any other person appointed by the MEC; and

13.2.2. 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), within thirty (30) days of receipt of a formal dispute from the employee;

whose decision shall be final and binding on both parties.

14. GENERAL

14.1 The contents of this agreement must be made available to the public by the Employer in terms of the MFMA - section 53 (3) (b).

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.

14.3 The performance assessment results of the 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.

CONFIRMATION:

Signed and accepted: Mr. MP Mtungwa	
Signed and accepted by Mr. NC Vezi	
Date Performance Plan signed	07/07/2023
Witness Number One : Name and Signature	PK Phoswa 
Witness Number Two : Name and Signature	

APPENDIX A
(TO THE PERFORMANCE AGREEMENT)

2023/24 PERFORMANCE PLAN

Refer to the attached SDBIP/Scorecard

NATIONAL KPA 4: MUNICIPAL FINANCIAL VIABILITY AND MANAGEMENT

PROVINCIAL GROWTH & DEVELOPMENT STRATEGY (PGDS) GOAL 6 : GOVERNANCE AND POLICY

NATIONAL KPI: Financial Viability expressed by the Ratio

GENERAL KPI: The Percentage of households earning less than R1180 per month with access to free basic services

BACK TO BASIC8 PILLAR 4: SOUND FINANCIAL MANAGEMENT

2023/2024 SDMP BUDGET AND TREASURY OFFICE

IDP / SDMP NO.	GENERAL KPI	YARD	STRATEGIC OBJECTIVES	PROJECT	KEY PERFORMANCE INDICATOR	BASLINE	ANNUAL TARGET	QUARTER 1 TARGET	QUARTER 2 TARGET	QUARTER 3 TARGET	QUARTER 4 TARGET	RESPONSIBLE DEPARTMENT	ANNUAL BUDGET	PORTFOLIO OF EVIDENCE
								BUDGET PROJECTIONS	BUDGET PROJECTIONS	BUDGET PROJECTIONS	BUDGET PROJECTIONS			
BTO 1	N/A	All	To manage financial resources effectively and efficiently for improved service delivery by 30 June 2026	Preparation of municipal budget	Number of budget reports submitted to IDP/Budget Steering Committee & Council for Approval	3 Budget Reports submitted to Council in 2021/2022	3	NA	NA	1. 1 Draft 2024/2025 Budget Report submitted to IDP/Budget Steering Committee & Council for Approval 2. 1 Adjustment Budget to IDP/Budget Steering Committee & Council for Approval	1 Final Budget Report submitted to IDP/Budget Steering Committee & Council for Approval	BTO	Opex	Quarter 1-2 NA Quarter 3: 1. 2023/2024 Adjustment Budget Report submitted to Council and IDP and Budget Steering Committee 2. Draft 2024/2025 budget Report submitted to Council and IDP and Budget Steering Committee 3. Council resolutions & Attendance Registers Quarter 4: 1. Final 2024/2025 Budget Report submitted to Council and IDP and Budget Steering Committee 2. Council resolution and Attendance Registers
BTO 2	N/A	ALL	To manage financial resources effectively and efficiently for improved service delivery by 30 June 2026	Review of budget related policies	Number of reviewed budget related policies approved by Council	20 budget related policies reviewed and approved by Council	20	NA	NA	20 draft budget related policies reviewed and noted by Council	20 budget related policies reviewed and approved by Council	BTO	Opex	Quarter 1-2 NA Quarter 3: Council Resolution noting draft policies Quarter 4: Council Resolution approving reviewed policies
BTO 3	The percentage of the municipality's capital budget actually spent of capital projects identified for a particular financial year in terms of the municipality's IDP	ALL	To manage financial resources effectively and efficiently for improved service delivery by 30 June 2026	Development of Budget and Treasury reports	Number of Section 71 and Section 66 reports submitted	12 Section 71 and 12 Section 66 reports submitted to Finance Committee and Treasury departments within 10 working days after the end of each month	12	3	3	3	3	BTO	Opex	Quarter 1-4 Section 71 and 66 reports 1. Revenue Report 2. Expenditure Report 3. Cash Coverage Ratio Report 4. SCM Implementation Report 5. Proof of submission to Committee Officer 6. Assets Management Report
BTO 4	NA	ALL	To improve internal controls to efficiently manage municipal resources by 30 June 2026	Updating of GRAP Compliant Asset Register	Number of GRAP compliant asset register updated	1 GRAP Compliant Asset Register compiled and updated	1	1 GRAP Compliant Asset Register compiled and updated	NA	NA	NA	BTO	Opex	Quarter 2-4 NA Quarter 1 Updated GRAP Compliant asset register
BTO 5	NA	ALL	To improve internal controls to efficiently manage municipal resources by 30 June 2026	Conducting of assets verification	Number of assets verifications conducted	1 Verification of assets conducted last year	1	NA	NA	NA	1	BTO	Opex	Quarter 1&3 NA Quarter 4 Asset Verification Report
BTO 6	NA	ALL	To procure goods and services in a manner that is fair, competitive for effective service delivery by 30 June 2026	Development of the Procurement plan	Number of procurement plans approved	2 Procurement plans were approved by Council last year	2	NA		1 draft	1	BTO	Opex	Quarter 1-2 NA Quarter 3 2024/2025 Draft procurement plan and Council Resolution Quarter 4: 2024/2025 Final procurement plan and Council Resolution
BTO 7	NA	ALL	To procure goods and services in a manner that is fair, competitive for effective service delivery by 30 June 2026	Development & submission of SCM reports	Number of Quarterly SCM reports submitted to Council	4 Supply Chain Management Quarterly Reports submitted to Council	4	1	1	1	1	BTO	NA	Quarter 1-4 1. SCM Quarterly Report and 2. Council Resolution
BTO 8	NA	ALL	To manage municipal expenditure to maintain financial viability by 30 June 2026	Adherence to Creditors Payment schedule	Percentage of creditors paid within 30 days of submission of a valid invoice	100 Percent of creditors paid within 30 days of receiving valid invoice.	100%	100%	100%	100%	100%	BTO	Opex	Quarter 1-4 Signed Creditors report

NATIONAL KPA 4: MUNICIPAL FINANCIAL VIABILITY AND MANAGEMENT
 PROVINCIAL GROWTH & DEVELOPMENT STRATEGY (PGDS) GOAL 8: GOVERNANCE AND POLICY
 NATIONAL KPI: Financial Viability expressed by the Ratios
 GENERAL KPI: The Percentage of households earning less than R1100 per month with access to free basic services
 BACK TO BASICS PILLAR 4: BOUND FINANCIAL MANAGEMENT
 2022/2024 IDBP BUDGET AND TREASURY OFFICE

IDP / SDBP NO.	GENERAL KPI	MEASURE	STRATEGIC OBJECTIVE	PROJECT	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	QUARTER 1 TARGET	QUARTER 2 TARGET	QUARTER 3 TARGET	QUARTER 4 TARGET	RESPONSIBLE DEPARTMENT	ANNUAL BUDGET	PORTFOLIO OF EVIDENCE
								BUDGET PROJECTIONS	BUDGET PROJECTIONS	BUDGET PROJECTIONS	BUDGET PROJECTIONS			
BTO 9	NA	ALL	To improve good governance and accountability by producing accurate financial reports 30 June 2028	Preparation of two sets of Financial Statements	Number of financial statements prepared and submitted to Internal Audit and Auditor General	2 financial statements prepared and submitted to Internal Audit and Auditor General	2	1		NA	1	BTO	NA	Quarter 1 Signed APS, Proof of submission to IASAG. Quarter 4: Signed Interim Financial Statements and Proof of submission to IA Quarter 2&3 NA
BTO 10	Financial viability expressed by the following ratios: Collection rate	ALL	To improve revenue management for effective service delivery and financial viability by 30 June 2028	Revenue collection.	Percentage of revenue collected	77% of Revenue was collected in 2021/2022	77% of revenue collected	77%	77%	77%	77%	BTO	OPEX	Quarter 1-4 Debtors collection report
BTO 11	NA	ALL	To improve revenue management for effective service delivery and financial viability by 30 June 2028	Implementation of the Supplementary Valuation roll	Number of Valuation roll implemented	1 Supplementary valuation roll compiled and implemented	1 Supplementary valuation roll compiled and implemented	NA	NA	NA	1	BTO	OPEX	Quarter 4: Signed Supplementary valuation roll
BTO 12	Percentage of households earning less than R1100 with access to free basic services	ALL	To improve service delivery by providing basic needs by 30 June 2028	Updating of Indigent register	Number of indigent registers updated	1 Indigent register prepared	1 Indigent register prepared	NA	Advert	1Draft	1	BTO	OPEX	Quarter 1: NA Quarter 2: Advertisement Quarter 3: Draft Indigent register Quarter 4: Final, reconciled Indigent Register
BTO 13	Percentage of households earning less than R1100 with access to free basic services	ALL	To improve service delivery by providing basic needs by 30 June 2028	Provision of free basic electricity (Indigent support) to indigent people	Number of indigent households provided with FBE	444 households were provided with FBE in 2021/2022	500 households provided with FBE	500	500	500	500	BTO	OPEX	Quarter 1-4 Approved FBE Report
BTO 14	NA	ALL	To improve revenue management for effective service delivery and financial viability by 30 June 2028	Monitoring of Budget expenditures to enhance service delivery	Percentage of OPEX Budget saved in line with Circular 82 of NT	21% of the OPEX, budget was saved in line with Circular 82 of National Treasury in	2% of the OPEX budget saved in line with Circular 82 of National Treasury in	2%	2%	2%	2%	BTO	OPEX	Quarter 1-4 4 Cost containment measures report
BTO15	The percentage of the municipality's capital budget actually spent of capital projects identified for a particular financial year in terms of the municipality's IDP	ALL	To manage financial resources effectively and efficiently for improved service delivery by 30 June 2028	Development of Budget and Treasury reports to monitor Capital Expenditure.	Percentage of the municipality's capital budget actually spent on capital projects identified for a particular financial year in terms of the municipality's IDP	75% of the municipality's capital budget was spent on capital projects	90% budget spent on BTO Capital Expenditure	30%	30%	75%	90%	BTO	CAPEX	Quarter 1-4 Detailed Capital Budget report
BTO16	Financial viability expressed by the following ratios: Cash/cost coverage ratio	ALL	To manage financial resources effectively and efficiently for improved service delivery by 30 June 2028	Management of financial resources to ensure sustainability for service delivery.	Number of months for cash/cost coverage	12 Months Cash Coverage Ratio in 2021/2022	5 months cash coverage ratio	5	5	5	5	BTO	OPEX	Quarter 1-4 Signed cash/cost coverage report
BTO 17	NA	NA	To inculcate a culture of good governance compliance and effective internal controls by 30 June 2028	Implementation of AG's action plan in response to 2022/2023 Audit Report	Number of monitoring reports on the implementation of the AG's action plan presented to oversight structures	2 Monitoring reports on the implementation of AG's Action plan presented to Oversight Structures	2	NA	NA	1	1	BTO	NA	Quarter 1- 2 NA Quarter 3-4 Progress Report on the Implementation of 2022/23 Audit Action Plan APAC minutes

NATIONAL KPA 4: MUNICIPAL FINANCIAL VIABILITY AND MANAGEMENT
 PROVINCIAL GROWTH & DEVELOPMENT STRATEGY (PGDS) GOAL 5: GOVERNANCE AND POLICY
 NATIONAL KPI: Financial Viability expressed by the Ratio
 GENERAL KPI: The Percentage of households earning less than R1100 per month with access to free basic services
 BACK TO BASICS PILLAR 4: SOUND FINANCIAL MANAGEMENT
 2023/2024 SDBP BUDGET AND TREASURY OFFICE

IDP / SDBP NO.	GENERAL KPI	WARD	STRATEGIC OBJECTIVES	PROJECT	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	QUARTER 1 TARGET	QUARTER 2 TARGET	QUARTER 3 TARGET	QUARTER 4 TARGET	RESPONSIBLE DEPARTMENT	ANNUAL BUDGET	PORTFOLIO OF EVIDENCE
								BUDGET PROJECTIONS	BUDGET PROJECTIONS	BUDGET PROJECTIONS	BUDGET PROJECTIONS			
BTO 18	AJ	N/A	To improve organisational performance for effective service delivery by 30 June 2026	Submission of Back to Basics reports	Number of CB8 Back to Basics reports submitted to the MM's office for consolidation	4 B2B reports Quarterly reports submitted to Cogta	4	1	1	1	1	BTO	NA	Quarter 1- 4 Progress Reports on Back to Basics Proof of Submission to PMS
BTO 19	AJ	NA	To improve organisational performance for effective service delivery by 30 June 2026	Coordination of Individual Performance Management systems	Number of IPMS assessments coordinated(Middle Managers)	IPMS assessments coordinated(Middle Managers)	2	1	NA	1	NA	BTO	NA	Quarter 1 Attendance Register Invitation to the Assessments Quarter 3 Attendance Register Invitation to the Assessments

Budget and Treasury Office : 2023/2024 SDBP/ Scorecard

Name of HoD : Mr P Mtshunwa

No. of Targets :19

MM's Signature:

Mayor's Signature:

Date: 28/06/2023

2023/2024 SCORECARD TEMPLATE

EMPLOYEE NAME:	MR MKHUMBUZENI PHILLIP MTUNGWA	EMPLOYEE NUMBER:							
JOB TITLE :	CHIEF FINANCIAL OFFICER	DEPARTMENT:	BUDGET AND TREASURY OFFICE						
IMMEDIATE SUPERVISOR:	MUNICIPAL MANAGER: MR NC VEZI	FINANCIAL YEAR:	2023/2024						
POSITION PURPOSE:									

KPAs	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
Basic Service Delivery	20%		BTO15	Percentage of the municipality's capital budget actually spent on capital projects identified for a particular financial year in terms of the municipality's IDP	75% of the municipality's capital budget was spent on capital projects	90% budget spent on BTO Capital Expenditure	Quarter 1-4 Detailed Capital Budget report
			BTO 13	Number of indigent households provided with FBE	444 households were provided with FBE in 2021/2022	500 households provided with FBE	Quarter 1-4 Approved FBE Report

KPA's	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
Municipal Institutional Development and Transformation	20%		BTO 19	Number of IPMS assessments coordinated(Middle Managers)	IPMS assessments coordinated(Middle Managers)	2	Quarter 1 Attendance Register Invitation to the Assessments Quarter 3 Attendance Register Invitation to the Assessments
			BTO 14	Percentage of OPEX Budget saved in line with Circular 82 of NT	21% of the OPEX, budget was saved in line with Circular 82 of National Treasury in	2% of the OPEX budget saved in line with Circular 82 of National Treasury in	Quarter 1-4 4 Cost containment measures report
			BTO 2	Number of reviewed budget related policies approved by Council	20 budget related policies reviewed and approved by Council	20	Quarter 1-2 NA Quarter 3: Council Resolution noting draft policies Quarter 4 Council Resolution approving reviewed policies

KPA's	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
Municipal Financial Viability and Management	40%		BTO 3	Number of Section 71 and Section 66 reports submitted	12 Section 71 and 12 Section 66 reports submitted to Finance Committee and Treasury departments within 10 working days after the end of each month	12 Section 71 and 12 Section 66 reports produced and submitted to Finance Committee and treasury office within 10 working days after the end each month	Quarter 1- 4 Section 71 and 66 reports 1. Revenue Report 2. Expenditure Report 3. Cash Coverage Ratio Report 4. SCM Implementation Report 5. Proof of submission to Committee Officer 6. Assets Management Report
			BTO 4	Number of GRAP compliant asset register updated	1 GRAP Compliant Asset Register compiled and updated	1	Quarter 2-4 NA Quarter 1 Updated GRAP Compliant asset register
			BTO 5	Number of assets verifications conducted	1 Verification of assets conducted last year	1	Quarter 1&3 NA Quarter 4 Asset Verification Report.
			BTO 6	Number of procurement plans approved	2 Procurement plans were approved by Council last year	2	Quarter 1-2 NA Quarter 3 2024/2025 Draft procurement plan and Council Resolution Quarter 4: 2024/2025 Final procurement plan and Council Resolution

KPAs	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
			BTO 7	Number of Quarterly SCM reports submitted to Council	4 Supply Chain Management Quarterly Reports submitted to Council	4	Quarter 1-4 1.SCM Quarterly Report and 2. Council Resolution
			BTO 8	Percentage of creditors paid within 30 days of submission of a valid invoice	100 Percent of creditors paid within 30 days of receiving valid invoice.	100%	Quarter 1-4 Signed Creditors report
			BTO 9	Number of financial statements prepared and submitted to Internal Audit and Auditor General	2 financial statements prepared and submitted to Internal Audit and Auditor General	2	Quarter 1 Signed AFS, Proof of submission to IA&AG. Quarter 4: Signed Interim Financial Statements and Proof of submission to IA Quarter 2&3 NA
			BTO 10	Percentage of revenue collected	77% of Revenue was collected in 2021/2022	77% of revenue collected	Quarter 1-4 Debtors collection report

KPAs	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
			BTO 11	Number of Valuation roll implemented	1 Supplementary valuation roll compiled and implemented	1 Supplementary valuation roll compiled and implemented	Quarter 4: Signed Supplementary valuation roll
			BTO16	Number of months for cash/cost coverage	12 Months Cash Coverage Ratio in 2021/2022	5 months cash coverage ratio	Quarter 1-4. Signed cash/cost coverage report

KPAs	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
Good Governance and Public Participation	15%		BTO 1	Number of budget reports submitted to IDP/Budget Steering Committee & Council for Approval	3 Budget Reports submitted to Council in 2021/2022	3	Quarter 1-2 NA Quarter 3: 1. 2023/2024 Adjustment Budget Report submitted to Council and IDP and Budget Steering Committee Council resolution 2. Draft 2024/2025 budget Report submitted to Council and IDP and Budget Steering Committee 3. Council resolutions &

KPA's	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
							Attendance Registers Quarter 4: 1. Final 2024/2025 Budget Report submitted to Council and IDP and Budget Steering Committee 2. Council resolution and Attendance Registers
			BTO 18	Number of C88 Back to Basics reports submitted to the MM's office for consolidation	4 B2B reports Quarterly reports submitted to OMM	4	Quarter 1- 4 Progress Reports on Back to Basics Proof of Submission to PMS
			BTO 17	Number of monitoring reports on the implementation of the AG's action plan presented to oversight structures	2 Monitoring reports on the implementation of AG's Action plan presented to Oversight Structures	2	Quarter 1- 2 NA Quarter 3-4 Progress Report on the implementation of 2022/23 Audit Action Plan APAC minutes

KPA's	WEIGHTING		IDP / SDBIP NO.	KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	PORTFOLIO OF EVIDENCE
	KPA	KPI					
Cross Cutting Interventions	5%		BTO 12	Number of indigent registers updated	1 Indigent register prepared	1 Indigent register prepared	Quarter 1: NA Quarter 2: Advertisement Quarter 3: Draft Indigent register Quarter 4: Final approved Indigent Register
TOTAL	100						

CONFIRMATION



 MR MP MTUNGWA
 CFO

07/07/2023

 DATE

APPENDIX B
(TO THE PERFORMANCE AGREEMENT)

PERSONAL DEVELOPMENT PLAN

MUNICIPALITY: Dr Nkosazana Dlamini-Zuma Municipality

INCUMBENT: MR MP MTUNGWA

JOB TITLE: CHIEF FINANCIAL OFFICER

REPORT TO: MUNICIPAL MANAGER

1. What are the competencies required for this job (refer to competency profile of job description)?

LEADING COMPETENCIES	Driving competency (of the leading competency)
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
Programme 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 Monitoring
Change Leadership	- Change Vision and Strategy - Process Design and Improvement - Change Impact Monitoring and Evaluation
Governance Leadership	- Policy Formulation - Risk and Compliance Management - Co-operative Governance
CORE COMPETENCIES	
Moral Competence	20%
Planning and Organising	10%
Analysis and Innovation	25%
Knowledge and Information Management	15%
Communication	10%
Results and Quality Focus	20%
Total Percentage	100%

2. What competencies from the above list, does the job holder already possess?
a. <i>ALL</i>
3. What then are the competency gaps? (If the job holder possesses all the necessary competencies, complete No's 5 and 6.)
a. <i>POST GRADUATE QUALIFICATION IN FINANCIAL MANAGEMENT</i>
4. Actions/Training interventions to address the gaps/needs
a. <i>POST GRADUATE QUALIFICATION IN FINANCIAL MANAGEMENT</i>
5. Indicate the competencies required for future career progression/development
a. <i>POST GRADUATE QUALIFICATION IN FINANCIAL MANAGEMENT</i>
6. Actions/Training interventions to address future progression
a. <i>POST GRADUATE QUALIFICATION IN FINANCIAL MANAGEMENT</i>
7. Comments/Remarks of the Incumbent
<i>POST GRADUATE QUALIFICATION IN FINANCIAL MANAGEMENT</i>
8. Comments/Remarks of the supervisor

Agreed upon:

Signature: _____

Supervisor: MR NC VEZI

Signature: _____

Employee: MR MP MTUNGWA

GOVERNMENT NOTICE

DEPARTMENT OF CO-OPERATIVE GOVERNANCE

No. 344

21 April 2011

LOCAL GOVERNMENT: DISCIPLINARY REGULATIONS FOR SENIOR MANAGERS, 2010

I, Emmanuel Nkosinathi Mthethwa, Acting Minister for Cooperative Governance and Traditional Affairs, after consultation with the MEC's responsible for local government, organised local government and the bargaining council designated for municipalities, hereby, under section 120 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make the regulations in the Schedule.

SCHEDULE

ARRANGEMENT OF REGULATIONS

CHAPTER 1

INTERPRETATION

1. Definitions

CHAPTER 2

DISCIPLINARY CODE AND PROCEDURES

2. Purpose and application
3. Principles
4. Policy
5. Disciplinary procedures
6. Precautionary suspension
7. Less serious misconduct
8. Serious misconduct
9. Notice of disciplinary hearing
10. Conducting disciplinary hearing
11. Pre-dismissal arbitration
12. Sanctions
13. Dispute resolution mechanisms

CHAPTER 3

PROCEDURES FOR DEALING WITH SUBSTANDARD PERFORMANCE

14. Purpose
15. Policy and principles
16. Procedures for dealing with substandard performance

CHAPTER 4

GENERAL

17. Transitional arrangements
18. Recording
19. Reporting
20. Repeal
21. Short title

Annexures A to G

CHAPTER 1

INTERPRETATION

Definitions

1. (1) In these Regulations, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, unless the context indicates otherwise –

(a) **“bargaining council”** means the bargaining council designated for municipalities in terms of the Labour Relations Act, 1995;

(b) **“days”** means calendar days;

(c) **“employment contract”** means a contract contemplated in section 57 of the Act;

(d) **“fellow staff member”** means an employee of the municipality other than the senior manager charged with misconduct;

(e) **“financial misconduct”** means any misappropriation, mismanagement, waste, or theft of the finances of a municipality and also includes any form of financial misconduct specifically set out in section 171 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

(f) **“mayor”** includes an executive mayor;

(g) **“misconduct”** means any of the misconduct set out in Annexure A of these Regulations, and also includes less serious misconduct and serious misconduct as set out in Part I and II of Annexure A;

(h) **“Municipal Performance Regulations for municipal managers and managers directly accountable to municipal managers, 2006”** means the regulations as published in GN R805 in GG 29089 of 1 August 2006;

(i) **“performance agreement”** means the agreement contemplated in section 57 of the Act;

(j) **“senior manager”** means –

- (i) a municipal manager referred to in section 82(1) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); or

(ii) a manager referred to in section 56 of the Act;

(k) "**substandard performance**" means poor work or unacceptable performance or failing to meet the required standard set for the post; and

(l) "**the Act**" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

In these Regulations a word or expression which is a derivative or other grammatical form of a word or expression defined in sub-regulation (1), has a corresponding meaning unless the context indicates that another meaning is intended.

CHAPTER 2

DISCIPLINARY CODE AND PROCEDURES

Purpose and application

- 2.** (1) This Disciplinary Code –
- (a) applies to all –
 - (i) municipalities;
 - (ii) senior managers; and
 - (b) is intended to –
 - (i) provide an internal mechanism for management of misconduct;
 - (ii) establish standard procedures for the management of misconduct;
 - (iii) support constructive labour relations;
 - (iv) ensure a common understanding of misconduct and discipline;
 - (v) promote mutual respect between senior managers and council;
 - (vi) promote acceptable conduct;
 - (vii) avert and correct unacceptable conduct; and
 - (viii) prevent arbitrary or discriminatory actions.
 - (c) prevails in the event of any inconsistency with any systems and procedures adopted by a municipality in terms of section 67(1)(h) of the Act to the extent that those procedures apply to senior managers.

Principles

- 3.** (1) This Disciplinary Code is informed by the following principles:
- (a) Discipline –
 - (i) is fundamentally a corrective measure and not punitive; and
 - (ii) must be applied in a prompt, fair, consistent and progressive manner.
- (2) This Disciplinary Code is necessary for the efficient delivery of services, and ensure that senior managers –
- (a) have a fair hearing in a formal or informal setting;
 - (b) are timeously informed of allegations of misconduct made against them; and
 - (c) receive written reasons for any decisions taken against them.
- (3) A disciplinary hearing must –
- (a) take place in the area of jurisdiction of the municipality; and
 - (b) be concluded within the shortest possible time.

(4) Except in exceptional circumstances, a disciplinary action may not be taken against a senior manager until a full investigation has been carried out.

Policy

4 (1) If a senior manager is alleged to have committed misconduct, the municipal council must institute disciplinary proceedings in accordance with this Disciplinary Code.

(2) The maintenance of discipline is the responsibility of the municipality.

(3) Discipline must be effected with due regard to –

(a) the Code of Conduct for municipal staff members as contained in Schedule 2 of the Act; and

(b) the Code of Good Practice provided for in Schedule 8 of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(4) The principles of natural justice and fairness must be adhered to notwithstanding criminal or civil action having been instituted.

(5) Disciplinary procedures may not be dispensed with as a result of criminal, civil or other action having been instituted, or pending the outcome of such action.

Disciplinary procedures

5. (1) Any allegation of misconduct against a senior manager must be brought to the attention of the municipal council.

(2) An allegation referred to in sub-regulation (1) must be tabled by the mayor or the municipal manager, as the case may be, before the municipal council not later than seven [7] days after receipt thereof, failing which the mayor may request the Speaker to convene a special council meeting within seven [7] days to consider the said report.

(3) If the municipal council is satisfied that –

(a) there is a reasonable cause to believe that an act of misconduct has been committed by the senior manager, the municipal council must within seven [7] days appoint an independent investigator to investigate the allegation[s] of misconduct; and

(b) there is no evidence to support the allegation[s] of misconduct against the senior manager, the municipal council must within seven [7] days dismiss the allegation[s] of misconduct.

(4) The investigator appointed in terms of sub-regulation (3)(a) must, within a period of thirty [30] days of his or her appointment, submit a report with recommendations to the mayor or municipal manager, as the case may be.

(5) The report contemplated in sub-regulation (4) must be tabled before the municipal council in the manner and within the timeframe as set out in sub-regulation (2).

(6) After having considered the report referred to in sub-regulation (4), the municipal council must by way of a resolution institute disciplinary proceedings against the senior manager.

(7) The resolution in sub-regulation (6) must –
(a) include a determination as to whether the alleged misconduct is of a serious or a less serious nature;
(b) authorise the mayor, in the case of municipal manager, or municipal manager, in the case of the manager, directly accountable to the municipal manager to –

- (i) appoint –
 - (aa) an independent and external presiding officer; and
 - (bb) an officer to lead evidence; and
- (ii) sign the letters of appointment.

Precautionary suspension

6. (1) The municipal council may suspend a senior manager on full pay if it is alleged that the senior manager has committed an act of misconduct, where the municipal council has reason to believe that –

- (a) the presence of the senior manager at the workplace may –
 - (i) jeopardise any investigation into the alleged misconduct;
 - (ii) endanger the well-being or safety of any person or municipal property; or
 - (iii) be detrimental to stability in the municipality; or
- (b) the senior manager may –
 - (i) interfere with potential witnesses; or
 - (ii) commit further acts of misconduct.

(2) Before a senior manager may be suspended, he or she must be given an opportunity to make a written representation to the municipal council why he or she should not be suspended, within seven [7] days of being notified of the council's decision to suspend him or her.

(3) The municipal council must consider any representation submitted to it by the senior manager within seven [7] days.

(4) After having considered the matters set out in sub-regulation (1), as well as the senior manager's representations contemplated in sub-regulation (2), the municipal council may suspend the senior manager concerned.

(5) The municipal council must inform –

(a) the senior manager in writing of the reasons for his or her suspension on or before the date on which the senior manager is suspended; and

(b) the Minister and the MEC responsible for local government in the province where such suspension has taken place, must be notified in writing of such suspension and the reasons for such within a period of seven [7] days after such suspension.

(6) (a) If a senior manager is suspended, a disciplinary hearing must commence within three months after the date of suspension, failing which the suspension will automatically lapse.

(b) The period of three months referred to in paragraph (a) may not be extended by council.

Less serious misconduct

7. (1) If the municipal council decides that the alleged misconduct is of a less serious nature, the –

(a) mayor must, in the case of the municipal manager –

(i) bring the alleged misconduct to the senior manager's attention; and

(ii) give the senior manager the opportunity to respond to the allegations.

(b) municipal manager must, in the case of the manager directly accountable to the municipal manager –

(i) bring the alleged misconduct to the senior manager's attention; and

(ii) give the senior manager the opportunity to respond to the allegations.

(2) If after having considered the response from the senior manager, the mayor, in the case of the municipal manager, or the municipal manager, in the case of the manager directly accountable to the municipal manager, decides that the senior manager is guilty of misconduct, the mayor or the municipal manager, as the case may be, may, only after due processes, impose any of the following sanctions with or without conditions:-

(i) corrective counselling;

(ii) verbal warning;

- (iii) written warning in a format compliant with Annexure B;
or
- (iv) final written warning in a format compliant with Annexure C.

(3) A copy of a written warning must be given to the senior manager, who must acknowledge receipt thereof by signing it.

(4) If the senior manager refuses to sign the written warning, the mayor or the municipal manager, whatever the case may be, must hand over the warning to the senior manager in the presence of a fellow staff member, who shall sign as confirmation that the written warning was conveyed to the senior manager.

(5) The written warning must be filed in the senior manager's personal file which remains valid for a period of six months.

(6) If during the six-months period, the senior manager is found guilty of a similar or related misconduct, the written warning may be taken into account in deciding on an appropriate sanction;
or

(7) If at the expiry of the six-months period, the senior manager has not been found guilty of a similar or related misconduct, the written warning must be expunged from the senior manager's personal file and destroyed.

Serious misconduct

8. (1) The officer leading evidence who has been appointed in terms of sub-regulation 5(7)(b) –

- (a) must, within 30 days of his or her appointment, formulate and serve charges of the alleged misconduct in a format compliant with Annexure D; and
- (b) may summons any witness to appear before the disciplinary hearing in a format substantially compliant with Annexure E.

(2) The charge sheet contemplated in sub-regulation (1) must inform the senior manager of –

- (a) the alleged act or acts of misconduct;
- (b) the time, date and venue at which the hearing will be conducted;
- (c) the name of the presiding officer and the officer leading evidence;
- (d) the address at which notices and correspondence may be served on such officer;

- (e) the right to appoint a representative of his or her choice, who may be a fellow staff member, shop steward, union official or any other suitably qualified person;
- (f) the right to request further particulars or access to documentation or copies thereof from the officer leading evidence, in writing, within seven [7] days of receipt of the charge sheet;
- (g) the right to an interpreter, whose presence must be requested by notice in writing, addressed to the officer leading evidence within seven [7] days of receipt of the charge sheet;
- (h) the right to call witnesses to testify on his or her behalf;
- (i) the fact that any request for a postponement should be directed to the officer leading evidence in writing not later than seven [7] days after receipt of the charge sheet; and
- (j) the fact that the enquiry may be conducted in his or her absence if the senior manager or his or her representative fails to attend the hearing, which includes the making of a finding and the possible imposition of a suitable sanction.

(3) The charge sheet contemplated in sub-regulation (1) must be delivered by hand or registered mail to the senior manager together with the notice of the disciplinary hearing.

(4) Where a senior manager is accused of a financial misconduct which constitutes a criminal offence, the mayor or municipal manager, as the case may be, must report the matter to the South African Police in terms of the Municipal Finance Management Act, 2003.

Notice of disciplinary hearing

9. (1) The notice contemplated in sub-regulation 8(3) must be given to the senior manager in writing at least seven [7] days before the date of the hearing.

(2) The notice of the disciplinary hearing contemplated in sub-regulation (1) must substantially be compliant with Annexure F.

(3) If the notice was sent by registered mail, the date on which the registered letter was signed for will be regarded as the date of receipt by the senior manager.

(4)(a) If the notice is delivered by hand the senior manager must acknowledge receipt of the notice by signing a copy of the notice.

(b) If the senior manager refuses to sign the notice as acknowledgement of receipt of such a notice, it must be given to the senior manager in the presence of a fellow staff member, who

must sign in confirmation that the notice was conveyed to the senior manager.

Conducting disciplinary hearing

10. (1) The disciplinary hearing must commence –

- (a) within three months of the resolution to institute disciplinary action; and
- (b) on a date not less than seven [7] days and not more than ten (10) days from the date of service of the charge sheet and the written notice of the disciplinary hearing on the senior manager.

(2) The hearing must be conducted by the presiding officer who may determine the procedures to be followed, provided that the –

- (a) rules of natural justice are adhered to at all times;
- (b) matter is speedily resolved with the minimum of legal formalities;
- (c) presiding officer in discharging his or her obligations –
 - (i) exercises care, diligence and acts impartially; and
 - (ii) does not consult or confer with any of the parties or their representatives on the merits or demerits of the case.

(3) The officer leading evidence –

- (a) must commence the disciplinary hearing by reading out the charges to the senior manager;
- (b) may call witnesses and produce book[s], document[s] or object(s);
- (c) may cross-examine any witness called to testify on behalf of the senior manager;
- (d) may inspect any book[s], document[s] or object[s] produced by the senior manager; and
- (e) must present arguments on the merits of the case.

(4) The senior manager has the right to –

- (a) be heard in person or through a representative;
- (b) call witnesses and produce book[s], document[s] or object[s];
- (c) cross-examine any witness called to testify by the officer leading evidence; and
- (d) inspect any book[s], document[s] or object[s] produced by the officer leading evidence.

(5) The presiding officer –

- (a) may, at any time during the hearing –
 - (i) ask any party any questions to clarify any matter;
 - (ii) ask any party or his or her witnesses any question on any matter relevant to the charges;

(iii) proceed with the hearing if no satisfactory reasons are furnished for the absence of the party against whom charges of misconduct are being brought;

(iv) make such interim determinations or rulings as he or she deems necessary; and

(b) must –

(i) after having considered the evidence before him or her, make a finding;

(ii) in the event of a verdict of guilt, invite and hear any plea in mitigation or aggravation of sanction by the senior manager prior to imposing a sanction; and

(iii) impose an appropriate sanction.

(6) The presiding officer must, by not less than ten [10] days after the last day of the hearing, provide the municipality and senior manager or his or her representative with –

(a) written reasons for the finding contemplated in sub-regulation (5)(b)(i); and

(b) a copy of the sanction.

Pre-dismissal arbitration

11. (1) The municipal council may, with the consent of the senior manager, request the Commission for Conciliation Mediation and Arbitration to conduct an arbitration into allegations of misconduct or poor performance against a senior manager as provided for under section 188A of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(2) The decision of the arbitrator appointed in terms of sub-regulation (1) shall be final and binding and only subject to review by the Labour Court.

(3) The provisions of section 138 of the Labour Relations Act, read with the changes required by the context, apply to any pre-dismissal arbitration.

Sanctions

12. (1) The presiding officer may impose any, or a combination of the following sanctions, with or without conditions:

(a) suspension without pay for no longer than three months;

(b) demotion;

(c) transfer to another post;

(d) reduction in salary, allowances or other benefits;

(e) an appropriate fine; or

(f) dismissal.

- (2) The presiding officer must –
- (a) impose a sanction within ten [10] days of the completion of the hearing;
 - (b) advise the municipal council and the senior manager in writing of the finding and sanction;
 - (c) advise the senior manager of the right to lodge a dispute;
 - (d) formally document the sanction, a copy of which must be handed to the senior manager in a format compliant with Annexure G; and
 - (e) submit a record of the proceedings to the municipal council, within ten [10] days after imposing the sanction.

- (3) The municipality must –
- (a) implement the sanction imposed by the presiding officer; and
 - (b) report the outcome of any disciplinary hearing within fourteen [14] days after the finalisation of such disciplinary hearing to the Minister and MEC responsible for local government in the province.
 - (c) where financial misconduct is involved, report to the MEC responsible for finance in the province and the Auditor-General as prescribed in the Municipal Finance Management Act, 2003.

Dispute resolution mechanisms

13. (1) A senior manager has the right to refer a dispute against any disciplinary finding and/or sanction imposed on him or her at a disciplinary hearing to the Bargaining Council, Commission for Conciliation, Mediation and Arbitration or an accredited agency in terms of section 133 of the Labour Relations Act 1995 (Act No. 66 of 1995).

(2) A dispute contemplated in sub-regulation (1) must be lodged within thirty [30] days of receipt of a written notification of the sanction.

CHAPTER 3

PROCEDURES FOR DEALING WITH SUBSTANDARD PERFORMANCE

Purpose

- 14.** (1) These procedures –
- (a) apply to all municipalities and senior managers; and
 - (b) are intended to –
 - (i) create an enabling environment to facilitate effective performance by the senior managers;
 - (ii) provide the senior managers with access to skills development and capacity building opportunities in order to promote efficient and effective performance;
 - (iii) provide remedial and developmental support to assist the senior managers to deal with substandard performance; and
 - (iv) ensure that the municipal council and senior managers work collaboratively to generate solutions to problems and improve the performance of senior managers.

Policy and principles

- 15.** (1) These procedures must be read in conjunction with regulation 32 of the Municipal Performance Regulations for municipal managers and managers directly accountable to municipal managers, 2006.

(2) The Code of Good Practice provided for in Schedule 8 of the Labour Relations Act, 1995, constitutes part of this procedures, in respect of poor work performance.

- (3) The municipality must assess the senior managers' performance by considering –
- (a) the extent to which the substandard performance impacts on the work of the municipality and the achievement of municipal goals;
 - (b) the extent to which the senior manager fails to meet the required performance standards set by the municipal council;
 - (c) the extent to which the senior manager lacks the necessary skills, competencies and expertise to meet the performance objectives and targets for his or her post as contained in the performance agreement; and
 - (d) the nature of the senior manager's work and responsibilities.

Procedures for dealing with substandard performance

16. (1) If the municipality has reason to believe that a senior manager is not performing in accordance with the minimum performance standards of his or her post, the mayor, in the case of the municipal manager or the municipal manager, in case of the manager directly accountable to the municipal manager must –

- (a) convene a meeting to give feedback to the senior manager on his or her performance;
- (b) furnish the senior manager with reasons why it is necessary to initiate this procedure.

(2) In the meeting contemplated in sub-regulation (1)(a), the mayor or the municipal manager, as the case may be, must –

- (a) explain the requirements, level, skills and nature of the post;
- (b) evaluate the senior manager's performance in relation to the performance agreement;
- (c) explain the reasons why the performance is considered substandard; and
- (d) afford the senior manager or his or her representative an opportunity to respond to the performance outcomes referred to in paragraph (c); and

(3) After considering the senior manager's reasons, the mayor or the municipal manager may, if necessary –

- (a) initiate a formal programme of counselling and training to enable the senior manager to reach the required standard of performance, which must include –

- (i) assessing the time that it will take for the senior manager to deal with substandard performance;

- (ii) establishing realistic timeframes within which the municipality will expect the senior manager to meet the required performance standards; and

- (iii) identifying and providing appropriate training for the senior manager to reach the required standard of performance.

- (b) establish ways to address any factors that may affect the senior manager's performance that lie beyond the senior manager's control.

(4) If the senior manager fails to meet the required performance standard for the post after being subjected to a formal programme of counselling and training as contemplated in sub-regulation (3), the –

- (a) mayor, in the case of the municipal manager, or municipal manager, in the case of the manager directly accountable to the municipal manager, may –

- (i) regularly evaluate the senior manager's performance;

or

(ii) provide further remedial or developmental support to assist the senior manager to eliminate the substandard performance.

(5) If the senior manager's performance does not improve after he or she received appropriate performance counselling and the necessary support and reasonable time to improve his or her performance as contemplated in sub-regulation (4), or he or she refuses to follow a formal programme of counselling and training contemplated therein -

(a) the mayor, in the case of the municipal manager, or the municipal manager, in the case of the manager directly accountable to the municipal manager, must bring the allegations of substandard performance against the senior manager to the attention of the municipal council in the form of a report.

(b) the mayor or the municipal manager, whatever the case may be, must table the report contemplated in paragraph (a) before the municipal council not later than seven [7] days after receipt thereof, failing which the mayor may request the Speaker to convene a special council meeting within seven [7] days to consider the said report.

(6) If the municipal council is satisfied that sufficient evidence exist to institute disciplinary proceedings against the senior manager on the basis of the alleged substandard performance -

(a) the municipal council must do so by way of a resolution; and

(b) the mayor, in the case of the municipal manager, or the municipal manager, in the case of the manager directly accountable to municipal manager, must -

(i) furnish the senior manager with written reasons why it is necessary to initiate this procedure; and

(ii) invoke the provisions of regulation 8 of these Regulations.

CHAPTER 4

GENERAL

Transitional arrangements

17. (1) Any disciplinary process instituted prior to the commencement of these Regulations must –

(a) be finalised in terms of the Code and Procedures or any policies which were applicable at the time when the proceedings were instituted]; or

(b) by mutual agreement in writing between the senior manager and the municipal council, be finalised in terms of these Regulations.

Recording

18. (1) The proceedings at the hearing must be recorded by means of a mechanical or electronic device or any other method and must be transcribed in writing.

(2) Records of the proceedings contemplated in sub-regulation (1) must be kept in safe custody by the municipal council and may only be disposed of in terms of the National Archives of South Africa Act, 1996 (Act No. 66 of 1995); and

(3) A copy must be provided to the senior manager on written request.

Reporting

19. (1) Municipalities must provide quarterly reports on the status of disciplinary cases to the MEC responsible for local government in the province.

(2) The MEC must, within fourteen [14] days of receipt of the report referred to in sub-regulation (1), submit the report to the Minister.

(3) The format for reporting contemplated in sub-regulation (1) must include –

(a) the date the allegation of misconduct was brought to the attention of the municipal council;

(b) the date the municipal council made a resolution to institute disciplinary proceedings against the senior manager;

(c) if the senior manager is suspended, –

(i) the date of suspension;

(ii) the reason for suspension; and

(iii) the conditions of suspension.

- (e) the status of the alleged misconduct, including –
 - (i) the date of commencement of the disciplinary hearing;
 - (ii) pre-dismissal arbitration (if any);
 - (iii) the finding;
 - (iii) the sanction; and
 - (iv) the number of disciplinary cases that were finalised after the senior manager has resigned;
 - (v) the date on which the dispute was referred for arbitration (if applicable); and
- (f) costs incurred by the municipality towards the finalisation of the disciplinary case.

Repeal

20. These Regulations repeal regulation 16 and 17(2) and (3) of the Municipal Performance Regulations for municipal managers and managers directly accountable to municipal managers, 2006.

Short title

21. These regulations are called the Local Government: Disciplinary Regulations for Senior Managers.

ANNEXURE A

ACTS OF MISCONDUCT

A senior manager will be guilty of misconduct if he or she –

PART I**Less serious misconduct**

1. absents himself or herself from duty without leave;
2. without written approval from his or her municipality, performs work for compensation in a private capacity for another person or organisation either during or outside working hours;
3. while on duty, conducts himself or herself in an improper, disgraceful and unacceptable manner;
4. demonstrates any rude, abusive, insolent, provocative, intimidating or aggressive behaviour to a fellow staff member;
5. participates, either individually or with others, in any form of action, which will have the effect of disrupting the operations of the municipality, other than actions contemplated by the Labour Relations Act, 1995 (Act No. 66 of 1995);
6. wrongfully discloses privileged information;
7. while on duty, is under the influence of intoxicating, illegal, unauthorised, habit-forming or stupefying drug, including alcohol;
8. displays disrespect towards others in the workplace or displays abusive or insolent behaviour;
9. intimidates or victimises fellow staff members;
10. prevents other staff members from belonging to any trade union or body; or
11. without permission, possesses or wrongfully uses the property of the municipality or that of an other staff member or a visitor.

PART II**Serious misconduct**

1. fails to comply with or contravenes any Act, regulation, or legal obligation relating to the employment relationship;
2. bribes or commits a financial misconduct or fraud or corruption;
3. wilfully, intentionally or negligently damages or causes loss of municipal property;
4. endangers the lives of self or others by disregarding safety rules or regulations;

5. prejudices the administration, discipline or efficiency of a municipality, office or institution of the municipality;
6. misuses his or her position in the municipality to promote or to prejudice the interest of any political party;
7. accepts any compensation in cash or otherwise from a member of the public or another staff member for performing his or her duties without written approval from the municipal council;
8. fails to carry out a lawful instruction without just or reasonable cause;
9. derelicts his or her duties, absents or repeatedly absents himself or herself from work without reason or prior permission;
10. commits an act of sexual harassment;
11. unfairly discriminates against others on the basis of race, gender, disability, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth, family responsibility, HIV status, political opinion or other grounds prohibited by the Constitution;
12. performs poorly or inadequately for reasons other than incapacity;
13. contravenes the Code of Conduct for municipal staff members contained in schedule 2 of the Act;
14. assaults, or attempts or threatens to assault, another staff member or person while on duty;
15. incites other municipal staff to engage in unprocedural and unlawful conduct;
16. operates any money lending scheme for employees for own benefit during working hours or from the premises of the municipality;
17. carries or keeps a firearm[s] or other dangerous weapon[s] on municipal premises, without the written authorisation of the municipal council;
18. refuses to obey security regulations;
19. gives false statements or evidence in the execution of his or her duties;
20. falsifies records or any other documentation;
21. participates in unprocedural, unprotected or unlawful industrial action,
22. fails or refuses to follow a formal programme of counselling contemplated in these Regulations; or
23. commits a common law or statutory offence while on municipal premises.

ANNEXURE B

WRITTEN WARNING

Name _____ of _____ senior
manager:.....

Address:.....
.....
.....
.....

Pursuant to a meeting between yourself (hereinafter referred to as the senior manager) and the Mayor/municipal manager held on (date), you are hereby formally issued with a written warning in terms of Regulation 6(2) in consequent of the following act of misconduct committed by you:

.....
.....
.....
.....
.....

Should you commit a similar or related misconduct, this written warning may be taken into account in determining a more serious sanction.

The written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning.

Mayor/Municipal manager

Date

Receipt of the abovementioned charge sheet acknowledged.

Senior Manager

Date

Witness (if applicable)

Date

ANNEXURE C

FINAL WRITTEN WARNING

Name _____ of _____ senior
manager.....

Address:.....
.....
.....
.....

Pursuant to a meeting between yourself (hereinafter referred to as the senior manager) and the Mayor/municipal manager held on..... (date), you are hereby formally issued with a final written warning in terms of regulation 6(2) in consequent of the following act of misconduct committed by you:

.....
.....
.....
.....
.....

Should you commit a similar or related misconduct, this written warning may be taken into account in determining a more serious sanction.

This final written warning will be placed in your personal file and will remain valid for a period of six months from the date of the written warning.

Mayor/Municipal manager _____ Date

Receipt of the abovementioned charge sheet acknowledged.

Senior Manager _____ Date

Witness (if applicable) _____ Date

ANNEXURE D

CHARGE SHEET

In the disciplinary hearing of

.....
(Name of Municipality)

and

.....
(Name of senior manager)

You,, (hereinafter referred to as "the senior manger") of the Municipality (hereinafter referred to as "the municipal council"), are hereby charged with misconduct as follows:

Charge 1:

That you are guilty of misconduct by

.....
.....
.....
.....

In that:

You.....
.....
.....
.....

Charge 2:

That you are guilty of misconduct by

.....
.....
.....
.....

In that:

You.....
.....
.....
.....

Charge 3:

That you are guilty of misconduct by

.....
.....
.....
.....

In that:

You.....
.....
.....
.....

Person Leading Evidence

Date

Receipt of the abovementioned charge sheet acknowledged.

Senior Manager

Date

Witness (if applicable)

Date

ANNEXURE E

SUMMONS TO APPEAR BEFORE A DISCIPLINARY HEARING

Name of witness.....

Address:.....

You are hereby summoned to appear before the presiding officer of a disciplinary hearing as a witness in respect of (Name of senior manager) who has been charged with the following misconduct:

.....

The hearing has been scheduled as follows:

Date:

Time:

Venue: Municipality

During the hearing you will be required to provide evidence orally or by way of document(s), book(s), or object(s) in your possession, custody or control, which may have a bearing on the matter.

 Person Leading Evidence

 Date:

ANNEXURE F

NOTICE OF DISCIPLINARY HEARING

In the disciplinary hearing of

 (Name of Municipality)

and

.....
 (Name of senior manager)

1. You, are hereby given notice to attend a disciplinary hearing in terms of regulation 8 scheduled as follows:

Date:

Time:.....

Venue:..... Municipality

Charges: refer to attached charge sheet (Annexure D)

2. You attention is drawn to the following:
 - (a) You have the right to be represented by a fellow employee or any other suitably qualified person, provided that any costs incurred will be borne by you.
 - (b) If you or your representative should fail to attend the hearing at the scheduled time and venue, the hearing may proceed in your absence.
 - (c) You will be required to plead to the charges set out against you in the charge sheet.
 - (d) The municipality will call witnesses and adduce evidence, orally or by way of documents, and you or your representative will have the right to cross-examine the witnesses called on behalf of the municipality, subject to the rights of any such witnesses.
 - (e) You have the right to present your case and to call witnesses and adduce evidence, orally or by way of documents.

- (f) The proceedings will be conducted in English, and should you require an interpreter, you must inform the prosecutor in writing thereof, within 5 days of the date of receipt hereof.
- (g) Your attention is specifically drawn to the fact that the municipal council has appointed, to act as the person leading evidence and to act as the presiding officer in the hearing.
- (h) Any request for further particulars or access to documentation or copies thereof must be directed to the person leading evidence, in writing, within 7 days of the date of receipt of the charge sheet.
- (i) Any request for a postponement must be directed to the person leading evidence, in writing, forthwith but not later than 7 days after the date of receipt of the charge sheet.
- (j) Your attention is further drawn to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), as well as the Code of Conduct contained in Schedule 2 to the Local Government: Municipal Systems Act, 2000 (Act No. 3 of 2000) which provisions will, where applicable, apply to the hearing.
- (k) Kindly note that the municipality reserves the right to amend the charges or add new charges, at any stage before you plead to the charges.
- (l) Should you require any additional information, you are welcome to contact the person leading evidence at the following contact details:
.....

Thus done and signed at on this day
of (month) (year)

Person Leading Evidence

I confirm notification of the abovementioned disciplinary hearing and further confirm that I will attend the disciplinary hearing:

Senior Manager

Date

I hereby confirm that the abovenamed senior manager received this notification but refused to acknowledge receipt of or confirm that he or she will attend the disciplinary hearing:

Witness (if applicable)

Date

ANNEXURE G

FINDING AND SANCTION OF DISCIPLINARY HEARING

(Copy to be handed to the senior manager and failure or refusal by the senior manager to sign this document will not affect its validity)

Date of Disciplinary Hearing

.....

Name of Presiding Officer:

.....

Name of Senior Manager:

.....

Name of Representative (where applicable):

.....

Charges:

.....
.....
.....
.....
.....

Finding:

.....
.....
.....
.....
.....

Sanction:

.....
.....
.....
.....
.....

Presiding Officer

Date

Receipt of the abovementioned charge sheet acknowledged.

Senior Manager

Date

Witness (if applicable)

Date

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