



DR NKOSAZANA DLAMINI-ZUMA MUNICIPALITY

PERFORMANCE AGREEMENT

Made and entered into by and between

DR NKOSAZANA DLAMINI ZUMA MUNICIPALITY

(represented by Ngeneleni Patricia Mncwabe in duly-authorized capacity as a mayor of the municipality, hereinafter referred to as the Employer)

and

Nkosiyezwe Cyprian Vezi

(SENIOR MANAGER: OFFICE OF THE MUNICIPAL MANAGER)

(hereinafter referred to as the Employee)

Financial year 01 July 2020 to 30 June 2021

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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 COMENCEMENT AND DURATION

3.1 This Agreement will commence on the **01 July 2020** and will remain in force in line with the Employment agreement until **30 June 2020** 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: Public Works and Basic Services**) 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	66%
Municipal Institutional Development and Transformation	0%
Social and Local Economic Development (LED)	12.5%
Municipal Financial Viability and Management	4.165%
Good Governance and Public Participation	15.5%
Cross-cutting interventions	4.16%
Total	100%

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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	<ul style="list-style-type: none"> Impact and Influence Institutional Performance Management Strategic Planning and Management Organisational Awareness 	8.333%
People Management	<ul style="list-style-type: none"> Human Capital Planning and Development Diversity Management Employee Relations Management Negotiation and Dispute Management 	8.333%
Programme and Project Management	<ul style="list-style-type: none"> Program and Project Planning and Implementation Service Delivery Management Program and Project Monitoring and Evaluation 	8.333%
Financial Management	<ul style="list-style-type: none"> Budget Planning and Execution Financial Strategy and Delivery Financial Reporting and Monitoring 	8.333%
Change Leadership	<ul style="list-style-type: none"> Change Vision and Strategy Process Design and Improvement Change Impact Monitoring and Evaluation 	8.333%
Governance Leadership	<ul style="list-style-type: none"> 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

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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.

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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 2020	30 October 2020
Second/Mid-Year	October to December 2020	31 March 2021

QUARTER	PERIOD	REVIEW TARGET DATE
Third	January to March 2021	30 April 2021
Fourth /Annual	April to June 2021	31 August 2021

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;

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;

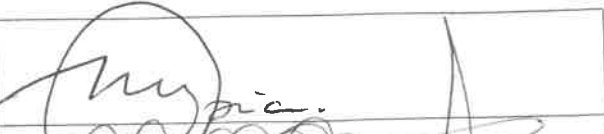



14. GENERAL

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: NC Zezi	
Signed and accepted by CLLR Mncwabe	
Date Performance Plan signed	11/03/2021
Witness Number One: Name and Signature	Ntombenhle Mkhulisi 
Witness Number Two: Name and Signature	Sphumelele Mbatha 

APPENDIX A
(TO THE PERFORMANCE AGREEMENT)

2020/21 PERFORMANCE PLAN

Refer attached Revised 2020/21 SDBIP/ Scorecard

2020/21 SPECIAL REVISED SDBIP FOR THE OFFICE OF THE MUNICIPAL MANAGER																					
BACK TO BASICS PILLAR 5: BUILDING CAPABLE LOCAL GOVERNMENT INSTITUTIONS & GOOD GOVERNANCE																					
KEY PERFORMANCE AREA: CROSS CUTTING INTERVENTIONS & GOOD-GOVERNANCE & PUBLIC PARTICIPATION																					
IDP NO.	WARD	GENERAL KPI	STRATEGIC OBJECTIVE	PROJECT	REVISED PROJECT	KEY PERFORMANCE INDICATOR	REVISED KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	REVISED ANNUAL TARGET	QUARTER 1	QUARTER 2	QUARTER 3 TARGET	REVISED QUARTER 3 TARGET	QUARTER 4 TARGET	REVISED QUARTER 4 TARGET	RESPONSIBLE DEPARTMENT	ANNUAL BUDGET	REVISED ANNUAL BUDGET	PORTFOLIO OF EVIDENCE	REVISED PORTFOLIO OF EVIDENCE
											QUARTER 1 PROJECTIONS	QUARTER 2 PROJECTIONS	QUARTER 3 PROJECTIONS	QUARTER 4 PROJECTIONS	REVISED QUARTER 1 PROJECTIONS	REVISED QUARTER 2 PROJECTIONS					
OMM 1	All	The percentage of a municipality's capital budget actually spent on capital projects identified for a particular financial year in terms of the municipality's IDP	To review and develop a multi-year strategic plan that responds to the needs of the community by 30 June 2022	Review of 2021/22 IDP	None	Number of IDP reviews	None	Adopted 2019/20 IDP	1 final reviewed IDP for 2021/22 adopted by Council	None	Develop IDP Process Plan	Conduct 1 IDP Roadshow	1 Reviewed Draft IDP for 2021/2022 submitted to Council & MEC: Cogta	None	Conduct 1 IDP Roadshow and 1 final reviewed IDP for 2021/22 adopted by Council and submitted to MEC: Cogta	1 IDP for 2021/22 reviewed	MMS Office	R405 000.00	None	Quarter 1: Process Plan Advert Council Resolution Quarter 2: Attendance Register, IDP Roadshows Minutes and Agenda Quarter 3: Draft IDP Council Resolution Proof of Submission and Advert Quarter 4: Final IDP Advert Council Resolution and Proof of Submission	Quarter 4: Final IDP Advert Council Resolution and Proof of Submission Detailed report on public consultation using media platforms
OMM 2	All	NA	Conduct Performance Assessments for Section 54/56 managers by 30 June 2022	Conducting Performance Assessments for S54/56 Managers	None	Number of Performance Assessments conducted	None	4 Performance Assessments reports produced in 2019/20 FY	Conduct 4 Performance Assessments (2 Formal & 2 Informal) for S54A and S56 Managers	04 Performance Assessments of Section 54/56 Managers conducted (01 & 03 Informal & 02 and 04 formal)	1	1 Informal Performance Assessments for Q1 of 2020/21	1 Mid-year performance Assessments for S54A&56 Managers	None	1 Informal performance Assessments for S54A&56 Managers	None	MMS Office	Operational	None	Quarter 1: Report for the 2019/20 PMS Assessments Attendance Register Council Resolution Quarter 2: Report for the Q1 PMS Assessments Attendance Register Quarter 3: Mid-year Performance Report for PMS Assessments & Attendance Register Council Resolution Quarter 4: Report for the Q3 PMS Assessments Attendance Register	Quarter 3 Mid-year Performance Report for PMS Assessments Council Resolution Quarter 4: Report for the Q3 PMS Assessments (Informal Assessments)
OMM 3	All	N/A	Consolidate performance periodic reports and submit to council structures by 30 June 2022	Submission of SDBIP, Quarterly Performance Reports, Mid Year Reports and Annual Report (Including APR) to Council/oversight structures	None	Number of Performance reports submitted	Number of Performance Reports submitted to Oversight structures	Reports approved by Council in 2019/20 Financial Year	4 performance reports submitted to APAC & Council (quarterly, mid year and Annual Report)	None	0	0	1	1	1	1	MMS Office	Operational	None	Quarter 1 2019/20 APR Proof of Submission to AG & Cogta Quarter 2 2020/21 First Quarter Performance Report Council Resolution Quarter 3 2020/21 Q2 & Mid-year Performance Report Council Resolution 2019/20 Annual Report & Oversight Report Proof of Submission to COGTA, AG, Treasury Quarter 4 Third Quarter Performance Report Council Resolution	None
OMM 4	All	NA	To inculcate a culture of good governance, compliance and effective internal controls by 30 June 2022	Risk Management	None	Number of risk registers developed	None	Risk Assessments held in March 2020	Conduct 1 Risk Assessment workshop & 2 risk management follow ups carried-out	None	1 follow up on risk management action plan	N/A	1 follow up on risk management action plan	None	1 risk assessment workshop	1 risk management follow up carried-out	MM's Office	Operational	None	Quarter 1 Updated risk register Summary report on progress made on risk management Quarter 2 NA Quarter 3 Summary report on progress made on risk management signed by department managers and Risk Officer Quarter 4: Attendance register 2020/21 risk register	Quarter 1 Updated risk register Summary report on progress made on risk management Quarter 2 NA Quarter 3 Risk Management Report Quarter 4: Annual Risk Management Report, 2021/2022 risk registers f
OMM 5	All	NA	To inculcate a culture of good governance, compliance and effective internal controls by 30 June 2022	Carry-out Internal Audits	None	Number of Internal audit reports submitted to APAC	None	4 reports issued in 2019/20 financial year	4 quarterly audit reports submitted to APAC	None	0	0	1	None	1	None	MM's Office	Operational	None	Quarter 1-Quarter 4 Status of Implementation of Internal Audit Action Plan Minutes of APAC Attendance register of APAC	None
OMM 6	All	NA	To inculcate a culture of good governance, compliance and effective internal controls by 30 June 2022	Implementation of the Anti-Fraud and Anti-Corruption strategy	None	Number of reports on the implementation of the Anti-fraud and Anti-Corruption strategy	None	2019/20 Approved Anti-fraud and Anti-Corruption strategy	4 Quarterly reports on implementation of the Anti-Fraud and Anti-Corruption strategy submitted to Mianco and Audit Committee	None	1	1	1	1	1	None	MM's Office	Operational	None	Quarter 1-Quarter 4: Signed reports on implementation of the Anti-Fraud and Anti-Corruption strategy Minutes of audit committee and attendance registers of APAC	Quarter 1-3 NA Quarter 4: Council Resolution Attendance Register Signed policies (Anti-corruption & Anti-corruption Strategy, policy & plan)
OMM 7	All	NA	To encourage participation of the local community in the affairs of	Publishing of municipal programmes through social media	None	Number of municipal programmes published in different media platforms	None	20 municipal programmes published in different media platforms in	20 municipal programmes published in different media platforms	None	5	5	5	None	5	None	OMM			Quarter 1-4 Detailed reports on activities undertaken by Communications Unit Dated articles from newspapers	Quarter 3-4 Detailed reports on activities undertaken by Communications Unit
OMM 8	All	Good governance	To inculcate a culture of good governance, compliance and effective internal controls by 30 June 2022	Review of policies, strategies & charters	None	Number of policies, strategies & charters reviewed	None	1 Audit 1 Committee Charter 1 Internal Audit Charter 1 Anti-fraud and anti-corruption Strategy 1 ERM Framework 1 PMS Framework/Policy	4 Policies, 2 Strategies & 2 Charters reviewed	None	R50,550	R50,550	NA	04 Draft policies, 2 strategies & 2 charters presented to Council for noting.	Review of 1 Audit 1 Committee Charter, 1 Internal Audit Unit Charter, 1 Anti-fraud and anti-corruption Strategy and 1 ERM Framework, 1 PMS / Framework Policy reviewed	None	MMS Office	Operational	None	Quarter 1 : NA Quarter 2: NA Quarter 3: NA Quarter 4: Council Resolution Attendance Register Signed policies	Quarter 3 Council Resolution noting the draft policies, strategies & charters Quarter 4 Council Resolution Signed policies
OMM 9	All	N/A	To inculcate a culture of good governance, compliance and effective internal controls by 30 June 2022	Implementation of AG's action plan in response to 2019/2020 Audit Report	None	Percentage of audit findings resolved	None	100 % of 2018/19 AG findings resolved in 2018/2020 fy	100% of 2019/20 AG's Audit findings resolved	None	0	0	50%	None	100%	None	MM's Office	Operational	None	Quarter 1-2 NA Quarter 3-4 Progress Report on the Implementation of 2019/20 Audit Action Plan Council Resolution Attendance Registers	Quarter 3-4 Progress Report on the Implementation of 2019/20 Audit Action Plan

2020/21 SPECIAL REVISED SDBIP FOR THE OFFICE OF THE MUNICIPAL MANAGER																					
BACK TO BASICS PILLAR 5: BUILDING CAPABLE LOCAL GOVERNMENT INSTITUTIONS & GOOD GOVERNANCE																					
KEY PERFORMANCE AREA: CROSS CUTTING INTERVENTIONS & GOOD-GOVERNANCE & PUBLIC PARTICIPATION																					
IDP NO.	WARD	GENERAL KPI	STRATEGIC OBJECTIVE	PROJECT	REVISED PROJECT	KEY PERFORMANCE INDICATOR	REVISED KEY PERFORMANCE INDICATOR	BASELINE	ANNUAL TARGET	REVISED ANNUAL TARGET	QUARTER 1 TARGET	QUARTER 2 TARGET	QUARTER 3 TARGET	REVISED QUARTER 3 TARGET	QUARTER 4 TARGET	REVISED QUARTER 4 TARGET	RESPONSIBLE DEPARTMENT	ANNUAL BUDGET	REVISED ANNUAL BUDGET	PORTFOLIO OF EVIDENCE	REVISED PORTFOLIO OF EVIDENCE
OMM 10	All	N/A	To improve organisational performance for effective service delivery by 30 June 2022	Submission of Back to Basics reports	None	Number of Back to Basics reports submitted to COGTA	None	12 monthly B2B reports & 4 Quarterly reports	12 monthly & 4 quarterly back to basics reports submitted to COGTA	None	3 monthly reports & 1 quarterly report	3 monthly report & 1 quarterly report	3 monthly & 1 quarterly report	None	3 monthly & 1 quarterly report	None	MM's Office	Operational	None	Quarter 1-Quarter 4 Progress Reports on Back to Basics Proof of Submission to COGTA	None
OMM 11	All	The percentage of a municipality's capital budget actually spent on capital projects identified for a	To inculcate a culture of good governance compliance and effective internal controls	Capital budget expenditure	None	Percentage of a municipality's annual capital budget actually spent on capital projects	None	85% of capital budget expenditure on 2019/20	100% of a municipality's annual capital budget actually spent on capital projects	None	NIL 25%	NIL 50%	75%	None	100%	None	OMM			Quarter 1-4 Council Resolution noting the Quarterly Expenditure Report	None
DTPS 01	All	N/A		Development of Spatial Development Framework	None	Number of Spatial Development Frameworks developed	None	2019/2020 Reviewed Spatial Development Framework	1 Spatial Development Framework Developed	None	Inception Report	Status Quo Report	1 Draft SDF developed and noted by Council	None	1 SDF adopted by Council	None	Development and Town Planning	R600,000	Operational	Quarter 1: (1) Terms of Reference (2) Appointment Letter Quarter 2: (1) Status Quo Report Quarter 3: (1) Inception Report and Status Quo Report Quarter 4: (1) Draft SDF (2) Council Resolution for noting Draft SDF Quarter 4: (1) Final SDF (2) Council resolution for Adoption of Final SDF	Quarter 1: (1) Inception Report Quarter 2: (1) Status Quo Report Quarter 3: (1) Draft SDF (2) Council Resolution for noting Draft SDF Quarter 4: (1) Final SDF (2) Council resolution for Adoption of Final SDF
DTPS 02	Ward 10	N/A		Bulwer Township Establishment	None	Number of General Plans submitted to Surveyor General for approval	None	Draft subdivision layout plan developed in 2019/2020 financial year	Submission of 1 Bulwer General Plan to Surveyor General for approval	Development of Final Subdivision Layout Plan	Procurement Processes	Development of Final Subdivision Layout Plan	Submission of SPLUMA application to MPT for the approval of subdivision layout	Finalizing Procurement Processes for the appointment of the service provider.	Submission of 1 Bulwer General Plan to Surveyor General for approval	Development of Final Subdivision Layout Plan	Development and Town Planning	R500,000	R600,000	Quarter 1: (1) Terms of Reference (2) Appointment Letter Quarter 2: (1) Final Subdivision Layout Quarter 3: (1) Proof of Advert (2) Record of Decision from MPT Quarter 4: (1) Letter of submission to Surveyor General	Quarter 1: (1) Terms of Reference (2) Appointment Letter Quarter 2: (1) Final Subdivision Layout Quarter 3: (1) Appointment letter Quarter 4: (1) Final Subdivision Layout
DTPS 03	All	N/A		Project Management (Hierarchy of Plans to foster Economic Growth in Traditional Areas)	None	Number of Hierarchy of Plans approved by Council	Number of consolidation plans approved by Council	Nodal Plan Noted by Council in 2019/2020 financial year	3 Hierarchy of Plans approved by Council	01 consolidation plan (Nodal Plan/ Local Area Plan/ Precinct Plan & Implementation Plan) approved by Council	Development of Draft Local Area Plan	Development of Draft Precinct Plan	Submission of 3 Hierarchy of Plans (Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation Plan) to Council for approval	Development of draft consolidation plan (Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation Plan)	N/A	Submission of 1 consolidation plan as (Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation Plan) to Council for approval	Development and Town Planning	R300,000	None	Quarter 1: Draft Local Area Plan/Precinct Plan Quarter 2: Attendance Register Public Participation Report Quarter 3: Draft consolidation plan: Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation plan Council Resolution Quarter 4: N/A Quarter 4: Final consolidation plan: Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation Plan Council Resolution	Quarter 1: Draft Local Area Plan Quarter 2: Draft Precinct Plan Quarter 3: Draft consolidation plan: Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation Plan Quarter 4: Final consolidation plan: Nodal Plan/ Local Area Plan/ Precinct Plan and Implementation Plan Council Resolution
DTPS 04	All	N/A		Land Development Management	None	Percentage of Land Development Applications processed within 60 days from closing date of comments or confirmation that the application is complete in line with SPLUMA	None	80% of Land Development Applications processed within 60 days from closing date of comments or confirmation that the application is complete and in line with SPLUMA in 2019/2020 fy	100 % of Land Development Applications processed within 60 days from closing date of comments or confirmation that the application is complete and in line with SPLUMA	None	100 % of land development applications processed within 60 days from closing date of comments or confirmation that the application is complete	100 % of land development applications processed within 60 days from closing date of comments or confirmation that the application is complete	100 % of land development applications processed within 60 days from closing date of comments or confirmation that the application is complete	None	100% of land development applications processed within 60 days from closing date of comments or confirmation that the application is complete	None	Development and Town Planning	Opex	Operational	Quarter 1: Signed Land Development Applications Register Quarter 2: Signed Land Development Applications Register Quarter 3: Signed Land Development Applications Register Quarter 4: Signed Land Development Applications Register	None
DTPS 05	All	N/A		Approval of Building Plans	None	Turn around time and number of building plans processed in line with NBR	Percentage of building plans processed in line with NBR	... Building plans processed within 30/60 days of receipt in 2019/20 FY	Turn-around time and number of building plans processed in line with NBR	100% of building plans processed within 30/60 days of receipt in line with NBR	building plans processed within 30/60 days of receipt	building plans processed within 30/60 days of receipt	building plans processed within 30/60 days of receipt	100%	building plans processed within 30/60 days of receipt	100%	Development and Town Planning	Opex	Operational	Quarter 1: Building Plans Register with actual date for receipt and approval Quarter 2: Building Plans Register with actual date for receipt and approval Quarter 3: Building Plans Register with actual date for receipt and approval Quarter 4: Building Plans Register with actual date for receipt and approval	None

Office of the Municipal Manager: Revised 2020/21 SDBIP/ Scorecard

Name of HoD : Mr NC Vezl

No. of Targets : 16

HoD's Signature:

Mayor's Signature:

Date:

26/02/2021

**APPENDIX B
(TO THE PERFORMANCE AGREEMENT)**

PERSONAL DEVELOPMENT PLAN

MUNICIPALITY: Dr Nkosazana Dlamini-Zuma Municipality

INCUMBENT: NC Vezi
JOB TITLE: Municipal Manager
REPORT TO: Mayor

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	<ul style="list-style-type: none"> • Impact and Influence • Institutional Performance Management • Strategic Planning and Management • Organisational Awareness
People Management	<ul style="list-style-type: none"> • Human Capital Planning and Development • Diversity Management • Employee Relations Management • Negotiation and Dispute Management
Programme and Project Management	<ul style="list-style-type: none"> • Program and Project Planning and Implementation • Service Delivery Management • Program and Project Monitoring and Evaluation
Financial Management	<ul style="list-style-type: none"> • Budget Planning and Execution • Financial Strategy and Delivery • Financial Reporting and Monitoring
Change Leadership	<ul style="list-style-type: none"> • Change Vision and Strategy • Process Design and Improvement • Change Impact Monitoring and Evaluation
Governance Leadership	<ul style="list-style-type: none"> • Policy Formulation • Risk and Compliance Management • Co-operative Governance
CORE COMPETENCIES	
Moral Competence	20%
Planning and Organising	20%
Analysis and Innovation	10%
Knowledge and Information Management	20%
Communication	20%
Results and Quality Focus	10%
Total Percentage	100%

2. What competencies from the above list, does the job holder already possess? a. All
3. What then are the competency gaps? (If the job holder possesses all the necessary competencies, complete No's 5 and 6.) a. Analysis and Innovation
4. Actions/Training interventions to address the gaps/needs a. Higher Education Study to improve gaps
5. Indicate the competencies required for future career progression/development a. Governance and Leadership.
6. Actions/Training interventions to address future progression a. Registration with HET to improve performance
7. Comments/Remarks of the Incumbent Continuous training for the incumbent
8. Comments/Remarks of the supervisor N/A

Agreed upon:

Signature:

Supervisor: NP Mncwabe

Signature:

Employee: NC Vezi

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

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. Your 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

ANNÉXURE 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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2020/21 FINANCIAL DISCLOSURE FORM

Appendix D (to the performance agreement)

I, the undersigned (surname and initials) Nicosigezwe Vezl

(Postal Address) Box 27603 JO Umlazi 4200

(Residential Address) No 3 South Street,

Creighton

(Position held) Municipal Manager

Tel: 039-8331038 Fax: 0398331539

Hereby certify that the following is complete and correct to the best of my knowledge:

1. Shares and other financial interests (Not bank accounts with financial institutions.)
See information sheet: note (1)

Number of shares/Extent of financial interest	Nature	Nominal Value	Name of Company/Entity
N/A	N/A	N/A	N/A

2. Directorships and partnerships
See information sheet: note (2)

Name of corporate entity, partnership or firm	Type of business	Amount of Remuneration / Income
<u>Mgangadi Business Enterprise</u>	<u>Pty Ltd</u>	<u>NIL</u>

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3. Remunerated work outside the Municipality

Must be sanctioned by Council, See information sheet: note (3)

Name of Employer	Type of Work	Amount of Remuneration / Income
	N/A	

Council resolution and date _____

4. Consultancies and retainerships

See information sheet: note (4)

Name of client	Nature	Type of business activity	Value of any benefits received
		N/A	

5. Sponsorships

See information sheet: note (5)

Source of assistance/sponsorship	Description of assistance / sponsorship	Value of assistance / sponsorship
	N/A	

6. Gifts and hospitality from a source other than a family member

See information sheet: note (6)


Description	Value	Source
	N/A	

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7. Land and property

See information sheet: note (7)

Description	Extent	Area	Value
Residential	40m ²		R180000


SIGNATURE OF EMPLOYEE
DATE: 11/03/2021
PLACE: Greyton

OATH / AFFIRMATION

1. I certify before administering the oath/affirmation I asked the deponent the following questions and wrote down her/his answers in his/her presence:

(i) Do you know and understand the contents of the declaration?

Answer yes

(ii) Do you have any objection to taking the prescribed oath or affirmation?

Answer No

(iii) Do you consider the prescribed oath or affirmation to be binding on your conscience?

Answer yes

2. I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration. The deponent utters the following words: "I swear that the contents of this declaration are true, so help me God." / "I truly affirm that the contents of the declaration are true". The signature/mark of the deponent is affixed to the declaration in my presence.



Commissioner of Oath / Justice of the Peace

Full first names and surname

MARIA S BEKWA

(Block letters)



Designation (rank) SGT Ex Officio Republic of South Africa

Street address of institution 07 WATSON STREET, CREIGHTON

Date 2021-03-11 Place CREIGHTON

MAYOR
CONTENTS NOTED : ~~MUNICIPAL MANAGER~~

DATE: 2021 | 03 | 11



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